

Consultation

Launch Date 18 March 2005

Respond by 13 June 2005

Ref: DfES

Children's Services Inspection Regulations

Consultation on draft Regulations for new inspection arrangements for children's services inspection. These new arrangements include the Framework for the Inspection of Children's Services and joint area reviews which are due to start Autumn 2005.

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Children's Services Inspection Regulations

A Consultation

- To** Children's services authorities in England and partners.
- Issued** 18 March 2005
- Enquiries To** If your enquiry is related to the policy content of the consultation you can contact The Children's Services Inspection Team on:
Telephone: 020 7925 6213 or e-mail: csi.team@dfes.gsi.gov.uk

Contact Details

Responses, and any questions about the consultation exercise, should be sent by e-mail to: csi.team@dfes.gsi.gov.uk or posted to The Children's Services Inspection Team at Area 3N, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT.

1 Executive Summary

- 1.1 This consultation seeks views on draft Regulations under the Children Act 2004 on inspection of children's services. The Regulations define children's services for the purposes of inspection; and provide for the operation of joint area reviews of children's services, and the publication of and follow up to reports of joint area reviews. These draft Regulations are issued for consultation only - and will be revised in the light of consultation responses before being made and published in final form.

2 Background, Context and Proposals

2.1 Background and Context

The Government's Green Paper Every Child Matters and its follow-up documents, Every Child Matters: Next Steps and Every Child Matters: Change for Children¹, set out the Government's commitment to improving outcomes for all children and young people - including the most disadvantaged - in terms of:

being healthy;
staying safe;
enjoying and achieving;
making a positive contribution; and
economic well-being.

The Children Act 2004 section 10(2)² reflects the five outcomes in law.

1 - Every Child Matters and its companion documents and annexes can be downloaded from:
<http://www.dfes.gov.uk/everychildmatters/downloads.cfm>

2 - This (and the full text of the Act) can be found at: <http://www.legislation.hmso.gov.uk/acts/acts2004/40031--c.htm#10>

- 2.2 The inspectorates and commissions consulted from 6 December 2004 to 28 February 2005³ on a draft Framework for Inspection of Children's Services, and draft arrangements and criteria for joint area reviews, as well as on arrangements and criteria for annual performance assessments of local authority children's services. Joint area reviews will subsume a number of existing, separate inspections of individual

services.

3 - The consultation can be viewed at Ofsted's website <http://www.ofsted.gov.uk/everychildconsultation>

- 2.3 Sections 20-23 of the Act provide for a new approach for inspecting children's services. Section 20 provides for joint area reviews of children's services, to be undertaken by two or more inspectorates and commissions, to evaluate the extent to which the services being reviewed improve the well-being of children and young persons. Section 21 provides for a Framework for Inspection of Children's Services, to ensure that relevant assessments, inspections, reviews, investigations and studies by specified inspectorates and commissions⁴ properly evaluate and report on the extent to which children's services improve the well-being of children and young persons. Section 22 requires these inspectorates and commissions to co-operate with each other when conducting inspections and reviews, and enables them to delegate their functions between themselves. Section 23 provides an interpretation of sections 20-22. These provisions ensure services configure and coordinate themselves around outcomes for children, placing children and their families at the centre of what they do.
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4 - The specified inspectorates and commissions are the Adult Learning Inspectorate, the Audit Commission, the Commission for Social Care Inspection, the Healthcare Commission; HM Inspectorate of Constabulary; HM Inspectorate of Probation; HM Inspectorate of Prisons, HM Magistrates' Courts Services Inspectorate, and the Office for Standards in Education.

2.4 **The Proposals**

This consultation covers two sets of draft Regulations. One set prescribes the scope of children's services for the purposes of inspections. The other set provides for the operation of joint area reviews and the publication of and follow up to reports of joint area reviews.

- 2.5 We will aim to consider responses to the consultation, and make any amendments to the Regulations in light of them, during 2005. The Regulations will be made and laid before Parliament, in summer 2005. We propose that the new Regulations should come into force by 1 September 2005.

2.6 **The Children Act 2004 (Children's Services) Regulations 2005**

This first set of draft Regulations, the Children Act 2004 (Children's Services) Regulations 2005, specifies children's services for the purposes of joint area reviews, the Framework for Inspection of Children's Services, and the co-operation duty and delegation power of relevant inspectorates and commissions.

