

Regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities

Consultation document

This is a consultation document on proposals for Ofsted's regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities. This consultation seeks your views on proposals about how we regulate social work providers and how we manage the relationship between their registration and the inspection of the functions they have delegated to them by local authorities.

The closing date for the consultation is **25 October 2013**.

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361

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Contents

About Ofsted	4
Purpose and background to the consultation	4
Proposals for the regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities	5
Registration	5
Inspection	6
Fees	7
The consultation process	8
Sending back your response	8
Questionnaire for the regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities	9
Registration	11
Inspection	13
What did you think of this consultation?	15
How did you hear about this consultation?	15
Additional questions about you	16

About Ofsted

1. The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages.

Purpose and background to the consultation

2. This consultation seeks your views on proposals to how we regulate social work providers (SWPs) and managers of SWPs. It also covers how we intend to manage the relationship between their registration and the inspection of the functions they have delegated to them by local authorities. Your views will help to refine and develop our policy and practice in this area.
3. Part 1 of the Children and Young Persons Act 2008 (CYPA) allows local authorities to delegate their statutory functions about looked after children and care leavers to private providers'. The Department for Education (DfE) intends to commence Part 1 in November 2013.¹ The CYPA also sets out specific provisions about the arrangements for delegation, one of which is that the private provider and any manager must be registered as an agency under the Care Standards Act 2000 (CSA).
4. Ofsted is the registration authority under the CSA, therefore providers and managers will be legally obligated to register with Ofsted. However, Ofsted's role as regulator of SWPs will be unlike Ofsted's role with any other agency registered under the CSA. In all other instances, Ofsted has a regulatory responsibility to register and inspect the service and has the powers to enforce compliance with conduct regulations and make recommendations against the government's national minimum standards all under one Act.
5. SWPs will be registered with Ofsted under the CSA, but inspection will fall under their delegated function from the local authority and therefore will be carried out under the Education and Inspections Act 2006 (EIA). The legislation is underpinned by regulations that set out:
 - a fitness test, which covers registration of the responsible person, the registered manager and the necessary experience and qualifications of the staff. The DfE have consulted on these regulations which have yet to be laid before Parliament and formally made.
 - Ofsted's powers of cancellation.
6. Ofsted has powers to inspect the exercise of local authority functions under s136 of the EIA. These powers extend to the inspection of any functions that a local authority delegates to an SWP.

¹Part 1 of the CYPA is subject to a 'sunset' clause, which means that it will be void if it is not commenced before a certain date, in this case 13 November 2013.

7. All new providers and managers of SWPs must make an application to be registered with Ofsted under the CSA. Existing pilots where functions are already delegated will automatically become registered² with Ofsted from November 2013, although the exact date is not yet known.

Proposals for the regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities

Registration

8. From November 2013:
 - As an integral part of the registration process, an Ofsted inspector will conduct a registration visit when an application for registration as a provider and/or manager of an SWP is made.
 - Where a local authority has already delegated their functions to an SWP under the provisions of a pilot, the proposed regulations allow these providers and managers of SWPs automatic registration with Ofsted from November 2013. They will not need to submit an application. However, Ofsted will conduct a visit to check fitness for all such automatic registrations. This assessment of fitness will be the same assessment we propose to carry out for new applicants. It will include testing the fitness of premises, staffing and records interviews (including suitability checks) of the responsible individual³ and the registered manager. Should the tests for fitness not be met, Ofsted will require change or consider cancellation of that registration.
 - When registering an SWP or a manager of an SWP, Ofsted will use conditions of registration to confirm and restrict the delegated function to the local authority for which the delegation and application for registration apply. The condition of registration will also identify the specific local authority that is contracted to provide/manage these functions. Any future intention of the SWP to provide or manage additional delegated functions for other local authorities would therefore require a further application by the SWP to vary their conditions of registration. Ofsted will also need to decide whether to agree the additional application prior to the delegated functions commencing operation. The application form would require the provider to submit additional evidence that demonstrates the provider and manager's fitness to provide the additional delegated functions to different local authorities or an extension of an existing contract.

² Regulation 25 'transitional provision' states: The parties to arrangements entered into by the local authorities listed in Article 3 of 2009/323, article 3 of 2010/2981 and Article 2 of 2011/2703 under section 1(1) of the Children and Young Persons Act as commenced by those orders, are deemed to be registered until November 2014 in accordance with these regulations.

