



Department
for Education

Post Implementation Review

**Review of the Children's Homes
(England) Regulations 2015**

May 2023

Title	Post Implementation Review of the Children's Home (England) Regulations 2015
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Recommendation	Keep

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1. Introduction

This Post Implementation Review (PIR) has been prepared to meet the statutory requirement at regulation 57 of The Children’s Homes (England) Regulations 2015. This regulation provides the following:

57.— (1) Before 1st April 2020, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

The review had originally been delayed due to the impact of the Covid-19 pandemic. The findings from this review will be taken together with the work that is currently being undertaken to review regulations and develop a core set of overarching standards of care for fostering, children’s homes and supported accommodation as set out in the [government’s response](#) to the recommendations from the [Independent Review of Children’s Social Care](#) and [Competition and Market’s Authority study of the children’s social care market](#).

2. What were the policy objectives of the measure?

Children's homes

1. As of 31 August 2022, there were 2,970 children's homes¹. They provide care for some of the most vulnerable and traumatised children and young people in the country. Children's homes care for children with varying needs including those with emotional and behavioural difficulties, disabilities, special educational needs, mental illness and those who are victims of abuse or neglect. Provision is varied; some 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, are there on remand or who need to be accommodated securely for their own welfare or for the safety of others.

Policy development

2. The Children's Homes (England) Regulations 2015 ("2015 Regulations") were the outcome of plans to reform the regulatory framework for children's homes and were introduced in 2015. Prior to these reforms, the regulatory framework for children's homes was seen as excessively focused on process and not on whether homes were fostering the right conditions to allow delivery of good outcomes for the children in their care. There were high levels of poor-quality provision, as noted in Ofsted inspections and reports on the quality in the sector².
The regulatory framework, prior to the 2015 amendments, was made up of three parts:
 - The Children's Homes Regulations 2001(as amended) ("2001 Regulations")³
 - National Minimum Standards
 - Statutory Guidance.
3. Together, these prescribed the standard of quality to be achieved. The 2015 Regulations were designed to go further and set a higher quality standard of care for all children.
4. The 2015 Regulations were part of a broader programme of reform for children's homes which were initially proposed by the Government in 2012. Reports

¹ Ofsted. '[The Annual Report of His Majesty's Chief Inspector of Education, Children's Services and Skills 2021/22 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103442/202122-annual-report-of-his-majestys-chief-inspector-of-education-childrens-services-and-skills.pdf)'

² Department for Education. '[\[ARCHIVED CONTENT\] UK Government Web Archive - The National Archives](https://www.gov.uk/government/collections/archived-content-uk-government-web-archive-the-national-archives)'

³ Secure children's homes are also required to meet the Children (Secure Accommodation) Regulations 1991.

published that year by the Deputy Children's Commissioner and the All-Party Parliamentary Groups for Runaway and Missing Children and Adults and for Looked After Children and Care Leavers identified serious failings in children's residential care. The reports described how too many children were being cared for in placements that were not safe or that did not meet their needs⁴.

5. The 2015 Regulations replaced the previous regulatory regime and introduced a new framework, to drive up the quality of homes, made up of two principal features:
 - The Children's Homes Regulations 2015; these revised Regulations set out what homes should achieve through new quality standards.
 - Guide to the Children's Homes Regulations including the Quality Standards ("the Guide"); this replaced the National Minimum Standards.
6. Changes to the Statutory Guidance (detailed in paragraph 2), were considered, but it was decided not to update this as it only applied to Local Authority (LA) run provision. The Guide covers all provision – private, voluntary and LA run.
7. The Explanatory Memorandum published alongside the Regulations described the steps taken to consult widely on the proposed package of regulatory reform. Overall, both providers and local authorities welcomed the improved focus on children, the move away from minimum standards and the coherence offered by the new regulatory framework. However, there were some shared concerns, including on the need to clarify and define more precisely terms used in the 2015 Regulations, to offer further explanation on key points within the Guide and to make clearer how the Regulations and the Guide work for children with disabilities and special educational needs. These points were considered in preparing the final versions of the 2015 Regulations and the Guide.

New policy objectives

8. The Impact Assessment⁵, prepared before the coming into force of the Regulations, explained the problem being addressed: 'The structure and content of the current regulatory framework itself is constraining the objective of ensuring that children's homes deliver services that best enhance the welfare of the children they accommodate'.

