**First Tier Tribunal Care Standards**

**The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care) Rules 2008**

**2025-01562.EY-SUS**

**Neutral Citation Number: [2025] UKFTT 01026 (HESC)**

**Heard on the papers on 22 August 2025 remotely via video**

**BEFORE**

**Mr SJW Lewis (Judicial Member)**

**Dr GK Sharma (Specialist Member)**

**BETWEEN:**

**TRANSITION CARE PETERBOROUGH LTD**

**Appellant**

**v**

**OFSTED**

**Respondent**

**DECISION**

**The Appeal**

1. The Appellant, an organisation registered under the Care Standards Act 2000 (“the Act”) to carry on a supported accommodation service in Peterborough, brings this appeal (“the Appeal”) against a decision (“the Decision”) by the Respondent, set out in a written notice of 11 July 2025 (“the Notice) to restrict accommodation, with immediate effect until 3 October 2025, under section 22B of the Act (“the Restriction”).
2. The Appellant had been able, prior to the Decision, to accommodate up to 13 people, in five shared or group-living premises, limited to accommodating looked-after children or care leavers.
3. The Decision has the effect that no child may be accommodated by the Appellant at any premises unless the child was being accommodated at the time that the Notice was served and has continued to be accommodated since.
4. The Respondent opposes the Appeal.

**The Hearing**

1. The hearing (“the Hearing”) proceeded on the papers, with no attendance from the parties or representatives. That was in line with the case management decision made by Judge Khan on 7 August 2025, which was itself in line with the views expressed by the parties.

**Documents, Evidence, and Submissions**

1. A main bundle of written documents (“the Bundle”), running to 173 pages, had been prepared and provided for us to consider at the Hearing. The Bundle included, among other things: (1) the formal appeal application form, along with a covering email setting out some further information and submissions; (2) the formal response form, along with a more detailed response document attached to it; (3) two case management orders; (4) a witness statement for the Appellant (with exhibits and a covering email); (5) three witness statements for the Respondent (with exhibits); and (6) a relevant extract from the Act.
2. The witness statement for the Appellant was from Andrew Williams. It was not signed or dated. Mr Williams is the nominated individual and a director of the Appellant.
3. The witness statements for the Respondent were Steven James, Amie Pearson, and Mark Woodbridge. They were signed (electronically) and dated. Mr James carried out and led relevant inspections of the Appellant. Ms Pearson attended and supported Mr James in relation to the most recent of those inspections. Mr Woodbridge is a manager and the person who, in essence, made the Decision.
4. In addition to documents in the Bundle, we had regard to the Respondent’s skeleton argument, along with two documents attached to it: (1) The Supported Accommodation (England) Regulations 2023 (“the Regs”); and (2) the Guide to the Supported Accommodation Regulations including Quality Standards (published by the Department for Education in March 2023) (“the Guide”).

**Restricted Reporting Orders**

1. While no restricted reporting orders were expressly applied for, we considered whether we ought to make any such orders. Principally, we considered the position in relation to the children being accommodated by (or otherwise under the care of) the Appellant at material times. We concluded that, in all the circumstances, we should make an order, under rules 14(1)(a) and (b) of the rules governing the Tribunal and these proceedings, prohibiting the disclosure or publication of any document or matter likely to lead members of the public to identify those children, so as to adequately protect their private/family lives.

