



Department
for Education

Consultation on improving safeguarding for looked after children: changes to the Care Planning, Placement and Case Review (England) Regulations 2010

Government response

January 2014

Contents

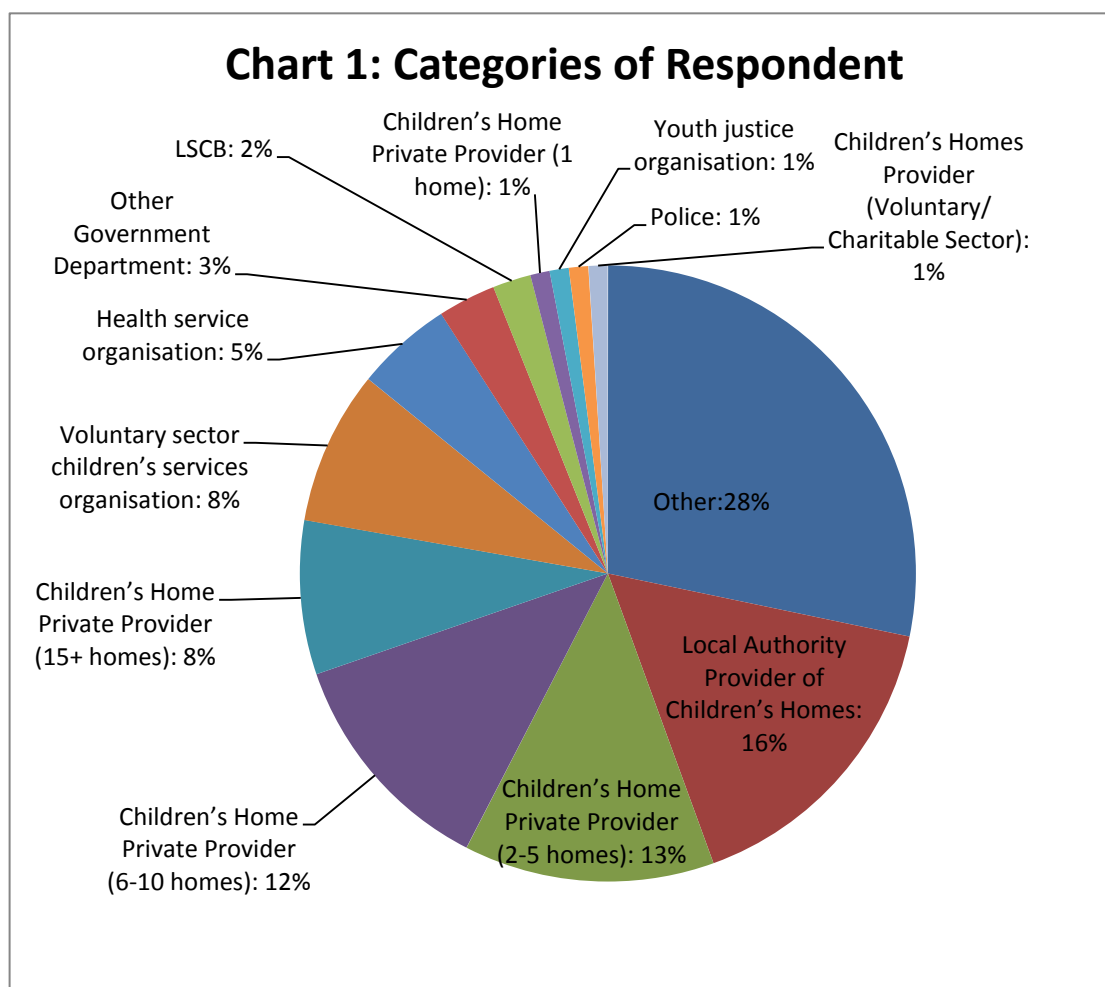
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Introduction

1. This document presents the outcome of the Government's consultation on proposed amendments to the Care Planning, Placement and Case Review (England) Regulations 2010 (the "Care Planning Regulations") to strengthen safeguards for looked after children in distant out of authority placements.
2. In response to the Report of the Office of the Children's Commissioner's inquiry into child sexual exploitation in gangs and groups, and the All Party Parliamentary Group joint inquiry report on children who go missing from care, Ministers established three expert groups - the Task and Finish Group on Out of Area Placements, the Expert Group on Quality and the Data Working Group. The last of these reports was published on 23 April 2013. The Government then moved to consult on a number of proposals arising from these reports.
3. The consultation's main proposals were to amend the Care Planning Regulations to require:
 - that a decision to place a child in a distant out of authority placement must be approved by the Director of Children's Services (DCS) rather than by a 'nominated officer';
 - that placing local authorities must consult with the local authority where the child will be placed, prior to placement;
 - that a review of a child's care plan must take place if there is evidence that the child is at risk, e.g. if they are persistently absent from their placement or there are significant safeguarding concerns; and
 - that the DCS must approve a decision that the local authority will cease looking after a 16 or 17 year old, who has been accommodated under s.20 of the Children Act 1989.
4. The consultation took place from 25th June to 17th September 2013. This included a pre-consultation event with key stakeholders, an online consultation, small working groups and four face to face consultation events with a range of interested parties. The events and meetings were held in London, Manchester and Coventry with 260 people attending face to face meetings in total.

