

# Consultation on Draft Regulations, and Associated Statutory Guidance, for Local Authorities to Provide Short Breaks for Carers of Disabled Children and Young People

## Consultation Response Form

The closing date for this consultation is: 26 April  
2010

Your comments must reach us by that date.



department for  
**children, schools and families**

**THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online or offline response facility available on the Department for Children, Schools and Families e-consultation website (<http://www.dcsf.gov.uk/consultations>).**

The information you provide in your response will be subject to the Freedom of Information Act 2000 and Environmental Information Regulations, which allow public access to information held by the Department. This does not necessarily mean that your response can be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies. You may request confidentiality by ticking the box provided, but you should note that neither this, nor an automatically-generated e-mail confidentiality statement, will necessarily exclude the public right of access.

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

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If your enquiry is related to the policy content of the consultation you can contact John Perryman on:

Telephone: 0207 783 8263

e-mail: [john.perryman@dcsf.gsi.gov.uk](mailto:john.perryman@dcsf.gsi.gov.uk)

Or, Jocelyn Shaw on:

Telephone: 0207 783 8799

Email: [jocelyn.shaw@dcsf.gsi.gov.uk](mailto:jocelyn.shaw@dcsf.gsi.gov.uk)

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

Telephone: 0870 000 2288

e-mail: [consultation.unit@dcsf.gsi.gov.uk](mailto:consultation.unit@dcsf.gsi.gov.uk)

Please select the category which best describes you as a respondent

<input type="checkbox"/> Local Authority	<input type="checkbox"/> Parent/Carer	<input type="checkbox"/> Child/Young Person
<input type="checkbox"/> Short Break Provider	<input checked="" type="checkbox"/> Voluntary/Third Sector Organisation	<input type="checkbox"/> Primary Care Trust
<input type="checkbox"/> Other		

Please Specify:

Barnardo's works directly with over 100,000 children, young people and their families every year through 400 projects across the UK. 80 projects focus on disabled children and young people with 61 of these providing a range of short breaks. We use the knowledge gained from our work with children to campaign for better policy and to champion the rights of every child. With the right help, committed support and a little belief, even the most disadvantaged and vulnerable children can turn their lives around.

This consultation is seeking responses on both the draft short break regulations and the associated draft statutory guidance. Whilst both are primarily aimed at local authorities we recognise that they will be of particular interest to a much wider group of stakeholders.

The draft regulations set out the legal responsibilities and duties to be placed on local authorities whereas the draft statutory guidance aims to provide more details as to how, in practice, we would expect local authorities to deliver their short break services.

1 Are the draft regulations requirements clear in terms of the responsibilities and duties placed on local authorities?

Yes

X No

Not Sure

Comments:

3.5 Could be clearer that the assessment should be an holistic one of the child and carer's needs as well as including assessment of the needs of siblings.

4.8 Needs to emphasise the difference between childcare provided to enable parents of disabled children to work and the provision of short breaks. Greater clarity on what short break funding can be used for would be helpful as in a number of local areas short break funding is used to top up the child care that parents need in order to work. A child attending a breakfast club or after school club because his/her parent is at work is not receiving a short break. Linkages with DCATCH and local authorities' duties to provide sufficient childcare through the Child Care Act 2006 would be helpful.

4.1. The emphasis on the preventative nature of short breaks is very welcome

2 Are the types of services described in the draft regulations that local authorities must provide clear and reasonable?

Yes

X No

Not Sure

Comments:

4.2 Starting this paragraph started with the objective for the child first would better promote children's rights. So this would read – Short Breaks have two closely interlinked objectives, to provide the child with new interests, relationships and activities which lead to improved outcomes, and also to promote the ability of the person with parental responsibility etc. The use of the term "positive" activities here is not helpful – would be better to say enjoyable activities and new experiences.

4.11 Needs re-wording as the current interpretation of this paragraph could be that attending a special school automatically renders a child eligible for a short break.

5.8 Greater clarify on what is meant by the regularity of short breaks.

3 Is the process, as described in the draft regulations, that local authorities are expected to follow in undertaking their short break sufficiency assessment clear and reasonable?

Yes

No

Not Sure

Comments:

The rights and entitlements of disabled children to access universal services is not included. There has been progress in more disabled children accessing universal services under Aiming High and this may be lost without the underpinning their rights in this guidance.

4 Is the proposed timetable, set out in the draft regulations, for local authorities to publish their first short break assessment (i.e. two months from when the regulations come into force) clear and reasonable?

X Yes

No

Not Sure

Comments:

The following questions relate to the draft statutory guidance.

5 Is the draft guidance structured in a way that makes it easy to follow and use. If not, what should change?

X Yes

No

Not Sure

Comments:

6 Does section 4 of the draft guidance cover all the circumstances where local authorities should be able to offer short break?

