



Department
for Education

Consultation Response Form

Consultation closing date: 17 September 2013

Your comments must reach us by that date

**Reforming children's homes care:
consultation on changes to The Children's
Homes Regulations 2001 (as amended) and
The Care Standards Act 2000 (Registration)
(England) Regulations 2010**

If you would prefer to respond online to this consultation please use the following link: <https://www.education.gov.uk/consultations>

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.	<input type="checkbox"/>
Reason for confidentiality:	

Name: Iryna Pona	
Please tick if you are responding on behalf of your organisation.	<input checked="" type="checkbox"/> yes
Name of Organisation (if applicable): The Children's Society	
Address: Edward Rudolf House Margery Street London WC1X 0JL	

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.

Please mark ONE category which best describes you as a respondent

<input type="checkbox"/> Children's Home Private Provider (1 home)	<input type="checkbox"/> Children's Home Private Provider (2-5 homes)	<input type="checkbox"/> Children's Home Private Provider (6-10 homes)
<input type="checkbox"/> Children's Home Private Provider (11-15 homes)	<input type="checkbox"/> Children's Homes Private Provider (15+ homes)	<input type="checkbox"/> Children's Homes Provider (Voluntary/Charitable Sector)
<input checked="" type="checkbox"/> Voluntary Sector Children's Services Organisation	<input type="checkbox"/> Police	<input type="checkbox"/> Local Authority Provider of Children's Homes
<input type="checkbox"/> Youth Justice Organisation	<input type="checkbox"/> LSCB	<input type="checkbox"/> Health Service Organisation
<input type="checkbox"/> Other Government Department	<input type="checkbox"/> Other	

Please Specify:

About The Children's Society

The Children's Society is a leading national charity, providing vital help to the most vulnerable children, young people and families in our society through a range of services. We work with over 48,000 children each year, supporting them and advocating on their behalf to tackle discrimination or disadvantage in their daily lives. We have campaigned to protect young runaways through policy and practice for over 25 years.

Our work with young runaways and children at risk of sexual exploitation

We run nine projects working with children who run away or are at risk of sexual exploitation, supporting more than 1000 children every year. We provide a range of targeted services including return home interviews, one-to-one intensive support to both young people and their families and awareness raising sessions for professionals and children. Our services provide a safe haven where children can go for independent and confidential help, advice and support.

This response is based on our research, learning from direct work with looked after

children and is informed by consultations we held with looked after children and the practitioners supporting them. It should be read in conjunction with our response to the consultation on Improving safeguards for looked after children.

Do you accept that amendments are required to the Children's Homes Regulations and to the Registration Regulations, so that children are provided with effective, safe care, of consistent good quality, and homes are safely located?

Yes

No

Not Sure

Comments:

Children in care are extremely vulnerable – just under half of them have been placed in care because of neglect, abuse or trauma¹. They are three times more likely to run away with an estimated 10,000 going missing every year.² The DfE Data Pack on children's home published on 13 September 2013 also shows that these children are more likely to have additional needs, such as behavioural, emotional and social difficulties, learning difficulties and are more likely to have experienced a bigger number of unsuccessful placements.

Children in care are vulnerable to abuse and sexual exploitation. Last year The Children's Society supported the joint inquiry into children missing from care by the All Party Parliamentary Group (APPG) on young runaways and missing children and adults and All Party Parliamentary Group on looked after children and care leavers. The inquiry received evidence of children in care, particularly those placed out of authority in children's homes, being targeted for sexual exploitation by predatory adults trying to take advantage of the vulnerability of these children. Recent cases of child sexual exploitation involving children in care also highlight the failure of the system and, particularly, children's homes to protect vulnerable children.

The location of children's homes and the lack of information sharing between local agencies about the homes and children placed were contributory factors to the failure of the system to adequately protect children. We agree that changes to the regulations are needed to address these issues.

The inquiry also highlighted how negative attitudes among some professionals perceiving young people to be '*streetwise*', '*making their own lifestyle choices*', or being '*troublesome*' rather than children who are in need of help or are potential victims of crime, hinder effective responses vulnerable young people.

