



Department  
for Education

**Launch date 19 September 2014**  
**Respond by 14 November 2014**  
**Ref: Department for Education**

# **Children's homes regulations: high expectations and aspirations**

# Children's homes regulations: high expectations and aspirations

**To** Providers, managers and staff of children's residential care services, local authorities, social workers, voluntary sector children's organisations, children in care, care leavers and representative bodies.

**Issued** 19 September 2014

**Enquires to** If your enquiry is related to the policy content of the consultation you can contact the department on 0370 000 2288

email: [chqualitystandards.consultation@education.gsi.gov.uk](mailto:chqualitystandards.consultation@education.gsi.gov.uk)

## Contact Details

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288 or via the department's '[Contact Us](#)' page.

If your enquiry is related to the policy development you should contact:

[chqualitystandards.consultation@education.gsi.gov.uk](mailto:chqualitystandards.consultation@education.gsi.gov.uk)

## Foreword from the Minister

As Parliamentary Under Secretary of State for Children and Families, I have had the opportunity to visit excellent residential care services meeting dedicated professionals who care for neglected or abused children or children with complex special educational needs and disabilities. Many of our children's homes do an amazing job, often with a limited amount of time to make a positive and lasting difference.

My job is to ensure that all children in care benefit from excellent services. The publication of reports in 2012 by the Deputy Children's Commissioner and the All

Party Parliamentary Groups for Runaway and Missing Children and Adults and for Looked After Children and Care Leavers about children who were exploited or went missing from care, uncovered failings in the system that left very vulnerable children cared for in placements that weren't safe or that didn't meet their needs.

So earlier this year I changed regulations to make improvements to how we safeguard children living in children's homes. I'm grateful to the sector for the way in which these changes have been embraced. Although it is early days I'm confident that children's homes, placing authorities and others with a responsibility for the safety of children are now rightly focused on working in partnership to protect our vulnerable children better.

I spent time carefully considering the circumstances that had led to these issues. One key theme that came up time and time again, and it was most often pointed out by the children and young people themselves, was that nobody expected the best of them.

Residential care needs to emulate the culture and values of excellent homes so that every home is aiming high and achieving the best for the children they care for. No longer should those caring for a child see a placement in a children's home as the end of the road or second best to a placement in foster care. Residential care can be a positive choice for some children in some circumstances and children should arrive at a children's home confident in the placement choice and sure that the staff can meet their needs and have their best interests at heart. They should be sure that they will be supported, accepted and kept safe in their new home, with every prospect of leaving more resilient and better equipped to move on with real hope of a brighter future.

Talking about this ambition with many of those providing and working in residential care led us to consider the creation of child-centred Quality Standards that would make clear the outcomes children should be supported to achieve while living in children's homes. These standards match the aspirations we have for our own children and mirror the high expectations we have for children to achieve in important areas of their life including in education and health.

And alongside introducing these aspirational goals for children living in children's homes, we need to remove any blocks that prevent homes from using their resources effectively and from using their professional judgement to do the right thing for the children they care for.

Collectively we've arrived at a new set of draft regulations that is ambitious for children living in children's homes, while also providing important 'must dos' in relation to management and administrative functions. The regulations emphasise the

importance of homes seeking to work with partners and the wider system to achieve outcomes for children. I know from my own personal experience that the real successes for children in care happen when they are respected, listened to and action is taken collectively to meet their expressed need. These regulations support children's homes to challenge other services and professionals involved in a child's life and take further action where they are falling short of their obligations.

These changes are part of our aim to encourage and enable services to innovate to deliver consistently excellent care for all children. They complement the Innovation Programme and its call for the sector and others to come forward with ideas to rethink the provision of children's social work and improve support for adolescents in or on the edge of care.

I'm grateful for the passion and commitment of those who work with and for children living in children's homes. I know first-hand how many of you are prepared to go the extra mile, often in difficult circumstances, to help children who have known so much hurt and heartbreak. The changes in regulations we're consulting on here will result in a step change for the lives of many of these children – something incumbent on us all to achieve for each and every one of them.



**Edward Timpson MP**

**Parliamentary Under Secretary of State for Children and Families**

# 1 Executive Summary

1.1 This consultation seeks views about proposals to revise the Children's Homes Regulations 2001 (as amended) to introduce new "Quality Standards" that children's homes must meet. The proposals cover:

- **Revised regulations** consisting of:
  - the new Quality Standards regulations; and
  - essential administrative and management regulations.
  
- **A Guide to the regulations** that would replace the current National Minimum Standards for children's homes.

## 2 Background

2.1 Children's homes provide important support and care for some of our most vulnerable, traumatised and challenging children and young people. We know that many homes already provide high quality care and that the children and young people living there benefit immensely from their dedication and support.

2.2 In 2012, the Department for Education began a new programme of reform for children's homes.<sup>1</sup> This was developed to address serious weaknesses in the children's residential care system, as highlighted by two reports from the Deputy Children's Commissioner and the All Party Parliamentary Inquiry into Children Who Go Missing from Care. Both reports found that children in children's homes were being exposed to danger and harm.<sup>2</sup>

2.3 Our first round of regulatory reforms sought to ensure that:

- children's homes were located in safe areas; and
- children's homes and local authorities were effectively safeguarding children at risk of going missing.

---

<sup>1</sup> <https://www.gov.uk/government/news/urgent-reforms-to-protect-children-in-residential-care-from-sexual-exploitation>

<sup>2</sup> [http://www.childrenscommissioner.gov.uk/content/publications/content\\_580](http://www.childrenscommissioner.gov.uk/content/publications/content_580)  
<http://www.childrenssociety.org.uk/what-we-do/policy-and-lobbying/parliamentary-work/appg-inquiry-children-who-go-missing-or-run-away-c>

- 2.4** We consulted publicly on proposals to amend regulations in summer 2013. The Government’s response to the consultation was published on 3 January 2014.<sup>3</sup> The measures came into force on 27 January and 1 April 2014.<sup>4</sup>
- 2.5** Much has been achieved since these changes. The sector has worked with us to implement them to ensure maximum benefit for children. However, what has been achieved so far is only the first phase of our larger programme of reform that seeks to bring ambition and improvement to the delivery of children’s homes services. As the Education Select Committee noted in their recent report, the “reforms are a welcome step in the right direction towards improving the safety and welfare of children in residential homes. However (...) further change is needed (...)”.<sup>5</sup>
- 2.6** We agree and, as explained in our response to the Committee, we want to focus on achieving the best outcomes for children living in children’s homes by introducing wider changes to the regulatory framework.<sup>6</sup>

### **3 Policy aims**

- 3.1** Children’s homes provide care for some of the most vulnerable, traumatised and challenging children and young people in the country. They also care for children with complex special educational needs and disabilities. Whilst our immediate regulatory changes focused on improving the safety of these children, we want to go further by substantially improving the quality and consistency of care provided by all children’s homes.
- 3.2** We want a regulatory framework that sets high standards for residential care and ensures that homes offer these very vulnerable children the support they need to achieve positive outcomes. We want to ensure that children’s homes provide high quality care, set high aspirations for children and enable them to achieve their full potential, as the best homes already are. We want to support innovation in the sector and enable skilled professionals to use their judgement to provide care that meets each child’s individual needs.