Yes

No

Not Sure

Comments:

The section does come across as more focused on the needs of parents/carers rather than the rights and entitlements of disabled children and young people. There should be greater emphasis on short breaks enhancing family life to enable all family members to have a more enjoyable experience.

We would prefer the term behaviour that challenges rather than behavioural difficulties.

There is not enough emphasis on the outcomes for disabled children from a short break. S

7 a) Do you find the inclusion of boxed examples, to help illustrate the guidance, helpful?

Yes

No

X Not Sure

Comments:

We suggest that they be included as an appendix to the text.

7 b) Would you prefer a shorter document with reference to separate more detailed sources of practice examples?

Yes

No

Not Sure

Comments:

As long as these were regarded as equally important

8 Section 5 of the draft guidance quotes the AHDC Short Breaks Full Service Offer. Is the language used right and does it provide sufficient clarity?

Yes

No

Not Sure

Comments:

5.1 c) We suggest deleting educational activities as this can confuse short breaks with what should be provided by schools and extended school activities. It would be better to focus on enjoyable play and activities.

5.1 (d) There needs to be greater clarity on what is considered emergency care and how long a placement is regarded as an emergency.

5.5 There has been a lot of confusion in some local areas about the groups of disabled children they should provide services to and they have interpreted the list of those to prioritised in the FSO as being the only children to whom they should provide short breaks. The guidance therefore needs to clarify that the list is not exclusive and also needs to make clearer that it is not only children with ASD plus other impairments that may be eligible.

5.6 The requirement to provide overnight services has been omitted

5.7 The final bullet point needs re-wording as it currently implies that transport should be included for all children receiving short breaks. It would be better to acknowledge that transport provision must be addressed where it acts as a barrier to children receiving short breaks.

5.8 The sentence “the short break must be in addition to the universal positive activities which families have anyway is misleading. We would suggest an alternative wording – “Many disabled children will not require additional help because they will be sufficiently supported through their inclusion in universal services. Some disabled children will require that staff receive specific training or additional staff support in order to enjoy a short break through a universal service”.

5.14 This section needs to be strengthened and expanded in order to emphasise local areas’ responsibilities to disabled young people in transition to adulthood.

9 Are there other issues which should be included, under section 6 of the draft guidance, to help ensure effective partnership working between health services and local authorities?

X Yes

No

Not Sure

Comments:

- 6.2 The involvement of Health in this paragraph should be made stronger by expanding on Health's obligations and responsibilities, rather than stating that health services have a "strong interest in short break provision".
- 6.4 The list of what the assessment of needs should focus on is helpful
- 6.6 We welcome the emphasis on consultation and involvement of disabled children and young people in decision making about short break provision.

10 Section 6 of the draft guidance identifies a range of issues that should be considered by the local authority as part of any assessment and review. Do you agree with the key headings identified?

X Yes

No

Not Sure

Comments:

- The section on workforce needs to be inclusive of the whole of the children's workforce, e.g. training on disability should be a component of training for all children's services staff.
- Would be helpful to include stronger statements for Children's Trusts on making disabled children and young people a priority
- The section on commissioning should be stronger on the partnership and the role of voluntary sector providers.
- There should be greater emphasis on multi-agency working

11 Section 7 of the draft guidance attempts to cover what is a complex area of the law, and one that it is not easy to summarise without the risk of some possible misinterpretation or misrepresentation. Do you think that further guidance in this area is needed?

X Yes

No

Not Sure

Comments:

Although we are not responsible for determining eligibility criteria as a voluntary sector provider, we still are responsible as providers for ensuring compliance with the judgement in provision of services. It would be helpful if any further guidance or toolkit that is produced gives greater clarity to the role of third sector providers within this complex area as well as the responsibilities of local authorities.

12 Please use this space for any other comments you would like to make, either on the draft regulations or the draft guidance - generally or on any specific detail or particular section.

Comments:

It would be helpful if there were practice guidance and training aimed at both local areas and third sector providers to accompany these new regulations and guidance before they become law.

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

**Please acknowledge this reply X**

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

XYes  No

All DCSF public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DCSF consultations are conducted, please contact Donna Harrison, DCSF Consultation Co-ordinator, tel: 01928 794304 / email: [donna.harrison@dcsf.gsi.gov.uk](mailto:donna.harrison@dcsf.gsi.gov.uk)

**Thank you for taking time to respond to this consultation.**

Completed questionnaires and other responses should be sent to the address shown below by 26 April 2010

Send by post to: John Perryman, Aiming High for Disabled Children Team, Department for Children, Schools and Families, Area 1E, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

Send by e-mail to: [shortbreakregulations.consultation@dcsf.gsi.gov.uk](mailto:shortbreakregulations.consultation@dcsf.gsi.gov.uk)