

Children and Young People Board

Agenda

Thursday, 13 June 2019
11.00 am

Smith Square 1&2, Ground Floor, 18 Smith Square, London, SW1P 3HZ

To: Members of the Children and Young People Board
cc: Named officers for briefing purposes

www.local.gov.uk

This meeting is



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Children & Young People Board
13 June 2019

There will be a meeting of the Children & Young People Board at **11.00 am on Thursday, 13 June 2019** Smith Square 1&2, Ground Floor, 18 Smith Square, London, SW1P 3HZ.

A sandwich lunch will be available directly after the meeting.

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Conservative:	Group Office: 020 7664 3223	email: lgaconservatives@local.gov.uk
Labour:	Group Office: 020 7664 3263	email: Lewis.addlington-lee@local.gov.uk
Liberal Democrat:	Group Office: 020 7664 3235	email: libdem@local.gov.uk
Independent:	Group Office: 020 7664 3224	email: independent.grouplga@local.gov.uk

Location:

A map showing the location of 18 Smith Square is printed on the back cover.

LGA Contact:

Eleanor Reader-Moore
eleanor.reader-moore@local.gov.uk

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Children & Young People Board – Membership 2018/2019

Councillor	Authority
Conservative (7)	
Cllr Roy Perry (Vice Chairman)	Hampshire County Council
Cllr Susie Charles	Lancashire County Council
Cllr Matthew Golby	Northamptonshire County Council
Cllr Dick Madden	Essex County Council
Cllr Laura Mayes	Wiltshire Council
Cllr Roger Gough	Kent County Council
Cllr Teresa Heritage	Hertfordshire County Council
Substitutes	
Cllr Lynne Doherty	West Berkshire Council
Cllr Warren Whyte	Buckinghamshire County Council
Cllr Jane Murphy	South Oxfordshire District Council
Labour (7)	
Cllr Annetonette Bramble (Chair)	Hackney London Borough Council
Cllr Megan Swift	Calderdale Metropolitan Borough Council
Cllr John Kent	Thurrock Council
Cllr Bob Cook	Stockton-on-Tees Borough Council
Cllr David Mellen	Nottingham City Council
Cllr Clare Coghill	Waltham Forest London Borough Council
Cllr Barry Kushner	Liverpool City Council
Substitutes	
Cllr Imran Khan	Bradford Metropolitan District Council
Cllr Edward Davie	Lambeth London Borough Council
Cllr Lesley Williams MBE	Gloucestershire County Council
Liberal Democrat (2)	
Cllr Lucy Nethsingha (Deputy Chair)	Cambridgeshire County Council
Cllr Carl Cashman	Knowsley Metropolitan Borough Council
Substitutes	
Cllr Christopher Coleman	Cheltenham Borough Council
Independent (1)	
Cllr Gillian Ford (Deputy Chair)	Havering London Borough Council
Substitutes	
Cllr Julie Fallon	Conwy County Borough Council
Cllr Ruth O'Keeffe	East Sussex County Council

Children & Young People Board – Attendance 2018/2019

Councillors	10/09/18	15/11/18	16/1/19	12/03/19
Conservative Group				
Roy Perry	Yes	Yes	Yes	Yes
Natasha Airey	Yes	Yes	Yes	Yes
Susie Charles	Yes	No	Yes	No
Matthew Golby	Yes	Yes	Yes	No
Dick Madden	Yes	Yes	Yes	No
Laura Mayes	No	Yes	Yes	Yes
Roger Gough	Yes	Yes	Yes	Yes
Teresa Heritage	Yes	Yes	Yes	Yes
Labour Group				
Anntoinette Bramble	Yes	Yes	Yes	Yes
Megan Swift	Yes	Yes	No	No
John Kent	Yes	Yes	Yes	No
Bob Cook	No	Yes	Yes	Yes
David Mellen	Yes	Yes	Yes	No
Clare Coghill	Yes	No	Yes	Yes
Barry Krushner	Yes	Yes	Yes	Yes
Lib Dem Group				
Lucy Nethsingha	Yes	Yes	Yes	Yes
Carl Cashman	No	Yes	Yes	Yes
Independent				
Gillian Ford	Yes	Yes	Yes	Yes
Substitutes/Observer				
Lesley Williams	Yes		Yes	Yes
Alan Wood	Yes			
Warren White		Yes		Yes

Children & Young People Board

Thursday 13 June 2019

11.00 am

Smith Square 1&2, Ground Floor, 18 Smith Square, London, SW1P 3HZ

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Date of Next Meeting: Wednesday, 25 September 2019, 1.00 pm,
Westminster Room, 8th Floor, 18 Smith Square, London, SW1P 3HZ

Special Educational Needs and Disability task and finish group

Purpose

For discussion and direction.

Summary

This report sets out the work undertaken by the Special Educational Needs and Disability (SEND) task and finish group since its first meeting in March 2018 and outlines further pieces of work in this area that the LGA could undertake to strengthen both our understanding of SEND pressures facing councils and our lobbying work ahead of the Spending Review.

Recommendation

Members of the CYP Board are invited to note the work undertaken by the task and finish group to date and discuss the priorities for future research and lobbying work on SEND and high needs funding, as summarised in paragraphs 6 – 10 of this report.

Action

Officers to action as appropriate.

Contact officer: Clive Harris
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Special Educational Needs and Disability task and finish group

Background

1. In January 2018 the Children and Young People Board agreed to set up a task and finish group to oversee the Board's work on Special Educational Needs and Disability (SEND), in response to feedback from member councils that highlighted SEND support as an area that is causing considerable concern as rising demand for support for children and young people has not been mirrored by increased funding.

Work undertaken to date

2. The Task and Finish groups continues to be lead on the development of a coherent, evidence-based narrative of the current state of SEND provision in England, as well as a clear vision for how this provision should be designed and delivered in future.
3. To date the Task and Finish group has overseen the completion of the following work streams:
 - 3.1 Holding a series of regional workshops, where discussions fed into the *Developing and sustaining effective local SEND system; a practical guide for councils and partners*. This guide seeks to draw together what partners in local areas have done to develop and sustain effective, system-level approaches to supporting young people with SEND; from these approaches, distil some key practical messages that could be used by partners in local areas across the country, adapted to their local circumstances and priorities and; share, develop and refine these key messages formatively and iteratively through co-productive discussions with leaders from local areas across the country.
 - 3.2 Publication of *Have we reached a 'tipping point'? Trends in spending for children and young people with SEND in England* report, which found that councils are facing a £1.6 billion high needs funding gap by 2020-21. The findings of this report contributed to the Department for Education announcing that an additional £250 million was being made available for council high needs budgets for the 2018-19 and 19-20 financial years, as well as £100 million for additional SEND school places.
 - 3.3 Publication of a revised 'must know' for Lead Members for Children's Services on SEND, which was produced in conjunction with the Council for Disabled Children and National Network of Parent-Carer Forums.
4. A project looking at the demand and cost drivers for home-to-school transport is on-going, with the findings expected to be published before the end of the summer. While this project is looking at both mainstream and SEND home-to-school transport, the Task and Finish Group has agreed to provide Member oversight.
5. Elsewhere we are represented at officer level on the DfE-led SEND Leadership Board, which was set up to look specifically at effective SEND commissioning in response to a

recommendation made by Dame Christine Lenehan. Involvement in this Board, alongside representatives of ADCS, ADASS and the Department for Health and Social Care, will provide further opportunities to undertake further work looking at the identification and sharing of effective practise.

Options for further work

6. SEND/high needs continues to be an area of significant concern for member councils and the LGA is keen to continue to build on the work that has been undertaken to date. The very clear message from councils engaged in completed research projects is that without further injections of funding there is very little prospect for many of them recovering from the deficit position they are now facing. For some councils lifting the cap on funding formula increases would significantly aid their attempts to balance budgets going forward, but this is only the case for those which seek to gain under the current formula. Furthermore, it has been argued strongly that there are demand pressures, based on changes to legislation, such as the extension of responsibilities to 25 and very strong emphasis placed on parental preference, which have never been sufficiently costed in to the funding model.
7. The Isos *tipping point* report found that to create a more sustainable funding settlement going forward there may be merit in considering some key questions around how incentives in the system might be better aligned to support inclusion, meet needs within the local community of schools, and corral partners to use the high needs block to support all young people with SEND as a collective endeavour. The Board is asked to consider whether work should be commissioned looking at one, or more of the following:
 - 7.1 How can mainstream schools be supported, incentivised and rewarded for maintaining an active and effective approach to inclusion?
 - 7.2 How can the pressure on the capacity of local maintained special schools be alleviated?
 - 7.3 How can the financial impact of increasing numbers of high-cost placements in Independent, Non-Maintained Special Schools and out of area provision be addressed?
8. The Board will also want to consider whether we undertake work looking specifically at the provision of SEND support to post-16 young people. Extension of SEND support up to the age of 25 has resulted in this being the area that has seen the biggest growth in Education, Health and Care Plans and the LGA has been approached by organisations working in this area that are keen to commission research looking at the effectiveness of existing arrangements.
9. Member councils are also raising concerns around the provision of SEND support in the early years, both as a result of rising demand and due to the implications of national policy and funding changes. The introduction of 30 hours free childcare for 3 and 4-year-old children of eligible working parents has not been sufficiently funded, leaving providers unable to provide additional support to children where they may have done previously. In addition, councils are raising concerns around the efficiency and suitability of both the

SEN Inclusion Fund and the Disability Access Fund, which are both supposed to improve access to early education for children with SEND. With the new policy and funding changes having been in place for two years, the Board will want to consider whether now is an appropriate time to review whether these have had unintended consequences on provision for children with SEND, and how councils can ensure these children receive the support and early education they are entitled to.