¹ DfE (March 2012) *Children's Homes in England Data Pack*, London: HM Government

² UK Missing Persons Bureau (2012) *Children Missing from Care* NPIA p.2

We believe that other barriers to effective child protection need to be addressed alongside changes to the regulations to have any real impact:

- **A lack of understanding among professionals of the signs that a child may be at risk, such as running away or signs of CSE must be addressed.**
- **Negative professionals' attitudes towards young people who display challenging behaviour because of trauma they are experiencing, such as victimisation through exploitation or involvement in crime.**
- **A lack of concerted joint efforts by all local agencies to identify and protect children in need of protection.**
- **A lack of consistent local and national monitoring of how existing regulations and statutory guidance are implemented and followed.**

2 Do you agree with our proposal to include a specific reference to safeguarding and support as part of the registered person's responsibilities set out in Regulation 11(1)(b)?

Yes

No

Not Sure

Comments:

We agree that the inclusion of specific references to safeguarding in relation to the responsibilities of a registered person responsible for children's home will strengthen the message about this responsibility.

In our view strengthening the regulation is an important step that needs to be supported with a wider programme of actions, in order to address the failure to safeguard children in some children's homes as explained in the answer to question1..

Effective implementation of this duty should be underpinned with an action plan to support children's homes staff to change their practices and, in some cases, attitudes.

3 Do you agree with our proposal to amend the Children's Homes Regulations to introduce a new duty on children's homes to notify the authority for the area where they are located every time a child is admitted to a placement and when they are discharged?

Yes

No

Not Sure

Comments:

We believe that it may work as an additional safeguarding measure to ensure that vulnerable children are identified with greater ease.

It is important to make sure that this information is shared with local agencies if appropriate. For example, if a young person is missing from their placement, this information needs to be part of the risk assessment completed by the police and should inform the response to the missing episode etc.

4 Would any of the proposals in Sections 4 and 5 of the consultation incur any new resource requirements for your organisation? If your answer is “yes” – please describe the additional resources involved.

Yes

No

Not Sure

Comments:

5 Do you agree with our proposal that children’s homes should be required to have explicit policies about how they prevent children going missing, that are agreed with the local police?

Yes

No

Not Sure

Comments:

We believe that children's homes should be safe and welcoming places where children's needs are understood and supported properly. Children should have good relationships with the members of staff.

We believe that there needs to be further details developed about what these proposed policies on preventing children going missing should incorporate.

We believe that in addition to the procedure to follow if the child goes missing from care these policies should include:

- A commitment to listening to children's views and explanation how it will be met
- A commitment to develop these policies together with children placed in children's homes
- Plans for children's home staff to raise awareness among children placed there of the risks of running away and how to stay safe if they have run away
- Information for children where they can seek help when they are not happy or upset or want to raise an issue about the care and support they receive in children's homes, including the details of independent advocacy services in line with the right of children to have access to an independent advocate when they want to make a complaint or representation (The Children Act 1989 regulations and guidance, 2010)
- Information for children about the role of the police if a child goes missing and procedures the police will follow, including arrangements for safe and well checks and return interviews
- In view of the new police definitions of 'missing' and 'absent' the policies should provide information on how the staff need to act if they have concerns about a child and reported a child missing, including how to escalate the case if there is a disagreement between the children's home's staff and the police about possible risks to the child and consequent classification of 'absence'.

We hear anecdotal examples from our practice that risk assessments done by the police do not always take into account the same risk factors as risk assessments done by the care home staff. Eg. a young person persistently running away to her mum was reported missing by the care home staff. The young person was classified by the police as 'absent' despite the fact that there was a child protection order in place and that her mum was a person with no fixed abode and had a range of mental health and substance misuse issues.

- Level of training staff received on responding to missing children

We agree that it is important to share the policy with the local police and ensure that there is common understanding between the care home staff and the police about risk assessments, responding to and reviewing of missing and absent cases. These should be reflected both in children's homes and the police policy on missing children.

At the same time we believe that the primary focus of such policy should be on keeping children who are at risk of going missing from their placement safe. Therefore, this policy should be developed in consultation with young people and agreed with them. Such an approach would empower children to seek help when they need it, reduce the risk of running away and improve relationships between

care staff and children.

