



Department
for Education

Consultation
Launch Date 29 November 2012
Respond by 10 January 2013
Ref: Department for Education

Proposed Changes to Regulation 7 of the Care Standards Act 2000 (Registration) (England) Regulations 2010

The aim of this consultation is to seek views on the proposed revision to the Registration Regulations so that Ofsted can share the names and addresses of children's homes on their register of children's homes with the police, the Secretary of State for Education and the Office of the Children's Commissioner (OCC).

Proposed Changes to Regulation 7 of the Care Standards Act 2000 (Registration) (England) Regulations 2010

A Consultation

To Those who are working in children's social care, those leading, commissioning, providing and working in children's homes, local authorities, police, professional bodies or associations, government departments, voluntary sector organisations and children and young people who have lived in or are living in children's homes.

Issued 29 November 2012

Enquiries To If your enquiry is related to the policy content of the consultation you can contact Claire Owens by email at:
SharingCHDetails.CONULTATION@education.gsi.gov.uk

Contact Details

If you have a query relating to the consultation process you can contact the CYPFD Team by telephone: 0370 000 2288 or via the Department's ['Contact Us'](#) page.

1 Aim of this Consultation

- 1.1 The aim of this consultation is to seek views on the proposed revision to the Registration Regulations so that Ofsted can share the names and addresses of children's homes on their register of children's homes with the police, the Secretary of State for Education and the Office of the Children's Commissioner (OCC).

2 Background and Context

- 2.1 On 3 July 2012 the Secretary of State set out his response to the accelerated 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. Within this response, the Secretary of State made a number of commitments to improving the care and protection of children living in children's residential homes. This included a commitment to remove the current barriers in regulations so that Ofsted can share information about the location of children's homes with the police.

2.2 Ofsted has a responsibility to keep a register of children's homes (regulation 7 of the Care Standards Act 2000 (Registration) (England) Regulations 2010) ("the Registration Regulations"). Ofsted is required, under section 36 of the Care Standards Act 2000, to make that register available to any person. Currently, as a result of the provisions set out in regulation 7(5), Ofsted can share the list of children's homes with local authorities (LAs). Unlike LAs however, police forces are not named within this regulation and as a result Ofsted is not able to share the list with them on a regular basis. It is this regulation 7(5) therefore that we are proposing to amend and clarify.

2.3 In developing our proposals for this amendment, we have considered a number of core issues:

- Defining clearly the primary purpose of enabling the police to access the names and addresses of children's homes within their area;
- Whether information should be disseminated to a national policing body or to local police forces;
- The level at which the information should be disseminated within an organisation;
- The regularity of the dissemination of the information; and
- Other public bodies' access to the information.

We have set out these proposals in more detail below, along with our preferred way forward and questions to consider.

3 Defining clearly the primary purpose of enabling the police to access the names and addresses of children's homes within their area

3.1 We are proposing that the police need access to the names and addresses of children's homes for a number of reasons:

1. To enable them to take a strategic and operational approach to safeguarding looked after children who are living in children's homes;
 2. to carry out their crime prevention function - in the context of being able to deter potential offenders from targeting children who are living in children's homes;
 3. to share information on police knowledge of issues of concern more easily with Ofsted in order to inform their regulation and inspection activity; and
 4. to help police to protect children missing from care from harm.
- 3.2 Discussions with children and young people have, however, also highlighted the need to ensure that in making this information available to the police the information is not used to unfairly target children living in children's homes as part of wider criminal investigations they may be carrying out.
- 3.3 In discussions with the Association of Chief Police Officers (ACPO), the National Missing Persons Bureau and the Child Exploitation and Online Protection Centre (CEOP), there is an agreement that the police should only use this information for safeguarding children living in children's homes.
- 3.4 In relation to the above, we have specified in the draft 'Regulations' that the primary purpose of enabling the police to have access to this information is to enable them to safeguard the welfare of children living in children's homes.
- 3.5 To support this policy aim, we will be developing a joint protocol in December 2012 between ACPO, the National Missing Persons Bureau, CEOP, Ofsted and other relevant partners which will set out our expectations about how this information, once received by the police, the OCC and the local authority can be used and expectations about the onward sharing of the information (see paragraphs 8.1-8.4 of this document about information sharing).
- 3.6 The application of this protocol has to be understood within the context of Section 29 of the Data Protection Act 1998 which enables the police to use the data they 'own' to support their wider policing functions, such as the prevention or detection of crime, although this is not the purpose for which they will be given the data.