- 2.7 Section 23(3) of the Children Act 2004 provides that, for the purposes of inspection, children's services means –
- (a) anything done for or in relation to children and relevant young persons (alone or with other persons)-
 - (i) in respect of which, apart from section 20, a person or body to which that section applies conducts any kind of assessment, or secures that any kind of assessment is conducted; and
 - (ii) which is specified in, or is of a description prescribed by, regulations made by the Secretary of State;
 - (b) any function under sections 10 and 13 to 19; and
 - (c) any function conferred on a children's services authority under section 12.
- 2.8 These functions mentioned in section 23(3) (b) and (c) that are prescribed as children's services are concerned with co-operation. The Regulations do not set out functions placed by the Children Act 2004 regarding co-operation to improve children's well-being (section 10 of the Children Act 2004), information bases (section 12), Local Safeguarding Children's Boards (sections 13-16), children and young people's plans (section 17), director of children's services (section 18), or lead member for children's services (section 19).
- 2.9 Regulation 2(1) lists things done for or in relation to children (persons under the age of 18) and relevant young persons (persons of 18 or over in relation to whom arrangements may be made to promote co-operation with a view to improving their well-being, under section 10 of the Children Act 2004) which are to be children's services. Regulation 2(2) lists things done for or in relation to children and young persons which are to be children's services in so far as they relate to children.
- 2.1 The intention, in the draft Regulations, is to list all children's services which might be assessed by relevant inspectorates or commissions. The inspectorates' consultation documents on the arrangements and criteria for joint area reviews indicate the proposed coverage in practice of such reviews.

2.1 **The Children Act 2004 (Joint Area Reviews) Regulations 2005**

The second set of draft Regulations, The Children Act 2004 (Joint Area Reviews) Regulations 2005, makes provision for the purposes of joint area reviews. It provides rights of entry to inspectors and ensures they can acquire information for the purposes of joint area reviews. It also provides for reports of reviews, and for the children's services authorities to publish them locally and make and publish a written statement of action following the report.

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- Section 20(8) of the Children Act 2004 provides that the Secretary of State may by regulations make provision for the purposes of reviews under this section and in particular provision-
- (a) requiring or facilitating the sharing or production of information for the purposes of a review under this section (including provision for the creation of criminal offences);
 - (b) authorising any person or body conducting a review under this section to enter any premises for the purposes of the review (including provision for the creation of criminal offences);
 - (c) imposing requirements as to the making of a report on each review under this section;
 - (d) for the making by such persons as may be specified in or under the regulations of written statements of proposed action in the light of the report and the period within which any such action must or may be taken;
 - (e) for the provision to members of the public of copies of reports and statements made under paragraphs (c) and (d), and for charging in respect of any such provision;
 - (f) for the disapplication, in consequence of a requirement under this section, of any requirement under any other enactment to conduct an assessment or to do anything in connection with an assessment.
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- Regulation 2, and the Schedule to the Regulations, ensures that the relevant inspectorates and commissions are able to carry out joint area reviews, by giving them rights to obtain information and to enter premises for the purposes of joint area reviews. Our approach is to draw across for joint area reviews powers which inspectorates and commissions have for their existing inspection programmes. These powers vary between inspectorates and commissions. In particular, existing statute does not provide explicit rights to information and of entry to the chief inspector of constabulary, Her Majesty's Chief Inspector of the National Probation Service for England and Wales or the Chief Inspector of Prisons - the Schedule is silent on these bodies, so creates no explicit rights for them for the purpose of joint area reviews.
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- Regulation 3(1) requires Ofsted to make a report after a joint area review has been completed, and Regulation 3(2) provides that Ofsted must send

a copy of the report to the children's services authority for the area and the Secretary of State. Regulation 3(3) prescribes that, within 30 working days of receiving it, the children's services authority must send a copy of the report to stipulated partners and to at least one newspaper and radio station; make a copy available for inspection free at its offices; and supply a copy on demand for which it may make a reasonable charge. The Regulations do not preclude the report being sent or issued elsewhere, for example on inspectorates', children's services authorities' or their partners' websites.

- 2.1 Regulation 4 requires a Children's Services Authority to make a written
5 statement of proposed action, consulting its partners, within 70 working days in light of a joint area review report. It must send the written statement to Ofsted and to the Secretary of State, and must distribute it and make it available locally in the same way as for the report to which it relates.

3 Draft Regulations

3.1 **The Children Act 2004 (Children's Services) Regulations 2005**

STATUTORY INSTRUMENTS

2005 No. [draft of 17 March 2005]

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children Act 2004 (Children's Services) Regulations 2005

Made - - - - 2005

Laid before Parliament 2005

Coming into force - - 2005

The Secretary of State, in exercise of the powers conferred upon her by section 23(3) of the Children Act 2004¹, hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Children Act 2004 (Children's Services) Regulations 2005 and shall come into force on [] 2005.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

“the 2000 Act” means the Care Standards Act 2000²;

“Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England³; and
“the Health and Social Care Act” means the Health and Social Care (Community Health and Standards) Act 2003⁴.

