

GOVERNMENT RESPONSE TO THE CONSULTATION ON DRAFT CONTACTPOINT GUIDANCE

Introduction

This statement reports the outcome of the consultation on draft ContactPoint Guidance, which ran from 4 May 2007 until 27 July 2007.

The consultation sought views on:

- Whether the guidance was sufficiently clear about the importance of accuracy;
- Whether the guidance was sufficiently clear about how unauthorised access to ContactPoint and misuse will be managed;
- Whether the guidance was sufficiently clear about an individual's rights to see information held about them;
- Whether the guidance explained how local authorities are required to manage complaints relating to ContactPoint;
- Whether the guidance was sufficiently clear about the operation of 'shielding';
- Whether flowcharts to explain processes were helpful;
- Whether the guidance covered all necessary topics;
- Whether the guidance was sufficiently clear about the statutory responsibilities of local authorities;
- Whether the guidance was sufficiently clear about how ContactPoint will support practitioners working with children;
- The challenges arising from implementing ContactPoint using this guidance; and
- Whether the colour-coded, user specific approach was helpful.

There were 221 formal responses to the consultation. During the consultation period, we also sought views on the draft guidance in the following ways:

- Through 3 day-long workshops to discuss the guidance. These were attended by members of local authority teams implementing ContactPoint, representatives from a range of partner organisations and frontline practitioners from across children's services. There were 219 participants in these workshops;
- By holding a series of sector focused meetings with officials from organisations relating to health; social care; youth justices and the voluntary and community sector;
- A discussion of the draft guidance at the July session of the Information Sharing Advisory Group (ISAG), an established group with a broad representation of key organisations;
- Bilateral meetings with several key organisations;

- Directly from children and young people and parents and carers. Their views were sought through events organised by the British Youth Council, Ofsted, Parentline Plus, Ofsted and a number of local authorities.

A detailed summary of the responses to the consultation is available from the DCSF consultations website – www.dcsf.gov.uk/consultations/conarchive.cfm.

We have listened carefully to the views expressed and the issues raised during this consultation process. Set out below is:

- a short statement about the way forward; and
- a short summary of the views raised in each area and our response to the issues raised.

Way forward

During the guidance consultation period, regulations made under Section 12 of the Children Act 2004 (*The Children Act 2004 Information Database (England) Regulations 2007* - hereafter referred to as the 'ContactPoint regulations') were approved by Parliament. The regulations came into force on 1 August 2007 and provide the legal framework for the establishment and operation of ContactPoint. The guidance will be revised to reflect changes that were made to the regulations.

In addition to the ContactPoint guidance, the Government has been developing Best Practice Processes to support the management and use of ContactPoint. We believe that it is important that the guidance and Best Practice Processes are aligned and produced in formats which complement each other to ensure they are accessible and useful for ContactPoint management teams and users alike.

Following discussions with our delivery partners, we have decided that these materials should be published at least 3 months before deployment of ContactPoint to the 'Early Adopters' (17 local authorities and one National Partner – Barnardo's). This should ensure the Early Adopters have sufficient time to examine the materials and embed them within their organisations and practice before ContactPoint is deployed. It also enables them to prove the materials in a real, working ContactPoint environment.

Views of children and young people

The key issues raised by the children and young people who were consulted on the draft guidance included:

- even workers who are authorised to access ContactPoint could view child records for inappropriate reasons;
- punishments for misuse of ContactPoint should be appropriate to the nature of the misuse, with strong sanctions for the most serious incidences;
- it should be easy for children or young people to request access to the information held about them on ContactPoint; and,
- short and clear materials, which explain ContactPoint to children and young people, should be produced and made widely available.

The Government's Response

The Government agrees that the inappropriate accessing of records by authorised users must be treated as misuse and that a range of sanctions for misuse should be available.

Ensuring the ContactPoint is not accessed by unauthorised users or misused by individuals who are authorised to use the system is of critical importance to the Government. Extensive arrangements are in place to prevent misuse and to identify and respond to misuse if it does occur.

Individuals will only be given access to ContactPoint after completing mandatory training, which will cover appropriate use and legislation relevant to ContactPoint. They will also have to agree to have regard for the guidance and have been vetted through an enhanced Criminal Records Bureau (CRB) certificate, which is less than three years old or through equivalent vetting for Police and British Transport Police users.