Summary of responses received

5. There were 135 responses to the consultation. Chart 1 provides a break-down of the categories of respondents.



6. In the consultation, respondents self-selected a category which best described the organisation that they were responding on behalf of, or that they worked within. These categories were;

- Children's homes private provider (1 Home)
- Children's homes private provider (2-5 Homes)
- Children's homes private provider (6-10 Homes)
- Children's homes private provider (11-14 Homes)
- Children's homes private provider (15+ Homes)
- Local authority provider of children's homes
- Children's homes provider (voluntary / charitable sector)
- Voluntary sector children's services organisation

- Health service organisation
 - Local Safeguarding Children Board (LSCB)
 - Youth Justice Organisation
 - Police
 - Other national bodies
 - Other
7. The largest single category of respondents was 'other'. This category included representative organisations such as the Association of Directors of Children's Services (ADCS), the Local Government Association (LGA), the British Association of Social Workers (BASW), the Office of the Children's Commissioner and Ofsted as well as responses from individuals.
8. For the purposes of analysis, these 14 respondent categories were further grouped as follows:
- a. Children's Homes Private Providers (includes private providers of all sizes).
 - b. Voluntary Sector Children's Services Organisations (includes children's charities as well as voluntary sector children's homes providers).
 - c. Local Authority Providers of Children's Homes.
 - d. Organisations providing services for children – (police, health, youth offending teams, LSCB).
 - e. Other national bodies (e.g. the Youth Justice Board and Government Departments).
 - f. Other respondents (see paragraph 7 for further information).
9. Twenty six very similar responses were received from private providers of children's homes who were members of the Independent Children's Homes Association (ICHA). ICHA has a large membership of private and charitable children's homes organisations. As these responses made up a significant portion of the whole consultation (23%), in certain cases the analysis presents the views of this group separately.

Question 1: Do you accept that amendments are required to the Care Planning Regulations, to improve information sharing between placing authorities and area authorities to effectively safeguard and promote the welfare of looked after children placed in distant out of authority placements?

10. There were 133 responses to this question.

Table Q1a -All respondents

	Yes	No	Not Sure
All Respondents	82 (62%)	39 (29%)	12 (9%)

Table Q1b – Respondent breakdown

	Children's Home Private Providers	Voluntary sector children's services organisation	Local Authority Provider of Children's Homes	Local organisation providing services for children – (Police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	12	11	18	13	3	24
No	32	0	0	1	0	7
Not Sure	2	1	3	0	1	5

11. **62% (82) of respondents agreed that amendments are required to the Care Planning Regulations, to improve information sharing between placing authorities and area authorities to effectively safeguard and promote the welfare of looked after children placed in distant out of authority placements. There was strong support for this proposal from local authorities, organisations providing services for children and voluntary organisations. 'Other' respondents also supported this proposal (24 out of 36 responding 'yes').**

12. 29% (39) of respondents did not agree with this proposal. The largest group who disagreed with this proposal were private children's homes providers. 26 of the 32 'no' responses were from private provider members of ICHA. 7 "other" respondents did not support this proposal.

13. Interestingly, very similar comments were received from respondents who answered positively and negatively to this question. There appeared to be a consensus that wider change was required in the overall approach to caring for very vulnerable looked after children, who were often the group that relied on distant out of authority placements.

“... Just because the regulations are being changed doesn't automatically mean a change in practice.” (‘Other’ respondent) and

“[We]... strongly believe that to effectively safeguard and protect children in care any changes in information sharing between local authorities need to be underpinned with changes in professionals’ attitudes to children and by ensuring that children’s needs and experiences are central to child protection responses and processes as recommended by the Munro review of child protection” (‘Other’ respondent)

Question 2: Do you agree with our proposal to amend Regulation 11 of the Care Planning Regulations so that the decision to place a child in a distant out of authority placement has to be approved by the responsible authority’s Director of Children’s Services (DCS)?

14. There were 131 responses to this question.

Table Q2a: All respondents

	Yes	No	Not Sure
All Respondents	50 (38%)	63 (48%)	18(14%)

Table Q2b: Respondent breakdown

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children – (Police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	7	9	7	10	2	15
No	33	1	13	1	2	13
Not Sure	6	2	0	2	0	8

15. **38% (50) of respondents agreed with the proposal that the decision to place a child in a distant out of authority placement has to be approved by the responsible authority’s DCS. The majority of organisations providing services for children and voluntary sector organisations supported this proposal (10 out of 13). 15 ‘other’ respondents also supported this proposal.**

16. 48% (63) of respondents did not agree with this proposal including private children’s homes providers and local authorities. The largest group of ‘no’ respondents was private

children's homes providers with 26 of the 33 'no' responses coming from provider members of ICHA. 13 'other' respondents also disagreed with this proposal.

17. 14% (18) respondents were 'not sure' about this proposal. 14 of the unsure respondents were private providers or 'other' respondents.

18. Respondents' concerns appeared to centre on whether the DCS had the personal capacity to carry out this function in a timely manner.

"In theory this works as it means there is a chain of responsibility, but clearly there will be a procedural issues if the DCS choses to delegate due to workload or not being around. Consistency needs to be maintained". ('Other' respondent)

19. Young people felt that oversight by the DCS was potentially positive but the actual placement decision needed to be made by someone who really knew them personally.

20. Respondents also requested clarity on whether this role could be delegated and, if so, to whom:

"In reality this may end up as a delegated responsibility so revisions must be clear about expectations in this respect and the circumstances for any delegation". ('Other' respondent)

Question 3: We do not want to place a barrier to a child being placed in an adjacent authority that may remain close to the child’s community or be even closer than a placement within the same authority dependent on borders. Therefore we would value your views as to how “distance” should be defined in this context.

21. The consultation asked respondents whether the definition of ‘distance’ should be based on mileage from the child’s home address (20/25+ miles); travelling time or on some other formula – e.g. where a child is placed within a region of neighbouring LAs (where information is shared and resources are pooled) they would be deemed to be in a “local” placement.