Children’s services

2.—(1) Anything done for or in relation to children and relevant young persons (alone or with other persons)—

- (a) pursuant to section 8 of the Employment and Training Act 1973⁵ (careers services);
- (b) relating to the provision of child minding and day care by a person registered under Part 10A of the Children Act 1989⁶ (child minding and day care for children in England and Wales);
- (c) that may be inspected by the Commission for Social Care Inspection⁷ in pursuance of section 87 of the Children Act 1989⁸ (welfare of children in boarding schools and colleges);
- (d) in schools within the meaning of section 4(1) and (2) of the Education Act 1996⁹ (schools: general);
- (e) relating to the provision of relevant nursery education within the meaning in paragraph 1(1) of Schedule 26 to the School Standards and Framework Act 1998¹⁰ (inspection of nursery education: introductory);
- (f) in a children’s home within the meaning in section 1 of the 2000 Act (children’s homes);
- (g) in an independent hospital within the meaning in section 2(2) and (3) of the 2000 Act (independent hospitals, etc);
- (h) in an independent clinic within the meaning in section 2(4) of the 2000 Act;
- (i) by an independent medical agency within the meaning in section 2(5) of the 2000 Act¹¹;
- (j) in a residential family centre within the meaning in section 4(2) of the 2000 Act (other basic definitions);
- (k) by a fostering agency within the meaning in section 4(4) of the 2000 Act;
- (l) by a voluntary adoption agency within the meaning in section 4(7) of the 2000 Act;
- (m) by an adoption support agency within the meaning in section 4(7A) of the 2000 Act¹²;
- (n) that may be inspected by the Chief Inspector of Adult Learning under section 54(3) of the Learning and Skills Act 2000¹³ (inspection of education and training by Chief Inspector of Adult Learning);
- (o) that may be inspected by the Chief Inspector under—
 - (i) section 60 (extended remit of Chief Inspector),
 - (ii) section 61(2)(b) (education and training),
 - (iii) section 62(1) (inspection of further education institutions),

(iv) section 65¹⁴ (area inspections),
(v) section 68(2) (education and training), or
(vi) section 118 (inspection of services to encourage, etc, effective participation by young persons in education or training),
of the Learning and Skills Act 2000;
(p) in schools entered in the register of independent schools kept by the Secretary of State under Part 10 of the Education Act 2002¹⁵ (regulation of independent schools);
(q) that is inspected by inspectors of court administration under section 59 of the Courts Act 2003¹⁶ (functions of inspectors);
(r) by way of health care within the meaning in section 45(2) of the Health and Social Care Act (quality in health care);
(s) in pursuance of an English local authority social service within the meaning in section 148 of the Health and Social Care Act (interpretation of Part 2);
(t) in pursuance of a function conferred on or exercisable by a children's services authority in their capacity as a local education authority other than a function specified in or under section 18(3) of the Children Act 2004 (director of children's services);
(u) in pursuance of a function of a children's services authority—
(i) so far as not falling within sub-paragraph (a), (d), (e), (f), (j), (o), (r) or (t) or paragraph (2)(c), and
(ii) so far as it is not a function of the authority's youth offending team in relation to relevant young persons,
is specified or prescribed for the purposes of section 23(3)(a) of the Children Act 2004 (definition of "children's services" for the purposes of sections 20 to 22).

(2) Anything done for or in relation to children and relevant young persons (alone or with other persons)—

(a) in secure training centres in England within the meaning in section 43(1)(d) of the Prison Act 1952¹⁷ (remand centres and young offender institutions);
(b) in prisons within the meaning in section 53(1) of that Act (interpretation);
(c) by a youth offending team established by a local authority under section 39 of the Crime and Disorder Act 1998¹⁸ (youth offending teams);
(d) in removal centres within the meaning in section 147 of the Immigration and Asylum Act 1999¹⁹ (interpretation of Part 8);
(e) in pursuance of arrangements made by a local probation board under section 5 of the Criminal Justice and Court Services Act 2000²⁰ (functions of local probation boards);
(f) by—
(i) a police force maintained under section 2 of the Police Act 1996²¹,
(ii) the metropolitan police force, maintained under section 5A of that Act,
or

(iii) the City of London police force,
is specified or prescribed for the purposes of section 23(3)(a) of the
Children Act 2004 in so far as it relates to children.

Signed by authority of the
Secretary of State for Education and Skills [name]
Parliamentary Under-Secretary of State,
[Date] Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 20 to 23 of the Children Act 2004 (“the Act”) are concerned with the inspection of children’s services. These regulations are for the purposes of the definition of “children’s services” in sections 20 to 22 (see section 23(3)).

Section 20 of the Act provides for the review of children’s services in the area of a children’s services authority in England. A review under section 20(1) or (2) involves two or more of the persons and bodies listed at section 20(4); the purpose of a review is set out in section 20(3). Section 21 provides for there to be a Framework for the Inspection of Children’s Services containing principles to be applied when a person or body conducts a review, or any other type of assessment of children’s services (“assessment” is defined in section 23(2)). Section 22 requires persons or bodies with a function of conducting an assessment of children’s services to co-operate with each other, and permits delegation of their assessment functions to another such body.