**Legal Framework and Principles**

1. Section 22B of the Act is the key statutory provision. It provides (as far as is relevant):

***22B Notice restricting accommodation at certain establishments***

1. *The [registration authority] may serve a notice on a person who is registered in respect of an establishment to which this section applies imposing on that person the requirement in subsection (2) in relation to that establishment.*
2. *The requirement is to ensure that no child is accommodated at the establishment unless the child –*
3. *was accommodated there when the notice was served; and*
4. *has continued to be accommodated there since the notice was served.*
5. Section 22B does not expressly impose, or otherwise set out, explicit conditions regarding when a notice restricting accommodation may be served. The Respondent’s evidence is that it will only serve such a notice where it considers children may be exposed to a risk of harm.
6. “Harm” is a term defined in section 31(9) of the Children Act 1989 as: “ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another.”
7. In our judgment, the correct approach for the Tribunal to take to the consideration of the Appeal is as follows. First, we must ask ourselves whether, at the date of the Hearing (rather than, for example, at the date of that the Decision was taken by the Respondent), we are satisfied that we have **reasonable cause to believe** that any child **will or may** be exposed to a material risk of harm. The burden of proof is on the Respondent. The standard of proof (“reasonable cause to believe”) falls somewhere between “the balance of probabilities” and the lower threshold of “reasonable cause to suspect”. The relevant belief is to be judged by whether a reasonable person, assumed to know the relevant law and be in possession of the relevant information, would believe that a child may be put at a material risk of harm. The threshold, therefore, is relatively low. The Tribunal does not need, for example, to be satisfied that there has been any actual harm, or that harm is likely in the future. That said, as we consider was made sufficiently clear by the Upper Tribunal (see paragraph 20) in Ofsted v GM [2009] UKUT 89 (ACC), the contemplated risk must be one of “significant” harm. As the Tribunal is focused on assessing current/future risk, we do not need to make conclusive findings of fact (or resolve any associated disputes of fact).
8. Second, if satisfied that the test/threshold relating to risk is met, we then need to consider whether, objectively viewed, the relevant regulatory intervention (i.e. the Restriction) is **proportionate** in all the relevant circumstances. The Respondent, in our view, bears a persuasive burden in relation to that issue.
9. We have had careful regard to the principles set out above, and the evidence before us (limited though it is), and approached this matter with an open mind.

**Chronology**

1. Given the broad principle that our role is primarily to assess risk (and then to consider the overall proportionality of the intervention being appealed), rather than to resolve factual disputes, nothing in this section (or anywhere else in this document) ought to be taken as any conclusive finding of fact. However, it is nonetheless important that we set out what appears to us to be the most relevant context. What follows is taken from our reading of the documents before us.
2. The basic chronology appears likely to be as follows:
3. On 1 February 2024, the Appellant registered, with the Respondent, in relation to the relevant service.
4. On 27-31 January 2025, the Respondent undertook a full inspection of the Appellant’s service (“the First Inspection”), forming a view that there were a number of significant concerns. At the time of the First Inspection, the Appellant was accommodating seven looked-after children aged 16-17.
5. On 7 February 2025, the Respondent served the Appellant two compliance notices following and as a result of the First Inspection, providing the Appellant with time to demonstrate compliance.
6. On 25 March 2025, the Respondent carried out a monitoring visit (“the Monitoring Visit”) of the Appellant, following which (on 27 March 2025) it took a view that the Appellant had made significant improvements and taken steps designed to meet the compliance notices served on 7 February 2025. At the time of the visit, the Appellant was still accommodating seven look-after children aged 16-17.
7. On 7-11 July 2025, however, the Respondent undertook a further full inspection of the Appellant’s service (“the Second Inspection”), once again forming a view that there were a number of significant relevant concerns.
8. On 11 July 2025, the Respondent made the Decision and served the Notice.
9. On 16 July 2025, the Respondent also served the Appellant with two further compliance notices following and as a result of the Second Inspection, providing the Appellant with time (i.e. until 9 September 2025) to demonstrate compliance.
10. On 5 August 2025, the Appellant lodged the Appeal against the Notice. The Restriction, therefore, is our principal focus.

**Summary of Parties’ Positions**

1. In very broad summary, the Respondent’s position is that the test in relation to risk is readily made out. The First Inspection revealed significant concerns. While it appeared by the time of the Monitoring Visit that the Appellant had demonstrated sufficient improvement/compliance, it subsequently became clear at the Second Inspection that there remained significant concerns and underlying issues. Taken together, along with the material provided by the Appellant in the course of the Appeal, it is clear, the Respondent submits, that children would be put at material risk of harm without the Restriction and that the latter is proportionate.
2. The Appellant, on the other hand, complains about the manner in which the Second Inspection was carried out by Mr James (which, in effect, it regards as being indicative of a rude, biased, pre-judged, or otherwise unreasonable or unfair approach), and more generally submits that the Restriction is not necessary as the relevant issues are over-stated by the Respondent and/or could be managed adequately by a less-restrictive measure (i.e. by advice or guidance or similar).