6 Do you agree that there should be a duty on the registered person of a children's home to communicate with the child's authority to formally request a review of the child's care plan, in cases where children are persistently missing from placement?

Yes

No

Not Sure

Comments:

We believe this may act as an additional safeguard if a child has been placed inappropriately in a placement that cannot meet the child's needs.

However, existing statutory guidance already provides for interventions from social services and IROs when the child goes missing repeatedly or other risks factors are suspected. The Children Act 1989 regulations and guidance on care planning and review (DFE, 2010) and the IRO Handbook (DFE, 2010) require that information about missing episode is shared with child's social worker and IRO and recommends a review meeting to address any concerns. The statutory guidance on missing children requires that children should be offered a return interview after each missing episode to enable professionals to identify risks or harm to the child and propose solutions to the reasons that made them run away.

We know from our direct work with children and from our research (*Here to Listen? Return interviews provision for young runaways*, 2013, The Children's Society) that the statutory guidance is not implemented or followed in full by local authorities as there is not enough local or national monitoring in place of how local authorities are complying with the guidance.

We believe that it is important to ensure that the existing statutory guidance is implemented in full.

7 Would any of the proposals in Section 6 of the consultation incur any new resource requirements for your organisation? If your answer is "yes" – please describe the additional resources involved.

Yes

No

Not Sure

Comments:

8 Do you agree with our proposal that the registered person should conduct an annual assessment as to any risks resulting from the area where a children's home is located, that must involve consulting with the local police and with children's services responsible for safeguarding?

Yes

No

Not Sure

Comments:

We agree that there is need for a regular annual assessments on the safety of the area. We would recommend that the assessment is also done in consultation with the local services supporting young runaways who may be working in the area and who can do the mapping of hotspots and individuals who are at risk to children.

Case study: SCARPA, The Children's Society in Newcastle

SCARPA has been delivering services to young people who run away from home or are at risk of sexual exploitation in Newcastle for over five years.

SCARPA's Programme Manager chairs the Missing, Sexual Exploitation and Trafficking (MSET) subgroup of the LSCB and ensures that any intelligence from return interviews that might be useful for disrupting sexual exploitation and building evidence for prosecutions is fed through to the police and local authority staff who are also represented on this group.

Due to the strong links between running away and CSE, during the return interview SCARPA staff talk to young people and ask them questions to determine whether they are at risk of sexual exploitation. This includes asking questions about where they spent time while away and who they were

with.

Taking into account any data protection or safeguarding responsibilities, the MSET chair shares relevant information with the subgroup (which includes the police, health and social services) who monitor these locations and people. If the young people have been with any individuals who are known to pose a risk to children, then their names are passed on immediately to the police who take action.

The intelligence the Northumbria police receive from the return interviews has helped them produce a 'problem profile' or picture of offenders and their behaviour in the local area. They then analyse this information for any patterns and trends and have shared this information with the public at a large scale public event. Having a shared understanding of the type of information each agency needs has improved the quality of information collected.

Based on the success of their current work in Newcastle, SCARPA has just received funding to roll-out their runaways and CSE service in every local authority in the Northumbria police district, except one.

9 Would the proposal in Section 7 of the consultation incur any new resource requirements for your organisation? If your answer is "yes" – please describe the additional resources involved.

Yes

No

Not Sure

Comments:

10 Do you agree that all care staff in children's homes should achieve the minimum necessary qualification, which is currently the Level 3 Children and Young People's Workforce Diploma with mandatory social care pathway, within two years of starting employment?

Yes No Not Sure

Comments:

We believe that recruitment and employment for children's home staff should be subject to minimum qualifications obtained before they start employment.

Two years is a long period of time in a child's life. Considering the vulnerability of children in care, particularly those placed in children's homes and the variety of support needs they have, it is not acceptable for them to be supported by staff who do not have relevant training and qualifications.

Research shows that the current quality of training (or lack of relevant qualifications) is a contributory factor in the failure of some children's homes to properly safeguard children in their care. Recent cases of child sexual exploitation involving children in care demonstrate this too well.

Therefore, we believe that as with other jobs involving children, the expectation should be that people will start employment when they have obtained the relevant qualifications. There should also be an expectation that current employees in the children's homes sector will obtain the relevant qualifications within the specific time frame of this provision coming into force.