⁴ Department for Education. '[\[ARCHIVED CONTENT\] UK Government Web Archive - The National Archives](#)'

⁵ Department for Education. '[The Children's Home's \(England\) Regulations 2015 Impact Assessment \(legislation.gov.uk\)](#)'

9. As a result, the policy objectives of the 2015 Regulations were:

- 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;
- to revise the framework so that provider incentives are focussed on improving child welfare;
- to support innovation in the sector by giving providers the freedom to strive for these improvements in a cost-effective way; and,
- to see higher and better levels of support for these children and corresponding improvements in their outcomes.

10. The 2015 Regulations were not designed to have any quantitative target to be measured against but taken together with the other elements of the reform programme, aimed to achieve an overall level of improvement in the care of children in the sector. The Impact Assessment stated that this aim would be measured through a much higher proportion of 'good' and 'outstanding' Ofsted judgements as a result of the reforms.

2 What evidence has informed the PIR?

11. Information has been gathered from a range of sources across the sector to assess the impact of the 2015 Regulations, including (but not limited to):

- Data and information from Ofsted about judgements from inspections, types/number of enforcement actions used with poor performing homes and on innovation in children's homes. This also includes information on the impact of the pandemic on children's social care.
- A review of relevant literature from external sources to give informed views on the 2015 Regulations across different years to ascertain the development and embedding of these in different organisations. Although the Regulations have been in force for eight years, there is currently only a limited amount of evaluative literature available. The recently published Independent Review of Children's Social Care⁶ gives some important perspectives on how the Children's Social Care System (including the 2015 Regulations) are working.
- Interviews with key stakeholders in the sector which included Directors of Children's Services (DCS) from local authorities. These were selected to give a variation in geographical location, socio-economic background and rural/urban setting to ascertain the impact of the 2015 Regulations on differing localities.

12. Prior to the coming into force of the 2015 Regulations, the Department for Education ("the department") gave Action for Children, a UK children's charity, a grant to provide support to the sector in adapting to the new Regulations. Support was delivered through workshops, reading material and a dedicated website with 'webinars'. An Evaluation Report⁷ was compiled following this and has been used to assess the intended impact against the actual impact of the 2015 Regulations on the sector.

13. The evidence that has been used to inform this review has been compiled from both quantitative and qualitative sources. Some of the information presented in this review is subjective and has not been critically evaluated, for example where

⁶ Macalister, J. ['The-independent-review-of-childrens-social-care-Final-report.pdf \(childrensocialcare.independent-review.uk\)'](#)

⁷ National Children's Bureau. ['Quality Standards in Children's Homes \(ncb.org.uk\)'](#)

there is no data to sufficiently compare this with or where the subject does not present itself to quantitative assessment.

Impact of the Covid-19 pandemic

14. Part way through the completion of this review, the UK was hit by the COVID-19 pandemic and this had a huge impact on the sector. It meant that temporary amendments were made to some provisions in the 2015 Regulations, homes had to operate differently and Ofsted's usual inspection activities were affected.
15. Between 17 March 2020 and 12 April 2021, Ofsted paused normal inspection activity. Where inspections did take place, they were often virtual with no judgements made. Ofsted restarted routine graded inspection from 12 April 2021 across children's social care settings including children's homes.
16. Despite the challenges of Covid-19 on the children's homes sector, Ofsted data shows that the impact on inspection outcomes was small. Latest Ofsted data (from 31 March 2022) shows that 77% of children's homes were judged good or outstanding, which is slightly lower than the average across previous years⁸.

Independent review of children's social care

17. As part of its manifesto commitment, the government committed to undertaking an independent review of children's social care. The findings from the review were published at the end of May 2022. One of the recommendations from the review is that the department should "develop new care standards that apply to all homes where children live. These standards will need to replace all regulations and guidance for residential children's homes, fostering homes and currently unregulated provision."
18. In the government's response to the independent review, *Stable Homes, Built on Love*⁹, the department committed to setting up the Looked After Children Standards and Regulations Expert Group, to review standards of care, regulations and guidance. Membership of the group includes sector experts from different children's social care settings, and the first three meetings took place in November 2022, February 2023 and April 2023. The findings from this review, will feed into the ongoing work of this group.