³ Under the CSA this is the person registered as the representative of the body corporate

Inspection

9. Ofsted will not inspect or report on an SWP as an agency. Inspection of local authority statutory functions will include the exercise by the SWP of those functions delegated to it as part of the local authority inspection.
10. From November 2013, the proposed arrangements are as follows.
 - Local authorities that have previously been judged good or better in their last inspection⁴ who choose to delegate specific functions under the provisions of the Children and Young Persons Act 2008 will not be subject to any inspection prompted by the delegation of those functions. Their inspection under the cycle of single inspection framework⁵ will remain unchanged.
 - Local authorities that have previously been judged inadequate overall or adequate with areas for development in the function(s) that they are delegating may be subject to an earlier single inspection if they delegate function(s). The decision to bring forward the single inspection will be made in accordance with the usual criteria for scheduling, preparation by the local authority for the delegation (where this is known) and any improvement work that has been taking place.
 - Local authorities that have previously been judged inadequate or to require improvement in delegated areas in their most recent single inspection and that delegate will be subject to a re-inspection of the delegated function(s) within 12 weeks of the commencement of the SWP contract. That inspection will not take place any sooner than six months after the last single inspection. The re-inspection of the delegated function(s) will be drawn from the relevant parts of the current single inspection framework.
11. This approach will mean that, for those authorities judged at their most recent single inspection to require improvement, where there were no areas for development or priority action regarding children looked after, care leavers or children at the 'edge of care', or those authorities that are good or better, the current three-year cycle will apply.
12. Ofsted, however, reserves the right to inspect at any time where other information suggests that this should be the case, for example, a complaint or a whistle-blowing concern.

⁴ For the early part of the new inspection cycle, this will be their safeguarding and looked after children inspection (conducted with all local authorities between September 2009 and July 2012) or child protection inspection (conducted with 50 local authorities previously judged to be inadequate or adequate between June 2011 and July 2013).

⁵ Framework for the inspection of services for children in need of help and protection, children looked after and care leavers (single inspection framework) (130216), Ofsted, September 2013; www.ofsted.gov.uk/resources/framework-and-evaluation-schedule-for-inspection-of-services-for-children-need-of-help-and-protectio.

Fees

13. From November 2013 Ofsted will:
 - levy an application fee and further fees, one major and one minor , on application for a variation to the registration. Both will be charged on the basis of full cost recovery. The annual fee is subsequently due on an annual basis, due at their date of registration
 - publish the details of the fees in November 2013.
14. Where a local authority has already delegated their functions to an SWP under the provisions of a pilot, the proposed regulations allow these providers and managers of SWPs automatic registration with Ofsted from November 2013.

The consultation process

We welcome your responses to this consultation paper. The consultation opens on 14 October 2013 and closes on 25 October 2013.

The information you provide us with will inform our consideration of the regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities.

We will publish a response to the consultation at the same time that we intend to implement our arrangements for the regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities in November 2013.

Sending back your response

There are three ways of completing and submitting your response.

Online electronic questionnaire

Visit our website to complete and submit an electronic version of the response form: <https://www.surveymonkey.com/s/ofsted-swp2013>

Download and email

Visit our website to download a Word version of the response form that you can complete on your computer: www.ofsted.gov.uk/resources/130226. When you have completed the form, please email it to socialcare@ofsted.gov.uk with the consultation name in the subject line.

Print and post

Visit our website to print a Word or PDF version of the response form that can be filled in by hand: www.ofsted.gov.uk/resources/130226. When you have completed it please post it to:

8th floor
Ofsted
Aviation House
125 Kingsway
London
WC2B 6SE

Questionnaire for the regulation of social work providers and the inspection of the statutory functions delegated to them by local authorities

Confidentiality

The information you provide will be held by us. It will only be used for the purposes of consultation and research to help us to become more effective, shape policies and inform inspection and regulatory practice.

We will treat your identity in confidence, if you disclose it to us. However, we may publish an organisation's views.

Are you responding on behalf of an organisation?

Yes please complete Section 1

No please complete Section 2

Section 1

If you are completing the consultation on behalf of an organisation and would like us to consider publishing the views of your organisation, please indicate this below.

Organisation:

Section 2

Which of the below best describes you? Please tick one option.

I am:

young person	<input type="checkbox"/>	parent/carer	<input type="checkbox"/>
charity	<input type="checkbox"/>	elected representative	<input type="checkbox"/>
foster parent/carer	<input type="checkbox"/>	independent provider	<input type="checkbox"/>
local authority Chief Executive	<input type="checkbox"/>	local authority Director of Children's Services	<input type="checkbox"/>
Local Safeguarding Children Board Chair	<input type="checkbox"/>	Ofsted employee	<input type="checkbox"/>
practitioner in health	<input type="checkbox"/>	senior manager in health	<input type="checkbox"/>
practitioner in social care	<input type="checkbox"/>	senior manager in social care	<input type="checkbox"/>

practitioner in education	<input type="checkbox"/>	senior manager in education	<input type="checkbox"/>
umbrella group	<input type="checkbox"/>	voluntary sector organisation	<input type="checkbox"/>
criminal justice agency	<input type="checkbox"/>	other (please specify)	<input type="checkbox"/>
prefer not to say	<input type="checkbox"/>		

