

CHILDREN, SCHOOLS AND FAMILIES BILL

**An Impact Assessment prepared by
the Department for Children, Schools and Families and
the Ministry of Justice**

For Introduction into the House of Lords, February 2010



department for
children, schools and families

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An Equalities Impact Assessment for the Children, Schools and Families Bill has also been produced and is available at <http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill>

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Children, Schools and Families Bill

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications: Your children, your schools, our future: building a 21st century schools system, Rose Primary Curriculum Review, Macdonald PSHE Review, Badman Home Education Review

Available to view or download at:

<http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill>

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

The world we live in is changing - schools need to equip children and young people with the knowledge and skills they need to make the most of their childhoods and enter the world of work well qualified and ready to participate in the global economy. Families deserve to know what to expect from their local schools and other services and, if for any reason, that is not delivered they should be able to secure redress through clear and effective procedures. Those that work with children and families should be supported and equipped to deal with the challenges that face them and the complex issues that sometimes occur. National and local systems must be appropriate and proportionate and safeguard the vulnerable, so that state intervention is both equitable and efficient.

What are the policy objectives and the intended effects?

The Bill is in two substantive parts – Children and Schools, and Family Proceedings – and covers six main areas. This impact assessment follows that form:

A guarantee for pupils and parents, reforms to the schools system, changes to the curriculum, a new licensing scheme for teachers, provisions to safeguard and promote the needs of the vulnerable, [and reforms to family courts so there is greater transparency in proceedings]. Taken together the Bill is intended to ensure services fit for the 21st century that meet the needs of all that use them, improve life chances for all and secure the best value for money from the Government's investment and reform.

What policy options have been considered? Please justify any preferred option.

Each of the policies in the following impact assessment has been developed following a full appraisal of costs and benefits based on all the evidence available. The Bill now seeks to legislate on the best option for securing the policy objectives and intended effects identified. Options not to legislate have been discounted by this stage as not securing the universal and equitable change required. This is a summary Impact Assessment of the Bill, a version of which was originally published when the Bill was introduced to the House of Commons in November 2009. This has now been updated for Introduction to the House of Lords. Full Impact Assessments are available from the policy contacts noted on each sheet.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Each of the impact assessments makes separate review commitments – there will not be an overall Act review date as different provisions are due to be commenced and implemented at different times.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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



Signed by:

Date 23/02/2010

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Pupil and Parents Guarantees

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications:

Your child, your schools, our future: building a 21st century schools system

Available to view or download at:

<http://www.dcsf.gov.uk/21stcenturyschoolssystem/>

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

Government intervention is necessary to ensure a universal service which caters fully for all children and young people and in which resources are targeted according to need rather than ability to pay. The Education sector is already regulated because the market on its own does not fairly allocate resources to support every child. The graded approach proposed for the Pupil and Parent Guarantee will set out the priorities for improvement in a measured way, while also providing clarity about the existing responsibilities of the school and local authority. This will ensure that pupils, parents, local authorities and the school workforce itself have a clear view about what children should be experiencing at school, and will enable schools to manage their priorities.

What are the policy objectives and the intended effects?

- Bring together, and raise awareness about what schools should be delivering, and what children and parents can expect to receive in a consistent entitlement, so that all children are supported to enable them to succeed
- Clarify what pupils or parents can do to seek redress if any element of the guarantee is not delivered
- Spread best practice, by driving all schools to implement tried and tested practices
- Drive improvement through demand – making parents and children clearer about what they should be experiencing through their school career to give them the confidence and basis to question their school if an element is not delivered, thereby encouraging the school to improve.

What policy options have been considered? Please justify any preferred option.

1. Do nothing
2. Introduce a duty for the Secretary of State to publish a Pupil and Parent Guarantee, which schools and local authorities must abide by. This is the preferred option as setting out expectations in primary legislation provides a solid platform from which to ensure the Guarantees are delivered.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

As the details of the Guarantees are finalised, more detailed costings will be undertaken. There will be a process of consultation on the Guarantee documents.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2

Description: Introduce a duty on the Secretary of State to issue a Pupil and Parent Guarantee, which schools and local authorities must comply with

COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups'</p> <p>Likely cost to administer parental complaints service (ASCL Act 2009), including the Pupil and Parent Guarantees</p> <p style="text-align: right;">Total Cost (PV) £ -</p>
	One-off (Transition) Yrs	£ N/A	
	Average Annual Cost (excluding one-off)	£ N/A	
BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>It is not possible to determine specific costed benefits beyond the overall improvements that these changes would introduce.</p> <p style="text-align: right;">Total Benefit (PV) £ -</p>
	One-off Yrs	£ N/A	
	Average Annual Benefit (excluding one-off)	£ N/A	
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Communications exercise to raise awareness of the Pupil and Parent Guarantees</p>			
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Increased parental engagement and confidence, demand-led school improvements, clarity about what should be provided and by whom, greater collaboration between schools</p>			

Key Assumptions/Sensitivities/Risks

Sensitivity: Data will be significantly improved by phased pilots and data gathering exercise. We will revise costings at a later point based on the results of these.

Risk: rise in the number of complaints as pupils and parents are more aware of the route to make a complaint, resulting in increased costs of redress.

Price Base	Time Period	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/A		
What is the geographic coverage of the policy/option?		England			
On what date will the policy be implemented?		Sept 2011			
Which organisation(s) will enforce the policy?		LGO			
What is the total annual cost of enforcement for these organisations?		£ N/A			
Does enforcement comply with Hampton principles?		Yes			
Will implementation go beyond minimum EU requirements?		No			
What is the value of the proposed offsetting measure per year?		£ N/A			
What is the value of changes in greenhouse gas emissions?		£ N/A			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small N/A	Medium N/A	Large N/A
Are any of these organisations exempt?		N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

(Increase - Decrease)

Increase	£	N?A	Decrease	£ N/A	Net Impact	£	N/A
				Key:	Annual costs and benefits: Constant Prices	(Net) Present Value	

The Pupil and Parent Guarantees – Impact Assessment at Consultation, January 2010

Context

The last 12 years have seen an unprecedented transformation of our school system. We have invested in our school workforce – with teacher numbers rising from 400,300 in 1997 to 442,700 in 2009 and support staff numbers from 133,900 to 345,900. We have invested in our school buildings so that in the three years to 2010-2011, we will have invested over £21.9 billion in schools through Building Schools for the Future, the Academies programme and wider capital programmes. We now spend £6,350 on each pupil annually compared to £3,030 in 1997.

The Children's Plan published in 2007 and the White Paper *Your child, your schools, our future: building a 21st century schools system* set out our plans to build further on these achievements. In all that we have done, we have been concerned to do the best for every child in the country. Because we believe that every child matters, we are determined to provide support for children when they face setbacks or difficulties in their learning. We are also committed to challenging and stretching those capable of achieving most, and determined that we will break the link between disadvantage and poor educational achievement.

It is no longer enough to have a schools system that meets the needs of most children most of the time. The world is changing fast and this means that we must ensure that every young person completes their education having achieved to their full potential and equipped to go on learning throughout life. The Pupil and Parent Guarantees are at the heart of our drive to deliver the best education for every child—including those children who face difficulties in learning, such as those with special educational needs (SEN), those who are looked after by local authorities and those from disadvantaged backgrounds. Defining the Guarantees in terms of what pupils and parents can expect is an important reform—it brings the focus from the system to the user, and defines a level of service rather than a set of supply-side activities. Nevertheless, the Guarantees build on the wide range of good practice already in evidence in our schools system.

Reflecting their importance, we are creating the Pupil and Parent Guarantees in legislation through the Children Schools and Families Bill (introduced to Parliament in November 2009), and consulting on the detailed content of the Guarantees in parallel (this Impact Assessment is for that consultation). The Guarantees are a mixture of existing and new entitlements for pupils and parents (the full list is printed at the end of this document), and must contribute to 9 overarching ambitions on the face of legislation:

At present, most pupils and parents receive most of the things to which the Guarantees set out their entitlement. But the pupils and parents who disproportionately fail to benefit are those from less advantaged backgrounds. These children will benefit from improving the information available on what they are entitled to in their education, and encouragement from Government that they should press schools and other providers for their entitlements.

The Pupil Guarantee ambitions:

- Every pupil will go to a school where there is good behaviour, strong discipline, order and safety;
- Every pupil will go to a school where they are taught a broad, balanced and flexible curriculum including skills for learning and life;
- Every pupil will go to a school where they are taught in a way that meets their needs, where their progress is regularly checked and where particular needs are spotted early and quickly addressed;
- Every pupil will go to a school where they take part in sport and cultural activities; and
- Every pupil will go to a school which promotes their health and well-being, where they have the chance to express their views, and where they and their family are welcomed and valued.

The Parent Guarantee ambitions:

- For all parents to have opportunities to exercise choice with and on behalf of their children, and to have the information and support they need to help them do so;

- For there to be, for all parents, Home School Agreements outlining their responsibilities, and those of the school, for their children's schooling;
- All parents to have opportunities to be engaged in their children's learning and development, and to have the information and support they need to help them do so;
- All parents to have access a variety of activities, facilities and services, including support and advice with regard to parenting.

Benefits

The Pupil and Parent Guarantees fit into the context of the 21st Century Schools White Paper which refreshes system-side accountability mechanisms like Ofsted inspection, the School Report Card and SIPs. The Guarantees are a demand-side measure, and have the following benefits:

- The Pupil and Parent Guarantees establish a structured and defined accountability of providers (schools, local authorities) to users of the system.
- Clear statement of entitlements in a single place will make it easier for pupils, parents and schools to know what to expect of each other.
- A redress service provided by the Local Government Ombudsman will support the entitlements.
- Most importantly, the possibility of effective Ombudsman redress will drive more and more complaints to be resolved satisfactorily and cheaply at the school level.

The Pupil and Parent Guarantee will drive schools to deliver a common offer, so that where previously some pupils have not been benefitting from the policies and provisions that the majority of the school population experiences, they will do so in the future.

Parents will be more aware of what their child should be experiencing at school, which may encourage them to become more engaged in their child's education, which research shows to positively affect achievement. Research has shown the home-school relationship has significant associations with child outcomes. Elements of the Parent Guarantee will also ensure that parents receive the support to help them engage with their children's learning and development, strengthening that positive impact on children's outcomes.

The Guarantees will give pupils and parents the confidence and basis to approach their school if they do not feel that an element is being delivered. This way, increasing awareness about what every child should experience at school will lead to demand-led improvements as well as 'top down' improvements as a direct result of the legislation.

The Pupil and Parent Guarantee document is framed with the clarity to ensure that schools, governing bodies and local authorities can be fully aware of what they must deliver, who is responsible for each element, and where there are dependencies between these bodies (for example a LA may be responsible for funding something, while the governing body may be responsible for the delivery).

We know that, at present, most pupils and parents receive most of the things to which the Guarantees set out their entitlement. But the pupils and parents who disproportionately fail to benefit are those from less advantaged backgrounds. The Guarantees give these individuals the right to claim their entitlements, and DCSF will be working especially hard in its communications strategy to reach and engage these groups so that they can hold the system to account for them.

An assessment of the benefits of the main individual policies which together form the Pupil and Parent Guarantees can be found in the White Paper Evidence Document, published alongside the 21st Century Schools White Paper.

Costs

1. Redress

Where pupils or parents do not think they are receiving any element of the Guarantees we would expect them to discuss this with their school / Headteacher or even governing body. In the unlikely event that it

is not resolved at that stage there is a further recourse to the Local Government Ombudsman under the parental complaints system established in the ASCL Act 2009.

In the Impact Assessment for the ASCL Act 2009, we said:

“2200 cases per annum [...] currently come to DCSF. On the basis of the LGO’s estimated cost of £750 per complaint we estimate that the full Service would cost around £1.65m p.a. The costs for the transition from legislation through the pilot stage to full rollout: we expect to be in the region of £2m, this includes start up costs for the pilot.”

All costs and figures given below include both the ASCL Parental Complaints Service and the Pupil and Parent Guarantees

Volumes – at least 2,200

The ASCL Act 2009 gives pupils and parents the right to complain about any act or omission by the Governing Body of a school—this is an extremely broad field. The Pupil and Parent Guarantees combine elements which will be subject to complaint under the ASCL Act 2009 with a few new areas where pupils and parents will be able to complain. This will not have an appreciable effect on the volume of complaints.

However, the Pupil and Parent Guarantees will be accompanied by some publicity, which will be bound to raise awareness of the routes of complaint, and will raise volumes by an unpredictable amount.

Given that we cannot predict this volume now, we are planning to include the Guarantees in the phased rollout of the ASCL Parental Complaints System. We are also spending up to £200,000 on a data collection exercise to enable us to predict demand. The data we gather from both of these exercises will lead us to revisit our costings.

Unit Cost – £750 to £1,000

- The prediction of unit cost in the ASCL Act 2009 Impact Assessment was £750, a figure reached during early modelling carried out by DCSF and the LGO.
- The current unit cost of Local Authority-related cases handled by the LGO (not including complaints where no action is taken) is in the region of £1,000. We will therefore be using £1,000 as the figure in this Impact Assessment.

Set up costs – £2-3 million

- The one-off costs for set up of the scheme described in the ASCL Act 2009 Impact Assessment were in the region of £2m.
- Following Royal Assent for ASCL, we have funded the Ombudsman with £470,000 for 2009-10 in order to get the first phase of implementation underway.
- Given our revised assumptions about unit cost and the potential (but unpredictable) effect of the Guarantees on volumes, we believe that the cost of the joint rollout of the Parental Complaints Service and the Pupil and Parent Guarantees from 12 November 2009 (when the ASCL Act 2009 received Royal Assent) to September 2011 will be between £2m and £3m in total.
- In order to prevent costs escalating beyond what we have predicted, we will retain some control over the volume of complaints by retaining flexibility around the size of the second wave of the pilots (starting in September 2010). We may need to alter the size of this wave based on what we learn about volumes from the first pilot wave which begins in April 2010, as well as the evidence obtained from the data collection exercise noted above.

Ongoing costs – £2.2 million p/a

- The assessment of the ASCL Act 2009 predicted annual costs of the parental complaints system as being £1.65 million p/a, based on a unit cost of £750 and a volume of 2,200 complaints investigated by the Ombudsman.
- Given the revised unit cost and the introduction of the Guarantees, we will now use the assumption that the ongoing cost will be in the region of £2.2 million (up to £1,000 unit cost * 2,200 complaints investigated).

- As we pilot the service, we will gain a clearer picture of the actual cost of the service, and will revise our costings accordingly.
- We should note that we also have some power to control costs, because our policy intention is that the Guarantees and the possibility of effective Ombudsman redress will drive more and more complaints to be resolved satisfactorily and cheaply at the school level. The better we can enable schools to improve the way they handle the complaints they receive already, the lower the utilisation of the Ombudsman redress service.

2. The individual guarantees making up the Pupil and Parent Guarantees

Funding is available in school budgets to fulfil the Guarantees. The majority of Guarantees are existing policies or requirements, or are introduced in other parts of the Children Schools and Families Bill (and therefore have their own Impact Assessments). We set out the key new costs, and how they are funded, under the Guarantee ambitions below.

- Where something is an existing legislative commitment, or has already been rolled out as a policy, we do not mention it below.
- Where a new guarantee is a “must”, we have highlighted it under the ambitions below, and indicated the manner in which it is funded.
- Where a Guarantee is a “should” rather than a “must”, we do not cost it. While we are clear that schools cannot simply decide not to deliver a Guarantee because they do not wish to spend the money, they may consider whether or not to deliver a “should” element in the context of their other priorities and their overall budget. These Guarantees are therefore not additional in schools budgets.

Schools are in the second year of a three year settlement which gives them nationally a per pupil increase of 13.1 per cent over the three years, on top of unprecedented increases over the last ten years. With the partial settlement for DCSF at the Pre Budget Report, we know that core schools budgets will continue to grow, but at a much slower rate. We expect schools to be working in partnership to use existing resources in a more effective and efficient way –bringing together funding and resources from different partners to deliver the Guarantees to all children across different schools. By bringing services together and identifying potential problems early, children will benefit from interventions (where they are necessary) and schools and services will save money in the long run.

We have, over recent years, introduced greater flexibility in how schools’ budgets are spent, in particular through the use of the Dedicated School Grant. This is being taken further in the Children Schools and Families Bill which creates the Guarantees, with relaxations on school budgets with regards for community use and the relaxation of current restrictions to how schools can spend their budgets.

The Ambitions

Ambition 1 - Good behaviour, strong discipline, order and safety

- There are no Guarantees under this ambition where there is a new “must” element.

Ambition 2 - A broad, balanced and flexible curriculum including skills for learning and life

- The majority of the new elements under this Ambition relate to the reformed National Curriculum and the Raising the Participation Age agenda, both of which are legislated for elsewhere.
- The Guarantee that all pupils “who would benefit from a more stretching science curriculum have the opportunity to study triple science GCSE” is a new must, created by the Pupil Guarantee. It will be offered by schools in partnership using existing staff, buildings and curriculum time.
- In order to support schools to start offering triple science, a DCSF support programme is in place, under which we are spending £3m per annum. All spending from 2011-12 is subject to the budgetary allocations process following the Pre Budget Report, and the future CSR, but this will be a priority programme.

Ambition 3 – Pupils taught in a way that meets their needs, where their progress is regularly checked and where particular needs are spotted early and quickly addressed

- This ambition contains the key new “musts”:
- The total funding for 1-to-1 tuition is £315 million in 2010-11, and this will ensure that we fully fund the following guarantees:
 - 1-to-1 tuition for children in Key Stage 2 who are behind and falling further behind:

- 1-to-1 or small group tuition for Year 7 pupils who are behind and falling further behind.
- Personal tutors—the additional identified funding available within the Dedicated Schools Grant to support personalised learning and special educational needs increases significantly between 2009-10 and 2010-11, from £535m to £912m. Schools are free to use this funding to support personal tutoring or any other aspect of personalised learning, and we would expect them to allocate funding as necessary to support personal tutoring. Many of them offer this model of support already.

Ambition 4 - Taking part in sport and cultural activities

- The key new “must” is access to 5 hours of quality sport. This has been in place since September 2009. Over the course of 2003-2011, the Government is investing £2.4 billion in youth sport (this number includes Lottery funding), which creates the framework for access.
- It is worth noting that we are asking schools to provide 2 hours (within the National Curriculum, already a requirement), 1 further hour outside school hours, and the other 2 hours are to be provided by the community through sports clubs, etc.

Ambition 5 - Every pupil will go to a school which promotes their health and well-being

- There are no Guarantees under this ambition where there is a new “must” element.

Ambition 6 - parents have opportunities, information and support to exercise choice with and on behalf of their child

- Local authorities were under a duty to deliver Choice Advice prior to the guarantee. However, the Government has provided £6 million for Choice Advice in each of the five financial years 2006-2007 to 2010-2011.

Ambition 7 - parents have a home-school agreement outlining their rights and responsibilities for their child's schooling

- There are no Guarantees under this ambition where there is a new “must” element.

Ambition 8 – parents have the opportunity, information and support they need to be involved and engaged in their child's learning and development

- Parents able to contact their child's personal tutor (in secondaries), see ambition 3 above. In primary schools they will contact the class teacher, as now.

Ambition 9 - parents have access to a range of extended services by 2010 including: information and support on parenting skills and advice on parenting issues; childcare; activities; and opportunities to enhance their own learning and to learn with their child

- There is an expectation that all schools should offer access to a range of extended services by 2010. To this end, the DCSF has provided funding of £297.5/401/439 over the period 2008-11.

3. Costs of Publicising the Guarantee

There may also be cost incurred to raise awareness of the Guarantees, in order that some of the benefits listed below are fully realised. It is likely that this would include web-based communications and the production and distribution of written material, and costs would be minimised by using existing channels of communication where appropriate. It is not possible to quantify this cost definitively at this stage, as a communications strategy will not be produced until the actual content of the Guarantee is finalised.

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Home School Agreements

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications:

Your child, your schools, our future: building a 21st century schools system

Available to view or download at:

<http://www.dcsf.gov.uk/21stcenturyschoolssystem/>

Contact for enquiries: Iain Cuthbert

Telephone: 0207 783 8538

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

Parents' engagement in their children's learning is critical. Parents want their children to do well, but informational and behavioural barriers can hinder effective school/parent relationships, and often the parents needing the most support are those that schools find the most challenging. But there is little legislative compulsion for schools to work with parents, and existing HSA legislation is ineffective in underpinning parent/school relationships. The new HSAs proposed will enhance partnership working by better clarifying parents' and schools' roles and responsibilities.

What are the policy objectives and the intended effects?

The new HSAs will include personalised learning and development goals, and will be linked to behaviour support mechanisms so that schools and parents are better able to work together to address behavioural and other issues at an earlier stage, before they escalate. They will support effective parental engagement by building on existing interactions between schools and parents so that both parties have consistent expectations of their roles and responsibilities in helping children's learning, and supporting better behaviour in the classroom.

What policy options have been considered? Please justify any preferred option.

- Do nothing - retain the existing legislation. No additional costs but HSAs are largely ineffective at present: bureaucratic process with few real benefits.
- Amend the existing legislation (the preferred option). Will result in additional, mainly transitional, cost but these should be outweighed by benefits from better behaviour and attainment.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Assuming that the new HSA legislation comes into effect in September 2011, the policy will be reviewed in summer 2012 and summer 2013.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by ‘main affected groups’ Annual costs due to a probable increase in numbers of parenting contracts/orders. Transitional costs from staff training (heads, class teachers and admin staff) following implementation; and admin time to amend HSA templates.		
	One-off (Transition) Yrs			
	£ 6,184,000			
	Average Annual Cost (excluding one-off)			
	£ 680,000		Total Cost (PV)	£ 12,519,000

Other key non-monetised costs by ‘main affected groups’ Possibility of complaints and litigation from parents who feel that schools may not have fulfilled commitments in HSA; negative publicity for schools. Some parents will spend more time on their children’s education, but we are not able to quantify this

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by ‘main affected groups’ Given lifetime returns to 5 A*-C GCSE grades (£90,500), benefits would outweigh costs if 14 extra children p.a. gained 5 A*-C GCSEs, an average of less than 1 child per LA. This does not even take into account the impact of GCSEs on further attainment or the non-financial benefits of education.		
	One-off Yrs			
	£ N/A			
	Average Annual Benefit (excluding one-off)			
	£ N/A		Total Benefit (PV)	£ -

Other key non-monetised benefits by ‘main affected groups’ Behavioural or learning issues addressed earlier, so possible reductions in exclusions and teachers' time and better teacher retention. The evidence base indicates this would produce significant benefits, running into the millions, but we are not able to estimate the extent of the impact HSAs will have.

Key Assumptions/Sensitivities/Risks Assumption that current HSA practice is variable: some schools use them effectively but many do not. Other key assumption is that schools already discuss personalised learning with parents, and that new HSAs will formalise existing parent/school interactions. Sensitivities/risks around perceived increases in staff time.

Price Base	Time Period	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £	
What is the geographic coverage of the policy/option?		England only.		
On what date will the policy be implemented?		September 2011		
Which organisation(s) will enforce the policy?		Ofsted		
What is the total annual cost of enforcement for these organisations?		£		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£		
What is the value of changes in greenhouse gas emissions?		£		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium Large
Are any of these organisations exempt?		N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase	£	Decrease	£	Net Impact
				£
Key:				(Net) Present Value

Evidence Base (for summary sheets)

Parental engagement is a powerful lever for raising achievement in schools. Where parents and teachers work together to improve learning the gains can be significant. But parents need to have the confidence to build and maintain relationships with their children's teachers; and sufficient knowledge of their child's schoolwork and how to enhance their learning when they are away from the classroom. In turn, schools need to have coherent strategies for working with parents.

Currently all maintained schools are legally required to have a Home School Agreement. This Bill proposes to reform the underpinning legislation so that HSAs in future will reflect and capture existing interactions between schools and parents around personalised learning and behaviour; and set out consistent expectations of parents' roles and responsibilities in helping children's learning and supporting better behaviour in the classroom. Instead of the existing, generic 'whole school' documents, parents will be asked to sign a personalised, annually-reviewed HSA which will set out in clear terms how they can contribute to their child's learning, development and behavioural goals. The new HSAs will be also be more closely aligned with behavioural support mechanisms like Parenting Contracts and Orders, so that schools and parents will be able to work together to address behavioural issues at an earlier stage, before they escalate.

Costs

Transitional costs - HSAs

Schools already have HSAs, and they are required by law to review them 'from time to time': implementation of the new HSA process should be subsumed within the existing periodic review process. All schools will however need to amend their HSA template to reflect the greater personalisation of HSAs (space will need to be added to include learning goals and targets for each child, in addition to the generic 'whole school' expectations which will apply to all children). We anticipate that this will amount to around half an hour's administrative time for every primary and secondary school in England (which results in a total of just under £127,000).

Head teachers will be legally responsible for ensuring that their school complies with the legislation and guidance, but the process will actually be undertaken by the school staff with the best overview of each child's learning and behaviour, and who interact regularly with their parents. The main transitional costs will therefore derive from training the staff who will be implementing the revised HSA legislation in schools.

There are approximately 4 million primary school pupils and just over 17,000 primary schools. This means overall cost is just under £3.4 million. The figures for secondaries are 3.3 million pupils and 3,400 schools with an overall cost of just under £2.5 million. And for special schools 84,000 pupils, 1000 maintained special schools and total cost of just under £95,000. The overall estimated total transitional costs for schools arising from implementing the revised HSA legislation (i.e. staff training and administrative costs) will therefore be around £6 million.

Average annual costs – HSAs

We do not anticipate that there will be any significant additional annual costs for schools arising from the new HSA process. Many pupils already have learning plans which are shared with their parents. Some schools may already have processes in place already to share personalised learning goals and targets with parents. Additionally, many of the 1.5 million children with SEN, all of the 60,000 looked after children in maintained schools, and a small number of children with behavioural concerns will already have shared learning plans which schools share with parents.

Schools already collect data on personal learning goals, and set targets and goals for each child. Schools should be sharing this information with parents during existing parent/teacher interactions (e.g. at parents' evenings, and at transitional events when children move between schools), and in less formal circumstances (e.g. when teachers have identified concerns and want to discuss them with parents). The negotiations, discussions and reviews of the personalised elements of each child's HSA would be captured and recorded during these negotiations. It would be up to schools to decide how to administer

this process; but we would expect there to be a similar template to existing HSAs (with generic 'whole school' expectations and commitments); and space for teachers to enter personalised commitments into the template when they are agreed during the existing discussions.

Average annual costs – Parenting Contracts and Orders

Current practice

The new HSA legislation will provide a clearer route from HSAs to Parenting Contracts and Orders. The assumption is that this will result in more Parenting Contracts and Orders being issued than is currently the case – but we anticipate that the benefits deriving from behavioural issues being addressed at an earlier stage will significantly outweigh the costs of the additional Contracts and Orders. Most Parenting Contracts, and all Orders were issued as a result of attendance-related issues. While over the two years the numbers of behavioural contracts has remained relatively stable, there has been a significant increase in the numbers of attendance based Parenting Contracts, and a small increase in the number of attendance-based Parenting Orders. Changes to HSAs will not affect the number of attendance Parenting Orders since these can only be obtained on the specific ground of "irregular school attendance". Breaching a HSA could lead to a behavioural Parenting Order however, and there could therefore be an increase in Behavioural Orders.

Possible impact of the new HSAs on behavioural Parenting Contracts

As HSAs provide a new basis for schools to offer parenting contracts where a child's behaviour is problematic, it is possible that the changes proposed may result in a possibly significant increase in numbers of behavioural Parenting Contracts being issued. We would estimate that the new HSAs may result in a relatively small increase of around 300 additional behavioural Parenting Contracts annually; as this is a new power and schools might take some time to use the breach of an HSA as a basis for offering a Parenting Contract. It is also possible though that there could be a reduction in numbers of behavioural Parenting Contracts, because parents will have an improved ongoing knowledge of their responsibilities in relation to the child's education – so some cases which currently result in the offer of a Parenting Contract may be resolved before they reach this stage.

Possible impact of the new HSAs on behavioural Parenting Orders

Failure to sign or comply with HSA will be considered grounds for a behavioural Order and this may mean some schools will be more willing to take action when other methods may not have worked. It is quite possible, as seems to be happening at present, that linking HSAs to Parenting Orders could provide a useful lever to drive parents to engage constructively with a Parenting Contract, or the behavioural requirements set out in the HSA. Given that there haven't been any behavioural Parenting Orders issued to date, the effects of the new HSAs would be difficult to predict but it is anticipated that up to 40 behavioural Parenting Orders may be issued during the first year (based on similarities with penalty notices for excluded pupils which came into effect in 2007 and which resulted in 45 cases during the first year of implementation).

Average annual costs – Parenting Contracts and Orders

Parenting Contracts and Orders are variable and the costs, which may be spread across a number of agencies, will depend to some extent on the requirements of the Contract or Order. Averages suggest:

300 additional Parenting Contracts at £2,000 per contract would result in a cost of £600,000 per annum, 40 additional Parenting Orders at £2,000 per Order would result in a cost of £80,000 per annum. Therefore the total estimated cost of additional Parenting Contracts and Orders will be around £680,000 per annum.

Benefits

The new HSAs are a key part of the Government's parental engagement strategy. There are, of course, many external influences which may also have a positive affect on children's educational and behavioural outcomes in the future. It would therefore be misleading to attribute potential longer-term benefits solely to the influence of the changes to HSA policy. The indicative examples set out below explore how the costs outlined above may be outweighed by a range of potential benefits, including better teacher retention, less teacher time spent dealing with poor behaviour, fewer exclusions and

improved educational attainment. Overall, the cost of implementing the policy is relatively low, so the combined impact of these benefits does not have to be very great for the policy to be worthwhile.

Average annual benefits for schools – teacher retention

Based on teacher training costs, if the behavioural elements of HSAs have a positive effect on pupil behaviour, and this in turn means that more newly-qualified teachers will remain in the profession, the benefits will amount to savings of over £1 million for every hundred newly qualified teachers who remain in the profession.¹ If improved behaviour of pupils leads to better retention of teachers, there will also be savings in terms of reductions in the numbers of supply teachers employed in schools. If the behavioural elements of the HSAs had a positive impact on the reliance of schools on supply teachers which resulted in local authorities spending 1% less on supply teachers, this would result in a saving of over £9 million (or more than the combined total of the transitional costs for schools and the projected costs of additional Parenting Contracts and Orders in the first year of implementation of the new policy).

Average annual benefits for schools – teacher time dealing with behavioural issues

At present classroom teachers spend on average 0.4 of an hour (or twenty four minutes) every week dealing with discipline/behavioural issues (Teachers' Workloads Diary Survey 2009, BMRB, 2009). It is hoped that the behavioural elements of the new HSAs will have a positive effect on the amount of time that teachers spend dealing with behavioural issues because parents will have an improved understanding of how they can help their child behave better in school. If, as a result, the time that every classroom teacher spends dealing with discipline/behavioural issues is reduced by 0.1 of an hour (six minutes), this will result in considerable savings over the course of the educational year. Such a reduction of six minutes could result in savings of just over £36 million (or more than five times the combined total of the transitional and annual costs during the first year of implementation).

Average annual benefits – fewer exclusions

Schools can often spend a lot of time dealing with families who have children who may have behavioural issues, and it is anticipated that the negotiations attached to behavioural elements of HSAs will displace or forestall some of this time – thereby reducing cost burdens for schools and improve outcomes for families.

While it is anticipated that the new HSAs will have a beneficial effect on behaviour in general, it is possible that the new HSA process may help to reduce exclusions from schools, and in some cases the displacement of pupils to PRUs. There would also be further savings if reductions could mean fewer excluded pupils are referred to PRUs.

Average annual benefits – improved educational attainment

These new HSAs could help to raise levels of parental engagement in their children's learning which in turn would have an attendant effect on their children's educational attainment. DCSF analysis of Labour Force Survey data indicates that the present value of the lifetime financial return to gaining 5 A*-C GCSEs is £90,500. The present value of the total cost of the HSA policy over ten years is around £12.5 million, or £1.25 million on average per annum (including one-off costs). This suggests that it would require only around 14 extra pupils per year to gain 5 A*-C GCSEs for the benefits of the policy to outweigh the costs. As there are 152 local authorities, this represents slightly less than 1 pupil per local authority. Furthermore, this estimate is conservative, as it does not take into account the likelihood that pupils gaining 5A*-C GCSEs will go on to obtain further qualifications with higher financial return, or the wider, non-financial, benefits of education to the individual and society (e.g. better health).

¹ Please note that the figures represented in this paragraph are the main costs to TDA rather than the total cost of Initial Teacher Training. For example, they do not include figures for student support, loans for fees etc. which are borne by BIS. They also exclude some other areas of funding including capital and some minor funding streams

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Parental responsiveness duty

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications:

Your child, your schools, our future: building a 21st century schools system

Available to view or download at:

<http://www.dcsf.gov.uk/21stcenturyschoolssystem/>

Contact for enquiries: Suzanne Farrell

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

Government intervention is necessary to sharpen LA accountability and ensure that all LAs actively seek the views of parents in the planning and delivery of school provision and act on feedback from parents. This will help improve the supply of education. Current policy largely focuses on school level issues and individual appeals / complaints. There is evidence to suggest that some parents feel unhappy with the overall offer in their area and at present robust mechanisms to address parental dissatisfaction are not in place.

What are the policy objectives and the intended effects?

The objective of the policy is to ensure that LAs seek parents' views on their satisfaction with school provision in their area and, should parents be dissatisfied, act accordingly to address concerns. The effect of the policy is to improve the LA's role as strategic commissioners of high quality school places; improve LAs responsiveness to parents' needs and aspirations; and ultimately, drive up the quality of schools.

What policy options have been considered? Please justify any preferred option.

1. Do nothing - at present, many LAs do not actively seek parents' views on the provision of schools in their area. This effectively disenfranchises large numbers of parents.
2. A parental responsiveness duty - by actively seeking parents' views on the range of provision, and acting on their views, LAs will be better placed to drive up the quality of school provision; will help to ensure that LAs provide school places that parents want – where they want them - thereby contributing to a reduction in surplus places.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The costs and benefits of the policy are being reviewed in the light of the trialling of the duty (September - December 2009; which this revised IA reflects). A first round of the full survey will establish a complete picture.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description: Introduce a Parental Responsiveness Duty on Local Authorities.
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' DCSF - Trial costs from Sept – Dec 09 = <£40k (final invoices pending) First year of full roll out (2011) = £1.8m NB The total cost of parents' time for the voluntary completion of the survey form is estimated at £1.6m a year but this cost has been excluded for the purpose of comparison/consistency with other CSF Impact Assessments.	
	One-off (Transition) Yrs		
	Average Annual Cost (excluding one-off)		
	Total Cost (PV)		£18m
	Other key non-monetised costs by 'main affected groups'		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Parents, pupils, LAs. Savings in relation to reduced admissions appeals, surplus places, schools in special measures; improved outcomes for pupils.	
	One-off Yrs		
	Average Annual Benefit (excluding one-off)		
	Total Benefit (PV)		£ 9-23m
	Other key non-monetised benefits by 'main affected groups' Parents more engaged in provision of local schools and more satisfied with them, reducing admissions appeals. LAs will be more effective strategic commissioners of school places, reducing surplus places. Reduced number of underperforming and failing schools, reducing surplus places and increasing pupil achievement.		