⁸ Ofsted. '[Main findings: children's social care in England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/main-findings-childrens-social-care-in-england-2022)'

⁹ The Department for Education. '[Children's social care stable homes built on love consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/childrens-social-care-stable-homes-built-on-love)'

3 To what extent have the policy objectives been achieved?

19. The desire to improve the quality of care in children's homes was a fundamental reason for introducing the new Regulations. The Impact Assessment set out that success in delivering the policy objectives would be assessed:

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.

20. It was clear from Ofsted ratings prior to 2015 that there were large numbers of low-quality homes and that 2001 Regulations were not doing enough to improve this situation. The 2001 Regulations and National Minimum Standards had been described as a checklist which over-prescribed what provision should look like and how it should respond to the needs of the children and was not aspirational in its nature.

Quality of Children's Homes Following the 2015 Regulations

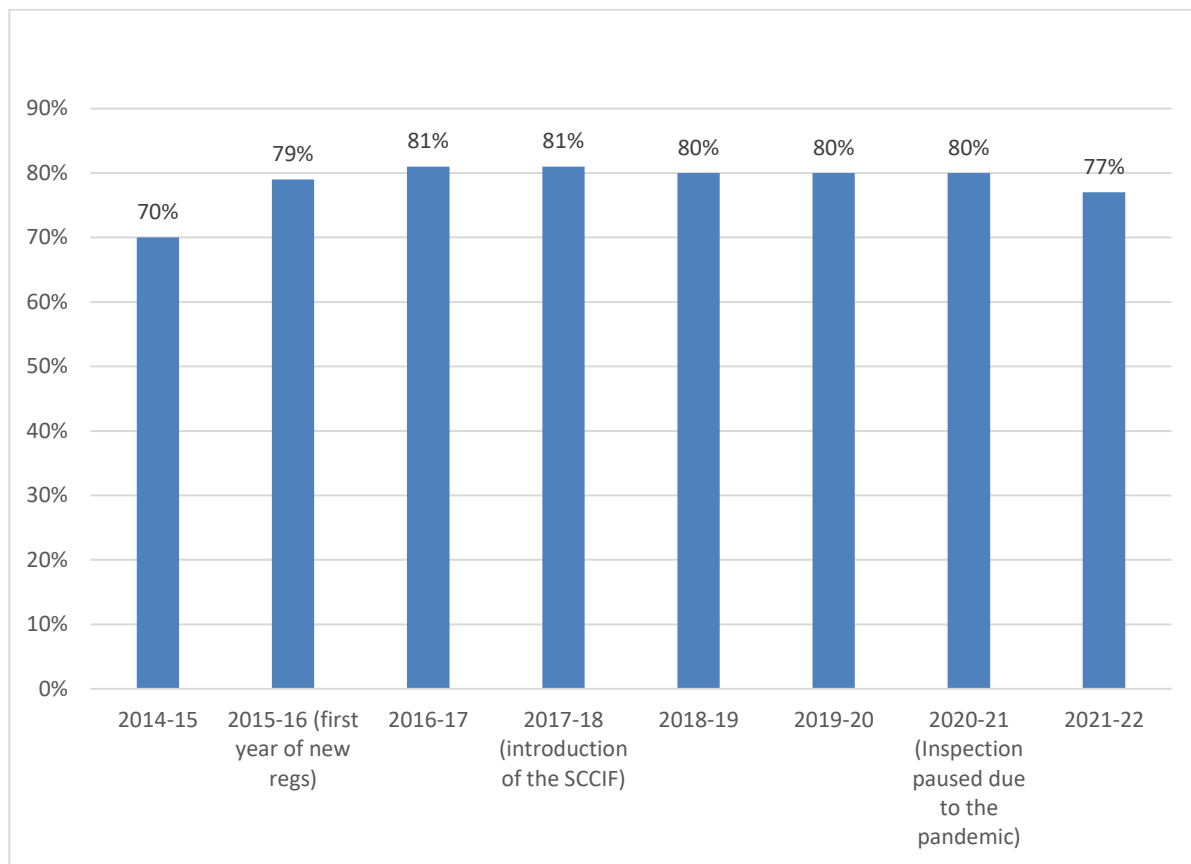
Ofsted Judgements in the Sector

21. In 2014-15, prior to the introduction of 2015 Regulations, the percentage of children's homes in England rated 'good' or 'outstanding' by Ofsted was 70%. This increased slowly over time with a peak of approximately 80% or higher in the three years prior to the Covid-19 pandemic (see Figure 1). In the first full year of regular inspection activity following the pandemic, this has slightly decreased to 77%¹⁰ but has continued to remain close to the levels achieved prior to the pandemic.