22. There were 111 responses to this question.

Table Q3a: All respondents

	Travel time	Miles	Other
All Respondents	21 (19%)	18 (16%)	72 (65%)

Table Q3b: Respondent breakdown

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children – (police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Based on mileage from the child’s home address	3	0	4	4	1	6
Travelling time	4	4	3	2	0	8
Other formula	33	4	11	5	2	17

23. **65% (72) of respondents stated that the definition of distance should be based on a formula other than that of distance or travelling time. Private children’s homes providers strongly supported using ‘other’ formula to define distance.**

Question 4: Do you agree with the proposal that area authorities must be consulted before the DCS can approve a decision to place a child in a distant out of authority placement?

24. There were 133 responses to this question.

Table Q4a: All respondents

	Yes	No	Not Sure
All Respondents	59 (44%)	54 (41%)	20 (15%)

Table Q4b: Respondent breakdown

	Children's Home Private Providers	Voluntary sector children's services organisation	Local Authority Provider of Children's Homes	Local organisation providing services for children – (Police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	5	9	11	14	2	18
No	37	1	5	0	1	10
Not Sure	4	2	5	0	1	8

25. **44% (59) of respondents agreed with the proposal that area authorities must be consulted before the DCS can approve a decision to place a child in a distant out of authority placement. All local organisations providing services for children agreed with this proposal. The majority of voluntary organisations and local authority respondents also supported this.**

“Yes - only the local authority will know what services and opportunities will be available for the young person. In order to truly assess whether the placement is right you need detailed knowledge of the local area”. (Voluntary organisation)

26. 41% (54) of respondents did not agree with this proposal. The largest group of respondents who disagreed with this proposal were private children's homes providers. 26 of the 37 'no' responses were from private provider members of ICHA. 10 'other' respondents did not support this proposal.

27. 15% (20) of respondents were 'not sure' about this proposal.

28. Generally, those who did not agree or who were 'not sure' about the proposal needed further information about what the consultation process would involve and which agencies would be consulted. Concerns were expressed that a consultation process

would 'slow down' placement decisions resulting in vulnerable children sometimes being left in inappropriate placements. Concerns were raised by private providers about the consistency of the consultation process. They worried that their organisation may be treated unfairly and that the process would not be transparent.

"Our fear is that this will introduce an unnecessary level of bureaucracy that will be slow to respond and be inconsistent in its decisions. Experience has shown us that some authorities will be fluid and competent and others not." (Private provider respondent)

29. We reviewed the consultation outcomes in meetings with LAs, private providers, ICHA and the voluntary sector. During this process, there was a recognition of the value of the placing authorities seeking and exchanging information with area authorities. Concerns were raised that a requirement to 'consult' implied that the area authority might be able to "veto" the placement decision of the authority responsible for the child's care.

Question 5: When a placement has to be made in an emergency, what should be the minimum expectation for consultation with the area authority?

30. 111 responses were received in free text format.
31. Responses included suggestions of a timescale within which the consultation should be undertaken; 'within 24 hours' (7) '48 hours' (1) '72 hours' (7) '3-5 days' (1) '5 days' (5) '7 days' (4) and '10 days' (1).
32. Suggestions also included; 'carry out notification with consultation to follow' (9); LA should thoroughly research area on internet (2); discussion on phone with key professionals – children's services and the police (6); registered manager and social worker to consult (1).
33. Private provider members of ICHA stated; *"If the information is accurate and agreed, then it can be communicated in all circumstances"*.

Question 6: Apart from that listed in section 3.5 of the consultation document, what additional arrangements (if any) will area authorities and placing authorities need to have in place so that there is a meaningful and constructive consultation between authorities when an out of authority placement is being considered? For example, a named contact or dedicated mailbox to alert authorities of incoming placements.

34. We consulted on clarifying in regulations that the child's care plan should be shared with the area authority at the consultation stage. The objective of this proposal was to enable full discussion about whether a proposed distant out of authority placement was the most appropriate placement, that would meet the child's needs as specified in their care plan.
35. 116 responses to this question were received in free text format. Responses included suggestions such as - have a named contact and / or dedicated inbox (52); a post with wider responsibilities which could include communication with providers and feeding back to providers on enquiries made and answers (26); a local or national protocol or approach (8); LAs to hold 'pen pictures' of all provision and profiling local areas (4); include provider in discussion (2); national portal or web site of contacts (2).
36. There were many comments outlining the difficulties that would need to be addressed to make a system of consultation work effectively.
37. *"..it is essential that the contact in the area authority is well informed about local safeguarding issues including 'soft information' that may be current and sensitive. They will also need to have a good understanding of the range of placement provision within their geographical area."* ('Other' respondent)

Question 7: Apart from local children’s services, are there other services that should be consulted prior to the DCS being able to approve the placement of a looked after child in a distant out of authority placement – e.g. local health services; the virtual head teacher; local youth justice services.