10. The LGA will be responding to the DfE's SEND and Alternative Provision (AP) call for evidence, published on the 3rd May. This will focus on the current funding arrangements for those with special educational needs, those with disabilities, and those who require alternative provision, as well as helping the Department to understand how the current available funding is distributed, and what improvements to the financial arrangements could be made in future to get the best value from any funding that is made available.

Next steps

11. Once agreed by the Board, work will be undertaken/commissioned by officers and overseen by the Task and Finish Group.

Implications for Wales

12. There are no implications for Wales.

Financial implications

13. There are no additional financial implications arising from this report.



Progress in delivering the LGA children's services improvement programme

Purpose of report

For discussion and direction.

Summary

This paper, which has also been discussed by the Improvement and Innovation Board, provides a brief summary of the progress made in delivering the three key strands of the LGA Children's Services Improvement Programme through 2018/19.

- Leadership Capacity and Development
- Early Years Peer Challenge
- Children's Services Peer Challenge

Recommendation

Members of the CYP Board are asked to note the progress in delivering the Children's Services Improvement Programme and to discuss and inform and support future priorities and developments.

Actions

Officers to action as appropriate.

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Progress in delivering the LGA children's services improvement programme

Background

1. As part of its wider sector-led improvement programme, the Local Government Association has a well-established offer to local authorities that is focussed on providing effective support and challenge to enable sustained improvement to children's services. Just over a year ago a report came to the Improvement and Innovation and Children and Young People Boards that detailed additional areas of work that the Department for Education had commissioned the LGA to deliver. These were focussed around early years and leadership capacity and development.
2. This paper provides a brief summary of the progress made in delivering the three key strands of the LGA Children's Services Improvement Programme through 2018/19.

2.1 Leadership Capacity and Development

2.2 Early Years Peer Challenge

2.3 Children's Services Peer Challenge

Leadership capacity and development

3. There has been an ongoing dialogue between LGA, Solace, Association of Directors of Children's Services (ADCS) and the Department for Education (DfE) to develop an effective local, regional and national system to support sector-led improvement in children's services. Funded through a grant from the DfE, the LGA has been developing and delivering a range of activity that support and embed sector led improvement (SLI) approaches and specifically build the leadership capacity in local authorities.
4. Working with the DfE and Ofsted, the LGA, ADCS and Solace have agreed a set of principles that will underpin joint working on children's services improvement, which will be overseen by the Children's Improvement Board (CIB), which is chaired by the CYP Board Chair. This regular, national discussion will add value by enabling a shared understanding of what works within Regional Improvement Alliances (RIAs) that are now operating in all regions, considering how to address issues which have been identified and providing an overview of the support being provided by partners to address them. It is proposed that a refreshed Children's Improvement Board will:
 - 4.1 Have a key role in ensuring regional and national arrangements are working effectively in providing the right support to councils;
 - 4.2 Identify trends in performance, including the use of intelligence gained from Ofsted inspections of children's services and focussed visits;

- 4.3 Be able to advise on the effectiveness of different funding streams to support improvement to inform decisions by Government and others;
- 4.4 Broker support between regions where necessary and;
- 4.5 Hold an overview of children's services performance across the system, including emerging pressures.
5. The development of Regional Improvement Alliances for children's services provides an important forum to bring together sector led improvement approaches and harness expertise and skills to support the delivery of improved services within a region. The LGA Children's Improvement Advisors (CIAs), who work to the LGA's Principal Adviser in each region, provide a single point of contact for RIAs and individual local authorities to access tailored support from the LGA, as well as making linkages with DfE regional leads.
6. We are delivering an enhanced programme of Children's Leadership Essentials, offering additional courses and focussing on those councils that have new Lead Members for Children's Services, as well as promoting the programme to chairs of Children's Scrutiny Committees. Since September 2018, 58 members have participated and almost half of these have been new to their role in the last six months.
7. A key aim of the programme is to ensure each region has an effective Lead Member network that has good participation and engagement from members with responsibility for children's services. Where networks were not already in existence we have worked with regional colleagues to establish these. Every region in the country now has a Lead Member network (the first meeting for the London region will take place in June) and over the next 12 months, further support will be provided to embed this approach and work undertaken to evaluate the impact and share learning across regions.
8. A further strand of the SLI programme is the development of two new peer challenge offers. The first is focussed around the resources within and around children's services and the effective and efficient use of these. It recognises that nationally the context for delivering services for children is significantly challenging with a £3.1 billion funding gap but that locally there is scope and potential to be more effective in how they deliver services. Applying a peer challenge approach and taking a team of experts from the sector to assess a local authority, identifying the strengths and highlighting areas where there is scope for improvement. This peer challenge has now been piloted in West Berkshire and Shropshire and already some common themes have been identified:
 - 8.1 Effectiveness of contract management oversight, including external;
 - 8.2 Use of performance analysis to influence decisions, provision and improvements;

- 8.3 Recruitment and retention – challenges of retaining and developing staff, regional memorandums of understanding;
- 8.4 Capacity and expertise to implement manage, monitor and evaluate new projects, programmes and initiatives;
- 8.5 Using the learning from the pilots guidance has been developed ([guidance](#)) which will provide the framework for rolling this offer out to Warwickshire, Derby and Middlesbrough in May and June 2019.
9. The second offer will again take a peer challenge approach to evaluate the corporate capacity and leadership in an authority and whether this provides the right environment that enables children's services to deliver effective provision. This offer has been tested in the local authorities in Cornwall and Bath and North East Somerset and will be ready to be deployed from May.
10. We have recently refreshed our series of children's services 'must know' guides, a long-standing source of information and support for lead members for children's services. The suite of information covers the evolving council role in education, Special Educational Needs and Disability (developed in conjunction with the Council for Disabled Children and National Network of Parent-Carer Forums), youth services and what happens if children's services are judged to be inadequate by Ofsted. Alongside this we have developed a new 'must know' on children's services for council chief executives, which has been shaped by CEXs who are either former directors of children's services or for other reasons have been closely associated with leading improvement journeys in council children's services. We have also published a guide for new Lead Members for Children's Services which sets out key issues for the first ten days in the role.
11. LGA Children's Improvement Advisers have facilitated and delivered a range of support primarily focussed on those local authorities with an Ofsted judgement of 'inadequate' or 'requires improvement', including:
 - 11.1 Guidance and support – responding quickly to calls for support and providing guidance to Lead Members and Director of Children's Service;
 - 11.2 Providing mentoring/coaching – brokering peer to peer coaching and mentoring opportunities for both members and senior officers;
 - 11.3 Sharing practice – making the link between local authorities who are facing similar challenges and providing opportunities to collaborate and share practice;
 - 11.4 Peer challenge – brokering peer challenge activity to provide an external and independent assessment of practice;
 - 11.5 Training – delivering formal training activity to members and officers on a range of subjects, including, corporate parenting, effective leadership, quality assurance/audit

and understanding performance data. Also, targeted promotion of other LGA offers such as the Leadership Essential programme;

- 11.6 Shaping a coherent support offer – working closely with Councils, DfE, Partners in Practice, and ADCS to ensure an effective improvement support offer is in place.
- 11 A programme of evaluation and shared learning is currently being developed to ensure there will be significant reach beyond those councils that are directly involved in the programme. This will maximise the impact of the learning, good practice and innovative approaches identified.
- 12 A key measure of the impact of this programme are the leadership judgements provided as part of Ofsted children’s services inspections. In 2018/19 there were 41 judgements published:
 - 12.1 51% of the ILACS reports showed an improved ‘Leadership’ judgement from the previous inspection for that local authority;
 - 12.2 83% of the ILACS reports showed that the ‘Leadership’ judgement had been maintained or improved from the previous inspection report for that local authority.

