



Department
for Education

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Powers to delegate children's social care functions

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To Local authorities and their representative bodies, (potential) providers of social work services e.g. fostering/adoption agencies, social workers and their representative bodies, children in care/care leavers and representative bodies.

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Enquiries To If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288

e-mail:

SocialServiceFunctions.CONULTATION@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 or by telephone: 0370 000 2288 or via the Department's '[Contact Us](#)' page.

1 Introduction

- 1.1 In November 2013 government commenced Part 1 of the Children and Young Persons Act 2008 (CYPA) to allow local authorities in England to delegate looked after children and care leaver functions to a third party provider of social work services.
- 1.2 The government is now seeking views on proposed regulations that will enable local authorities to delegate additional children's social care functions to third party providers.

2 Summary of Proposal

- 2.1** To make regulations allowing a local authority to enter into arrangements with a body corporate for the discharge of a wider range of its social services functions related to children.

3 Background to the Policy and Legislation at Issue

- 3.1** Part 1 of the CYPA makes provision for local authorities to delegate social services functions relating to children looked after and care leavers to third parties. Between 2008 and 2012 the CYPA was commenced for piloting purposes, with commencement orders relating to individual authorities.
- 3.2** In November 2013, the government fully commenced Part 1 of the Act to allow all local authorities in England to delegate the relevant care functions.
- 3.3** The CYPA provides a power to extend or restrict by affirmative regulations the range of relevant care functions that may be delegated by local authorities. This consultation sets out a proposal to make regulations extending the relevant care functions to cover nearly all local authority social services functions related to children.
- 3.4** Ofsted inspect delegated arrangements alongside their inspection of local authority functions, under their new single inspection framework. Commencement of Part 1 of the CYPA introduced a new requirement for provider registration by Ofsted. There is an argument that this registration process does not offer any genuine additional safeguards and clause 52 of the Deregulation Bill currently before Parliament seeks to remove this requirement. Details can be found at <http://services.parliament.uk/bills/2013-14/deregulation.html>.

4 Detail of the Proposal

- 4.1** Part 1 of the CYPA allows local authorities to discharge certain functions relating to children in care and care leavers through a contract with a third party provider. It also provides for regulations to be made extending or limiting the functions that can be discharged in this manner.
- 4.2** The draft regulations (available alongside this document) would enable all social services functions related to children (with some limited exceptions – see 4.3) to be discharged by a third party provider. They also specify that certain duties of the

LA in relation to cooperation, Children's Trust Boards, and the implementation of Children and Young People's Plans can also be delegated.

- 4.3 The CYPA already excludes delegation of independent reviewing officer functions, and of adoption agency functions unless the other party to the arrangement is a registered adoption society. In addition the draft regulations make clear that the local authority power to enter delegation arrangements under Part 1 of the CYPA cannot itself be delegated.
- 4.4 The CYPA requires all delegated functions to be discharged by or under the supervision of registered social workers. It is for local authorities in conjunction with their third party provider to determine how best to manage this requirement.
- 4.5 Delegation does not remove responsibility from the local authority for ensuring their statutory obligations are met, and any breach of those obligations would be treated as a breach by the local authority. Services provided under delegated arrangements will be considered by Ofsted as part of its single framework inspection arrangements, and the local authority held to account.
- 4.6 These changes will broaden the range of approaches available to local authorities as they look to secure the best outcomes for children in their area. They will allow authorities to harness third party expertise, and/or set up more agile delivery structures outside traditional hierarchies. These changes support the DfE's innovation programme which aims to stimulate new approaches to securing improvements in children's services. The current position, where innovation of this kind can only take place in the context of failure and as a result of government direction, is illogical and is already causing some local authorities difficulties as they re-think how best to provide services.

5 How To Respond

- 5.1 Consultation responses can be completed online at www.education.gov.uk/consultations/

By emailing: SocialServiceFunctions.CONULTATION@education.gsi.gov.uk;

Or by downloading a response form which should be completed and sent to: Social Work Reform Unit, Department for Education, First Floor, Sanctuary Buildings, Great Smith Street, Westminster, London, SW1P 3BT.

6 Additional Copies

- 6.1** Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at:
www.education.gov.uk/consultations/

7 Plans for making results public

- 7.1** The results of the consultation and the department's response will be published on the DfE e-consultation website in summer 2014.