38. There were 114 responses to this question.

Table Q7a: All respondents

	Health	Youth Justice	Virtual School head	Other
All Respondents	88 (77%)	83 (73%)	80 (70%)	79 (69%)

Table Q7b: Respondent breakdown

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children – (Police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Local Health Service	39	7	10	10	0	22
VSH	35	7	10	6	0	22
Local Youth Justice service	40	5	10	8	1	19
Other	34	6	12	6	0	21

39. **Over 70% of respondents agreed that the professionals named in the question; health services, virtual school heads and local youth justice services respectively should be consulted prior to the DCS being able to approve the placement of a looked after child in a distant out of authority placement.**

40. 69% (79) of respondents commented that there were other services that should also be consulted before placing a child at a distance. Suggestions were made in free text as to which other services should be consulted. Some respondents mentioned more than one service. Police / Child Sexual Exploitation / Missing persons co-ordinator (19), Child and

Adolescent Mental Health Services (CAMHS) (11), those mentioned in the placement plan / in best interest of the child (9), Youth Offending Teams (7), LSCBs (4), independent visitor or advocate (2), post 16 training (2), GP (2), Leaving Care Service (1), Adult Services (1), child themselves (1).

41. Comments, though, indicated an understanding that it would be unlikely that local authorities could in reality secure consultation with such a wide variety of services.
42. 26 responses repeated their response to the previous question that a post was required in some authorities with wider responsibilities than described by the consultation document. Such a role might include communicating with providers and maintaining and sharing information with them.

Question 8: Would any of the proposals in Questions 1 to 7 of the consultation incur any new resource requirements for your organisation? If your answer is ‘Yes’ – please describe the additional resources involved.

43. There were 116 responses to this question.

Table Q8a: All respondents

	Yes	No	Not Sure
All Respondents	76 (65%)	22 (19%)	18 (16%)

Table Q8b: Respondents breakdown

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children – (Police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	37	1	15	5	2	16
No	5	6	1	4	2	4
Not Sure	4	1	4	3	0	6

44. **65% (76) of respondents felt that the proposals would incur additional resources for their organisation, although no respondent included any estimates about the time, cost or resource implications.**

45. Alongside our consultation we carried out a full new burdens assessment for Local Authorities.

Question 9: Do you agree that arrangements for notifications should be strengthened as outlined in section 4 of the consultation document so that they include specific regulatory requirements as to the information (which includes the care plan for the child concerned) that must be provided to the area authority by the placing authority?

46. There were 127 responses to this question.

Table 9a: All respondents

	Yes	No	Not Sure
All Respondents	103 (81%)	5 (4%)	19 (15%)

Table 9b: Breakdown of respondents

	Children's Home Private Providers	Voluntary sector children's services organisation	Local Authority Provider of Children's Homes	Local organisation providing services for children – (police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	43	9	12	12	1	26
No	1	0	2	0	0	2
Not Sure	2	2	6	0	3	6

47. In section 4.1 of the consultation document, we proposed to amend Regulation 13 to specify that the information that must be included in a notification from placing authorities to area authorities would be:

- a. The child's care plan (if this has not already been provided as part of the consultation in a 'distance' placement) giving details of the responsible authority's assessment of the child's needs and the reasons why the placement in the area authority was the most suitable for responding to these. This would also include details of the child's education and health needs and how the placing authority expects these to be met whilst the child is placed out of area.
- b. Whether the child was subject to youth justice supervision requirements that will need to be delivered by Youth Offending Services in the area authority.

48. 81% (103) respondents supported this proposal. There was strong support for this proposal from private children's homes providers, local organisations

providing services for children, voluntary organisations and from 'other' respondents. 12 local authority respondents also supported this proposal.

49. 15% (19) of respondents were 'not sure' about this proposal. 6 local authorities and 6 'other' respondents were uncertain about this proposal.

50. Concerns about this proposal were centred on data protection issues and the sensitive nature of the information contained within many care plans. There were concerns that this proposal might lead to a much wider sharing of care plans and would increase the risk of plans being stored inappropriately. There was also a concern that if the area authority only held the version shared with them at consultation stage plans would quickly become outdated.

Question 10: Do you agree that Schedule 2 of the Care Planning Regulations should be amended so that the provider’s strategy for keeping the child safe must usually be included as a significant feature of the Placement Plan for a looked after child?

51. There were 126 responses to this question.

Table 10a: All respondents

	Yes	No	Not Sure
All Respondents	87 (69%)	36 (29%)	3 (2%)

Table 10b: Breakdown of respondents

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children – (police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	15	11	17	13	4	26
No	30	0	1	0	0	6
Not Sure	0	0	3	0	0	0

52. **69% (87) of respondents agreed that Schedule 2 should be amended so that the provider’s strategy for keeping the child safe must usually be included as a significant feature of the Placement Plan for a looked after child. There was strong support for this proposal amongst voluntary sector organisations, organisations providing services for children and other national bodies. A high number of local authorities and ‘other’ respondents also supported this proposal.**

53. 29% (36) of respondents did not agree with this proposal. The largest group who disagreed with this proposal were private providers, who whilst not necessarily disagreeing with the intention behind what was proposed, questioned the need for this. 26 of the 36 ‘no’ responses were from private provider members of ICHA, they stated:

“Another form and assessment is not needed. The emphasis here is being given to providers? In which case... risk assessments that are the active document, are already required and receive regular reviews and updates, some daily. These can effectively be included into Care and Placement planning and are the responsibility of the Local Authority”.

One LA respondent stated:

“Amendments to regulations should not be required. The care plan and the placement plan for the child should already consider safeguarding risks and mitigations, as agreed with the placement provider and other agencies as necessary”.

Question 11: Do you agree that a review meeting should be convened in circumstances where any or all of those listed below request that a review is needed, in response to concerns that a child is at risk in their placement?

54. The responsible authority has a statutory duty to review the case of a looked after child and is required to have a written policy about review arrangements that provides for the full participation of the child and, usually, their parents and carers. A review should take place as often as the circumstances of the case require. We consulted on amending Regulation 33(3) of the Care Planning Regulations to make it explicit that the responsible authority should carry out a review when contacted by the area authority, by the registered manager of a children’s home, a foster carer, or by a parent, where there has been a serious incident that raises concerns for the child’s safety.