---

<sup>3</sup> <https://www.gov.uk/government/consultations/changes-to-the-childrens-homes-regulations-2001-as-amended-and-the-care-standards-act-2000-registration-england-regulations-2010>;  
<https://www.gov.uk/government/consultations/improving-safeguarding-for-looked-after-children-changes-to-the-care-planning-placement-and-case-review-england-regulations-2010>

<sup>4</sup> <http://www.legislation.gov.uk/ukxi/2013/3239/introduction/made>

<sup>5</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/education-committee/news/publication-childrens-homes-report/>

<sup>6</sup> <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeduc/305/30504.htm>

## **4 Detail of the Proposal**

**4.1** Following our 2013 consultation, further discussions with Ofsted and the sector established that the current regulatory framework was preventing substantial improvements in quality because:

- existing regulations for children’s homes were insufficiently focused on outcomes and overly focused on process;
- there was a disconnect between the regulations and the National Minimum Standards which make up the regulatory framework; and
- the concept of ‘minimum’ standards was unhelpful in driving up quality.

**4.2** We are proposing three main changes to the current regulatory framework for children’s homes:

- introduction of Quality Standards, which set out in regulations the outcomes that children must be supported to achieve while living in children’s homes. Each standard has an aspirational, child-focused outcome statement, followed by a clear set of underpinning, measurable requirements that homes must meet to achieve the standard;
- replacement of the current National Minimum Standards with a Guide to the regulations that will explain and supplement the requirements stated in the regulations; and
- streamlining and modernisation of the current regulations on management and administrative processes (e.g. allowing the use of electronic records).

**4.3** As now, children’s homes providers will be required to meet the regulations and Ofsted (as their regulator) will use the regulatory framework as the basis for inspection and, where necessary, enforcement action. The Guide is a statement published pursuant to section 23 of the Care Standards Act 2000. It explains and supplements the regulations. Children’s homes must have regard to the Guide in interpreting and meeting the regulations and Ofsted must have regard to the Guide in regulating homes.

**4.4** In developing the new regulatory framework, we have brought together information that was previously spread across the regulations and National Minimum Standards.

**4.5** We have removed regulations that have been replaced by the Quality Standards, but kept those that cover essential management and administrative processes. We have taken the opportunity to review the remaining regulations and made revisions to some of them to ensure they:

- align with the new Quality Standards;
- are modernised to take account of changing models of delivery; and
- remove burdens and unnecessary prescription because we trust providers to use their professional judgement.

**4.6** The draft regulations that set out the proposed essential management and administrative processes are included in Parts 3 to 7 of the regulations. A number of these regulations are also included in this consultation document. These include:

- fitness and capacity requirements of those in leadership positions;
- storage of records; and
- notification of serious events and reviewing the home's performance.

## **5 The Consultation**

Please ensure you respond to this consultation through the online consultation tool or the appropriate response form. No response boxes appear in this document.

### **Quality Standards (Part 2)**

**5.1** Part 2 Chapter 1 of the regulations contains the Quality Standards. Each standard has an aspirational, child-focused outcome statement, with a clear set of measurable requirements that homes must meet to achieve the standard. In this section of the consultation we set out our aims for each standard, and what we expect it will allow us to do. There are nine standards:

- 1. The quality and purpose of care standard**
- 2. The children's wishes and feelings standard**
- 3. The education standard**

4. **The enjoyment and achievement standard**
5. **The health and well-being standard**
6. **The positive relationships standard**
7. **The protection of children standard**
8. **The leadership and management standard**
9. **The care planning standard**

**5.2** Part 2 Chapter 2 of the regulations – **Matters related to the Quality Standards** – contains more detailed requirements that directly relate to the Quality Standards. All of these are existing regulations and most are unchanged. If you would like to make any comments on these regulations, please do so either as part of your response to the relevant Quality Standards questions or in the general questions at the end of this document. We are consulting on making some changes to the regulation on restraint and deprivation of liberty (regulation 22) and further information on this is at the end of this section.

**Engaging with the wider system to ensure each child's needs are met (regulation 5)**

**5.3** To meet all of the nine Quality Standards it will be essential for providers to work closely with others across the wider system. This new regulation (regulation 5) sets out requirements that run across all of the Quality Standards to ensure that homes are working with those in the wider system to ensure that each child's needs are met. Regulation 5(a and b) sets out the role the registered person should have in developing and maintaining relationships with the placing authority and relevant persons and services applicable to the child's care. It is intended that the registered person would be able to use regulation 5(c) to challenge any inadequate responses from local authorities or relevant people involved in the child's care, across all the Quality Standards.

**Engaging with the wider system to ensure each child's needs are met (regulation 5) – draft wording**

**5.** In meeting regulations 6 to 14, the registered person must, and must ensure that staff—

- (a) seek to involve each child's placing authority effectively in the child's care, in line with the child's relevant plans;
- (b) seek to develop and maintain an effective working relationship with all relevant persons—
  - (i) involved in the care and protection of children in the area where the children's home is located;
  - (ii) in relation to each child's care, to seek to secure the input and services required to meet each child's needs;
- (c) if the response of the placing authority or any of the relevant persons is inadequate in relation to their role, challenge them to seek to ensure that each child's needs are met in line with their relevant plans.

**5.4** To read information contained in the Guide on regulation 5 please see page 9 of the Guide.

***Q1a. Do you agree with the inclusion of a regulation about engaging with the wider system to ensure each child's needs are met?***

***Q1b. Do you agree with draft regulation 5 - engaging with the wider system to ensure each child's needs are met?***

***Q1c. Do you agree with the information included in the Guide relating to regulation 5?***

***Q1d. If draft regulation 5 (engaging with the wider system) or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q1e. If you disagree with the inclusion of regulation 5 (engaging with the wider system) or relevant information included in the Guide, tell us why in the box below.***

**The quality and purpose of care standard (regulation 6)**

- 5.5** Our aspiration is that every home should have a clear vision that focuses their efforts on providing the highest quality care for children to meet their individual needs. Homes will recognise the importance of communicating and sharing their vision with commissioners and placing authorities and will help children to understand how their vision informs the way they will be protected and cared for.
- 5.6** The quality and purpose of care standard makes clear that everyone working in a home should understand the vision and aims of the home and the individual outcomes it wants for its children. The vision should be easily understood and well communicated to partners and those involved in providing services for the children in the care of the home. The standard sets out the necessary physical and emotional elements of care that contribute to a high quality setting where children feel safe, cared for and valued. Each child should have essential personal items to support their health and well-being, and enjoy living in a warm, clean, well-maintained home with wholesome food, snacks and drinks available. Each child should be treated with dignity and respect and homes will be required to provide personalised care that helps to prepare them for future transitions in their life.