Key Assumptions/Sensitivities/Risks Risks include raising expectations of parents and LAs being unable to deliver what parents want; trigger level set too low resulting in a higher proportion of LAs required to produce a plan; LAs use higher cost options in response plan; LAs do not respond appropriately leading to more referrals to Schools Adjudicator; increased complaints to SoS

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		National (England)	
On what date will the policy be implemented?		2011 (may phase in)	
Which organisation(s) will enforce the policy?		Local Authorities	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£	
What is the value of changes in greenhouse gas emissions?		£	
Will the proposal have a significant impact on competition?		Yes/No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

These provisions will underpin a new approach whereby local authorities actively seek the views of all parents on the overall pattern of provision, thereby sharpening LA accountability to parents. The current system is a reactive one, whereby LAs respond to individual parental dissatisfaction, usually in the form of an appeal regarding the school place offered to a pupil, or by vocal and visible campaigns regarding a particular school or schools. We anticipate the number of admissions appeals and representations will reduce over time as parents will have a regular (annual) route by which to voice concerns and provision will be informed and shaped by local parents.

There is evidence to suggest that some parents feel unhappy with secondary school provision in their area and at present the mechanisms to address overall parental dissatisfaction are not in place. The objective of this policy is to ensure – by placing a legal duty on LAs – that all LAs actively engage with parents on a regular basis, listening to their views about their needs and aspirations, and responding publicly. By surveying parents on an annual basis, LAs will be able to canvass the views of all parents, not just a vociferous minority of parents who are able to use the current system of individual representations and lobby groups. A trial was conducted in autumn 2009 to inform future implementation of these provisions.

Costs

It is important to note that good LAs will be conducting thorough reviews of their provision in their normal cycle of school planning and will be involving parents at some level with those plans. All costs presented here are provisional and will need to be reviewed after the first full round of parental surveys has been completed.

Costs fall to two main areas:

LAs - in conducting the survey and, if necessary, producing and implementing a response plan; and

Schools Adjudicator - if he is called upon to review a plan on appeal.

LAs

There are four main stages to LA action as follows:

1. Conducting an annual survey of parents of children in Year 6

- Number of Year 6 children per year in all LAs = 535,790
- Printing hard copy questionnaires for all eligible parents = £1 per copy = £535,790
- Assuming 65% response rate
- Half of those will respond online; half will use pre-paid envelope (30p per copy) =
 $535,790 \times 0.65 \times 0.5 \times £0.3 = £52,239$

Total = £588,029

LA staff time

- 0.5 clerical officer (distribution / oversight of questionnaire; data entry) (Sept-Dec only)
 $= £355.95 \times 0.5 \text{ days} \times 16 \text{ weeks} = £2847.6^2$
- 0.1 FTE Middle manager – oversight and supervision (Sept-Dec only) = £749.8 x 0.1 x 16 weeks = £1199.68³
- Analyst time (4 weeks at 0.5 FTE) = £749.8 x 0.5 x 4 weeks = £1499.6

Total for 150 LAs = $£5546.88 \times 150 = £832,032 \sim £830k$

² Figure from the ASHE, clerical officer assumed as an individual who works in “Local government clerical officers and assistants” using the median weekly gross pay.

³ Figure from ASHE, middle manager assumed as an individual who are “Senior officials in local government” using the median weekly gross pay.

2. Should a plan be triggered, LAs will be required to consult with parents to produce a response plan. Parents of children in Years 3, 4, 5 and 6 will be consulted:

- Assume plans will be triggered in 20 LAs (assumed estimate NB The threshold for determining 'material parental dissatisfaction' ie the trigger for requiring a LA to produce a response plan has changed and we now intend to consult on a higher threshold. This is likely to result in fewer plans being triggered, resulting in a saving on the estimated cost although a first round of surveys needs to be completed to quantify this).
 - Officer time to develop and manage consultation = 0.5x FTE middle manager level (5 month period) = $£749.8 \times 0.5 \times 25 \text{ weeks} = £9372.5$
 - Cost of public consultation = £2,000
 - Officer time to develop and write plan = 0.7xFTE middle manager x 8 weeks = $£749.8 \times 0.7 \times 8 = £4198.88$
 - Publication of plan = on website so no cost
 - Officer time to collate objections to the plan = 0.4x FTE clerical officer x 4 weeks = $£355.95 \times 0.4 \times 4 \text{ weeks} = £569.52$
 - Analyst time to analyse objections (1xFTE middle manager x 1 week) = £749.8
- Total for 20 LAs = $£16,890.7 \times 20 = £337,814$ (as above, we expect actual costs to be lower because fewer plans are likely to be triggered with a higher response threshold)

3. Should a trigger level of, for example, 20% of parents objecting to the plan be reached, the LA will be required to refer the plan to the Schools Adjudicator. This trigger has yet to be decided in consultation. The LA will be required to send the Adjudicator the original survey responses and subsequent objections:

- Officer time to collate and forward responses to Schools Adjudicator and liaison = (1xFTE clerical officer x 2 weeks) = $£355.95 \times 2 = £711.9$

4. Cost of implementing the plan

There will be no additional cost of implementing changes to provision as LAs will be doing this in their normal cycle of school improvement options and place planning.

There is also a non-monetised cost of the effort required for the potential increase in workload for the LA having to resolve the issues that parents may have raised in their responses, where some may not be as simple as others.

Total cost to LAs in first year of roll out = approx. £1.8m

Schools

NB: LAs distribute their admissions form to schools which distribute to pupils / parents. They would include this questionnaire and supporting letter with those forms. Therefore, no additional cost to schools.

Schools Adjudicator

1. Should a referral to the Schools Adjudicator be triggered, the Adjudicator will be required to review the plan, looking at both the process followed and the decision reached. The Schools Adjudicator will be required to look at original survey responses and the nature of the objections and reach a conclusion as to whether the plan is reasonable:

- Estimated number of referrals to the Schools Adjudicator per year = 5 (assumed estimate – may be lower as the threshold for determining 'material parental dissatisfaction' has changed and we now intend to consult on a higher threshold. This should mean that fewer plans are triggered and subsequently referred to the adjudicator. This should result

in a saving on the estimated cost although a first round of the surveys needs to be completed to quantify this.)

- Currently £2000⁴ per case review of individual appeals = 5x£2000 = £10,000
- 3 days admin per case = £355.95*0.6*5 = £1,068

Total Schools Adjudicator costs = £11,068

Total Cost in a full year of roll out (LAs and Schools Adjudicator) = £1.8m + £11k = £1.8m

NB Parents - The cost of parents' time to voluntarily complete a questionnaire is estimated at £1.6m a year but this cost has been excluded for the purpose of comparison and consistency with other Impact Assessments for the CSF Bill.

Annual costs

It is important to note that the number of LAs conducting the survey is expected to fluctuate; for example, those LAs where a response plan is triggered are expected to be exempt from conducting another survey for up to 3 years to ensure they have time to conduct a full consultation with parents and implement any improvements. In addition, subject to the will of Parliament and formal consultation, the duty may be phased in over a 2-3 period (commencing in 2011).

Benefits

1. Savings and benefits will accrue at a number of different levels. First benefits may start to accrue from 2013 onwards at the very earliest; although it is likely the more structural solutions (and benefits) will start to impact later as it is likely that statutory procedures will need to be followed e.g. consultation on school reorganisation. It will therefore take longer to implement and embed such solutions and for them to start to show effects.

2. Parents will feel more engaged in the planning of provision in their area and in schools more generally. There may also be an impact on the number of appeals regarding school place allocation in the longer term, as parents increasingly are happier with the school provision available to them (as LAs will modify provision in light of parental feedback). The cost of admission appeals vary between LAs but an average cost per appeal is estimated at around £250.

3. LAs will be more effective strategic commissioners of school provision having had the benefit of access to regular, consistent, clear and representative information on which to base their school commissioning and planning. Increased access to information improves the efficiency within the schools market. It is likely that, with the benefit of this knowledge (the survey data), LAs are less likely to make expensive commissioning errors such as building unpopular schools which parents do not want their children to attend. It is also likely to have a positive impact on surplus places for this reason. This policy will allow for a better match between demand for and supply of school places.

4. LAs will have better information about what parents want, and are listening to and providing the range of provision that meets parents' needs and aspirations. Additional data will be available to feed into other plans such as the Children and Young People's Plan. LAs will therefore be able to measure parental satisfaction with provision over time as they will be collecting information regularly.

5. The policy will positively impact on overall standards as issues with unpopular and / or failing / underperforming schools are addressed early. In addition, standards are likely to rise as pupils increasingly go to schools that better meet their needs. Raising educational attainment increases lifetime earnings.

6. It may be possible to identify issues with schools (from a parent's perspective) earlier, given the annual cycle of data collection. This may mean fewer formal interventions because action is taken earlier, leading to fewer surplus places and school failure. The costs of turning round a school from special measures, for example, are typically on average £400k for a secondary school.

⁴ Estimate from Schools Adjudicator

7. The trial (September – December 2009) yielded useful information for future implementation of the duty. A summary report of the outcomes of the trial is now available
<http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill/>

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Ofsted reporting on SEND as part of school inspections

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications:

Available to view or download at:

Contact for enquiries: Malcolm D'Souza

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

There is currently a lack of confidence amongst parents and special educational needs and disability (SEND) stakeholders about the coverage of SEND in Ofsted school inspections. The proposed duty on Ofsted addresses the problem of 'imperfect information', an established cause of market failure, by facilitating improved assessment of and reporting on how well the school meets the needs of pupils with SEND. This in turn will enhance the contribution made by inspection to improved outcomes for these children, which will have a positive impact in terms of equity and efficiency.

What are the policy objectives and the intended effects?

The duty is intended to increase confidence in the inspection system by: improving inspection delivery e.g. as a consequence of enhanced inspector training linked to the duty; underpinning changes that have recently been made to the non-statutory school inspection framework from September 2009, which strengthen the focus on SEND within school inspections; and providing reassurance that the priority attached to SEND will be maintained in any future school inspection arrangements. The policy contributes to the Government's overarching aim of improving outcomes for children with SEND.

What policy options have been considered? Please justify any preferred option.

Option 1 - leave the legislation unchanged as the inspection framework has already been strengthened. This is likely to diminish confidence in the system as it fails to respond to an independent expert group's recommendation. Option 2 - legislate to make the focus on SEND explicit. This responds directly to the expert group. It provides an impetus for further improvement in inspection delivery and eliminates the risk of a future non-statutory inspection framework reducing the focus on SEND in light of competing priorities.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

It is intended that the policy will be reviewed a year following commencement of the duty.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2

Description:

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' These figures refer to costs to Ofsted of enhancing the training of school inspectors. It is not anticipated that the proposed duty will impose additional costs on schools although it may lead to some schools re-prioritising.
	One-off (Transition)	Yrs	
	£ 127,000		
	Average Annual Cost (excluding one-off)		
	£ 86,000		Total Cost (PV) £ 870,000

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

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Not possible to provide accurate monetised benefits. We would expect there to be some impact in outcomes for children with SEND. If 2 pupils benefit from this new policy to the extent that during their working lives their employment status changes from permanently unemployment to permanent employment, this would realise benefits of £1,000,000.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£		Total Benefit (PV) £

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

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?			England		
On what date will the policy be implemented?			Following RA		
Which organisation(s) will enforce the policy?			N/A		
What is the total annual cost of enforcement for these organisations?			£ N/A		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ N/A		
What is the value of changes in greenhouse gas emissions?			£ N/A		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£	Decrease of	£	Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

School inspection has a key role to play in both holding schools to account and contributing to school improvement. However, concern has been expressed, from some stakeholder groups, for example the National Deaf Children's Society, that there has been insufficient focus on and understanding of the needs of children with SEND within school inspections. The provision responds directly to a recommendation made by the Lamb Inquiry into special educational needs and parental confidence.

Economic rationale

Imperfect information about outcomes for pupils with SEND means that recommendations for service improvement are either absent or ineffective (market failure). This in turn means that intervention to improve provision (i.e. local authority, school improvement partner etc) is not triggered, resulting in some pupils not realising their full potential. The duty addresses this problem.

Costs

To schools

The duty on Ofsted is intended to take effect at the earliest opportunity. It is not anticipated that the duty itself will require significant amendments to the current school inspection framework, which has been in place since September 2009. It is therefore not expected to impose additional costs on schools. However, improved inspection resulting from a renewed focus on SEND, along with additional training for inspectors may result in more schools being required to make service improvements. The costs of these improvements will be greatly outweighed by the benefits to pupils.

To Ofsted

While the duty itself is not expected to directly impose additional costs on Ofsted, it is intended that inspectors will be subject to enhanced training in the context of the duty.

Ofsted estimates that initial training costs will amount to £127,250, with ongoing costs of £85,725 per annum.

Benefits

Extending the school inspection legislation to include an explicit reference to children with special educational needs and disabilities is intended to improve the confidence of both parents and stakeholders in Ofsted and the school inspection system more generally. It sends an important signal about the priority the Government attaches to this issue. The fact that this measure has been recommended by an independent expert group representing a wide range of SEND stakeholders reinforces this.

The duty will underpin the changes which have already been made to strengthen the school inspection framework and will provide reassurance about the longer term. The inspection framework is a non-statutory document which is subject to periodic revision. With every revision, competing inspection priorities have to be considered. The duty will ensure that under any such revision, the focus on SEND will remain.

The duty will also provide a context for enhanced training of school inspectors. This will lead to more effective implementation of the strengthened school inspection arrangements, which in turn will lead to more insightful assessment of schools in relation to SEND, and sharper recommendations for improvement. Increasing the impact of inspection on improvement will contribute to the Government's overarching aim of improving outcomes for children with SEND and narrowing the gap in attainment between these children and their peers. This will increase their life chances and opportunities to achieve social and economic wellbeing.

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Parental right to appeal to the First-tier Tribunal (SEN & Disability)

Stage: Final Proposal

Version: For Lords Introduction

Date: February 2010

Related Publications: Special Educational Need Code of Practice; Lamb Inquiry Report: Special Educational Needs and Parental Confidence; F-tT (SEND) How to appeal an SEN decision

Available to view or download at:

<http://www.teachernet.gov.uk/wholeschool/sen>; www.dcsf.gov.uk/lambinquiry/

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

There is a wide gap in outcomes for children with special educational needs (SEN) when compared with their peers. It is important that children with SEN receive the right support. Parents cannot appeal to the First-tier Tribunal (SEND) where following a review of their child's SEN statement the local authority decides not to amend the statement, only when the LA does so. (SEN statements are drawn up by LAs setting out a child's SEN and the provision to meet those needs.) This has been highlighted by the Lamb Inquiry as an important gap in the SEN legislation.

What are the policy objectives and the intended effects?

There has been concern about parents' confidence in the 'SEN system' and the Lamb Inquiry was established to promote parental confidence. Amending the legislation as proposed will serve to increase parental confidence by closing a gap in the legislation. It will signal the Government's willingness to address this issue. It should be seen in the context of the Lamb Inquiry as a whole, other recommendations of which will have the intended effect of reducing appeals to the Tribunal over the coming years through, for example, training of local authority officers in working with parents.

What policy options have been considered? Please justify any preferred option.

- 1) Do nothing.
- 2) Amend the legislation in the current Bill. Parents can only appeal to the Tribunal through provisions of the Education Act 1996. This amendment to the legislation can be easily achieved and there is no reason to delay giving parents this extension to their rights to appeal.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Three years after coming into effect. The Department will work with the First-tier Tribunal (SEND)/Tribunals Service/Ministry of Justice to assess the effects of this amendment.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2

Description:

COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups' Average annual costs for the Tribunal/Tribunals Service would range between £100,000 and £210,000. Local authority costs nationally would range between £235,000 and £475,000. Legal Services Commission costs would range between £350,000 and £705,000.</p>
	One-off (Transition)	Yrs	
	£ 15,800	1	
Average Annual Cost (excluding one-off)			
£ 0-1.4million			Total Cost (PV) £ 0-13 million
<p>Other key non-monetised costs by 'main affected groups' Parents in particular, but also some local authority officers, can find the appeal process stressful and any increase in appeals would add to the amount of stress the system causes.</p>			
BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>It is not possible to determine specific costed benefits beyond the overall improvements that these changes would introduce.</p>
	One-off	Yrs	
	£		
Average Annual Benefit (excluding one-off)			
£			Total Benefit (PV) £ -
<p>Other key non-monetised benefits by 'main affected groups' Improved attainment by SEN pupils. Figures on rate of return to GCSEs suggest it would require about 15-31 pupils p.a. to gain 5*A-C GCSEs as a result for the benefits of the policy to outweigh the costs. This does not take into account the wider benefits of attainment (e.g. better health or further qualifications).</p>			

Key Assumptions/Sensitivities/Risks Assumed that there will be relatively low numbers of appeals registered annually coming from this amendment. There is a risk that there may be more leading to requests for further funding by authorities and the Tribunals Service but this should be offset against a likely decline in appeals resulting from other measures as a result of implementing the Lamb Inquiry.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £		
What is the geographic coverage of the policy/option?		England.			
On what date will the policy be implemented?		Jan 2011			
Which organisation(s) will enforce the policy?		DCSF/F-tT(SEND)			
What is the total annual cost of enforcement for these organisations?		£			
Does enforcement comply with Hampton principles?		Yes			
Will implementation go beyond minimum EU requirements?		No			
What is the value of the proposed offsetting measure per year?		£ N/A			
What is the value of changes in greenhouse gas emissions?		£ N/A			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

(Increase - Decrease)

Increase £ Nil Decrease £ Nil Net Impact £ Nil

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

SEN statements must be reviewed annually and there can also be additional interim reviews. The SEN framework gives parents the right to appeal to an independent tribunal (the First-tier Tribunal (SEN and Disability)) on matters concerning the statutory assessments of their children's SEN and their children's statements. Parents can appeal to the Tribunal if a local authority amends a statement following a review but they do not currently have the right to appeal to the Tribunal if the local authority does not amend the statement following a review. An Inquiry led by Brian Lamb recommended that parents should be given the right to appeal in these circumstances.

The SEN framework gives parents the right to appeal to an independent tribunal (the First-tier Tribunal (SEN and Disability)) on matters concerning the statutory assessments of their children's SEN and their children's statements. Parents can appeal to the Tribunal if a local authority amends a statement following a review but they do not currently have the right to appeal to the Tribunal if the local authority does not amend the statement following a review.

Costs

The calculations below are based on a 5% increase in these types of appeals as a result of the legislative change and a more generous estimate of a 10% increase. The range of estimates is based on the other improvements through training for local authority officers on writing better SEN statements which are more personalised to the child in question and on better dialogue with parents, including having better dialogue with parents around annual reviews of statements. The effect of these measures will take time to come on stream but eventually they will make even the 5% increase look generous and will in all likelihood counteract any increase arising from the legislative change

There are potentially four sources of extra cost associated with this change:

- Information costs – informing parents about this change;
- Tribunal costs – administering extra appeals and hearing extra cases;
- Local authority costs – for defending cases at the Tribunal;
- Legal help costs – costs to the Legal Services Commission to help parents prepare their cases.

Information costs: These costs would fall on the Department, the Tribunals Service and local authorities. The Department publishes a guide for parents and carers on SEN in standard format and easy read versions, Braille and a number of minority languages. Based on recent costs, we estimate that to amend these versions with the consequent redesigns would cost £4,800. (This booklet is reprinted frequently anyway and so reprint costs have not been taken into account here.) The Tribunal publishes a guidance booklet for parents on how to appeal and that would need to be amended. An estimated cost for amending, redesigning, translating and printing is £11,000. Local authorities will need to inform parents of their right to appeal following a review which leads to no amendments. Local authorities have to inform parents of the decisions they have taken on the basis of the head teacher's report following the review in any case. So informing parents of their new right could just require an extra paragraph to a standard letter to parents or a new letter attached the notice of their decisions. Costs would be nugatory. The other costs mentioned in this paragraph would be one off and amount to £15,800.

Costs associated with appeals

The estimated costs to the Tribunal itself holding a hearing are £1,656 (fees payable to the three tribunal panel members £1,182, Earnings Related National Insurance Contributions £124 and T&S and other expenses £350). The average Tribunals Service staffing costs per appeal amounts to £284 and other administrative overheads average £80. An estimated typical cost for a local authority to defend a case at the Tribunal is £5,000. The Legal Services Commission's estimated costs for helping parents prepare for a Tribunal hearing are £7,500. Although in many cases parents do not take up the offer of Legal Help or do not qualify for this means tested support to prepare a case for a hearing we have assumed that they will do so in each case where it goes through to a hearing. These would be annual costs.

Scenario A – there is a 5% increase in the number of appeals about the contents of statements

1572 cases were dealt with in 2007-08 where parents were appealing about the contents of statements. A 5% increase on this figure as a consequence of the change to the legislation would lead to 79 more cases being registered with the Tribunal. Of the 1572 cases about 60% were either withdrawn or conceded before they got to a full hearing and about 40% were heard. However we believe that parents appealing after a review which does not lead to amendments to the statement would be more likely to carry their appeals through to a full hearing. This is because most appeals about the contents of statements are registered when the statement is newly made and there is more give-and-take about what is in the statement. So a reversal of the normal figures has been assumed with 60% of cases going through to a full hearing and 40% being withdrawn or conceded. In which case, we estimate that 47 more cases would go to a full hearing. Therefore the extra costs would be:

For the Tribunal – registering and case managing 79 cases (assuming they all get to the point just before the full hearing) is $£364 \times 79 = £28,746$. Plus 47 full hearings: $£1656 \times 47 = £77,832$. Total = $£106,578$.

For the local authorities nationally – for the full hearings: $£5,000 \times 47 = £235,000$. In addition the local authorities would have to devote time to discussing cases which are subsequently withdrawn or conceded with parents. Assuming two hours of a junior manager's time at $£34.27$ per hour in order to do this the added costs would be: $£34.27 \times 2 = £68.54 \times 32 (79-47) = £2,193$. Total = $£237,193$

For the Legal Services Commission – assuming that all parents whose cases go through to a full hearing make use of Legal Help but none of the ones whose cases are withdrawn or conceded do then the costs will be: $£7,500 \times 47 = £352,500$.

So the overall costs in year one would be: $£696,271$.

Scenario B – there is a 10% increase in the number of appeals about the contents of statements

In this scenario an increase of 10% on the 1572 appeals about the contents of statements would amount to 157 more cases. Again assuming 60% are carried through to a full hearing then there would be 94 more hearings. In this scenario the costs would be as follows:

For the Tribunal – registering and case managing 157 cases: $£364 \times 157 = £57,148$. Plus 94 more hearings: $£1,656 \times 94 = £155,664$. Total $£212,812$

For local authorities nationally: for the full hearings $£5,000 \times 94 = £470,000$. Plus two hours of a junior manager's time at $£34.27$ for 63 cases which are withdrawn or conceded $(157-94) = £68.54 \times 63 = £4,318$. Total $£474,318$

For the Legal Service Commission - $£7,500 \times 94 = £705,000$

So the overall year one costs would be: $£1,392,130$

The 10 year PV discounted costs are as follows - Scenario A $£6,502,609$ and Scenario B $£12,985,579$

Benefits

The benefits of this change to the law are not quantifiable but it is designed to promote parental confidence in the SEN system and improve local authority practice in keeping statements up-to-date and more closely reflecting children's current needs. In turn, this should lead to better outcomes for children and potentially reduced public costs as children will make more successful and independent transitions to adulthood. Currently 33.6% of pupils with SEN achieve level 4 at Key Stage 2 as compared to 84.6% of pupils without SEN and 11.7% of pupils with SEN achieve five or more good GCSEs, including English and Maths, at Key Stage 4 compared with 57% of pupils without SEN.

On average, the additional lifetime earnings associated with gaining 5 GCSEs at A*-C compared to no GCSEs is $£45,000$.

This estimate was based on analyses from the Labour Force Survey data (LFS) for 2004 and 2005 (pooled) for England only, a working age span of 18-64 years for males and 18-59 years for females, a comparison group which pools together those with no qualifications and those with below L2

qualifications as their highest qualification level, a 2% Real Earnings growth, a 25% Non-wage labour costs, the additional cost of employment and 3.5% Discount Rate for the first 30 years, 3.0% thereafter. Thus, in order for the estimated benefits to outweigh the cost of the policy, between 15 and 31 additional children per year would have to gain GCSEs at C or above. However, this will overestimate the numbers required as it does not take into account the impact of gaining GCSEs at C or above on the likelihood of achieving additional qualifications with higher financial return, or the wider benefits of education for the individual and society (e.g. better health).

Summary: Intervention & Options

Department /Agency: DCSF	Title: Alternative provision	
Stage: Final proposal	Version: Lords Introduction	Date: February 2010
Related Publications: Back on Track: A strategy for modernising alternative provision for young people		

Available to view or download at:

<http://www.dcsf.gov.uk/publications/backontrack/>

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

There have been limited requirements placed on local authorities and schools regarding the alternative provision they make available, except for those that have been excluded from school. Pupils can wait for long periods for a placement and, once they are placed, receive only a few hours of education in a week with little opportunity to achieve accredited qualifications. Government intervention is necessary to provide pupils in alternative provision with a high standard education to meet the government's premise of equality and to ensure that the benefits of adequate education are realised.

What are the policy objectives and the intended effects?

The intended effect is that all pupils in alternative provision (including Pupil Referral Units, PRUs) will have full time, suitable, high quality provision which will provide them with a standard of education comparable with that they would receive in a mainstream school.

What policy options have been considered? Please justify any preferred option.

a) Cover in new statutory guidance – This is considered appropriate for Information Passports, Personal Learning Plans and the Core Entitlement, but not considered strong enough to ensure full time provision b). New legislation to reframe Section 19 of the 1996 Education Act on alternative provision – this would extend the duty on local authorities to arrange full time education for all children of school age and not just those that have been excluded from school. There will be an exception for children who are not capable of full time education due to their condition

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We will seek to evaluate the impact of this legislation in late 2013, after the guidance has been in place for 3 years and the legislative duty has been in place for 2 years.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition) Yrs	
	£	See evidence section
	Average Annual Cost (excluding one-off)	
£ 26m	Total Cost (PV)	£
Other key non-monetised costs by 'main affected groups'		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' We expect a positive net benefit in the most likely scenario if this policy leads to more than 1,100 pupils who would have held no qualification at all to achieve Level 2 vocational training qualifications (VRQ2). This figure does not account for the social returns that this initiative will bring about
	One-off Yrs	
	£	Other key non-monetised benefits by 'main affected groups' Several studies have highlighted the relationship between not being in full time educational provision and crime. However, we do not know the % of the number of offences that can be attributable to pupils who will be affected by this intervention and, therefore, we include these benefits as non-monetised benefits
	Average Annual Benefit (excluding one-off)	
£	Total Benefit (PV)	£

Key Assumptions/Sensitivities/Risks The main risks are that LAs complain of lack of funding to meet the new legislative requirement and there are questions over who will ensure that this duty is being met.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		England	
On what date will the policy be implemented?		September 2011	
Which organisation(s) will enforce the policy?		DCSF	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£	
What is the value of changes in greenhouse gas emissions?		£	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Government intervention is necessary to provide pupils in alternative provision with a high standard education to meet the government's premise of equality and to ensure the benefits (positive externalities) of adequate education are realised. We propose to do this through both statutory guidance and changes to the Primary legislation.

Cover in new statutory guidance on Information Passports, Personal Learning Plans and Core Entitlement to include new expectations: New guidance will attract the notice of local authorities and schools and by giving the new requirements prominence it is more likely that they will be read and taken notice of. As some local authorities are not currently complying with the requirements, such local authorities will want detailed guidance to help them to comply with the new requirements – indeed, we might be criticised if we did not provide detailed guidance. Detailed guidance is also needed because of the flexibilities built into the requirements – to get this message across and to explain what that means in practice, needs detailed guidance.

Guidance would be in place from 2010. However, we feel that guidance alone would not have sufficient impact in terms of ensuring full-time provision, which is why we propose to issue guidance as well as following a legislative route, as set out in option (2) below.

We would look to amend the guidance as appropriate in 2011 once legislation had commenced to stress the new legislative full-time requirements.

New legislation to reframe Section 19 of the Education Act 1996 on alternative provision would extend the duty on local authorities to arrange full time education for all children of school age and not just those that have been excluded from school. There will be an exception for children who are not capable of full time education due to their condition.

We also considered the option of legislating to introduce everything in the guidance, making the information passport, personal learning plan and core entitlement legal requirements. However, we rejected this sub-option because legislation on detailed operational procedures, which we plan to cover in guidance, would not allow the flexibility which responses to the White Paper consultation made clear is required for pupils in alternative provision.

We therefore concluded that the preferred option was to legislate on the full-time requirement, but issue guidance on information passports, personal learning plans and the core entitlement (insofar as it relates to issues other than that covering full-time provision, such as the curriculum).

There will be increased costs for local authorities. Local authorities already have a legal duty to provide pupils in alternative provision with a 'suitable education' and "suitable, full time education for excluded pupils". The overall funding local authorities currently receive from the Government includes an element intended for this purpose (although funding for alternative provision is not ring fenced). However, this proposed change will mean that all pupils in alternative provision will be entitled to full time education, except where for reasons which relate to the child's condition, it would not be in the child's best interests for full time education to be provided. In these cases the local authority will be under a duty to arrange education on such part time basis as the authority considers to be in the child's best interests.

Facts and Assumptions

- 135,000 pupils pass through alternative provision each year but at any point there are up to 70,000 in such provision;
- There is a range of reasons for pupils being in alternative provision. The biggest single group (just under 50 per cent) are pupils who either have been excluded from school or who have been deemed at risk of exclusion. Both categories are likely to have special educational needs. The other 50 per cent are in alternative provision either for medical needs (e.g. pupils with emotional and physical health needs and teenage mothers) or for other reasons (pupils unable to cope in mainstream school, children temporarily without a school place).
- There is a legal requirement for excluded pupils to receive full-time education from the 6th day of their exclusion - local authorities and schools are already funded for this provision, so these excluded

pupils can be excluded from any consideration of the costs of providing full-time provision to pupils in alternative provision.

- Therefore we assume that 50% of pupils in alternative provision will not be affected by this new legislation because they are excluded and therefore already receiving FTE and half of them will not receive FTE due to exceptional circumstances (mainly medical reasons). This leaves us with 17,500 pupils that the duty on the LA will apply to.
- The cost of making full-time provision available to pupils in alternative provision is estimated as being around £15,000 a year, compared to £4,000 in a maintained school.

Costs

The costs of implementing the guidance (information passport / personal learning plan) are minimal in comparison, and largely relate to postage and communication costs. The guidance seeks to minimise any administrative burdens on schools, for example by advising that in the case of information passports there is no specific form needed and that existing documents can be used to provide information contained within the 'information passport' heading. Similarly, personal learning plans in most cases can be built quickly from information within the information passport, minimising any additional burden on PRU/APs.

We have therefore concentrated on analysing the costs associated with the legislative proposals for full-time provision.

Full time provision LAs will have an increased cost because of having to commission the extra provision (where applicable).

As we said above the cost of making full-time provision available to pupils in alternative provision is estimated as being around £15,000 a year, compared to £4,000 in a maintained school. Therefore, LAs will have to allocate £11,000 extra per pupil to provide FTE in AP. This means £11.6 extra per hour [$£11,000 / (190 \text{ school days} \times 5 \text{ h per day})$].

FTE – teacher costs are included in the figures used for the costs of a place in alternative provision, so we shouldn't need to figure that in separately.

Number of pupils affected = 17,500 pupils in AP at any point.

Upper likelihood

We assume that pupils in AP that will be affected by this policy are only receiving 3 hours of education a day. With this intervention they would all get 5 hours per day, i.e., 2 extra hours a day or 380 extra hours per year, with an estimate cost of £4,400 per pupil.

Given that the number of pupils effectively affected by this policy is 17,500 the additional total cost of this new legislation amounts to approximately £77m per year, **£660m** over ten years (3.5% discount rate).

Lower likelihood

All pupils in AP are already receiving FTE, therefore, there is **no** an **extra cost** for this policy.

c) Most likely scenario

Out of these 17,500 pupils we assume that 2/3 (approximately 11,500) are already receiving FTE since 2005's guidance established the definition of FTE in the context of AP and LAs were expected to follow this guidance. Therefore, we expect the most likely scenario to be one in which a maximum of 6,000 pupils will need 2 additional hours to ensure full time provision. This amounts to approximately £26m per year, **£224m** over ten years.

Benefits

According to DCSF calculations based on the Annual Survey of Hours and Earnings:

- Those who achieve 5 or more A*-C GCSEs earn on average around £186,500 more, discounted over their lifetime, compared to similar individuals who do not hold any qualification at all.
- Those who achieve 1 - 4 A*-C GCSEs earn on average around £88,500 more, discounted over their lifetime, compared to similar individual who do not hold any qualification at all.
- Finally those who hold Level 2 vocational training qualifications (NRQ2) earn on average around £24,500 more, discounted over their lifetime, compared to similar individual who do not hold any qualification.

However we do not have evidence yet on the number of pupils who will effectively benefit from this policy nor to what extent they will benefit - i.e., we do not know whether as the result of this policy pupils will move from achieving no qualification at all to achieve 5 or more A* - C GCSEs, 1 – 4 A* - C GCSEs or Level 2 vocational training qualifications.

Non-quantifiable benefits

So far we have looked at benefits to the individual. However, we cannot forget the social returns from education. Thus higher attainment tends to lead to higher employment prospects, which in its turn reduces crime. However, we do not know the percentage of the total number of offences that can be attributable to pupils who will be affected by this intervention and, therefore, we include these benefits under the section non-monetised benefits.

Break even analysis

As we said above the lack of evidence at this point of the appraisal prevents us from carrying a cost-benefit analysis. However, we think it is important to show the break even point of various scenarios – comparing to the cost of providing 6,000 pupils with 2 additional hours a day (amounting to £224m over 10 years) regarded as the most likely scenario (see cost section):

a) Achieving 5 or more A* - C GCSEs

If approximately **150 pupils** affected by this policy (2% of the 6000 pupils) increased their attainment from no achieving any good GCSE to achieve 5 or more A* - C GCSEs, then benefits would approximately equal costs.

b) Achieving 1 – 4 A* - C GCSEs

If approximately **300 pupils** affected by this policy (5% of the 6000 pupils) increased their attainment from no achieving any good GCSE to achieve one to four GCSEs, then benefits would approximately equal costs

c) Achieving Level 2 vocational training qualification (VRQ2) - Most likely case scenario

If approximately **1,100** pupils affected by this policy (18% of the 6,000 pupils) increased their attainment from no getting any qualification to achieve Level 2 vocation training qualification, then benefits would approximately equal costs

Since the number of pupils who would need to achieve these qualifications is small in comparison with the number of pupils affected by this policy (6000), it is reasonable to assume that the policy will break even, or that benefits will exceed costs.

We will seek to evaluate the impact of this legislation in late 2013, after the duty has been in place for 2 years. There is currently little data available about the outcomes of children and young people in alternative provision, with no published performance data at institutional or local authority level for pupils in Pupil Referral Units or in alternative provision. We have been working to address this since publication of the Back on Track white paper in 2008. We are piloting the collection of attainment data from PRUs in 2009, and subject to the quality of this data being high enough, we intend to publish this in January 2010 for participant local authorities. We are putting in place a new PRU / AP Census regime from 2010,

which should give robust data on attainment at PRU/APs (for pupils at the end of key stage 4) across local authorities, available and published alongside the school attainment tables from January 2011.

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Primary Curriculum

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications: Independent Review of the Primary Curriculum: Final Report and Consultation paper

Available to view or download at:

<http://www.dcsf.gov.uk/primarycurriculumreview>

www.qca.org.uk/qca_22256.aspx

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

Good education is key to the economic success of society. Ensuring children have access to the best education possible reduces inequity, and helps prevent poor welfare choices based on imperfect information. Additionally, positive externalities which result from highly educated students in terms of future productivity or civic engagement for example, are wide ranging. Primary education is the bedrock of the education system, however evidence gathered by QCDA tells us that a new curriculum model is needed to bring it up to date in the context of globalisation and new technologies.

What are the policy objectives and the intended effects?