55. There were 130 responses to this question.

Table Q11a: All respondents

	Yes	No	Not Sure
All Respondents	113 (87%)	13 (10%)	4 (3%)

Table Q11b: Respondent breakdown

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children –(police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	45	11	14	12	4	27
No	0	0	5	1	0	7
Not Sure	1	0	2	0	0	1

56. **87% (113) of respondents supported the proposal to clarify in regulations that a review meeting can be convened by the registered manager of a children’s home, a foster carer, or by a parent, in circumstances where there are concerns that a child is at risk in their placement.**

57. There was strong support for this proposal from private children’s homes providers, voluntary sector organisations, organisations providing services for children and other national bodies. 14 local authorities and 27 ‘other’ respondents also supported this proposal.

Question 12: Do you agree that Schedule 7 of the Care Planning Regulations should be amended as outlined in 6.4 of the consultation document?

58. There were 119 responses to this question.

Table 12a: All respondents

	Yes	No	Not Sure
All Respondents	77 (65%)	39 (32%)	3 (3%)

Table 12b: Breakdown of respondents

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children – (police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	14	8	17	14	3	21
No	32	0	1	0	0	7
Not Sure	0	0	1	0	0	2

59. **65% (77) of respondents agreed that Schedule 7 of the Care Planning Regulations should be amended to describe the considerations that the responsible authority must take into account when reviewing a child’s care plan . There was strong support for this proposal amongst local authority providers, voluntary sector organisations, organisations providing services for looked after children and other national bodies.**

“We support ... the review meeting ...address[ing] the question as to whether the child is being effectively safeguarded. We would expect this in line with good practice and would not object to having this as a specific requirement.” (LA respondent)

60. 32% (39) of respondents did not support this proposal. The largest group who did not agree with this proposal were private providers. 26 of the 39 ‘no’ responses were from private provider members of ICHA.

61. Three people who disagreed or were not sure indicated that in their view this was unnecessary as the requirement should already be in place, as part of the review process. Private provider members of ICHA stated:

“There is insufficient detail as to how this is to be assessed. All parties should be using the same methods in all placement types, including family based options. Should this be seen as necessary, there will need to be new guidance that can establish unequivocal consensus.” (Private provider respondents)

Question 13: Do you agree with the proposal that DCS should approve and sign off the pathway plans for voluntarily accommodated 16 and 17 year olds whenever there is a proposal for them to leave care?

62. There were 125 responses to this question.

Table 13a: All respondents

	Yes	No	Not Sure
All Respondents	84 (67%)	22 (18%)	19 (15%)

Table 13b: Breakdown of respondents

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children – (police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	42	8	4	8	2	20
No	0	1	12	2	0	7
Not Sure	4	1	4	2	2	6

63. **67% (84) respondents agreed that DCSs should approve and sign off the pathway plans for voluntarily accommodated 16 and 17 year olds whenever there is a proposal for them to leave care. There was strong support among private providers and voluntary sector organisations. Organisations providing services for children and ‘other’ respondents also supported this proposal.**

“We have a very pro-active DCS who regularly undertakes monthly case file audits as part of our Quality Assurance process. We note that some young people voluntarily accommodated advocate strongly for their right to leave care at 16 or 17 years of age.

Nevertheless due to our strong corporate parenting approach, it would not prove to be onerous for the DCS to review, approve and sign off pertinent pathway plans..." (LA respondent)

64. 18% (22) of respondents disagreed with this proposal. Some of the issues raised were similar to those mentioned by respondents to Question 2. The largest group who disagreed with this proposal were local authorities (12 out of 20 responded 'No'). 7 "Other" respondents also disagreed. The main concerns cited were whether the DCS would be the most appropriate person to sign off this decision.

"DCSs are strategic posts and should not be drawn into individual cases. Begs the question, what if the DCS disagrees with the YP's stated wishes to leave care?" (LA respondent)

Question 14: Do you agree that such a change in legislation would help prevent young people leaving care prematurely, so that they only cease to be looked after once they have been properly prepared and provided with a package of support to enable them to make a successful transition to adulthood?

65. There were 123 responses to this question.

Table 14a: All respondents

	Yes	No	Not Sure
All Respondents	37 (30%)	62 (50%)	24 (20%)

Table 14b: Breakdown of respondents

	Children's Home Private Providers	Voluntary sector children's services organisation	Local Authority Provider of Children's Homes	Local organisation providing services for children – (police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	11	6	5	8	1	6
No	33	3	11	1	2	12
Not Sure	2	1	4	3	0	14

66. **30% (37) of respondents agreed that the proposal for the DCS to approve decisions that voluntarily accommodated children aged 16 and 17 should cease to be looked after would help prevent young people leaving care prematurely. 11 private providers agreed that the proposal for DCS sign off on pathway plans in these specific circumstances would help prevent young people leaving care prematurely.**

67. 50% (62) of respondents did not agree that the proposal would avoid young people leaving care prematurely. The two largest groups disagreeing were private children's homes providers and local authorities. 26 out of the 62 'no' responses were from provider members of ICHA. These respondents commented:

"There is the need for greater change than this administrative change, for leaving care services to be adequate universally"

68. 'Other' respondents also suggested this proposal would not by itself prevent young people from being made to leave care prematurely.

69. 20% (24) of respondents were uncertain about this proposal.

Question 15: Please add any final comments concerning the effectiveness of the measures on which we are consulting to effectively safeguard and promote the welfare of looked after children, particularly, those placed outside their responsible authority.