#### **The quality and purpose of care standard (regulation 6) – draft wording**

- 6.—(1)** The quality and purpose of care standard is that the registered person—
- (a) understands the home’s overall aims and the outcomes it seeks to achieve for children;
  - (b) uses this understanding to deliver high quality care that meets children’s needs and supports them to achieve their potential;
  - (c) ensures that staff fulfil (a) and (b).
- (2)** The quality and purpose of care standard is met if—
- (a) the registered person has and communicates, and ensures that staff have and communicate, a shared understanding of—
    - (i) the range of needs of children for whom it is intended that the home is to provide care;
    - (ii) the outcomes for children that the home aims to achieve;
    - (iii) how the home operates to achieve those outcomes;
  - (b) the understanding referred to in sub-paragraph (a)—

- (i) is consistent with the home's statement of purpose; and
  - (ii) informs the performance by the registered person of their obligations under sub-paragraph (c);
- (c) the registered person ensures that staff—
- (i) protect and promote each child's welfare;
  - (ii) treat each child with dignity and respect;
  - (iii) provide personalised care that meets each child's needs as recorded in his or her relevant plans and takes account of his or her background;
  - (iv) support each child to manage the consequences of any experiences of abuse or neglect;
  - (v) support each child to develop resilience and skills that prepare him or her, as the case may be, to return home, to live in a new placement or to live independently as an adult;
  - (vi) provide physical necessities, including personal items, for each child;
  - (vii) make appropriate and reasonable decisions about the day-to-day arrangements for each child, in line with the child's relevant plans, which give the child an appropriate degree of freedom and choice;
- (d) the registered person ensures that the premises used for the purposes of the home are designed and furnished in such a way that—
- (i) they meet the needs of each child;
  - (ii) they enable each child to participate in the daily life of the home;
  - (iii) they enable each child to participate in the daily life of the community of the area in which the home is located;
  - (iv) each child's privacy is appropriately protected;
  - (v) each child can access all appropriate areas of the premises;

(3) If the registered person places a limitation on a child's privacy or access to areas of the home's premises (see sub-paragraphs (d)(iv) and (v)), the registered person must ensure that any such limitation is—

- (a) intended to safeguard the child's welfare;
- (b) necessary and proportionate to the child's needs; and
- (c) kept under review and revised where appropriate.

- 5.7** To read information contained in the Guide on the quality and purpose of care standard please see page 12 of the Guide.

***Q2a. Do you agree with the inclusion of a standard on quality and purpose of care in the new regulations?***

***Q2b. Do you agree with draft regulation 6 - the quality and purpose of care standard?***

***Q2c. Do you agree with the information included in the Guide relating to the quality and purpose of care standard?***

***Q2d. If the quality and purpose of care standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q2e. If you disagree with the quality and purpose of care standard draft regulation or relevant information in the Guide, tell us why in the box below.***

#### **The children's wishes and feelings standard (regulation 7)**

- 5.8** Our aspiration is for all homes to take the time to really listen to their children. Homes should build a culture of participation, sensitive to the background, needs and abilities of each child, so that they can be assured that their views are listened to, taken seriously and acted upon.
- 5.9** This standard allows us to set out important requirements for homes to involve, engage and listen to children to improve their care, and ensure they act on and resolve any complaints or mistakes. The standard also sets out a key role for the home in preparing children for their reviews and where necessary enabling them to access advocacy support to ensure their voices are heard and listened to. Staff should be skilled in facilitating opportunities for children to routinely talk, and be listened to, paying careful attention to any language or communication barriers. Listening to children underpins all good practice including promoting and safeguarding the welfare of children.

#### **The children's wishes and feelings standard (regulation 7) – draft wording**

- 7.—(1)** The children's wishes and feelings standard is that staff—
- (a) engage with children; and
  - (b) take children's wishes and feelings into account,

about matters affecting children's care and welfare.

(2) The children's wishes and feelings standard is met if—

(a) the registered person ensures that staff—

- (i) seek, consider and, where possible, act upon each child's wishes and feelings in relation to decisions about his or her care and welfare;
- (ii) regularly consult children, and seek their feedback, about the quality of the home's care;
- (iii) explain to each child how his or her wishes and feelings have been taken into account and give reasons for decisions;
- (iv) support each child to express his or her wishes and feelings, including through specialist support where appropriate;
- (v) explain to each child how his or her confidentiality will be respected and the circumstances when it may have to be set aside;
- (vi) assist each child to prepare for a care and placement review and to make his or her wishes and feelings known for the purposes of a review;

(b) the registered person ensures that each child—

- (i) is enabled to provide feedback to, and raise issues with, an appropriate person about the support and services the child receives;
- (ii) is given access to and an explanation of the home's children's guide when he or she is admitted to the home;

(c) the registered person—

- (i) keeps under review and, where appropriate, revises the children's guide;
- (ii) if the children's guide is revised, gives each child access to the revised guide and an explanation of the changes;

(d) the registered person ensures that—

- (i) an explanation is given to each child, having regard to his or her age and understanding, as to how to make a complaint or representations in relation to the home or the care he or she receives and how any such complaint or representations will be dealt with;
- (ii) arrangements are in place to enable children to have access to advocacy support to ensure their voice is listened to;

(e) the registered person ensures that the views of others with a significant relationship to each child, including family members, are regularly sought and taken into account in line with relevant plans.

- 5.10** To read information contained in the Guide on the children’s wishes and feelings standard please see page 18 of the Guide

***Q3a. Do you agree with the inclusion of a standard on children’s wishes and feelings in the new regulations?***

***Q3b. Do you agree with draft regulation 7 - the children’s wishes and feelings standard?***

***Q3c. Do you agree with the information included in the Guide relating to the children’s wishes and feelings standard?***

***Q3d. If the children’s wishes and feelings standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q3e. If you disagree with the children’s wishes and feelings standard draft regulation or relevant information in the Guide, tell us why in the box below.***

### **The education standard (regulation 8)**

- 5.11** We are committed to ensuring that children looked after in homes are engaged in education and supported to improve their educational attainment. We want the highest ambition for children in residential care, with homes sending out a clear message that their children can and should want to learn, and will always be supported by the home to do so. We also recognise that for some very vulnerable children who have experienced trauma, it may be necessary to address and work with the trauma, before they can participate positively in learning activities and formal education.
- 5.12** The education standard is resolute in its aim for children to achieve their educational potential, but recognises that most homes are one element in a joint approach to achieving this. This standard sets out the home’s role as the driving force in understanding the child’s feelings about education, supporting their learning practically or emotionally as a good parent would, and advocating for any necessary support to enable them to achieve their full potential.

### **The education standard (regulation 8) – draft wording**

**8.—(1)** The education standard is that children make measurable progress towards achieving their educational potential and are supported to do so by the home.