A new more flexible primary curriculum will allow schools to tailor teaching to meet the needs, interests and aspirations of all their children and help them make the best possible progress in literacy, numeracy and ICT. It will provide pupils with a broad and balanced entitlement to learning which encourages creativity and inspires in them a commitment to lifelong learning. The new curriculum will allow teachers to get the best outcomes for their students particularly those who are struggling to keep up or those who require more challenging tasks.

What policy options have been considered? Please justify any preferred option.

- 1) Do nothing.
- 2) Reform the primary curriculum (see Evidence Base Section).

Note that other potential options such as piloting different versions of a potential new primary curriculum prior to any National roll out are ruled out by primary legislation which permits only one National Curriculum to be in place for any specific cohort of pupils.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The Department will be working with QCA to ensure that the benefits and success measure are clearly defined before the new curriculum is introduced from 2011..

Ministerial Sign-off For consultation stage Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2

Description: Reform primary curriculum

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Costs associated with teachers having to spend time preparing for the new curriculum: Some of these costs will be incurred by schools, but the additional inset day will affect parents who will have to make childcare arrangements and pupils who will lose a day of their education.
	One-off (Transition)	Yrs	
	£ 69m - 91m	2	
	Average Annual Cost (excluding one-off)		
	£ Nil.		Total Cost (PV) £ 68m - 91m

Other key non-monetised costs by 'main affected groups' It is expected that costs will be incurred by the Department and QCDA during the implementation of the policy however all of these will be met out of current budgets. Costs will be kept under review as work progresses.

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
	£ N/A		Total Benefit (PV) £ N/A

Other key non-monetised benefits by 'main affected groups' Improved pupil performance year on year, enhanced personal, learning and thinking skills development, improved attendance and staying on rates, narrowing the attainment gap between those on free school meals and their peers. Improved behaviour and attendance.

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		England	
On what date will the policy be implemented?		September 2011	
Which organisation(s) will enforce the policy?		DCSF	
What is the total annual cost of enforcement for these organisations?		£ Normal activity	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		N/A	
What is the value of the proposed offsetting measure per year?		£ N/A	
What is the value of changes in greenhouse gas emissions?		£ N/A	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ Nil	Decrease of	£ Nil
		Net Impact	£ Nil

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

The world is a rapidly changing place and since the primary curriculum was last updated in 2000, there have been far reaching changes in the national and global context within which it operates. Many more people are using computers at home and have mobile phones, and the existence of climate change was a hotly debated topic rather than a widely accepted scientific fact. Telecoms, technology and the internet are also creating new types of jobs and the skills needs of employers – now and in the future - are different from what they were ten years ago.

The education all children receive at primary school helps them develop the knowledge, skills, and understanding to become confident individuals, successful learners, and responsible citizens, and prepares them for their futures of further study, university, training and work - by creating real, deep understanding and by enabling them to apply their knowledge in practical and real life settings - as well as giving them a rigorous grounding in individual subjects, the three Rs and ICT; and the primary curriculum needs to fit well with the Early Years Foundation Stage and the secondary school curriculum, and so helps children have a smooth transition between the different stages of their education.

The economic rationale for DCSF policy is predicated around market failures in education, skills markets and equity arguments. As noted in Impact Assessment guidance, education has numerous positive externalities i.e. society benefits from having well-educated individuals, over and above the benefit to the individual themselves. These externalities can occur in production, leisure or civic engagement for example, not to mention the ancillary benefits an educated nation brings to our health, crime rates, or poverty levels. There is a clear economic case therefore for government to prioritise education for the benefits of wider society, and thus ensure the bedrock of that education - the primary curriculum - is fit for purpose.

In carrying out his review Sir Jim Rose considered the four broad approaches to the curriculum identified in schools: subject based; areas of learning; skills based; and theme based. His final recommendation promotes a primary curriculum structured as six areas of learning. This recommendation was developed by the experiences learnt from the secondary curriculum model, results from consultations, and QCA's development work with primary schools over the last three years. Another example was that of an early proposal to adopt seven areas of learning. Sir Jim decided to reduce this to six areas of learning, and remove design and technology as a separate area of learning, as he felt that the subject could predominantly be placed within the Scientific and Technological Understanding area because of the strong learning links between these subjects.

It could have been possible to pilot the proposals in a small number of schools to test out different variants on the proposals. However, this is not possible in law. There can be only one National Curriculum at any one time which places requirements on all maintained schools to deliver the learning entitlement. QCDA have been working with schools to test out aspects of the new curriculum, such as cross-curricular studies which are possible within the existing National Curriculum.

The proposed policy has potential to have an impact on long term sustainable development, as a more flexible curriculum will allow children's knowledge to be broadened of how the environment affects their lives, and how their actions affect the environment. Teachers will be able to give children tools and confidence to play a significant part in affecting positive, lasting change to their local environment.

In terms of environmental costs of the introduction of the policy, new materials will be predominantly web based however any printed materials arising should be on a minimum of 60% recycled content of which 75% is post-consumer waste. Serious consideration will be given to the use of vegetable inks in printing.

Costs

One-off costs

Costs associated with teachers having to spend time preparing for the new curriculum

(i) To schools

Primary schools will incur the following time costs in order to familiarise themselves with and prepare for the new curriculum:

Year 1

1-2 days for all head teachers.
2 -3 days for curriculum designers (deputy head level)
7 – 10 days divided between Areas of Learning leaders.

Year 2

1-2 days for curriculum designers
3-5 days divided between Areas of Learning leaders.

An area of learning leader is the new term for subject leader in a school. This role is generally responsible for curriculum planning in schools, supporting teachers in preparation of teaching plans, monitoring quality of provision etc. A curriculum leader will be responsible for the design of the whole curriculum including decisions about time, resource allocation etc. plus often staff development and curriculum review and monitoring. The new proposed areas of learning for the curriculum are Understanding English, communication and languages; Mathematical understanding; Scientific and technological understanding; Human, social and environmental understanding; Understanding physical development, health and well-being; Understanding the arts and design.

It is also proposed there will be an additional inset day in Year 1 to enable all teachers to familiarise themselves with the new curriculum. This will not impose a direct burden on schools since they be able to offer one fewer day of teaching time.

(ii) To parents

The inset day will impose a cost on parents. Some parents may have to find and pay for childcare provision during the inset day. In a given week in 2007, 34% of parents of 5-7 year olds and 22% of parents of 8-11 year olds used formal childcare⁵. In addition to this, parents who work at home might have to divert attention from their work towards looking after their children, which could have financial implications, particularly if they are self-employed.

However, this cost will not be incurred by all parents, for example, non-working parents or those who can make informal childcare arrangements at no cost.

(iii) To children

Children will lose a day of education. Fewer days of education corresponds to lower attainment, and in the longer term, lower productive capacity and lower earnings. For each individual pupil, this impact will be tiny, since one day is a very small proportion of his or her entire education. However, since the inset day will affect every primary school age child in the country who attends a maintained school, the total effect of this will be much larger.

However, there is an optimal balance between inset days and teaching time, since inset days improve the quality of the teaching children receive. This is discussed in more detail in the benefits section.

Monetary estimate of time cost

It is estimated the total cost associated with teachers having to spend time familiarising themselves with and preparing for the new curriculum will be as follows. For more details, see Annex B.

	Lower estimate	Upper estimate
Year 1	£58m	£73m
Year 2 (Present value)	£10m	£18m
Total	£68m	£91m

⁵Childcare and Early Years Survey 2007: Parents' Use, Views and Experiences.

Some assumptions used in this cost estimate:

- The time needed for different members of staff to familiarise and prepare to use the new curriculum. These estimates have been varied between the upper and lower bounds.
- ONS compliance cost estimates, which are based on teacher wages uplifted by employer costs are a realistic estimate of the opportunity cost of teachers time, and of having an additional inset day
- A deputy head's compliance cost is midway between head teacher and class teacher

Other one-off costs

It is expected that costs will be incurred by the Department and QCA during the implementation of the policy however all of these will be met out of current budgets. Costs will be kept under review as work progresses

Annual costs

There are no annual costs associated with the curriculum changes. Schools are already following a curriculum and, once established, the costs associated with following the new curriculum are not expected to be greater than with the existing curriculum.

Benefits

The proposed new curriculum will be a key driver in improving school standards and will benefit children in a number of ways. It will recognise the continuing importance of subjects and the essential knowledge, skills and understanding they represent and provide a stronger focus on curriculum progression, strengthening the continuity and progress in learning, and building stronger links, between the early years and Key Stage 1 and through primary into secondary education. It will also strengthen the teaching and learning of ICT, enabling children to become independent and confident users of technology by the end of primary education, and provide a greater emphasis on personal development and pupil well-being which will be essential for life outside school. The opportunity to learn one or more language will also bring a greater richness and understanding of the wider community and world outside.

It is intended that the new primary curriculum will allow schools to tailor teaching to meet the needs, interests and aspirations of all pupils and help them make the best possible progress in literacy, numeracy and ICT. It will also allow teachers to get the best outcomes for their students particularly those who are struggling to keep up or those who require more challenging tasks.

In summary, the intended benefits of the policy will be:

- *Improved pupil performance year on year.* Making the curriculum more manageable and giving schools more flexibility to focus on what is important such as literacy, numeracy and ICT and providing more opportunities to use and apply these skills across the curriculum will raise standards. And we now know a good deal more than we did 10 years ago about how primary children learn important things like reading and spelling; this new evidence has been taken into account in ensuring the new curriculum is up-to-date. We also know from Ofsted inspections that the best primary schools help children make links between subjects as they learn. Grouping subjects by broader areas of learning, as proposed by the new curriculum, – and the renewed focus on the application of knowledge across different subjects - will help this.
- *Enhanced personal, learning and thinking skills development.* As with the secondary curriculum, the aims of the new primary curriculum are to enable children to become successful learners, confident individuals and responsible citizens. This means securing high levels of literacy, numeracy and ICT skills alongside all that is intended by personal development and the interpersonal skills associated with it. The framework of the new curriculum “Essentials for Learning and Life” includes the elements essential for personal development which schools will identify those elements to be taught discretely and those which are best learned in the broader context of day-to-day living and throughout the curriculum. The organisation of the curriculum into six areas of learning and the focus on cross-curricular studies will encourage explicit opportunities to foster children's personal development, learning and thinking skills.

- *Improved staying on rates.* Transition from primary to secondary school is often a time of stress for children that can influence their attitude to secondary education which in turn can result in disengagement and a reluctance to continue education beyond school-leaving age. The common aims and approach in design of the new primary and secondary curriculum will strengthen the links between primary to secondary education and therefore provide a more positive experience for children which will continue into secondary school and beyond. The focus within both curriculums on making learning an enjoyable and relevant experience will also encourage children and young people to continue in education.
- *Narrowing the attainment gap between those on free school meals and their peers.* Personalisation is at the heart of the new primary curriculum. The new curriculum will be more manageable, more coherent and less crowded so that teachers can concentrate on what is essential to children's learning and personal development and personalise the experience for individual children, allowing them to learn at a pace that suits them. This will ensure that children receive the education that they need to reach their potential, irrespective of their individual circumstances.
- *Improved behaviour and attendance.* A more manageable curriculum, less crowded curriculum, will give teachers the opportunity to identify more imaginative approaches to curriculum design that will better engage children and make learning an enjoyable, exciting and relevant experience. As a result children will be better behaved and keen to attend school. Introducing Personal Development, Health and Wellbeing as a key area of learning will also encourage schools to look at what they can do to ensure the health and wellbeing of their pupils and how they can teach children to live with each other, treat others with respect and make a positive contribution to the school, their families and the communities in which they live.

The additional inset day proposed will allow teachers time to familiarise themselves with the new curriculum and make the necessary preparations for their lessons. This will ensure lessons fully reflect the new curriculum and therefore enable children to fully benefit from what the new curriculum is designed to deliver. Covering the changes to the curriculum reform in existing inset days could prevent teachers having time to train in other areas of importance. An additional inset day was introduced for the reform of the secondary curriculum to good effect.

The QCDA have a statutory duty to monitor the curriculum and do so on an ongoing basis. The Department will be working with QCDA to ensure that the benefits and success measures are clearly defined and that the new curriculum are evaluated as part of QCDA's wider curriculum evaluation plans. QCDA's formal remit for 2009/10 includes a success measure to provide advice about success measures for implementation of the new primary curriculum against which evaluation plans can be developed. We will also expect Ofsted to continue its curriculum related thematic reports in the new curriculum, including how successfully schools are implementing the new curriculum as they have done for the new secondary curriculum

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
Making Personal Social Health and Economic education a compulsory part of the curriculum.

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications: Personal, Social, Health and Economic Education Curriculum Reform Consultation Report to DCSF

Available to view or download at:

<http://www.dcsf.gov.uk>

Contact for enquiries: Kashim Chowdhury

Telephone: 02073407250

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

There is strong evidence to suggest that the quality of teaching and curriculum coverage of Personal, Social, Health, and Economic education (PSHE) is variable. Equity arguments dictate that all children should have access to good PSHE education, particularly as a lack of knowledge of these important topics could lead to young people making misinformed decisions about their health, welfare, career and economic situation. Decisions based on imperfect information could result in significant economic costs to themselves and society.

What are the policy objectives and the intended effects?

The aim is that all children should receive consistent high quality PSHE education by making the subject statutory in maintained schools from Key Stages 1 to 4. It is intended that the policy will bring equity of access for all young people to a range of essential skills for learning and life, helping to narrow the socio-economic gap. This has the potential to contribute to reducing economic burdens on society resulting from social exclusion. It also has the potential to reduce the economic costs arising from a lack of basic economic skills.

What policy options have been considered? Please justify any preferred option.

Option 1: Do nothing - PSHE education to remain as non-statutory subject

Option 2: Introduce statutory PSHE education as a part of the statutory National Curriculum

Ministers have confirmed their intention in making PSHE education statutory in the National Curriculum by accepting the recommendations of Sir Alasdair Macdonald's independent report on PSHE and following the outcome of a consultation report from the QCDA.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Ongoing review by DCSF officials and through Ofsted inspection.

Ministerial Sign-off For consultation stage Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2

Description: introduce a statutory requirement for the teaching of PSHE in the National Curriculum from Key Stages 1-4.

COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups' Figures calculated are based on estimates of the required senior management and subject coordinator time investment. Please see evidence base for more details.</p>
	One-off (Transition)	Yrs	
	£ 1.9 - 4.8million	3	
	Average Annual Cost (excluding one-off)		
	£ Nil		Total Cost (PV) £ 1.9 - 4.8million

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

BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups' It is extremely difficult to calculate the monetised benefits of good PSHE education, however it has the potential to have immediate impacts on pupils' economic well being as well as wider impacts on society as a whole. Research to be commissioned following the consultation will inform this work.</p>
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£ N/A		Total Benefit (PV) £ N/A

Other key non-monetised benefits by 'main affected groups' PSHE education can contribute to wide-ranging positive externalities. PSHE education has the potential to develop pupil's communication, decision making, interpersonal and social skills which play an important part in success at school and in employment.

Key Assumptions/Sensitivities/Risks The vast majority of schools are already delivering PSHE, which will minimise the costs of this policy. There is a risk that sufficient workforce capacity is not developed to deliver the policy, however, further support will be provided prior to implementation.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		England	
On what date will the policy be implemented?		September 2011	
Which organisation(s) will enforce the policy?		Ofsted	
What is the total annual cost of enforcement for these organisations?		£ Normal activity.	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		N/A	
What is the value of the proposed offsetting measure per year?		£ N/A	
What is the value of changes in greenhouse gas emissions?		£ N/A	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ Nil	Decrease of	£ Nil
		Net Impact	£ Nil

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Effective PSHE education has the potential to develop pupils' communication, decision-making, interpersonal skills, assertiveness, their ability to make moral judgements and put them into practise, and their ability to act responsibly. Such skills are known to play an important part in success at school and in employment.

Costs

A minimum and maximum estimate has been made to the economic cost to schools of the introduction of the policy.

To calculate the cost for schools based on teacher time required, it has been assumed that for all secondary schools, special schools and pupil referral units (PRUs), the time required to implement the policy will be one hour for head teachers and one day for subject coordinators for a minimum standard, and two hours for head teachers and three days for subject coordinators for a gold standard. For all primary schools it has been assumed that the time required to implement the policy will be one hour for head teachers minimum standard and two hours for gold standard. For primary schools, further teacher costs have not been added because the introduction of statutory PSHE education is part of the wider primary curriculum reform, the costs of which are being treated in a separate Impact Assessment.

The total cost to all maintained primary, secondary, special schools, and PRUs has therefore been estimated at between £1.9million and £4.8million.

Benefits

There are clear cases for the teaching of PSHE education given the wider costs on society of drug taking, teenage pregnancy, Sexually Transmitted Infections (STIs), or child obesity for example. Inspection evidence from Ofsted highlights concerns about variability of provision of sex and relationship education across schools. Many pupils feel sex and relationships education is "too little, too late" and focuses too much on biological facts. A study by the UK youth parliament found that 40% of young people questioned thought sex and relationships education they received was 'poor'.

UNICEF and the World Health Organisation recommend a programme of continuous comprehensive sex and relationships education (SRE) starting at a young age (Westwood and Mullan, 2006). Evidence shows that countries with low teenage pregnancy rates have comprehensive SRE programmes. Children born to teenage mothers have 60 per cent higher rates of infant mortality and are at increased risk of low birth weight, which has implications for the child's long-term health; teenage mothers are also three times more likely to suffer post-natal depression than older mothers and experience poor mental health for up to three years after the birth.

There are also key links between education and the labour market. Careers advice and guidance, work related learning, and enterprise education clearly benefit this. Careers education has been shown to have a positive impact on pupils' career related skills, which in turn are an important influence on transition at 16. (Smith et al 2005) Careers education is perceived by schools in disadvantaged areas to be particularly important as it helps to raise pupils' aspirations (Morris et al 2001).

Effective financial capability education has been shown to impact on pupils' ability to make sound financial decisions. International evidence suggests that this can have lifelong financial benefits. An Work-related learning helps to motivate pupils to work harder and to stay on in education after 16. It is associated with a decreased likelihood of being not in employment, education or training after leaving school.

Emotional health and well-being education has its own positive externalities which may be of particular importance in schools in disadvantaged contexts, since there is evidence that children in those schools are more likely to be depressed, experience victimisation, engage in antisocial behaviour, and report less satisfying friendships. Ofsted (2007) reported that some studies have shown that drug education programmes can impact on pupils' attitudes, knowledge and resistance skills, but there is very limited

evidence of their impact on long-term behaviour.

Gutman and Feinstein (2008) reported that pupils in schools with a higher proportion of disadvantaged children were more likely to be depressed, experience victimisation, engage in anti-social behaviour and antisocial friendships, and report less satisfying friendships. This suggests that emotional health and well-being education may be of particular importance in schools in disadvantaged contexts. A systematic review of evidence on conflict resolution, peer mediation and young people's relationships (Garcia et al, 2006) suggested that school based intervention on these subjects have been shown results in a range of positive effects, including the retention of knowledge and skills learnt during the intervention, and some effects on discipline and behaviour in school.

There is evidence that school-based measures with regard to diet and healthy lifestyle education can have an effect on a range of pupil outcomes, such as amount of fruit and vegetables eaten, and levels of obesity and being overweight (Mulvihill and Quigley, 2003; Thomas et al, 2003).

Summary: Intervention & Options

Department /Agency: DCSF	Title: Powers of Governing Bodies to provide community facilities etc	
Stage: Final proposal	Version: Lords Introduction	Date: February 2010
Related Publications: Your child, your schools, our future: building a 21st century schools system		

Available to view or download at:

<http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill>

Contact for enquiries: Alan Reiss

Telephone: 02073407607

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

Delivery of the pupil guarantee requires schools to work together and to provide services to one another's pupils. Current legislation requires governing bodies to conduct the school with a view to promoting educational achievement, wellbeing and, in England, community cohesion. And s27 of EA2002 gives governing bodies the power to provide community facilities. However, there is no duty associated with provision of community facilities and schools are limited to spending their budgets on the purposes of the school.

What are the policy objectives and the intended effects?

The objective of this clause is to include community facilities explicitly within the definition of purposes of the school, for spending purposes, thus removing any funding barriers; and to promote the use of the power to provide community facilities by requiring schools to consider once annually whether, and if so how, to use that power. The intention is to drive greater use of the power to provide community facilities; and to enable expenditure on those facilities. Offering a wide menu of positive activities, both in and out of school hours, can be integral to improving attainment, narrowing gaps between different groups and engaging with parents. Enriching provision in this way can improve outcomes within an area.

What policy options have been considered? Please justify any preferred option.

1. Do nothing and rely on existing EA2002 duty in s21 (to promote education, wellbeing and community cohesion) and power in s27 to provide community facilities.
2. Amend EA2002 s27 to promote greater use of power; and amend SSFA1998 s50 to remove funding restrictions

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The new powers will be subject to general school accountability arrangements

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' There are no additional costs to clarifying these legal duties – schools will meet the costs through their delegated funding promoting efficiencies and securing greater value for money.
	One-off (Transition) Yrs £	
	Average Annual Cost (excluding one-off) £	
	Total Cost (PV)	
Other key non-monetised costs by 'main affected groups'		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' It is not possible to monetise the benefits at this time – details of other benefits are detailed below.
	One-off Yrs £	
	Average Annual Benefit (excluding one-off) £	
	Total Benefit (PV)	
Other key non-monetised benefits by 'main affected groups' Higher pupil achievement and well being through improved access to opportunities that lead to greater social equality (society), better community relations (communities), and, with the wider community, to the improved well-being from access to leisure facilities and learning opportunities (individuals)		

Key Assumptions/Sensitivities/Risks

Schools will use their powers as enabled and that school inspection, accountability and where necessary intervention, will drive governing bodies' behaviour towards fulfilling the wider purposes of their school to the best of their abilities.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	England								
On what date will the policy be implemented?	September 2011								
Which organisation(s) will enforce the policy?	DCSF								
What is the total annual cost of enforcement for these organisations?	£ 0								
Does enforcement comply with Hampton principles?	Yes								
Will implementation go beyond minimum EU requirements?	No								
What is the value of the proposed offsetting measure per year?	£ N/A								
What is the value of changes in greenhouse gas emissions?	£ N/A								
Will the proposal have a significant impact on competition?	No								
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro</td> <td style="width: 25%; text-align: center;">Small</td> <td style="width: 25%; text-align: center;">Medium</td> <td style="width: 25%; text-align: center;">Large</td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> </tr> </table>	Micro	Small	Medium	Large	N/A	N/A	N/A	N/A
Micro	Small	Medium	Large						
N/A	N/A	N/A	N/A						
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	N/A	N/A	N/A	N/A				
N/A	N/A	N/A	N/A						

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Much of the change envisaged is already being developed through the non-statutory programme of rolling out extended services provision. According to data collected by the TDA from Local Authorities, the vast majority of schools already offer access to the full core offer of extended activities with a varied menu of activities including study support; childcare (in primary schools); parenting and family support; swift and easy access to specialist services; and community access to facilities. The target of ensuring all schools provide access to extended services is due to be met in 2010.

Costs

The proposed changes are designed to give schools the flexibility to fund services which do not have a direct educational benefit for their pupils but which have an indirect impact on outcomes and community cohesion through wider involvement of the community. The services most likely to be provided under these powers are adult and family learning, ICT and sports provision. The changes are intended to result in more effective and more efficient co-operation between schools and other local services, the sharing of expert leadership and teaching, the extension of the curriculum and qualifications offer and improved joint working with specialist services. They will be funded from within existing budgets.

Benefits

The evidence on the likely impact of requiring schools to perform in such a way comes from a range of sources. It has not been possible to identify one study which pulls together all the elements of what these new legal changes will allow, given the existing legal framework is more limited. However, there is good evidence that shows how the different elements of the Government's new vision for schools will drive significant and sustainable improvements:

- Having high quality teachers and teaching is essential to the achievement of whole-school success (Barber and Mourshed, 2007) and high quality teachers can add 40 per cent of a GCSE grade per subject to a given pupil (Slater et al., 2009)
- Schools make a difference with significant differences between the most and least effective schools as measured by GCSE outcome, affecting pupils' future education and employment opportunities (Sammons et al., 2006)
- Children's emotional and social wellbeing is influenced by the type of experiences encountered at school, such as whether they encounter bullying or victimisation, and is influenced by friendships formed at school (Gutman and Feinstein, 2008)
- Parental engagement with, and aspirations for, their children can impact on attainment (e.g. Sylva et al., 2004; Strand, 2007, 2008)
- Inter-school collaborations can provide a number of gains for schools, staff and pupils (Atkinson et al., 2007)
- Evidence suggests that school leadership is second only to classroom teaching as an influence on pupil learning (Leithwood et al., 2006);
- Effective multi-agency working can improve outcomes, with evidence showing that the behaviour of some vulnerable groups had been significantly improved when schools worked with other children's services partners (Kendall et al. 2008)

The Department previously funded a group of full service extended schools to act as 'pathfinders'. The experiences and success of these and other schools have informed the core offer of services which it is expected will be offered by or through all schools, in partnership with local providers, by 2010. Evaluation of full service extended schools has shown:

- Schools have taken many approaches to delivering the services under the headline banner but within that most have developed additional provision to overcome pupils' barriers to learning which were seen as related to family and community problems.
- The developments were broadly welcomed by schools. Promising partnership arrangements,

genuine pupil and community involvement, and strategic initiatives at local level were emerging

- There was a positive impact on the attainment of pupils – particularly those facing difficulties. They were also having a range of other impacts on outcomes for pupils, including engagement with learning, family stability and enhanced life chances.
- There were also positive outcomes for families and local people, particularly those facing difficulties. Positive impacts were also evident in relation to local communities as a whole, though these were weaker.
- Together this was bringing about an improvement in school performance, better relations with local communities and an enhanced standing of the school in its area.

While different schools were bringing together different strands of provision, the overall strategic approach was leading to outcomes over and above those which the individual activities might have generated in isolation.

Summary: Intervention & Options

Department /Agency: DCSF	Title: Extending the power of governing bodies	
Stage: Final Proposal	Version: Lords Introduction	Date: February 2010
Related Publications: Your child, your schools, our future: building a 21 st century schools system		

Available to view or download at:

<http://www.dcsf.gov.uk/21stcenturyschoolssystem/>

Contact for enquiries: Paul Mackenley

Telephone: 01325 391275

What is the problem under consideration? Why is government intervention necessary? Where a strong school wishes to extend the benefits of its leadership and governance to raise standards in the area by offering advice/assistance to an Academy, being a member of an Academy Trust, establishing an Academy, or being a member of the foundation it does not currently have the power to do so directly and must use a circuitous route that has certain limitations. Our view is that in relation to establishing a new maintained school, governing bodies may already have the power, but that this is not entirely clear. This lack of powers for governing bodies is not consistent with wider drives for schools to work in partnership with other schools, and to allow high performing providers to contribute more to the system through sharing existing good practice, and supporting weaker schools.

What are the policy objectives and the intended effects?

To support the school improvement by making it easier for maintained schools that have the right combination of educational excellence, capacity and track record and are therefore accredited to be brought in to lead school improvement interventions in weak schools through Academies, majority Trusts and federations and also to propose to establish new maintained schools.

What policy options have been considered? Please justify any preferred option.

- 1) Do nothing – continue with the status quo whereby a maintained school must either set up a Trust or a Schools Company before it can establish another school, sponsor an Academy or offer advice and assistance to an Academy.
- 2) Legislate to allow the governing bodies of strong schools (that are accredited providers) to do the above directly - for example as part of school improvement structural interventions to lead Academies; Majority Trusts; Federations and Amalgamations or in response to a new school competition. This is the preferred option - see justification below.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be evaluated as part of the evaluation of Accredited School Providers and Accredited Schools Groups in 2014 with an interim review in 2012 and annual monitoring and evaluation.

Ministerial Sign-off For consultation stage Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 3

Description: Accredited school groups

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' We do not believe that there will be any additional costs as a result of this policy - in fact, we believe that it will lead to a slight reduction in costs.
	One-off (Transition)	Yrs	
	£ N/A		
	Average Annual Cost (excluding one-off)		
	£ N/A		Total Cost (PV) £ -
Other key non-monetised costs by 'main affected groups' N/A			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Strong schools will be able to save around £1k - the estimated average cost of setting up a School Company - if they wish to sponsor an Academy, or around £9k - the estimated average cost of establishing a Trust - if they wish to propose to establish a new maintained school. There will also be associated savings of time.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£ tba		Total Benefit (PV) £ -
Other key non-monetised benefits by 'main affected groups' Reduction in bureaucracy for strong schools. The policy will also contribute to weak schools having the right leaders to significantly improve their performance.			

Key Assumptions/Sensitivities/Risks

This is an enabling/discretionary power not a duty. It does not change other legislation/policy for other aspects of establishing maintained schools or sponsoring Academies eg existing statutory processes and requirements, no preferential access to capital or favoured status in new school competitions.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		England	
On what date will the policy be implemented?		September 2011	
Which organisation(s) will enforce the policy?		DCSF, LAs, School Adjudicator	
What is the total annual cost of enforcement for these organisations?		£ N/A	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		Yes/No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ Nil	Decrease of	£ Nil
		Net Impact	£ Nil

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

There have been a total of 32 new school competitions completed since the Education and Inspections Act 2006 made a competition the normal route by which new or replacement primary, secondary or special schools would be established – an average of around 10 a year since. Of these, 11 have been won by existing schools which have formed or been part of a Trust. This suggests that some schools are able to work within existing arrangements to establish new schools, although it may well act as a disincentive in some cases.

The average costs of establishing a Trust (a foundation which exists in law to hold land on behalf of a school and to appoint governors to the governing body of the school – and which may also propose a new school) and which must in law be constituted as a prescribed form of incorporated company (most commonly a company limited by guarantee) is around £9k. This consists of the cost of establishing the Trust as an incorporated charity – most commonly a company limited by guarantee – and therefore registering with Companies House and on some occasions with the Charity Commission. There are then ongoing requirements to submit returns to Companies House and the Charity Commission, which brings with it staffing costs as cover is required for those engaged in Trust related work.

We want to encourage good schools to spread their excellence around the system through establishing new or replacement schools in this way. Through collaboration, federation and growing chains of Accredited School Groups we want providers to have the power directly to propose new schools, sponsor Academies and provide assistance to Academies.

Costs

This policy will not result in any additional costs either directly, or as an indirect consequence of this policy.

Firstly, it is entirely discretionary: it is not a requirement on schools to establish new schools or to advise or sponsor Academies. It is simply a mechanism to allow those schools who wish to do this (and who in some cases are already doing this) to do so in a less burdensome and bureaucratic way. This policy will not lead to an increase in the number of proposals for entirely new schools or Academy sponsorship, as a key point with proposals for new education provision is that there must be a need for it. This will continue to be determined by the relevant local authority as this is entirely consistent with their responsibility for school place planning and their role as commissioner of education provision.

There are 2 main routes to establish a new maintained school: either in response to a new school competition or, with the consent of the Secretary of State, outside a school competition. This policy will not lead to an increase in the number of competitions where there are associated costs, but may lead to an increase in the number of cases outside a competition, where there are not the same costs. We are seeking to make use of existing strong schools who are accredited providers to take over weak schools, which could involve the 'technical' closure of the predecessor school and the establishment of a replacement school outside a school competition with proposals published by the governing body of the strong school with the consent of the Secretary of State.

Benefits

This policy will result in real savings for schools of around £1k each time they propose to support or sponsor Academies as they will no longer have to establish a schools company in order to do so. Similarly, those schools that have formed or become part of a Trust in order to establish a new school will no longer need to do so and this would result in savings of around £9k against the cost of establishing a Trust. But again, this is an enabling policy rather than a prescriptive one. In some cases, schools may nevertheless still wish to become Trust schools anyway, so this policy simply gives them a greater range of options.

If we assume for illustrative purposes that the rate of new school competitions remains fairly constant at around 10 a year and that around one-third of these will be won by existing schools, then this would represent a potential saving of 3 x £9,000 a year if all of these schools chose not to establish a Trust in order to enter proposals into the competition. In addition, under current arrangements if a new school competition is won by a Trust school proposal they are eligible for up to £10k from the Department for the costs of forming the Trust. The new powers may, therefore, also realise savings (although difficult to

quantify accurately) in this area as schools may enter bids in and win a competition as schools, rather than having to form a Trust.

Summary: Intervention & Options

Department /Agency:
DCSF

Title:
School Improvement Partners (SIPs)

Stage: Final Proposal

Version: Lords Introduction

Date: February 2010

Related Publications:

Your child, your schools, our future: building a 21st century schools system
Consultation Document on the School Improvement Partner Programme

Available to view or download at:

www.dcsf.gov.uk/21stcenturyschoolssystem

www.nationalcollege.org.uk/sipsconsultation-questionnaire

Contact for enquiries: Linda Kennedy

Telephone: 02073407026

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

The SIP role needs to be adapted to deliver the Government's vision for 21st century schooling. The current role of the SIP in schools is an inefficient use of resource as the role of the SIP is too heavily focused on educational attainment, where schools could better benefit from challenge on wider aspects of the Every Child Matters outcomes, and the role of the SIP is often duplicated by other LA staff. Government intervention is necessary to correct this inefficiency, determining the new role of SIPs which will result in their more efficient use. In future SIPs will also be to determine whether the school's improvement plan is robust; and to help broker support to address any issues in it.

What are the policy objectives and the intended effects?

The policy is required so that SIPs are equipped to support and challenge 21st Century Schools on the full range of outcomes for children, rather than their current focus, narrowly interpreted as educational standards. It will help identify underperforming schools earlier; and help improving, good and great schools continue to improve. This will further develop the reforms "New Relationship with Schools" which aimed to reduce burdens on schools by strengthening the role of SIPs as the single agent for challenge and support to schools.

What policy options have been considered? Please justify any preferred option.

Do nothing. This would be a wasted opportunity to empower schools to take charge of their own improvement. Duplication, which happens in some local authorities, would also continue.

Widen the SIP role, confirming their position as an integral part of the LA school improvement service, combined with appropriate training, support and an improved accreditation process

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? An evaluation is planned for 2011. The aims will be to assess the implementation of the new SIP policy; assess the effectiveness of School Improvement Partners in their new role; and assess the factors that influence effectiveness. It will look at practice across a number of schools/LAs.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: School Improvement Partners	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' £5,227,200 SIP time- 2 day assessment £2,029,157 (PV) of SIP time for online reassessment £4,514,700 National College costs £312,848,812 (PV) Extra SIP time in schools Total cost (PV) = £325,103,073	
	One-off (Transition) Yrs		
	£ 10,067,900		
	Average Annual Cost (excluding one-off)		
	£ 35,957,930	Total Cost (PV)	£~325m

Other key non-monetised costs by 'main affected groups'
Costs to some SIPs/ LAs of SIPs reapplying for their jobs.

