

DfES Statutory guidance: Duty on local authorities to promote the educational achievement of looked after children

Consultation Response Form

The closing date for this consultation is: 9 June
2005

Your comments must reach us by that date.

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education and skills

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The information you send to us may need to be passed to colleagues within the Department for Education and Skills and/or published in a summary of responses received in response to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system, unless you specifically include a request to the contrary in the main text of your submission to us.

The Department may, in accordance with the Code of Practice on Access to Government Information, make available on public request, individual consultation responses. This will extend to your comments unless you inform us that you wish them to remain confidential.

Please tick if you want us to keep your response confidential.

Name John Simmonds
Organisation (if applicable) British Association for Adoption and Fostering
Address: Skyline House,
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If your enquiry is related to the policy content of the consultation you can contact Michael Allured on: 0207 273 4906 or e-mail: michael.allured@dfes.gsi.gov.uk

If you have a query relating to the consultation process you can contact the Consultation Unit on:

Telephone: 01928 794888

Fax: 01928 794 311

e-mail: consultation.unit@dfes.gsi.gov.uk

Are you a local authority respondent?

<input type="checkbox"/> Chief Executive	<input type="checkbox"/> Director of Education	<input type="checkbox"/> Director of Children's Services
<input type="checkbox"/> Lead Member for Children's Services	<input type="checkbox"/> Director of Social Services	<input type="checkbox"/> Social Worker
<input type="checkbox"/> Education of Looked After Children Manager	<input type="checkbox"/> None of these (please specify)	

Please Specify:
Director of Policy Research and Development

Are you responding on behalf of:

<input type="checkbox"/> An English county council	<input type="checkbox"/> A London borough council	<input type="checkbox"/> A metropolitan district council
<input type="checkbox"/> A non-metropolitan district council for an area where there is no county council	<input type="checkbox"/> other / (please specify)	

Please Specify: Professional membership organisation

Are you responding on behalf of a representative organisation? If so, please indicate whether it is:

An organisation
representing
local authorities
(please specify)

Another
representative
organisation
(please specify)

If neither apply
please specify the
name of your
organisation and the
capacity in which
you are responding

Please Specify: British Association for Adoption and Fostering

1 Does the guidance help make clear the essential actions which local authorities are expected to take in order to comply with the new duty?

<input type="checkbox"/> Very clear	/ Largely clear	<input type="checkbox"/> Not very clear
<input type="checkbox"/> Not at all clear		

Comments: The identification of outcome measures, the requirements for need assessments and the requirement to demonstrate the action taken to support the educational achievement of looked after children is to be welcomed. The Guidance sets out the role of the Director of Children's Services and the Lead Member, the way that services are to be inspected and how the day –to-day implementation of the new duty is to be carried out.

2 Does the guidance help make clear what the strategic links are between this guidance and related guidance such as that for the Director of Children's Services?

<input type="checkbox"/> Very clear	/ Largely clear	<input type="checkbox"/> Not very clear
<input type="checkbox"/> Not at all clear		

Comments: The strategic links are clear but the one link that requires some development is the authority of the Director of Children's Services and the authority of the head teacher. Government policy is moving in two directions on this issue – giving statutory responsibility to the latter without being clear how this will apply to head teachers who do not appear to have a similar level of statutory responsibility.

In practice there may be some confusion about the numbers of pieces of related guidance to which this guidance relates – especially as some of the other guidance or related material is in the early stages of development and particularly that which is untested such as the Common Assessment Framework.

3 Does the section on Effective Implementation of the Duty (paragraphs 25 - 40) provide the right level of detail about the range of support which local authorities should provide?

Yes

/ No

Not sure

Comments:

25.1 This must include educational needs beyond 16/18. The duties of the Leaving Care Act are important here but any good parent would not be planning to move a 16 year old from a foster placement of semi-independent living at the point of taking GCSE's or A levels. Pathway plans would also need to ensure that the young person's educational needs are supported in the same way that any parent would support their child through university, further education or whatever training or development they were undertaking.

25.2 While this focuses on education, what supports educational achievement is a care plan that fully and speedily ensures that children are placed with the birth parents/families or other placements which are stable and secure. Children find it very difficult to engage in educational opportunities when the rest of their life is unstable or they are preoccupied with the basic issues of staying safe, being feed, keeping warm etc.

25.3 The relevant la representative must also know the child well and be able to meaningfully support the child and receive feedback from the school. The emphasis of problems at school is understandable but it should equally focus on 'celebrating achievement'.

25.4 this is phrased badly. The la must identify the needs of pre-school children's educational needs, make a plan to implement these and ensure that foster carers and others are supported to comply with this.

25.5 Is helpful

25.6 is helpful

25.7 and that these policies are complied with. It is also essential that when

children are placed out of area that any differences in policies are fully negotiated and resolved – this includes placements with independent foster care providers.

25.8 the reference to home is confusing – this should refer to any placement. It should also recognise the responsibility of the local authority to develop and support carers in their understanding and capacity to discharge this responsibility.

Designated social worker – this term is not in use – does it mean the allocated social worker

26.1 The emphasis of minimising disruption to education is very important in placement decisions but there may a range of issues that need to be taken into account in identifying the most suitable placement.

26.2 Educational provision should mean the place that best meets the assessed educational needs of the child. Special educational needs should not be used as a reason for delay ever. If delay is necessary, then the child's needs must be met in suitable alternative provision.

26.3 Clear

26.4 Clear – this needs to be supplemented by a requirement that appropriate educational provision needs to be arranged over the 20 days.