- (2) The education standard is met if the registered person ensures that—
- (a) staff—
    - (i) support each child’s learning and development, including support with homework where appropriate;
    - (ii) support each child to achieve his or her education, learning and training goals, as recorded in his or her relevant plans;
    - (iii) understand the barriers to learning that each child may face;
    - (iv) communicate the value of education and training to each child;
    - (v) support each child to engage in activities which promote learning outside of formal education and training provision;
    - (vi) maintain regular contact with each child’s education and training provider, including engaging with the provider and the placing authority to support his or her education and training and to maximise his or her achievement;
    - (vii) where they become aware of any need for further assessment or specialist provision with regard to a child, raise this with the child’s education or training provider and the placing authority;
    - (viii) support each child who is above compulsory school-age to participate in further education, training or employment and to prepare for future higher education or employment;
    - (ix) support a child who is excluded from school, or of compulsory school age but not attending school, to—
      - (aa) access educational and training support throughout the time that he or she is so excluded or otherwise not attending school; and
      - (bb) return to school as soon as possible;
  - (b) each child—
    - (i) regularly attends education or training provision in line with his or her relevant plans;
    - (ii) has access to a range of equipment, facilities and resources to support his or her learning.

**5.13** To read information contained in the Guide on the education standard please see page 22 of the Guide.

***Q4a. Do you agree with the inclusion of a standard on education in the new***

*regulations?*

***Q4b. Do you agree with draft regulation 8 - the education standard?***

***Q4c. Do you agree with the information included in the Guide relating to the education standard?***

***Q4d. If the education standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q4e. If you disagree with the education standard draft regulation or relevant information in the Guide, tell us why in the box below.***

### **The enjoyment and achievement standard (regulation 9)**

- 5.14** We want all children to enjoy, have fun and love their childhood. For those living away from their families in children's homes, nurturing this is vital in securing their future success when or if they move on to independence. Homes should be committed to supporting children to try new things, meet new people where appropriate, and build an understanding of the world.
- 5.15** The enjoyment and achievement standard ensures that children are supported to take part in activities that develop and stretch their interests and skills, and that reflect their ambitions and preferences. The standard also requires homes to support children to participate in activities outside the home, contribute to their community and make friends outside of the home, where appropriate. We recognise that to do this, homes will need to work jointly with the network of services in their area to ensure the child benefits positively from such involvement.

### **The enjoyment and achievement standard (regulation 9) – draft wording**

**9.—(1)** The enjoyment and achievement standard is that children take part in and benefit from a variety of activities that meet their needs and develop and reflect their creative, intellectual, physical and social interests and skills.

**(2)** The enjoyment and achievement standard is met if the registered person ensures that—

(a) each child has access to a range of activities that enable the child to pursue his or her individual hobbies and interests;

(b) staff support each child to—

(i) develop his or her interests and skills through activities available inside

and outside the home;

- (ii) participate in activities inside and outside the home that he or she enjoys and which meet and expand his or her interests and preferences;
- (iii) make a positive contribution to the home and the wider community;
- (iv) make and sustain friendships with children inside and outside the home.

(3) The registered person must take each child's relevant plans into account when carrying out the obligations in paragraph (2), but those plans are not to limit the steps that the registered person may decide to take in order to meet those obligations.

**5.16** To read information contained in the Guide on the enjoyment and achievement standard please see page 27 of the Guide.

***Q5a. Do you agree with the inclusion of a standard on enjoyment and achievement in the new regulations?***

***Q5b. Do you agree with draft regulation 9 - the enjoyment and achievement standard?***

***Q5c. Do you agree with the information included in the Guide relating to the enjoyment and achievement standard?***

***Q5d. If the enjoyment and achievement standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q5e. If you disagree with the enjoyment and achievement standard draft regulation or relevant information in the Guide, tell us why in the box below.***

### **The health and well-being standard (regulation 10)**

**5.17** We want children to feel safe and cared for when they are unwell, and be able to get a GP or dentist appointment when they need it. We want looked-after children to enjoy good health and well-being, with all of their emotional, mental and physical health needs met. We recognise that supporting the health and well-being of a looked-after child can be complicated, and may require a substantial amount of work to take place before a child is in a position to make changes to improve their health and well-being. We also recognise that some children in homes will have complex

disabilities and/or life limiting illnesses that may need to inform their own individual definition of 'good health and well-being'.

- 5.18** This standard gives homes a key role in organising and ensuring each child's attendance at the necessary primary and secondary health services. We recognise that the majority of health services that a child needs to access will be provided by other organisations. Therefore, if these services are not accessible, or are withdrawn, homes will be expected to engage with those who also hold a responsibility for the child's health and well-being, to seek to ensure each child's health needs are met. The home will also have a key role in supporting children to achieve and maintain healthy lifestyles in relation to such choices as nutrition, exercise, sexual health and use of drugs, alcohol and tobacco.

### **The health and well-being standard (regulation 10) – draft wording**

**10.**—(1) The health and well-being standard is that—

- (a) the emotional, mental and physical health and well-being needs of children are met;
- (b) children receive advice, services and support in relation to their health and well-being;
- (c) children have healthy lifestyles.

(2) The health and well-being standard is met if the registered person ensures that—

- (a) staff support each child to—
  - (i) achieve personalised objectives for his or her health and well-being as recorded in his or her relevant plans;
  - (ii) understand his or her health and well-being needs and to make informed choices and decisions about his or her health and well-being;
  - (iii) take part in activities which meet his or her emotional, mental and physical health and well-being needs;
  - (iv) develop skills to maintain a healthy lifestyle;
  - (v) develop his or her understanding of personal, sexual and social relationships, and to responsibly enter into relationships appropriate to his or her age and development;
- (b) each child registers as a patient with a general medical practitioner;
- (c) each child has access to such dental, medical, nursing, psychiatric and

psychological advice, treatment and other services, as he or she may require;

(d) when a specialist health intervention is arranged for a child—

- (i) the child’s clinician and placing authority are involved in the arrangements, kept informed throughout and, where appropriate, their prior approval has been obtained;
- (ii) it can be demonstrated that the intervention meets the needs of that child;
- (iii) the person delivering the intervention satisfies the requirements in paragraph (3).

(3) The requirements are that the person delivering the specialist health intervention—

- (a) has appropriate experience, qualifications and skills;
- (b) is legally entitled to practise;
- (c) will do so in a way that is appropriate and safe for the child.

(4) In this regulation “specialist health intervention” means a health intervention which is arranged for the child by someone other than the child’s clinician or placing authority.

**5.19** To read information contained in the Guide on the health and well-being standard please see page 30 of the Guide.

***Q6a. Do you agree with the inclusion of a standard on health and well-being in the new regulations?***

***Q6b. Do you agree with draft regulation 10 - the health and well-being standard?***

***Q6c. Do you agree with the information included in the Guide relating to the health and well-being standard?***

***Q6d. If the health and well-being standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q6e. If you disagree with the health and well-being standard draft regulation or relevant information in the Guide, tell us why in the box below.***

**The positive relationships standard (regulation 11)**

- 5.20** Our aspiration is that children will be supported to form positive relationships based on respect. We want homes that are committed to treating each child positively, homes that can both understand and effectively work with challenging behaviour, and staff that can be reflective in their practice to ensure they understand their own feelings and reactions within the relationships they form with children.
- 5.21** This standard focuses on relationship building as a learning process which forms an important part of the culture of the home. It recognises that children may choose behaviour that is not acceptable in certain circumstances, but it requires that the adults develop a deep understanding of this, along with the skills they need to support children to have positive, respectful and trusting relationships with other children and adults. This standard encourages the use of de-escalation to avoid the use of restraint. Information relating to disciplinary measures and restraint is contained in regulations 21 and 22.