70. 93 responses were received for this question in free text format. There were 9 comments supporting the intentions of the proposals. A number of other points were made, which included:

- caution with leaving care decisions (3);
- the importance of 'out of area' decisions being made based on the needs of individual children (6);
- the importance of advocacy (2);
- not to forget the views of the child (2);
- issues regarding placements in Wales and Scotland (1).

71. 5 respondents commented that culture change was required within LAs and what was needed was better partnership working between LAs and children's homes providers.

"I would like to think that there will be a change in being able to safeguard these vulnerable children. That there will be greater communication between placing and receiving authorities, that there will be sufficient research of areas where these vulnerable children may be placed to ensure that they are not at risk of child exploitation or any form of abuse and that there will be plans in place to continue to look after their welfare on reaching age 16." ('Other' respondent)

and

"all placement decisions need to be carefully planned and this needs to be undertaken in partnership between local authorities, providers and other agencies." (Private children's home provider)

Question 16: Do you agree that these proposals will improve collaboration between placing authorities and services in the areas where children are placed to improve the effectiveness of safeguarding arrangements and therefore be in children’s best interests?

72. There were 123 responses to this question.

Table 16a: All respondents

	Yes	No	Not Sure
All Respondents	51 (41%)	43 (35%)	29 (24%)

Table 16b: Breakdown of respondents

	Children’s Home Private Providers	Voluntary sector children’s services organisation	Local Authority Provider of Children’s Homes	Local organisation providing services for children –(police, health, youth offending teams, LSCB)	Other Government related national bodies	Other
Yes	7	5	10	13	1	14
No	33	0	2	0	1	8
Not Sure	6	4	9	1	1	8

73. **41% (51) of respondents agreed the consultation proposals would help improve collaboration between placing authorities and services in the area where the child is placed to improve the effectiveness of safeguarding arrangements; 24% were not sure.**

74. 35% (43) of respondents disagreed that the consultation proposals would improve collaboration between placing authorities and services where the child is placed. The largest group of respondents considering that collaboration would not be improved were private children’s homes providers. 26 of the 43 responding ‘no’ to this question were from private provider members of ICHA.

75. 24% (29) of respondents were uncertain whether these proposals would improve collaboration. The largest groups that expressed uncertainty about these proposals were local authorities, ‘other’ respondents and private providers.

Summary of views expressed at consultation events

76. There were four consultation events, held in London (2 events), Manchester and Coventry. These were attended by local authorities, private providers, voluntary sector; children's rights organisations and representative organisations. The majority of attendees were from local authorities. Delegate's views were captured using "feedback sheets" completed as part of a discussion exercise.
77. Virtually all delegates supported proposals for those named in Question 11 to be able to request a review of a child's care plan from the responsible local authority but stressed that processes for calling reviews needed to avoid being overly bureaucratic. Delegates highlighted the risk that authorities might resist calls for reviews. They also commented that children should be able to request a review .
78. Delegates at all the events, acknowledged that care planning when children are placed in children's homes out of authority can be problematic and that making regulatory change would be one way to improve this. A wide number of questions were raised about how the proposed changes to the regulatory framework would be put into practice at local authority level and there was a general view that more guidance would be needed if there was an expectation that these changes would support consistently improved practice by all local authorities.
79. Concerns centred on the capacity of the DCS to be able to approve plans for children being placed at a distance in a timely manner. Some delegates suggested that an expectation of senior manager approval for these decisions was not needed and that the officer making the decision should know the child well. Delegates requested clarity on whether the DCS would be able to delegate this function and how "approval" would work for emergency placements.
80. Delegates requested clarification as to what was implied by the term "consultation" in these Regulations, e.g. whether this implied that an area authority could "veto" a proposed placement in their area; and how arrangements for local authorities to share information should work for emergency placements.

Next Steps

81. We have given careful consideration to the many significant issues raised during the consultation. The following section sets out those proposals that we intend to take forward as described in the consultation document; and those where we intend to make some changes in response to issues that have emerged from this consultation.

Proposals where no change will be required

82. Consultation respondents gave strong support to a number of proposals that build on good practice and offered clarity about how local authorities should respond when they are concerned about the safety of looked after children. There was a high level of consensus on the benefits of these proposals, and we are as a consequence aiming to introduce them as set out in the consultation document.

83. We intend to amend Schedule 2 of the Care Planning Regulations so that where there are child protection concerns (including concerns about a risk of sexual exploitation or risks of other forms of abuse), or where the child has gone missing or run away from previous placements, the Placement Plan must include the day to day arrangements put in place by the placement provider (the registered manager of a children's home or foster carer) to keep the child safe.

84. We also intend to amend Regulation 33(3) to clarify that the responsible authority must carry out a review of the child's case, before time limits specified in Regulations, where the child has been persistently absent from placement or where the responsible authority is notified by a parent, an area authority or by an appropriate person that there are concerns that the child is at risk of harm.

Proposals where further action will be taken in response to issues identified by this consultation

85. There were a number of areas where some concerns were raised about how our proposals would operate in practice. Respondents, however, appeared to have differing interpretations about how these proposals were intended to operate in practice.

86. In view of the consultation responses, we will be taking forward these proposals as described below. To ensure clarity about the effective implementation of these proposals, however, we will be working with representatives of local authorities and other interested parties over the coming months to develop guidance for local authorities and their partners about how the out of authority placement process should be managed to better safeguard children.

The role of the DCS in respect of 'distant out of authority' placements

87. A number of respondents understood the proposals to mean that the DCS should in future be personally responsible for scrutinising the assessment of every child where

there was a likelihood of their being placed at significant distance from their home authority.