22. Ofsted have advised that although there is a data gap for inspections in the year 2020-21 due to the pandemic, the percentage of homes judged good or outstanding as at 31 March for each inspection year has remained relatively stable since the 2015 Regulations came into force as demonstrated in Figure 1.

¹⁰ Ofsted. [Main findings: children's social care in England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103121/main-findings-childrens-social-care-in-england-2022.pdf)

Figure 1 – Percentage of homes judged good or outstanding based on most recent inspection judgement as of 31 March of each financial year¹¹



Source: Ofsted

23. Although the number of children’s homes has increased significantly since the introduction of the 2015 Regulations, inadequate judgements have largely remained approximately 1-2% of overall judgements at the end of each inspection year between 2017-18 and 2021-22¹². Inadequate judgements did increase to 3% for all children’s homes as at 31 March 2022; however, this appears to be an outlier which could have been influenced by newly registered children’s homes who found it more difficult to overcome existing challenges in the sector.

¹¹ For inspection year 2020-21, no inspection judgements were given as regular inspection activity was paused due to the Covid-19 pandemic. Therefore, the data for 2020-21 is reflective of results from the 2019-20 inspection year.

¹² Data taken from Ofsted’s children’s social care data releases. [‘Research and statistics - GOV.UK \(www.gov.uk\)’](https://www.gov.uk)

Stakeholder views on quality

24. We asked a selection of stakeholders¹³ whether they agreed with the position that the quality of care has improved since the introduction of the new Regulations.

25. One stakeholder believed that the new quality standards had greatly improved quality and that after 15 years of the same Regulations which were “neither inspirational nor aspirational” and had “ran out of steam”, improvement was being seen. On the other hand, another believed that the aspiration in the sector to improve quality of care does not come from the Regulations themselves but from the workforce and the recruitment of staff who bring this quality to their work. Notably, almost all conversations we had on the subject commended the 2015 Regulations on improving the quality of care.

Ofsted’s Role in Improving Quality

Figure 2 – Children’s homes with cancelled and/or suspended registration

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Number of children's homes receiving at least one Notice of Proposal (NOP) to cancel	12	15	26	10	23	11
Number of those children's homes that were subsequently cancelled	9	7	8	2	2	0
Number of those children's homes that subsequently resigned	1	5	9	8	17	7
Number of children's homes receiving at least one notice to suspend	4	26	21	29	36	48
Number of those children's homes that subsequently resigned	2	8	9	18	22	22
Number of children's homes receiving at least one notice to restrict accommodation	33	60	65	58	54	61
Number of those children's homes that subsequently resigned	14	23	17	23	17	12

Source: Ofsted (Full year dates are 1 April to 31 March)

26. A fundamental issue under the previous Regulations was that while Ofsted would consider the entire regulatory framework upon inspection, they could only take enforcement action if a provider breached the 2001 Regulations, but not the National Minimum Standards¹⁴. As a result, the NMS were consolidated into the 2015 Regulations to improve Ofsted’s ability to act. Ofsted have told us that the

¹³ A total of 5 stakeholders representing local government and the children’s homes sector.

¹⁴ Department for Education. ‘[The Children's Home's \(England\) Regulations 2015 Impact Assessment \(legislation.gov.uk\)](https://www.legislation.gov.uk)’

quality standards underpinned by the new Regulations provide a better framework to tackle poor practice.

27. Figure 2 details the action that Ofsted have taken while inspecting children's homes since the 2015 Regulations came into force. The chart broadly demonstrates that since 2016, one year after the Regulations came into force, the use of enforcement action increased. For example, the change in legislative framework allowed Ofsted to apply its suspension powers more readily where they identified breaches of the 2015 Regulations to address serious safeguarding issues. The use of suspension powers have steadily increased over time, from 4 in 2016-17 to 48 in 2021-22.
28. Additionally, the number of children's homes that have received at least one notification to restrict accommodation has remained close to 60 since 2017-18 (subject to a small reduction during the period when Ofsted paused some in-person inspections due to the pandemic).
29. The fact that Ofsted are able to take an increasingly active role in enforcement action, which leads to suspensions and cancellations, shows the extent of change the Regulations have had in improving standards and driving out poor quality provision.
30. However, although it has enabled Ofsted to take greater action against individual providers, the 2015 Regulations only focus on setting regulations for individual homes and does not consider the larger parent companies in the private sector that oversee multiple homes. For example, in England, 10 companies account for the ownership of 33% of all private children's homes¹⁵. The current regulatory landscape means that Ofsted is only able to take action against individual homes at individual level and not at a group level where systemic issues could be impacting on the performance of their individual homes.
31. As part of the government's work to change and improve the children's social care system, the department is committed to working with Ofsted to strengthen its inspection and regulatory powers to hold providers of children's homes to account.