Early Years Peer Challenge

- 13 On 12 December 2017 the Department for Education (DfE) launched Unlocking Talent, Fulfilling Potential: A plan for improving social mobility through education. A key strand within this Plan is an early years ‘system leadership’ programme which is focussed on sector-led improvement driven through peer challenge and support. The LGA has been commissioned by the DfE to design and deliver this early years peer challenge programme.
- 14 Working with the sector and experts from the Early Intervention Foundation (EIF) and DfE, we developed a clear delivery framework with a specific focus on speech, language and communication. This approach was successfully piloted in Wigan, Cambridgeshire/Peterborough and Bexley and the learning from these places has informed further refinement of the framework. A full guidance manual is now in place ([guidance](#)) to ensure all subsequent peer challenges are delivered within a consistent and robust methodology.
- 15 We have delivered five peer training events with 75 peers participating and further training is planned for June and October. Peers have been recruited from a range of backgrounds including local government, health, education, private sector, speech and language therapy and library services.
- 16 EIF have developed an Early Years Maturity Matrix ([Maturity Matrix](#)) which forms part of the self-assessment process for the local authority engaging in the peer challenge. In addition, some peer challenges include an EIF associate and EIF are actively collecting case studies of good practice from local authority areas.
- 17 Demand for an Early Years Peer Challenge has far outstripped the capacity in place to deliver this work (41 local authorities applied to be involved in the pilot phase). To

manage this, an approach has been introduced that uses early years data to identify a mix of local authorities that would benefit from a peer challenge and then leads to a discussion to gauge their interest in participating.

- 18 It is expected that the programme will deliver 30 Early Years Peer Challenges by March 2020. So far, we have delivered seven Early Years Peer Challenges and fourteen more have been agreed.
- 19 There are already some common themes emerging from the peer challenges delivered, including:
 - 19.1 Complex IT systems that are often not aligned;
 - 19.2 Not a common understanding of school readiness;
 - 19.3 Joint commissioning not always in place;
 - 19.4 Lack of shared outcome frameworks and data dashboards;
 - 19.5 Evaluation of interventions is not always robust and able to inform commissioners;
 - 19.6 Early Years strategies not in place across the area;
 - 19.7 Community Co-design of services not always achieved.
- 20 The DfE have agreed to fund a series of follow-up visits with local authorities. This will involve a small number of the original peer team revisiting a local authority 12 months after the peer challenge and reviewing the progress and impact that has been made.
- 21 Three learning events are being planned with the first taking place in July. Inviting leaders in early years from across local government, health and education to discuss and identify the local, regional and national solutions to common challenges and issues.
- 22 Feedback from Directors of Children's Services that have already received an Early Years Peer Challenge include:
 - 22.1 *'The review helped us gain a strategic overview of where we are, where we need to be and what we need to do to get there;*
 - 22.2 *'Since this review, ways of working have changed significantly so the review was a definite catalyst for change';*
 - 22.3 *'The best thing strategically was that the review really did put Early Years education at the forefront of what the Council is trying to do'.*

Children's Services Peer Challenge

- 23 In 2018/19 there were eleven children's services peer challenges completed and these were focused on a range of themes including: safeguarding; looked after children;

special educational needs and disabilities; early help and safeguarding governance. Over 50 peers from local government, health and education were involved.

- 24 A refreshed and simplified [guidance manual](#) has been produced for children's services peer challenges. Working with colleagues in the sector, the offer is better focussed on outcomes and impact for children and is also better aligned to the recently introduced Ofsted ILACS framework.
- 25 Responding to the needs of the sector we are developing new offers that can provide the framework and catalyst for sector led improvement. These will include a future focus on prevention and early help services, safeguarding scrutiny, school improvement and contextual safeguarding.
- 26 LGA is also recruiting a 'Director of Children's Services, Sector Led Improvement' to ensure that the LGA has a credible and influential voice that is able to work with key partners such as Councils, Ofsted, Department for Education, SOLACE, Association for the Directors of Children's Services and others, to help shape the local, regional and national improvement offer.
- 27 Feedback on the process is encouraging: *"We found the LGA peer review process incredibly positive and valuable, the review was led by a very experienced and accomplished Director of Children's Services and they, with the LGA, put together a very effective team who provided reassurance about our plans for improvement and our priorities but also provided challenge and advice on several key issues. Weeks after the LGA peer review we received the Ofsted ILACS call and the peer review provided excellent preparation for all our teams and partners..."*
Steve Reddy, DCS, Liverpool City Council

Next steps

- 28 In 2019/20 it is expected that we will deliver over 40 children's services peer challenges which will be more than double the number delivered in 2018/19. We will also continue to embed and sustain the developments of the last 12 months but with a specific focus on impact and effectiveness. Ensuring that we are able to demonstrate that the structures, learning and expertise that have already been mobilised, are making a real difference and improving the way services are delivered for children.
- 29 The Board is asked to note the progress made over the last 12 months, consider how they can inform and support future delivery and priorities and receive regular updates as the programme develops.

Implications for Wales

- 30 This programme relates to children's services in England – children's services are a devolved matter in Wales.

Financial Implications

- 31 There are no additional financial implications arising from this report.



Consultation on children not in school

Purpose of report

For discussion to inform the Local Government Association's response to the Government's consultation on children not in school.

Summary

In 2018, the Government consulted on issues around elective home education, in particular the registration of home educated children, monitoring of this education and the support given to home educating families.

Following this, the Government is consulting on the establishment of a local authority registration system for children who do not attend state-funded or registered independent schools. The consultation contains four proposals which members are asked to provide feedback on:

- Duty on local authorities to maintain a register
- Duty on parents to provide information
- Duty on education settings to provide information
- Duty to on local authorities to provide support.

The LGA will respond to the consultation on behalf of its members.

Recommendation

Members of the CYP board are asked to provide feedback to officers to inform the LGA's response to the Government's consultation.

Action

Officers to prepare a response to the Government's consultation for approval by Lead Members.

Contact officer: Louise Smith
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Consultation on children not in school

Background

1. In 2018, the Department for Education launched a consultation and call for evidence to better understand issues around elective home education, including oversight and support. This was in recognition of the increasing numbers of children being electively home educated, and the need for local authorities to be able to carry out their duty to ensure all children in their area are receiving a suitable education.
2. The Local Government Association (LGA) submitted a response to this consultation, emphasising that while local authorities are confident that the vast majority of home educating parents do a good job, not all home educated children are registered with their local council. This makes it difficult for councils to fulfil their statutory duties to ensure children are safe and receiving a suitable education.
3. The LGA's response therefore called for a duty on parents to register their children as home educated, and for powers to enter the homes of, or otherwise see, children where they had concerns.
4. The response also raised concerns around the use of informal exclusions ('off-rolling') by schools which can result in children being home-educated even where this is not the choice of the parent, and called for a clearer definition of a 'school' to make it easier for Ofsted or the Department for Education to classify and close down illegal schools when they are uncovered.
5. In its response to that consultation and call for evidence, the Government concluded that there was a strong case for consulting on proposals for the registration of children who are not attending mainstream schools, and despite differing views, for consulting on legislation around support for home-educating families. It also confirmed that the Government will not be proceeding with any proposals around increased powers for councils to monitor and assess the suitability of education provided to children at home.
6. The new consultation was launched on 2 April 2019 and is attached at Appendix A. It puts forward four proposals, which are outlined in the rest of this report.

Proposal: creation of a duty on local authorities to maintain a register of children not registered at specified types of school

7. This proposal would require all local authorities with responsibility for education to maintain a register of children of a compulsory school age who are not registered as pupils of maintained schools, non-maintained special schools, alternative provision academies or registered independent schools (including academies and free schools).
8. The operational details of the register, including the information it contains and data sharing information, would be included in secondary legislation through the making of regulations, to allow for amendment in light of experience.

9. This duty would not change council's powers around assuring themselves of the suitability of education or its safeguarding duties. The Department for Education has published updated guidance for local authorities on home education which provides more detail on councils' powers in this regard.
10. The duty would be subject to the New Burdens process, however councils are being asked to submit detail of the likely costs of establishing and maintain a register. These costs will be considered as part of the process of deciding whether to go ahead with the legislation.

Proposal: creation of a duty on parents to register their child with local authority if not registered at specified types of school

11. This duty would require parents to inform their home local authority of their intention to home educate their child, or if their child was for any other reason not registered with a mainstream school as outlined at paragraph 7.
12. The consultation proposes that the penalty for refusing to provide information would be an automatic trigger of the school attendance process. This gives parents a specified period to prove that they are providing a suitable education, and to register. If they fail to do so, the authority can require the child to be registered at a named school.

Proposal: creation of a duty on proprietors of certain education settings to respond to enquiries from local authorities

13. This duty would compel the proprietors of settings that are not registered as schools, but who provide education to children during normal school hours, to respond to enquiries from councils about children who may be in the scope of the register. This could include companies providing subject-specific tuition, but may also help to identify illegal settings.
14. This duty would not regulate these settings, and would not extend to settings providing education outside normal hours.
15. The duty would also not place responsibility on proprietors to prove that the education provided was suitable; this responsibility would remain with the parent.
16. The consultation notes that sanctions for non-compliance would be necessary to enforce the duty and asks for suggestions on appropriate sanctions, noting that the goal is to get the required information rather than punishment.

Proposal: creation of a duty on local authorities to provide support to parents who educate children at home

17. This duty would require local authorities to provide support to home educating families only upon request. The types of support that councils might be expected to support would be outlined in regulations.