**Conclusions with Reasons**

***Summary***

1. In our judgment, there would, at present, be a material risk of harm to children if the Restriction was not in place. The relevant threshold relating to risk is met. The Restriction is, at present, objectively justified as proportionate to the risk identified and/or, to put it another way, as a proportionate means of achieving a legitimate aim. We consider the Restriction to be necessary, in other words, at present, to keep children adequately safe.
2. We set out some further reasoning below. What follows is not designed to cover all the matters touched on in the Bundle or the other documents before us. It is, however, designed to be sufficient to clarify the core reasons why we reached our decision.

***Risk***

*Summary*

1. Bearing in mind the principles set out further above, and without going as far as to find facts, we reached the following views on the limited evidence before us. Stepping back and looking at things in the round, we are satisfied that, as of today, there are sufficient reasonable grounds to believe that the provision of service by the Appellant would or may expose children to a material risk of significant harm. We rely on the following in support of this view.

*The First Inspection*

1. First, the evidence from the Respondent in relation to the First Inspection, and to concerns identified in the course of that inspection, appears to us to be credible, reliable and persuasive.
2. The Respondent appears to have carried out a relatively full inspection between 27 and 31 January 2025. It seems likely to have formed a genuine view, on what appear likely to us to be rational and reasonable grounds, that there were indeed some serious and relatively widespread issues in the service. The Respondent made it clear that urgent action was required to address such matters and that a further inspection would take place within six months or so.
3. For example, there is direct evidence – from Mr James’s statement in particular – which tends, in our view, to suggest the following:
4. One child had been admitted despite the referral form indicating that he or she had overly complex needs relating to substance misuse, violence, self-harm, risk of criminal exploitation, and robberies including weapons. This tends to indicate that the child’s needs may well have been too high or too complex or otherwise inappropriate for supported accommodation of a type provided by the Appellant.
5. The Appellant may well have exposed one or more children, unnecessarily, to a risk of harm when another child was moved into a shared home with complex needs where that child caused considerable damage to communal areas, threatened staff, and was verbally aggressive. As a result, it would appear, the child had to be moved to another placement.
6. The referral form for another child indicated that he or she had risks relating to online safety, having previously arranged to meet a stranger to have sex, but, despite that, information was not added to the risk assessment or support plan in the way it ought to have been when that child was later known or suspected to have been contacting someone online who she or he did not know and had arranged to meet.
7. Other issues identified included, for example, that safeguarding or child protection information was not always shared with relevant professionals, partners or agencies; and that one or more of the children had a high level of missing-from-home incidents and that support in relation to that risk was insufficient.
8. We had due regard to the two compliance notices issued, on 7 February 2025, following and as a result of the First Inspection:
9. In the first of those, the Respondent set out what it considered to be material non-compliance with regulation 4 of the Regs. That regulation relates to the standards regarding leadership and management. The Respondent’s view was that, at that point in time, the inspector had found serious and widespread shortfalls in leadership and management practice, giving cause for significant concern about the experiences and progress of the children admitted to the service. The concern appears to have primarily been focused on the Appellant admitting children whose needs were basically too complex for the Appellant to properly manage as a provider of supported accommodation.
10. In the second, the Respondent set out what it considered to be material non-compliance with regulation 7 of the Regs. That regulation is about children receiving individual and tailored support sufficient to meet their needs. The Respondent concluded there were serious issues with the support provided to service users and also with written support/care plans (both at the point of admission and also in terms of necessary updates thereafter).
11. We place on record, though, that the Respondent’s conclusions were not uniformly negative. The Respondent noted in the inspection report, for example, that: “all staff” were “committed to helping children to try and make progress”; partner agencies had fed back that staff “genuinely cared” about the children; and staff appeared to have a good understanding of ways to communicate with children.