The inspection framework

32. The 2015 Regulations (including the quality standards) underpin the Ofsted inspection framework for children's homes. Ofsted introduced a framework in 2015

¹⁵ Ofsted. '[Largest national providers of private and voluntary social care \(March 2022\)](https://www.gov.uk/government/news/largest-national-providers-of-private-and-voluntary-social-care-march-2022) - GOV.UK (www.gov.uk)'

to complement the new Regulations. Its new inspection framework was much more focused on ‘*What is it like for a child to live here?*’, than previous frameworks. This aligned with the department’s aim to focus on the quality of care and outcomes for children living in residential care.

33. Ofsted set out how it would make requirements for improvements when inspecting homes and how the 2015 Regulations would influence their inspection judgements. They explained:

“The new inspection framework was much more about professional judgement and dialogue by those being inspected, and those inspecting. The framework was not process and compliance-based but reflected a sector that was being asked to focus on the impact that they had on children and young people’s lives and establishing their own measures of success.

We concluded that we should focus on the progress and experiences for those children and young people living in children’s homes, and that this was a more helpful measure than outcomes. To that end, in that framework we moved to a judgement structure of:

- The progress and experience of children and young people living in the home (overall judgment) taking into account:
- How well children and young people are helped and protected
- The impact and effectiveness of leaders and managers”.¹⁶

34. The 2015 inspection framework also replaced ‘adequate’ with a judgement of ‘requires improvement to be good’ to bring children’s homes inspection judgements in line with those under Ofsted’s other remits. The approach to inadequate homes was also altered, allowing for a monitoring visit to be conducted six to eight weeks after the previous full inspection if that is appropriate, whereas previously it was a blanket requirement to carry out a second full inspection. Ofsted have advised that they continue to use this approach as it is effective in supporting positive change and highlighting poor-quality care.¹⁷

¹⁶ Ofsted report: Review of the Children’s Homes (England) Regulations 2015

¹⁷ Ofsted report: Review of the Children’s Homes (England) Regulations 2015

35. The framework was further revised to align with the current Social Care Common Inspection Framework (SCCIF) in 2017, with further changes made in 2022. The inspection framework is intended to compliment the 2015 Regulations and although there have been changes to the framework over time, the majority of homes have continued to be judged to be good or outstanding.

Other policy objectives

Innovation in the sector

36. The 2001 Regulations were viewed by some as too prescriptive which stifled innovation in the sector. As a result, when designing the 2015 Regulations, the ability for providers to innovate was a priority in order to help improve the quality of care for children and the autonomy of managers.

37. The Explanatory Memorandum¹⁸ stated that the 2015 Regulations included provision to modernise management and administration processes, such as the electronic storage of records. Prior to the pandemic, Ofsted inspection evidence indicated that many providers continued to keep records in the way that the 2001 Regulations provided, i.e. in paper form, often for fear of criticism by inspectors. This is despite Ofsted's attempts to clarify the requirements for record keeping and paperwork set out in the 2015 Regulations. However, following the pandemic, Ofsted have seen more providers storing records electronically, indicating that the driver for this change appears to be the pandemic as opposed to the 2015 Regulations themselves.

38. Ofsted advised that the use of innovation in record-keeping has been affected by the implementation of General Data Protection Regulations (GDPR). Some providers see GDPR requirements as over-riding the provisions in the 2015 Regulations. Ofsted inspectors have found that providers have amended how they keep records, often to the extent that they breach the regulations, in order to meet what they perceive are strict GDPR requirements.

39. Additionally, one DCS has advised that the 2015 Regulations should be updated to give further guidance on the use of social media among residents in children's homes. Ofsted have also noted more emphasis on social media and e-safety, specifically in relation to regulation 12 of the 2015 Regulations ([the protection of children standard](#)).

