



Department
for Education

Fees and frequency of inspection regulations

Government consultation response

February 2017

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Introduction

1. The consultation sought the views of interested parties on the proposed changes to Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulations 2015.
2. In particular, the consultation sought views on:
 - a 10% increase on current fees, for those settings where fees are not already at full cost recovery;
 - a reduction in the annual fee for residential holiday schemes for disabled children; and
 - amending the frequency of Ofsted inspections for those registered children's homes (excluding those children's homes approved as secure homes) which currently have an overall effectiveness judgement of "good" or "outstanding" so that they receive a minimum of one full inspection during the next inspection period (i.e. April 2017 - March 2018) and each subsequent year in which the good or outstanding judgement is retained.
3. The online consultation took place between 13 December 2016 and 17 January 2017.
4. We received 21 online responses to the consultation, which included responses from representatives from key sector bodies (including local authorities and voluntary organisations). A list of organisations that responded to the consultation can be found at Annex A.

Summary of responses received

5. The consultation received 21 responses. The table below provides a breakdown of the categories of respondents.

Table 1: breakdown of respondent categories

| Local authority | Provider of children's homes | Registered manager of children's home | Provider of holiday schemes for disabled children | Independent fostering agency | Voluntary organisation | Other | Not stated |
|--------------------------|------------------------------|---------------------------------------|---|------------------------------|------------------------|------------|------------|
| 4 (19% ¹) | 1 (5%) | 2 (10%) | 1 (5%) | 1 (5%) | 4 (19%) | 3 (14%) | 5 (24%) |

Main findings from the consultation

6. The number of respondents to the consultation was very small. The respondent sample may therefore not fully reflect views across all the relevant sectors.
7. The majority of respondents were not in favour of increasing fees by 10% where settings were not already at full cost recovery. The strongest themes emerging from respondents' comments were that the increased fees put further pressure on already stretched budgets.
8. The majority of respondents supported the proposal to reduce the frequency of inspections for good and outstanding homes and made helpful comments about what safeguards or triggers should be put in place.

¹ Percentages are rounded to whole numbers.

Question analysis

9. The consultation was divided into two main sections. The first section asked questions about proposed fees for registration and other regulatory activity for a range of settings. The second section asked questions about a proposal to amend regulations on the frequency of inspections for children's homes.

Fees for registration and other regulatory activity

Q1. Do you agree with the proposed 10% increases for 2017-18?

Table 2: summary of responses to Q1

| | Total | Percent |
|----------------------------|-------|---------|
| Strongly agree | 1 | 5% |
| Agree | 4 | 19% |
| Neither agree nor disagree | 4 | 19% |
| Disagree | 7 | 33% |
| Strongly disagree | 3 | 14% |
| Not answered | 2 | 10% |

10. Responses to this question were varied. The majority of respondents did not support the proposal to increase fees, although 19% neither agreed nor disagreed and 24% supported the increase in fees.

11. This question invited respondents to comment. 10 comments were received. Respondents were particularly concerned that the proposed fee increases were another pressure on providers' budgets.

Q2. Do you agree that fees charged by Ofsted should increase by 10% each year (until full cost recovery is reached) without the need for DfE to consult annually (unless there are exceptional circumstances for doing so?)

Table 3: summary of responses to Q2

| | Total | Percent |
|----------------------------|--------------|----------------|
| Strongly agree | 1 | 5% |
| Agree | 2 | 10% |
| Neither agree nor disagree | 4 | 19% |
| Disagree | 7 | 33% |
| Strongly disagree | 4 | 19% |
| Not answered | 3 | 14% |

12. Most respondents (52%) were not in favour of the proposal to increase fees without an annual consultation. 14% supported the proposal, whilst 19% neither agreed nor disagreed.

13. 11 comments were received. The common theme amongst respondents was that it is unclear what full cost recovery is and how much settings are currently subsidised by. Respondents felt that an assessment needed to be conducted annually and full consideration given each year to the impact of increasing fees on the sector.

Q3. How would the proposed 10% annual increase affect you as a provider?

14. This question invited respondents to comment. 13 comments were made.

15. Comments primarily highlighted the concern that budgets are already under significant pressure and that it is increasingly difficult for providers to cover their costs.

