



Department
for Education

Registration of providers of social work services consultation

Government Response

October 2013

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Introduction

Between 19 September and 9 October 2013 the Department for Education sought views on a set of draft regulations around fitness and registration that will apply to organisations that wish to discharge looked after children and care leaver functions on behalf of local authorities.

The consultation was published on the Department for Education's website, and likely interested parties were notified directly. These included:

- All respondents to the January consultation on delegation of functions
- All Local Authorities (LAs) participating in pilot arrangements
- All LAs who had expressed an interest in participating in pilot arrangements
- All providers participating in pilot arrangements
- All providers who had expressed an interest in participating in pilot arrangements
- The Association of Directors of Children's Services
- The Local Government Association
- Social Worker Representative organisations
- Provider representative organisations
- Children's representative organisations
- Members of the pilot evaluation team
- Members of the expert group advising on pilot and evaluation arrangements
- Members of the Social Work Reform Board
- Ofsted.

Summary of responses received and the Government's response

A total of 24 responses were received from¹:

- five current or former social work academics
- four potential providers
- four local authorities
- four organisations representing social workers
- two organisations representing children
- two interested members of the public
- one each from ASCL, Ofsted and the Fostering Network.

There is near universal support for the principle of regulations covering delegated arrangements² – of those who answered the relevant questions, 100% agreed that requirements should be placed on the fitness of the registered provider, the manager and employees, and all but one agreed with requirements on the provider's premises.

When it came to the detail of the regulations there was also broad support for the proposal with 67% agreeing with the requirements of the registered provider, 59% agreeing with those of the registered manager, 50% agreeing with those of employees, 72% agreeing with those dealing with staff employment and 80% agreeing with those concerning the provider's premises. Some amendments have been made to the regulations concerning premises, and those covering the registration process, to reflect consultation responses. Other detailed points were either already covered in the proposed regime, or fall outside the scope of fitness and registration regulations.

Of those answering the question on charging a registration fee 88% agreed that it was appropriate, while the remaining 12% were unsure.

Of those answering the question on transitional provisions for Social Work Practice pilot sites 79% agreed with the proposed provisions.

The most frequently occurring view (11 respondents) was that providers should be required to employ registered social workers, either as the registered manager, or as minimum proportions of employees. DfE believes the underlying aspiration is already addressed through the requirement in the Children and Young Persons Act 2008 (CYPA) that delegated functions be discharged by or under the supervision of a registered social worker, but we do not believe it is desirable to set rigid requirements in terms of staff structure.

There were a number of other relatively common responses that DfE has sought to accommodate:

¹ Where respondents identified themselves as "other" in the consultation response DfE has sought to bridge emerging groups, or assign to the most appropriate of the possible selections.

² Although a number of respondents did not support the wider policy of allowing delegation of care functions – the subject of consultation in January and February 2013.

- Calls for proportionality in the fee structure (five responses) – the final fee structure includes both initial registration fees for the first time a provider enters delegated arrangements with a local authority, and variation fees where it seeks to extend or amend its operations.
- Inclusion of an additional requirement that the premises should be situated in a safe and appropriate location (three responses) – the regulations have been amended to accommodate this point.
- Calls for providers to demonstrate a commitment to effective and safe work through policies covering safeguarding, child protection, whistleblowing etc. (three responses) – the regulations have been amended to accommodate this point.
- Calls for providers to demonstrate their financial viability (three responses) – DfE had already considered this issue and requirements of this nature are included in the regulations.
- Requiring a “statement of purpose” from providers (two responses). The regulations have been amended to require a “statement of the arrangements entered into with the local authority”.
- Ensuring providers are subject to freedom of information – DfE considers that as the providers will be acting on behalf of the local authority, under section 3(2)(b) of Freedom of Information Act, the information which they hold by virtue of their contracts with local authorities will be information held by the local authority for the purposes of the FOIA.