Each time an authorised user accesses a child's record on ContactPoint they will be required to enter the reason they are accessing the record, this will be recorded in the audit trail. Any misuse by authorised users will be identified in a number of ways:

- *user administrators will routinely review reports produced from the audit trail which automatically identify any unusual activity or suspicious patterns of usage – all incidents of unusual activity or suspicious patterns of usage will be investigated;*
- *random 'spot-check' reviews of the activity of individual users will be conducted regularly; and*
- *the audit trail of all activity by an individual user can be reviewed where*

concerns are raised that an individual may be misusing ContactPoint.

Where potential misuse is identified it is important that this is investigated efficiently, fully and fairly. We will set out clearly in the guidance who has responsibility for these investigations and how they should be conducted. In addition, we will ensure that the guidance is clear about the range of sanctions for misuse and that the nature and severity of the misuse should be reflected in the sanctions applied.

The Government agrees that children and young people should have easy access to clear information about ContactPoint and be clear about how they can ask to see their personal information held on ContactPoint..

An individual's right to access their personal information through a Subject Access Request (SAR) is set out in the Data Protection Act 1998. Children or young people who are judged to have sufficient understanding can make a SAR themselves or nominate a parent or carer to do so on their behalf. Where a child does not have sufficient understanding, a SAR should be made by the parent/carer.

Local authorities will be responsible for handling SARs relating to ContactPoint. They will judge whether a request is valid in line with existing procedures (local authorities already handle requests for other records and personal information they hold) and will be able to use ContactPoint to produce a report containing all personal information held about a child.

Communications materials for children and young people are being developed nationally. These materials set out the purpose of ContactPoint and detail what information is held on a record. Local authorities will be given this standard template, to which they can add information specific to their area, in particular how to go about making an SAR. These materials will then be distributed and made widely available through service providers.

Views raised in the consultation exercise

The following responses address the views raised in the consultation in relation to each of the questions in the consultation exercise.

Is the guidance sufficiently clear about the importance of accuracy?

There were 209 responses to this question.

Yes 58% No 16% Not sure 26%

The majority of respondents (58%) felt that the draft guidance was sufficiently clear about the importance of accuracy. A significant number (32%) felt that it was important to emphasise the role of partner organisations in ensuring accuracy of data on ContactPoint. Almost one in five (17%) were concerned about the lack of control that local authorities have over the quality of data provided by partner organisations. A range of respondents sought further clarity over the practical and technical ways in which accuracy would be maintained on ContactPoint.

The Government's Response

The Government is clear that the accuracy of records on ContactPoint is not only dependent upon the actions of local authorities. Partner organisations that supply data to ContactPoint and practitioners who record information both have important responsibilities as well.

The Government is keen to emphasise the importance of cooperation between local authorities and partners to identify potential data quality issues and ensure accuracy of ContactPoint records. To support this, local authorities have already been provided with the Local Data Quality Tool (LDQT), which allows them to examine the quality of data held in source systems. This analysis provides the basis for strategic discussions about improving data quality to maximise the effectiveness of ContactPoint and support children's services more widely.

All organisations that record and process personal information already have responsibilities under the Data Protection Act 1998 to ensure the accuracy of their data. Those supplying data to ContactPoint are required, by the ContactPoint regulations to take reasonable steps to ensure the data they supply to ContactPoint is accurate and up to date.

14% of respondents stressed that checking information with a child/young person or parent/carer was the most reliable way to ensure accuracy. This is a principle set out in the Information Sharing: Practitioner's Guide (<http://www.everychildmatters.gov.uk/resources-and-practice/IG00065/>, published April 2006). The ContactPoint guidance, and the mandatory training for ContactPoint users, will emphasise the importance of recording accurate information in their own Case Management Systems or directly onto ContactPoint.

The majority of the clarifications on practical or technical issues that were requested will be covered in the Best Practice Processes or in detailed technical manuals. However, the concepts of the 'best view' (the information – for example a name or address - that the system calculates is the most reliable) and 'discrepancy notifications' (automatic messages that the system will send back to a data supplier to inform them that some of their data does not match other data supplied to the system) will be explained more clearly in the materials.

Is the guidance sufficiently clear about how unauthorised access and misuse will be managed?