18. The consultation emphasises that funding that would otherwise be spent on a school place for a child will not be made available to parents to meet the costs incurred in providing home education. However, the consultation considers how parents might be best supported in other ways, which might include financial assistance for specific costs.
19. The consultation also recognises that such a duty would incur additional costs, and recognises that “at a time of constrained public resources and continuing pressure on local authority budgets there can be no expectation of substantially increased expenditure in this area”. The LGA would call for any new burden to be fully funded.
20. It is suggested that some support could be better provided at a national level, for example online guidance, curriculum resources and financial support for examination fees. The consultation asks for views on whether this is desirable.

Questions for members

21. The Board is asked to consider the consultation and provide feedback to inform the LGA’s response, including:
 - 21.1 Do members support each of the proposals, subject to their being fully funded?
 - 21.2 Do we want to continue to argue for increased powers for councils to monitor and assess the suitability of education provided to children at home?
 - 21.3 Are there any issues that may prevent councils from fulfilling these duties?
 - 21.4 Do members have opinions on potential sanctions for parents and proprietors who do not fulfil these duties?
 - 21.5 What support (if any) do members feel local authorities should provide to home educating families?
 - 21.6 Any other considerations around the issue of children not in school.

Implications for Wales

22. The consultation applies only to England – education and children’s services are a devolved matter in Wales.

Financial Implications

23. None.

Next Steps

24. Officers will prepare a consultation response to be approved by Lead Members before submission.



**Children and Young People
Board meeting**

13 June 2019

25. If the Government decides to proceed with the proposals set out in the consultation paper, primary legislation will be required for which Parliamentary time is needed. Uncertainties around when this would be available mean that no detailed timescale for implementation has been given.



Department
for Education

Children not in school: proposed legislation

Government consultation

Launch date 2 April 2019

Respond by 24 June 2019

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Introduction

The Department for Education (DfE) is consulting on a number of related proposals for legislation which would affect local authorities, parents of children who are not attending state-funded schools or registered independent schools, and proprietors of some education settings.

Who this is for

- Local authorities
- Parents, especially those who educate their children at home, and/or in school hours use education settings for their children which are not state-funded schools or registered independent schools
- Children who are deemed to be educated at home or, during school hours, at settings which are not state-funded schools or registered independent schools (or adults who have been so educated);
- Education settings which provide education in school hours but are not state-funded schools or registered independent schools
- Examining bodies concerned with KS4 and KS5 qualifications
- Other organisations concerned with education

Issue date

The consultation was issued on 2 April 2019 and closes after a period of 12 weeks at the end of 24 June 2019.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team by email at:

NotInSchool.consultation@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

Consultation events

The Department for Education intends to hold meetings with local authorities and relevant stakeholder groups within the consultation period.

The response

The results of the consultation and the department's response will be [published on GOV.UK](#).

About this consultation

This consultation document seeks views on a number of proposals for legislation and the way in which those proposals would be implemented:

- the introduction of a duty on local authorities to maintain a register of children of compulsory school age who are not registered at schools of a specified type;
- the introduction of a duty on parents to provide information to their home local authority if their children are within the scope of such a register;
- the introduction of a duty on education settings attended by the children on the register to respond to enquiries from local authorities about the education provided to individual children. The settings in scope would not include those providing supplementary education outside school hours;
- the introduction of a duty on local authorities to provide support to home educating families - if it is requested by such families.

The first part of the document sets out the background and context for the consultation.

The subsequent part(s) of the document set out the details of each proposal, the considerations which arise and the questions to which responses are sought.

We would like to hear your views.

Respond online

To help us analyse the responses in the most effective way, please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response or direct to the consultation at:

<https://consult.education.gov.uk/school-frameworks/children-not-in-school>

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request a copy of the response form from the addresses below and either email it or post it back to the department. A full list of questions is at the end of the document

By email

NotinSchool.consultation@education.gov.uk

By post

Children Not in School Consultation
Independent Education and Boarding Team
Department for Education
Bishopsgate House
Feethams
Darlington
DL1 5QE

Deadline

The consultation closes on 24 June 2019.

Background and context

1.1 Last year, the department launched a consultation and call for evidence to better understand how oversight of children educated outside of state or independent schools could be carried out as effectively and proportionately as possible. This was in recognition of the fact that local authorities need to be supported to be able to conduct their duty to ensure all children in their area are receiving a suitable education - particularly given the increasing numbers of children receiving their principal education outside of state or independent schools and instead deemed to be educated in the home and/or other settings – or not at all.

1.2 Most children of compulsory school age in England attend either a state-funded school, or a registered independent school. However, it is known that increasing numbers of children are receiving their principal education outside of mainstream schools. Some of those children are being educated at home very well by dedicated parents, who deserve support. However, others are deemed to be 'home educated' but in reality such education as they get is mainly or entirely through attendance at unsuitable settings such as unregistered independent schools or multiple part-time settings. There is also likely to be a number of children for whom the education being provided is unsuitable, because their parents cannot educate them effectively at home, or the children are simply not being educated. It is mainly in the interests of such vulnerable children that the proposals in this consultation paper are brought forward. The government intends to ensure that any proposals do not impede those families who are successfully, and through choice, educating their children at home.

1.3 The department's consultation and call for evidence closed in July 2018 and had two parts:

- a. consultation on revised versions of the department's guidance on the existing legal basis for the oversight of home education; and
- b. a call for evidence on the issues of registration, monitoring, and also support for the families of children educated at home.

1.4 The first part has resulted in the publication of finalised local authority and parents' versions of guidance on 2 April 2019.

1.5. A document which sets out the government's response to material received in the call for evidence is being published alongside this consultation paper. It concludes that there is a strong case for consulting on proposals for the registration by local authorities of children who are not attending a mainstream school. It explains that the government is not proceeding with any proposals relating to increased powers for local authorities in the monitoring and assessment of suitability of education provided to children at home.

Finally, it sets out why, although there are disparate views on the matter - as shown by responses to the call for evidence - there is good reason to consult on possible legislation relating to support for families which educate their children at home.

1.6 In July 2017, Lord Soley introduced the Home Education (Duties of Local Authorities) Bill. That private member's bill did not have formal government support. However, the debates on the Bill at Second Reading and Committee stages in the House of Lords provided some valuable discussion of home education and related issues, and the government is grateful to Lord Soley for his initiative in bringing forward the bill.

1.7 This consultation is seeking views about the primary legislation - which would be high level in nature. It also seeks views on the practical ways in which the system would operate, which the government would put in place through secondary legislation. It also seeks views on the likely costs.

1.8 The proposals set out in this consultation paper would depend on gaining suitable Parliamentary time for the primary legislation which is envisaged. In consequence, no detailed timescale can be given for the implementation of the proposed measures. At a minimum, there would need to be an implementation period for local authorities following Royal Assent to any successful legislation. This means that full roll-out might be two to three years away.

Proposal: creation of a duty on local authorities to maintain a register of children not registered at specified types of school

Background

2.1 Local authorities have a duty to make arrangements, so far as possible, to identify children of compulsory school age who may not be receiving a suitable education. They also have safeguarding duties in respect of all children whether or not they are attending school. The government wishes to support local authorities in these roles, particularly in relation to those children who are vulnerable. The increasing numbers of children being educated outside schools suggests that local authorities need to be able to assure themselves about the education being provided, and greater powers to enable them to do this. The main need at present is a greater ability for local authorities to identify children who, during school hours, are not receiving an education in state-funded or registered independent schools. The government believes this is best tackled by registering with the LA all children who fall into that category. This would include children who are educated full-time at home, as well as those who may be receiving education during school hours from a variety of unregistered settings – although the government recognises that of course many children deemed to be educated at home are receiving a suitable education.

Proposal

2.2 The basic proposition is to create in primary legislation a duty on every local authority in England with responsibility for education, a duty to maintain a register of all children of compulsory school age¹ in its area who are not a registered pupil at a school maintained by a local authority, a non-maintained special school, an alternative provision academy, or a registered independent school².

2.3 There is a subsidiary issue as to whether children receiving education under section 19 of the Education Act 1996 (that is, receiving education arranged by the local authority) although otherwise in scope of such a register, should be excluded because the LA knows about their education, and the consultation questions include this point. – There is also a subsidiary issue as to whether, despite what is set out above, children

¹ A child is of compulsory school age from the beginning of the term following his or her fifth birthday until a specified date (currently the last Friday of June) in the academic year in which he or she becomes 16.

² Academies and free schools are in legal terms registered independent schools.

who are flexi-schooled (ie registered at a school but educated at home for a large part of the week) should also be in scope of the new register.