Regulation 2 prescribes the things that are children’s services. Regulation 2(1) lists things done for or in relation to children (persons under the age of eighteen) and relevant young persons (persons of eighteen or over in relation to whom arrangements may be made to promote co-operation with a view to improving their well-being, under section 10 of the Act) that are children’s services. Regulation 2(2) lists things done for or in relation to children and young persons that are to be children’s services in so far as they relate to children.

The assessment of the functions, services, establishments, agencies and other things listed in regulation 2 (whether as part of a review under section 20 of the Act or otherwise) will be governed by the Framework referred to above.

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- 1 - 2004 c.31.
 - 2 - 2000 c.14.
 - 3 - Her Majesty's Chief Inspector of Schools in England is appointed under section 1(1) of the School Inspections Act 1996 (c.57).
 - 4 - 2003 c.43
 - 5 - 1973 c.50.
 - 6 - 1989 c.41. Part 10A was inserted by section 79(1) of the Care Standards Act 2000 (c.14).
 - 7 - The Commission for Social Care Inspection was established by section 42 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43).
 - 8 - Section 87 was amended by section 105 of, and paragraph 14 of Schedule 4 to, the Care Standards Act 2000.
 - 9 - 1996 c.56. Section 4(1) was substituted by section 51 of the Education Act 1997 (c.44).
 - 10 - 1998 c.31. Paragraph 1(1)(c) was repealed in relation to England by Part 3 of Schedule 22 to the Education Act 2002 (c.32).
 - 11 - Section 4(5) is amended by the Health and Social Care (Community Health and Standards) Act 2003 (not yet in force).
 - 12 - Section 4(7A) is inserted by section 8(3) of the Adoption and Children Act 2002 (c.38) (not yet in force).
 - 13 - 2000 c.21. The Chief Inspector of Adult Learning is the chief officer of the Adult Learning Inspectorate, established by section 52(1) of the Learning and Skills Act 2000 (c.21). He is appointed as a member of the Inspectorate, and its chief officer, by the Secretary of State under section 52(2) and (3) of that Act respectively.
 - 14 - Section 65 was amended by section 178(3) of the Education Act 2002 (c.32).
 - 15 - 2002 c.32.
 - 16 - 2003 c.39.
 - 17 - 1952 c.52. Section 43(1)(d) was inserted by section 5(2) of the Criminal Justice and Public Order Act 1994 (c.33) and amended by paragraph 5(1) and (2) of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c.6).
 - 18 - 1998 c.37. Section 39 was amended by paragraphs 4, 150 and 151 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c.43), and by para 35 of Schedule 1 to the Health Act (Supplementary, Consequential etc Provisions) Order 2000, S.I. 2000/90.
 - 19 - 1999 c.33. The definition of "removal centre" was inserted by section 66(1)(b) of the Nationality, Immigration and Asylum Act 2002 (c.41).
 - 20 - 2000 c.43.
 - 21 - 1996 c.16. Section 5A was inserted by section 310(1) of the Greater London Authority Act 1999 (c.29). See definitions in section 101(1) of the Police Act 1996 in relation to the police force for the City of London police area.

3.2 **The Children Act 2004 (Joint Area Reviews) Regulations 2005**

STATUTORY INSTRUMENTS

2005 No. [draft of 17 March 2005]

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children Act 2004 (Joint Area Reviews) Regulations 2005

Made - - - 2005

Laid before Parliament 2005

Coming into force - - 2005

The Secretary of State, in exercise of the powers conferred upon her by sections 20(8) and 64(1) of the Children Act 2004¹ hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Children Act 2004 (Joint Area Reviews) Regulations 2005 and shall come into force on [] 2005.

(2) In these Regulations—

“the Act” means the Children Act 2004;

“review” means a review conducted under section 20(1) or (2) of the Act; and

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971².

Powers to carry out assessments for the purposes of a review

2. The Schedule makes provision for the purposes of reviews.

Report on joint area review

3.—(1) Where a review has been completed the Chief Inspector of Schools must make a report on the review.

(2) The Chief Inspector must send a copy of the report to—

(a) the children’s services authority for the area to which the review relates; and

(b) the Secretary of State.

(3) The children’s services authority to which the review relates must, within 30 working days of receiving the report—

(a) send a copy to—

(i) each of the authority’s relevant partners under section 10 of the Act,

(ii) any person or body with whom the authority has made arrangements under section 10(1)(c),

(iii) each of the authority’s Board partners under section 13 of the Act,

(iv) at least one newspaper circulating in the area of the authority, and

(v) at least one radio station serving that area;

(b) make a copy of the report available for inspection free of charge at the offices of the authority;

(c) supply a copy of the report to a member of the public on demand on payment of a reasonable charge.