*The Monitoring Visit*

1. It seems clear that the Monitoring Visit was relatively successful in the sense that the Appellant was able, at that point, to persuade the Respondent that it had (apparently) made sufficient progress in relevant respects. To take one important example, the Respondent recorded, in the outcome document, that a “robust process” was now in place for managing referrals and children will only be admitted if their assessed needs can be properly met. Various other relevant improvements, to process and practice, are also noted/perceived.
2. Consequently, at a subsequent case review meeting on 27 March 2025, the Respondent concluded that the Appellant had made sufficient progress to meet the steps set out in the compliance notices. That said, the Appellant was, it appears, still required to take some further actions related to relevant standards.
3. However: it is important to note, in our view, that, at the time of the Monitoring Visit, the Appellant had not, it seems, admitted any additional children to the service since the First Inspection. As a consequence, the decision to lift the compliance notices was, in essence, based on assurances provided by the Appellant that it had sufficiently improved its systems, processes, and practice. It was also, according to the statement of Mr Woodbridge, based on two referrals not being accepted during that period by the Appellant due to the children having been deemed unsuitable for supported accommodation. The Appellant, according to the Respondent, had agreed that it had previously accepted children to the service who were not suitable for supported accommodation; but appeared to, by then, have recognised that as an issue and was now in a position, therefore, to prevent it from re-occurring in the future.

*The Second Inspection*

1. The evidence from the Respondent in relation to the Second Inspection, and indeed in relation to the Monitoring Visit, also appears to us to be credible, reliable and persuasive.
2. The Second Inspection had always been planned and anticipated, as indicated above, to have occurred within (approximately) a six month period. We note that it was conducted, once again, by Mr James (who also, we note, conducted the Monitoring Visit). We also note the evidence that Ms Pearson played a relatively significant support role in relation to the Second Inspection.
3. One of the main problems faced by the Appellant in this appeal is that the balance of the evidence before us tends to indicate that, at the time of the Second Inspection, there were probably still a number of significant issues with the service, including some of those already identified in the First Inspection. That, if correct, would suggest a pattern of problematic service provision, and a potentially serious issue relating to the Appellant’s capability (or willingness) to effectively implement, embed and sustain necessary changes and improvements.
4. The relevant concerns are summarised in the Notice and set out in the witness statements provided by the Respondent.
5. One important area of concern related, again, to the management of admissions/ referrals. The balance of evidence indicates that there were genuine concerns, on what appear reasonable grounds, that the Appellant’s process or decision-making in relation to admissions/referrals was not being (and/or would not be) conducted in line with good safe practice and the relevant regulatory framework. The Respondent’s evidence suggests that out of three children admitted recently, two were considered by the Respondent to have been inappropriate, at the point of admission, for supported accommodation such as that provided by the Appellant:
6. The referral for one child (“Child S”), we are told, indicated that he or she “heard voices”, used substances, caused property damage, and was at risk of sexual exploitation through arranging to meet people online and have sex in return for drugs. It was further identified, we are told, that the child had disengaged from services and had previously had restrictions placed on his/her use of social media.
7. The referral for another child (“Child T”), we are told, indicated that his/her previous placement had broken down due in part to a physical altercation with a member of staff, and that, in addition, there had been issues relating to substance misuse, sexual exploitation, and criminal exploitation, as well as concerns about relationships with older people and connections with adults understood to have exploited children.
8. Within the Second Inspection, the evidence indicates, discussions were held about the decisions to admit such children. We are told that the registered manager indicated such decision-making was, in essence, based on whether the team felt it could “work with” the child and that the Appellant had previously accepted children with “far worse profiles”. The manager is said to have acknowledged, however, that the organisation needed to move away from that mindset and instead root such decision-making on principles more consistent with the relevant regulatory scheme. The evidence also indicates that, in a discussion about the decision to admit Child T, both the nominated individual and the registered manager accepted they should have requested more information from the previous placement provider before reaching any decision to admit the child. The evidence indicated that the decision was influenced too much by the fact that the child was already known, to some extent, to the organisation.
9. In other words: the evidence indicates that the Appellant may well have still, despite the experience it had gone through with the First Inspection and the regulatory steps which had followed it, been admitting children whose needs were too complex or otherwise inappropriate for supported accommodation. The argument, from the Respondent, is that such children would likely be placed at risk of harm, as they need additional and/or different support (e.g. by a placement at a children’s home or in a foster family etc).
10. Moreover, the concerns arising from the Second inspection were noted limited to referrals/admissions. The evidence indicates that the Respondent had genuine concerns on what again appear to us to be reasonable grounds in relation to the following beliefs:
11. Child T was moved into a shared house where he or she “smashed up” the property when intoxicated and was regularly “smoking weed”. This may indicate that the Appellant placed children without considering the potential adverse impact on other children, ultimately placing those other children at a heightened level of risk.
12. Child T was moved into a shared home with Child S, despite the two having similar vulnerabilities, in a way which placed one or both of them at a heightened level of risk.
13. Child S was hospitalised due to intoxication and/or an associated collapse. Moreover, the Respondent was not notified of that as required. Further, there was no (or no sufficient) evidence of any (or any sufficient) support work in relation to the matter.
14. One child admitted since the First Inspection had a history of going missing from home. The decision to admit that child gives rise to specific concerns given that the Guide states: “We expect that it would not be appropriate for young people who are known to be at risk of going missing or frequently go missing to be placed in supported accommodation as their needs are such that they would likely require a greater level of care and supervision”.
15. The Respondent was not notified of a child protection enquiry being instigated for Child T.
16. Children received emergency food while in the service and in circumstances where, it appeared, those children were using their allowance to buy drugs or other unjustified things. Again, there was no (or no sufficient) evidence of any (or any sufficient) support provided in relation to money management or education about substance abuse.
17. Another child (“Child F”) was hospitalised through intoxication after he or she collapsed in a park. Again, the Respondent was not notified of that incident.
18. The Appellant had not informed the local authority that a child had reported to them that he or she had been verbally abused by member of staff. That may have prevented the local authority from having effective oversight of the matter at the relevant time.