- 3.7 Within this protocol, we will also draw to the attention of local authorities, the police and the OCC's, relevant Information Commissioner Guidance concerning the level of security systems that are required by the Data Protection Act in respect of highly sensitive personal data.

Question 1 (a): *Do you think that the proposal strikes the right balance between enabling the police to carry out their police role to protect vulnerable children and ensuring that information about where children and young people's homes are located is sufficiently protected?*

Question 1 (b): *If not, can you set out why?*

- 4 Disseminating the information on the names and addresses of children's homes to the police at a local or national level

- 4.1 Representatives from ACPO, the National Missing Persons Bureau and Ofsted have agreed that it would be preferable for Ofsted to disseminate information from the register on the names and addresses of children's homes to local police forces rather than to a national policing body for onward distribution to local forces. This reflects the sensitive nature of the information contained in the register and the importance of ensuring that only information directly relevant to the police should be shared.

- 4.2 There is some concern that restricting police access to the names and addresses of children's homes only in their police force area could create 'boundary' problems. However, it is our view that the local police forces should be able to share any relevant information with other police forces as required (we have set this out in paragraphs 8.1-8.4 on the sharing of information) and therefore that information should only be sent by Ofsted to local police forces concerning the names and addresses of children's homes in their area.

Question 2 (a): *Do you agree that Ofsted should share the names and addresses of children's homes with local police forces (as set out in paragraphs 4.1 and 4.2 of the consultation document)?*

Question 2 (b): *If not, can you set out why?*

- 5 To whom should this information be sent?

- 5.1 Given the sensitive nature of the information to be disclosed to the police, it is our view that this should be given to the Chief Officer of the Police

rather than a constable of the police force. This is to ensure that the management of the information takes place at a sufficiently senior level within the police force. It is also consistent with the level at which information is currently disseminated by Ofsted to local authorities.

Question 3 (a): *Do you agree with the proposal that the names and addresses of children's homes should be given to the Chief Officer of the Police to ensure that the management of this information remains at a sufficiently senior level (as set out in paragraph 5.1 of the consultation document)?*

Question 3 (b): *If not, can you set out why?*

6 Regularity of the sharing of the information with the police

- 6.1 The regularity of when Ofsted disseminates information to the police is not an issue for regulation. However, we think it is important to consult on this issue. We have agreed with Ofsted that this should take place on a monthly basis, as is currently the case with their disclosure of the information to local authorities. This will allow local police forces to be kept informed when new children's homes open in their area and when homes close, on a sufficiently regular basis.

Question 4 (a): Do you agree with the proposed frequency for sharing the names and addresses of children's homes on a monthly basis (as set out in paragraph 6.1)?

Question 4 (b): *If not, can you set out why?*

7 Office of the Children's Commissioner

- 7.1 At present, the Children's Rights Director (CRD) is an employee of Ofsted and so has access to Ofsted's register of children's homes (which includes their addresses). Access to the register is necessary in order for the CRD to fulfil his remit to ascertain the views of children in care or who live away from home.
- 7.2 The requirement of Ofsted to appoint a CRD will be repealed under current legislative proposals and the activities which he carries out will in future be covered by the functions of the Children's Commissioner. So in order for the CRD's activities to continue under the new arrangements (which is the policy intent), the Children's Commissioner requires access to Ofsted's register of children's homes.