88. Currently Regulation 11(1) of the Care Planning Regulation requires that out of authority placement decisions are approved by a “nominated officer”. This nominated officer must already satisfy themselves that the child’s future placement is the most appropriate available and is consistent with their needs (as set out in their care plan). The child’s relatives and the IRO should be consulted and the ‘area authority notified’. The current process need not necessarily require the “nominated officer” to personally scrutinise the detail of every out of authority placement decision, so long as the officer is satisfied the care plan is accurate, the prescribed consultations have taken place and that the area authority has been notified.
89. Similarly, we would not expect that in future the DCS should be required to personally appraise the plan for every child who might be placed at a distance. We will use future guidance as an opportunity to clarify that, rather than requiring the DCS to make every decision on a personal basis, the amended regulations require that each DCS must ensure robust processes are in place for challenge and scrutiny. This should help to ensure that decisions to place children in distant placements are only made when the placement is the most appropriate available and is consistent with the assessed needs of the child concerned.

A duty on placing local authorities to consult with the local authority where the child will be placed, prior to placement

90. There was a strong consensus around the importance of authorities and other services exchanging information to ensure that appropriate support is provided when children are placed outside of their own local authority. However consultation respondents expressed reservations about the proposal to amend Regulations to require the placing authority to “consult” with the area authority as part of the out of authority placement process. When an out of authority placement is being considered, the Regulations already in force, require the placing authority to be satisfied that the placement is the most appropriate available and is consistent with the child’s care plan (regulation 11(2)(b)). Fulfilment of this requirement should already involve authorities seeking information about services, available within the area authority to support the child. These are likely to include schools and health services.
91. The support for the importance of information sharing justifies the introduction of the duty. However in response to concerns raised by respondents, we will clarify in guidance that a duty to “consult” simply requires authorities to share information to assist the placing authority with determining the appropriateness of any prospective distant placement. Future guidance will make it clear that such ‘information exchange’ need not be onerous and should not place a burden on the area authority to seek information that it does not hold already. Guidance will also clarify that consultation in this context does not imply that the area authority has a “veto” over decision making by the authority responsible for the child’s care.

Definition of “distance”

92. The requirements we are introducing should apply only to **distant** placements and we do not intend to impose additional requirements where children are placed more locally. Given the numerous suggestions we received from consultation respondents about how a distant placement might be defined, we have concluded, after careful consideration, that the most operable and practical way of defining a distant placement is a placement that is **outside of the placing authority and outside of any bordering authorities**.
93. We will provide further clarity in guidance on this issue. This will acknowledge the need for flexibility in making placements across local authorities in metropolitan conurbations. We recognise too the benefit of distant out of authority placements for some children with complex needs, for whom it would not be reasonable to expect authorities to commission highly localised services. In future, we want to encourage the development of inter-authority collaboration so there is regional oversight of the quality of intended placements for this group of highly vulnerable children and will also look to expand on this issue in future guidance.

DCS approving decisions that the local authority will cease looking after 16 and 17 year olds, who have been accommodated under s. 20 of the Children Act 1989

94. Finally, we proposed amending the Care Planning Regulations so that a decision to cease looking after a 16/17 year old who has been accommodated by the local authority under a voluntary arrangement cannot be put into effect until it has been approved by the DCS. This proposal was intended to ensure that the transition to independence for a vulnerable group of young people is effectively scrutinised at a senior level within every local authority. There were a number of strong voices in support of this proposal, including Ofsted, children’s homes providers and the Youth Justice Board. In light of this support and the vulnerabilities of care leavers, those expected to ‘leave care’ before legal adulthood in particular, we intend to proceed with this change.
95. However in response to the concerns expressed in the consultation, we will make amendments to the statutory guidance – Planning Transition to Adulthood for Care Leavers - to make clear that that the duty requires the DCS to ensure that robust processes are in place to scrutinise and challenge leaving care decisions, rather than requiring the DCS to make every decision on a personal basis.

Conclusion

96. There has been considerable interest in the proposals for amending these Regulations to strengthen safeguards for looked after children placed in children's homes a long way from their homes, and the Government is grateful to all respondents for their contributions.
97. We intend that subject to Parliamentary approval, Regulations implementing the proposals as set out above will come into force early in 2014. We plan to issue related guidance about the 'out of authority' placement process by April 2014.

98. Table of consultation outcomes

Q	Consultation Question (abridged)	Level of agreement			Feedback	Take forward as consulted	Take forward with amendments
		Y (%)	N (%)	NS (%)			
1	Do you accept amendments are needed to care planning regulations?	62	29	9	Support indicates that public opinion is in line with recommendations of expert group	N/A	N/A
2.	DCS to approve distant placements.	38	48	14	This could be burdensome for DCS and prevent swift action for children	<input checked="" type="checkbox"/> Regulation 11 (1) (b) Guidance will clarify that DCS must have oversight of all distant placements, and that delegation of decision making may be possible.	
3	Definition of distance.	19	16	65	Majority support was for suggestion of other formula		<input checked="" type="checkbox"/> Regulation 11 (5) Regulations and guidance will clarify that distant placements are both outside of LA and not within the area of any adjoining authority.