*The Decision*

1. The above matters led to the Respondent forming a view that the Appellant’s leadership/management did not have effective oversight of the service; that, among other things, they were failing to identify and remedy weaknesses in the admission process, children’s plans, support work, and the requirement to submit notifications of serious incidents. There was a risk, in its view, that if allowed to accept further admissions, there would be a risk of harm to those children, and also to the children already accommodated. The Respondent concluded that the Notice was required, until the provider was/is able to demonstrate it understands sufficiently the regulatory framework for supported accommodation and is both willing and able to apply it in practice.
2. Compliance notices were also served, with the compliance date of 7 September 2025, to address the shortfalls and issues identified.

*Other Developments*

1. We note that, within the Bundle, there is evidence of a subsequent monitoring visit by Cambridgeshire County Council. This appears to have been triggered by the outcome of the First Inspection and to have taken place on 18 July 2025. It appears to have involved a discussion with the nominated individual regarding the First Inspection, a review of an action plan produced by the Appellant (see below), a review of files, a tour of the premises, and a discussion with one service user. The associated report of the visit indicates, in broad terms, that, at least in relation to some important respects, the Appellant is (or, more accurately, was as at 18 July 2025) still in the process of reviewing processes (such as those relating to referrals/admissions), making changes and improvements, etc. The report also indicates that the local authority found that some important documents, such as daily logs and instant logs, varied in detail and quality. Record keeping and “targeted support” were identified as areas for improvement. The Appellant was expected to provide regular further updates, in relation to its action plan, to the local authority, as part of the latter’s “continuous monitoring” of it as a provider. We also note, however, as we do above, that there were positive observations, including those in relation to the director’s “dedication and commitment to the young people”.
2. We note the action plan in the Bundle. While the date of the version before us is not entirely clear, Mr Williams’s statement suggests it’s a version from 10 July 2025. Again, in broad terms, it appears to indicate that the Appellant has put a plan together designed to address the concerns raised by the Respondent in the Second Inspection but that, in several significant aspects, is still in the process of delivering against that plan. There is no or no persuasive evidence before us, for example, from the Appellant, that (1) the plan is now fully implemented and (2) is sufficient to address all of the significant concerns raised by and relied on by the Respondent.
3. We further note, and have taken into consideration, a document called “Minor clarification or factual accuracy form”.
4. Finally, we note the information contained within or associated with Mr Williams’s more recent witness statement. The statement is very brief, covering just two pages. It does not, in our view, really address the issues/allegations most relevant to the Appeal. It repeats the complaint or concern about the alleged approach adopted by Mr James to the Second Inspection in particular. But the issues raised, in relation to that, are not sufficiently relevant, detailed, supported, or persuasive to drive us towards upholding the Appeal. There was very little in the statement about the crucial issues in this case or the current position, in relation to them, that the Appellant is now in. Having sought a paper-based hearing, there was no opportunity for us to ask Mr Williams further questions or (to the extent that it would have been fair procedurally to have sought to do so) to assist him in providing some further relevant evidence about key issues.