- 7.3 The Children's Rights Director function will be absorbed into a new Office of the Children's Commissioner. The new OCC will then need to have the same access to information about homes locations as the CRD has currently. We are therefore proposing to include the OCC having access to the names and addresses of children's homes within the revised regulation.

Question 5 (a): *Do you agree that the amended regulation should include sharing the names and addresses of children's homes with the Office of the Children's Commissioner (OCC) (as set out in paragraphs 7.1-7.3)?*

Question 5 (b): *If not, can you set out why?*

- 7.4 Currently, the Department for Education does not have a right to access all the information on Ofsted's register of children's homes and we are proposing to change this within the revised Regulations, to enable the Secretary of State to have access to this. We also considered if other public bodies should have access to the names and addresses of children's homes in their areas, in particular Local Safeguarding Children Boards (LSCBs) and District Councils (DCs). The LA and the police are members of LSCBs and, as they have access to this information, LSCBs in our view do not need access to it as well. District Councils should also be able to access this information from their LA (as set out in paragraphs 8.1-8.4 of this document about the sharing of information) and imposing an additional burden on Ofsted to disseminate to all DCs would potentially be very bureaucratic.

Question 6 (a): *Do you agree with the above proposal, that District Councils are not named specifically within the regulation as the LA will be able to share this information with District Councils on request (as set out in paragraph 7.4)?*

Question 6 (b): *If not, can you set out why?*

- 8 Whether we can restrict LAs or the police from sharing their information with other public bodies and what the implications of this may be
- 8.1 Currently, in order to receive the list of the names and addresses of children's homes, local authorities are required by Ofsted to sign a Memorandum of Understanding. This stipulates that the LA will treat the information as 'protected' and store it accordingly and that they will not share the information with another public body without first gaining Ofsted's agreement to do so.

- 8.2 Ofsted imposed these conditions under the belief that it is responsible for how individual LAs protect and share the information that Ofsted have given them. However, in our view:
- Ofsted does not have the legal power to impose these additional conditions on individual LAs or the police; and
 - neither Ofsted nor the Department is responsible for how individual LAs or the police protect or share this information with other public bodies.
- 8.3 The effect of the revised Registration Regulations (when read with section 36 of the Care Standards Act 2000) will be that Ofsted will be required to provide the names and addresses of children's homes to the police, the Secretary of State and to the OCC if they request this information (See Section 6 regarding the frequency of Ofsted sharing this information with local authorities and the police). Ofsted already have an obligation to disclose this information to local authorities. Once this information is provided, each local authority, the OCC, the Secretary of State and the police will become the 'owner' (or data controller) of the information and as such will have their own obligations under the Data Protection Act 1998.
- 8.4 This means in effect that each body will need to consider whether they have the power to share the information with other public bodies, such as DCs and neighbouring police forces on a case by case basis. In each case they will need to consider, for instance, whether sharing the information is necessary in order for them to carry out their statutory functions. In our view, the duties under the Data Protection Act 1998 provide sufficient safeguards and means that we do not need to consider placing any additional conditions on these areas within the Registration Regulations.

Question 7 (a): *Do you agree with the proposal that the Data Protection Act 1998 provides sufficient safeguards to ensure the police, LA's and the OCC share the names and addresses of children's homes with District Councils and other statutory bodies appropriately(as set out in paragraphs 8.1-8.4)?*

Question 7 (b): *If not, can you set out why?*

Question 8: *Do you have any other comments you would like to make? If so, we would be grateful if you could set these out.*

9 How to Respond

- 9.1 You can respond to this consultation by completing the response form and emailing it to:

SharingCHDetails.CONSULTATION@education.gsi.gov.uk

or sending it by post to: Claire Owens, Children in Care Division,
Department for Education, Sanctuary Buildings, Great Smith Street,
Westminster, London SW1P 3BT.

10 Additional Copies

- 10.1 Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at:

<http://www.education.gov.uk/consultations>.

11 Plans for making results public

- 11.1 The results of this consultation and the Department's response will be published on the Department for Education e-consultation website by the end of February 2013.