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' £272,510,706 - £331,018,987 (PV) Cost saving- Link Advisors £3,074,480 (PV) Cost saving specialist schools assessors £8,291,778 - £16,583,557 (PV) Preventing special measures £9,316,605 (PV) Cost saving of SSAT and YST Total monetised benefits (PV) = £293,193,569- £359,993,629	
	One-off Yrs		
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 31.1m- £36.5m	Total Benefit (PV)	£~293- 360m

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

SIPs- clarity over role and increased job satisfaction. Improved pupil outcomes on all 5 ECM outcomes More tailored improvement support for schools

Key Assumptions/Sensitivities/Risks some SIPs might not wish to reapply (or might not wish to reapply for certain groups of school) thus threatening the supply; more demanding eligibility criteria could exclude some current SIPs; more demanding assessment criteria could lead to some SIPs not being re-accredited; the segmentation approach could mean that some geographical areas might struggle to find SIPs locally that have been accredited to work with certain categories of schools

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ - 31.9m- £34.9m
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What is the geographic coverage of the policy/option?	England				
On what date will the policy be implemented?	2011				
Which organisation(s) will enforce the policy?	DCSF				
What is the total annual cost of enforcement for these organisations?	£				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ n/a				
What is the value of changes in greenhouse gas emissions?	£ n/a				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro N/A</td> <td style="width: 25%; text-align: center;">Small N/A</td> <td style="width: 25%; text-align: center;">Medium N/A</td> <td style="width: 25%; text-align: center;">Large N/A</td> </tr> </table>	Micro N/A	Small N/A	Medium N/A	Large N/A
Micro N/A	Small N/A	Medium N/A	Large N/A		
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A		

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

The new role of the SIP is necessary for efficiency - will avoid duplication between the work of SIPs and other local authority staff, including Link Advisors, and will enable SIPs to achieve school improvement more efficiently and more in line with the aims of the 21st century Schools system. The current role of the SIP is not always correctly interpreted by SIPs and head teachers and the role is not clearly defined. The SIP role has also been too heavily focused on achieving educational goals, rather than the wider goals of Every Child Matters. SIPs will also be able to specialise, working on schools types where they have gained experience, for example schools which are under-performing or those which are outstanding, leading to a more efficient outcome as their expertise is focused where it can be most effective. Furthermore, the reaccreditation and the introduction of the licence to practice of SIPS, which will be managed by the National College for Leadership of Schools and Children's Services, will ensure that those employed as SIPs are those most suited to the job, and as such their employment will be a more efficient use of the SIPs budget.

Costs

Currently, a significant amount of funding for school improvement is controlled and delivered from central and local government through national programmes. This has been crucial in raising standards at all levels. However, to take school performance to the next level, we now need support which is more closely tailored to the specific challenges and issues faced by individual schools.

Funding for the current SIP programme £23.6m goes through the Area Based Grant (ABG) as follows plus £6.4m in running the national programme.

One-off costs

A SIP costs approximately £550 per day (although this varies between local authorities).

Cost of the reaccreditation process:

All SIPs would, over time, be required to complete a re-accreditation process which would involve a paper application, and a 2 day assessment.

Cost of completing application form, assuming this takes 1 hour per SIP:

Cost of 1 hour of SIP time multiplied by the number of SIPs nationally= £68.75 x 4752= £326,700

Cost of SIPs attending 2 day assessment:

Cost of 2 SIP days multiplied by the number of SIPs nationally= £1100x4752=£5,227,200

Costs to the DCSF of paying the National College to develop the new accreditation system and carry out reaccreditation are estimated at (present value) £4,514,700 over 5 years.

These costs include the National College setting up and administering the reaccreditation process.

Annual Costs

In order to carry out their new role the following table gives an illustration of the number of days that SIPs may need to spend in the following percentages of schools, dependent on the deemed level of risk of the school.

Illustrative table

Risk level	Potential Total days	Potential Additional days to current SIP allocation of 5 days	%age of schools	Cost of SIP per day	Total cost £
High	20	15	5	550	£8,994,563
Med-High	15	10	5	550	£5,996,375
Med	10	5	15	550	£8,994,563
Med-Low	7	2	5	550	£1,199,275

Low	6	1	70	550	£8,394,925
					£33,579,700

Costs calculated in the table above are an illustration and are based on the potential number of additional SIP days, £550 for the cost of a SIP day and 21805 schools. It does not include the current allocation of 5 days per school.

The present value total cost for additional SIP time in all schools over 10 years is £313million.

We estimate that for specialist schools that are re-designating an additional half day of SIP time will be required. Around a third of schools need to re-designate each year. The costs of this are included in the additional SIP days set out above.

Costs of mandatory online re-assessment every three years:

Online reassessment will take an estimated 2 hours for every SIP every 3 years.

2 hours x £68.75 (cost of SIP hour) x 1584 (number of SIPs to be reassessed each year)= £217,800.

Since SIPs were introduced in 2006, fewer than 5 have been de-accredited. We expect this to increase under the new system. Estimated maximum 1% SIPs assessed each year de-accredited as they do not reach quality benchmarks. Work will be done by March 2010 to calculate this more accurately based on new criteria when they have been established.

1584 (number assessed annually) x 0.01 (proportion deselected) = 16 SIPs deselected annually

Cost of recruiting and training 16 replacement SIPs each year:

16 x 1 day training x £550 (cost of SIP day)= £8800

This has a total present value of £81,986.

Cost of maintaining the National College database of SIPs and deployment etc:

14 hours per week x 52 weeks x £11.09 (hourly wage of LA admin staff) = £8073.52 per year.

Over 10 years this has a present value total of £75,200.

From 2011 onwards one SIP coordinator for each local authority will be required. This role is currently covered by National Strategies, which will cease to exist in 2011. There will be a transfer of costs of £50,000 per local authority from National Strategies for this annually. As there are 150 local authorities this will be £7.5million. This cost transfer has a present value total of £69.9million.

In some Local Authorities SIPs may be required to reapply for their positions after their roles are redefined, although it is not possible to estimate costs for this as it is not known how many LAs would choose to do this.

Total monetised estimated present value cost over 10 years is £325million.

Benefits

The benefits of the reformed SIP role could include the following for the identified groups:

SIPS

- Clarity with LA over brokering role
- Job satisfaction and increased prospects as SIPs will now be accredited and receive more tailored CPD

Local authorities

- Cost and efficiency savings as the Link Advisor role will no longer be in existence:

We have no source of evidence about numbers and costs of Link Advisors in LAs. The following is a conservative estimate.

45 School weeks x 5 days per week x £500 per day (link advisor cost) x 300 (total number of primary and secondary link advisors) = £33,750,000.

Sensitivity analysis, if link advisors work less than 45 weeks:

39 School weeks x 5 days per week x £500 per day (link advisor cost) x 300 (total number of primary and secondary link advisors) = £29,250,000.

The total present value benefit from cost savings from link advisors over 10 years is £331 million if they work 45 weeks per year and £272 million if they work 39 weeks per year.

- The SIPs enhanced brokering role is less top-down and puts the LA at the heart of deciding how schools improve in their areas
- Fewer schools going into special measures – as the SIP now has more leverage over weaker performing schools

For each school prevented from going into special measures there is a saving of £400,000 if it is a secondary school, £150,000 if it is a primary school and £200,000 if it is a special school.

There are 10 secondary, 30 primary and 2 special school cases of preventable special measures each year.

If these cases were prevented solely as a result of the new SIP role policy, which is unlikely given the full policy package, the benefits from this would be:

10 secondary schools x £400,000= £4m

30 primary schools x £150,000= £4.5m

2 special schools x £200,000= £400,000

This leads to a maximum total benefit of £8.9 million from schools prevented from going into special measures. Since these benefits result from a combination of policies it is not possible to attribute them entirely to the changing role of the SIP. In order to monetise the benefit the assumption that 20% of preventable special measures cases would be as a result of the new role of the SIP.

Therefore this is an annual benefit of £1.78m.

Sensitivity analysis:

If the new SIP role only prevented an additional 10% of schools from going into special measures, rather than 20%, the annual benefit would be £0.89m.

Benefits may differ from these estimates given that the new Ofsted framework is likely to result in more schools going into special measures, and these calculations are based on the pre-existing Ofsted criteria/ framework.

The total present value benefit from preventing schools going into special measures over 10 years is £16.6 million, if the new SIP role is assumed to prevent 20% of special measures cases and 8.29 million if 10% of special measures cases are prevented.

However, benefits from preventable special measures does not account for the benefits to schools that are not near to special measures, and that therefore will not be a preventable special measures case, but that through the new role of the SIP are able to improve. The school improvement benefits experienced by such schools are not straightforward to monetise.

Specialist Schools assessors will no longer be required as this will be covered by the new role of SIPs. This will result in an annual DSCF running costs saving of £330k. Over 10 years this has a present value total of £3,074,480.

The cost of Specialist Schools and Academies Trust & Youth Sports Trust support for the re-designation process is estimated to decline. This cost saving is estimated to be a minimum of £1m per year. This has a present value total of £9,316,605.

The total monetised estimated present value benefit over 10 years is £293million- £360million.

Some benefits, to which it is not possible to put a monetary value, will arise from this policy. These benefits include:

Schools

- More tailored support will be provided according to need

- Increased control over school improvement are agreed with the SIP
- improved pupil outcomes across all five ECM outcomes (Healthy, enjoy and achieve, stay safe, make a positive contribution, achieve economic well being)
- Professional peer support from a SIP with expertise in their specific type of school

SIPs

- Clarity over role
- Increased job satisfaction.

Pupils

- Improved ECM outcomes as SIPs adopt a more holistic role in schools.
- Improved attainment as SIPs have a stronger role in schools in identifying areas in need of improvement.

The total net monetised benefit is in the range of -£31.9million to £34.9million

We intend to put in place an evaluation to understand the impact of these changes. The aims of the evaluation are likely to be to assess the implementation of the new SIP policy, the effectiveness of SIPs in their new role, in diagnosing need and then brokering support for schools; as well as the factors that influence effectiveness and which may be preventing improved effectiveness. It will look at factors across a number of schools and LAs. In addition, we will test the new accreditation system with a number of SIPs in 2010 to assess its effectiveness and suitability.

Summary: Intervention & Options

Department /Agency: DCSF	Title: School Report Card	
Stage: Final proposal	Version: Lords Introduction	Date: February 2010
Related Publications: School Report Card Prospectus; 21 st Century School White Paper		

Available to view or download at:

<http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill>

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

Currently, the wide ranging and dispersed information on schools means parents may find it difficult to access all the relevant information when making decisions about where to place their children, leading to the market failure of imperfect information. This limits the potential for prioritisation within the school system and can prevent the optimal allocation of resources being achieved. Therefore, intervention is justified in order to give a clearer and more accessible account of each school's performance. Moreover, the combining of information sources presents economies of scale.

What are the policy objectives and the intended effects?

The objective is to make the school accountability system more coherent, better co-ordinated, more streamlined. This will improve the reporting of schools' performance to parents, communities and other stakeholders, making the accountability system clearer and more coherent. This will lead to a better allocation of resources and a rise in school standards. Finally since it is a well-established fact that more deprived parents have more problems to access and interpret information, the School Report Card will bring greater benefits to deprived families.

What policy options have been considered? Please justify any preferred option.

1. Do nothing. The current system does not reflect the range of schools' performance and achievements in one place. Even if currently there is a wealth of published information, we can see great benefits from providing it in a clearer and more coherent way.
2. School Report Card - to be a single accountability tool which gives a clear coherent rounded account of school performance to be used by all stakeholders e.g. schools, parents, Government and Ofsted.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: School Report Card

Description: The costs associated with the School Report Card, and who they will fall upon, will become clearer as the proposal develops

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' One-off cost of running the pilot: £1.1m 09/10 and £0.9m 10/11. Preparing and rolling out national school level survey (£500,000) and investigating feasibility of parental survey for non-academic indicators (£200,000). DCSF time – policy design (£168,000). On-going cost of national pupil level survey (£400,000)
	One-off (Transition)	Yrs	
	£ 2.7m	1-2	
	Average Annual Cost (excluding one-off)		
	£ 400,000		Total Cost (PV) £ 5.7
Other key non-monetised costs by 'main affected groups' Main affected groups are: Schools, pupils and teachers. See the evidence section on costs			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Upon introduction of the Report Card, schools will not need to complete the School Profile (saving 2m per year). The Department will no longer have to pay to host the School Profile website (0.14m per year) and parents will save time in their search for information (30 minutes), which equals £0.8m a year.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£ 2.94		Total Benefit (PV) £ 25.3m
Other key non-monetised benefits by 'main affected groups' Main affected groups are: Schools, pupils, teachers and DCSF. See the evidence section on benefits.			

Key Assumptions/Sensitivities/Risks Schools only focus on outcomes that affect the measures that are included on the Report Card. Bad design of indicators could lead to unfair situations.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ 26-£15	NET BENEFIT (NPV Best estimate) £ 19.6
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What is the geographic coverage of the policy/option?	England		
On what date will the policy be implemented?	2011		
Which organisation(s) will enforce the policy?	DCSF		
What is the total annual cost of enforcement for these organisations?	£		
Does enforcement comply with Hampton principles?	Yes		
Will implementation go beyond minimum EU requirements?	No		
What is the value of the proposed offsetting measure per year?	£ n/a		
What is the value of changes in greenhouse gas emissions?	£ n/a		
Will the proposal have a significant impact on competition?	Yes/No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

To deliver the Government's vision for 21st century schooling we must improve the process of accountability of schools. Much of the information on schools' performance is already published in the Achievement and Attainment Tables; Ofsted inspection reports; the online School Profile; and in schools' prospectuses. Parents also obtain information published on schools' websites and in local newspapers.

However, the current arrangements could be significantly improved. The Achievement and Attainment Tables are published annually and provide a wide range of data. But, partly because they contain so much, it might be difficult for parents to use them. Also they do not signal clearly the relative importance of different academic outcomes and, with the exception of the pupils' attendance rate, do not contain information about outcomes relating to other aspects of pupils' wellbeing. Although they contain information about the value added by schools as well as their pupils' attainment, the focus of the Tables remains narrow. For example, they do not report schools' success in raising the attainment of pupils from disadvantaged backgrounds so that they have the same opportunities in life as their more advantaged peers. And, while the focus on age-related expectations is important – because reaching these levels provides children and young people with a good basis for continuing to progress in the next phase of learning – the sole use of threshold measures can mean that an undue premium is placed on the performance of a minority of pupils: those in Years 6 and 11, and those close to borderlines in their tests and examinations. A better system would equally support the progress of pupils both significantly below and significantly above these benchmarks.

Our intention is that the School Report Card, with an overall score, should be the means by which we improve significantly the system of reporting school performance and holding schools to account.. It will complement rather than compete with Ofsted inspection reports and form the core of the process by which Ofsted selects schools for inspection. It will underpin a school's dialogue with its School Improvement Partner and its governors. At the same time, it will incorporate information currently presented in the Achievement and Attainment Tables supplement it with other available information to provide a broader picture of each school's performance, and present it in a way that is fair, balanced, comprehensive and easily understood by parents and the general public. The School Report Card will set out the range of outcomes for which schools will be held to account, show the relative priority given to each outcome, and provide an indication of the degree of challenge faced by each school.

The SRC will be produced annually and will provide school-level data which can be compared nationally. This means that any wellbeing data used in the SRC must also be collected annually and must be statistically robust. DCSF and Ofsted have been in discussion about the options for collecting pupil and parental views on their school's contribution to wellbeing, and satisfaction with the school, taking account both of what is required for SRC purposes and for self-evaluation and inspection purposes. After seeking professional advice on the feasibility of constructing a national dataset built from locally administered surveys, and following consultations with schools, we are pursuing the proposal for the development of a centrally administered national annual pupil survey. In addition we will look to gauge the feasibility of a national survey of parents that could provide robust enough data for inclusion in the SRC. Data collected (both parental and pupil) in this way would need to meet other data needs and support PSAs and National Indicators led by the Department.

The School Profile is not completed by all schools, as of 16 July 2008 only 13,758 out of 22,164 schools had published a completed School Profile. So far the Department has not taken any action against schools which have not published a profile. The School Report Card will remove the requirement on schools to complete the School Profile.

Costs

The costs associated with the School Report Card will become clearer as the proposals develop and the pilot exposes issues to be explored and developed further. The initial cost will be from piloting the School Report Card – estimated at £1.1m (in 2009/10) and £0.9 (in 2010/11) for the data, analysis, research and development categories and indicators through a pilot to deliver a working report card

system. The development and production of a new School Report Card website will also be included in this.

The introduction of a national pupil level survey will require £500,000 set up costs. We are exploring how we might develop a current, centrally administered (voluntary) survey⁶ of pupil views which presently costs £600,000 per annum and estimate that an additional £400,000 per year would be needed to deliver to all schools.

The feasibility study on parental surveys will cost up to £200,000. Without prejudging the outcome, we cannot estimate the cost of any consequent annual survey of parents. Part of the feasibility work will involve looking at different methods for gathering data, and the cost of a full-scale survey would depend on the method being used.

The design of the survey should be such that it will be delivered typically in class time, generally as part of PSHE and citizenship curriculum. For schools who deliver the survey as part of PSHE & Citizenship Curriculum there should be minimal compliance costs and no additional burdens.

The School Report Card will make schools' work on other non-academic factors more evident. Although schools should be taking into account these factors, schools not performing on these non-academic factors (compared to those high performing school) will be incentivised to improve to the level of the high performing schools. This may impose costs on them. Eventually in some cases they might see the number of pupils decrease and, as a result, their funding.

Competition for places in high performing schools may increase as more parents, who in the past have been unable to access the full range of information will now be able to do so from one point of entry. This could be to the detriment of those pupils who traditionally win places at these schools.

Benefits:

The removal of the requirement to produce a School Profile will save the Department £144,000 (in a full year) by not having to pay anyone to host the on-line School Profile system. Annual total cost saving is therefore £0.14m.

Schools will be assessed and treated in a more consistent way on the effectiveness in non-academic areas. High performing school will see their efforts paid off, which should be an incentive in itself but also might benefit from higher levels of funding if they attract more pupils.

Schools will no longer have to update their School Profiles. We estimate that it takes one member of the senior leadership team in each primary and secondary school one half day each year to update the School Profile therefore there is an estimated saving of £2 million per annum.

There is an additional financial incentive for schools to participate as they will receive wellbeing data that they might otherwise have sought through their own surveys that they can interrogate in a secure environment for the purpose of self evaluation and school improvement purposes.

Parents will have to spend less time to obtain the wealth of information on schools' performance that the new information system will provide them with. However, it is difficult to estimate exactly how much time the new system will save to parents. We can assume that, in the worst case scenario, the SCR will save parents 10min a year and that, in the best case scenario, it will save them up to 1h. However, in the most likely scenario we expect that parents will save 30min a year (£800,000 a year).

During the planning and consultation period different designs for the scorecard will be modelled on the data that is currently available for schools. This will illustrate schools' results in a range of real situations. A wide and extensive consultation is taking place during the pilot/development period. Following implementation of the School Report Card, the department will continue to monitor and evaluate, as far

⁶ the current voluntary survey of children and young people is delivered by a consortium who formed a partnership to ensure collectively that they had the requisite skills and capacity to deliver the survey.

as possible, the impact of the change upon the costs and outcomes of those identified in the costs and benefits section of this evidence base.

Competition effect

This proposal will increase the share of the 'school survey' market allocated through DCSF (other things remaining constant⁷). DCSF would allocate this through a competitive tender process. The tender process would be open to both large individual providers and consortia of providers. DCSF chooses providers (consultancies) based exclusively on the cost and quality of their proposal. In principal we do not expect such consortia to be at disadvantage compared to a larger provider and therefore, we do not expect this proposal to have a significant impact on competition.

⁷ Assuming that there will not be an increase or decrease in the demand for new surveys (new questions asked)

Summary: Intervention & Options

Department /Agency: Welsh Assembly Government	Title: Regulation making powers with regard to collecting information on all forms of state education provision	
Stage: Final proposal	Version: Lords Introduction	Date: February 2010
Related Publications:		

Available to view or download at:

Contact for enquiries: Emma Williams

Telephone: 029 2082 5825

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

Current legislation enables us to collect and publish a range of information about maintained schools and individual pupils receiving funded education, either at a maintained school or arranged and funded through the Local Education Authority. However as we expand the scope of our policies on the role of data to support self evaluation and to support safeguarding of young people we believe legislative change will be necessary to ensure that we are able to collect the most appropriate information from all forms of provision, including information relating to the views of learners and parents about the provision they receive.

What are the policy objectives and the intended effects?

The proposals in the Bill will serve two key objectives;

1. Supporting self evaluation as a central theme of the School Effectiveness Framework, aligned with the Estyn 2010 Inspection framework, to provide a primary source of evaluative data to support continuous improvement, reduction in performance variation and increased educational effectiveness across the sector.
2. Supporting good quality record keeping and pupil tracking to aid the prevention of pupils going missing from education.

What policy options have been considered? Please justify any preferred option.

In bringing forward regulations under the new powers options would be considered in relation to specific proposals. At the current juncture the options are simply to seek mirror powers or not. In seeking mirror provisions the Welsh Assembly Government seeks to ensure that it has the opportunity to extend current policies on self evaluation to all types of provision, bringing benefits to learners by supporting continuous improvement for all, and to give voice to learner and parent views thus ensuring that the wellbeing of young people and their voice are given due consideration.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Policy reviewed every three years to align with review of 'statistical families'

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

Jane Hutt

Date: November 2009

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' There are no immediate plans to make regulations under these new powers. Future proposals to bring forward regulations using the new powers would be subject to separate impact assessment exercises. Therefore, at this stage, there are no monetised costs.
	One-off (Transition) Yrs	
	£ NIL	
	Average Annual Cost (excluding one-off)	
£ NIL	Total Cost (PV)	£
Other key non-monetised costs by 'main affected groups' Significant costs are not anticipated from this policy. However there may be some costs associated with increased requirements for training in the use and interpretation of statistical analyses, for improvements in pupil tracking and monitoring systems and follow up for cases where pupils are identified as going missing from education.		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' There are no monetised benefits at this stage, but as explained above, any future proposals to make regulations would be subject to separate impact assessment exercises.
	One-off Yrs	
	£ NIL	
	Average Annual Benefit (excluding one-off)	
£ NIL	Total Benefit (PV)	£
Other key non-monetised benefits by 'main affected groups' Young people will benefit from improved effectiveness of the education system and resulting improved attainment levels for all. The risk of children going missing from education and the associated risks of them coming to harm will be reduced by improved tracking and monitoring.		

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	Wales								
On what date will the policy be implemented?	Autumn 2009.								
Which organisation(s) will enforce the policy?	N/A								
What is the total annual cost of enforcement for these organisations?	£ 0								
Does enforcement comply with Hampton principles?	N/A								
Will implementation go beyond minimum EU requirements?	No								
What is the value of the proposed offsetting measure per year?	£ 0								
What is the value of changes in greenhouse gas emissions?	N/A								
Will the proposal have a significant impact on competition?	No								
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Micro</td> <td style="width: 25%;">Small</td> <td style="width: 25%;">Medium</td> <td style="width: 25%;">Large</td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> </tr> </table>	Micro	Small	Medium	Large	N/A	N/A	N/A	N/A
Micro	Small	Medium	Large						
N/A	N/A	N/A	N/A						
Are any of these organisations exempt?	N/A								

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £ 0	Decrease of £ 0	Net Impact £ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Current legislation enables us to collect and publish a range of information about maintained schools and individual pupils receiving funded education, either at a maintained school or arranged and funded through the Local Education Authority. However as we expand the scope of our policies on the role of data to support self evaluation and to support safeguarding of young people we believe legislative change will be necessary to ensure that we are able to collect the most appropriate information from all forms of provision, including information relating to the views of learners and parents about the provision they receive. In particular additional information will be necessary to support local authorities the discharge of new duties under Section 4 of the Education and Inspections Act 2006. DCSF have requested the following changes to existing legislation that we will require mirrored in Wales;

For section 537 of the Education Act 1996 to be extended to

- cover all forms of state provision, including alternative provision (defined as per section 19 of EA 1996);
- extend the range of information which can be prescribed to cover views of prescribed persons about the school, and,
- to enable regulations to make provision for the governing body or proprietor to obtain such information about the views of the prescribed persons.

The Department for Children, Education, Lifelong Learning and Skills (DCELLS) is developing a balanced suite of contextual analyses, consistent across Wales, supported with guidance and training, to support school self evaluation and performance improvement. Data packs will present schools' performance and progress in context, support the work and principles of the School Effectiveness Framework and aligning with the Estyn 2010 Inspection framework.

The provision of standard data packs for primary and secondary schools will support them in evaluating their progress, identifying strengths and weaknesses and offer opportunities to learn and share best practice.

Provision of the data packs will help reduce the level of duplicated effort, releasing resource within local authorities to add value to basic data and support schools in the use of data. It will also provide a unique opportunity to offer substantial guidance and training for schools, Governors and local authorities in best practice approaches to the use of data to support continuous improvement. Guidance and training will have a primary focus on using data to ask questions rather than inappropriate use to draw over simplistic conclusions.

A key focus of developing DCELLS policy, mirrored by Estyn in their new 2010 Inspection Framework, is an increased focus on the importance of pupil wellbeing as a key factor in effective schools. Policy is in early days of development in relation to how we might measure wellbeing but it is central element of the School Effectiveness Framework.

Section 4 of the Education & Inspections Act 2006 amends the Education Act 1996 by inserting a new section which requires all local education authorities to make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are not receiving a suitable education.

Local authorities will be responsible for meeting the requirements of the duty. They will need to put in place arrangements for joint working and appropriate information sharing with other local education authorities. This will not be in isolation to what they are already doing to meet their duties under sections 25-29 of the Children Act 2004 in relation to improving the well being of children and young people in each local authority area.

Key to meeting this new duty will be the maintenance of good quality records on pupils known to be, or at risk of, missing education. Individual receiving education other than at school are a particular risk group for which there is evidence that record keeping has to date been of inconsistent quality across Wales. By introducing a national collection of information on pupils educated other than at school we will introduce consistency and minimum standard of record keeping for this vulnerable group as well as informing national policy and supporting cross authority pupil tracking.

We currently collect the data underpinning the data packs at individual pupil level using powers under s537A of the 1996 EA.

The Welsh Ministers (WM) powers to support the development of Data Packs are derived from s10 of the Education Act 1996, which imposes a duty upon WM to promote the general education of the people of Wales, together with s17 of GOWA 2006 which enables the WM to do anything which is calculated to facilitate, or is conducive or incidental to the exercise of their functions. The functions of the Secretary of State in the 1996 Act were transferred to the National Assembly for Wales by way of the National Assembly for Wales (Transfer of Functions) Order 1999. Those functions and the functions in the 2002 Act were transferred to the WM in accordance with para. 30 of sch. 11 of GOWA 2006, on the appointment of the First Minister after the May 2007 Assembly elections.

Section 164 of the Education & Inspections Act 2006 amends Chapter 7 of Part 9 of the Education Act 1996 (provision of information about individual pupil), by inserting a new section after 537A. The new section 537B of the Education Act 1996 allows the Welsh Ministers to make Regulations to oblige the providers of such 'alternative educational provision' to supply the Welsh Ministers or a local authority prescribed items of information about individual children, when required to do so, and further stipulates the persons who can exchange such information.

Regulations under S537B are currently being finalised to support collection of individual level data from local authorities on pupils receiving education other than at school.

Current provision does not enable WM to collect information on the views of parents and pupils about schools or alternative educational provision funded under s19 of the Education Act 2006.

Information about pupils and their test and examination results on which the new data packs are being based is already collected using the powers in section 537 of the 1996 Education Act.

Section 537(1) gives the Secretary of State the power to require the governing body of every school to provide such information about the school as may be prescribed and under s537(4)(c) that this shall be provided to such persons or persons, in addition to or in place of the Secretary of State.

We need to ensure the legislation does not close off any future decisions about the range of institutions for which we will publish a comparative analysis of performance data pack. Section 537(1) enables collection of information from all maintained and independent schools and non-maintained special schools. The proposed amendment would extend the range of institutions to include provision of information as prescribed in regulations to Welsh Ministers.

We need to ensure the legislation does not close off any future decisions about the scope of information within the analyses we provide to schools, alternative providers or local authorities. Section 537(1) enables collection of information as prescribed by regulations. The proposed amendment would clarify that information as to the views of prescribed persons about the school or alternative provision could be obtained and provided to WMs.

Summary: Intervention & Options

Department /Agency: Department for Children, Schools and Families	Title: Schools Causing Concern, Warning Notices and Accredited School Groups	
Stage: Final proposal	Version: Lords introduction	Date: February 2010
Related Publications: Your child, your schools, our future: building a 21 st century schools system		

Available to view or download at:

<http://www.dcsf.gov.uk/21stcenturyschoolssystem>

Contact for enquiries: Lindsay Morris

Telephone: 02073408431

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

A significant number of schools are currently underperforming and therefore failing to provide a good standard of education for their pupils. Local Authorities need to be act quickly to tackle underperformance by intervening early and commissioning support for these schools.. In many cases LAs have failed to do this. Government intervention is therefore necessary to prevent failure becoming entrenched – pupils in underperforming schools have the right to receive a high standard of education.

What are the policy objectives and the intended effects?

This will improve early intervention in underperforming schools by Local Authorities; strengthen SoS powers to ensure that Local Authorities intervene and ensure that the right providers (with educational excellence; capacity and track record) are brought in to lead interventions in schools where appropriate. It will also ensure that the highest-performing providers can contribute more to the system. This will contribute directly to PSAs 10 and 11 (Educational Achievement and Narrowing the Gap), and DSOs 3 and 4. Intervention in schools will happen before the school is significantly underperforming, and where a structural solution is agreed, this will have maximum impact

What policy options have been considered? Please justify any preferred option.

1) Do nothing – continue with the existing intervention systems. 2) Develop a system to accredit schools group providers and legislate to require use of this system by Local Authorities. 3) Preferred option - develop a system to accredit schools group providers and legislate to ensure Local Authorities and SoS have the necessary powers to intervene effectively. See evidence base re justification.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We will publish a short review of the effectiveness of the use of warning notices in 2009. We will evaluate the ASG programme in 2014, with an interim review in 2012 and annual monitoring and evaluation meanwhile.

Ministerial Sign-off For consultation stage Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 3

Description: Accredited school groups

COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups' Total costs (present value) are: Warning notices: £14m to £15m, which includes issuing warning notices; replacing governing bodies; restructuring.</p> <p>Accredited schools: £13m to £44m, which includes set-up of accreditation system; funding start-up capacity for accredited schools groups.</p>
	One-off (Transition)	Yrs	
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 3m to £7m		Total Cost (PV) £ 27-59m
<p>Other key non-monetised costs by 'main affected groups' It is expected that costs will be incurred by the Department during the implementation of the policy in addition to the above. These will be met by current budgets and will be kept under review.</p>			

BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups' Total benefits (present value) are:</p> <p>Warning notices: £88m. Poorly performing schools will be able to be detected earlier. Earlier intervention will reduce the costs associated with turning them around.</p>
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 11m		Total Benefit (PV) £ 88m
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Accredited schools: Reduction in bureaucracy as once providers have been accredited, they will stay on DCSF's list of approved providers. Both: Improved pupil attainment and reduction in school failure.</p>			

Key Assumptions/Sensitivities/Risks

There is an assumption that high performing education institutions will provide high quality school improvement support once accredited. The risk of dips in performance at their own institution will need to be well managed.

Price Base Year	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		England		
On what date will the policy be implemented?		TBA		
Which organisation(s) will enforce the policy?		DCSF and LAs		
What is the total annual cost of enforcement for these organisations?		£ 11.7million		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of	£ Nil	Decrease of	£ Nil
Net Impact		£ Nil	

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Local authorities already have the power, but not a duty, to issue a warning notice to a school that is underperforming and/or is in an Ofsted category. The drivers for local authorities to issue a warning notice to a school that is performing poorly or is in an Ofsted category include the local authority's commitment to securing school improvement, and their awareness of the increased costs of tackling school failure (that has become entrenched) compared to the comparatively lower costs of preventing school failure by intervening early on (see below for evidence on costs and benefits). There is a significant amount of evidence on the costs of educational failure to young people and to society if young people do not fulfil their educational potential – in terms of reduced lifetime earnings, quality of life and life chances

However, there is evidence that warning notices are underused, resulting in too many schools being placed in special measures or significant improvement or continuing to perform poorly, which local authorities could have prevented. The reason for warning notices not being issued in line with the guidance could be due to a principal-agent problem, an example of market failures. The Department acts as the principal and the agents are the LAs. The problem arises because the Department has enlisted LAs to identify when schools are under-performing but are not categorised by Ofsted as underperforming⁸. Due to a difference in incentives; some LAs do not meet these duties. At the moment regulatory powers are insufficient to compel an LA to issue a warning notice to a school should an LA choose not to do so. The introduction of a power for the Secretary of State to direct an LA to issue a warning notice to a school will address this issue. It will remove this market failure as LAs will now be required to comply. As a result more school governing bodies will be issued with warning notices reducing the number of schools placed in an Ofsted category and thus reducing the costs of improvement to that school. These considerations apply equally to maintained primary and secondary schools.

There is a strong body of evidence which shows that partnerships between strong schools and underperforming schools deliver benefits to both, particularly in leadership, provided that the partnerships are set up carefully and are adequately supported. The experience of the Academies programme also shows that improving leadership and governance through a formal partnership of this kind, amongst other things, in schools which are underperforming, drives improvement. It has also shown the willingness of high quality education providers – schools, colleges and universities – to get involved in long term school improvement. Since the rules on Academy sponsorship were changed in summer 2007 to make it easier for these institutions to become sponsors around two-thirds of Academy sponsors come from this group.

However we also know that more could be done to improve collaboration between schools for the purposes of school improvement. Not all partnerships are properly developed and supported, the improvements sometimes tail off with time as the partnership loses momentum and not all LAs make the best use of their high quality providers in partnering weak schools. We know that partnerships work best and have sustained impact where the provider has the required capacity, capability and commitment; there is a clear vision and clarity of purpose for the partnership; there are sufficient resources to underpin the partnership and clear plans agreed that set out how these will be utilised to maximum effect; the provider has the required leverage to make changes.

Warning notices

Although 52 warning notices have been issued in the period up to September 2009, at the end of the summer term 2009 there were 193 schools requiring special measures and 167 requiring significant improvement (notice to improve). About 30% of future Ofsted failures are detectable by local authorities at least 12 months before inspection, giving the LA time to provide appropriate challenge and support to the school to prevent failure. This suggests that despite the large number of potential candidates, LAs are reluctant to intervene quickly to prevent deterioration in school performance.

⁸ Schools that are badly and sharply declining in performance, including some of those currently just above the Government's primary and secondary floor targets, but in imminent danger of dropping below; and those schools that have been stuck with low attainment and little or no improvement for several years.

Accredited Schools Groups

Most high-performing schools are engaged in a range of school improvement partnerships, from providing support in teaching of core subjects or leadership through to engaging in long-term leadership, governance and structural partnerships such as trusts, federations, National Challenge Trusts and Academies. Some high performing schools are moving towards chains and clusters of schools.

There is limited evidence of the impact of partnership working through long-term mechanisms because of the length of time that some of the programmes have been running. However, there is an emerging body of evidence which suggests that these kinds of partnerships support school improvement, in the right circumstances.

In 2008 ASCL published *Achieving more together: adding value through partnership*, which stated that: 'Research evidence and case study practice show that support federations – the pairing of a stronger school with a weaker school – is a proven and effective way of turning round underperforming schools.'⁹ The experience of the Academies programme shows that these partnerships are effective in securing rapid and sustainable improvement.

Costs for main affected groups

Warning Notices

Approximately 30% of school failures are detectable before Ofsted place a school in special measures. We estimate that there would be an additional 10 preventable cases of secondary schools going into special measures, and 30 of primary schools going into special measures per year. This reflects the ratio of secondary to primary schools.