4	Consultation with receiving LAs prior to DCS approving distant placement.	44	41	15	Overall support, but concerns about how the process would work in practice.	<input checked="" type="checkbox"/> Regulation 11 (2) (ii) LAs are already required to secure the most appropriate placement for child. We will clarify in guidance how the consultation process is in support of that existing requirement.	
5	Minimum expectation for consultation in emergency placements.	Free text			A variety of timescales were suggested.	<input checked="" type="checkbox"/> We will clarify in guidance.	
6.	Anything else needed for meaningful and constructive consultation.	Free text			A variety of suggestions were made.	<input checked="" type="checkbox"/> We will make good practice suggestions in guidance.	
7	Suggestions of those services to involve in consultation (Health, Youth Justice, Virtual School Heads).	Health -77% Justice -73% Virtual School Head – 70% Other – 69%			Our suggestions were supported and others were made.	<input checked="" type="checkbox"/> We will make good practice suggestions in guidance.	
8	Additional resources required.	65	19	16	Information provided considered as part of new burdens assessment.	N/A	N/A

9	Notification process to be strengthened.	81	4	15	This was supported.	<input checked="" type="checkbox"/> Taken forward in regulation 13 (b) (ii).	
10	Schedule 2 amended to make providers strategy for keeping the child safe part of placement plan.	69	29	2	This was supported.	<input checked="" type="checkbox"/> Schedule 2 amended.	
11	Convene review meeting where concerns are raised that a child is at risk in their placement.	87	10	3	This was supported.	<input checked="" type="checkbox"/> Regulation 33 amended, including ability for child to call for review of their care plan.	
12	Circumstances of care review to include safeguarding (schedule 7).	65	32	3	This was supported.	<input checked="" type="checkbox"/> Schedule 7 amended.	
13	DCS to approve 16/17 year olds leaving care.	67	18	15	This was supported.	<input checked="" type="checkbox"/> Part 7 before Regulation 39.	
14	Would this change help prevent them leaving care early?	30	50	20	Comments indicated that wider support mechanisms were needed to prevent young people leaving care early.	N/A	N/A
15	Any final comments.	Free text				N/A	N/A

16	Will these proposals improve collaboration?	41	35	24	Respondents provided helpful responses to allow the Department to understand what else might be needed to improve collaboration.	N/A	N/A
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Annex A: List of organisations that responded to the consultation

ABC Care Limited
Acorn Care and Education
ACPO Lead for Missing People
Advanced Childcare Limited
Arnfield Care Ltd.
Association of Directors of Children's Services
Association of School and College Leaders
Barford Children's Services
Barnardo's
Barnsley Metropolitan Borough Council and Barnsley Safeguarding Children Board
BASW (British Association of Social Workers)
Birmingham Community Healthcare Trust
Birmingham LA
Bracknell Forest Council
Bradford Metropolitan District Council
British Association for Adoption & Fostering (BAAF)
British Association for the Study and Prevention of Child Abuse and Neglect
Cambridgeshire County Council
Care Focus Ltd
Castlecare Group
Cheshire East Council
Children's Services Development Group
Collaborative approach on behalf of Sefton MBC
Cornerways Children's Services
Devon County Council
Dove Adolescent Services (Home 1)
Dove Adolescent Services (Home 2)
Dudley Metropolitan Borough Council
Durham County Council
Durrington High
East Lancs CCG
Fairfield Residential
Five Rivers
Fostering People
G4S
Good Foundations Limited
Hackney Children and Young People's Services
Halliwell Homes Ltd
Hampshire County Council
Harmony Children's Services
Hillcrest Care
Hillside Secure Centre
HM Inspectorate of Probation

HMI Ofsted
Holibrook House Limited
Independent Children's Homes Association
Information Commissioner's Office
Kent Local Children's Safeguarding Board
Keys Group
Knowsley Metropolitan Borough Council
Lancashire County Council
Leicestershire County Council
Lincolnshire Community Health Services NHS Trust
Local Government Association
London Borough of Bromley Children's Services
London Borough of Enfield
London Borough of Haringey: Children and Young People's Service
London Borough of Havering
London Borough of Lewisham
Meadows Care Limited (Home 1)
Meadows Care Limited (Home 2)
Meadows Care Limited (Home 3)
Meadows Care Limited (Home 4)
Meadows Care Limited (Home 5)
Meadows Care Limited (Home 6)
Milton Keynes Council Children's Services and Corporate Parenting Panel (joint officer/member response)
Missing People
Moonreach Ltd
National Association of Special Schools
National Centre for Excellence in Residential Child Care
National Youth Advocacy Service
New Forest Care Limited (Home 1)
New Forest Care Limited (Home 2)
New Forest Care Limited (Home 3)
New Forest Care Limited (Home 4)
New Forest Care Limited (Home 5)
New Forest Care Limited (Home 6)
NH Care
Northern Care
NSPCC
Nugent Care
Off The Record (South East Hampshire)
Office of the Children's Commissioner
Oracle Care
Organisation Peterborough City Council Safeguarding Family & Communities (social care)
Oxfordshire County Council

Pathway Care Solutions Limited
Pilgrims Corner - Lingate Cottage
Pilgrims Corner - Verona House
Pilgrims Corner - Yew Tree Cottage
Powys Teaching Health Board
Priory Group
Research in Practice
Rochdale MBC
Roundhouse Care Ltd
Royal College of Psychiatrists
South Tyneside Children's Services
Specialist Education Services Holdings Ltd
Sunderland Multi-Agency Looked After
Surrey County Council
Team Fostering
Telford & Wrekin Council
Thanet District Council
The Care Leavers Association
The Children's Society
The Fostering Network
Thought's of Others
Thurrock Borough Council
Together Trust
Trax Care
Voice
Wandsworth LA
West Sussex County Council
West Yorkshire Police
Who Cares? Trust
Woodside House
Youth Justice Board for England and Wales



Department
for Education

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