We also believe that urgent action is needed to address the negative attitudes among professionals as explained in our answer to question 1. It is important for current staff in children's homes to have access to continual professional development courses and relevant training on the risks of running away and child sexual exploitation now as well as in the future.

11 Do you agree that, as an interim measure, from 2014 up to 2018 candidates for registered manager positions must enrol on the required training to achieve the necessary qualification, currently the Level 5 Diploma in Leadership for Health and Social Care and Children and Young People's Services, within six months of commencing post and obtain the qualification within three years of employment?.

Yes No Not Sure

Comments:

We agree that the recruitment for a new registered manager positions should include a requirement to have relevant qualifications. Where candidates with relevant qualifications are not available, the level of experience and a condition as specified in the body of this question can be applied to select the candidate.

Registered managers without relevant qualifications should have additional support and supervision in place while they obtain their qualifications.

12 Do you agree that from 2018 we should require candidates for registered manager posts to have achieved the necessary management qualification prior to appointment?

Yes

No

Not Sure

Comments:

See answer to the question above

13 Do you agree that homes should only be able to operate for as shortest time as possible without a registered manager (or locum) being appointed and HMCI being informed?

Yes

No

Not Sure

Comments:

The 'shortest time as possible' needs to be defined as this can be open to misinterpretation.

14 Would the proposals in Section 8 of the consultation incur any new resource requirements for your organisation? If your answer is "yes" – please describe the additional resources involved.

Yes

No

Not Sure

Comments:

15 Do you agree that the local authority in the area where the home is located must approve the registered provider's scheme for independent visits to monitor the quality of the home's care?

Yes

No

Not Sure

Comments:

16 a) How, apart from the details in paragraph 10.3 of the consultation document, should independence of the people expected to carry out this significant monitoring role be defined?

Comments:

We do not have any further comments on defining the independence of the people carrying out this monitoring role but we would recommend that in carrying out these monitoring duties the person needs to seek the views of a number of agencies who work with children placed in the children's home.

We recommend that the independent person with monitoring duties speaks to advocacy services supporting children placed in that home and looks at advocacy reports which can help understand the difficulties and experiences of children placed in the children's home.

The Children Society last has recently published a report based on the review of 142 advocacy cases. The value of independent advocacy for looked after children (available from http://www.childrensociety.org.uk/sites/default/files/tcs/the-value-of-advocacy_final.pdf) identified that one third of cases focused on resolving issues around placements, including issues with the quality of placements and frequent and abrupt changes of placement. The review also identified that children with Special Educational Needs and/ or disabilities were overrepresented in cases related to education, including the suitability of education, bullying and responses to their challenges behaviour.

16 b) Do you consider that we should specify in Regulations more detailed requirements for the independent person to demonstrate ability to relate to vulnerable children – e.g. resulting from their professional background or previous experience?

Yes

No

Not Sure

Comments:

We would welcome a requirement for the independent person to demonstrate good understanding of issues related to looked after children and /or vulnerable children and relevant requirements in relation to support for looked after children and care leavers.

17 Is it possible to maintain the necessary independence where the Regulation 33 visitors work is commissioned and funded by the registered provider?

Comments:

We do not have comments on this matter.

18 Do you agree that the Regulation 33 visitor should report on the issues outlined in paragraph 10.7 of the consultation document, with reports always having to be sent to the persons or organisations listed in paragraph 10.6?

Yes

No

Not Sure

Comments:

We believe that para 10.7 should also include :

- An outline of the issues presented in the advocacy reports;
- information on the number of missing episodes and number of unauthorised absences;
- the process for monitoring and responding to data on missing children.

In relation to 10.6 we believe that the report has to be sent to the local authority responsible for safeguarding arrangements in that area, i.e. the local authority in which the home is located. These reports can help inform consultations between local authorities when decisions about out of authority placements are made.

19 Would the proposals in Sections 10 and 11 of the consultation incur any new resource requirements for your organisation? If your answer is “yes” – please describe the additional resources involved.