Q4. Do you agree with the proposal to amend the fees for Residential Holiday Schemes for Disabled Children?

Table 4: summary of responses to Q4

| | Total | Percent |
|----------------------------|--------------|----------------|
| Strongly agree | 1 | 5% |
| Agree | 9 | 43% |
| Neither agree nor disagree | 6 | 29% |
| Disagree | 1 | 5% |
| Strongly disagree | 1 | 5% |
| Not answered | 3 | 14% |

16.4 comments were received in relation to this question, the majority of which were supportive of the proposal to charge more proportionate fees.

Government response

17. The majority of providers are a long way from paying the full cost of the regulatory activity undertaken by Ofsted. A number of providers are paying less than 20% of full cost recovery with the vast majority paying less than 50% of full cost recovery. This means that the government continues to subsidise the regulation of the majority of children's social care settings.

18. While recognising the views expressed in the consultation, given the wide gap between the cost of inspection and many providers' fees, the policy of an annual 10% increase in inspection fees represents a measured way of bringing fees closer to full cost recovery. The government wants to limit the financial burden placed on providers while moving towards the full cost recovery of fees. The level of proposed annual increase has been designed to maintain stability in the market and avoid imposing unsustainable pressure on individual providers.

19. Subject to Parliamentary approval, regulations setting a 10% increase in fees in 2017-18 for providers not already paying the full cost of their annual fee and setting a 10% increase in registration/variation fees (as set out at Annexes B and C) will come into force in April 2017. As in previous years, the annual fees for settings that have already reached full cost recovery level will be capped at the full-cost rate.

20. In addition, the annual fee for Residential Holiday Schemes for Disabled Children will be reduced and the provider and manager registration fees will be frozen for 2017-18 as set out at Annexes B and C. This reflects more appropriate and proportionate fees for the scope of activity that these schemes undertake.

21. The government has considered the comments with regard to not consulting on a 10% increase in future years and has decided not to increase fees without annual consultation at this stage.

Amending regulations on the frequency of inspections for children’s homes

Q5. Do you agree with the proposal that registered children’s homes that have been judged as good or outstanding will receive a minimum of one full inspection during the following inspection period? If not, why not?

Table 5: summary of responses to Q5

| | Total | Percent |
|----------------------------|-------|---------|
| Strongly agree | 4 | 19% |
| Agree | 10 | 48% |
| Neither agree nor disagree | 3 | 14% |
| Disagree | 1 | 5% |
| Strongly disagree | 2 | 10% |
| Not answered | 1 | 5% |

22. The majority of respondents (67%) were in support of reducing the inspection frequency for good and outstanding children’s homes. 15% were against the proposal and 14% neither agreed nor disagreed.

23. 8 comments were received. Most respondents commented that the fees charged to homes should be reduced if they receive fewer inspections. Respondents also highlighted that the quality of homes can change quickly and one respondent commented that inspectors might be more risk-averse to ensure a second inspection.

Q6. Do you foresee any problems or issues that this proposal might create?

24. 18 comments were received in response to this question. These included comments on the length of time that could be allowed between inspections under the new approach. Respondents also commented that the standard of homes can deteriorate quickly and that a change in manager should trigger a second inspection. Some respondents pointed to the need for robust regulation 44 visits. Two respondents commented that the proposed approach is in line with what already happens in schools.

Q7. What additional safeguards, if any, do you think should be put in place to address any problems created by the proposal to reduce the frequency of inspection of outstanding and good children’s homes?

25. 18 comments were received in response to this question.

26. The most common safeguards suggested were:

- a change in manager should trigger an inspection;
- a change in ownership should trigger an inspection; and
- the content of regulation 44 and 45 visits and reports.

27. Several respondents commented that more robust regulation 44 and 45 requirements are needed. Respondents also commented that safeguards, for example notifications, were already in place. Better communication between inspectors and home managers was also cited as important.

Q8. What, if anything, should trigger an additional inspection for good or outstanding homes between inspections?