Existing Costs of LAs Issuing Warning Notices

Affected group	Action	Specific cost requirement	Approximate Costs	Identified budget for costs
LAs	Issuing warning notice	Actual cost to LA of issuing warning notice	£1000 Total cost for 10 secondary and 30 primary schools = £40,000	Would be met from LA budgets
LAs	Replacement of GB	Cost of LA creating an IEB (approx)	£3000 Total cost for 10 secondary schools and 30 primary schools = £120,000	Would be met from LA budgets
LAs	Providing school improvement support/monitoring schools' performance	No extra costs	On average, estimated costs could range between: £5,000-10,000 for secondary £2,000 – 5,000 for	Met from LA budgets

⁹ See also: National College of School Leadership *Schools leading Schools: the power and potential of National Leaders of Education* (2008); Schagen et al (for NFER) *Impact of Specialist and Faith Schools* 2002; Price Waterhouse Cooper *High-Performing Specialist Schools* (2008); Lindsay et al *School Federations Pilot Study 2003-07(2007)*.

			primary. We believe these costs are conservative. Total costs for 10 secondary and 30 primary range between £100,000- £250,000 See note 1	
Underperforming schools	Appeal of warning notice if applicable (school cost)	Actual cost to school of appealing against warning notice	£1000. May not be applicable – but evidence shows average of 5 appeals per year to date – estimated costs £5000 per year for all schools involved. .	Met from school budget
LAs & under-performing schools	Rectifying problem – e.g. restructure	Assumption that in each school some restructuring takes place	On average: £80,000 for secondary £20,000 for primary/special Total cost for 10 secondary schools and 30 primary schools = £1.4m	Met from LA or school budget
Total cost	range of indicative costs between £1.68m and £1.82m			

Note 1: The level of support provided by an LA will depend on the level and nature of support required by the failing school on a case-by-case basis Support could range from arranging for a local head teacher to provide advice to a failing school on how best to re-assess its priorities for the next school year, to more serious interventions involving funding extra days' support from a SIP. LAs routinely provide monitoring and school improvement services to all schools.

Note 2: Since April 2007 to May 2009, there have been 11 appeals against Warning Notices (51 were issued in this period) 6 between April 2007 and August 2008, and 5 between September 2008 and May 2009 – that is approximately 10% of the schools receiving Warning Notices have appealed. However, only two appeals have been upheld given the low success rate, it is uncertain whether the percentage of appeals will remain at 10%.

The total present cost of enabling the Secretary of State to direct a local authority to issue a warning notice to a school where standards of pupil performance at the school are unacceptably low is estimated to be £14m to £15m over 10 years, when a 3.5%¹⁰ per annum discount rate is applied. We have estimated these costs from considering key areas contributing to the recovery of schools set out in the National Audit Office report "Improving poorly performing secondary schools" 2006 and our own Departmental school intervention budgets (paid to local authorities through Standards Fund).

Accredited Schools

Costs of Introducing Accredited Schools Groups

Affected group	Action	Specific cost requirement	Approximate Costs	Identified budget for costs	Are these costs additional to existing costs?
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¹⁰ As recommended in the 2003 HMT Green Book

DCSF	Set up and administration of accreditation system	Administration of: Answering queries from providers wishing to seek accreditation; Assessing bids from providers seeking accreditation; Assessing providers' capacity through visits; Awarding accreditation; Monitoring accredited providers and performance.	Approx £80,000 pa (based on paying staff costs)	To be met from existing budgets	Some additional activity, which can be met from existing budgets.
	Funding start-up capacity in Accredited Schools Groups	Funding for: Senior Leadership and other staff time from the strong lead partner to: Develop the vision for the ASG, and for the school being supported; Ensure improvement in the underperforming school.	Approx: £100,000 - £350,000 per ASG (this figure is based on the amount used for National Challenge Trusts – which is approx double this amount. This money is necessary to drive forward the change needed. Assumption that on average there will be around 15 each year. Average total cost per year will therefore be between £1.5m and £5.25m This will be for approx 60 supported schools within the ASG programme, in addition to Academies and National Challenge Trusts.	£20,000,000 identified for the next 2 financial years from existing budgets	£20,000,000 is additional for the DCSF to pay. However, all these costs would be incurred by the Local Authority in school improvement; adviser; staff time.
Accredited providers	Capacity to support the underperforming schools, and to develop the vision to become an Accredited	As above under DCSF	Costs to be covered by DCSF as above	To be met from existing DCSF budget.	This cost would be incurred by LAs and schools in any case.

	Provider			
Average cost per year	£1.58m to £5.33m ≈ £1.6m to £5.3m		Additional budget needed	£3.5M in year 1

The total present cost associated with the use of accredited schools groups is estimated to be £13m to £44m over 10 years, when a 3.5% per annum discount rate is applied.

Together, the total present cost associated with warning notices and accredited schools is estimated to be around £27m to £59m over 10 years, when a 3.5% per annum discount rate is applied.

Benefits for Main Affected Groups

Benefits will occur on both efficiency and equity grounds. Earlier intervention and use of ASGs will provide more effective school improvement support, which will cost less and have more benefits. The intention of these policies is to ensure that outcomes for children and young people are equitable, and that all pupils can access good education.

We have shown separately the costs (above) for warning notices and for accredited schools on the basis that that we are able to provide known costs for the operation of the existing system of warning notices, whereas accredited schools groups do not yet exist and its predicted costs are guided by the model of the National Challenge Trusts.

The estimated cost savings/ benefits of Warning Notices and Accredited Schools Groups have been consolidated, however, as the two policies will strengthen the powers of intervention in under-performing schools to prevent school failure.

The benefits of Accredited Schools Groups and giving the Secretary of State the power to direct a local authority to issue a Warning Notice are: the cost savings (approx. £11m) resulting from early intervention: fewer school failures; ending the cycle of entrenched poor performance by pupils; improving efficiency within the schools market; improving under-performing schools which are not providing quality education, and therefore improving pupils' education; and a reduction in costs through prevention and earlier intervention, as opposed to intervention at a later stage, and increased effectiveness of school improvement support.

Costs savings from the above include:

Schools

- efficiencies for the underperforming school, through being brought into an Accredited Group. These are recruitment and retention savings, through advertising first through the Accredited Group, and then externally using the Accredited Group name; Savings through recruitment of high calibre staff who will not need replacing; Central Finance, HR and IT administration.
- less need for competency procedures and acting head teacher temporarily prior to new substantive appointment;
- reduced need for replacement of governing body with an interim executive board;
- fewer unfilled pupil places as popularity decreases and reducing school budget;
- high turnover of staff recruitment and retention difficulties;
- effective continuing professional development;
- costs of additional training and coaching for staff.

Local Authority

- The use of Accredited providers will increase the efficiency of school improvement support, and its likelihood of success, as these providers will have a proven track record of undertaking this work successfully.
- reduced need to produce an action plan for school recovery;

- need to provide less additional resources and support to school, including adviser support; IEB members; additional senior leadership team members;
- consolidation of previously different strands of school improvement support which lead to less efficient use of resources.
- Less time needed to be spent identifying potential suitable partners and interim heads to support improvement in weaker schools. Through being able to access a central list of accredited providers with the capacity to undertake this work, LAs will save a considerable amount of officer time, and advertising budget.
- Setting a quality benchmark will also reduce the amount of partnerships that fail, and increase the likelihood of schools performing better, which will raise the LA's overall performance.

Preventing School Failure

The financial benefits of preventing failure are shown below, and amount to £10.6m pa. The main assumptions made in this calculation are:

- about 25 – 30% of future Ofsted failures are detectable by local authorities at least 12 months before inspection, allowing the authority time to negotiate, warn and practise early intervention;
- while costs of turning round a school from special measures (or under notice to improve) may be highly variable, the typical average cost for a secondary school in terms of local authority resources is about £400k for a secondary school and £150k for a primary school. Both these costs will accumulate over the period of special measures – typically 20 months for secondary schools, and 18 months for primary schools (as at August 2009). These costs anticipate an element of restructuring, and of adviser time.

We believe these estimates are conservative.

School Type	Preventable Special Measures cases a. year	Preventable "Notice to Improve" cases a year	Average total cost of special measures (£k)	Average total cost of Ofsted category "needing significant improvements" (or "Notice to Improve" (£k)	Total savings per year from preventing SM (£m)	Total savings per year from preventing NTI (£m)
Secondary Schools	10	20	400	50	4.0	1.0
Primary Schools	30	60	150	10	4.5	0.6
Special Schools/ PRUs	2	4	200	15	0.4	0.1
sub-totals	42	84	-	-	8.9	1.7
Total savings					10.6	

Attainment benefits for the pupils and ultimately the economy

We expect these interventions will have a direct impact on the increased performance of schools, in particular those which are underperforming. This will enable pupils attending these schools to achieve better results, which will support higher earnings and wider benefits. The publication 'Education and Skills: The Economic Benefit. DfES, 2002' states that:

'High quality learning is strongly linked with higher earnings, lower chances of becoming unemployed, better health and reduced crime.'

And:

'OECD figures show that an individual with a higher (tertiary) education qualification could expect to earn 47% more than a person qualified to upper secondary level'

Figures relating to the benefits of gaining 5 GCSE A*-C include:-

- Only 1 in 50 of those gaining five A*-Cs described their main activity as unemployed/out of work compared with around a fifth of those with fewer than 5 D-Gs or no GCSEs.
- People with 5+ A*-Cs earn nearly 30% more than people with no qualifications (although this is an underestimate as more further their education which is associated with higher salary). · It is estimated that the PV lifetime earnings for an individual who achieves 5 or more A*-C GCSEs is £150,000-£220,000 more than an individual with 1-4 A*-C at GCSE level¹¹.
- Males with qualifications by the age of 17 are almost three times less likely to offend before the age of 30 than those with no qualifications.
- Nearly 9 in 10 of those gaining five A*-Cs stay in full-time education compared with only around a third of those gaining fewer than 5 D-Gs or no GCSEs.
- Achieving level 4 is the key to future success at secondary level and beyond – of the pupils that reached level 4 in both English and maths in the KS2 tests in 2003, 69% went on to get 5 good grades at GCSE and equivalent including English and maths last year compared with only 10% of those who didn't reach level 4 in both subjects.

Based on the above assessment, we consider that the benefits will significantly outweigh the costs, in both the short and longer term.

We have commissioned a short external review of the effectiveness of the use of warning notices. The final report of these findings will be available in spring 2010. We are considering conducting a wider evaluation of the use and impact of school improvement intervention powers in 2010. We aim to have an external evaluation of the impact of the Accredited Schools Group policy in September 2014 will publish an interim review in September 2012.

¹¹ Based on 2008/9 prices. The estimates use data from LFS 2008/9 and returns estimates from "Returns to Qualifications in England: Updating the Evidence Base on Level 2 and Level 3 Vocational Qualifications", Jenkins et al (2007)

Summary: Intervention & Options

Department /Agency: Department for Children, Schools and Families	Title: Licence to Practise	
Stage: Final proposal	Version: Lords Introduction	Date: February 2010
Related Publications: The White Paper 'Your child, your schools, our future', published on 30 June 2009.		

Available to view or download at:

<http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill>

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

Introducing a requirement for qualified teachers in maintained schools, non-maintained special schools and academies to hold a renewable Licence to Practise, coupled with an entitlement to continuous professional development (CPD) to be introduced through the School Teachers Pay and Conditions Document, will build on current performance management arrangements to incentivise teachers to undertake high quality CPD and continuously improve their practice, in order to meet criteria for licence renewal. Because teaching quality is the single greatest in-school determinant of pupil outcomes, this will lead to a reduction of in-school and inter-school variation, the narrowing of the attainment gap and improvement in outcomes for pupils across the board.

What are the policy objectives and the intended effects?

The overall aim is to support teachers' learning and development to improve teaching quality and thus raise standards and improve outcomes for pupils. The objectives to achieve this are: to increase teachers' access to high quality professional development; to further boost the status of the teaching profession and encourage higher quality entrants; to ensure that all teachers recognise their duty as professionals to keep their skills and knowledge up to date in order to deliver consistently high quality teaching; to guarantee, and provide public reassurance of, professional competence across the teaching profession.

What policy options have been considered? Please justify any preferred option.

Simply strengthening the current performance management system for teachers was considered but, whilst boosting the processes in schools, this would not meet the objectives of boosting the status of the profession, increasing the professionalisation of teachers, and increasing the incentive for schools to provide high quality CPD opportunities and for teachers to engage with these. It would also not give us an explicit indicator that demonstrates to schools and parents that teaching standards are being maintained and built on in schools.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Within five years of rollout (from September 2010). The Evaluation will take a staged approach - Stage 1: implementation and embedding of the policy; Stage 2: perceptual impacts eg teachers' experiences; and Stage 3: quantitative impact on pupil outcomes /school standards.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' One-off costs: Introducing arrangements to profession = £1.5m to £4.6m GTCE one-off costs: £2.3m Annual costs: Admin costs for teachers, schools and LAs: £0.2m to £1.0m GTCE annual costs: £1.2m	
	One-off (Transition)	Yrs		
	£ 3.8m to 6.9m	1		
	Average Annual Cost (excluding one-off)			
	£ 1.4m to 2.2m	10	Total Cost (PV)	£ 15m - £25m
Other key non-monetised costs by 'main affected groups' Local moderation; evidence gathering and support for short term supply teachers; and CPD provision for teachers who are not currently participating in any CPD.				

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Break-even analysis: In the 10 year period following the introduction of the proposal: 200 to 340 pupils must increase their attainment from 1-4A*-C to 5+ A* - C as a result of this intervention in order for it to break-even.	
	One-off	Yrs		
	£			
	Average Annual Benefit (excluding one-off)			
	£		Total Benefit (PV)	£
Other key non-monetised benefits by 'main affected groups' Improve teaching and learning, all teachers able to access high quality CPD, boost the status of the teaching profession, reassure parents of teaching standards, identify and support teachers who are not meeting professional standards, improve pupil outcomes.				

Key Assumptions/Sensitivities/Risks

Teachers don't recognise or value the link between the Licence to Practise and an entitlement to CPD. The performance management system for teachers is seen as not being 'fit for purpose', and the Licence to Practise is seen as something additional.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	England
On what date will the policy be implemented?	September 2010
Which organisation(s) will enforce the policy?	DCSF, GTCE
What is the total annual cost of enforcement for these organisations?	£
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	N/A
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	£ N/A
Will the proposal have a significant impact on competition?	No
Annual cost (£-£) per organisation (excluding one-off)	Micro Small Medium Large
Are any of these organisations exempt?	N/A N/A N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

The overall aim is to further improve the quality of teaching and learning in our schools, and thus raise standards and improve outcomes for pupils. The introduction of a Licence to Practise requirement which is clearly linked to a CPD entitlement (to be introduced through the School Teachers Pay and Conditions Document) will incentivise teachers to undertake high quality CPD and continuously improve their practice, in order to meet criteria for licence renewal. It will also reduce the variation in teachers' access to CPD. Because teaching quality is the single greatest in-school determinant of pupil outcomes, this will lead to a reduction of in-school and inter-school variation, the narrowing of the attainment gap and improvement in outcomes for pupils across the board.

High standards of teaching are key to what happens within schools. Research suggests that it is teacher quality which has the biggest impact on how well pupils perform – research has found that children progress three times faster with highly effective teaching (Sanders & Rivers, *Cumulative and Residual Effects on Future Student Academic Achievement*, 1996) and that students in the most effective classrooms learn at four times the speed of those in the least effective classrooms (Hanushek, 2004). Recent UK evidence (Slater et al, *Do teachers matter? Measuring teacher effectiveness in England*, 2009) reconfirms that the effect of quality teaching is a highly significant driver of pupil outcomes.

Research also shows that the right CPD can have a positive impact on teacher's practice, leading to improvements in pupil attainment and other outcomes. Examples include an improvement in literacy and numeracy skills (McGregor & Gunter, 2001); higher quality of outcomes than previous cohorts of the same age and ability, and improvements in pupils' written work (Ofsted, 2002). Other reported positive outcomes of CPD include pupil attitude; enhancement of student motivation; and more positive responses to specific subjects (EPPI, 2003).

A study for the DCSF (Day et al, 2006) examined the relationship between teacher effectiveness and the interplay of factors which impacts on teachers' work and personal lives. It found that teachers' effectiveness is not simply a consequence of age or experience but is influenced by a number of factors, including CPD, which was found to have a consistently positive influence on teachers across all professional life phases.

To ensure the best possible quality of teaching in all schools, we have already taken steps to ensure that every teacher is engaged in high quality performance management linked to continuing professional development from when they first start teaching. But there is evidence that not all teachers can access the professional development identified for them through the performance management process. The final report of the *Becoming a Teacher* research (University of Nottingham - School of Education, June 2009) found that:

- fourteen per cent of respondents in their third year of teaching during the year 2006-2007 reported receiving 'no training' during that year; and
- sixteen per cent of fourth year teachers in the year 2007-2008 reported they had not received any training or professional development during the course of the year.

Research commissioned by DCSF through IPSE at London Metropolitan University, covering the period November 2004 to April 2006, found that only 34% of supply teachers had experienced any CPD throughout 2004.

And the results for 2009 from the Teachers' Workloads Diary Survey, managed and funded by the DCSF, showed that the average time spent per week on CPD by head teachers was higher than that spent by classroom teachers (2.0 hours per week for primary head teachers versus 1.2 for primary classroom teachers, and 0.6 for classroom teachers in secondary schools. Comparable figures for secondary head teachers are unavailable for 2009, however in 2008 they were much higher than for their classroom counterparts).

It is intended that the Licence to Practise, coupled with the entitlement to CPD (to be introduced through the School Teachers Pay and Conditions Document), will result in all teachers being able to access the CPD they need, thus removing the inequity of provision that currently exists; and, crucially, will mean that CPD is more focussed and higher quality. This is because there will be a much greater incentive for schools to provide this CPD and teachers to engage with it, as teachers will need to provide evidence of

professional development which has positively impacted on their professional practice as part of the renewal of their licence; and schools will be required to ensure that teachers receive their CPD entitlement.

Schools already receive funding for CPD in their delegated budgets. This will be supported by groups of schools working collaboratively in 'clusters', which was another commitment made in the recent White Paper *Your Child, Your Schools, Our Future*. The aim of this approach is to rationalise, simplify and make CPD more effective and accessible, making better use of expertise and existing resources across schools than could be delivered at individual school level. This, together with the Licence to Practise and CPD entitlement, should ensure there is an increased focus on the effectiveness of CPD and therefore value for money.

A Licence to Practise system is currently being introduced for Doctors in the UK. From 16 November 2009 any doctor who wants to practise medicine in the UK will have to hold a Licence to Practise, as well as being registered with the General Medical Council (GMC). In subsequent years, in order to retain their licence doctors will undergo a process of revalidation. Recommendations for revalidation will be based on evidence drawn from the doctor's practice, feedback from patients and colleagues, and their participation in CPD. The purpose is to confirm that all doctors holding registration with a Licence to Practise are up to date and fit to practise.

There are also precedents for introducing a Licensing system for the teaching profession found in many countries around the world. For example, New Zealand has such a system with the purpose of ensuring that there is a minimum quality standard applied to all teachers entering their general education system, aiding schools in making appointments and reassuring parents and the public that a national minimum standard for the teaching profession is available. Again, in order to renew their licence (known as a 'practising certificate') every three years teachers must demonstrate that they continue to meet specified standards and have completed satisfactory professional development.

An increased focus on the rigorous and objective ongoing assessment of teacher standards through the Licence to Practise is intended to ensure that all teachers teaching in maintained schools, non-maintained special schools and academies in England continue to meet the professional standards, guaranteeing a level of professional competence across the profession which will be visible to parents, pupils and schools.

Costs

The full details of how the licensing system will work have yet to be agreed and will be set out in regulations which will be subject to consultation with the teaching profession and other stakeholders. A further impact assessment will take place as these details are worked out. The cost estimates outlined here are very early indications and based on some elements of how we currently envisage the system might work, as set out in the policy statements we published in January 2010. These costs will need to be kept under careful review and are very likely to be revised as we go forward.

Introducing the arrangements to the profession

Cost of head teacher time to read guidance and consider implications for school (one-off cost)
We anticipate that guidance will be issued during academic year 2010/11 to prepare the profession for the introduction of the licensing system. We estimate that time spent by head teachers on reading this guidance and considering the implications for their school would be 2-6 hours.

Year 1: Max: 22,000 x 6 x £34.85 =£4,600,200

Min: 22,000 x 2 x £34.85 = £1,533,400

Licence renewal

We do not expect there to be any additional activity for the majority of teachers as the licensing system will build on the existing processes of statutory induction and performance management for teachers. Once the system has been rolled out to all teachers, we envisage that licence renewal will take place every five years. Newly Qualified Teachers will receive a 'temporary' licence on starting induction, and once induction is successfully completed they will receive a 'full' licence and enter the five year renewal cycle. A 'full' licence will be automatically renewed on the basis of a teacher's preceding five years'

performance management reviews provided that none of these show that the teacher is subject to capability arrangements.

For a small number of teachers, we envisage there may be additional activity. These are certain teachers who may be placed on either a 'conditional' or 'temporary' licence for a specific period of time in order to regain their 'full' licence. These may include:

- teachers on a programme of support that is intended to lead to renewal, including teachers subject to capability arrangements (this is anticipated to be a very small number of teachers);
- teachers returning to teaching after a break in service of a certain length, likely to be at least two years ('returners'); and
- supply teachers.

The vast majority of teachers who fall into the categories outlined above would be subject to the statutory performance management arrangements. These provide for arrangements to be made for observing a teacher's classroom practice, and the level and nature of support that a teacher may need – including on an enhanced basis.

Supply teachers who are employed for less than one term (min: 11,700, max: 51,000) are not currently subject to the statutory performance management arrangements. We therefore need to determine how they will collect evidence and apply for licence renewal, and how an assessment and recommendation is made. This will involve additional activity for both the teacher, and whoever carries out the assessment and makes the recommendation.

We have included below estimates to show what the cost would be if the assessment was carried out either by a head teacher or by a local authority. We have also included an estimate of the cost for the supply teacher to prepare for the assessment at the licence renewal point, as they may wish to look back at the evidence gathered over the five year period. We have assumed here that one fifth of supply teachers would be due to renew their licence every year. Since we do not currently have estimates for the time to be spent on collecting the evidence over the five year period, these costs have not been monetised. The same applies to the additional support that may be required for these teachers.

If supply teachers are assessed by local authority:

Cost of local authority staff time to carry out assessment (estimated time: 2 hours) of supply teachers not subject to performance management:

Cost for maximum number of supply teachers not subject to performance management:

$51,000/5 \times 2 \times \text{£}21.59^{12} = \text{£}440,436$

Cost for minimum number of supply teachers not subject to performance management:

$11,700/5 \times 2 \times \text{£}21.59 = \text{£}101,041$

This has a present value total over 10 years of between £840,318 and £3,662,932

If supply teachers are assessed by head teachers:

Cost of head teacher time to carry out assessment (estimated time: 2 hours) of supply teachers not subject to performance management:

Cost for maximum number of supply teachers not subject to performance management:

$51,000/5 \times 2 \times \text{£}34.85^{13} = \text{£}710,940$

Cost for minimum number of supply teachers not subject to performance management:

$11,700/5 \times 2 \times \text{£}34.85 = \text{£}163,098$

This has a present value total over 10 years of between £1,356,422 and £5,912,607

For supply teacher assessments costs are min: £101,041 (if local authority conducts assessment), max: £710,940 (if head teacher conducts assessment). PV = min: £840,318 max: £5,912,607

Cost of time for supply teacher not subject to performance management to prepare for assessment:

Cost if it takes maximum estimated time (1 hour) to prepare for assessment for maximum number of supply teachers not subject to performance management:

¹² Median hourly cost senior officials in local government

¹³ Average hourly cost of primary and secondary head teacher time

$51,000/5 \times 1 \times \pounds 21.46^{14} = \pounds 218,892$

Cost if it takes lower estimate (0 hours) to prepare for assessment for minimum number of supply teachers not subject to performance management:

$11,700/5 \times 0 \times \pounds 21.46 = \pounds 0$

The range for annual cost of supply teacher time to prepare for assessment is $\pounds 0 - \pounds 218,892$

This has a present value total over 10 years of $\pounds 0 - \pounds 1,820,438$

Continuing Professional Development

Supply teachers are much less likely than other teachers to have access to and be undertaking regular CPD. Consequently, they are likely to need to spend additional time on this in order to meet the licensing requirements. An estimated 66% of supply teachers may not participate in any CPD according to the IPSE research quoted in the evidence base. This is in the range of 7,722-33,660 supply teachers. There may be other teachers who are not participating in any CPD – the figures from the *Becoming a Teacher* research quoted in the evidence base suggest this could be around 15% of all teachers. Since no estimate has been made of the time taken to carry out this additional CPD this cost has not been monetised.

Local moderation

In order to ensure consistency of approach across schools, we currently envisage there will be a local moderation process which will involve some additional costs, although this is difficult to accurately quantify in advance of the model being designed.

Notifying GTCE of the renewal recommendation

Following local moderation, we currently envisage that school/local authority administrative staff would need to inform the GTCE of the final recommendation on each teacher's licence renewal, perhaps through an online facility. We would need to determine who should inform the GTCE of the recommendation on the licence renewal of head teachers and supply teachers; at present these costs have not been monetised. We have assumed here that one fifth of teachers would be due to renew their licence every year.

Cost of school admin staff reporting decision on teacher (excluding NQTs, head teachers, supply teachers and centrally employed teachers) licence renewal:

Maximum cost, when 80,000¹⁵ teacher licence renewals: $0.0833\text{hours (5mins)} \times \pounds 8.31^{16} \times 80,000 = \pounds 55,377$

Minimum cost, when 75,000 teacher licence renewals: $0.0833\text{hours (5mins)} \times \pounds 8.31 \times 75,000 = \pounds 51,916$

This cost has a range of $\pounds 51,916 - \pounds 55,377$. This has a present value total cost over 10 years of $\pounds 431,765 - \pounds 460,549$.

Cost of local authority admin staff reporting decision on centrally employed teachers' licence renewal:

$0.0833\text{hours (5mins)} \times \pounds 10.17^{17} \times 15,200/5 = \pounds 2,575$

This has a present value total cost over 10 years of $\pounds 21,415$

GTCE costs

The GTCE will administer and oversee the Licence to Practise system. DCSF are currently in conversation with GTCE about possible costs – both set-up and steady state running costs. Early estimates, based on initial modelling, are indicated below. However, precise costs will depend on the precise make-up and composition of the licensing arrangements, and arrangements for rollout, and we will want to balance stringency of the system with value for money.

¹⁴ Teacher cost is calculated as the average of primary and secondary school teacher hourly costs from SFR data with 25% uplift

¹⁵ Approximately 400,000 max, 375,000 min teachers over 5 years

¹⁶ ASHE estimate of median hourly rate for School secretary

¹⁷ ASHE estimate of median hourly rate for Local authority clerical officer or assistant

GTCE costs (one-off)

Estimated development costs could be around £2.3million.

An example of a one-off development cost GTCE is expected to incur is the cost of making amendments to their ICT system (which may be necessary to keep running costs down in future);

GTCE costs (annual)

Estimated running costs for year 1 could be around £600,000.

Estimated annual running costs once the system is in steady state (ie has been rolled out to all qualified teachers), assuming that this is from year 5 onwards, could be around £1.4million.

These include administrative tasks, such as writing to teachers to remind them that their licence is due for renewal; and appeal hearings. It does not currently include possible costs relating to the quality assurance of a local moderation process as it has not been possible to quantify these at this stage.

Assuming constant increase of annual costs over years 1-5, the following are estimates of the annual cost to the GTCE of rolling out Licence to Practise:

Year 1 costs = £620,500

Year 2 costs = £823,000

Year 3 costs = £1,025,500

Year 4 costs = £1,228,000

Year 5 onwards = £1,430,500

Average annual costs = £1,228,000

Present value total costs of GTCE annual costs over 10 years = £10,005,434

Overall costs

One-off costs

Year 1

Introducing arrangements to profession = £1,533,400 - £4,600,200

GTCE one off costs is £2,300,000

Total one-off costs are therefore: £3,833,400 to £6,900,200 (£3.8m to £6.9m (present value)£5.8m

Average Annual costs:

Costs of all assessments and preparation times plus GTCE running costs:

Max: £710,940 + £218,892 + £55,377 + £2,575 + £1,228,000 = £2,215,784 ≈ £2.2m

Min: £101,041 + £0 + £51,916 + £2,575 + £1,228,000 = £1,383,532 ≈ £1.4m

Total present value annual costs over 10 years:

Max: £5,912,607 + £1,820,438 + £460,549 + £21,415 + £10,005,434 = £18,220,443 ≈ £18.2m

Min: £840,318 + £0 + £431,765 + £21,415 + £10,005,434 = £11,298,932 ≈ £11.3m

Total Costs

Total present value over 10 years of all costs

Max: £6,900,200 + £18,220,443 = £25,120,643 = £25.1m

Min: £3,833,400 + £11,298,932 = £15,132,332 = £15.1m

Benefits

Better outcomes for children and young people through improved teaching and learning in schools resulting from teachers participating in more and better quality CPD, and keeping their skills and knowledge up to date. Teachers will focus more on CPD which impacts positively on their professional practice, as they will be required to demonstrate this impact in order for their licence to be renewed.

Teachers will benefit from the introduction of an entitlement to CPD, to be introduced through the School Teachers Pay and Conditions Document, which will go hand in hand with the introduction of the requirement to hold a renewable Licence to Practise. This will ensure that the funding available is focused even further on high quality CPD and distributed more equitably.

The status of the teaching profession will be boosted further, encouraging skilled and talented individuals to continue choosing teaching as a career.

Parents, pupils and schools will be reassured that teachers in their schools continue to meet professional standards throughout their careers, and are keeping their skills and knowledge up to date and participating in regular professional development.

Identifying and helping the small minority of teachers who continue not to meet the professional standards to be given support to improve, or to leave the profession. This should result in an overall improvement in the standard of teaching, and therefore in outcomes for pupils.

Do teachers matter? Measuring the variation in teacher effectiveness in England found that being taught by a high quality (75th percentile) rather than low quality (25th percentile) teacher adds 0.425 of a GCSE point per subject to a given student, or 25% of the standard deviation of GCSE points. This would suggest that pupil attainment is likely to increase as the Licence to Practise raises pupil standards. This will have benefits for the lifetime earnings of these pupils.

It is estimated that lifetime earnings returns increase on average £88,500 for each pupil who increases their achievement from 1-4 A* - C to 5+ A* - C¹⁸ as a result of an intervention. I.e. if an intervention improves the attainment of a pupil at GCSE so that they attain 5+ A* - C when they would have achieved 1-4 A*-C, their lifetime earnings can increase by an average £88,500. This policy is expected to improve teaching quality throughout a child's schooling. The lifetime earnings estimate above therefore needs discounting to take into account that many children who benefit from better teaching will not be taking GCSEs for several years. It has been discounted by 6 years since this is around half the length of compulsory schooling. The discounted benefit of improving the attainment of a pupil at GCSE from 1-4 GCSEs A* -C to 5+ GCSEs A*-C is estimated to be £74,500.

For the current estimated costs of this policy to break even, i.e. for the costs to be met by an increase in benefits, there would have to be:

In the 10 year period following the introduction of this proposal, £15,000,000/£74,500 to £25,000,000/£74,500 = approximately 200 to 340 pupils would need to improve their attainment as a result of the intervention and gain 5+ A* - C at GCSE. This equates to an average of between 20 and 34 pupils per year.

The costs in this break-even analysis do not include additional CPD costs for teachers currently not doing enough CPD (as we do not have an estimate of this). Therefore, for the policy to break-even, the 200 to 340 pupils would therefore need their exam performance to improve as a result of teachers who are already doing enough CPD, doing CPD that fits better with their development needs. Overall, this break-even analysis suggests a strong economic case for this policy, as only a small number of pupils need to benefit to cover the current estimated costs of the intervention.

Evaluation

The policy will be evaluated within five years of rollout (from September 2010). The Evaluation will take a staged approach - Stage 1: looking at implementation and embedding of the policy; Stage 2: looking at perceptual impacts e.g. teachers' experiences; and Stage 3: looking at quantitative impact on pupil

¹⁸ DCSF analysis using Labour Force Survey data

outcomes /school standards. It is likely to focus separately on the two groups of teachers who will be the first to receive licences - Newly Qualified Teachers and returners to teaching.

Summary: Intervention & Options

Department /Agency: DCSF	Title: Home Education	
Stage: Final Proposal	Version: Lords Introduction	Date: February 2010
Related Publications:		

Available to view or download at:

<http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill>

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

Concerns from Local Authorities (LAs) and others on the law relating to home education and from home educators on the difficulties they have in accessing support from LAs and other public services. The Badman Review of Elective Home Education in England indicates that government intervention is needed to tackle the lack of robust qualitative and quantitative information LAs hold about home educated children, on equity grounds to ensure that every child in England receives a suitable education in a safe environment.

What are the policy objectives and the intended effects?

We propose strengthening the elective home education framework by introducing a system of registration and monitoring. This will:

- require all local authorities to identify all electively home educate children in their area and ensure they are receiving a suitable education;
- enable local authorities to support home educated children to achieve better educational outcomes;
- reduce the risk that claims of "home education" can be used to conceal child neglect or abuse.

What policy options have been considered? Please justify any preferred option.

3 options are considered:

Option A: "Do nothing" i.e. maintain the status quo;

Option B: Introduce a registration system, but with no additional monitoring;

Option C (preferred): Register and Monitor.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? An evaluation strategy is costed within the preferred option. A baseline will be established prior to implementation and progress will then be surveyed as the registration process rolls out.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: B
“Register only”

Description: Ensure that LAs identify all home educated children through a registration scheme. No additional activity to drive up quality.

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by ‘main affected groups’ Registration will come into effect from April 2011. These costs are in addition to Option A costs. Option B costs LA officer and admin time and also opportunity costs for parents, giving a financial value to time spent with the LA. Total costs (pv) relates to cohort size range 20,000 – 80,000.	
	One-off (Transition)	Yrs		
	£	10.5 – 21.1m		
	Average Annual Cost (excluding one-off)			
	£	0.2 – 19.7m	Total Cost (PV)	£ 12.2 – 191.1m
Other key non-monetised costs by ‘main affected groups’				

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by ‘main affected groups’ Data suggests that around 20% of home educated children known to local authorities may be receiving an inadequate education and a further 1.8% (known to LAs) may be receiving no education at all. We made the assumption that improving the educational attainment levels of these children would bring benefits in terms of increased job opportunities and salary level - benefits shown relates to cohort size 20,000- 80,000.	
	One-off	Yrs		
	£			
	Average Annual Benefit (excluding one-off)			
	£		Total Benefit (PV)	£
Other key non-monetised benefits by ‘main affected groups’ Identification and registration of all electively home educated children, creating a higher likelihood that cases where education is inadequate will be addressed, and that cases where claims of ‘home education’ are used to cover safeguarding issues are identified.				

Key Assumptions/Sensitivities/Risks The costs are additional to Option A. The reason for the range in cost is the range of assumptions about the size of the cohort. We think that the cohort size is likely to be 25,000 to 30,000 and that it is unlikely to exceed 40,000, although we have provided estimates of up to 80,000.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		England only	
On what date will the policy be implemented?		April 2011	
Which organisation(s) will enforce the policy?		Local Authorities	
What is the total annual cost of enforcement for these organisations?		£ 12.2 - £191.1 m	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£	
What is the value of changes in greenhouse gas emissions?		£	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £	Decrease of £	Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: C
“ Register and Monitor”

Description: Registration benefits of Option B, supplemented by a series of monitoring visits to support educational outcomes and enhance safeguarding.

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by ‘main affected groups’ These costs are in addition to the costs of Option A. Registration and Monitoring would come into effect from April 2011. Costs relate to Local Authority professional and administrative officer time and also opportunity costs for parents/carers, giving a financial value to time spent with the local authority – costs shown relate to cohort size 20,000 – 80,000.	
	One-off (Transition)	Yrs		
	£ 26.3 – £106m	1		
	Average Annual Cost (excluding one-off)			
	£ 14.6 – £60.6m	9	Total Cost (PV)	£ 137m – £567.4m
Other key non-monetised costs by ‘main affected groups’				

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by ‘main affected groups’ Data suggests that around 20% of home educated children known to local authorities may be receiving an inadequate education and a further 1.8% (known to LAs) may be receiving no education at all. We made the assumption that improving the educational attainment levels of these children would bring benefits in terms of increased job opportunities and salary level - benefits shown relates to cohort size 20,000- 80,000.	
	One-off	Yrs		
	£ 161m – £645.3m	1		
	Average Annual Benefit (excluding one-off)			
	£ 17.8m – £71.5m	9	Total Benefit (PV)	£ 254m – £1,018m
Other key non-monetised benefits by ‘main affected groups’ LAs will be able to: identify accurately those children that are electively home educated; discharge their duty to ensure that all children in their area are receiving a suitable education; and satisfy themselves that ‘home education’ is not used to conceal safeguarding issues.				