Technical detail of proposal

2.4 The operational details of the way in which local authorities would be required to maintain the register would be specified in secondary legislation, through the making of regulations - not in primary legislation. This would be to allow changes to the scheme in the light of experience. If the proposal is taken forward following this consultation, the draft regulations would be available alongside the draft bill (which would be published before being introduced into Parliament), but these would deal with the following issues:

- a. the information about each child and the parents to be contained within the register. Responses to the call for evidence demonstrated a range of opinion on how much detail should be contained (for example, about settings attended as well as or instead of home education);
- b. the issuing by the Secretary of State of a standard electronic specification for registration, for use by local authorities, if the government decided to do that. This would be an alternative to a simple listing in the regulations of the information required. In any case, it is clearly desirable that there is a specified dataset for each child so that interchange of data between local authorities can be effective;
- c. the extent to which data on the register about children can or must be shared with:
 - i. other local authorities; and
 - ii. other agencies.
- d. the extent to which the duty to maintain a register authorises a local authority to obtain and record data obtained from other agencies. The purpose of this would be to increase the accuracy and completeness of the register, for example by including children where there is no data from parents but a health professional has drawn attention to a child who is apparently not attending school and shows signs of not receiving a suitable education. This was an issue which caused a significant amount of comment in response to the call for evidence, and the regulations would need to be consistent with general data protection principles, even though the regulations by their existence would provide the lawful basis for processing of registration data in accordance with the Data Protection Act 2018;
- e. the processes by which names are added to the register, removed from the register and amendments are made – for example, if the local authority is notified

by a school that a child has been removed from its admission register, or a family moves to another local authority area;

f. provision for the inspection of registers by other bodies (for example by Ofsted, albeit only in relation to Ofsted's inspection of a local authority's fulfilment of its duties in relation to vulnerable children, not in relation to the education of individual children);

g. provision for the supply of data by each local authority from its register to the Secretary of State, for the purpose of collating national statistics on children who are educated at home and/or educated in non-school settings – at present there is no national availability of such data except in relation to children in alternative provision;

h. provision for the local authority to check with a state or registered independent school whether a child is in fact registered there. If he or she was found to be, the child would be outside the scope of the register.

2.5 The inclusion of a child on the register would not form in any way some kind of licence to educate a child outside the school system; that right already exists under s.7 of the Education Act 1996, and it would be left intact under the proposed registration regime. The register would mainly function as a list of children about whose education the authority must satisfy itself as to suitability in terms of s.7, or consider a school attendance order. The register would not change LAs' powers regarding assuring themselves of suitability of education or its safeguarding duties. These powers remain unchanged. The register would serve only to assist LAs' in the discharging of these responsibilities. The newly published DfE guidance for local authorities on home education explains in detail the circumstances in which safeguarding law may be relevant to unsuitable education.

2.6 If a duty on local authorities was created in primary legislation as proposed above, that duty would fall within scope of the Secretary of State's power under s.496, 497 and 497A of the Education Act 1996 to make a direction to an authority relating to the performance of that duty. This would be the means of enforcing the duty to keep a register.

Costs to local authorities

2.7 Clearly the creation of the proposed duty would cause additional costs to local authorities. There is a formal process, known as 'New Burdens' for establishing the scale of such costs and making appropriate provision for them in local authority funding. More detail on the New Burdens process is included at the Annex of this consultation paper, and that process would be followed if legislation proceeds. However, as a

preliminary, this consultation includes a question directed mainly to local authorities as to the likely cost of establishing and maintaining the proposed register and responses will be considered as part of the process for deciding whether to go ahead with legislation. We wish to work with local authorities and others to minimise additional costs and maximise the effectiveness of the proposals – bearing in mind that registration should enable local authorities to act more quickly when intervention is required, and thereby reduce the cost of that intervention.

Questions for consultation (nb questions on the on-line survey allow for comments and selection of options, please use that for response if possible)

- 1. Do you agree that local authorities should be obliged to maintain a register of children who are not registered at specified schools (those listed at paragraph 2.2) or being educated under s.19 arrangements?**
- 2. And should such a register specify whether they are attending an educational setting (other than their own home) during school hours?**
- 3. Should the register be widened still further to also include children who are being educated under s.19 arrangements?**
- 4. Should the register include flexi-schooled children (ie those who are educated at home or elsewhere for some of the week during school hours but are also on the admission register of a state-funded or registered independent school**
- 5. What information do you think the register should contain about each child and its parents?**
- 6. Do you think that the DfE should prescribe a national format for a register?**
- 7. What views do you have on the sharing of data on an authority's register with other local authorities and other agencies?**
- 8. Do you think that a local authority should include any information about a child on its register which has been legally obtained from other agencies?**
- 9. Do you agree that a register held by a local authority should be open to inspection by other bodies as prescribed by the Secretary of State, in order to check whether the local authority is carrying out its obligations to maintain the register?**
- 10. Do you agree that local authorities should have to make annual returns of collated data from the register to DfE for statistical purposes?**

11. [for local authorities only] What does the local authority believe would be the approximate additional annual cost of maintaining a register for its area? This should so far as possible include any costs already incurred on voluntary registration, but exclude other costs incurred by the authority in relation to home education and children missing education. It would be helpful to set out the basis for the estimates.

12. Do you have any other comments on either the principle of registration or practical issues related to registration on the basis proposed?

Proposal: creation of a duty on parents to register their child with local authority if not registered at specified types of school

Background

3.1 It would be possible to operate the mandatory register proposed in the previous section without any duty on parents to supply details of their child to be entered on the register. In such a scenario some information would in any case come from some parents, but the local authority would be largely responsible for gathering information and compiling as complete a register as possible. If so, that would mirror the situation at present whereby some local authorities maintain a non-statutory register of home-educated children but parents choose for themselves whether to register their child.

Proposal

3.2 However, the initial proposal is that there should be a statutory duty on parents to provide details of their child to the local authority if their child falls within scope of the register. Although there is no guarantee that parents would comply with such a duty, the government believes that it would help to ensure that the register maintained by a local authority is as complete as possible. It is worth noting that – contrary to the impression held in some quarters, including some local authorities – there is no current legal obligation on parents to inform a school or local authority that a child is deemed to be educated at home, nor to provide any reason before withdrawing a child from a school³. Compliance with the new duty would not need to be onerous – unless a child's circumstances (address or mode of education, for example) changed, then parents might have to inform the local authority only once in many years, and as noted above many parents do already register on a voluntary basis in some local authorities. In order to ensure that this remained the case, local authorities would not be allowed to legally require more information than that specified in regulations.

³ A parent will, however, require the co-operation of the local authority in order to withdraw a child from school if the child attends a special school under arrangements made by the local authority, or the child is registered at a school pursuant to a school attendance order.

Technical detail of proposal

3.3 As with the provision relating to maintenance of the register by a local authority, the basic duty and the overall circumstances in which it would apply to parents would be contained within primary legislation, but more detailed aspects would be contained within regulations. These would need to cover:

- a. the information to be supplied by parents (this would be a sub-set of the overall information requirements for the register and could include parental reasons for the arrangements made); and
- b. details as to the circumstances in which the duty would operate (for example specifying the types of school used in the qualifying criteria) and provisions for parents to seek amendments, deletions, etc in the register entry for their child. Additionally there would be an issue as to the operation of the duty if parents were separated or divorced.

3.4 There would also need to be provision (probably in the primary legislation) for the consequence of a failure to comply with the duty to provide details. The call for evidence asked questions about the consequences of such a failure, and there was a wide spread of opinion. Some respondents favoured financial penalties, or the creation of a new notice regime parallel to the notice provision in s.437(1) of the Education Act 1996; others agreed that the most effective and relevant sanction for non-compliance would be that this would automatically trigger the school attendance order process. The government agrees with the latter view, because it does not want to introduce parallel notice systems, or financial penalties. Neither does it want to introduce a new criminal offence for parents. Therefore, the proposal is that the legislation would be on the following lines:

- a. failure by a parent to comply with the registration duty would in itself be one of the possible triggers for issue of a notice under s.437(1), which requires the parent to satisfy the within a period specified in the notice that the child is receiving a suitable education (ie this starts the process which may lead to the serving of a school attendance order, unless the parent satisfies the authority that the education is suitable);
- b. if a person fails or refuses to comply with any reasonable request for the purpose of ascertaining whether they are the parent of a child who is eligible for registration or any request that they cause their child to be registered, the authority should be entitled to conclude that the person in question is indeed the parent of an eligible child, and that the child appears not to be receiving suitable education, and can therefore serve a s.437(1) notice on that person. This is intended to cover a number of situations including: where the local authority have identified a child whom they believe to be eligible but need more information from

the parent before being confident that the child is eligible; where the authority have identified a child whom they know to be eligible for registration but are not certain who their parents are; or where the authority believes that an adult has one or more eligible children but are not certain who those children are;

c. if a person provided information for the register which later turned out to be incorrect, that in itself would also be a trigger for issue of a s.437(1) notice, provided the person concerned was a parent of the child.

Questions for consultation (nb questions on the on-line survey allow for comments and selection of options, please use that for response if possible)

13. Do you agree that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement?

14. Whether or not you agree with the imposition of a legal duty, if one was created what data should parents have to provide about their child?

15. Do you agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration?

16. Whether or not your response to 15 was 'yes', do you think that the most effective consequence for non-compliance with the registration process is that it authorises the local authority to begin the school attendance order process by serving a s.437(1) notice on the parents, which begins the formal process of considering suitability of education and whether a child should attend school?