There were 213 responses to this question

Yes 46% No 26% Not sure 28%

Slightly less than half of all respondents (46%) felt that the draft guidance was sufficiently clear about the handling of unauthorised access and misuse. Over a quarter (27%) of respondents wanted further emphasis to be placed in the guidance on the role of partner organisations and the line managers of users in handling investigations and responding to misuse. Around a fifth (18%) of responses felt that mediated access was potentially open to misuse. A significant number of respondents felt misuse by users or hacking to access records is likely to occur and that the guidance could not prevent this.

The Government's Response

The guidance is only one element in the extensive arrangements that are being put in place to prevent unauthorised access to the information held or ContactPoint or misuse of the system by authorised users.

Where potential misuse is by a user who is employed by a partner organisation (not by the local authority or a National Partner) it is appropriate for that organisation, and the individual's manager, to play a central role in investigating the situation and applying any necessary sanctions. Checks will be made to ensure that the organisation has appropriate arrangements in place to handle complaints, investigations and manage disciplinary measures - this will form part of the 'accreditation' process, necessary before an organisation or its users can be granted access. The guidance will set out how local authorities and partner organisations should work together to conduct investigations.

Mediated access can only occur between two authorised ContactPoint users. Where one ContactPoint user mediates for another user, details of both users will be recorded in the audit trail. If the user making the request has provided all the necessary details to enable authentication to ContactPoint, the user acting as mediator will not be expected to judge the validity of the request.

Is the guidance sufficiently clear about an individual's right to see the information held about them?

There were 205 responses to this question

Yes 58% No 21% Not sure 21%

Two fifths (40%) of respondents felt that 'sufficient understanding' should be explained more fully or that reference should be made to the Fraser guidelines. Almost a quarter of responses requested materials for children, young people and families which explained the right to see personal information, how to make a Subject Access Request (SAR) and who this should be made to. Several respondents sought clarity on whether National Partners were expected to handle SARs.

The Government's Response

Handling SARs is not a new process developed specifically for the introduction of ContactPoint. All data controllers that process personal data are required, under the Data Protection Act 1998, to respond to a SAR. Local authorities will handle SARs for ContactPoint records. If National Partners are approached with a SAR specifically in respect of information held in ContactPoint they must direct the applicant to their local authority.

The Government recognises that judging whether a child has sufficient understanding to make a SAR, or make decisions related to a SAR from their parent/carer, is a complicated one. There is already established guidance on making this judgement in the Information Sharing: Practitioner Guide (<http://www.everychildmatters.gov.uk/resources-and-practice/IG00065/>). The ContactPoint guidance will emphasise the importance of seeking the views of those working directly with the child or young person when making the judgement.

The guidance will recommend that promotion and publicity materials to make clear how a person make a SAR to see their ContactPoint record will be distributed and made widely available in a format which is readily accessible to the public, and understood by young people. These materials are currently under development and will be based on national standards, with local authorities inserting relevant local information.

Is the guidance sufficiently clear about how local authorities are expected to manage complaints about ContactPoint?

There were 188 responses to this question

Yes 65% No 15% Not sure 20%

Nearly two-thirds of respondents (65%) agreed that the guidance was sufficiently clear on this point. Many respondents felt that the guidance was not completely clear about whether local authorities were required to establish a separate complaints procedure for complaints relating to ContactPoint. Almost a third (31%) felt that it would be better to handle complaints within existing local

authority complaints mechanisms. Almost one fifth (19%) of respondents felt that the responsibilities of partners (National Partners and local partners) to handle complaints relating to them should be emphasised.

The Government's Response

The Government believes that all complaints should be investigated carefully by the appropriate organisation. The mechanism for handling complaints is less important than ensuring an appropriate end result.

The draft ContactPoint regulations, included a requirement that a complaints mechanism be set up by local authorities for complaints related to the access to, and accuracy of, ContactPoint. There was a clear indication from respondents that there should be procedures for managing complaints about the operation and use of ContactPoint. However, some respondents felt that the procedures must cover all agencies and local authority respondents felt that embedding it within their existing arrangements was the best approach.

The Government has decided not to place a specific requirement on local authorities to make arrangements for complaints about ContactPoint. Instead, the guidance will set out how it expects all organisations to handle complaints related to ContactPoint.