#### **The positive relationships standard (regulation 11) – draft wording**

**11.—(1)** The positive relationships standard is that children benefit from, and are supported to develop, relationships based on—

- (a) mutual respect and trust;
- (b) an understanding about acceptable behaviour; and
- (c) positive responses to other children and adults.

**(2)** The positive relationships standard is met if the registered person ensures that—

- (a) each child is encouraged to build and maintain positive relationships with other children and adults;
- (b) each child benefits from positive, stable relationships with staff that set clear boundaries reflecting the nature of the relationship;
- (c) staff—
  - (i) meet each child’s emotional and behavioural needs, as set out in his or her relevant plans;
  - (ii) support each child to develop socially aware behaviours;
  - (iii) encourage each child to take responsibility for his or her behaviour, in accordance with his or her abilities and age;
  - (iv) support each child to develop and practise skills to—

- (aa) build and maintain positive relationships with others; and
- (bb) resolve conflicts positively and without harm to himself or herself or other parties;
- (v) seek to gain each child's respect and trust;
- (vi) understand how children's previous experiences and present emotions can be communicated through behaviour and have the competence and skills to interpret these and develop positive relationships with children;
- (vii) are provided with supervision and support to manage and understand their own feelings and responses to the emotions and behaviours presented by children, and to help children to do the same;
- (viii) de-escalate confrontations or potentially violent behaviour wherever possible to avoid the use of physical restraint;
- (ix) understand and communicate to children that bullying by or of any person is unacceptable;
- (x) have the skills to recognise incidents or indications of bullying and how to deal with them; and
- (d) disciplinary and restraint measures are used in accordance with regulation 21 (behaviour management and discipline) and regulation 22 (restraint and deprivation of liberty).

**5.22** To read information contained in the Guide on the positive relationships standard please see page 35 of the Guide.

***Q7a. Do you agree with the inclusion of a standard on positive relationships in the new regulations?***

***Q7b. Do you agree with draft regulation 11- the positive relationships standard?***

***Q7c. Do you agree with the information included in the Guide relating to the positive relationships standard?***

***Q7d. If the positive relationships standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q7e. If you disagree with the positive relationships standard draft regulation or relevant information in the Guide, tell us why in the box below.***

## **The protection of children standard (regulation 12)**

- 5.23** Children have the right to be safe, and homes are required to protect them from harm and abuse. We recognise that children arriving into care may put themselves at risk, and we want homes to support children to understand and manage those risks.
- 5.24** The protection of children standard sets out that all children should be protected from harm both inside and outside of the home, as far as is reasonable. Homes should support children to develop and maintain appropriate skills to keep themselves safe. It requires all staff to handle, report and act upon any allegations of abuse by children or adults.

### **The protection of children standard (regulation 12) – draft wording**

**12.**—(1) The protection of children standard is that children are—

- (a) protected from harm;
- (b) enabled to keep themselves safe,

both inside and outside the home.

(2) The protection of children standard is met if the registered person ensures that—

- (a) staff—
  - (i) assess whether each child is at risk of harm, taking into account information in his or her relevant plans;
  - (ii) make arrangements to reduce the risk of harm to each child taking account of that information;
  - (iii) protect each child effectively from harm;
  - (iv) support each child to understand how he or she can manage his or her own safety;
  - (v) have the skills to identify, be alert to and act upon signs that a child is at risk of harm;
  - (vi) manage relationships between children to protect them from harming each other;
  - (vii) understand their individual responsibilities and roles in relation to protecting children, including what action to take whenever there is a

serious concern about a child's welfare;

- (viii) take effective action whenever there is a serious concern about a child's welfare, responding appropriately and alerting and seeking to involve relevant persons to manage risks and maintain each child's safety;
  - (ix) are familiar with, and act in accordance with, the home's procedure under regulation 36(1) (policies for the protection of children);
- (b) if a child is assessed as being at risk of harm, the home's day-to-day care is arranged and delivered so as to keep the child safe;
  - (c) the premises used for the purposes of the home are located so that children are, and can be, effectively safeguarded;
  - (d) the premises used for the purposes of the home are designed, furnished and maintained so as to protect each child from avoidable hazards to his or her health;
  - (e) the arrangements for the protection of children required by regulation 36 (policies for the protection of children) are in place, and the registered person regularly monitors the effectiveness of those arrangements;
  - (f) arrangements are made for children and persons working at the home to have access at all times, and in an appropriate form, to information enabling them to contact—
    - (i) the local authority in whose area the home is situated; or
    - (ii) HMCI,if they have concerns about the safety or welfare of children.

(3) The obligations in this regulation apply both inside and outside the home but are limited in their application outside the home by the extent to which the registered person and staff can affect what takes place there.

**5.25** To read information contained in the Guide on the protection of children standard please see page 39 of the Guide.

***Q8a. Do you agree with the inclusion of a standard on the protection of children in the new regulations?***

***Q8b. Do you agree with draft regulation 12 - the protection of children standard?***

***Q8c. Do you agree with the information included in the Guide relating to the protection of children standard?***

***Q8d. If the protection of children standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q8e. If you disagree with the protection of children standard draft regulation or relevant information in the Guide, tell us why in the box below.***

### **The leadership and management standard (regulation 13)**

- 5.26** Strong and effective leaders are vital to the running of high quality children’s homes. The registered person and those in leadership and management positions play a crucial role in creating a positive culture for the home, and ensuring the quality of care is sustained and improved by those working within it. Children deserve to be cared for by a home that has a skilled and thoughtful manager leading the way, who recognises that their service is strengthened by listening to and acting on the experiences of those they care for.
- 5.27** This standard links very clearly with the quality and purpose of care standard. The registered person must be able to lead staff and influence partners to meet the vision for their service. This standard sets out the role the registered person must take in securing a sufficient, skilled and qualified workforce to meet the needs of each child in the home. They must also be skilled in monitoring and review to ensure continuous improvement, and an ongoing commitment to delivering a high quality of care.

### **The leadership and management standard (regulation 13) – draft wording**

- 13.—(1)** The leadership and management standard is that the registered person enables, inspires and leads a culture that—
- (a) helps children aspire to do their best; and
  - (b) promotes their welfare.
- (2)** The leadership and management standard is met if the registered person—
- (a) leads and manages the home in a way that delivers the approach, ethos and outcomes set out in the home’s statement of purpose;
  - (b) demonstrates a vision for the home;
  - (c) leads staff to work as a cohesive team and ensures that they have the experience, qualifications and skills to meet the needs of each child in the home;
  - (d) ensures that each child receives care from a stable and sufficient workforce

- that is well supported and provides a consistent approach to care;
- (e) knows and understands the impact that the home is having on the progress and experiences of each child and uses this knowledge and understanding to inform the development of the quality of care in the home;
  - (f) can demonstrate that practice in the home is informed and improved by—
    - (i) knowledge of developments in relation to the care of children within the range of needs for which it is intended that the home is to provide care; and
    - (ii) feedback on the experiences of children, including complaints received;
  - (g) uses monitoring and review systems to—
    - (i) achieve continuous improvement in;
    - (ii) identify and address any weaknesses in or demands upon, the quality of care provided by the home.