¹⁸ Department for Education. '[The Children's Home's \(England\) Regulations 2015 Impact Assessment \(legislation.gov.uk\)](#)'

40. Additionally, there is the perception that the 2015 Regulations have given providers more autonomy over placements. In particular, one manager described how, backed by regulation 5, they had successfully challenged moves to have a young person transferred from the placement in which they were thriving¹⁹.
41. Regulation 13, the leadership and management standard, has also been raised as providing a clear framework within which managers can lead their staff and have control over the vision and ethos of their provision.
42. However, some of those we interviewed felt that the ambition of the Regulations to encourage innovation was good in theory, but in practice, the wider system may be creating barriers preventing providers from being as innovative as they would have liked. One example mentioned was the requirement to have a separate Manager registered for each individual solo bed unit – although it should be noted that Ofsted have tried to address this through allowing for the registering of multiple buildings under one children’s home manager.
43. Additionally, it was flagged that difficulties in retaining staff hampered the ability to build expertise and therefore the ability to take more innovative approaches in dealing with children with complex needs.
44. Providers also continue to be worried about the impact of taking risks through innovative approaches on their Ofsted ratings. Both the CMA and Care Review reported views from providers that although the number of children with highly complex needs was increasing, providers were reluctant to accept these children for fear of jeopardising their Ofsted rating.²⁰
45. Ofsted are aware of this view and have been working with their inspectors to ensure that when measuring a child’s progress, inspectors are making considered assessments based on the individual circumstances of the child. However, although these changes are being made, the current system has meant that potential benefits of giving providers more space to be innovative have not been fully realised. Our expert group will also look at how the regulatory system impacts on placements and how we can make the system work better.

¹⁹ National Children’s Bureau. ‘[Quality Standards in Children's Homes \(ncb.org.uk\)](http://ncb.org.uk)’

²⁰ Macalister, J. ‘[The-independent-review-of-childrens-social-care-Final-report.pdf \(childrensocialcare.independent-review.uk\)](http://childrensocialcare.independent-review.uk)’ and Competition and Market’s Authority, ‘[Final report - GOV.UK \(www.gov.uk\)](http://www.gov.uk)’

Incentives focussed on child welfare

46. The policy objective of the 2015 Regulations, that provider incentives are focussed on improving child welfare, is closely associated with the objective of improving the quality of care. The SCCIF states that staff from a 'good' children's home should 'know the children well, listen to them, invest time in them, protect them and promote their welfare'. It follows that the consistently high proportion of children's homes rated 'good' and 'outstanding' suggests that this policy objective is being met.
47. It should also be considered what the Regulations sought to achieve in relation to the workforce: a higher skilled workforce should mean that they are better able to understand and meet the needs of the complex children in their care. In previous evaluations of the standards, it was noted that staff engagement in their work had improved following the new 2015 Regulations.²¹.
48. Ofsted have advised that the number of staff who held a relevant qualification was at 57%, and this has declined steadily since 2017. This would appear to be symptomatic of the high turnover and poor retention of staff in the sector as set out in the findings of the CMA report. While the intention of introducing regulations on qualification requirements was right in terms of ensuring children and young people in homes receive high quality care, wider issues around the workforce have meant that the positive benefits on the quality of care have not been fully realised.
49. Ofsted also stated in their Annual Report for 2018-19 that "although progress has been made on minimum qualification requirements, there continues to be concerns about staff qualifications and training in weaker settings". This is because a common feature of staff in inadequate children's homes is that they have "inadequate training, receive poor support or lack management oversight or leadership²²". This may be due to the permissive nature of the regulations which require mandatory qualifications but are less prescriptive in other areas like training and professional development.
50. For example, this was seen during the pandemic where nearly all training was suspended because providers were not operating or it was provided online.

²¹ National Children's Bureau. '[Quality Standards in Children's Homes \(ncb.org.uk\)](https://www.ncb.org.uk)'

²² Ofsted. '[Ofsted Annual Report 2018/19: education, children's services and skills - GOV.UK \(www.gov.uk\)](https://www.gov.uk)'

51. Additionally, during research for this review, we asked for some sectoral views on incentives to improve child welfare. One DCS stated that there is a reasonable balance in the 2015 Regulations between improving welfare and meeting assessed needs. Another also said that there is more of a focus on what children need in terms of good care, such as focussing on their educational needs as well as ensuring engagement with their local community.