Among the responses that have not been directly accommodated are calls to manage conflict of interests through the regulations (four respondents). The arrangements entered into by different local authorities and providers may differ widely in purpose and scale. This makes it difficult for regulations to meaningfully engage with the question of conflicts of interest, although it will of course be important that delegating authorities consider the matter as part of contract award and management.

There were a number of suggestions for changes to the regulations around staff employment (including not allowing starting work until all references, checks etc. have been completed – four responses). DfE does not believe a compelling case was made for introducing different employment regulations across the range of agencies Ofsted registers. In any case, on the specific issue the regulations are clear that the employer must make thorough efforts to obtain all the necessary documentation.

The three respondents who objected to the inclusion of transitional arrangements for pilot sites appear to have misunderstood the regulations. The regulations envisage these sites moving to “business as usual” registration arrangements in time, but seek to avoid the disruption of halting current arrangements while the provider negotiates the registration process following commencement of the remaining provisions in Part 1 of the Children and Young Person’s Act in November 2013.

The remaining suggestions (all voiced once by one respondent) seem, variously, to fall beyond the scope of a set of fitness and registration regulations (for example a requirement to issue guides on service user expectations, or to adhere to the College of Social Work’s Professional Capabilities Framework), to be covered already within the regulations themselves (e.g. notification of changes of ownership, need for child friendly premises), to be covered under the law more generally (e.g. issuing contracts of employment, and employer’s duty of care), or to be unjustifiably prescriptive (e.g. specific

recruitment/interview processes, requirements to notify Ofsted if vacancy rates breach set thresholds).

Main findings from the consultation

Question 1

Do you agree it is appropriate to place requirements on the fitness of the registered provider?

A total of 20 respondents answered this question. 100% agreed.

Question 2

Do you agree with the specific fitness requirements for the registered provider described in regulation 3 and 6?

A total of 18 respondents answered this question. Of these 67% agreed, 22% disagreed, and 11% were unsure.

Question 3

Do you agree it is appropriate to place requirements on the fitness of the manager of the provider of social work services?

A total of 19 respondents answered this question. 100% agreed.

Question 4

Do you agree with the specific fitness requirements for the manager described in regulation 5?

A total of 17 respondents answered this question. Of these 59% agreed, 29% disagreed, and 12% were unsure.

Question 5

Do you agree it is appropriate to place requirements on the fitness of the employees and supervision of non employees?

A total of 17 respondents answered this question. 100% agreed.

Question 6

Do you agree with the specific fitness and supervision requirements for the employees described in regulation 8?

A total of 18 respondents answered this question. Of these 50% agreed, 33% disagreed, and 17% were unsure.

Question 7

Do you agree with the requirements around staff employment described in regulation 9?

A total of 18 respondents answered this question. Of these 72% agreed, 17% disagreed, and 11% were unsure.

Question 8

Do you agree it is appropriate to place requirements on the premises from which a provider of social work services can operate?

A total of 18 respondents answered this question. Of these 94% agreed, 6% (1 respondent) disagreed.

Question 9

Do you agree with the specific requirements concerning the premises described in regulation 10?

A total of 15 respondents answered this question. Of these 80% agreed and 20% disagreed.

Question 10

Do you agree that charging a registration fee is appropriate?

A total of 18 respondents answered this question. Of these 89% agreed and 11% were unsure.

Question 11

What is your view on the merits of full cost recovery and the appropriate level for registration fees?

Free text responses.

Question 12

Do you have any comments on the processes and requirements described in regulations 13 - 24?

Free text responses.

Question 13

Do you support the inclusion of transitional arrangements in these regulations to avoid disruption in the Social Work Practices pilot sites?

A total of 15 respondents answered this question. Of these 80% agreed and 20% disagreed.

Next steps

A revised set of regulations taking account of consultation responses (see pages 4-6) was laid in Parliament on 21 October 2013.

The regulations will take effect on 12 November 2013.



Department
for Education

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