

**Assessments relating to
people with learning
difficulties
Guidance to Local
Authorities**

Analysis of consultation responses

**DCSF
November 2009**

Background

1. The Education and Skills Act 2008 inserted Sections 139A to 139C into the Learning and Skills Act 2000 which placed a statutory responsibility on local authorities in relation to assessments relating to learning difficulties. These assessments were previously carried out by Connexions services on behalf of the Secretary of State under Section 140 of the Learning and Skills Act 2000. Section 140 no longer applies in England.
2. The Education and Skills Act 2008 section 80 (7) states that “in exercising its functions under this section, an authority must have regard to any guidance issued by the Secretary of State”. The purpose of this consultation was to seek views on the draft statutory guidance.

Analysis of Responses

3. The consultation ran from 23 April to 16 July 2009. A total of 70 responses were received. The organisational breakdown of respondents is as follows:

Local Authority	26
Other public body	4
Other Government Department	1
Private organisation	1
Other*	38

*Respondents in the ‘other’ category included Connexions companies, voluntary organisations and those that did not specify a respondent type.

A list of the respondents is included at Annex A.

4. A summary of responses to each question is provided below. The percentages are expressed as a measure of those answering each question, not as a measure of all respondents.

Q1 Is the definition of an assessment in Section 2 clear?

There were 58 responses to this question.

Yes	32 (55%)
No	17 (29%)
Not sure	9 (16%)

The majority of respondents said that they thought the definition of an assessment was clear. Some said that more clarification was needed on the ruling in the case of *Alloway v London Borough of Bromley* and others felt that the guidance would benefit from examples of completed assessments.

Action taken following consultation: The ruling in the case of Alloway v London Borough of Bromley has been clarified. Cases studies and an example of good quality assessment have been added to the guidance.

Q2 Does the guidance provide a clear definition of the “duty group”?

There were 57 responses to this question.

Yes	45 (79%)
No	7 (12%)
Not sure	5 (9%)

The vast majority of respondents said that they thought the definition of the “duty group” was clear. A small number suggested minor drafting changes.

Action taken following consultation: Minor drafting changes to help with clarity.

Q3 Does the guidance provide a clear definition of the “power group”?

There were 56 responses to this question

Yes	29 (52%)
No	20 (36%)
Not sure	7 (13%)

The majority of respondents said that they thought the definition of the “power group” was clear. Some asked for greater clarity around the position of School Action and School Action Plus.

Action taken following consultation: Minor drafting changes to help with clarity.

Q4 Does the guidance make clear which local authority is responsible for carrying out assessments?

There were 56 responses to this question

Yes	41 (73%)
No	7 (13%)
Not sure	8 (14%)

The vast majority of respondents said that they thought the guidance was clear about which local authority was responsible for carrying out an assessment. Some asked for clarity around the position on home/host arrangements.

Action taken following consultation: Guidance has been added to cover home/host arrangements.

Q5 Is the guidance clear on how the assessment should be carried out?

There were 55 responses to this question

Yes	18 (33%)
No	29 (53%)
Not sure	8 (15%)

The majority of respondents said that the guidance needed to be clearer on how the assessment should be carried out. In particular, more clarity was sought on the level of skills needed to carry out assessments and a number of respondents again commented on the need for case studies and examples of completed assessments.

Action taken following consultation: The guidance has been amended to clarify the requirements for those people undertaking assessments in terms of qualifications and training. As mentioned earlier in this report, case studies and an example of a completed assessment have been added to the guidance.

Q6 Is the guidance clear about how other agencies should contribute to the assessment?

There were 57 responses to this question

Yes	33 (58%)
No	18 (32%)
Not sure	6 (11%)

The majority of respondents said that that the guidance was clear about how other agencies should contribute to the assessment. Some commented that the guidance would benefit from a case study on multi-agency working.

Action taken following consultation: A case study demonstrating multi-agency working has been added to the guidance.

Q7 Is the guidance clear about how the assessment should be carried out in order to comply with the law?

There were 56 responses to this question

Yes	28 (50%)
No	18 (32%)
Not sure	10 (18%)

Half of respondents said that that the guidance was clear about how assessments should be carried out to comply with the law. Some mentioned the need for quality assurance systems and for transport/travel needs to be taken into account.