Written statement of proposed action

4.—(1) A children’s services authority which has received a report under regulation 3(1) must make a written statement of proposed action (“written statement”) in the light of the report within 70 working days of receiving it.

(2) The written statement must include a statement of the period within which the action is proposed to be taken.

(3) In compiling the written statement the authority must consult the persons and bodies to whom a copy of the report of the review was sent by virtue of regulation 3(3)(a)(i) to (iii).

(4) The authority must—

(a) send a copy of the written statement to—

(i) the Chief Inspector, and

(ii) the Secretary of State;

- (b) send a copy of the written statement to the persons or bodies to whom a copy of the report of the review was sent by virtue of regulation 3(3)(a);
- (c) make a copy of the written statement available for inspection free of charge at the offices of the authority;
- (d) supply a copy of the written statement to a member of the public on demand on payment of a reasonable charge.

Signed by authority of the
Secretary of State [name]
[Parliamentary Under Secretary of State],
[date] Department for Education and Skills

SCHEDULE Regulation 2 PROVISIONS FOR THE PURPOSES OF REVIEWS

1. In this Schedule—

“the 1996 Act” means the School Inspections Act 1996³;

“the 2000 Act” means the Learning and Skills Act 2000⁴;

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003⁵;

“the CHAI” means the Commission for Healthcare Audit and Inspection established under section 41(1) of the 2003 Act;

“the Chief Inspector” means the Chief Inspector of Schools in England, appointed under section 1(1) of the 1996 Act;

“the CSCI” means the Commission for Social Care Inspection established under section 42(1) of the 2003 Act;

“English local authority social service” has the same meaning as in section 148 of the 2003 Act;

“health care” has the same meaning as in section 45(2) of the 2003 Act;

“local education authority” has the same meaning as in section 12 of the Education Act 1996⁶;

“NHS body” has the same meaning as in section 148 of the 2003 Act;

“registered inspector” means a person registered under section 7(1) of the 1996 Act.

Chief Inspector of Schools

2.—(1) This paragraph applies where the Chief Inspector conducts a review of children’s services in so far as those services relate to functions performed by a children’s services authority in their capacity as a local education authority.

(2) An inspection for the purposes of the review shall be conducted—

(a) by one of Her Majesty’s Inspectors of Schools in England⁷, or

(b) by any additional inspector authorised under paragraph 2 of Schedule 1 to the School Inspections Act 1996⁸,

but he may be assisted by such other persons (whether or not members

of the Chief Inspector's staff) as the Chief Inspector thinks fit.

(3) The inspector, and any person assisting him, shall have at all reasonable times a right of entry to—

(a) the premises of the children's services authority,

(b) the premises of any school maintained by the authority in their capacity as a local education authority, and

(c) any other premises at which relevant section 19 education is provided, other than premises which are or form part of a private dwelling house but are not a school.

(4) The inspector, and any person assisting him, shall also have at all reasonable times a right to inspect and take copies of—

(a) any records kept by, and any other documents containing information relating to, the children's services authority or any school maintained by the authority in their capacity as a local education authority, and

(b) any records kept by a person who provides relevant section 19 education that relate to the provision of that education, and any other documents containing information that so relates,

which he considers relevant to the exercise of his functions.

(5) The inspector, and any person assisting him—

(a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or documents referred to in sub-paragraph (4); and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used; or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford him such assistance as he may reasonably require (including, in particular, the making of information available for inspection or copying in legible form).

(6) Without prejudice to sub-paragraphs (3) and (4), the children's services authority and the governing body of any school maintained by the authority—

(a) shall give the inspector and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give, and

(b) shall secure that all such assistance is also given by persons who work at the school.

(7) It shall be an offence wilfully to obstruct the inspector or any person assisting him in the exercise of his functions in relation to the inspection.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(9) In this paragraph—

“document”, “records” and “relevant section 19 education” have the same meanings as in section 40(8) of the Education Act 1997; “functions” includes powers and duties; and “school” has the same meaning as in section 4(1) and (2) of the Education Act 1996⁹.

3.—(1) This paragraph applies where the Chief Inspector conducts a review of children’s services in so far as those services relate to the education and training that may be made the subject of an inspection under section 65 of the 2000 Act¹⁰.

(2) When conducting an inspection for the purposes of the review, the Chief Inspector has, at all reasonable times—

(a) a right of entry to premises on which the education or training being inspected is provided;

(b) a right of entry to premises of the provider of that education or training used in connection with that provision;

(c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the Chief Inspector requires for the purposes of the inspection.

(3) The right to inspect conferred by sub-paragraph (2)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.