The revised guidance will recommend that the process for making a complaint about ContactPoint is made clear within existing procedures in local authorities, national partners and other agencies. However, there will be a number of key principles (minimum standards) which relate specifically to ContactPoint.

Additionally, the guidance for local authorities and national partners will recommend that promotion and publicity materials to support the implementation and ongoing operation of ContactPoint are clear about how a person can make a complaint, both in a format which is readily accessible to the public, and understood by young people.

Is the guidance sufficiently clear about how the 'shielding' of a child record will operate?

There were 189 responses to this question

Yes 48% No 31% Not sure 21%

Slightly less than half (48%) of the respondents to this question felt the guidance was sufficiently clear, whilst almost a third (31%) felt it was not. A quarter (25%) of respondents wanted more clarity on how the process to decide to 'shield' or 'unshield' a record would work, and who had responsibility for these decisions. A similar number (24%) wanted further detail on the situations where it would be appropriate to shield a record.

The Government's Response

The Government will clarify and expand upon the draft guidance on 'shielding' in a number of ways to ensure that appropriate decisions are made and there is national consistency towards the 'shielding' of records. To support this, the Government plans to engage further with a number of the organisations that responded in detail to this question.

The Best Practice Processes include a process for the 'shielding' and 'unshielding' of records. This is informed by the principles set out in guidance and will be available alongside the guidance. A shielded record will only show the child/young person's name, their date of birth, the ContactPoint unique identity number, and the name of the parent/carer.

The Government will ensure that there are no unnecessary delays or complications to prevent the 'shielding' of a record where this is appropriate. However, adequate checks and review procedures will be put in place to avoid records being 'shielded' unnecessarily. This is important because a 'shielded' record cannot offer ContactPoint users the details of the services working with that child and therefore cannot easily support a collaborative approach to service delivery or time-saving efficiency gains.

Are the flowcharts helpful to explaining processes within this guidance?

There were 185 responses to this question

Yes 84% No 5% Not sure 11%

The great majority (84%) of respondents found the flow charts helpful. Around one in eight (12%) of respondents suggested the flowcharts should be embedded within the body of the guidance with the topic they addressed.

The Government's Response

Flowcharts allow key processes to be set out clearly and in a way that the intended audience feel is helpful. The Best Practice Processes are being developed as a set of process flows. The Government will develop a comprehensive set of flowcharts for all user groups, to be used, as appropriate, in the materials.

The Government plans to discuss details relating to the formatting and style of both the guidance and the Best Practice Processes with end users before coming to final decisions about presentation.

Does the guidance cover all the necessary topics?

There were 190 responses to this question

Yes 51% No 24% Not sure 26%

Almost one fifth of respondents (17%) suggested that a shorter document specifically for users of ContactPoint was produced alongside the full guidance.

A similar number (16%) felt that until ContactPoint had been implemented it was difficult to be certain the guidance covered all necessary topics and so it should be reviewed or redrafted after implementation. A number of respondents requested clarification of topics covered in some way already, in particular how consent relates to ContactPoint (17%) and how ContactPoint fits into the broader Every Child Matters Agenda.

The Government's Response

The Government recognises that a version of the guidance specifically for users (i.e. practitioners and their support staff) and their managers could be shorter and more focussed. This would give busy practitioners and managers the information they need without lots of additional detail that is irrelevant to them. We will develop a user guide, combining the Best Practice Processes for practitioners with the relevant guidance.

We recognise that implementation and live operation may identify further areas where guidance is required or where the guidance developed needs revision so we have put plans in place to review the Early Adopters experiences and will revise the guidance and the Best Practice Processes as appropriate.

The responses to the consultation have highlighted a range of areas where the current text of the guidance can be clarified. The redrafting process will take these into account.

Is the guidance sufficiently clear about the statutory responsibilities of local authorities?

There were 184 responses to this question.

Yes 66% No 15% Not sure 18%

Two-thirds (66%), thought that the guidance was clear on this. Over one fifth (21%) of respondents to this question recommended that the guidance set out the responsibilities of local partners in relation to ContactPoint. A similar number (19%) of respondents requested more clarity on the statutory responsibilities of National Partners.