17. If your answer to 16 was 'no', what alternative would you favour for a consequence of non-compliance (whether or not your answer to 15 was 'yes');

18. Do you have any other comments about the concept of a legal duty on parents to supply information for the purposes of the proposed register?

Proposal: creation of a duty on proprietors of certain education settings to respond to enquiries from local authorities

Background

4.1 As set out above, it is proposed that the new register should extend to all children not registered at state funded or registered independent schools. The government believes that it would be made more effective if a duty was created on the proprietors of settings which are not those specified types of school but are providing education to children during normal school hours, to respond to enquiries from local authorities about children who may be in scope of the register. Many children who are deemed to be educated at home attend other settings for part of the week. Other children are not in any real sense educated at home at all but attend other settings for part or all of the week – sometimes more than one such setting. Some of these settings are quite legitimate – for example companies which provide tuition in specific subjects to children who are educated at home for the rest of the week – but they are often unregulated, and in a few cases may be operating illegally. This would not amount to a scheme for regulating these settings, only imposing requirements as to the provision of information about specific children. The duty would not extend to settings which provide supplementary education outside normal school hours; and it would not apply where children attend a setting but are also registered at a state-funded or registered independent school, since the children would not be in scope of the local authority register.

Proposal

4.2 The purpose of the duty would only be to enable local authorities to obtain more complete information about where a child's education takes place, for the purposes of that child's entry on the proposed register.

4.3 The proposals do not seek to amend existing monitoring or assessment powers of LAs. Since the proposals do not extend this far, it would not be appropriate for it to do this. If the registration process does reveal that a child does attend such a setting in combination with home education or as the sole source of education then it will be for the parent - if called upon to demonstrate to the local authority that the education a child is receiving is suitable overall - to arrange with the proprietor to provide relevant evidence to that end. If the parent cannot do so, then the authority will not be able to include any evidence on the education in that setting in forming a conclusion under s.437 as to suitability. So a duty on the setting's proprietor may be helpful.

Technical detail of proposal

4.4. Once again it is likely that the basic duty on the proprietor would be contained in primary legislation with details set out in regulations. The primary legislation would need to define the settings which were in scope of the duty (with the ability to prescribe in regulations categories which were not), and who the proprietors are of such settings. The duty would need to include a requirement to keep a register with details which might be required by a local authority on any of the children attending the setting, as well as an obligation to confirm that a specified child was included on that register. The regulations would need to:

- a. specify categories of setting not in scope (for example, those which did not operate in normal school hours)
- b. specify the format and contents of a register to be kept by the setting for the purpose of recording information which might be required by a local authority;
- c. specify the information which the proprietor would be obliged to provide to the local authority (this might or might not be identical to that required under (b) – it might, for example, include the hours normally attended by the child in question).

4.5. An issue arising from the imposition of such a duty is whether there should be any sanction for non-compliance. It seems likely that without a sanction in some form, the duty would be difficult to enforce. The government has not taken a view on what that sanction might be – the main objective being to get the required information rather than punishment for non-compliance - and the consultation questions ask for responses on this point.

4.6 It should be noted here that it would be possible to include this proposal in the legislation package but provide for it to not come into force until a later date, through a commencement order and the making of the relevant regulations. Reasons for delaying this element could include wider changes to the regulation of settings which are not schools.

Questions for consultation (nb questions on the on-line survey allow for comments and selection of options, please use that for response if possible)

19. Do you agree with the general approach that the proprietors of settings providing education in school hours - other than specified types of school -

should be under a duty to supply information to local authorities about any child in scope of the proposed register?

20. Which settings do you think should be included in the scope of the duty?

21. Which information should proprietors of the settings in scope be required to (a) keep in the setting's own register and (b) supply on request to the local authority about a child in scope of the registration requirement?

22. Do you agree that there should be a sanction on the proprietor for non-compliance with a duty to supply information about a child in scope of the registration requirement?

23. If your answer to 22 was 'yes', which type of sanction would you favour? For example should there be an offence which carries a fine, or should enforcement be via a court order requiring release of information?

24. Do you have any other comments about the concept of a duty on the proprietors of settings to provide information about children who attend their setting and fall within scope of the registration requirement?

Proposal: creation of a duty on local authorities to provide support to parents who educate children at home

Background

5.1 The issue of support for home educating parents formed the third part of the department's call for evidence. As the government's response document shows, there was a wide spread of opinion about both the principle of this and how such support might be most effectively given. The government's view is that despite doubts expressed by many respondents about the efficacy of having a statutory duty in this area (even if the prospect of such support is welcome), it is in fact worth creating such a duty. However, it is certainly the case that more consideration needs to be given as to how it would operate, and what its scope would be.

5.2 Some respondents to the call for evidence viewed such a duty with suspicion and saw it as providing an excuse for increased interference by local authorities with the process of home education. The government does not accept this view, but does believe that such a duty, if created, should be one which is to provide support and assistance only on request. That would enable those families which wish to minimise their contact with the local authority to do so.

5.3 One subject tends to dominate discussion of support for home educators and that is access to public examinations. Although this section of the consultation paper does cover that issue, it needs to be noted that creating change on this is not necessarily straightforward because there are bodies other than local authorities involved.

5.4 There are also considerable financial implications of creating a duty to provide support to parents who home educate their children. As noted in the section on a new register, there is a specific process for assessing the financial costs to local authorities of new statutory duties. However this consultation asks for information on costs of support, to begin the process of establishing the financial implications.

5.5 The call for evidence asked about financial consequences for schools if children were withdrawn into home education with the implication that there should be penalties, with the resulting income to local authorities used to support home education. However, this aspect is not covered in this consultation and will be dealt with elsewhere.

5.6 The government wishes to make it clear that it does not propose to make funding, which would otherwise be spent on a school place for a child, available to parents to meet the costs incurred by those parents in providing home education. The basic policy position remains that parents choosing home education take on the financial

responsibility for this. The issue for this consultation is how parents might be best supported in other ways, which might include financial assistance for specific costs.

5.7 The department's recently published guidance on elective home education deals with the issue of local authority consideration of financial or other support for parents who incur additional costs through educating at home children who have special educational needs.

Proposal

5.8 Again, the proposal is to create a basic duty on local authorities in primary legislation, with the more detailed requirements being specified in regulations. There are various ways in which such a duty might be drafted for the primary legislation, but it would almost certainly be drafted in as wide terms as possible so that the regulations could potentially include a wide spread of forms of support – and be changed at a later date if circumstances alter.

Technical detail of proposal

5.9 Regulations specifying forms of support which should be made available to parents would need to deal with:

- a. defining eligibility for support – which would almost certainly be linked to registration;
- b. the forms of support to be made available, which could include such things as:
 - i. advice on home education and sources of support - whether provided directly by the authority or available elsewhere;
 - ii. assistance with the cost of examination fees incurred by private entrants (possibly with specified minimum levels);
 - iii. local authority support (either financial or through facilitation) for local home education groups and forums which would provide both collective and individual help to families;
 - iv. negotiation of free or discounted admission for home educated children to facilities and other destinations which school children attend on an organised basis;
 - v. Carrying out, and publicising the results of, checks on private tutors;
 - vi. providing regular information and contacts for home educating families through newsletters; and

vii. making local arrangements for home educated children to participate in programmes normally conducted through schools, eg immunisation, sight and hearing tests, etc

c. conditions which could (or could not) be attached to the provision of support given and had to be met for that support to continue;

5.10 This duty, if created, would also be subject to the Secretary of State's powers to make directions under s.496, 497 and 497A of the Education Act 1996. However, the main incentive for local authorities to operate such a duty seriously would be to ensure that the education provided at home for a child was suitable, and thereby reduce future expenditure incurred on children where this was not the case.

5.11 The department is considering further what scope there is for the legislation to cover other forms of assistance with public examinations, for example obliging local authorities to operate examination centres for private candidates.

Costs to local authorities

5.12 Clearly, the cost of implementing such a duty depends on a large number of variables - most especially the forms of support available, and take-up rates amongst families. The latter might vary considerably between local authorities (which in any case, across the country, have very different levels of home education participation in their areas). Some forms of support (eg advice) could be treated as a marginal cost which would be incurred alongside normal contact between the local authority and home educators (and might even result in a net saving if it reduces the incidence of cases which have to be pursued to school attendance order stage). Other forms of support, most especially financial assistance towards examination entry fees, would have a tangible cost which would impact directly on a local authority's budget.

5.13 The government accepts that at a time of constrained public resources and continuing pressure on local authority budgets there can be no expectation of substantially increased expenditure in this area even if the new burden involved receives formal recognition. Although home educators responding to the call for evidence sometimes pointed to a saving to the public purse through parents opting to educate children at home, in reality the numbers involved are too small for this to be more than marginal - given that even though school funding is basically per-pupil, school expenditure is largely driven by staff costs which alter little if there are one or two fewer children per school because they are being educated at home.

Direct support for home educating families by the Department for Education

5.14 Although support for home educating families, if available at all, has been given by local authorities, the government is aware that it would be possible for some forms of such support to be given direct by the Department for Education. These might include, for example, an online guidance facility, curriculum resources and financial support for examination fees. The government has not taken a view on whether this is desirable, but the consultation questions below include this issue.