Conclusions

52. The Impact Assessment for the 2015 Regulations defined the measure of success as an increase in the quality of care provided by children's homes, as judged by Ofsted inspection outcomes. As at 31 March 2022, 77% of providers are rated 'good' or 'outstanding' compared to 70% in 2014-15²³. Since the coming into force of the 2015 Regulations, judgements for good and outstanding homes have been consistently around 80%. This demonstrates that over-arching improvements have been made since the 2015 Regulations came into force.

53. Although it is difficult, within the scope of this limited review, to decisively judge what can be fully and independently attributed to the 2015 Regulations rather than other intricacies in our complex children's social care system, such as the introduction of a new inspection framework, or the impact of the pandemic over the past 2 years, there has undoubtedly been a marked and sustained increase, compared to 2014-2015, in the number of children's homes judged to be 'good' or 'outstanding' which is what the government aimed to achieve.

54. Furthermore, an increase in Ofsted enforcement activity, enabled by putting the quality standards into regulations, demonstrates that poorer quality practice is also being driven out of the market. The statistics provided in this report demonstrate that action is being taken by Ofsted when issues around quality are found. The principal policy objective set out at the time of introducing regulatory reform to improve the quality of provision in children's homes has been met.

55. The Regulations have now been in force for eight years. The Independent Review of Children's Social Care, along with the CMA report has made some important recommendations and this review will help us in responding to these. Given the challenging times and the short amount of time the Regulations have been in place, it makes it difficult to judge whether all of their intended objectives have been met, for example in providing scope for innovation within the sector. This kind of organisational and systemic change takes time to bed in.

²³ Ofsted. Children's social care in England underlying data 2022 '[Children's social care data in England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/107422/childrens-social-care-data-in-england-2022-gov-uk.pdf)'

56. We have now published our response to the Care Review - Stable Homes, Built on Love - where we have committed to reviewing all existing legislation and regulation and to develop a core overarching set of standards for fostering, children's homes and supported accommodation. As we work through this with our expert group, we do not recommend any amendments to the 2015 Regulations at the current time, but to use the learning and feedback we have received to help shape any new core overarching standards of care to benefit all looked after children living away from home.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed:

Date: 2nd May 2023

A handwritten signature in black ink, appearing to be 'Charles', written over a horizontal line.

4 What were the original assumptions?

57. During the policy development stages of the 2015 regulations, a number of assumptions were made in generating a rationale for changing the existing approach and for the development of a new framework. A more detailed examination of these assumptions can be found in the original Impact Assessment²⁴ which was published alongside the regulations.

58. There was an understanding that the 2001 regulations were excessively focussed on process rather than children's outcomes. With the introduction of the 2015 regulations, it was assumed that quality of provision would improve from the current low levels. This is because higher levels of support were now being focussed on children. This assumption was formed partly from the views of the sector but especially in analytical data from Ofsted. In 2014-15, prior to the introduction of the minimum qualification requirements in the 2015 regulations, the number of homes that were judged 'good' or 'outstanding' was 70%²⁵. This meant that there were high levels of poor-quality provision in which looked after children were placed. The department therefore took steps to improve this. One DCS argued that although there is still a large amount of process in the way that children's homes are regulated, this is a necessary part of the system to ensure children are safeguarded.

59. The Impact Assessment estimated costs to the sector of implementing the 2015 regulations to be in the range of £7.3m - £11.6m, with the best estimate being £9.5m. These estimates are based on the assumptions that homes would incur costs associated with additional staff and managerial training, reviewing and re-writing policies, and expenditure on home furnishings. The private and voluntary sector providers would also face costs relating to carrying out basic fitness requirement checks on their directors and trustees. Ofsted would also face costs associated with transitioning to the new framework. A greater breakdown into the rationale behind calculating the costs can be found in the original Impact Assessment.