Key Assumptions/Sensitivities/Risks Costs are additional to Option A and include costs to local authorities and opportunity cost to parents for additional meetings. The range in cost is due to the range of assumptions about the size of the cohort. We think that the cohort size is likely to be 25,000 to 30,000 and that it is unlikely to exceed 40,000, although we have modelled costs up to 80,000. These costs remain estimates and we will need further discussions with the Local Government Association to firm up the figures for case conferences, SAO related costs and additional support package costs.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 117m - £450m
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What is the geographic coverage of the policy/option?	England only			
On what date will the policy be implemented?	April 2011			
Which organisation(s) will enforce the policy?	Local Authorities			
What is the total annual cost of enforcement for these organisations?	£ as above			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£			
What is the value of changes in greenhouse gas emissions?	£			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease of £	Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Local authorities currently have records which identify home educated children when they are deregistered from a school. Through this, 20,000 children are already known to LAs. Modelling suggests that 80% of all those who begin elective home education become known to the LA when the parents deregister the child from school or when they voluntarily approach the local authority. However, there could be as many as 40,000 and there is a remote possibility that the number could be as high as 80,000 (or 1% of the total school age children in England). Neither the current system, nor ContactPoint arrangements, will identify these children efficiently.

Data received from local authorities suggests that around 20% of home educated children known to LAs may be receiving an inadequate education and 1.8% of home educated children (known to LAs) may be receiving no education at all. LAs have no idea about the standard of education experienced by home educated children not known to them.

LAs are unable to make a safeguarding risk assessment for children not known to them and there is evidence from serious case reviews and from LAs that home educated children who are not regularly seen in the community are those where there are most likely to be child protection concerns. We emphasise that there are no safeguarding concerns about the vast majority of home educated children and observe that many participate in activities within the home educating community and more widely.

ContactPoint has been cited as a possible alternative to registration, but as currently designed it will not have a marker for home education, so no summary reports of home educated children could be produced. It is doubtful that there are legal vires to use ContactPoint for this purpose as its principal function is to establish links between professionals in dealing with sensitive casework.

In line with the recommendations arising from the *Badman Review of Elective Home Education in England*, this Bill proposes to establish a compulsory national registration scheme, locally administered, for all children of statutory school age, who are, or become, electively home educated.

Costs

One-off costs

FIRST YEAR maximum costs of Option C, Registration and Monitoring	20,000 children	40,000 children	80,000 children
Total maximum costs in FIRST YEAR	£26,353,000	£53,059,000	£106,019,000

Ongoing annual costs

Ongoing maximum costs of Option C, Registration and Monitoring	20,000 children	40,000 children	80,000 children
Total maximum ongoing costs	£14,653,000	£29,986,000	£60,652,000

The following assumptions are used in all calculations in this document:

This policy applies to England only;

There are around 20,000 known children in home education, but the total may be 40,000 (likely maximum) or as many as 80,000 (less likely) – costings cover three scenarios;

The costs arising from the recommendations will be:

- the registration scheme – costs to LAs
- deregistration from schools – administrative costs to schools
- monitoring of the scheme by LA officers – costs to LAs
- additional use of School Attendance orders – administrative and legal costs to LAs. (costs not included in the IA - see narrative below)
- children being taken onto the school role because of the use of SAOs (costs not included in the IA see - narrative below);
- an additional support package for home educators as detailed in our October response to the Badman Review recommendations. (costs not included in the IA – see narrative below)

The breakeven analysis shown later in this IA demonstrates how increases in costs will impact on the number of pupils that will have to be affected by this intervention in order to cover those costs.

General information

We estimate that 100% of children will receive 1 in-year visit, with 50% receiving further monitoring:

The costs of deregistration from schools are borne by schools at present, so the additional administrative cost will only be for children who would not be picked up by current arrangements;

However, schools will have to compile a report for each child deregistered to pursue home education which it will then supply to the LA. This will cause a cost to be incurred by the school, but that cost should take the place of an unknown % of the LA's first 4 hour meeting (see below). We therefore assume that the LA will arrange to reimburse the school for assessment carried out on its behalf. We are considering options for funding LA for this additional activity;

We envisage that the “statement of education” will be a short, word-processed document of around 2 pages of A4 and will include three types of information:

- the educational needs of the child and any relevant background which affects the way education is structured and delivered;
- the educational philosophy or approach to be adopted;
- outline plans for education in the forthcoming year.

We do not expect families to submit detailed curricula, nor to make detailed commitments in their plans. However, exemplar curricula which parents could use, should they choose to do so, are freely available from the DCSF and QCA websites;

Registration will last 12 months, and will be renewed every year. The intention is for this to be a light touch refresh of details, but may include an updated educational statement. Administration costs to LAs are assumed for re-registration.

The registration scheme

If there was no statutory change to the policy on elective home education LAs could still use ContactPoint to identify children who are not registered with a school and prompt action to establish what their educational arrangements are. We do not anticipate that the numbers of home educated children in most local authorities will justify the cost of establishing a new computer database.

The impact assessment assumes that every year, 1/6 of the total number of home educated children will leave and enter home education. This assumption is based on the fact that we are told that a high proportion of home education decisions are triggered by the child's move to secondary school—particularly for SEN children, bullied children and Gypsy/Roma/Traveller children. We considered using other assumptions (e.g. 1/11th to reflect the number of compulsory school years), but 1/6 is less likely to lead to an underestimation of the total cost, so we have stuck to a conservative estimate.

Current costings assume that 80% of the 1/6 new cases each year will be deregistrations from school (and therefore only 20% of the 1/6 will be children who have never been registered with a school). This is based on the assumption that most home educated children have previously been educated in primary school.

We accept that this may not be consistent with the assumption that there are 20-60,000 home educated children completely unknown to the system. However, since the defining characteristic of these children is that we do not know enough about them, we have chosen to use the existing data. If our information changes as local authorities operate the scheme, we will update our costings.

A feasibility study carried out by York Consulting identified that 5% of the Home Education cohort have SEN, and we believe that children with SEN are over-represented. However, the cost associated with providing support is part of the cost to the local authority of maintaining the statement in the home where home educated children are statemented, rather than increasing the costs of registration and monitoring.

We assume that a child with SEN may need more in-year monitoring, particularly if the LA is brokering a support package. However, rather than trying to separate out this cost, we have provided for more in-year monitoring which assumes 50% of children have 1 additional monitoring visit).

First year of registration

We have assumed that children in the first year of home education receive 2 * 4 hour meetings with LA officer (includes planning, travel time, following up queries etc)

We also assume that 50% of children in the first year will receive an additional 2 * 4 hour sessions. This is an estimate based on LA advice, but as the scheme has not yet been implemented, but we are as confident as we can be that this is a high end estimate.

Monitoring visits

All children receive 1 x 8 hour visit at the end of the year. 8 hours includes planning, preparation, travel, writing up time and dealing with queries in addition to the time spent with the family.

50% will receive an additional 1 x 8 hour visit.

We understand that newly identified children are the ones who are most likely to require additional monitoring.

The Local Government Association has also asked us to consider including costs for case conferences and we are working with them to identify relevant data which will allow us to calculate the scale of these costs.

Local Authority Training

The estimate is based on a slightly higher number of staff than we believe will actually be involved with registration and monitoring.

Every local authority is different, using different kinds of staff to deal with Home Education (usually either Education Welfare Officers or officers specifically recruited for the Home Education role), and each has a different rate of staff turnover. We have also built in appropriate turnover costs to ensure that ongoing funding for training is adequate.

Opportunity costs to parents

The opportunity costs to parents of meeting local authority officers have been factored into the costing. However, we have not included a cost for the preparation of an education plan on the basis that:

- Even though parents and carers may not give it that name, it is a core part of planning ahead to deliver home education for their children. Any change will not represent additional time invested, but instead mean that parents and carers are using some of the time they devote to home education differently.
- Curricula are available for immediate download from QCA and DCSF websites.

School attendance orders

The Badman Review makes clear that School Attendance Orders (SAOs) should be the ultimate sanction for taking a child out of elective home education and into school. We are clear that our aim is to support a child in home education where that is the best option for the child.

However, where a school attendance order has been issued and all possible options have been considered and rejected as not suitable, a child will need to go to school and there will be a knock-on

cost effect to the school system. An estimate of these costs has not been included in the IA because this is a new policy and we do not have robust evidence to estimate the number of pupils who might be affected by the use of SAO in these circumstances.

Additional Support Costs

In our October response to Graham Badman's review recommendations, we set out our intention of providing an additional support package for home educators to include, for example, access to specialist facilities, exam centres, school sports facilities and school libraries. While we have estimated that the additional support costs would be around £21 million per annum based on those children already known to local authorities, these costs have, to date, been kept separate from the costs for the registration proposals which are set out in the Children, Schools and Families Bill. We acknowledge, however, that the success of the registration scheme should have a positive knock-on effect on take-up of the support package and in turn, the overall costs.

This IA does not include the estimated costs of the support package in the overall costs because we don't currently have enough evidence to assess the true number of home educators that may access the support or about the levels of support each individual family will require.

We will continue to discuss the SAO related costs and the additional support package costs with the Local Government Association and local authorities to identify appropriate figures.

We acknowledge that we need to improve our evidence base of data relating to home educated children, including their numbers and their educational attainments, and we plan to carry out a feasibility study shortly which will help us to meet this aim.

Benefits

The new arrangements will ensure that all home educated children are registered with LAs. Data received from local authorities suggests that around 20% of home educated children known to LAs may be receiving an inadequate education and a further 1.8% of home educated children (known to LAs) may be receiving no education at all. This means that if there are 20,000 home educators, 4,000 children are receiving an inadequate education and 360 are receiving no education at all. If there are 40,000 these figures double to 8,000 and 720 respectively. If there were 80,000 home educated children, then these figures would be 16,000 and 1,440 respectively.

Although not specifically relating to home educated children, the consequences of receiving a poor or inadequate education in later life are that the young people denied an adequate education are unlikely to achieve recognised qualifications and more likely to turn to crime or substance abuse.

We are assuming that, as a result of this intervention, those children not receiving an adequate education or no education at all will progress to the same level of educational achievement as those in mainstream school regardless of whether they remain educated at home or they are sent to school.

The estimated benefits figures given below update those in earlier versions of the Home Education IA. The figures now give a more conservative estimate of the benefits and are based on the discounting of benefits the year after the pupils sit GCSEs exams rather than when they are first affected by the new policy through visits and other monitoring arrangements. For example, a pupil who is in school year 1 when the policy is implemented (year 0) will benefit in year 12 once he/she takes GCSEs). In previous versions we assumed that benefits accrued in the same year that pupils were affected by the policy (in this example year 0).

Benefits scenario 1 - 20,000 home educated pupils According to DCSF calculations based on the Annual Survey of Hours and Earnings, moving from not obtaining any qualification to achieving 5+ A*-C GCSEs would increase a child's lifetime productivity by £186,500. If 360 home educated children do not achieve good GCSE results, the benefits of this policy for these children terms (assuming that on

average 46.8%¹⁹ of these children would obtain 5+ A*-C GCSEs, including English and Maths, i.e., 168 pupils) would therefore be **£25.6m** over their lifetime (discounting over 11 years and assuming 3.5 % discount rate) for those affected by this policy the first year (168 x £186,500).

Another 4,000 home educated pupils are receiving inadequate education, so we assume that with this new legislation 46.8% (1,872) of these pupils will progress from obtaining 1 -4 A*-C to 5 + A*-C GCSEs. In this case, the lifetime returns amount to £88,500 for each child, the overall benefits will amount to **£135.6m** for those affected in the first year (discounting over 11 years and assuming 3.5 % discount rate).

However, this is a one-off effect since after the first year the number of pupils sent to school as the result of this policy will be much lower. We make the assumption that, on average, 15 pupils [(360 x 0.468)/ 11 schooling years] pupils will progress from getting no GCSEs to attaining 5+ A*-C. Based on this number, we expect a benefit for those affected by this policy during the following 9 years of **£15m** (discounting from year 12 of the policy to year 20, and assuming 3.5 % discount rate).

We then make the assumption that on average 170 [(4,000 x 0.468)/ 11 schooling years] pupils will progress from getting 1-4 A*-Cs GCSEs to attaining 5+ A*-C GCSEs. Based on this number, we expect a benefit for those affected by this policy during the following 9 years of **£78.5m** (discounting from year 12 to year 20 of the policy, and assuming 3.5 % discount rate). The total benefits from this scenario would be **£254m**

Benefits scenario 2 - 40,000 home educated pupils

The number of pupils affected is assumed to be twice as much in this scenario and hence the total benefits expected are £510m.

Benefits scenario 3 – 80,000 home educated pupils

The number of pupils affected is assumed to be four times as much in this scenario compared to the first scenario and hence the total benefits expected are £1,018m.

Breakeven Analysis

Given the considerable uncertainties over the impact of this option on the attainment of home educated children, and in order to provide a fuller picture of the potential economic value of the policy, it is useful to consider a breakeven analysis which considers the impacts needed to make the policy cost-neutral. This analysis is based on the following assumptions:

- 20,000 home-educated children are evenly spread over 11 school years, means that 1,818 home educated children sit GCSEs each year,
- An increase in lifetime earnings of £88,500 associated with improving attainment from 1-4A*-Cs at GCSE to 5+A*-Cs at GCSE,
- And an increase of £186,500 for improving attainment from 0A*-Cs to 5+A*-Cs for each individual.
- 20% of the home-educated population currently receiving inadequate education, and 1.8% receiving no education. (These figures are based on data provided earlier in the IA relating to home-educated children known to local authorities)
- Discounting in accordance with Green Book guidance.

The break-even analysis shows the approximate numbers of children that must be positively impacted by the proposals in order for the benefits to outweigh the costs. We also include the approximate number of children that would need to benefit through improved attainment for the proposal to breakeven if the costs are increased by 10% and 20%.

¹⁹ National average - The 2008 Secondary School (Key Stage 4, GCSE and equivalents) Achievement and Attainment Tables.

Cost	Total no. of children required through 10 years of the proposal	Percentage of home-educated population currently receiving an inadequate or no education required	Percentage of entire home-educated population required
£137million	2061 (1891 currently receiving an inadequate education + 170 currently receiving no education)	0.26%	0.0540%
£151million (£137million +10%)	2219 (2036 currently receiving an inadequate education + 183 currently receiving no education)	0.28%	0.0581%
£164million (£137million +20%)	2402 (2204 currently receiving an inadequate education + 198 currently receiving no education)	0.30%	0.0629%

These analyses indicate that around 2,500 children would need to benefit from the proposals in terms of improved educational outcomes for the proposals to breakeven, if the costs exceed our estimation by 20%. This represents a 6.3 percentage point increase in the level 2 attainment (5+A*-Cs) of the entire home-educated population and a 30 percentage point increase in level 2 attainment of the home-educated population currently thought to be receiving an inadequate or no education.

It is worth noting that the breakeven analysis indicates that even if the assumptions are varied, it is likely that the proposal will yield a net benefit to the economy. Given the wider benefits²⁰ which have not been included here, but that can be reasonably expected to accrue from this intervention, on balance, there is a reasonable economic case for the proposal.

Non-quantifiable benefits

This option will have an impact on educational attainment by supporting home educators to produce sustainable plans for home education.

The Badman Review identified that educational standards in elective home education can be raised, but also observed that *“that being said I am not in any way arguing that... within the elective home education community there is not exemplary practice. Indeed, there is a strong argument to commission further research to better inform understanding of “personalisation” as an element of student progression and achievement.”* (3.1)

Our plan is for educational outcomes for home educated children to improve by supporting parents and carers in accessing a wider range of services and support. Our proposals for funding this support have been set out in the Secretary of State’s full response to the Review of Home Education in England conducted by Graham Badman. We envisage that home educators will spend a significant time with the Local Authority early in the process of planning the delivery of home education. These meetings will address the child’s educational needs, and identify the best way to meet these which may include access to educational and support services available in the area. This should ensure that home educated young people of compulsory school age can be prepared for and access FE provision, for example, which can currently only be done on a private basis.

²⁰ In general, evidence suggests that higher attainment tends to lead to higher employment prospects, which in turn reduces crime (Jenkins at al. (2007): “The Returns to Qualifications in England: Updating the Evidence Base on Level 2 and Level 3 Vocational Qualifications” *Centre for the Economics of Education, LSE*. And Eric D. Gould, Bruce A. Weinberg, and David B. Mustard (2002): *“Crime Rates and Local Labour Market Opportunities in the United States: 1979 – 1997”*, Review of Economics and Statistics, February 2002, 84(1): 45 - 61

Monitoring will improve the ongoing standard of education in individual homes.

At present, although the local authority engages with some families when they deregister their children from a school, there is no structured approach that sets out how any or all local authorities maintain contact with these children to monitor their educational attainment.

Some home educators want more support and access to a fuller range of support services. Engagement from the local authority will enable the types of support the families need to be offered, including personalised services.

Educational outcomes will therefore be improved overall by more consistent identification and intervention where standards are low or there is no education plan. In extreme cases, it may be in the child's best interest to attend a school, and this will also have an impact on attainment.

However, we cannot at this time make any detailed evaluation of the quantitative or qualitative impact this has on electively home educated children.

Evaluation will be planned now to ensure that changes in outcomes and standards can be measured accurately.

The quantitative data we currently hold about home educated children's educational attainment is limited. We do know, however, that a recent small scale survey found that after compulsory education, home educated young people known to their LAs are 4 times more likely not to be in education, employment or training than other young people. We propose introducing measures to:

- Establish a baseline of current outcomes for the electively home educated children of whom the system is aware;
- Capture changes in outcomes for these and all electively home educated children in future years.

Summary: Intervention & Options

Department /Agency: DCSF	Title: Information sharing for the purposes of Local Safeguarding Children Boards (LSCBs)	
Stage: Final Proposal	Version: For Introduction	Date: November 2009
Related Publications:		

Available to view or download at:

Contact for enquiries: Jonathan Bacon

Telephone: 02077838154

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

Lord Laming's report stated that there continues to be a real concern across all sectors, but particularly in the health services, about the risk of breaching confidentiality or data protection laws by sharing concerns about a child's safety. The Government proposes to provide express provision for information sharing purposes of LSCBs, such as Serious Case Reviews, so that the LSCB could require information to be disclosed to it where it is not provided voluntarily.

What are the policy objectives and the intended effects?

The preparation of Serious Case Reviews requires each organisation involved to prepare an individual management review (IMR) report. This IMR draws on information from the case records which contain personal data (including very probably sensitive personal data) and confidential information. Similarly child death review processes require collection of personal data. The proposed duty to disclose would assist the relevant body in managing concerns arising from the law of confidence and that the LSCB was the proper authority to whom that information should be disclosed.

What policy options have been considered? Please justify any preferred option.

Although the Government considers that section 13 (7) places LSCB partners under a duty to cooperate, which includes a duty to supply information, the point is not explicit on the face of legislation and the duty does not extend to any person who is not a Board partner. In his report Lord Laming states that whilst the law rightly seeks to preserve individuals' privacy and confidentiality, it should not be used as a barrier to appropriate information sharing. This provision will help ensure that lessons are learnt about how best to safeguard and promote the welfare of children in the future.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Sir Roger Singleton, the newly appointed Chief Adviser on the Safety of Children, will submit annual reports to Parliament, reporting on progress nationally on the implementation of the Laming Report.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by ‘main affected groups’ This is building on provisions already in place for information sharing from relevant organisations to the LSCB for the purpose of preparing Serious Case Review and child death review process. It is therefore not a new burden but one that is already funded within existing base lines.
	One-off (Transition) Yrs	
	£	
	Average Annual Cost (excluding one-off)	
	£ 0	Total Cost (PV) £ 0

Other key non-monetised costs by ‘main affected groups’

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by ‘main affected groups’ Through increased information sharing between organisations this provision will help ensure that lessons are learnt about how best to safeguard and promote the welfare of children in the future and help shape services to better protect children.
	One-off Yrs	
	£ 0	
	Average Annual Benefit (excluding one-off)	
	£	Total Benefit (PV) £ 0

Other key non-monetised benefits by ‘main affected groups’ This Government intervention is necessary to ensure that there is now a step change in the arrangements to protect children from harm. It will enable the LSCB to obtain the information it considers necessary to complete its functions in relation to Serious Case Reviews and child death review processes.

Key Assumptions/Sensitivities/Risks GPs can be advised by the Medical Defence Union that they owe no duties under the Children act and are not obliged to disclose information. The risk is that this position may not change.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		National	
On what date will the policy be implemented?		2 months after RA	
Which organisation(s) will enforce the policy?		DCSF	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ N/A	
What is the value of changes in greenhouse gas emissions?		£ N/A	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

It is the first duty of Government and of society to do all it can to keep our children safe. Lord Laming was clear in his Report *“The Protection of Children in England: A Progress Report”* that the Government has in place robust legislative, structural and policy foundations on which to build and that there is widespread consensus that the Every Child Matters reforms set the right direction of travel. But he was also clear that the need to protect children and young people from abuse and neglect is ever more challenging. And he stated, “...It is essential that action is now taken so that as far as humanly possible children at risk of harm are properly protected.”

The purpose of this intervention is to provide for information-sharing for the purposes of Local Safeguarding Children Boards. This intervention is essential to implement Lord Laming’s recommendations and ensure that the Government, LAs and their partners are doing everything possible to protect children and young people from significant harm.

Costs

The recommendations set out in Lord Laming’s report and the Government’s response to it is fundamentally about local authorities and their partners making sure that they are meeting the existing standards of practice that all services should already be applying. They are therefore not new burdens but are already funded within existing base lines.

Any minor burdens introduced due to the implementation of the Laming Report need to be set against a context of increased spend in this area and that many local authorities and their partners will already be undertaking these activities which are in the main just the application of good practice.

Expenditure on children's social care increased from £2.218bn in 1997-98 to £5.728bn in 2008-09 in cash. This is a real terms increase of over 90%, which equates to an average real terms increase of 6.1% per annum. Over the current three year settlement, the Government is providing an additional £8.91 billion to local authorities, an average 4.2% cash increase.

Introduce nw duty to share information for the purposes of LSCBs so that the LSCB could require information to be disclosed to it where it is not provided voluntarily.

This intervention will lead to a very minimum additional cost to:

- GPs, (SHAs and PCTs are Board partners, but individual GPs holding patient records are not. The revision to Chapter 8 of *Working Together* is going to suggest that, in the context of serious case reviews, the PCT designate a professional who will produce a single management report for all the health agencies involved in the case. That being the case, perhaps the duty envisaged could extend to GPs providing information to the PCT, for the PCT to collate and pass on to the LSCB)
- the UK Borders Agency:
- any other person or body providing services which might include for example;
 - i. voluntary organisations providing services under contract to the local authority
 - ii. agencies working under contract to the PCT
 - iii. other professionals who may be working privately (e.g. consultants, therapists)
 - iv. other organisation such as the Scouts, faith groups etc

Benefits

In order to benefit all children this intervention will build on and support the robust legislative, structural and policy foundations that are already in place through the Every Child Matters reforms. However Lord

Laming was clear that the need to protect children and young people from significant harm and neglect is ever more challenging, this Government intervention is necessary to ensure that there is now a step change in the arrangements to protect children from harm.

The current statutory framework for information-sharing for LSCB purposes is that section 13(7) of the Children Act 2004 requires cooperation by the children's services authority with its Board partners, and by each Board partner with the authority, in establishing and operating the LSCB. The Department takes the view that the duty to co-operate extends to the provision of information for LSCB functions, i.e. that there is a duty and therefore an implied power to share information. But the duty to cooperate only extends to Board partners. It does not extend to other bodies who may be represented on the Board or to other persons who are not represented on the Board at all.

This intervention will improve information sharing for LSCB purposes in preparation of Serious Case Reviews and child death review processes that will improve the lessons to be learnt across all the partners. It will drive improvement in the quality of services designed to safeguard and promote the welfare of children, and provide a stronger culture of mutual challenge, improvement and openness within a local area.

Summary: Intervention & Options

Department /Agency: Welsh Assembly Government	Title: Information Sharing for the purposes of Local Safeguarding Children's Boards	
Stage: Final Proposal	Version: For Introduction	Date: November 2009
Related Publications:		

Available to view or download at:

Contact for enquiries: Alan Starkey

Telephone: 02920823875

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

Following Lord Laming's report into the circumstances surrounding the Peter Connelly case, the Welsh Assembly Government is aware that there is concern about the risk of breaching confidentiality or data protection laws by sharing concerns about a child's safety. The Welsh Assembly Government proposes to provide express provision for information sharing purposes of LSCBs, such as Serious Case Reviews, so that an LSCB could require information to be disclosed to it where it is not provided voluntarily.

What are the policy objectives and the intended effects?

The preparation of Serious Case Reviews requires each organisation involved to prepare an individual management review (IMR) report. This IMR draws on information from the case records which contain personal data (including very probably sensitive personal data) and confidential information. Similarly child death review processes require collection of personal data. The proposed duty to disclose would assist the relevant body in managing concerns arising from the law of confidence and that the LSCB was the proper authority to whom that information should be disclosed.

What policy options have been considered? Please justify any preferred option.

Although the Assembly considers that the LSCB partners are under a duty to cooperate under , which includes a duty to supply information, the point is not explicit on the face of legislation and the duty does not extend to any person who is not a Board partner. In his report Lord Laming states that whilst the law rightly seeks to preserve individuals' privacy and confidentiality, it should not be used as a barrier to appropriate information sharing. This provision will help ensure that lessons are learnt about how best to safeguard and promote the welfare of children in the future

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The Welsh Assembly Government will monitor the affects through its review of the NHS and Local Authorities.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

Jane Hutt

Date: November 2009

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' This is building on provisions already in place for information sharing from relevant organisations to the LSCB for the purpose of preparing Serious Case Review and child death review process. It is therefore not a new burden but one that is already funded within existing base lines.		
	One-off (Transition) Yrs			
	£			
	Average Annual Cost (excluding one-off)			
	£	Total Cost (PV)	£	
Other key non-monetised costs by 'main affected groups'				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Through increased information sharing between organisations this provision will help ensure that lessons are learnt about how best to safeguard and promote the welfare of children in the future and help shape services to better protect children.		
	One-off Yrs			
	£			
	Average Annual Benefit (excluding one-off)			
	£	Total Benefit (PV)	£	
Other key non-monetised benefits by 'main affected groups' The Welsh Assembly Government intervention is necessary to ensure that there are now arrangements to protect children from harm. It will enable the LSCB to obtain the information it considers necessary to complete its functions in relation to Serious Case Reviews and child death review processes.				

Key Assumptions/Sensitivities/Risks GPs can be advised by the Medical Defence Union that they owe no duties under the Children act and are not obliged to disclose information. The risk is that this position may not change.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	National
On what date will the policy be implemented?	
Which organisation(s) will enforce the policy?	Welsh Assembly
What is the total annual cost of enforcement for these organisations?	£
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£
What is the value of changes in greenhouse gas emissions?	£
Will the proposal have a significant impact on competition?	No
Annual cost (£-£) per organisation (excluding one-off)	Micro Small Medium Large
Are any of these organisations exempt?	N/A N/A N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Lord Laming reported that despite the fact that the Government gave clear guidance on information sharing in 2006 and updated it in October 2008, there continues to be a concern across all sectors, but particularly in the health services, about the risk of breaching confidentiality or data protection law by sharing concerns about a child's safety. The laws governing data protection and privacy are still not well understood by frontline staff or their managers. It is clear that different agencies (and their legal advisers) often take different approaches. Whilst the law rightly seeks to preserve individuals' privacy and confidentiality, it should not be used (and was never intended) as a barrier to appropriate information sharing between professionals. The safety and welfare of children is of paramount importance, and agencies may lawfully share confidential information about the child or the parent, without consent, if doing so is in the public interest.

The recommendations set out in Lord Laming's report and the response of the Welsh Assembly Government it is about local authorities and their partners making sure that they are meeting the existing standards of practice that all services should already be applying. They are therefore not new burdens but are already funded within existing base lines.

Any minor burdens introduced due to the consideration of the CSSIW and HIW Reports need to be set against a context of increased spend in this area and that many local authorities and their partners will already be undertaking these activities which are in the main just the application of good practice.

The current statutory framework for information-sharing for LSCB purposes is that section 31(8) of the Children Act 2004 requires cooperation by the children's services authority with its Board partners, and by each Board partner with the authority, in establishing and operating the LSCB. The Department takes the view that the duty to co-operate extends to the provision of information for LSCB functions, i.e. that there is a duty and therefore an implied power to share information. But the duty to cooperate only extends to Board partners. It does not extend to other bodies who may be represented on the Board or to other persons who are not represented on the Board at all.

This intervention will improve information sharing for LSCB purposes in preparation of Serious Case Reviews and child death review processes that will improve the lessons to be learnt across all the partners. It will drive improvement in the quality of services designed to safeguard and promote the welfare of children, and provide a stronger culture of mutual challenge, improvement and openness within a local area.

Summary: Intervention & Options

Department /Agency: DCSF	Title: Evaluation of Serious Case Reviews and inspection of Local Safeguarding Children Board functions	
Stage: Final Proposal	Version: Lords Introduction	Date: February 2010
Related Publications:		

Available to view or download at:

Contact for enquiries: Jonathan Bacon

Telephone: 02077838154

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

Lord Laming published his report on safeguarding children on 12 March 2009. He stated that there is a need for rigorous inspection of each of the services responsible for the safety of children and that new ways should be created to share good practice and learn lessons. In particular Lord Laming recommended that Ofsted should focus its evaluation of Serious Case Reviews on the depth of the learning a review has provided and the quality of recommendations it has made to protect children.

What are the policy objectives and the intended effects?

Currently, a full, announced, inspection will take place in each local authority area every three years to evaluate the impact of the local authority, partners and the Local Safeguarding Children Board in improving safeguarding outcomes. This inspection, by Ofsted and other relevant inspectorates, will take place under section 20 of the Children Act 2004. Ofsted will also continue its existing practice of evaluating each individual Serious Case Review. However, Ofsted's Chief Inspector's powers to assess and inspect do not fit precisely its practice on evaluating Serious Case Reviews. The objective is to give explicit cover for the Chief Inspector to evaluate Serious Case Reviews. The effect is to provide cover for future evaluations which match Ofsted's existing practice.

What policy options have been considered? Please justify any preferred option.

On 6 May 2009 The protection of children in England: action plan, The Government's response to Lord Laming, was published. This set out how each of the 58 recommendations will be taken forward. Building on the Government's public commitment to act swiftly, and decisively, to implement the recommendations all non legislative ways of implementing the recommendations and Government commitments have been explored. Ensuring Ofsted has the correct power to assess Serious Case Reviews however can only be achieved through primary legislation.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Sir Roger Singleton, the newly appointed Chief Adviser on the Safety of Children, will submit a report annually to Parliament on progress nationally on the implementation of the Laming Report.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by ‘main affected groups’ None. The intention is to provide explicit legal cover for Ofsted’s existing practice of evaluating Serious Case Reviews, including to call for information.
	One-off (Transition)	Yrs	
	£		
	Average Annual Cost (excluding one-off)		
	£		Total Cost (PV) £

Other key non-monetised costs by ‘main affected groups’ Ofsted to share full reports with other inspectorates and summaries with other partners and to produce more regular reports at six-monthly intervals.

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by ‘main affected groups’ Fewer cases of child maltreatment will lead to savings in health and social care support and improved long term outcomes for children (e.g. educational) estimated at £90,000 per case.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£		Total Benefit (PV) £

Other key non-monetised benefits by ‘main affected groups’

Key Assumptions/Sensitivities/Risks The scope is to be limited to assessing SCRs. It does not seek new powers to assess other LSCB functions. Such assessment is covered by Joint Area Reviews by two or more inspectorates

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		National	
On what date will the policy be implemented?		2 months after RA	
Which organisation(s) will enforce the policy?		Ofsted	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ N/A	
What is the value of changes in greenhouse gas emissions?		£ N/A	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease of £	Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

A rigorous inspection framework is a crucial part of the overall system for safeguarding children and young people. Ofsted is the lead inspectorate for children's services but the Care Quality Commission (CQC), Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Inspectorate of Probation (HMIP) also have key roles. Close working across the inspectorates is important and all four inspectorates are taking action to strengthen inspection arrangements for safeguarding.

Ofsted has designed more rigorous inspection arrangements for safeguarding. In May 2009, it published a new framework for a rolling programme of inspections of safeguarding and looked after children in all areas and covering the role of all partners, on a three year cycle. It also published a framework for a new annual inspection of child protection services in each local authority. Ofsted will share copies of Serious Case Reviews in confidence with partner inspectorates so that the implications for frontline inspections and for joint safeguarding inspections can be fully assessed and learned. Ofsted has confirmed that it will produce regular six monthly reports covering the lessons of Serious Case Reviews. One of these each year will be a summary report covering all Serious Case Reviews in the year and will consider the format of the second interim report to enable more in-depth analysis where this would be beneficial.

This Bill seeks a provision to give explicit cover for the Chief Inspector to assess SCRs. The aim is to provide cover for future assessments which match Ofsted's existing practice – The aim is to ensure that Ofsted has a clear and unambiguous power to assess/inspect SCRs. The scope is to be limited to assessing SCRs. The Government does not seek new powers for the Chief Inspector to assess other LSCB functions (it is content that such assessment would be by way of a Joint Area Review by two or more inspectorates). The Government aims for the Chief Inspector to have a power, rather than a duty, to assess. How the Chief Inspector makes the assessment will be a decision for her to make.

Costs

There are a number of recommendations that the Government accepted relating to Ofsted's role in evaluating Serious Case Reviews:

- Ofsted should focus their evaluation of SCRs on the depth of the learning a review has provided and the quality of recommendations it has made to protect children (rec 42).
- Ofsted should share full SCR reports with HMI Constabulary, the Care Quality Commission, and HMI Probation (as appropriate) to enable all four inspectorates to assess the implementation of action plans when conducting frontline inspections (rec 47).
- Ofsted should share SCR executive summaries with the Association of Chief Police Officers, Primary Care Trusts and Strategic Health Authorities to promote Learning (rec 48).
- Ofsted should produce more regular reports, at six monthly intervals, which summarise the lessons from SCRs (rec 49).

Giving Ofsted the explicit power to inspect Serious Case reviews

Any minor burdens introduced due to the implementation of the Laming Report need to be set against a context of increased spend in this area.

This particular intervention will provide explicit cover for existing practice, so will have no new cost.

Local authorities will need to continue to ensure that the Chief Inspector receives any documents necessary which relate to SCRs.

It will continue to be for each local authority to decide the level of funding that is appropriate to ensure that local authorities take on board the lessons learned from the assessment of Serious Case Reviews by Ofsted, and in particular, the regular six monthly reports.

Benefits

In order to benefit all children this intervention will build on and support the robust legislative, structural and policy foundations that are already in place through the Every Child Matters reforms. However Lord Lamming was clear that the need to protect children and young people from significant harm and neglect is ever more challenging.

The Government intervention and the other work leading to a more rigorous inspection framework are necessary to ensure that there is now a step change in the arrangements to protect children from harm.

Ofsted evaluation will focus on the quality of the process of the Serious Case Review, the adequacy of learning and change, professional practice, and the quality of the recommendations in protecting children to ensure that they are driving improved outcomes and better safeguarding systems and this focus will be properly communicated to LSCBs.

They will create an effective system of performance management that drives improvement in the quality of services designed to safeguard and promote the welfare of children, and provide a stronger culture of mutual challenge, improvement and openness within a local area. This will lay the foundations so that all children benefit from the best possible child protection arrangements in every area of the country.