Questions for consultation (nb questions on the on-line survey allow for comments and selection of options, please use that for response if possible)

25. Do you agree that there should be a statutory duty on local authorities to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations?

26. If such a duty were to be created, which of the following should it encompass:

- a. advice on home education and sources of support - whether provided directly by the authority or available elsewhere;**
- b. assistance with the cost of examination fees incurred by private entrants (possibly with specified minimum levels);**
- c. local authority support for local home education groups and forums which would provide both collective and individual help to families;**
- d. negotiation of free or discounted admission for home educated children to facilities and other destinations which school children attend on an organised basis;**
- e. Carrying out, and publicising the results of, checks on private tutors;**
- f. providing regular information and contacts for home educating families through newsletters; and**
- g. making local arrangements for home educated children to participate in programmes normally conducted through schools, eg immunisation, sight and hearing tests, etc**

27. What are the potential difficulties in ensuring that such a duty is properly discharged by a local authority?

28. Should the duty to provide support on request be limited to children whose details are included on the proposed register?

29. Should other mechanisms be explored for enhancing access to public examinations for children educated at home, and if so, what?

30. [for local authorities only]. What expenditure does the authority already incur on support for home educated families, what types of support does this cover and approximately how many children are in scope of the support?

31. Do you have any further comments on the issue of local authority support for home-educating families?

32. Do you consider that support for home-educating parents should be provided by the Department for Education?

33. If your answer to 32 was 'yes', what forms of support do you believe are particularly suited to being provided on a national rather than local basis?

Other matters

6.1 An equalities log, UNCRC assessment and family impact test document are being published alongside this consultation paper.

Questions for consultation

34. Do you have any comments on the conclusions set out in the published equalities log, UNCRC assessment and family impact test document?

35. Do you have any other comments on the government's proposals for legislation relating to registration and support for home education?

Full List of consultation questions (nb questions on the on-line survey allow for comments and selection of options, please use that for response if possible)

- 1. Do you agree that local authorities should be obliged to maintain a register of children who are not registered at specified schools (those listed at paragraph 2.2) or being educated under s.19 arrangements?**
- 2. And should such a register specify whether they are attending an educational setting (other than their own home) during school hours?**
- 3. Should the register be widened still further to also include children who are being educated under s.19 arrangements?**
- 4. Should the register include flexi-schooled children (ie those who are educated at home or elsewhere for some of the week during school hours but are also on the admission register of a state-funded or registered independent school**
- 5. What information do you think the register should contain about each child and its parents?**
- 6. Do you think that the DfE should prescribe a national format for a register?**
- 7. What views do you have on the sharing of data on an authority's register with other local authorities and other agencies?**
- 8. Do you think that a local authority should include any information about a child on its register which has been legally obtained from other agencies?**
- 9. Do you agree that a register held by a local authority should be open to inspection by other bodies as prescribed by the Secretary of State, in order to check whether the local authority is carrying out its obligations to maintain the register?**
- 10. Do you agree that local authorities should have to make annual returns of collated data from the register to DfE for statistical purposes?**
- 11. [for local authorities only] What does the local authority believe would be the approximate additional annual cost of maintaining a register for its area? This should so far as possible include any costs already incurred on voluntary registration, but exclude other costs incurred by the authority in relation to home education and children missing education. It would be helpful to set out the basis for the estimates.**
- 12. Do you have any other comments on either the principle of registration or practical issues related to registration on the basis proposed?**

13. Do you agree that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement?

14. Whether or not you agree with the imposition of a legal duty, if one was created what data should parents have to provide about their child?

15. Do you agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration?

16. Whether or not your response to 15 was 'yes', do you think that the most effective consequence for non-compliance with the registration process is that it authorises the local authority to begin the school attendance order process by serving a s.437(1) notice on the parents, which begins the formal process of considering suitability of education and whether a child should attend school?

17. If your answer to 16 was 'no', what alternative would you favour for a consequence of non-compliance (whether or not your answer to 15 was 'yes');

18. Do you have any other comments about the concept of a legal duty on parents to supply information for the purposes of the proposed register?

19. Do you agree with the general approach that the proprietors of settings providing education in school hours - other than specified types of school - should be under a duty to supply information to local authorities about any child in scope of the proposed register?

20. Which settings do you think should be included in the scope of the duty?

21. Which information should proprietors of the settings in scope be required to (a) keep in the setting's own register and (b) supply on request to the local authority about a child in scope of the registration requirement?

22. Do you agree that there should be a sanction on the proprietor for non-compliance with a duty to supply information about a child in scope of the registration requirement?

23. If your answer to 22 was 'yes', which type of sanction would you favour? For example should there be an offence which carries a fine, or should enforcement be via a court order requiring release of information?

24. Do you have any other comments about the concept of a duty on the proprietors of settings to provide information about children who attend their setting and fall within scope of the registration requirement?

25. Do you agree that there should be a statutory duty on local authorities to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations?

26. If such a duty were to be created, which of the following should it encompass:

a. advice on home education and sources of support - whether provided directly by the authority or available elsewhere;

b. assistance with the cost of examination fees incurred by private entrants (possibly with specified minimum levels);

c. local authority support for local home education groups and forums which would provide both collective and individual help to families;

d. negotiation of free or discounted admission for home educated children to facilities and other destinations which school children attend on an organised basis;

e. Carrying out, and publicising the results of, checks on private tutors;

f. providing regular information and contacts for home educating families through newsletters; and

g. making local arrangements for home educated children to participate in programmes normally conducted through schools, eg immunisation, sight and hearing tests, etc

27. What are the potential difficulties in ensuring that such a duty is properly discharged by a local authority?

28. Should the duty to provide support on request be limited to children whose details are included on the proposed register?

29. Should other mechanisms be explored for enhancing access to public examinations for children educated at home, and if so, what?

30. [for local authorities only]. What expenditure does the authority already incur on support for home educated families, what types of support does this cover and approximately how many children are in scope of the support?

31. Do you have any further comments on the issue of local authority support for home-educating families?

32. Do you consider that support for home-educating parents should be provided by the Department for Education?

33. If your answer to 32 was 'yes', what forms of support do you believe are particularly suited to being provided on a national rather than local basis?

34. Do you have any comments on the conclusions set out in the published equalities log, UNCRC assessment and family impact test document?

35. Do you have any other comments on the government's proposals for legislation relating to registration and support for home education?

ANNEX : New Burdens process

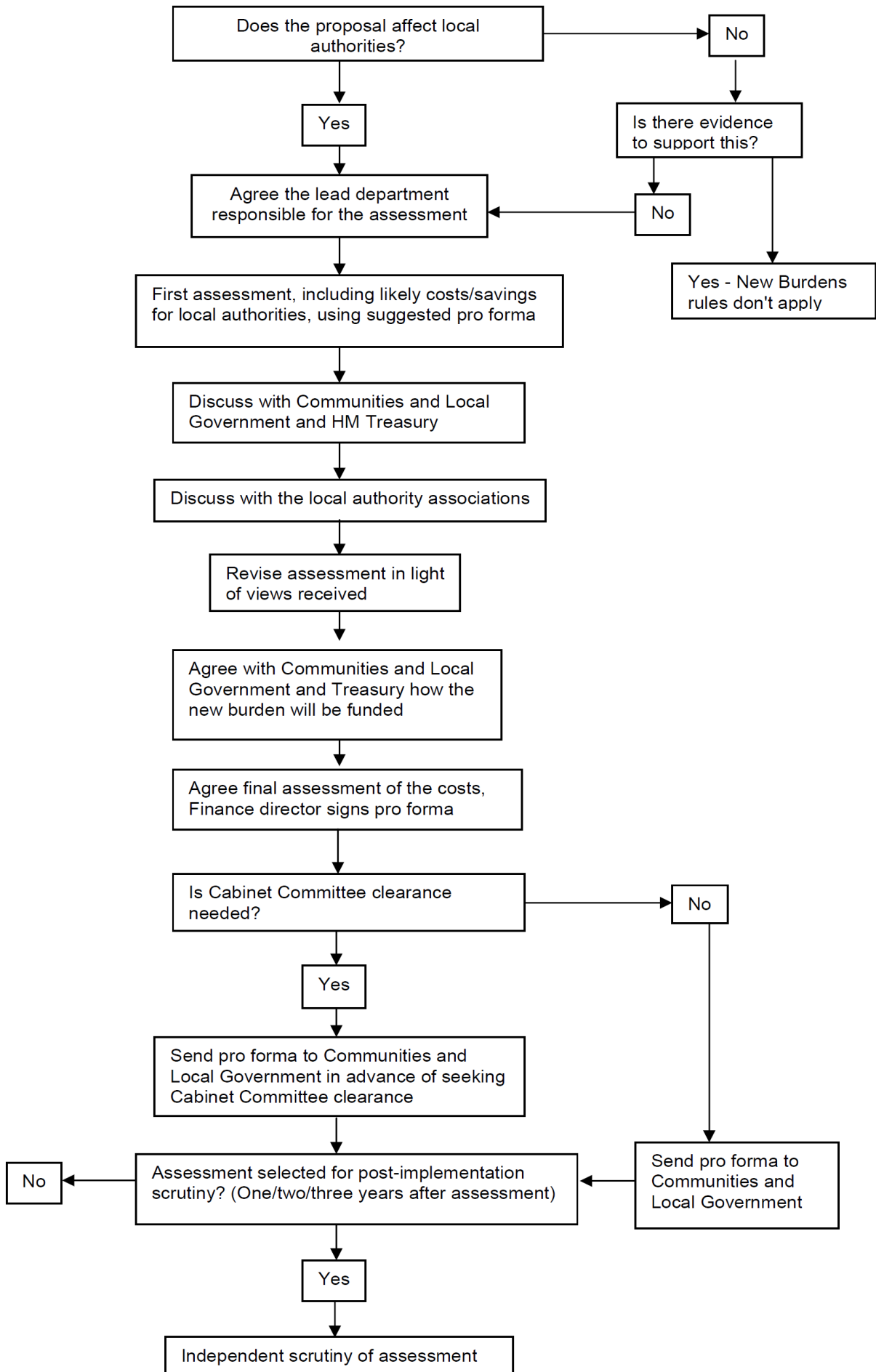
The 'New Burdens' process is a formal system for establishing the cost of additional tasks imposed upon local government, and then agreeing the basis on which those costs will be fully funded. There are a number of reasons why such a process is needed: to enable proper control of increases in council tax rates; to ensure that local authority spending on existing statutory obligations is not threatened; and to produce transparency in the way that local authorities are expected to undertake new statutory duties.