28. 18 comments were received in response to this question. The triggers most frequently suggested by respondents were:-

- High numbers of notifications
- Complaints
- Serious incident
- Whistleblowers
- Information received from children or external professionals
- Change in manager
- Change in ownership
- Feedback from regulation 44 visits

29. Comments also suggested that regulation 44 visits could be strengthened.

Government response

30. Following consideration of the responses received in this consultation, and subject to Parliamentary approval, the frequency of Ofsted inspections for those registered children's homes (excluding those children's homes approved as secure homes) which currently have an overall effectiveness judgement of 'good' or 'outstanding' will be amended so that they receive a minimum of one full inspection during the

next inspection period (i.e. April 2017-March 2018) and each subsequent year in which the good or outstanding judgement is retained.

31. Ofsted will operate a risk-based approach to decide whether an additional interim inspection is necessary for homes judged good or outstanding. An initial risk assessment will be undertaken at the start of the inspection year to inform the decision. The risk assessment will then be subject to review throughout the year based on information received by Ofsted, including the triggers outlined above which were suggested in response to the consultation.
32. The likely triggers to review whether a further inspection is required and the urgency and type of inspection are:
 - the most recent interim inspection (where applicable);
 - reports received under regulations 44 and 45;
 - notifications received under regulation 40;
 - information from complaints, whistleblowers and local authorities;
 - changes to the home's management.
33. In addition, and as set out in the government's response to Sir Martin Narey's independent review of residential care, the DfE will discuss with Ofsted how the arrangements for regulation 44 visitors might be improved.
34. Ofsted's role in assessing the quality of care being provided to children is not an isolated function. Inspections operate within a wider context of responsibilities to ensure quality in children's homes. Assurances sought by other partners, such as placing local authorities, will also safeguard against deterioration in quality between inspections for good and outstanding homes. These are set out in more detail below.
35. Local authorities have an obligation to protect vulnerable children and have internal systems of quality assurance for those placed in residential care settings. As part of their duty to keep a child's care plan under regular review, they must review how the placement contributes to meeting the child's needs. In particular, local authorities frequently review whether the placement continues to be the most appropriate available and whether any changes need to be made to the placement agreement or aspects of the provision.
36. As part of their ongoing arrangements for supervising a child's welfare, the responsible authority must also visit the child in their placement at regular

specified intervals. If as a result of this visit, it is concluded that the placement does not adequately safeguard and promote the child's welfare, then a case review will be conducted by the local authority. The Independent Reviewing Officer provides an additional level of independent audit to this process.

37. Beyond local authorities, there are other people, bodies and organisations that have responsibilities towards children in children's homes. For example, Local Safeguarding Children Boards have a range of roles and statutory functions including developing local safeguarding procedures and scrutinising local arrangements. Amongst others, health and education services, leaving care services, voluntary agencies, the police and youth offending teams share responsibilities to report concerns of a child's safety or wellbeing in residential care settings. Mentors, advocates and volunteers befriending and visiting a child (independent visitors) also add a further layer of independent assessment.

38. Any of these individuals can raise a concern with Ofsted who will consider whether they may need to return to a home more frequently.

39. No changes are being made to the arrangements for the frequency of inspection of homes graded 'requires improvement' or 'inadequate'. Secure Children's Homes are not affected by this proposal and will continue to receive a minimum of two inspections over the course of the inspection period.

Equalities assessment

Q9. Please provide any representations/evidence on the impact of our proposals for the purposes of the Public Sector Equality Duty (Equality Act 2010). The protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race (including ethnicity); religion or belief; sex; and sexual orientation.

40. We received 9 comments, the majority of which said that the proposals will not be experienced differently by people with protected characteristics compared to those without them. Some respondents mentioned the impact of residential holiday scheme fees on children with disabilities. (The relevant fees are being reduced and frozen following this consultation).

Annex A: List of organisations² that responded to the consultation

- Action for Children
- Association of Independent Visitors and Consultants to Child Care Services
- Children's Services Development Group
- Darlington Borough Council
- Durham County Council
- Essex County Council
- Hertfordshire County Council
- Independent Children's Homes Association
- National Association of Independent Schools and Non-Maintained Special Schools
- Sheffield City Council
- St Christopher's Fellowship
- The Ear Foundation

² Not including respondents who requested to remain confidential, were anonymous or responded in an individual capacity.