²⁴ Department for Education. '[The Children's Homes \(England\) Regulations 2015 - Impact Assessment \(legislation.gov.uk\)](https://www.legislation.gov.uk)'

²⁵ Ofsted. Children's social care in England underlying data 2022 '[Children's social care data in England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)'

5 Were there any unintended consequences?

60. In conducting this review, the investigation into any consequences of the 2015 regulations which were unintended and not foreseen in the Impact Assessment has been useful to determine how well the regulatory reforms have been embedded.
61. The workforce in children's homes is one of the major stakeholders who were impacted by the 2015 regulations. The department took steps to ensure they were prepared for the change, by commissioning Action for Children to provide workshops which were consistently praised by managers, as were the resources made available online through the Quality Standards Partnership. Managers described being inspired, informed and making valuable links with their peers in different sectors at the workshops, and making good use of the website since²⁶.
62. Broadly, it appears that the sector welcomed better regulation partly as this was seen to increase the professionalisation of the workforce²⁷. However, due to the increased autonomy placed on managers, there may have been a risk that the appeal of managerial roles had reduced due to increased responsibilities and paperwork.²⁸ One local authority manager described having to stop what was normally an ongoing recruitment process and rely on managers to cover staff absences because they did not have the resources to put all recruits through Level 3²⁹. Although Ofsted initially saw an increase in those with level 3 qualifications, this now appears to have reduced. One reason for this could be the increased challenges around workforce retention.
63. The changes to the regulatory framework may have had an impact on the way inspections are perceived. The higher level of freedom for managers could have additionally led to less clarity in the requirements. One stakeholder highlighted that although there is more freedom, practice has not followed. For example, Regulation 45, which obliges managers to review the quality of care, may have resulted in more effort in order to "re-invent the wheel" and second guess what was required³⁰. Ofsted have also stated that some providers take the view that it is

²⁶ National Children's Bureau. '[Quality Standards in Children's Homes \(ncb.org.uk\)](http://ncb.org.uk)'

²⁷ Kantar public for the Department for Education. '[Children's homes research: phase 3 \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)'

²⁸ Kantar public for the Department for Education. '[Children's homes research: phase 3 \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)'

²⁹ National Children's Bureau. '[Quality Standards in Children's Homes \(ncb.org.uk\)](http://ncb.org.uk)'

³⁰ National Children's Bureau. '[Quality Standards in Children's Homes \(ncb.org.uk\)](http://ncb.org.uk)'

there to supply a report to Ofsted, failing to see that this regulation requires them to establish a system for internal monitoring, and then take appropriate action.

64. One DCS gave the view that the new regulatory framework may have led to homes working more to a minimum standard, due to the processes required from the 2015 regulations, homes are putting more resource into ensuring that the level of bureaucracy is met rather than aspiring to the highest of standards. Another DCS agreed with this point stating that a lot of time is spent writing up incidents, accident forms and notifications. However, they did add that whether this was caused by the regulations or internal procedures from individual homes was unclear.
65. One stakeholder believed that the regulations had led to a big buy-up of the market by larger companies. However, as the Impact Assessment discussed the trend of larger companies increasing market share, this indicates that the change in the market was occurring prior to the 2015 regulations meaning that the impact of the regulations cannot be attributed to changes in the children's home marketplace.

6 Impact on Business

6.1 Has the evidence identified any opportunities for reducing the burden on business?

66.57(2)(c) of the 2015 Regulations sets out that we should consider whether the original objectives remain appropriate and the extent to which they could be achieved with a system that imposes less regulation.

67. The Impact Assessment estimated a net cost to business per year of £0.53m based upon the costs the 2015 regulations would have on children's homes providers and Ofsted. While the regulations have been in place no major impacts on business have been identified, although it is inevitable that new regulation has impacted on providers. No attempt has been made to measure these impacts – the over-riding issue is that the overall quality of children's homes has increased since the 2015 regulations were enforced. In that respect, further analysis to evaluate the financial implications would not seem proportionate.

68. The level of regulation that exists is considered appropriate by the department and we do not think that levels of regulation could be reduced, therefore, a system with less regulation is not something which would help us achieve the policy objectives. However, in *Stable Homes, Built on Love*, the department's response to the Independent Review of Children's Social Care, we have committed to undertake a review of existing regulations and legislation and develop a core set of overarching standards of care for fostering, children's homes and supported accommodation. As we take this work forward, we will be reviewing the current level of regulation.

6.2 How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have?

69. The Children's Homes (England) Regulations 2015 are statutory legislation which only impacts England and no other part of the United Kingdom or indeed the European Union therefore no comparison can be made to EU states' implementation of this. Furthermore, international trade has no relevance to the implementation of these 2015 regulations.