The Government's Response

The Government recognises that for ContactPoint to operate effectively, all organisations need to be clear about their responsibilities in relation to ContactPoint. The Government feels, and two thirds of respondents agree, that the draft guidance sets out the statutory responsibilities of local authorities clearly. The final version of the guidance will detail the statutory responsibilities of National Partners in a similar way.

A number of respondents raised detailed questions about the processes that should operate between local authorities and local partner organisations. Best Practice Processes are being developed to describe the key interactions

between local authorities and their local partners.

Is the guidance sufficiently clear about how ContactPoint will support practitioners working with children?

There were 191 responses to this question

Yes 55% No 20% Not sure 25%

Although 55% of respondents agreed that the guidance was clear on this point, a number of recommendations were made. A number of respondents (16%) suggested that the benefits of ContactPoint for users as well as for children, young people and families should be set out. A similar number (14%) felt that case studies would assist in making this point to practitioners. The recommendation that stronger links were made with the broader Every Child Matters agenda was also repeated.

The Government's Response

As set out above, we will revise the guidance to set ContactPoint more clearly within the context of the broad set of reforms that make up Every Child Matters. This will help practitioners to understand the role of ContactPoint as a tool to support integrated working and effective early intervention.

The comments that relate to 'selling the benefits' of ContactPoint are most appropriately handled through communication and promotion activities. Stakeholder engagement strategies have been developed nationally and locally to ensure that practitioners are aware of ContactPoint and its purpose.

Do you foresee any challenges from implementing ContactPoint using this guidance?

There were 202 responses to this question

Yes 66% No 10% Not sure 24%

Two thirds (66%) of respondents felt that there would be challenges. Many of the challenges identified were issues that extend beyond the guidance and relate to the implementation of the project. Nearly a fifth of all respondents (18%) identified delivering culture change amongst the children's workforce as a challenge; the same number (18%) felt that the funding for implementation or operation of ContactPoint was a challenge. Over one in seven respondents (14%) saw achieving adequate data quality as a challenge.

The Government's Response

The Government recognises the importance of each of these issues and has made arrangements to address each of them. Much of this goes beyond the confines of the development of the ContactPoint guidance.

ContactPoint is one element of the Every Child Matters reforms. It is a tool for authorised practitioners, working with children which allows them to find out who else is working with the same child or young person, making it easier to deliver more coordinated support. It is just one of a suite of tools and processes developed by the Government, which are designed to support integrated working and ensure that everyone working with children and young people works together effectively to put the child at the centre, meet their needs and improve their lives.

The Government has allocated £224 million for the implementation of ContactPoint. This includes funding for the development of the system, for local authority implementation work and for the adaptation of data sources and some practitioner Case Management Systems (CMS) to provide access to ContactPoint. The Government does not believe that implementation of ContactPoint will generate a pressure on local authority budgets or on service providers. The operating costs of ContactPoint have been estimated at £41 million per year. This will also be funded, subject to future Government spending reviews.

As previously stated, the Government recognises that achieving good data quality is of critical importance. In addition to the Local Data Quality Tool, which has been deployed to local authorities and national partners in advance of ContactPoint deployment, a range of management tools will be available to support local authorities' ongoing work to maintain and improve data quality:

- Every record sent to ContactPoint will receive immediate notification if ContactPoint indicates that there is a problem with the data, so that the supplier may take appropriate steps to reconfirm the data they hold about a child.*
- Local authority data managers will be able to run a series of tests designed to identify ContactPoint records that need attention so that they can proactively find and correct problems with individual records.*
- Local authorities will also receive reports summarising the quality of data from each source so that discussions may be initiated with information suppliers if there is a significant deterioration of overall data quality, and action taken to resolve these issues.*

Is the use of colour-coded, user specific, guidance helpful for readers?

There were 173 responses to this question

Yes 83% No 5% Not sure 12%

The overwhelming majority of respondents (83%) agreed that this approach was helpful. One fifth (20%) of respondents pointed out that not all organisations have access to colour printers, many of these respondents recommended producing a version for black and white printing.

The Government's Response

The Government believes, and over four fifths of respondents agreed, that using colour coding to identify guidance specific to different categories of users is helpful. This approach will be used in the final versions of the guidance.

The Government recognises that not all organisations will be able to print in colour. A version of the guidance will be produced that is suitable for black and white printing.