Annex B: Social care fees for 2017-18

| | 2017-18 Annual fee (£) |
|---|---------------------------------------|
| Voluntary Adoption Agency (Small) | 740 |
| Voluntary Adoption Agency (Large) | 1395 |
| Independent Fostering Agency | 2339 |
| Adoption Support Agency (Small) | 740 |
| Adoption Support Agency (Large) | 1400 |
| Residential Family Centre (0-3) | 1419 |
| Residential Family Centre (4) | 1597 |
| Residential Family Centre (5+) | 1667 |
| Children's homes (4-31) per place fee | 213 |
| Children's homes (0-3) | 2131 |
| Children's homes (4-31) | 2131 |
| Children's homes (32+) | 8279 |
| Boarding School (4-12) per place fee* | 51 |
| Boarding School (0-3)* | 842 |
| Boarding School (13-50)* | 1323 |
| Boarding School (51-500)* | 1851 |
| Boarding School (500+)* | 2223 |
| Residential FE College (4-11) per place fee | 56 |
| Residential FE College (0-3) | 926 |
| Residential FE College (4-11) | 926 |
| Residential FE College (12+) | 1419 |
| Residential Special School (4-18) per place fee | 169 |
| Residential Special School (0-3) | 1704 |
| Residential Special School (4-18) | 1704 |
| Residential Special School (19+) | 4245 |
| Local authority Adoption functions | 1702 |
| Local authority Fostering functions | 2659 |
| Residential Holiday Schemes for disabled children** | 500 |

* These fees have reached full-cost recovery and will be capped at this amount.

** Reduced costs as explained in the narrative.

Annex C: Registration/variation fees for 2017-18

Children's Home (small)

| Type | 2017-18 Annual fee (£) |
|---------------------------|------------------------------|
| Provider registration | 794 |
| Manager registration | |
| Minor variation | 132 |
| Variation requiring visit | 794 |

Children's Home (large)

| Type | 2017-18 Annual fee (£) |
|----------------------------|------------------------------|
| Provider registration* | 2646 |
| Manager registration | 794 |
| Minor variation | 132 |
| Variation requiring visit* | 1322 |

Voluntary Adoption Agency (small)

| Type | 2017-18 Annual fee (£) |
|---------------------------|------------------------------|
| Provider registration | 551 |
| Manager registration | |
| Minor variation | 92 |
| Variation requiring visit | 551 |

Voluntary Adoption Agency (large)

| Type | 2017-18 Annual fee (£) |
|----------------------------|------------------------------|
| Provider registration | 2021 |
| Manager registration | |
| Minor variation | 92 |
| Variation requiring visit* | 919 |

Independent Fostering Agency

| Type | 2017-18 Annual fee (£) |
|----------------------------|------------------------------|
| Provider registration* | 2646 |
| Manager registration | 794 |
| Minor variation | 132 |
| Variation requiring visit* | 1322 |

Adoption Support Agency (small)

| Type | 2017-18 Annual fee (£) |
|---------------------------|------------------------------|
| Provider registration | 551 |
| Manager registration | |
| Minor variation | 92 |
| Variation requiring visit | 551 |

Adoption Support Agency (large)

| Type | 2017-18 Annual fee (£) |
|----------------------------|------------------------------|
| Provider registration | 2021 |
| Manager registration | 551 |
| Minor variation | 92 |
| Variation requiring visit* | 919 |

Residential Family Centre (small)

| Type | 2017-18 Annual fee (£) |
|---------------------------|------------------------------|
| Provider registration | 662 |
| Manager registration | |
| Minor variation | 110 |
| Variation requiring visit | 662 |

Residential Family Centre (large)

| Type | 2017-18 Annual fee (£) |
|----------------------------|------------------------------|
| Provider registration | 2,424 |
| Manager registration | 662 |
| Minor variation | 110 |
| Variation requiring visit* | 1,102 |

Residential Holiday Schemes for Disabled Children

| Type | 2017-18 Annual fee (£) |
|---------------------------|------------------------------|
| Provider registration | 596 |
| Manager registration | 596 |
| Minor variation | |
| Variation requiring visit | |

* These fees have reached full-cost recovery and will be capped at this amount.



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