Action taken following consultation: The guidance has been amended to state that it would

be good practice to ensure that assessment reports are subject to robust quality assurance systems and a case study has been included on this. The need for transport/travel needs to be taken into account has also been included.

Q8 Is the strategic planning context included at Annex 1 clear?

There were 56 responses to this question

Yes	33 (59%)
No	14 (25%)
Not sure	9 (16%)

The majority of respondents said that the strategic planning context included at Annex 1 was clear.

Action taken following consultation: As the majority of respondents said that the Annex was clear and helpful it has been retained as an example of a possible approach to strategic planning.

Q9a Annex 2 provides examples of possible scenarios and the approach to take. Are these clear?

There were 56 responses to this question

Yes	45 (80%)
No	6 (11%)
Not sure	5 (9%)

The vast majority of respondents said that the examples included at Annex 2 were clear. A small number requested more clarity on some of the examples.

Action taken following consultation: Minor drafting changes to help with clarity.

Q9b Do you think any other scenarios should be included?

There were 51 responses to this question

Yes	22 (43%)
No	17 (33%)
Not sure	12 (24%)

The response to this question was mixed.

Action taken following consultation: Having re-worded some of the existing examples and added case studies and an example of an assessment, it was not considered necessary to add more scenarios to Annex 2.

Q10 Annex 3 provides information in relation to specialist residential colleges. Is it helpful?

There were 54 responses to this question

Yes	26 (48%)
No	19 (35%)
Not sure	9 (17%)

The response to this question was mixed although a significant number did comment that the example included was outdated.

Action taken following consultation: An updated example of an assessment has been added to the guidance.

Other issues raised

The consultation period coincided with an intense period of scrutiny in the House of Lords of the Apprenticeship, Children, Skills and Learning (ACSL) Bill, now an Act. Many responses to the consultation reflected concerns at the time about how local authorities' new duties and powers would operate. We felt it was appropriate to issue new guidance which stated clearly what the changes would be from April 2010 when the Act becomes law, and which took into account various clarifications requested, and commitments made, from the consultation and during the passage of the ACSL Bill. New areas of guidance will include the s139 (A) assessment in relation to offenders, assessment at 19 and beyond and most importantly the local authority role in commissioning assessment and providing continuity of provision and support. We expect to publish this new guidance in Spring 2010 following further discussions with local authorities and stakeholders.

List of Respondents

Note: This list does not include those that asked for their response to be treated as confidential.

Association of Directors of Children's Services
Afasic
Association of National Specialist Colleges
Association of School and College Leaders
BATOD
Borough of Poole Local Authority
British Psychological Society
Buckinghamshire County Council
Careers South West
Central London Connexions
Centre for Studies of Inclusive Education
CfBT
City of York LA
Connexions Berkshire
Connexions Cumbria
Connexions Derbyshire
Connexions Leicestershire
Connexions Northamptonshire
Connexions West of England
Council for Disabled Children
Doncaster LA
Dorset County Council
Education Leeds
Hampshire County Council
Hull City Council
Independent Panel for Special Education Advice

Institute of Career Guidance
Kent County Council
Leicester City Council
Local Government Association
Learning and Skills Council
Luton Borough Council
Mencap
NASS
NASUWT
National Deaf Children's Society
National Strategies
Ofsted
Oxfordshire County Council
Peterborough City Council
Prospects Service Ltd
Royal College of Psychiatrists
Royal National College
Rural 14-19 Access to Learning Group
Ruskin Mill Educational Trust
Sheffield City Council
Sheffield City Council
Sheffield College
Sheffield Futures / Connexions / Youth Work
Skill: National Bureau for Students with Disabilities
Somerset County Council
South East Region's Strategic Transition to Adulthood Group
Southampton City Council
Special Educational Consortium
Stockport MBC
Stoke-on-Trent City Council
Surrey County Council
TreeHouse

University of London

Warwickshire County Council

West Sussex LA

Whitstone Head School

Wolverhampton Transition Board for Young People with Disabilities