**5.28** To read information contained in the Guide on the leadership and management standard please see page 45 of the Guide.

***Q9a. Do you agree with the inclusion of a standard on leadership and management in the new regulations?***

***Q9b. Do you agree with draft regulation 13 - the leadership and management standard?***

***Q9c. Do you agree with the information included in the Guide relating to the leadership and management standard?***

***Q9d. If the leadership and management standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q9e. If you disagree with the leadership and management standard draft regulation or relevant information in the Guide, tell us why in the box below.***

**The care planning standard (regulation 14)**

**5.29** We want all children in care to be in the right placement at the right time. We want homes to make decisions about placements informed by a clear understanding of

their statement of purpose and the range of needs of children that the home is designed to care for. For children arriving at the home, we want them to feel welcomed, and be supported to settle into everyday life, whilst also being encouraged to maintain contact with their friends and family, if appropriate.

- 5.30** The care planning standard requires homes to manage placements to ensure that children are introduced effectively to the home and that placements are managed so that the welfare of every child in the home is protected. Homes must make sure that arrangements are in place to support their children to develop and maintain contact with their parents, relatives and friends where this is in line with the child's relevant plans. Homes are required to be strong in their leadership and call for review of plans where the child is at risk of harm, the care provided cannot meet their needs, or if the child asks for a review.

#### **The care planning standard (regulation 14) – draft wording**

**14.—(1)** The care planning standard is that children's needs are met by the home providing well-planned care and effectively managing the admission and placement of children.

(2) The care planning standard is met if—

- (a) the registered person ensures that the needs of children admitted are within the range of needs set out in the home's statement of purpose;
- (b) the registered person ensures that arrangements are in place to—
  - (i) ensure the effective induction of children into the home;
  - (ii) manage and review the placement of children in the home to ensure that the welfare of each child is protected;
  - (iii) plan for, and to support, each child when he or she prepares to leave the home in a way that is consistent with arrangements agreed with his or her placing authority;
- (c) subject to regulation 23 (contact and access to communications), the registered person promotes contact between each child and his or her parents, relatives and friends, in accordance with the child's relevant plans;
- (d) the premises used for the purposes of the home are located so that children are able to access services to meet the needs identified in their relevant plans;
- (e) the registered person contacts a child's placing authority and requests a review of that child's relevant plans when—
  - (i) the registered person considers that the child is at risk of harm or has

concerns that the care provided for the child is inadequate to meet his or her needs;

(ii) the child requests a review of his or her relevant plans;

(f) each child is supported to access and contribute to the records kept by the registered person in relation to him or her.

**5.31** To read information contained in the Guide on the care planning standard please see page 49 of the Guide.

***Q10a. Do you agree with the inclusion of a standard on care planning in the new regulations?***

***Q10b. Do you agree with draft regulation 14 - the care planning standard?***

***Q10c. Do you agree with the information included in the Guide relating to the care planning standard?***

***Q10d. If the care planning standard draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q10e. If you disagree with the care planning standard draft regulation or relevant information in the Guide, tell us why in the box below.***

### **Restraint and deprivation of liberty (regulation 22)**

**5.32** We want to make some changes to cover issues concerning deprivation of liberty in children's homes caring for children and young people who lack mental capacity, in the light of a recent Supreme Court judgement.<sup>7</sup>

**5.33** The Supreme Court ruled that a deprivation of liberty exists where a person in a care setting is under continual supervision and is not free to leave. Where the state assumes responsibility for arranging a person's care any regime that routinely deprives them of their liberty may need to be authorised by a court and kept under regular review.

---

<sup>7</sup> *Surrey County Council v P and others and Cheshire West and Chester Council v P and another* [2014] 2 WLR 642 ("Cheshire West")

**5.34** In view of this judgment we want to amend regulation 22 to make it clear that the regulations would not prevent an individual who is placed in a children's home from being deprived of their liberty where that deprivation is authorised by the terms of a court order (other than an order made under section 25 of the Children Act 1989). This would cover an appropriate order made by the Court of Protection under the Mental Capacity Act 2005.

**5.35** The changes we want to make to regulation 22 include an amendment to provide a clear definition of restraint which is consistent with the definition used in the Mental Capacity Act. As this covers actions intended to restrict a child's liberty of movement, whether or not the child resists, it includes what was defined as a restriction of liberty in previous Guidance and National Minimum Standards.

To read information contained in the Guide on restraint and deprivation of liberty please see page 59 of the Guide.

#### **Restraint and deprivation of liberty (regulation 22) – draft wording**

**22.**—(1) Subject to paragraph (2), a measure of restraint may only be used on a child accommodated in a children's home for the purpose of—

- (a) preventing injury to any person (including the child who is being restrained);
- (b) preventing serious damage to the property of any person (including the child who is being restrained); and
- (c) in the case of a child who is the subject of a court order as set out in sub-paragraph (4), or who is accommodated in a secure children's home, preventing the child from absconding from the home,

and then only where no alternative method of preventing an event in sub-paragraphs (a) to (c) is available.

(2) Where a measure of restraint is used on a child accommodated in a children's home—

- (a) the measure of restraint must be proportionate; and
- (b) no more force than is necessary should be used.

(3) A measure of restraint is used where a person—

- (a) uses, or threatens to use, force to secure the doing of an act which a child resists; or
- (b) restricts a child's liberty of movement, whether or not the child resists.

(4) Nothing in these regulations prevents a child from being deprived of their liberty

where that deprivation is authorised in accordance with a court order, other than a court order made under section 25 of the 1989 Act.

***Q11a. Do you agree with the need to amend regulation 22 on restraint and deprivation of liberty?***

***Q11b. Do you agree with draft regulation 22 - restraint and deprivation of liberty?***

***Q11c. Do you agree with the information in the Guide on restraint and deprivation of liberty?***

***Q11d. If the restraint and deprivation of liberty draft regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q11e. If you disagree with the restraint and deprivation of liberty draft regulation or relevant information in the Guide, tell us why in the box below.***

## **Other sections of the regulations (Parts 3 to 7)**

**5.36**

Our aspiration is that the management and administrative functions required of children's homes, and the providers who run them, enable the highest quality, safest care for all the children living there. We want providers to be free to innovate and use their professional judgement, balanced with a strong culture of responsibility and accountability for the care of our most vulnerable children.

**5.37**

The regulations in Parts 3 to 7 cover management and administrative processes in relation to:

- Registered persons;
- Staffing;
- Policies, records, complaints and notifications; and
- Management of homes.

The main changes to these regulations relate to modernisation, removing prescription and supporting innovation, streamlining and simplifying administrative processes, increasing opportunities for professional judgement and ensuring that those leading homes have the capacity to do so. The proposals are explained in

further detail below, with references to the regulation number and page number of the Guide.