(4) That right also includes the right to require—

(a) the person by whom or on whose behalf the computer is or has been so used, or

(b) any person having charge of, or otherwise connected with the operation of, the computer, apparatus or material, to afford the Chief Inspector such assistance as he may reasonably require.

(5) It is an offence wilfully to obstruct the Chief Inspector in the exercise of functions in relation to an inspection to which this paragraph applies.

(6) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

4.—(1) This paragraph applies where the Chief Inspector conducts a review of children’s services in so far as those services relate to services provided in pursuance of section 114(1) of the 2000 Act.

(2) A person carrying out or participating in an inspection for the purposes of the review shall have at all reasonable times—

(a) a right of entry to the premises of a school;

(b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions.

(3) Paragraph 2(5) applies to a person carrying out or participating in a review to which this paragraph applies as it applies to an inspector, and

any person assisting him, in a review to which paragraph 2 applies.

(4) A person who wilfully obstructs a person in carrying out or participating an inspection to which this paragraph applies—

(a) shall be guilty of an offence, and

(b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Adult Learning Inspectorate

5.—(1) This paragraph applies where an inspector conducts a review of children's services in so far as those services relate to education and training within the remit of the Adult Learning Inspectorate¹¹ ("the Inspectorate").

(2) A person conducting an inspection for the purposes of the review has, at all reasonable times—

(a) a right of entry to premises on which the education or training being inspected is provided;

(b) a right of entry to premises of the person providing that education or training used in connection with that provision;

(c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the inspector requires for the purposes of the inspection.

(3) In respect of education or training provided by an employer in the workplace, the right of entry conferred by sub-paragraph (2) may be exercised only if the employer has been given reasonable notice in writing.

(4) The right to inspect records conferred by sub-paragraph (2)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.

(5) That right also includes the right to require—

(a) the person by whom or on whose behalf the computer is or has been so used, or

(b) any person having charge of, or otherwise connected with the operation of, the computer, apparatus or material, to afford the Adult Learning Inspectorate or any inspector such assistance as he may reasonably require.

(6) It is an offence wilfully to obstruct any person exercising any functions in relation to an inspection to which this paragraph applies.

(7) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(8) In this paragraph "inspector", in relation to an inspection to which this paragraph applies, means an employee of the Inspectorate taking part in the inspection or any person appointed by the Inspectorate to assist with the inspection and includes the Chief Inspector of Adult Learning where

the inspection is being conducted by him.

Commission for Social Care Inspection

6.—(1) This paragraph applies where the CSCI conducts a review of children's services in so far as those services relate to the provision of English local authority social services.

(2) For the purposes of the review a person authorised to do so by the CSCI may, if the CSCI considers it necessary or expedient, at any reasonable time enter and inspect—

(a) any premises owned or controlled by a children's services authority in England; or

(b) any premises falling within sub-paragraph (3), other than premises used wholly or mainly as a private dwelling.

(3) The premises referred to in sub-paragraph (2)(b) are premises—

(a) which are used, or proposed to be used, by any person in connection with the provision of an English local authority social service; or

(b) which the CSCI reasonably believes to be so used, or proposed to be so used.

(4) A person who proposes to exercise any power of entry or inspection conferred by this paragraph must if so required produce some duly authenticated document showing his authority to exercise the power.

7.—(1) A person authorised by virtue of paragraph 6 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of a review to which that paragraph applies—

(a) inspect, take copies of and remove from the premises any documents or records (including personal records) relating to the discharge by the children's services authority of its social services functions;

(b) inspect any other item and remove it from the premises;

(c) interview in private—

(i) any person working at the premises; or

(ii) any person accommodated or cared for there who consents to be interviewed; and

(d) make any other examination into the state and management of the premises and treatment of persons accommodated or cared for there.

(2) The power in sub-paragraph (1)(a) includes—

(a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and

(b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(3) A person authorised by sub-paragraph (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.

(4) A person authorised by virtue of paragraph 6 to enter and inspect

premises may—

(a) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under paragraph 6 or this paragraph; and
(b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.

(5) Any person who without reasonable excuse—

(a) obstructs the exercise of any power conferred by paragraph 6 or this paragraph, or

(b) fails to comply with any requirement of paragraph 6 or this paragraph, is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

8.—(1) The CSCI may at any time require any person specified in sub-paragraph (2) to provide it with any information, documents, records (including personal records) or other items—

(a) which relates to or relate to the discharge by a children's services authority in England of its social services functions; and

(b) which the CSCI considers it necessary or expedient to have for the purposes of a review to which paragraph 6 applies.

(2) The persons referred to in sub-paragraph (1) are—

(a) the children's services authority;

(b) a person providing an English local authority social service for the authority; or

(c) any NHS body.

(3) The power in sub-paragraph (1) to require the provision of information includes, in relation to records kept by means of a computer, power to require the provision of information in legible form.