Summary: Intervention & Options

Department /Agency: DCSF	Title: Powers to intervene in failing Youth Offending Teams	
Stage: Final Proposal	Version: Lords Introduction	Date: February 2010
Related Publications: None		

Available to view or download at:

Contact for enquiries: Joe Murphy

Telephone: 020 73407796

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

The need to ensure sufficient levers are in place to secure performance improvement following identification of YOT failings. Under current non statutory arrangements, there have been circumstances where YOTs have not engaged, or delayed engagement with the YJB's performance improvement team in these circumstances. This means that in some cases Ministers and the YJB might find themselves relatively powerless to act in cases of on-going underperformance or where serious weakness are identified through inspection or some other means. The need to have a consistent and robust response to YOT failings is important given the work that they undertake with vulnerable young people who may present a risk of serious harm to the general public.

What are the policy objectives and the intended effects?

These powers will ensure that the Secretary of State has the power to intervene where serious YOT failings have been identified and are clearly impacting on the discharge of their duties to care for young people under their supervision and protect the public from the risk of serious harm. Proposed new powers will ensure that failing YOTs can be directed to work with the YJB's performance improvement team to secure performance improvement. Further powers will enable the Secretary of State to secure particular improvements where specific failings have been identified and ultimately he will be able to direct the LA to look again at how it executes its function to establish a YOT having regard to the need to secure performance improvements set out in his direction.

What policy options have been considered? Please justify any preferred option.

Where serious failings are currently identified securing and monitoring performance improvement is reliant on the YOTs willingness to engage with the YJB. We have also looked at whether we could achieve our objectives through existing legislation, however, these do not give us the intervention powers we require to ensure that YOT failings are addressed and monitored adequately.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Given the nature of the policy and the need to secure performance improvement following YOT failings we believe that these powers should be reviewed on a case by case basis to ensure that they are used appropriately and that lessons are learned.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' We do not anticipate this will require additional resources.
	One-off (Transition) Yrs	
	£ 00.00 N.A	
	Average Annual Cost (excluding one-off)	
	£ 00.00	Total Cost (PV) £ 00.00

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

These powers do not give LAs any more functions in respect of the YOT. We would expect that in the majority of cases where failings have been identified that YOTs and the YJB will work voluntarily together.

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' It is not possible to determine specific costed benefits beyond the overall improvements that these changes would introduce.
	One-off Yrs	
	£	
	Average Annual Benefit (excluding one-off)	
	£	Total Benefit (PV) £ -

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

The main benefit of this policy will be a clearer and more consistent structure for intervening in YOTs where serious and significant failings have been identified in order to secure performance improvements. This will provide a more efficient and effective youth justice system.

Key Assumptions/Sensitivities/Risks

We believe that these powers will be cost neutral. Any costs associated with the power to co-operate will be absorbed by the YJB who already provide performance improvement support to YOTs

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £	
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What is the geographic coverage of the policy/option?				England & Wales
On what date will the policy be implemented?				To be confirmed
Which organisation(s) will enforce the policy?				DCSF/MoJ & YJB
What is the total annual cost of enforcement for these organisations?				£
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				No
What is the value of the proposed offsetting measure per year?				£
What is the value of changes in greenhouse gas emissions?				£
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium Large
Are any of these organisations exempt?		N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £		

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

There are two principal mechanisms for monitoring the performance of individual YOTs. One mechanism is led by HM Inspectorate of Probations (HMIP) and includes individual YOT and thematic inspection, while the other is led by the YJB against its performance framework of indicators and service standards. The two monitoring processes feed into the new Comprehensive Area Assessment (CAA) process.

Between 2003-2008, HMIP led a programme of joint-inspections of all YOTs in England & Wales – less than 10% of the 158 YOTs required re-inspection. With one exception, all the re-inspected YOTs were judged to have improved. However, HMIP's end of programme report states that "considerable concerns remain" in respect of YOTs' work on *Risk of Harm to others* and *Safeguarding*.

In many cases where failings are identified during the inspection process the YJB's performance improvement team will work with YOT on their improvement plan. However, the YJB's improvement team are reliant on the YOT's, and other partners', willingness to engage. YOTs undertake wide ranging and multi faceted work supervising young people who have offended or who are at risk of offending. These are some of the most vulnerable young people in our society who may also pose a significant risk to the wider public. In light of concerns raised by HMIP about YOTs' effectiveness in dealing with risk of harm and safeguarding it is clear that YOT failings may well present a serious and significant risk of harm and under current arrangements Ministers might find themselves relatively powerless to act in cases of on-going underperformance or where serious weaknesses are identified through inspection or some other means (for example, in a specific case that comes to light). Consequently we believe it is important for Ministers to have powers to intervene where serious failings have been identified.

We believe that the current non statutory arrangements have significant weaknesses. To date there have only been a small number of cases where it has proved very difficult to engage the YOT in post inspection performance improvement plans. However, there have been a higher number of cases where the engagement process has taken considerable time which has been problematic and exposes the young people under YOT supervision and the public to greater degrees of risk and also has the potential to damage confidence in the youth justice system. Consequently, for the small number of YOTs who persistently fail to deliver on their statutory duties and who refuse to engage with central support the introduction of these new powers will provide us with a strengthened platform to intervene.

The other two direction making powers will compliment the duty to co-operate and will be used in more serious cases where failings are providing a clear and immediate risk to the safety of young people or the general public and urgent central intervention is required. There have been cases where significant YOT failings have been identified in serious incidents which have prompted formal reviews of YOT procedures. In one particular case failures were so serious that the YJB formally asked HMIP to conduct an urgent re-inspection. However, such a response has heavy financial implications for HMIP and is not the most effective way of securing longer term performance improvement. Under the new powers the Secretary of State will be able to direct the improvements he expects direct from the LA (eg setting targets or particular outcomes); and also, in the most extreme cases he can direct the LA (or LAs in those areas where YOTs belong to one or more LAs) on how it performs its statutory function to establish a YOT (e.g. changing the management structure).

Costs

The proposed changes are designed to secure more effective and more efficient operation between local partners. This will be funded from within existing budgets.

Benefits

These new powers will strengthen the performance management arrangements significantly and will help to reassure the public that underperformance can be dealt with swiftly so that community and individual safety are not compromised. This will have a tangible effect on public protection and will strengthen the existing provisions of effective interventions and services to address offending behaviour and turn young lives around.

These powers would not have any impact on the private or voluntary sector. If used they will have some impact on local government. However, these powers will be drafted narrowly to apply to the YOT itself. The LA currently has the duty to establish a YOT it does not have any further function in relation to it. We believe that these powers will not be placing extra functions on the LA and therefore do not constitute an extra burden for the LA. The powers will be an enabling function for the YJB and the Secretary of State. The costs burden of a duty to co-operate will lie with the YJB who will undertake this function in the same manner they presently do. In terms of the powers to direct this allows the SofS to intervene and does not incur an extra burden on the LA itself as it will simply be directing them how to use their existing duties more effectively

Although less than 10% of the 158 YOTs inspected by HMIP required re-inspection there remain concerns about general YOT work on *Risk of Harm to others* and *Safeguarding*. Where failings are more serious or where voluntary engagement is not secured these new powers will compel YOTs to work with the YJB's performance improvement team to secure improvement. We would expect that in the majority of cases where failings have been identified that YOTs and the YJB will work voluntarily together to secure improvement. In this context we believe that the very existence of these powers as a backstop provision will provide an additional lever to encourage YOTs to co-operate more broadly with the YJB so it could well serve to prevent more formal intervention.

Summary: Intervention & Options

Department /Agency: Ministry of Justice	Title: Legislative Reform to Reporting Restrictions Governing Family Courts	
Stage: Final Proposal	Version: Lords Introduction	Date: February 2010
Related Publications: Confidence and Confidentiality: Openness in family courts – a new approach (cm7131); Family Justice in Views (cm7502).		

Available to view or download at: <http://www.justice.gov.uk>

Contact for enquiries: Misto Miah Chowdhury

Telephone: 0203 334 3119/3114

What is the problem under consideration? Why is government intervention necessary? New rules came into force on 27 April 2009 allowing for the first time the right of attendance to accredited members of the media to the county courts and the High Court. However existing statutory reporting restrictions remain in force, which means that the media can only report limited information about proceedings, with the existing system of reporting restrictions relating to family proceedings complicated and unclear. Government intervention is necessary because changes can only be made through secondary or primary legislation.

What are the policy objectives and the intended effects? To deliver a more effective, transparent and accountable family justice system. This includes increased public confidence in the family justice system; giving vulnerable adults and children the best possible protection; a more consistent, comprehensive and transparent statutory framework governing the reporting of family cases; significantly improving the visibility of justice for families who receive it from a reformed justice system; providing accredited members of the media the ability to be able to report more widely about the proceedings that they attend, but at the same time providing life long anonymity for the children, families and parties involved.

What policy options have been considered? The following options are assessed against the base case “do-nothing” :

- *Option 0* - Base Case (“Do Nothing”)
- *Option 1* - Use secondary legislation (rules of court) to change the reporting restrictions framework
- *Option 2* - Primary legislation to provide new framework increasing the scope and type of information that the media can report

Option 2 is preferred on the grounds of efficacy and efficiency. Option 1 does not deliver the objectives of the policy as it can only deliver in part and cannot remove inconsistencies in existing statute.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The impact of the preferred option will be evaluated for its effectiveness within 18 to 24 months of implementation; this will allow sufficient time for the new proposals to bed in and will provide more reliable and effective data.

Ministerial Sign-off For Implementation Stage Impact Assessments:

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

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: 1	Description: Use secondary legislation (rules of court) to change the reporting restrictions framework
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£ N/A		
	Average Annual Cost (excluding one-off)		
£ N/A		Total Cost (PV)	£ N/A
<p>Other key non-monetised costs by 'main affected groups' Where the media would like to report a case, there would be an administrative burden on legal professionals and the justice system as the Judiciary would need to assess the reporting restrictions in that particular case. If the media would like to report a case and one of the parties to the proceedings objected, there would be a cost in applying to have restrictions imposed in that particular case. There may be wider society costs due to delays to proceedings and confusion due to a lack of one coherent statutory framework.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
£ N/A		Total Benefit (PV)	£ N/A
<p>Other key non-monetised benefits by 'main affected groups' The media would benefit from revenue generated from extra stories and syndicate reporting benefits. The justice system may benefit from fewer media applications challenging reporting restrictions and society would benefit from both the improved information about decisions made in court.</p>			

Key Assumptions/Sensitivities/Risks

Price Base	Time Period	Net Benefit Range (NPV)	NET BENEFIT (NPV Best estimate)
Year	Years	£ N/A	£

What is the geographic coverage of the policy/option?	England and Wales			
On what date will the policy be implemented?	Not known			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ Nil			
What is the value of changes in greenhouse gas emissions?	£ Nil			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices)					(Increase -
Increase of	£	Decrease of	£	Net Impact	£

Key: Annual costs and benefits: (Net) Present

Policy Option: 2	Description: Primary legislation to provide new framework increasing the amount and type of information the media can report
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£ N/A		
	Average Annual Cost (excluding one-off)		
£ N/A		Total Cost (PV)	£ N/A
Other key non-monetised costs by 'main affected groups' Similar costs to Option 1. However, the costs to families are less than in Option 1 due to the guaranteed protection of identity. If the naming of expert witnesses results in a decrease in the number of expert witnesses, this would delay future proceedings. The costs to society are less than in Option 1 as there is less confusion about the framework.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ N/A		
	Average Annual Benefit (excluding one-off)		
£ N/A		Total Benefit (PV)	£ N/A
Other key non-monetised benefits by 'main affected groups'. Benefits to families and the justice system are greater than in Option 1 due to the guaranteed protection of identity. There would be more revenue generated for the media than in Option 1. Legal professionals would benefit from the consolidated legislation and there would be greater benefits to society than in Option 1 due to a greater flow of information.			

Key Assumptions/Sensitivities/Risks

Price Base	Time Period	Net Benefit Range (NPV)	NET BENEFIT (NPV Best estimate)
Year	Years	£	£

What is the geographic coverage of the policy/option?	England and Wales			
On what date will the policy be implemented?	Not known			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices)				(Increase -
Increase	£	Decrease of	£	Net Impact
				£

Key: **Annual costs and benefits:** (Net) Present

1. Introduction and Background

- 1.1 On 16 December 2008, the Government announced an overall package of changes to make family proceedings more open and transparent :
- Media attendance at family proceedings across all tiers of court (except, for the time being, adoption proceedings);
 - Revised provisions for the disclosure of information in children cases, to make it easier for parties to seek the help they need;
 - Pilots for the provision of more information to parties to proceedings, and anonymised judgments made available to the wider public; and
 - A new legislative framework for reporting restrictions
- 1.2 New court rules took effect on 27 April 2009 that :
- Provide for media attendance at most family proceedings across all tiers of court (except, for the time being, placement and adoption proceedings); and
 - Revise provisions for disclosure of information in children's cases, to make it easier for parties to seek the help they need.
- 1.3 The Family Proceedings (Amendment) (No.2) Rules 2009 covers the High Courts and County Courts, while The Family Proceedings Courts (Miscellaneous Amendments) Rules 2009 deals with the Magistrates' Courts. There is an accompanying Practice Direction for each set of rules which was issued by the President of the Family Division. What the rules did not change was the reporting restrictions framework that governs the reporting of family cases by the media.

2. Scope of the Impact Assessment

- 2.1 This is a final impact assessment to accompany the draft clauses on reporting restrictions governing family proceedings in the 'Improving Schools and Safeguarding Children' Bill.
- 2.2 An interim impact assessment was published on 16 December 2008 for the provisions on media attendance at family courts and new disclosure rules²¹. The current impact assessment examines the implications of allowing the media to report more widely.
- 2.3 The Government's objectives behind the proposals to increase public confidence in the family justice system are to:
- Promote a culture of openness and accountability in the family justice system
 - Improve public confidence in the family justice system
 - Improve understanding by the general public and by families involved in proceedings of the decisions the court make
 - Protect the welfare and best interest of child and vulnerable adults involved

²¹ <http://www.justice.gov.uk/consultations/docs/family-justice-in-view-ia.pdf>.

- 2.4 The proposals will only apply to England and Wales. Family law and procedure is a devolved matter in Scotland and Northern Ireland.

Proposed Policies

- 2.5 The two potential policy options that have been proposed to achieve the above objectives would be in the form of either:
- **Secondary legislation** (court rules) to change the reporting restrictions framework. It may be possible to provide clarity on the issue in secondary legislation using existing rule-making powers in order to remove some of the restrictions on the publication of information in children cases only. The provision would allow accredited media representatives would be able to report the substance of cases that they have attended.
 - **Primary legislation** to provide a new framework increasing the amount and type of information that the media can report. The intention would be to provide a single, consistent reporting regime for proceedings within scope, covering all three tiers of court and all types of publication. The underlying intention is to allow the media to report the essential substance of a case but prohibit publication of any matter that may lead to identification of individuals as someone concerned, or having been concerned, in the proceedings in question.

Affected Groups and Sectors

- 2.6 The following sectors are likely to be affected by the proposals :
- **Family law firms and legal advice sector:** The proposed changes are likely to have an impact on lawyers and barristers representing clients who are involved in family proceedings. The legal profession would need to adapt to the new reporting restrictions framework and would be required to, in some but not all cases, provide oral representations on behalf of their client if any objections need to be made about the reporting of the case by the media.
 - **Judiciary:** The MoJ would be required to work with the Judicial Studies Board and the President of the Family Division to update current training materials to ensure that when the new legislation and rules come into effect, the judiciary are aware of the changes. Extra judicial time may be needed to hear representations from parties and the media.
 - **Children and Families:** The proposals would mean that some details of the proceedings that they are involved in are reported.²² It will be necessary for the MoJ to produce guidance leaflets for court users to make sure that they understand what the changes mean for them. This will take the form of public information including the distribution of posters and providing leaflets in court waiting rooms for those involved in family proceedings.
 - **Local authorities:** There are currently 410 local authorities in England and Wales.²³ A number of these local authorities may be party to proceedings in public law cases such as care proceedings where the state intervenes to protect the child. The legislative changes will need to be communicated to local authorities to make sure that they are aware of the changes. It is hoped that this will be done by

²² It is also important to note that the media will not be attending and reporting in all cases. Therefore there may be cases where the media are not in attendance and there is no reporting of the case.

²³ Source: About Local Government Association section of <http://www.lga.gov.uk/>.

working closely with the Local Government Association and ADCS using them as a hub to share information with their members.

- **Press:** There are currently 1300 local and regional newspapers in England and Wales and 11 daily national newspapers.²⁴ The changes in legislation would need to be explained clearly, so it is likely that guidance specifically for the media would need to be produced.
- **Court staff:** Court staff will need to support judges if the parties or the media make representations and the judge holds a direction hearing. In order to prepare court staff the MoJ will work closely with colleagues in the HMCS communications team to update current internal guidance for reporting in the family courts.

Consultations

- 2.7 The Ministry of Justice has consulted on two sets of proposals to improve transparency of family proceedings. The first consultation in 2006 proposed that the media be allowed into family proceedings in all tiers of court to counter claims about the lack of accountability for decisions and secrecy of the family courts. The second consultation in 2007 proposed instead to increase the amount of information coming from the family courts by piloting the provision of written anonymised judgments in some cases to those involved in proceedings, and the wider public.
- 2.7 The July 2006 and June 2007 consultation papers were sent to over 800 organisations and individuals known to have an interest; these included the media and children groups amongst others. The consultation papers were also made available to the general public via the Departments website. Organisations consulted included (non-exhaustive list):
- Association of Lawyers for Children
 - Resolution
 - Law Society
 - Bar Council
 - NYAS
 - 11 Million
 - National Children Bureau
 - Society of Editors
 - Newspaper Society
- 2.8 The proposals to improve the openness of family courts have been the subject of extensive consultation both within Government and with wider stakeholders. Throughout the first consultation period a number of stakeholder events were held with different groups.²⁵

²⁴ Source: Newspaper Society intelligence unit; BMRB/TGI - <http://www.newspapersoc.org.uk/Default.aspx?page=9>.

²⁵ Notes of the issues raised during some of the consultation events can be found from pages 38-78 of Confidence and confidentiality, Improving transparency and privacy in family courts, response to consultation, CM7036.

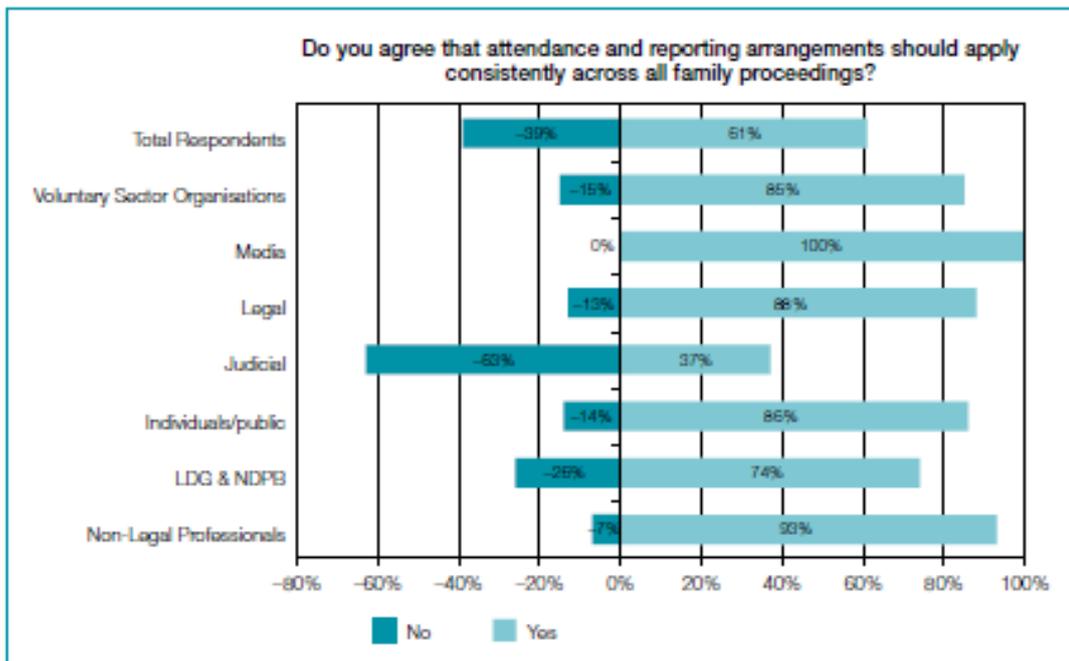
Within government

2.9 There has been wide discussion across Government departments during the development of this policy. Discussions have been held with the following:

- Home Office
- Department for Education and Skills
- Department of Health
- Crown Prosecution Service
- Welsh Assembly
- Attorney General's Office

Stakeholder meetings

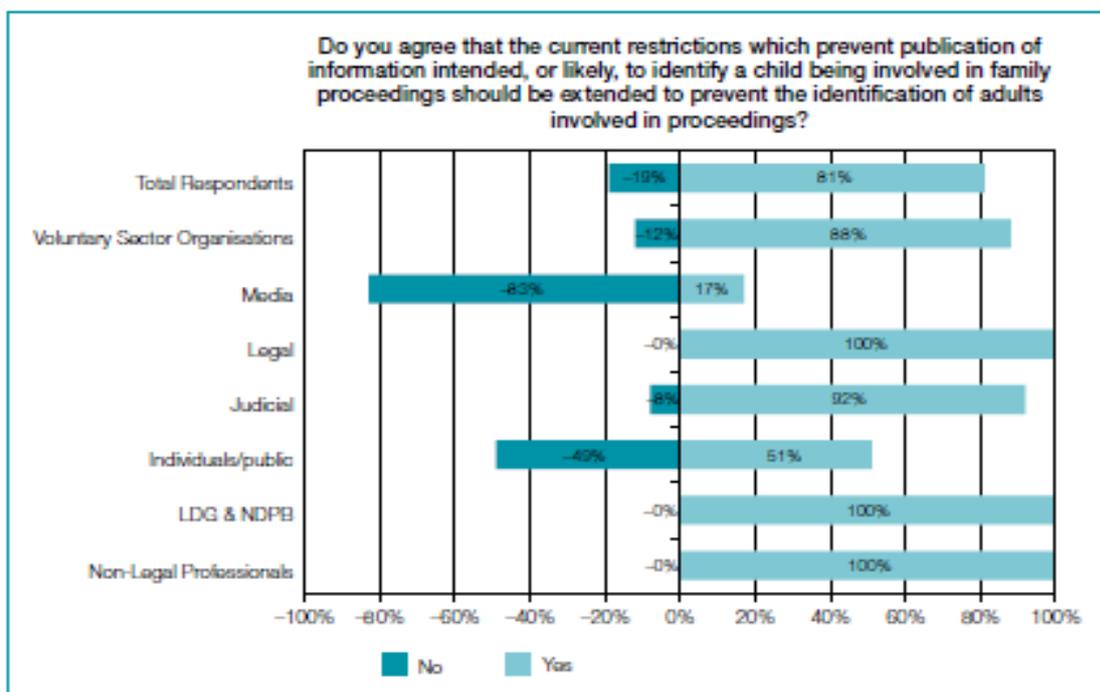
2.10 Although there has been no formal consultation on the immediate proposals a large number of stakeholder meetings have taken place to help inform policy development. The issue of reporting restrictions was consulted on generally in the 2006 consultation. In that consultation exercise we asked whether people were asked whether they agreed that attendance and reporting arrangements should apply consistently across all family proceedings. 61 of the respondents agreed that attendance and reporting arrangements should only consistently across all family proceedings.



2.11 Per
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extended to prevent the identification of adults involved in proceedings. 81% agreed that the current restrictions which prevent publication of information should be extended to adults involved in proceedings.



2.12 Stakeholders met included all levels of the judiciary, members of the legal profession, members of the healthcare profession and voluntary organisations including women’s groups, men’s groups and those working with children. Key external stakeholder groups we met included:

- Association of District Judges
- HM Council of Circuit Judges
- Association of Lawyers for Children
- Family Law Bar Association
- Families Need Fathers
- Society of Editors
- Newspaper Society
- Cafcass Young peoples Panel - A group of young people jointly sponsored by the Family Justice Council and CAF/CASS, have met to discuss these issues

3. Problem under Consideration

3.1 There are reasons to believe that the current reporting restriction framework may need to be revised after reviewing the impact of the new rules that came into force on 26 April 2009.

3.2 The change in the media attendance rules was the first part of the reforms set out to increase public awareness and confidence.²⁶ It allowed for the first time the right of attendance to accredited members of the media to the county courts and the High Court. However existing statutory reporting restrictions currently remain in force, which means that the media can only report limited information about proceedings. The current reporting restriction framework may need to be revised to help complete these reforms, for the purpose of meeting the original aims and objectives of introducing the media attendance rules. .

3.3 The legislation that exists in its current form may need to be simplified so that it is a single framework applicable to all levels of court, so that it is accessible and easily

²⁶ Insert reference for what the changes were (the IA or whatever was published)

understood and to cover gaps or lift some restrictions in the current statutory framework.

- 3.4 There are at least 10 current statutory provisions governing what the media may or may not report in different family proceedings. These restrictions are neither comprehensive nor particularly comprehensible. In some cases the current provisions overlap somewhat, in other cases there is no provision at all. For example Human Rights or Data Protection principles, or principles of common law, may give rise to some restrictions.²⁷
- 3.5 Despite the media being allowed to attend hearings, they do not have the incentive to do so as they are not able to report the substance of proceedings. If they are to report the substance of proceedings, they have to apply on a case-by-case basis to have the reporting restrictions lifted or are at risk of being in contempt of court.
- 3.6 The new proposed legislative framework would allow for greater reporting of family proceedings, through an increase in the type and amount of information the media are able to report. This is in line with the initial objective for the media to be allowed to report more widely about family proceedings that they attend than they are able to do now.
- 3.7 It is also intended that new legislation balances increased reporting with the necessary protection for children and families.

4. Cost Benefit Analysis

- 4.1 This section sets out some potential costs and benefits of introducing an overall package of changes to make family proceedings more open and transparent. The IA process aims to identify as far as possible the impacts of government proposals on society. A critical part of the process is to undertake a cost benefit analysis (CBA) of the proposal. CBA assesses whether the government's proposals would deliver a positive impact to society, accounting for economic, social and environmental considerations. The IA process therefore should not be confused with a *financial appraisal*, which is focused purely on assessing how much resources government would save from certain proposals.
- 4.2 The CBA underpinning this IA rests on answering three basic questions:
 - What market or institutional problem has led the relevant market or sector to not function properly?
 - What sort of government intervention is appropriate to ensure the problem is corrected?
 - Is the recommended government intervention likely to have the desired impact? To establish a strong case for government intervention, we must assess the costs and benefits of government involvement and show that the benefits are likely to outweigh the costs.

CBA PRINCIPLES

²⁷ For the list of statutes and other restrictions, see Annex B of Confidence and Confidentiality: Improving Transparency and Privacy in Family Courts [CM6886] published in July 2006

- 4.3 This IA identifies as far as possible both monetised and non-monetised impacts from society's perspectives, with the aim of understanding what the net social impact to society might be from the introduction of more open and transparent family courts.
- 4.4 Cost benefit analysis places a strong emphasis on the monetisation of costs and benefits. However there are important aspects that cannot sensibly be monetised. These might be distributional impacts on certain groups of society or some institutional impacts, either positive (e.g. increased deterrence) or negative (e.g. costs on the justice system). Cost benefit analysis in this IA is therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are non-monetisable.
- 4.5 An important consideration for any cost benefit analysis is the relevant scope of the assessment. The scope of this IA is defined to include the impacts that fall within England and Wales.

ECONOMIC RATIONALE

- 4.6 In economic terms, we are essentially asking whether the current level of public awareness and transparency is adequate for there to be society wide confidence in the family justice system.
- 4.7 Due to the inability of the media to report any substance from cases coupled with the *higher transactions* associated with defending their decisions if they breach the restrictions, and also the costs for applying for restrictions to be lifted, imposes a "chilling effect" on society as a whole. Due to the costs associated with reporting substance from cases for the media, the current situation may be having the unintended consequence of reducing freedom of expression in society.

BASE CASE / OPTION 0 ("Do Nothing")

Description

- 4. 8 The Impact Assessment (IA) and HMT Treasury Green Book Guidance require that all options are assessed relative to a common "base case". The base case for this IA has been assumed to "do nothing". As the base case effectively compares against itself, the net present value is therefore zero. The existing system preventing publication of information relating to family proceedings is a mixture of the law of contempt and statutory criminal offences. The system is complex and operates in different ways for different levels of court and different proceedings.²⁸
- 4. 9 The decision of the Court of Appeal in 2006 in the case of Clayton v Clayton means that the identity of the child subject to proceedings is protected during the lifetime of the proceedings by Section 97 (2) of the Children Act 1989, but not after proceedings has ended. Since s39 (1) of the Children and Young Persons Act 1933 is worded very similarly to s97 (2), it is likely that a challenge to that legislation could also be decided in a similar way. If s39 were to be successfully challenged, there could be a gap in reporting restrictions on identity between one set of proceedings ending and an appeal being lodged.
- 4. 10 It is potentially a contempt of court to communicate information about the substance of a case concerning a child which is heard in private under section 12 of the

²⁸ The rules and provisions providing for reporting restrictions are set out in Annex A

Administration of Justice Act 1960. A person found in contempt of court may be liable to a term of imprisonment of up to two years under section 14 of the Contempt of Court Act 1981, and there is no statutory limit upon the fine that may be imposed by the Divisional Court.

4. 11 In relation to family proceedings not involving children in a magistrates' court, it is possible to report the names, addresses and occupations of the parties and witnesses, the grounds of the applications, submissions on any point of law and the decision of the court. Reporting of other material is liable to a fine of up to £2,500.
4. 12 Table 1 shows a general overview of current arrangements (as of 27 April 2009) in the different tiers of family courts:

Table 1

Court	Current arrangements – Open/Closed
Family Proceedings Court	<p>Adoption cases always in private without press attendance.</p> <p>Press may attend other proceedings subject to reporting restrictions.</p> <p>Other people directly concerned in the case may attend.</p> <p>Court may permit any other person to be present.</p>
County Court	<p>Adoption cases may be attended in the discretion of the court (s.101 Adoption and Children Act 2002).</p> <p>Press have right to attend other proceedings subject to reporting restrictions and judicial discretion to exclude.</p> <p>Court may permit any other person to be present.</p>
High Court	<p>Adoption cases may be attended in the discretion of the court (s.101 Adoption and Children Act 2002).</p> <p>Press have right to attend other proceedings subject to reporting restrictions and judicial discretion to exclude.</p> <p>Court may permit any other person to be present.</p>
Court of Appeal	<p>Open to Press and public unless lower court had power to sit in private and Court of Appeal chooses to do so.</p> <p>Judgments anonymised on a case by case basis.</p> <p>Reporting restrictions at judicial discretion.</p>
Supreme Court	<p>Open to the public and press.</p> <p>Judgments anonymised on a case by case basis.</p> <p>Reporting restrictions at judicial discretion.</p>

4. 12 The legal restrictions with the largest impacts come under Section 12, which applies to private proceedings. Mr Justice Munby provides a useful summary of these restrictions (which was given in the case of Re B).²⁹
4. 13 Under the base case the media does not have an incentive to attend hearings due to the stringent reporting restrictions and if they want these restrictions to be lifted in a particular case they would need to make an application to the courts.
4. 14 Maintaining the current position means that there will continue to be disaggregated reporting restrictions governing the reporting of family courts across different tiers of court and types of proceedings. It would also mean that the changes brought in by the Government on 27 April 2009 to allow accredited members of the media to attend most family proceedings will remain ineffective in achieving the Governments aim of allowing open justice, while still protecting the anonymity of the families involved.
4. 15 The current reporting restrictions framework makes it very difficult for the wider public to understanding the workings of the family courts, as the media can only report very limited information.

OPTION 1 – “Use secondary legislation (rules of court) to change the reporting restrictions framework”

Description

4. 16 The reform of the issues in secondary legislation using existing rule-making powers (or enabling provisions) in s.40 (4) (aa) of the Matrimonial and Family Proceedings Act 1984 (“the 1984 Act”) and s.145(1) (ga) of the Magistrates’ Court Act 1980 (“the 1980 Act”). This option would remove some of the restrictions on the publication of information provided by s12 of the Administration of Justice Act 1960 (AJA) and would provide for accredited media to report the substance of children cases they have attended.
4. 17 The proposal will only address children cases affected by s12 (1)(a) AJA 1960. This is because the media are able to attend these proceedings by virtue of the changes to the Family Proceedings Rules 1991 and Family Proceedings Courts (Children Act 1989) Rules 1991 made in April 2009. Cases brought under the Adoption and Children Act 2002 therefore are not included in the proposed changes.
4. 18 With this option there would be no clarification of the current statutory framework. The anonymity rules surrounding the identification of individuals involved would be the same as the base case. There will also be no scope or vires to provide families with stronger anonymity so that it can be balanced against allowing the media to be able to report more widely.

Proceedings

- The rules would only apply to proceedings under s12(1)(a) AJA affecting children, except for Adoption and Children Act 2002 proceedings. That is, those brought under the Children Act 1989; or relating to the exercise of the inherent jurisdiction of the High Court with respect to minors; or those otherwise relating wholly or mainly with the maintenance upbringing of a minor - ‘children’s proceedings’.

Accredited media representatives

²⁹ This summary can be found in Annex G

- The rules would only apply to media representatives who are duly accredited representatives of news gathering and reporting organisations and are attending the proceedings in accordance with Rule 10.28(3)(f) of the Family Proceedings Rules 1991 and Rule 16A(1)(f) of the Family Proceedings Courts (Children Act 1989) Rules 1991. Rules changes could allow for reports of proceedings may be made by different accredited media to those who attended, to facilitate the sharing of reports from court attendance. This is to cover industry practice whereby the Press Association or other accredited media court reporters provide copy to third party newspapers or other media for publication by them.

Protecting identities

- The scope of section 12 of the AJA does not enable any provision relating to anonymity to be included in the rules relating to the reporting of substance. However existing legislation will continue to apply, in particular:
 - Section 97(2) of the Children Act 1989 – for the duration of proceedings
 - Section 39(1) of the Children and Young Persons Act 1933 – this could be used to make anonymity provisions beyond the conclusion of proceedings; but it is likely that people will argue that it only lasts during the currency of proceedings.
- In addition to the above this proposal would mean that the media organisations would need to operate a voluntary ban on reporting identity, supported by amendments to the Press Complaints Commission Code of Practice. Making the rule changes without making provisions to protect the identity of children once proceedings have ended will mean that if no order is made by the court to protect the identity the media will be able report the substance and the identity of the child involved, which is not the intention and objective of the Government making changes to the current reporting restrictions framework.

Contempt

- The proposed change of rules will make it no longer a contempt of court to publish the substance of proceedings listed under s12(1)(a) AJA and within the scope of the proposed rules. Breaches of any other restriction will, of course, remain a contempt of court or a criminal offence according to the provision in question. We have presented court rules in line with what has been outlined above to the Family Proceedings Rules committee on 15 July 2009 for their consideration.

Costs of Option 1

Administration

- There will be an initial administration cost involved with *changing* the required secondary legislation.

Justice system

- Changes will have an impact on the judiciary, who may be required on a case by case basis to decide whether reporting restrictions should be increased. Extra judicial time may be needed to hear oral representations from parties and the media as to whether current restrictions need to be relaxed or increased. However basing this on how often

the media challenge a section 39 order to restrict reporting imposed by the youth courts, we estimate that the numbers of applications by the press will be low.

- Also there may be legal aid costs where legally aided litigants are represented on those applications made by the media to lift reporting restrictions imposed by the courts.