### **Fitness and capacity of owners and managers of homes (regulations 27 and 29)**

- 5.38** The children's homes market has significantly changed in recent years, with an increase in private providers and in larger private organisations running homes. To ensure that children are kept safe we propose introducing basic fitness requirements for key individuals within organisations providing children's homes. This follows the approach taken recently by the Department of Health, which is introducing a fit and proper person requirement for providers of health and adult social care registered with the Care Quality Commission including those acting as directors of such organisations. We want to introduce a similar requirement so that those acting as directors within organisations, whose decisions and actions would have significant impact on individual children's homes, must meet basic fitness requirements.
- 5.39** Given the range of models of delivery, we want to ensure that both managers and responsible individuals have the capacity to fulfil their roles if they are made responsible for more than one home. We propose adding a regulation to require that a manager needs to be in full time, day to day charge of the home(s) they manage. We are deliberately not imposing caps on the number of homes a manager can manage because we want providers to be able to use different management models and take account of each individual's capacity. Similarly, we want to introduce a requirement that a responsible individual must have the 'capacity, skills and experience' to supervise the management of each of the homes they are appointed for. Our aim is to ensure that responsible individuals are not stretched too thinly across many homes, risking insufficient supervision of each home's management, but without imposing an arbitrary cap on the number of homes an individual can be the responsible individual for.
- 5.40** To read the exact wording of these regulations please see Part 3 regulation 27 and 29.

To read information contained in the Guide see page 53 of the Guide.

***Q12a. Do you agree with the inclusion of regulations relating to the fitness and capacity of owners and managers of children's homes?***

***Q12b. Do you agree with draft regulation 27(2)(c) and 27(3) on the fitness of***

***those acting as directors of organisations delivering children's homes?***

***Q12c. Do you agree with draft regulation 29(3) on the capacity of the home's manager?***

***Q12d. Do you agree with draft regulation 27(5) on the capacity, skills and experience of the responsible individual?***

***Q12e. Do you agree with the information included in the Guide relating to the fitness and capacity of owners and managers?***

***Q12f. If the fitness and capacity of owners and managers regulations or relevant information in the Guide needs further development, tell us what is needed in the box below.***

***Q12g. If you disagree with any of the fitness and capacity of owners and managers regulations or relevant information in the Guide, tell us why in the box below.***

#### **Employment of Staff (regulation 35)**

**5.41**

The quality of staff is very important to enable each child to have high quality experiences of life in the home and achieve positive outcomes. The Quality Standards rely on a home having skilled and experienced staff. To complement this we are making some additions and clarifications to the specific staffing requirements.

**5.42**

We propose to expand existing requirements for the training and supervision of staff to include:

- a requirement for an appropriate induction on commencement of their role;
- completion of continuous professional development;
- regular reviews to ensure staff remain fit to perform their role; and
- supervision from a person with appropriate experience.

**5.43**

To read the exact wording of these regulations please see Part 4 regulation 35.

To read information contained in the Guide see page 54 of the Guide.

***Q13a. Do you agree with expanding the employment of staff regulation to***

*include further requirements relating to staff training and supervision?*

**Q13b. Do you agree with draft regulation 35?**

**Q13c. Do you agree with the information included in the Guide relating to staff training and supervision?**

**Q13d. If the employment of staff regulation or relevant information in the Guide needs further development, tell us what is needed in the box below.**

**Q13e. If you disagree with the employment of staff regulation or relevant information in the Guide, tell us why in the box below.**

#### **Modernising and removing prescription (regulation 40)**

- 5.44** It is important that essential administration processes in children's homes are simplified and modernised so that staff are freed up to focus on providing quality care for children.
- 5.45** As part of that, we propose to change the regulations to allow providers to keep all of their policies, records and review documents electronically, providing they can be reproduced in a legible form and that the appropriate security and contingency planning is in place. This modernisation to the regulations would enable providers to make more use of technology and reduce physical storage space required.
- 5.46** Also, we plan to change how Ofsted need to be informed of updated or amended policies – removing the burdensome and unnecessary requirement for providers to send every policy to Ofsted every time it is revised. We are proposing that the Statement of Purpose is the only document Ofsted should receive a copy of when updated. For all other policies, homes will need to keep them under review and where appropriate revise them. Ofsted can then be updated on any changes as and when necessary, as part of the inspection cycle.
- 5.47** As requested by providers, we have clarified in the Guide that the current requirement for children to have access to a telephone can be met if children have their own mobile phones as long as there are alternative arrangements in place in case it is lost, broken or they run out of credit.

**5.48** To read the wording of this regulation see Part 5 regulation 40.

To read information on in the Guide see page 54 of the Guide.

***Q14a. Do you agree with our decision to modernise and remove prescription in some regulations for the management and administration of children's homes?***

***Q14b. Do you agree with the new draft regulation on keeping policies, records and review documents electronically as set out in Part 5 regulation 40?***

***Q14c. Do you agree with the information included in the Guide relating to areas we have modernised, especially keeping electronic records and clarifying the current requirement for children to have access to a telephone?***

***Q14d. If the modernised regulations or relevant information in the Guide need further development, tell us what is needed in the box below.***

***Q14e. If you disagree with the modernised regulations or relevant information in the Guide, tell us why in the box below.***

#### **Visits by independent persons (regulation 45)**

**5.49** We want to use this opportunity to clarify the application of our regulation on visits by independent persons, particularly relating to whether IROs, and those employed by independent providers not solely for this purpose, are disqualified from carrying out these visits.

**5.50** Our policy intention for this regulation remains the same. We want to ensure that any individual appointed as an independent person is able to make a rigorous and impartial assessment of the home's arrangements for safeguarding and promoting the welfare of children in the home's care.

**5.51** We want to make it clear that IROs are not disqualified and that for independent providers, employees are not disqualified from carrying out these visits, provided they are employed solely for the purpose of quality assurance of homes.

**5.52** To read the exact wording of this regulation please see Part 6 regulation 45.

To read information contained in the Guide see page 54 of the Guide.

***Q15a. Do you agree with our decision to clarify regulation 45 on Independent Visits?***

***Q15b. Do you agree with clarified draft regulation 45?***

***Q15c. If the clarified regulation needs further development, tell us what is needed in the box below.***

***Q15d. If you disagree with the clarified regulation, tell us why in the box below.***

### **Professional judgement (regulations 46 and 42)**

- 5.53** We want managers to be able to exercise their professional judgement more in the running of the home, trusting that they have the skills and experience to make decisions in the best interest of each child. In support of this, we propose changing the approach to the manager's reviews (regulation 46) and notifications of serious events (regulation 42).
- 5.54** In regulation 46, the review and monitoring processes and the production of the manager's report would be closely linked to the Quality Standards as these set out what homes should be seeking to achieve. We want the manager's monitoring and reviews to be a tool for continuous improvement and to provide them with more autonomy to make judgements about what to focus on. We have removed the list (previously in schedule 6) of what managers should review, instead requiring them to focus their reviews appropriately given the specific context of their individual home at that time, taking into account the full range of information available to them.
- 5.55** In addition, we propose changing the requirements for notifications (previously regulation 30 and schedule 5) to make providers responsible for using their professional judgement about who they should notify and why, according to the circumstances of each individual situation. This proposal aims to change practice by moving away from a 'tick box' approach, to one where providers take responsibility for instigating the right actions to keep each child safe.
- 5.56** To read the exact wording of these regulations please see Part 6 regulation 46 and Part 5 regulation 42.