(4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commission for Healthcare Audit and Inspection

9.—(1) This paragraph applies where the CHAI conducts a review of children's services so far as those services relate to the provision of healthcare.

(2) For the purposes of the review a person authorised to do so by the CHAI may, if the CHAI considers it necessary or expedient, at any reasonable time enter and inspect—

(a) any premises owned or controlled by an NHS body; or

(b) any other premises used, or proposed to be used, for any purpose connected with—

(i) the provision of health care by or for an NHS body, or

(ii) the discharge of any of the functions of an NHS body.

(3) A person who proposes to exercise any power of entry or inspection

conferred by this paragraph must if so required produce some duly authenticated document showing his authority to exercise the power.

10.—(1) A person authorised by virtue of paragraph 9 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of the review—

(a) inspect, take copies of and remove from the premises any documents or records (including personal records);

(b) inspect any other item and remove it from the premises;

(c) interview in private—

(i) any person working at the premises; or

(ii) any person receiving health care there who consents to be interviewed; and

(d) make any other examination into the state and management of the premises and treatment of persons receiving health care there.

(2) The power in sub-paragraph (1)(a) includes—

(a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and

(b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(3) A person authorised by sub-paragraph (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.

(4) A person authorised by virtue of paragraph 9 to enter and inspect premises may—

(a) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under paragraph 9 or this paragraph; and

(b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.

(5) Any person who without reasonable excuse—

(a) obstructs the exercise of any power conferred by paragraph 9 or this paragraph, or

(b) fails to comply with any requirement of paragraph 9 or this paragraph, is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

11.—(1) The CHAI may at any time require any person specified in sub-paragraph (2) to provide it with any information, documents, records (including personal records) or other items—

(a) which relates to or relate to—

(i) the provision of health care by or for an NHS body, or

(ii) the discharge of any of the functions of an NHS body; and

(b) which the CHAI considers it necessary or expedient to have for the purposes of a review.

- (2) The persons referred to in sub-paragraph (1) are—
 - (a) the NHS body;
 - (b) any person providing health care for, or exercising functions of, the NHS body;
 - (c) a children’s services authority.
- (3) The power in sub-paragraph (1) to require the provision of information includes, in relation to records kept by means of a computer, power to require the provision of information in legible form.
- (4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Audit Commission for Local Authorities and the National Health Service in England and Wales

- 12.—(1) This paragraph applies where the Audit Commission for Local Authorities and the National Health Service in England and Wales¹² (“the Audit Commission”) conducts a review of children’s services in so far as those services may be inspected by the Audit Commission.
- (2) For the purposes of the review an inspector has a right of access at all times—
 - (a) to any premises of a children’s services authority, and
 - (b) to any document relating to the authority which appears to him to be necessary for the purposes of the inspection.
 - (3) An inspector—
 - (a) may require a person holding or accountable for any such document to give him such information and explanation as he thinks necessary, and
 - (b) may require that person to attend before him in person to give the information or explanation or to produce the document.
 - (4) A children’s services authority shall provide an inspector with every facility and all information which he may reasonably require for the purposes of the inspection.
 - (5) An inspector shall—
 - (a) give three clear days’ notice of any requirement under this paragraph, and
 - (b) must, if so required, produce documents identifying himself.
 - (6) A person who without reasonable excuse fails to comply with a requirement of an inspector under this paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (7) Any expenses incurred by an inspector in connection with proceedings for an offence under sub-paragraph (5) alleged to have been committed in relation to an inspection of a children’s services authority are, so far as not recovered from any other source, recoverable from the authority.

(8) In this paragraph “inspector” means an officer, servant or agent of the Audit Commission carrying out an inspection for the purposes of a review.

Her Majesty’s Chief Inspector of Court Administration

13.—(1) This paragraph applies where an inspector of court administration¹³ conducts a review of children’s services and for the purposes of that review inspects—

(a) the system that supports the carrying on of the business of the Crown Court, county courts and magistrates’ courts and the services provided for those courts, or

(b) the performance of CAFCASS functions.

(2) For the purposes of the review an inspector may enter—

(a) any place of work occupied by persons provided under a contract made by the Lord Chancellor by virtue of section 2(4) of the Courts Act 2003¹⁴;

(b) any premises occupied by CAFCASS.

(3) For the purposes of a review an inspector may inspect and take copies of—

(a) any records kept by persons provided under a contract made by the Lord Chancellor by virtue of section 2(4) of the Courts Act 2003, or

(b) any records kept by CAFCASS or other documents containing information relating to the performance of CAFCASS functions, which he considers relevant to the discharge of his functions.

(4) Sub-paragraph (1) does not entitle an inspector—

(a) to be present when the Crown Court, a county court or a magistrates’ court is hearing proceedings in private, or

(b) to attend any private deliberations of persons having jurisdiction to hear or determine any proceedings.