Yes

No

Not Sure

Comments:

20 Do you agree with the details to be included in the Statement of Purpose as described in Appendix 1?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We agree with most details to be included in the Statement of Purpose.

We would recommend that point 5. in addition to the information on the home's approach to restraint and information on the level of training staff have on use of physical interventions should also include information on the level of training staff received on positive behaviour management interventions, de-escalation techniques and other approaches that help prevent the need for physical intervention.

Point 7. Should be divided into several separate points as it covers too many issues that are important but not necessarily related. Arrangements and the home's approach to consulting children about the quality of their care should be a separate point in the statement and should include information on complaints arrangements.

21 Do you agree that Schedule 5 of the Children's Homes Regulations and Schedule 7 of the Fostering Services Regulations should be amended to remove references to prostitution and replace these with the term "sexual exploitation"?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We agree. The Children's Society has been campaigning for a long time to remove any references to prostitution where children and young people are concerned. We welcome the replacement of the term 'prostitution' with 'sexual exploitation'.

We believe that this change in language will help convey the message of vulnerability of these children and will contribute in the long-run to improvements in attitudes to child victims of sexual exploitation.

22 Do you agree with the list of matters to be monitored by the Registered Person as described in Appendix 2?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We agree with the list of matters to be monitored and particularly welcome the focus on monitoring of data on missing/ absent children and approaches to restorative justice.

In relation to point 9. we would recommend including arrangements for consulting with children who have complex communication needs or who use non-verbal means of communication.

23 Do you agree that, in parallel with our proposed changes to the Children’s Homes Regulations, the Registration Regulations should be amended to require potential providers to provide information to HMCI about the suitability of the home’s location which will involve consultation with relevant local services?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We support this change. We believe it will ensure better quality provision in the future.

24 Would proposals in Section 15 of the consultation incur any new resource requirements for your organisation? If your answer is “yes” – please describe the additional resources involved.

Yes

No

Not Sure

Comments:

25 Do you agree that Ofsted should be able to include details of the homes registered provider and responsible individual provided that this does not jeopardise the welfare of individual children when children's homes' inspection reports are published?

Yes

No

Not Sure

Comments:

26 Do you have any final comments concerning the effectiveness of all the measures on which we are consulting to effectively safeguard and promote the welfare of children who rely on children's homes for their care?

Comments:

27 In your view, will these proposals improve collaboration between children's homes, placing authorities and the services in the areas where homes are located, and therefore be in children's best interests?

Yes

No

Not Sure

Comments:

We believe the proposed changes will be in children's best interests.

28 Regarding the changes which we are proposing to make to the Children's Homes Regulations 2001, are there any where you consider a similar change should be made to the Fostering Services (England) Regulations 2011? For example should fostering services be required to:

- have a policy (agreed with the local police and taking account of relevant police and local authority protocols) for the prevention of children going missing from their foster carer's homes?
- inform the police, area local authority and the child's parents if a child goes missing from their foster carer's home (in addition to the current requirement to inform the responsible local authority)?
- contact the local authority of any child who persistently goes missing to request a review of the child's care plan?

If there are any such changes you think should be made to the Fostering Services (England) Regulations 2011, please give details.

Comments:

We believe that children placed with foster carers can benefit from similar changes proposed in relation to children's homes. This is particularly important in relation to children placed out of authority.

We believe that where such placements are made with foster carers, the decision has to be made based on the needs of the child and how well these needs can be met. Foster carers should also be informed about the child's safety plan and should be able to make arrangements to keep the child safe.

We also believe that when a foster carer has concerns about risks to a child, such as when a child goes missing, they should be able to request a review of the child's care plan.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply.	
E-mail address for acknowledgement:	

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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All DfE public consultations are required to meet the Cabinet Office [Principles on Consultation](#)

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and consult with those who are affected
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Responses should be completed on-line or emailed to the relevant consultation email box. However, if you have any comments on how DfE consultations are conducted, please contact Carole Edge, DfE Consultation Coordinator, tel: 0370 000 2288 / email: carole.edge@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed responses should be sent to the address shown below by 17 September 2013

Send by post to: Children in Care Division, Department for Education, Level 1, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

Send by e-mail to: childrenshomesregulations2001.amendments@education.gsi.gov.uk