To read information contained in the Guide please see page 56 of the Guide

***Q16a. Do you agree with the inclusion of regulations that enable homes' managers to use greater professional judgement?***

***Q16b. Do you agree with revised draft regulation 46 - review of quality of care?***

***Q16c. Do you agree with revised draft regulation 42 - notification of a serious event?***

***Q16d. Do you agree with the information included in the Guide relating to review of quality of care and notification of a serious event?***

***Q16e. If the review of quality of care or notification of a serious event regulations or relevant information in the Guide need further development, tell us what is needed in the box below***

***Q16f. If you disagree with the review of quality of care or notification of a serious event regulations or relevant information in the Guide, tell us why in the box below.***

#### **Closures of homes (regulations 50 and 38(4))**

- 5.57** When a home closes, either out of provider choice or for reasons of insolvency or bankruptcy, it is important that the welfare of the children living there and information held about each child is carefully considered. We propose to include a regulation that, in the event of administration, puts a duty on receivers/liquidators to have regard to the welfare of the children living in the home when acting in relation to the home's operation and future.
- 5.58** We also want to include a new regulation setting out requirements for the retention of records when a children's home closes. This is to ensure that children who have lived in a home can access their records in later life. Our proposals follow a similar approach to the requirements for the storage of children's records when an adoption or fostering agency closes.
- 5.59** To read the exact wording of these regulations please go to Part 7 regulation 50 and Part 5 regulation 38(4).

To read information contained in the Guide see page 55 of the Guide.

***Q17a. Do you agree with the inclusion of regulations to ensure that children's welfare is regarded and their records retained when a home closes?***

***Q17b. Do you agree with draft regulation 50 - appointment of liquidators?***

***Q17c. Do you agree with draft regulation 38 - children's case records?***

***Q17d. Do you agree with the information included in the Guide relating to storage of children's case records?***

***Q17e. If the regulations on appointment of liquidators or storage of children's case records or relevant information in the Guide need further development, tell us what is needed in the box below.***

***Q17f. If you disagree with the regulations on appointment of liquidators or storage of children's case records or relevant information in the Guide, tell us why in the box below.***

## **General Questions**

***Q18a. Do you agree that the revised regulations reflect the policy aims we have set out in paragraphs 3.1 and 3.2?***

***Q18b. If the revised regulations reflect the policy aims we have set out in paragraphs 3.1 and 3.2 but need further development, tell us what is needed in the box below if you have not already told us elsewhere.***

***Q18c. If you disagree that the revised regulations reflect the policy aims we have set out in paragraphs 3.1 and 3.2, tell us why in the box below if you have not already told us elsewhere.***

***Q18d. Will the proposed changes to regulations incur additional costs for your organisation?***

***Q18e. What particular elements of the regulations will have the biggest impact on the costs you incur?***

***Q18f. What would be the estimated resources or costs associated with these elements?***

***Q18g. Is there anything else you wish to tell us about our proposals that you have not told us elsewhere?***

***Q18h. If you have any further ideas for streamlining the regulations and removing unnecessary burdens, please tell us in the box below.***

***Q18i. Was this consultation easy to follow and complete?***

## **6 Responding to this consultation**

**6.1** The proposals in this consultation are the result of a detailed development process, based on views and experiences from the sector and Ofsted. We ran a dedicated working group with representatives from across the sector including children's organisations, providers of children's homes and partners from health, youth justice and local government, as well as engaging with individual providers who expressed an interest in being involved. We listened carefully to what was needed to make our policy aim a reality, including which outcomes we should focus on and views on how homes should demonstrate they have helped children to achieve these.

**6.2** We are keen to receive a broad range of feedback on our proposals including feedback from children. This will enable us to ensure the regulations and Guide will meet our policy aims when implemented.

Along with this consultation document are the following downloads:

- **Revised regulations** including the Quality Standards (Part 2) and essential management and administrative functions (Parts 3 to 7); and
- **The Guide** to the regulations.

**6.3** Ofsted is the independent inspectorate and regulator for children's homes. They plan to launch a consultation on their proposed inspection framework shortly after our consultation closes. Ofsted are keen to ensure that their proposals are informed by responses to this consultation. If you have questions about responding to this consultation before the Ofsted consultation begins, please contact us at [chqualitystandards.consultation@education.gsi.gov.uk](mailto:chqualitystandards.consultation@education.gsi.gov.uk).

**6.4** We are unable to accept responses that do not follow the format of the consultation response form, unless you have prior agreement with us to send your response in an alternative format. To discuss this with us, please contact us at [chqualitystandards.consultation@education.gsi.gov.uk](mailto:chqualitystandards.consultation@education.gsi.gov.uk).

## 7 How to respond

7.1 The online consultation runs from 19 September to 14 November.

Consultation responses can be completed online at <https://www.education.gov.uk/consultations> by emailing: [chqualitystandards.consultation@education.gsi.gov.uk](mailto:chqualitystandards.consultation@education.gsi.gov.uk) or by downloading a response form which should be completed and sent to:

Rhianna Hamer, Children's Services and Departmental Strategy Directorate, Ministerial and Public Communications Division, Department for Education, Platform 2, Piccadilly Gate, Store Street, Manchester M1 2WD.

7.2 Due to the high numbers expected to respond to this consultation, it is preferable for us to receive responses via our online consultation tool.

If you require a paper copy of the consultation and consultation response form please contact [chqualitystandards.consultation@education.gsi.gov.uk](mailto:chqualitystandards.consultation@education.gsi.gov.uk).

We are unable to accept responses that do not follow the format of the consultation response forms, unless you have prior agreement with us to do so.

7.3 Participants may join our consultation workshops on the following dates. Each workshop will consist of 2 sessions that will take place as follows; Session 1 - 10:00 to 13:00 and Session 2 - 14:00 to 17:00.

Date	Location	Number of consultation sessions
Thurs 25 <sup>th</sup> Sept	Coventry	2
Weds 1 <sup>st</sup> Oct	London	2
Thurs 2 <sup>nd</sup> Oct	Sheffield	2
Mon 13 <sup>th</sup> Oct	Manchester	2
Thurs 30 <sup>th</sup> Oct	London	1 (14:30 – 17:30)

You may request a place at one of our workshops by emailing [CiC.CORRESPONDENCE@education.gsi.gov.uk](mailto:CiC.CORRESPONDENCE@education.gsi.gov.uk) with:

- the preferred date and time of workshop;
- your name, job title, organisation; and

- a contact email address and telephone number.

## **8 Plans for making results public**

- 8.1** The results of the consultation and the department's response will be published on the DfE e-consultation website in early 2015.

## **9 Downloads**

- 9.1**
- Consultation document
  - Consultation response form
  - Draft regulations
  - Guide to the regulations
  - Impact assessment