*Bringing Things Together*

1. Overall, we are satisfied that there was reasonable cause to believe that a material risk was present at the time of the Notice and that it continues, today, to be so. The evidence from the Respondent on that appears to us to be relatively strong (if untested in court); and there is little evidence, in practice, from the Appellant to undermine it or to establish recent sufficient improvements etc. The reality appears likely to be that the Appellant was operating in such a way that may well (if unintentionally and despite good intentions) have put children at material risk of harm and that, while it is in the process of seeking to make changes to address relevant matters, it has yet to get to the point where the relevant risk can be properly said, objectively, to have been reduced to a level that is acceptable. We have kept in mind the following from the Guide: “Where young people of this age have needs that would best be met in a children’s home or foster care placement, that is where they should be placed… Supported accommodation caters for children aged 16 and 17 who have relatively high or increasing levels of independence, who are ready to gain further skills in preparation for adult living, and who do not need or want the degree of care or type of environment provided in the children’s home or foster care”. We are persuaded that there are significant ongoing risks, arising not just from the Appellant’s admissions/referrals practice but also from the service provided to children once admitted.

***Proportionality***

1. In all the circumstances, we are further satisfied that the Restriction is objectively justified as proportionate.
2. First, we have formed the view that the harm contemplated is more than merely trivial or minor: it is, in our view, significant and potentially very serious. It could, realistically, include a significant level of physical, sexual, emotional, financial or developmental harm. We also think that the likelihood of the risk materialising is relatively high (or, at least, not low): the evidence before us suggests a potential pattern of actual issues in recent months; and there is no longer-term history, for this service, of strong and reliable previous compliance. We have though, we stress, had regard to the positive documentary evidence in support of the Appellant including, for example, the evidence about Mr Williams’s personal dedication etc but, at this point in time, in light of the other evidence, those things are not sufficient to reduce the risk profile enough. The fact that the potential impact of the risk is relatively high, and that the likelihood of occurrence is not low, means that the Restriction is more readily justified as proportionate to the risk.
3. Second, there is a legitimate aim engaged. It is important. It is relates, ultimately, to the protection of vulnerable children from the risk of significant harm. The Restriction relates, directly, to the pursuance or achievement of that aim. Its immediate purpose is to keep children safe during a period in which the Appellant (or the Respondent) takes necessary steps to reduce the relevant risk to an acceptable level. Again, the importance of the aim means that the Restriction is more readily justified as proportionate.
4. Third, we have tried to have careful regard to the adverse impact of the Restriction on the Appellant and any other relevant people. We can see that the matter, generally, may well have an adverse impact on the Appellant and some people related to it. But there is a lack of direct or persuasive evidence from the Appellant about the nature and degree of that impact. There is no sufficient evidence before us that the Appellant, or any relevant children or others, are, as a result of the Restriction, disproportionately impacted. We are content that the importance of the legitimate aim(s) being pursued outweighs the adverse impact; and that it is proportionate at present. In forming that view, we had in mind the limited time period of the Restriction and the obligation on the Respondent to actively keep it under regular review (and to lift it should the Appellant demonstrate a sufficient material change in the situation etc).
5. Fourth, we are further satisfied that the legitimate aim(s) cannot realistically be achieved adequately by any less-restrictive measure. The evidence indicates that, in essence, other less-restrictive measures have *already* been tried – and have probably not been sufficiently effective. It therefore appears both appropriate and reasonably necessary, in our view, to take the next step up: i.e. to put, and to keep, in place the Restriction. The Respondent might potentially have considered going even further but elected to restrict the nature of the intervention to a time-limited restriction. That, in our view, continues to be proportionate overall. Our decision is based, as it must be, at the time of the Hearing and on the basis that the Restriction is due (in principle at least) to end relatively shortly (on 3 October 2025).
6. In our judgment, therefore, the Decision was rational, proportionate, and lawful; and it continues – for now at least – to be so.

**Outcome**

1. The Appeal is dismissed. The Decision is confirmed.

**SJW Lewis**

**Tribunal Judge**

**Date Issued: 27 August 2025**