26.5 Clear

26.6 This should be proactively worded – an arrangement for a school place will include a visit to the school and discussion with appropriate staff about the child's needs, their circumstances etc. This visit should include the child wherever possible. This is what an 'ordinary parent' would do.

27 Clear

28 Clear. Given the small number of children this will involve the school in, particular emphasis will need to be given to this. This issue will also have to take into account children who move placement in the course of the school year. Where a refusal is made, the reasons should be set out in writing.

28.7 The emphasis should not be on problems but a full assessment of the strengths and capacities of the child and any challenges they may face.

29. The role of the Independent Reviewing Officer is crucial here. This is where accountability is exercised in the care planning process. Education is a critical part of the their role in reviews.

29.1 Clear

29.2 Clear

29.3 Clear the PEP should include alternative educational provision and not just a 'wait' for the child until the place becomes available.

29.4 Clear

29.5 The PEP needs to identify the strengths and capacities of the child and be positive in its approach without ignoring any challenges the child may face.

The notion of behavioural targets needs to be used with care – there is a risk that children carry enough stigma anyway so that the construction of any plan to address emotional and behavioural issues needs to be positive and supportive.

29.6 Clear

29.7 Clear

29.8 Clear This issue can be a great significance where young people are taking public examinations and having to work out a plan for 'leaving' care'.

30 Clear but the respective roles of the school, the social worker and the foster carer need to be identified alongside this and this needs to be coordinated with the child's care plan.

31 It is the responsibility of the IRO to ensure that the PEP is reviewed and complied with. It is the responsibility of the agency to ensure that the social worker and others comply with their responsibilities.

31.4 And the foster carers, and birth parent/s

32 Education, training and employment must be considered as part of the pathway plan. However, there are often conflicting imperatives with the responsibility to support these components when the system of leaving care requires that this is a period of maximum disruption and anxiety for the child. These issues are no less important for younger children leaving foster care to return home. The interaction between Care Plans, PEP's and PHP's is complex to manage and requires great skill and knowledge.

33 There needs to be a protocol for sharing information but this section underestimates the practical problems of developing this under current legislative and regulatory requirements.

34 Clear

35 Clear

36-37 This is a complex issue. The welfare and needs of the child must be paramount in planning placements. However, the underlying issue is the recruitment, retention and status issues of foster care services and the true cost of providing this (see forthcoming BAAF/FN publication) Only when these issues are resolved, and they are in need of urgent resolution, will the location of appropriate placements be addressed.

38-39 It is good to see that educational provision in secure accommodation is identified in this Guidance

40 This is a very important issue and is to be welcomed. However, there are practical problems to be solved in the resources that foster carers need to be able to deliver this. School equipment, access to the Internet, school trips, recreational, music and sporting activities, support with homework/coursework are all resource intensive and there are too many examples of foster carers being left to supplement this themselves.

4 Do the processes outlined in paragraphs 25 - 40 provide sufficient flexibility in the way local authorities are expected to deliver better outcomes for looked after children? Please comment if you disagree with any of the processes set out in these paragraphs.

Yes

No

/ Not sure

Comments: The processes in themselves are clear, sensible and important and could be modified to meet the needs of children in particular circumstances but they all require high degrees of skill to implement them and high levels of coordination and cooperation between agencies and professionals. There is an under emphasis in these processes on the contribution of birth parents - they continue to have parental responsibility (maybe shared with the local authority) and they will have an important part to play during placement and when the child is returned home. There is potential for conflict between the local authority and the school when the authority of the latter is greater because of devolved powers.

5 Is it clear what action local authorities are expected to take in regard to Personal Education Plans? Please see paragraphs 29 - 31.

Comments: yes, but this also depends on training social workers and others to understand the nature and importance of education throughout a child's life and for them to be able to implement this effectively. This is a training issue from basic training to advanced training. This is no less true for foster carers and their recruitment, training and support and retention must emphasise the significant and central contribution they have in supporting the education progress of any child they foster.

It is of concern that there is no mention of the complex issue of unaccompanied asylum seeking children and the important role that schools have for them or the specific issues schools need to take into account in meeting their needs.

6 Do you agree that the specific activities expected of local authorities, as set out in paragraphs 25 - 40, are sufficient to make a significant difference to the educational outcomes of looked after children? Please comment if you believe there are any additional functions on local authorities which should be included in the statutory guidance.

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Comments: The Guidance is an important step forward and is to be welcomed. It does not however address-

- the respective powers of head teachers and local authorities, the duty of a school in respect of looked after children is not addressed.
- the conflicting government policies of supporting educational achievement and zero tolerance of behaviour problems in schools or the demonization of young people.
- the issue of training skills and knowledge base of social workers, foster carers and others
- the recruitment and retention problems of key professional groups including foster carers
- the structural problems of leaving care at a critical time i.e. public exams
- measuring achievement from an individual child's baseline of potential rather than achievement at GSCE.

7 In your view what central Government action would most help local authorities in implementing the statutory guidance?

Comments: Addressing the issues above

8 What would be the most useful way to communicate the final version of the guidance?

Paper copy

electronic

Comments: Both

9 If you have any further suggestions as to how the guidance might be improved please comment below.

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply

Here at the Department for Education and Skills we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

Code of Practice on Consultation

All UK national public consultations are required to conform to the following standards:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

Further information on the Code of Practice can be accessed through the Cabinet Office Website: <http://www.cabinetoffice.gov.uk/regulation/consultation-guidance/content/introduction/index.asp>

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 9 June 2005

Send by post to: New Education Duty Consultation, Education of Looked After Children Team, Area 4F, Caxton House, Tothill Street, London SW1H 9NA

Send by e-mail to: NewEducationDuty.CONULTATION@dfes.gsi.gov.uk