(5) The records referred to in sub-paragraph (2) include records kept by means of a computer.

(6) An inspector exercising the power under sub-paragraph (2) to inspect records—

(a) is entitled to have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been in use in connection with the records in question, and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been used, or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford him such reasonable assistance as he may require.

(7) The powers conferred by sub-paragraphs (1), (2) and (5) may be exercised at reasonable times only.

(8) Nothing in this paragraph is to be read as enabling inspectors to inspect persons—

- (a) making judicial decisions, or
- (b) exercising any judicial discretion.
- (9) In this paragraph “CAFCASS” and “CAFCASS functions” have the same meanings as in section 58(6) of the Courts Act 2003¹⁵.

EXPLANATORY NOTE
(This note is not part of the Regulations)

Section 20 of the Children Act 2004 (“the Act”) provides for the review of children’s services in the area of a children’s services authority in England. “Children’s services” are defined by section 23(3) of that Act and regulations under that provision; “children’s services authority” is defined in section 63(1) of the Act. A review involves two or more of the persons and bodies listed at section 20(4); they may be requested to conduct a review by the Secretary of State, or may themselves decide to conduct a review. The purpose of a review is set out in section 20(3).

These Regulations make provision for the purposes of such reviews. Regulation 2 and the Schedule to the Regulations ensure that the persons and bodies listed at section 20(4) have sufficient powers to conduct an inspection for the purposes of a review (including rights to obtain information, and rights of entry).

Regulation 3 obliges the Chief Inspector of Schools to make a report on a review and send it to the children’s services authority for the area to which the review relates and to the Secretary of State. Within 30 working days the children’s services authority must send a copy of the report to the persons and bodies with whom the authority makes arrangements to promote co-operation with a view to improving the well-being of children in their area and to each of their partners on the Local Safeguarding Children Board for their area. The authority must publicise the report in a newspaper circulating in the area and with a radio station serving the area, make a copy available for inspection free of charge at their offices and supply a copy to a member of the public, on demand, for a reasonable charge.

A children’s services authority receiving a report under regulation 3 is obliged to make a written statement of proposed action in the light of the report, within 70 days of receiving the report (regulation 4). The authority must consult the same persons and bodies as were sent the report on the review when compiling the written statement. The written statement must be sent to the Chief Inspector of Schools and those same persons and bodies, and publicised and made publicly available in the same way as

the report.

- 1 - 2004 c.31.
- 2 - 1971 c.80.
- 3 - 1996 c.57
- 4 - 2000 c.21.
- 5 - 2003 c.43.
- 6 - 1996 c.56.
- 7 - Such inspectors are appointed under section 1(2) of the School Inspections Act 1996.
- 8 - Paragraph 2(3) was amended by paragraph 9(1) and (3) of Schedule 16 to the Education Act 2002 (c.32).
- 9 - Section 4(1) was substituted by section 51 of the Education Act 1997 (c.44) and section 4(2) was amended by paragraph 10 of Schedule 7, and Schedule 8, to that Act.
- 10 - See the Learning and Skills Act 2000, section 65(4).
- 11 - The Adult Learning Inspectorate is established by the Learning and Skills Act 2000, section 52(1) (c.21); the Inspectorate's chief officer is known as the Chief Inspector of Adult Learning (s 52(4)). See section 53 of that Act for the Inspectorate's remit; that section is amended by the Education Act 2002, section 178(1) and (3) (c.32).
- 12 - The Audit Commission is continued in being by section 1 of the Audit Commission Act 1998 (c.18).
- 13 - Such inspectors are appointed by the Lord Chancellor under section 58(1) of the Courts Act 2003 (c.39).
- 14 - 2003 c.39.
- 15 - Section 12 of the Criminal Justice and Court Services Act 2000 (c.43) sets out the principal functions of CAF/CASS; section 12 was amended by paragraph 118 of Schedule 3, and Schedule 5, to the Adoption and Children Act 2002 (c.38).

4 How To Respond

4.1 You are invited to send your comments on the draft regulations by completing the response form.

Responses by post should be sent to: Department for Education and Skills, Children's Services Inspection team, 3N Sanctuary Buildings, Great Smith Street, London, SW1P 3BT

Send by e-mail to: csi.team@dfes.gsi.gov.uk

5 Additional Copies

5. Additional copies of the consultation document can be requested by email
1 from csi.team@dfes.gsi.gov.uk or by post from Children's Services
Inspection Team, Department for Education and Skills, 3N Sanctuary
Buildings, Great Smith St, London, SW1P 3BT , or by telephoning 020
7925 6213

6 Plans for making results public

6. These responses will inform the final drafting process for the Regulations,
1 which will come into force by 1 September 2005.