Registration

Q1. To what extent do you agree or disagree that all applications to provide or manage an SWP should involve a registration visit by an Ofsted inspector?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q2. To what extent do you agree or disagree that a provider and manager of an SWP that a local authority has already delegated their functions to under a pilot – and therefore automatically become registered with Ofsted from November 2013 – should be subject to the same fitness assessment as a new applicant?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q3. To what extent do you agree or disagree that, when registering an SWP or a manager of an SWP, Ofsted should use conditions of registration to confirm and restrict the delegated function to the authority for which the delegation and application for registration apply, and that the condition of registration will also identify the specific local authority that has contracted the SWP to provide/manage these functions?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q4. To what extent do you agree or disagree that an SWP's/manager's intention to provide additional delegated functions for different local authorities should require them to: submit an application to vary their conditions of registration; submit additional evidence to support their application; and be subject to a further registration visit from Ofsted?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Inspection

Q5. To what extent do you agree or disagree that local authorities that have been judged good or better in their most recent inspection and that subsequently delegate functions will not be subject to any inspection prompted by the delegation of those functions, but rather that their single inspection framework cycle will remain unchanged?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q6. To what extent do you agree or disagree that where local authorities that have been judged, in their most recent inspection, to be inadequate overall or adequate with areas for development in the function(s) that they are delegating, they may be subject to an earlier single inspection if they delegate function(s)?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q7. To what extent do you agree or disagree that where local authorities have been judged, in their single inspection, to be inadequate overall or to require improvement in areas they subsequently delegate, they will be subject to a re-inspection of the delegated function(s) within 12 weeks of the commencement of the SWP contract, but no sooner than six months after the most recent single inspection?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q8. Do you have any further comments? Please write them here.

What did you think of this consultation?

One of the commitments in our strategic plan is to monitor whether our consultations are accessible to those wishing to take part.

Please tell us what you thought of this consultation by answering the questions below.

	Agree	Neither agree or disagree	Disagree	Don't know
I found the consultation information clear and easy to understand.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I found the consultation easy to find on the Ofsted website.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I had enough information about the consultation topic.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I would take part in a future Ofsted consultation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How did you hear about this consultation?

- Ofsted website
- Ofsted News*
- Ofsted email alerts service
- Ofsted conference
- Another organisation (please specify, if known)
- Other (please specify)

Is there anything you would like us to improve on or do differently for future consultations? If so, please tell us below.

Thank you for taking part in our consultation.

Additional questions about you

Your answers to the following questions will help us to evaluate how successfully we are communicating messages from inspection to all sections of society. **We would like to assure you that all responses are confidential and you do not have to answer every question.**

Please tick the appropriate box.

1. Gender

Female <input type="checkbox"/>	Male <input type="checkbox"/>
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2. Age

Under 14 <input type="checkbox"/>	14–18 <input type="checkbox"/>	19–24 <input type="checkbox"/>	25–34 <input type="checkbox"/>	35–44 <input type="checkbox"/>	45–54 <input type="checkbox"/>	55–64 <input type="checkbox"/>	65+ <input type="checkbox"/>
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3. Ethnic origin

a) How would you describe your national group?

British or mixed British	<input type="checkbox"/>	English	<input type="checkbox"/>
Irish	<input type="checkbox"/>	Northern Irish	<input type="checkbox"/>
Scottish	<input type="checkbox"/>	Welsh	<input type="checkbox"/>
Other (specify if you wish)	<input type="checkbox"/>		

How would you describe your ethnic group?

Asian		Mixed ethnic origin	
Bangladeshi	<input type="checkbox"/>	Asian and White	<input type="checkbox"/>
Indian	<input type="checkbox"/>	Black African and White	<input type="checkbox"/>
Pakistani	<input type="checkbox"/>	Black Caribbean and White	<input type="checkbox"/>
Any other Asian background (specify if you wish)	<input type="checkbox"/>	Any other mixed ethnic background (specify if you wish)	<input type="checkbox"/>

Black		White	
African	<input type="checkbox"/>	Any White background (specify if you wish)	<input type="checkbox"/>
Caribbean	<input type="checkbox"/>	Any other ethnic background	
Any other Black background (specify if you wish)	<input type="checkbox"/>	Any other background (specify if you wish)	<input type="checkbox"/>
Chinese			
Any Chinese background (specify if you wish)	<input type="checkbox"/>		

4. Sexual orientation

Heterosexual <input type="checkbox"/>	Lesbian <input type="checkbox"/>	Gay <input type="checkbox"/>	Bisexual <input type="checkbox"/>
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5. Religion/Belief

Buddhist	<input type="checkbox"/>	Muslim	<input type="checkbox"/>
Christian	<input type="checkbox"/>	Sikh	<input type="checkbox"/>
Hindu	<input type="checkbox"/>	None	<input type="checkbox"/>
Jewish	<input type="checkbox"/>	Any other, please state:	<input type="checkbox"/>

6. Disability

Do you consider yourself to have a disability?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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