Family

- Families involved in court proceedings may face a considerable welfare loss because with the proposed changes, the media would be able to report the details of 'private' family proceedings. The anonymity rules will remain unchanged despite the reporting restrictions being relaxed. Families that want to challenge the reporting of substance of their cases would incur a financial cost, unless they are legally aided litigants. With no scope or legal vires to introduce stronger anonymity provisions for the children and families involved other than a proposed amendment to the Press Complaints Commission Code of Practice (which is voluntary code of practice), this loss of anonymity may represent a significant welfare loss to those involved.

Society

- Option 1 may impose costs on those involved with the case, add delay to proceedings, add extra confusion and make the reporting restrictions framework more complex, relative to the "base case". This is because although the media would be allowed to report substance, there would still not be a clear framework to which reference can be made.

Benefits of Option 1

Media

- The main benefit to the media from the new policy is that they are able to report more substantially on court proceedings to the public. These proceedings may constitute stories that are of public interest, leading to a greater number of newspapers sold and revenue generated.
- The proposed provisions also allow for media representatives who did not attend family proceedings to be able to get reports from accredited members of the media who attended and use the information in their subsequent reports. This type of "syndicate" reporting is currently industry practice in other areas of the justice system like criminal courts. It ensures that the substance which is allowed to be reported under the new framework of restrictions is widely accessible, allowing for revenue to be generated for those representatives who were not able to attend the hearing. "Syndicate" reporting therefore helps the flow of information, and may also help in the information potentially reaching a greater section of the public.

Justice system

- There are benefits to the justice system accruing from removing some of the restrictions placed on the publication of information as the media is able to report substance of the cases they have attended. There may therefore be fewer costs imposed on the Justice System of the media challenging reporting restrictions, this would save on judicial time and resource.³⁰

Society

³⁰ However this saving may be offset by the parties involved with the case applying for a restriction to be placed on reporting the case. It is the reverse of the situation in the "base case" where the media apply for restrictions to be placed. The net impact may only be apparent after quantifying the costs and benefits.

- Press attendance would allow closer public scrutiny of the operation of the family courts and improve public knowledge about how decisions are reached by judges in family cases. This could also help remove a public perception of ‘secret courts’. There needs however to be a distinction between what the public is interested in, and what is in the public interest. It is not proposed that making family courts more open should mean publishing information that is very private or intimate. Instead, it is hoped that information that helps the public understand how the family justice system operates, and the reasoning behind decisions that are made, is published so that it can help people scrutinise and discuss the concerns they have about the family courts.
- Opening the courts to the press is largely seen as a benefit to the public at large, as freedom and access to justice is good for society in general allowing better informed decisions to be made.

OPTION 2 – “Primary legislation to provide new framework increasing the amount and type of information the media can report”

Description

- The policy intention is that there should be a single, consistent reporting regime for proceedings within scope, covering all 3 tiers of court and all types of publication.
- The underlying intention is that the regime should permit the media to report the essential substance of a case but prohibit publication of any matter likely to lead to identification of a child or adult as someone concerned, or having been concerned in the proceedings in question. This broad approach is modelled on the regime applicable in the youth courts under s.49 of the Children and Young Persons Act 1933 (as amended) (“CYPA 1933”). This will regularise the position across different tiers of courts and types of proceedings by repealing some existing legislation and replacing it with one single statutory framework. This option best meets the Hampton Principles. Harmonisation may also reduce costs for some users, particularly media, judiciary and legal profession.
- The policy aims are to simplify the legislation so that it is accessible and easily understood; to have a single framework applicable to all levels of court; to cover gaps or lift some restrictions in the current statutory framework; and to have a simplified framework for the penalties associated with breaches of reporting restrictions.
- The proposed legislation will:

- Place a *ban* on publication of any details likely to lead to the *identification* of children, parties or witnesses (save professional witnesses) as concerned, or having been concerned, in the proceedings (with discretion in the court to relax the prohibition);
- Provide *life-long anonymity* to the families and parties involved, with court discretion to relax, application to relax restrictions can be made by parties.
- Place *automatic prohibition* on publication of certain sensitive information with discretion in the court to relax prohibition; these could include medical records.
- Give powers to courts to *impose* prohibition of publication of other categories of information, such categories to be contained in an order/ regulation.
- Enable expert witnesses to be named in reports, but with court discretion to prohibit publication if it is in the interest of the child or for the safety of the witnesses.
- Allow the court additionally to impose specific restrictions on publication of details likely to lead to identification of the whereabouts of any person(s), where necessary for the wellbeing or safety of a person concerned in proceedings.

Costs of Option 2

Administration/Implementation

- The initial costs of setting out a new framework in primary legislation may be greater than in Option 1 because the legislation covers many more aspects than the secondary legislation. There would have to be a communications exercise to inform court users and the wider public of the new framework and how it would affect them.
- The administrative costs of informing the relevant stakeholders may be the same as in Option 1.

Justice system

- The costs to the justice system would be greater than in Option 1 if the parties or the media chose to make an application to afford greater protection or lift a restriction.

Family

- The cost to families, who do not wish certain information about their cases to be released, is expected to be lower than in Option 1 as there is provision to guarantee life-long anonymity for the families and parties involved (unless these are relaxed at the court's discretion, or on application by the parties). There will also be a residual power available to the court to impose further reporting restrictions to protect the whereabouts of the child and families involved.

Society

- The costs to society are likely to be lower than in Option 1. This is because by setting out a new coherent framework in primary legislation, confusion and complexity in the current legislation would be reduced compared to both the "base case" and Option 1.
- Naming expert witnesses in media reports may affect the number of fee paid experts who are willing to come forward to provide evidence in family proceedings. There has been a shortage of experts who are willing and sufficiently experienced to provide expert evidence in child care proceedings and this has been ongoing since the early

1990s.³¹ This may have a knock on effect on the number of cases that may be delayed due to the lack of experts available to provide evidence or the quality of evidence in court cases may suffer due to the lack of experts. However as courts will have discretion to provide for anonymity in cases where safety is an issue, or the identification of the expert may lead to the child being identified, we are confident that the identity of experts will be protected where necessary.

Benefits of Option 2

Media

- The benefits accruing to the media will be greater than in Option 1 as there will be a single, consistent reporting regime for proceedings covering all types of court and types of publication, resulting in a cost saving for the media.

Legal Profession

- The consolidation of the scheme for reporting restrictions will also save time for legal practitioners who frequently look up legislation as part of their day to day work, with judicial time also being saved for the same reasons.

Society

- Greater than Option 1. This would be due to more substance being allowed to be reported as the parties involved are protected by life-long anonymity so their identity would not be compromised.
- Naming expert witnesses would subject the evidence they give to greater public scrutiny, providing them with a much stronger incentive to ensure that it is of the highest quality.
- This option therefore would allow for a greater flow of information than in Option 1.

Justice System

- Parties involved with the case would not need to apply to have life-long anonymity as the protection in place would be automatic; this would result in a potential saving of both judicial and administrative time.

SUMMARY OF OPTIONS

Table 2 presents a high level summary of costs and benefits across the two options focusing on the key affected areas:

Table 2 : Summary of Options						
		Family	Media	Justice System	Legal Profession	Wider Society
Option 1 : Secondary Legislation	Costs	<ul style="list-style-type: none"> ▪ Details of proceedings reported. ▪ Loss of anonymity. 		<ul style="list-style-type: none"> ▪ Burden of whether reporting restriction should be enforced if parties make an application. ▪ Legal aid costs for legally aided litigants. 	<ul style="list-style-type: none"> ▪ Administrative burden if client chooses to make an application 	<ul style="list-style-type: none"> ▪ Current framework made more complex

³¹ Brophy, J (2006) Care proceedings under the Children Act 1989: A Research Review Research Series /06, London: DCA

	Benefits		<ul style="list-style-type: none"> Revenue generated from more stories and from syndicate reporting 	<ul style="list-style-type: none"> No challenges by media on reporting restrictions. 		<ul style="list-style-type: none"> Transparent family law. Increase public awareness. Reduces “chilling effect”
Option 2 : Primary Legislation	Costs	<ul style="list-style-type: none"> Costs less than Option 1 as life-long anonymity guaranteed. 	<ul style="list-style-type: none"> Costs will be incurred by media should they choose to challenge any restrictions imposed by the courts. 	<ul style="list-style-type: none"> Admin costs greater than Option 1 if parties or the media make an application.. 		<ul style="list-style-type: none"> Overall less than Option 1. Expert witness being named may dwindle pool of available experts.
	Benefits	<ul style="list-style-type: none"> Greater than Option 1 as life-long guarantee of anonymity. 	<ul style="list-style-type: none"> Greater revenue generated than Option 1 	<ul style="list-style-type: none"> Judicial time saved from automatic anonymity. 	<ul style="list-style-type: none"> Greater than Option 2 as time saved from consolidated framework. 	<ul style="list-style-type: none"> Information flows more freely than Option 1. Framework coherent.
NB: This is a high level summary to give some indicative impacts. The actual impacts, discussed in the main narrative are likely to be more varied.						

5. Enforcement and Implementation

5. 1 Some of the proposals will be implemented by means of regulations made by the Secretary of State. Once these regulations have been made, following consultation with the usual representative bodies. We envisage that the earliest these changes could be fully implemented will be April 2011.

Specific impact tests

6. Small firms impact test

6. 1 The family justice system currently interacts with three groups of small businesses: solicitors, barristers and newspaper organisations. The proposals will not affect the nature or quality of those interactions and so the impact on small business is minimal. The legislation is designed to allow the media to report more with strong protection for the rights to privacy of families and children, So it would not be appropriate to have different legislation applying to small firms – that would mean different outcomes for the media in terms of what they could report, and for families in terms of what is reported about them, depending on the size of the firm.
6. 2 The proposal to allow the media to report more widely the proceedings they attend may result in more work for solicitors and Barristers representing parties. However the lawyers will be able to provide their clients with a leaflet that the Ministry of Justice will be producing for court users when the changes come into force. In addition the Ministry of Justice will work together with the Law Society for England and Wales to produce guidance for their members.
6. 3 Newspaper organisations can already attend Family Proceeding Courts with judicial discretion to exclude. This includes local newspapers. Therefore the proposals on

reporting restrictions will not have an extra disproportionate burden to local newspapers.

6. 4 The proposal to give powers to the court to impose/relax case prohibitions may have an impact on small local newspapers who, if they are in attendance, may wish to challenge or appeal the reporting restrictions being imposed by the court but do not have the money to fund such an application. The bigger daily newspaper will have less of a problem paying for applications to relax reporting restrictions being imposed by the court. Although this may be an issue for some local newspapers who wish to contest their application but are unable to do so for financial reasons, there is an element of public interest which will need to be taken into consideration, as there is a need for the court to be able to have the powers to impose reporting restrictions to be able to protect the human rights of those concerned.

7. Equality Impact Assessment

7. 1 The Ministry of Justice Equality Impact Assessment has been published alongside this Impact Assessment and covers these three areas.

8. Human Rights Impact Assessment

8. 1 The European Court of Human Rights has held in *B v United Kingdom* [2001] 2 FLR 261 that the current practice of hearing children cases in private is Convention compliant. Whilst accepting that the general rule should be for civil proceedings to be heard in public, it is not inconsistent with A.6 for a State to designate a class of proceedings as an exception to that rule. This was apparent from the text of A.6 itself. Children proceedings were an example of justification of exclusion of the press and public to protect the privacy of children and parties, and avoid prejudicing the interests of justice. The Court noted that the restrictions regarding attendance must always be subject to a court's control and a court must always consider whether or not to exercise its discretion to relax the normal restrictions if requested by one of the parties.³²
8. 2 The Court of Appeal has reaffirmed that the present system is Convention compliant in *Pelling v Bruce Williams* [2004] EWCA Civ 845. Dr Pelling, notwithstanding his lack of success in *B v UK*, had launched a challenge against s.97(2) Children Act 1989 and r.4.16(7) as not being ECHR compliant, specifically as contravening A.6 and A.10; and against two other provisions of the FPR restricting disclosure of documents in proceedings. The Court accepted the contention that his A.10(1) rights were engaged, but considered that the conduct of proceedings in chambers was necessary in a democratic society for protection of the rights of others – namely the other parties to proceedings and the child. The Court, however, reviewed its standard practice of automatically restricting the reporting of the identification of children in appeals which are heard in open court under the Children Act 1989. The Court of Appeal uses its inherent jurisdiction and section 39 of the Children and Young Persons Act 1933 to impose these restrictions. The Court of Appeal now considers on a case by case basis whether such restrictions should be imposed following hearings in open court and has regard to the competing rights involved enshrined in Article 8 and Article 10 of the Convention.

⁸ See at paragraphs 39 to 40 of *B v United Kingdom* [2001] 2 FLR 261.

8. 3 However, most recently, the issue has been revisited by the European Court of Human Rights in *Moser v. Austria (Application no. 12643/02) [2007] 1 FLR 702*. The case concerned the removal of a child from a mother on the basis only that her residential status in Austria was unclear, and she had no accommodation. The child was taken into public care. The mother complained, amongst other things, that she had been denied an oral and public hearing. The Court found various violations of Article 8 (procedural elements) and Article 6 in her favour. Dicta at paragraph 97 are of particular relevance in this context:
8. 4 “Moreover, the case of *B&P v. United Kingdom* concerned the parents’ dispute over a child’s residence, thus a dispute between family members, i.e. individual parties. The present case concerns the transfer of custody of the First applicant’s son to a public institution...thus opposing an individual to the State. The Court considers that in this sphere, the reasons for excluding a case from public scrutiny must be subject to careful examination.”
8. 5 Munby J in *Re Webster: Norfolk County Council v. Webster [2006] EWHC 2733, [2007] 1 FLR 1146* makes specific mention of *Moser* and raises the possibility that a higher standard is required to justify a hearing in public law children cases which is in private³³.
8. 6 The *Webster* case (cited earlier in these instructions in relation to s.97(4) of the Children Act 1989) is also notable in that Munby J applied the balancing test in *Campbell, Re S*, and *Re W* (cited above at paragraphs 28, 30, 31) to the decision whether the requirement to hear the care proceedings in chambers set out in r.4.16(7) of the FPR 1991 should be disapplied and the matter heard in open court.³⁴ He stated that this was a matter of Convention compliance, and Articles 6, 8 and 10 were engaged. Subsequently, *Webster* itself has been applied in *Re O [2007] All ER (D) 169* to a decision under r.10.20A FPR (now revoked, but the precursor of Part XI, described above) regarding an application for disclosure of information from family proceedings where the BBC were being sued for libel. Finally, the President applied the same tests to the question of whether the media should be excluded from family proceedings under r.10.28 FPR 1991 in the case of *Re Child X* (citation at paragraph 167 above) – see paragraph 46 of that report.
8. 7 We take the view that what is proposed by way of primary legislation is compliant with the ECHR. It will clearly represent a change in the balance struck in legislation between Article 8 rights and those under Article 6 and more particularly Article 10. It is clear from Strasbourg jurisprudence that A.10 is a strong consideration, and in particular, under A.6, that great weight is placed upon public scrutiny of the operation of the courts. The policy focuses strongly on the need to restore public confidence in the operation of the family courts by allowing scrutiny of their operation through media reporting. Clearly the A.8 rights of litigants and children, and to a lesser extent witnesses, are engaged. We consider that the policy of allowing the reporting of the substance of the case but preventing identification, for life, of a child concerned in proceedings, will suitably reflect the Article 8 rights of the key persons involved. The protection given to identity is comprehensive when seen in the light of a prohibition, not only on actual identifying features such as name and addresses, but on information which would be likely to lead to identification, which could be any distinguishing fact of the case, including a fact which becomes “identifying” in

⁹ See paragraph 73.

¹⁰ See paragraphs 76 to 77

combination with certain other facts – “jigsaw identification”. Of particular importance is the system of additional prohibitions, the first category of which provides an automatic prohibition on publication of very sensitive matters such as medical opinion and treatment, subject to court discretion to relax it; and the second category providing a power in the court to impose additional restrictions on other matters relating to private lives of those involved.

8. 8 The senior courts will retain inherent jurisdiction to impose additional restraints where A. 8 rights are not sufficiently protected by the new legislative scheme; and all courts will be able to relax the “identification” prohibition further where A.6 or A.10 rights prevail.

9. Rural Proofing

9. 1 The Commission for Rural Communities impact guidance lists three areas to consider when developing policy, the first is to consider whether the policy is likely to have a different impact in rural areas, because of particular circumstances or needs. Our policy on revising the current reporting restrictions may have a different impact in rural areas. This may be say for example when the media attends a particular court and reports details of a particular case from which a child may be identified. This was the case in Z County Council and TS and DS and ES and A. Mr Justice Hedley in his judgment stated that “ because the child lives in a rural community where because of the comparatively unusual nature of the disability, he is more likely to be identifiable than if he live in a massive conurbation”.
9. 2 The Ministry of Justice as mentioned earlier in the Impact Assessment will be providing judges with residual powers to prohibit any identifying information that may lead to the whereabouts of children and families, and witnesses involved in family proceedings.

10. Carbon Assessment

10. 1 Defra’s environmental impact guidance lists six areas which are key sources of green house gases: energy; industrial processes; solvents and other product use; agriculture, land-use change and forestry; and waste.
10. 2 Other environmental issues are vulnerability to the predicted effects of climate change; impacts on waste management; impact on air quality; material change to land or townscape; water pollution; the disturbing or habitat or wildlife and the number of people exposed to noise or the levels of exposure. Our proposals on revising the reporting restrictions framework have no impact on these areas.

11. Health Impact Assessment

11. 1 The Department of Health has developed a checklist to help assess whether there might be adverse impacts on health as a result of new legislation. The three questions are:
 - *Will your policy have a significant impact on human health by virtue of its effects on the wider determinants of health?* The wider determinants listed cover income, crime, environment, transport, housing, education, employment, agriculture and social cohesion. There is nothing to suggest that the proposals to improve the

openness of family courts would have an impact on any of these areas that might lead to a significant impact on human health.

- *Will there be a significant impact on any of the lifestyle-related variables?* The variables listed are: physical activity; diet; smoking, drugs or alcohol use; sexual behaviour; and accidents and stress at home or work. For some being involved in some types of family cases is a very stressful time. However the key objective of improving the openness of family courts is to improve public confidence in the family justice system and so it is not considered that there would be a significant detrimental impact on any of these variables.
- *Is there likely to be a significant demand on any of the following health and social care services?* The services listed are: primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services and health protection and preparedness response. Our proposals focus on improving the openness of family courts and therefore will not have a significant impact on demand for these services.

12. Post Implementation Review

12. 1 The Ministry of Justice intends to monitor the operation of the law following implementation. Ongoing monitoring of the reforms can be achieved by :
- intermittent searches of any new case law relating to reporting of family cases;
 - reviewing professional commentary on reforms; and
 - reviewing academic commentary on reforms.
12. 2 To allow the measures to take effect we are planning a review with key stakeholders and experts, five years after the Bill comes into force. As the reforms will mainly affect legal professionals, judiciary and court users this will be the most effective way to gauge the effects of the reform.
12. 3 This review will also assess whether there have been any unintended consequences by that date and what should be done about them.

Compensatory Simplification measures

12. 4 The proposed legislation will provide simple and consistent arrangements for the reporting of family cases, repealing some old legislation in the process and introducing new consistent legislative framework governing the reporting of family courts.

Implementation and Delivery Plan

12. 5 The Bill will become enacted on the day specified by the Lord Chancellor by order made by statutory instrument. The court rules on the grey list of information will come into force once made by the Family Proceedings Rules Committee. The date

will be determined by the FPRC and the number of times the Committee will need to meet to discuss the proposed rule changes.

Communicating change

12. 6 The Ministry of Justice will work with organisations representing stakeholders who interact with the family justice system in order to agree how best the changes should be communicated to them. The Ministry of Justice will continue to provide information to family court users, updating its range of leaflets to reflect the new arrangements.

Annexes

Annex A

Summary of Current Reporting Restrictions

Reporting Restrictions - provision	Content	Penalty	Court to which restrictions apply	Proceedings to which restrictions apply
1. section 97(2) of the Children Act 1989	No person shall publish to the public at large or a section of the public any material which is intended, or likely, to identify – (a) any child as being involved in any proceedings before a court in which any power under the CA may be exercised; (b) an address or school as being that of a child involved in any such proceedings.	Section 97(6) – offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale (£1,000).	Fpc, cc and the HC	Applies to proceedings in which any power under the CA 89 may be exercised.

<p>2. section 12 of the Administration of Justice Act 1960</p>	<p>The publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in the following cases, that is to say- Where the proceedings (i) relate to the exercise of the inherent jurisdiction of the High Court with respect to minors; (ii) are brought under the Children Act 1989; or (iii) otherwise relate wholly or mainly to the maintenance or upbringing of a minor.</p>	<p>Criminal contempt is punishable by-</p> <ol style="list-style-type: none"> 1. Imprisonment (up to 2 years in superior court); 2. a fine – there is no statutory limit to the amount of a fine which a superior court can impose. 3. an injunction to restrain repetition of the act of contempt; 4. cost order (in addition to other punishment); 5. a hospital order or guardianship order, or an interim hospital order if the person committing the contempt is suffering from a mental illness or severe mental impairment – superior court has the same power as a crown court would have in the case of a person convicted of an offence. 	<p>Cc’s and the HC – if within (i) to (iii). If matter heard in private then fpc – starting point for fpc is restricted access – section 12 will not apply – but the magistrates can in certain circumstances opt to hear the matter in private – section 12 might apply if within (ii) or (iii).</p>	<p>Exact scope is unclear because it applies to proceedings which otherwise relate wholly or mainly to the maintenance or upbringing of a minor – this will depend on facts of a particular case.</p>
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<p>3. Section 1(1)(a) and (b) of the Judicial Proceedings (Regulation of Reports) Act 1926</p>	<p>It shall not be lawful to print or publish, or cause or procure to be printed or published-</p> <p>(a) in relation to any judicial proceedings any indecent matter or indecent medical, surgical or physiological details being matter or details the publication of which would be calculated to injure public morals;</p> <p>(b) in relation to any judicial proceedings for dissolution of marriage, for nullity of marriage, or for judicial separation, or for the dissolution or annulment of a civil partnership or for the separation of civil partners, any particulars other than the following, that is to say:-</p> <p>(i) the names, addresses and occupations of the parties and witnesses;</p> <p>(ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given;</p> <p>(iii) submissions on any point of law arising in the course of the proceedings, and the decision of the court thereon;</p> <p>(iv) the summing-up of the judge and the finding of the jury (if any) and the judgment of the court and observations made by the judge in giving judgment.</p>	<p>Offence – liable on summary conviction to imprisonment for a term not exceeding four months, or to a fine not exceeding level 5 on the standard scale (£2,000), or to both such imprisonment and fine – (Attorney General must sanction prosecution).</p>	<p>(b) The HC and cc's.</p>	<p>Divorce, nullity and judicial separation. Dissolution, nullity and separation orders under the Civil Partnership Act 2004.</p>
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<p>4. Section 39(1) of the Children and Young Persons Act 1933</p>	<p>In relation to any proceedings in any court...the court may direct that-</p> <p>(a) no newspaper report of the proceedings shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person [by or against] or in respect of whom the proceedings are taken, or as being a witness therein;</p> <p>no picture shall be published in any newspaper as being or including a picture of any child or young person so concerned in the proceedings;</p> <p>except in so far (if at all) as may be permitted by the direction of the court.</p>	<p>Any person who publishes any matter in contravention of any such direction shall on summary conviction be liable in respect of each offence to a fine not exceeding level 5 on the standard scale (£2,000).</p>	<p>In any court.</p>	<p>In any proceedings in which a child is concerned.</p>
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<p>5. Section 2 of the Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968</p>	<p>The following provisions of this section shall have effect with a view to preventing or restricting publicity for-</p> <p>(i) proceedings under section 22 of that Act (which relates to proceedings by a wife against her husband for maintenance), including any proceedings begun before the said commencement and carried out under that section and any proceedings for the discharge or variation of an order made or deemed to have been made under that section or for the temporary suspension of any provision of any such order of the revival of the operation of any provision so suspended;</p> <p>(ii) proceedings under section 27 of the Matrimonial Causes Act 1973 (which relates to proceedings by a wife against her husband, or by a husband against his wife, for financial provision) and any proceedings for the discharge or variation of any order made under that section or for the temporary suspension of any provision of any such order or the revival of the operation of any provision so suspended;</p> <p>(iii) proceedings under Part III of the FLA 1986 (declarations regarding status);</p> <p>(iv) proceedings under Part 9 of Schedule 5 to the Civil Partnership Act 2004;</p> <p>(v) proceedings under section 58 of the 2004 Act.</p> <p>Section 1(1)(b) of the Judicial Proceedings (Regulation of Reports) Act 1926 applied to proceedings listed above.</p>	<p>See box 3.</p>	<p>Fpc, cc and the HC – applications regarding declaration of parentage may be made to fpc (as well as cc and the HC); other proceedings listed cc and HC.</p>	<p>Proceedings listed in provision.</p>
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<p>6. Section 71 of the Magistrates' Courts Act 1980</p>	<p>In the case of family proceedings in a magistrates' court it shall not be lawful for a person-</p> <p>(a) to print or publish, or cause or procure to be printed or published, in a newspaper or periodical, or</p> <p>(b) to include, or cause or procure to be included, in a programme in programme service</p> <p>any particulars of the proceedings other than such particulars as are mentioned in subsection (1A) below.</p> <p>(1A) The particulars are-</p> <p>(a) the names, addresses and occupations of the parties and witnesses;</p> <p>(b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;</p> <p>(c) submissions on any point of law arising in the course of the proceedings and the decision of the court, and any observations made by the court in giving it. [subject to section 97(2) CA 89; also more restrictive for adoption]</p>	<p>Offence –liable on summary conviction to a fine not exceeding level 4 on the standard scale (£1,000). Consent of Attorney General required for prosecution.</p>	<p>fpc</p>	<p>Family proceedings as defined in section 65 of the Magistrates' Courts Act 1980.</p>
<p>7. Section 50 of the Child Support Act 1991</p>	<p>This makes it an offence for any person who is, or has been, employed in employment to which the section applies (subsection 5) to disclose information acquired during course of employment relating to a particular person with lawful authority.</p>	<p>Offence – on indictment liable to imprisonment for a term not exceeding two years or a fine or both; or</p> <p>On summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.</p>	<p>N/A</p>	<p>N/A</p>

8. Article 8	Where no statutory provisions apply it is possible to apply for a reporting restriction based on Article 8 alone. ³⁵	Contempt of court – 2 years imprisonment, no limit on fine.	The High Court.	All proceedings
9. Section 41 of the Criminal Justice Act 1925	No person shall- (a) take or attempt to take in any court any photograph, or with a view to publication make or attempt to make in any court any portrait or sketch, of any person, being a judge of the court or a juror or a witness in or a party to any proceedings before the court, whether civil or criminal; or (b) publish any photograph, portrait or sketch taken or made in contravention of the foregoing provisions of this section or any reproduction thereof; and if any person acts in contravention of this section he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding level 3 on the standard scale.	Fine – level 3 on the standard scale (£400).	All courts.	Civil or criminal proceedings
10. Section 9 of the Contempt of Court Act 1981	It is a contempt of court- (a) to use in court, or bring into court for use, any tape recorder or other instrument for recording sound, except with the permission of the court; or (b) to publish a recording of legal proceedings made by means of any such instrument, or any recording derived directly or indirectly from it, by playing it in the hearing of the public or any section of the public, or to dispose of it or any recording so derived, with a view to such publication.	See box 2. [If enforceable in mags then 1 month limit for imprisonment and £2,500 limit for fine].	All courts.	All proceedings.

³⁵ See President's Direction – Applications for Reporting Restriction Orders – [2005] Fam Law 398.

<p>11. Data Protection Act 1998 – Schedule 1 to the Act sets out the principles which must be applied to the processing of personal data.</p>	<p>This Act imposes requirements on “data controllers” – a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data ³⁶are, or are to, processed. This could be a newspaper editor for example. Schedule 1 to the Act sets out the principles which must be applied to the processing of personal data. For example, the first principle requires that personal data shall be processed fairly and lawfully and only provided that certain conditions are met. In the case of all data one of the conditions set out in Schedule 2 must be met e.g. The data subject has given his consent to the processing of the personal data. In the case of sensitive personal data³⁷ one of the conditions in Schedule 3 must also be met. Schedule 3 begins with the condition that “the data subject has given his explicit consent to the processing of the personal data”.</p>	<p>Compensation.</p> <p>Section 13 entitles, in specified circumstances, an individual who suffers damage or distress by reason of contravention of the Act to recover compensation.</p> <p>There is, however, an exemption in section 32 of the Act-</p> <p>(1) Personal data which are processed only for the special purposes are exempt from any provision to which this subsection relates if-(a) the processing is undertaken with a view to the publication by any person of any journalistic, literary or artistic material, (b) the data controller reasonably believes that, having regard in particular to the special importance of the public interest in freedom of expression, publication would be in the public interest, and (c) the data controller reasonably believes that, in all the circumstances, compliance with that provision is incompatible with the special purposes³⁸.</p>	<p>Only a county court and the High Court have jurisdiction to hear applications under section 13.</p>	<p>Applies to a data controller in respect of any data only if (1) the data controller is established in the UK and the data is processed in the context of that establishment; or (2) the data controller is established neither in the UK nor in any other EEA state but uses equipment in the UK for processing the data otherwise than for the purposes of transit through the UK.</p>
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³⁶ Personal data means data which relate to a living individual who can be identified –(a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

³⁷ Sensitive personal data means personal data consisting of information as to (a) the racial or ethnic origin of the data subject, (b) his political opinions, (c) his religious beliefs or other beliefs of a similar nature, (d) whether he is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992), (e) his physical or mental health or condition, (f) his sexual life, (g) the commission or alleged commission by him of any offence, or (h) any proceedings for

<p>10. Rule 10.20A of the Family Proceedings Rules 1991 and rule 23A of the Family Proceedings Courts (Children Act 1989) Rules 1991</p>	<p>Court may give permission to disclose information relating to proceedings in private – Under the Children Act 1989; Under the inherent jurisdiction of the High Court relating to a minor; Otherwise relate wholly or mainly to the maintenance or upbringing of a minor.</p>	<p>This rule in itself is not a restriction – but if an order is not complied with then this may be a contempt. See box 2.</p>	<p>Fpc, cc and the HC.</p>	<p>Same as section 12 of the Administration of Justice Act 1960.</p>
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any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings”.

³⁸ Special purposes defined in section 3 – purposes of journalism, artistic purposes, literary purposes.

<p>11. Duty of confidentiality</p>	<p>Almost every aspect of private life may be covered by obligations of confidence, provided that the basic requirements for protection are present and no rules of law or public policy are infringed. The basic requirements for protection are that the information is of limited availability and is of a specific character (i.e. possible to point to a definite source). A duty of confidence arises whenever the party subject to the duty is in a situation where he either knew or ought to have known that the other person could reasonably expect his privacy to be protected. There is no requirement for a prior relationship to exist between the parties. The Court of Appeal have said that this tort would be better described as the misuse of private information rather than the breach of confidential information. Certain kinds of information about a person, such as information relating to health, personal relationships, or finances, may be easy to identify as private. Third parties who acquire by underhand, dishonest or improper means information which they know or ought to know is subject to protected confidence may also be sued (e.g. a newspaper).</p>	<p>There are a number of remedies available – including interim and final injunctions restraining disclosure of information, damages, and orders for delivery up and destruction of documents.</p>	<p>All courts.</p>	<p>Can apply to information disclosed in court proceedings – depends on the extent of the disclosure and the private nature of the information. Could apply to information disclosed in family proceedings if held in private.</p>
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<p>12. Common law - contempt [wider than section 1 of Contempt of Court Act 1981 -below and therefore still relevant]</p>	<p>Contempt for publications to interfere with the administration of justice. Distinction with section 1 of Contempt of Court Act below: 1. Applies to publications which intend to interfere with administration of justice; and 2. may still amount to contempt at common law on the basis that publication may interfere with the administration of justice as a continuing process rather than in particular proceedings – e.g. trial by newspaper before outcome of case caught by the common law – not necessarily by section 1. 3. publications which put pressure on parties to proceedings to persuade them to abandon the proceedings, settle upon certain terms or otherwise act in a particular way in relation to the proceedings – may be a contempt (AG v Hislop³⁹). NB – The general principle in common law is that there is immunity from contempt for fair and accurate reports, published contemporaneously and in good faith, of proceedings heard in open court.</p>	<p>Punishable by imprisonment for a term not exceeding two years; or a fine (no statutory limit for superior court - £2,500 for inferior court); Order to give security for good behaviour; Injunction against repetition of the act of contempt.</p>	<p>All courts.</p>	<p>All proceedings.</p>
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³⁹ [1991] 1 QB 514.

<p>13. Section 1 of the Contempt of Court Act 1981</p>	<p>Conduct may be treated as a contempt of court as tending to interfere with the course of justice in particular legal proceedings regardless of intent to do so.</p> <p>Section 2(1) – limits section 1 to publications addressed to the public at large or any section of the public.</p> <p>Section 2(2) – publications can only constitute a contempt under the strict liability rule if they create a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced.</p> <p>Section 2(3) – section 1 only applies to a publication if the proceedings in question are active.</p> <p>Section 6(c) – restricts section 1 to unintentional contempts (these are still covered by the common law);</p> <p>Section 5 qualifies section 1 – a publication made as or as part of a discussion in good faith of public affairs or other matters of general public interest is not to be treated as a contempt of court ... if the risk of impediment or prejudice to particular legal proceedings is merely incidental to the discussion.</p>	<p>Punishable by imprisonment for a term not exceeding two years; or a fine (no statutory limit for superior court - £2,500 for inferior court);</p> <p>Superior court has the power to make a hospital order or guardianship order in the case of a person suffering from mental illness who could otherwise be committed prison for contempt.</p>	<p>All courts</p>	<p>Only applies to proceedings which are “active”.</p>
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Summary of section 12 of the Administration of Justice Act 1960 provided by (Mr Justice Munby in the case of Re B)

Re B defined what reporting S12 did not prohibit as:

(1) Events in the lives of the children which are already in the public domain, or which do not relate to the proceedings, can be the subject of publication.

(2) Certain material, which might well qualify in a loose sense as information relating to the proceedings, can be published:

(a) the fact, if it be the case, that a child is a ward of court and is the subject of wardship proceedings or that a child is the subject of residence or other proceedings under the Children Act 1989 or of proceedings relating wholly or mainly to his maintenance or upbringing ...;

(b) the name, address or photograph of such a child as is mentioned in (a).. ; (but this needs to be read in connection with s.97(2) Children Act 1989 which prohibits the identity or any other information that is likely to identify a child as being involved in proceedings from being published).

(c) the name, address or photograph of the parties (or, if the child is a party, the other parties) to such proceedings as are mentioned in

(a) (again this needs to be read in light of section 97(2) Children Act 1989);

(d) the date, time or place of a past or future hearing of such proceedings ... ;

(e) the nature of the dispute in such proceedings ... ;

(f) anything which has been seen or heard by a person conducting himself lawfully in the public corridor or other public precincts outside the court in which the hearing in private is taking place ... ; and

(g) the text or summary of the whole or part of any order made in such proceedings ... "

(3) The identification of witnesses: including the bare fact that an identified witness has given evidence for, or against, a particular party to the proceedings.

(4) So far as the nature of the dispute is concerned, it would, for example, be permissible to report identifying the issues in a case as being whether the mother suffered from Munchausen's Syndrome by Proxy and whether she had killed (or attempted to kill) her child(ren) by, for instance, smothering or poisoning, and to identify the various medical experts who have given evidence in relation to those issues, and to state which of the parties each expert has given evidence for or against.

Re B also defined what S12 did prohibit as:

- a) what went on in front of the judge (substance)
- b) documents, transcripts or notes of the evidence,
- c) transcripts or notes of the judgement.