A new burden is any policy or initiative which increases the cost of providing local authority services. The requirement must be new; action to ensure that tasks for which authorities are already funded is not a new burden and for that reason there is no new burdens issue arising from the issue of revised DfE guidance on the current legal framework for home education.

The full guidance on the process can be found at:

<https://www.gov.uk/government/publications/new-burdens-doctrine-guidance-for-government-departments>

However, a chart illustrating the main stages in the process appears below.





Department
for Education

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Note of last Children & Young People Board meeting

Title: Children & Young People Board
Date: Tuesday 12 March 2019
Venue: Beecham Room, 7th Floor, 18 Smith Square, London, SW1P 3HZ

Attendance

An attendance list is attached as **Appendix A** to this note

Item Decisions and actions

1 Declarations of Interest

The Chair welcomed all members to the Children and Young People Board meeting. Apologies were noted and are listed in Appendix A.

A declaration of interest was raised by Vice Chair Cllr Roy Perry in relation to item 5: Update from the LGA's Asylum, Refugee and Migration Taskforce, in which Cllr Perry stated that his daughter, Rt Hon Caroline Nokes MP who, at the time of this Board meeting, was the Minister of State for Immigration.

2 ISOS early help research: presentation of final report ahead of 19 March launch

The Chair welcomed Isos Director, Natalie Parish, to the meeting. Natalie provided the Board with a summary on the findings of the high needs funding research which was commissioned by the Local Government Association in July 2018.

Natalie explained that the Isos Partnership was commissioned to undertake research to explore the enablers and barriers to developing and sustaining an effective local early help offer and was asked to look at three areas: reviewing the existing material and research in terms of what works in Early Help; understanding in practical terms the activities and actions that contribute to the development and sustainability of an effective and partnership-based early help offer; and supporting local areas through an action-research based approach to develop their own early help offers and to contribute to the wider system knowledge of effective early help. Natalie outlined a local 'early help offer' was defined as:

"Each local area had taken their own distinctive approach to developing their early help offer. However, there were some clear similarities between the eight areas in terms of organisation and principles."

Natalie outlined that the findings showed that each of the local areas had

taken their own distinctive approach to developing their early help offer in their own unique ways, but despite differences there were clear similarities in organisation and principles between the eight areas, with differences mainly being in the bulk of the activity taking place. These similarities were:

(organisation):

- Community based support networks
- Partners as lead professionals
- Central key working service

(principles)

- The earliness of early help
- Working with families, rather than individuals
- Building resilience
- An integrated – joined up offer

Natalie outlined the lifecycle and evolution of early help, and that the findings showed that local authorities were at different phases in this cycle. A number of the authorities were at the third phase of development 'consolidation and integration' and therefore were looking at improving consistency through better integration across a wider range of partners, and realign skills and targets, in order to enter the fourth phase 'achieving a 'multiplier effect'.

Natalie concluded her presentation by explaining that there is a strong logical and principled case for continuing to invest in early help so that it does become 'everyone's business'. But to achieve this in the current climate local areas will need to strike the right balance between the following criteria:

1. Investing to achieve long-term impact or shorter term gains?
2. Predicting need set against responding to demand
3. Universal, additional or intensive support?
4. Wider or deeper integration?

The following discussion took place with members:

- Members asked for further details of the local authorities which were identified as having best practice. Natalie identified the eight councils used in the research: Barking and Dagenham, Greenwich, Kent, Lincolnshire, Oldham, Southend, West Sussex and Wigan.. Natalie told members that the final report will include vignettes and descriptions of these council's early help offers.
- In response to another question, Natalie clarified that Ofsted was not a defining criteria for councils within this research study.
- In response to a question raised on how children services engage with other partners, Natalie explained that these local authorities worked with partners to include them in their governing structure,

identifying strategies to improve the services by integrating teams.

- In response to a question raised on how councils can encourage residents to contact early help services, Natalie described the approach from Southend-on-Sea Borough Council who produced one minute referral guides for families to self-refer.
- It was stated by the Board that it was important to acknowledge the loss of £5million funding from central government which has most likely impacted local authorities early help models and stalled council developments in this area.

The Chair thanked Natalie Parish for presenting ahead of the launch of the report on 19th March 2019.

3 CAMHS future work programme

The Chair welcomed Abigail Gallop, Senior Advisor to the Board.

Abigail introduced the report that set out:

- Proposals for the children and young people's mental health work programme for the LGA
- A proposals for gathering evidence and commissioning a piece of work to identify issues and areas of good practice
- Proposal for a joint steering group made up of members across the Children and Young People Board, The Community Wellbeing Board and the Safer and Stronger Communities Board

The Board was asked for comments and feedback on:

- Whether there should be anything added or removed from the proposed aims and objectives, and to agree them.
- Comments on the funding picture within councils on children and young people's mental health to inform the development of this piece of research.
- Comments on the identification of issues and good practice, and is asked if there are any other key lines of enquiry or questions

Members provided the following feedback:

- Members confirmed their support for establishing a joint steering group on CAMHS to take the work forwards.
- Local authorities need to ensure that there is a focus on children and that government departments need to engage with each other on this to make progress.
- On behalf of the Board, the LGA should enquire into the factors that are resulting in children's mental health not being prioritised or getting the support they need.
- On behalf of this Board, the LGA should investigate data to see if there is a correlation between cuts in early help offers as a result of funding constraints and an increase in children accessing CAMHS and other Adult Social Care services.

- One member raised that in their authority, mental health funding goes through the CCG which is a challenge to get that money directed to more holistic and preventative services.
- It was acknowledged that there was little support for children who were in the interim period of CAMHS on long waiting lists with no access to services while in this period.
- The impacts of delays in mental health treatment is having a detrimental effect on children's education, and this is not being addressed. This often results in long-term impacts on individual's schooling.
- It was acknowledged that CAMHS is a last resort service, and that there should be more emphasis on earlier interventions.
- In reference to point 21 which refers to the approach to identify issues and good practice, the report needs to consider the delivery and accessibility in CAMHS, in particular the services offered to those who do not meet NHS thresholds for treatment.
- Concerns over the quality of CAMHS was raised and what structures are in place to monitor and scrutinise these services.
- Members raised the point that councils have to take responsibility for supporting children and young people in the whole, but have no influence or authority about how CAMHS funding is invested.
- The programme needs to reflect clear asks from this board, with key points including county lines, increase in street crime and domestic violence.
- The cross-cutting issues around support for children with autistic spectrum disorder, SEND and unaccompanied asylum seekers was also noted.

Decisions:

Officers will modify the proposals to reflect direction from the Board.

Officers will confirm the commissioning of the research based on comments from the Board.

Officers will contact the nominated or volunteered members of the Board to set up the children and young people's mental health steering group.

4 Update from Children's Social Care Taskforce (Verbal Update)

In the absence of Cllr Dick Madden, Cllr Ford was invited to the Board to provide members with an update on the work of the Children's Social Care Taskforce to date. Cllr Ford outlined the new evidence on the funding crisis and need for additional investment that has come to light.

The following points were raised by members:

- One member highlighted that it was noticeable that charities are stepping in to help fund youth services and youth clubs, but in higher deprivation areas they do not have access to these

resources.

- It was also highlighted that the Board have concerns over £10 million to be spent on the National Citizen Service (NCS) brand refresh.

The Chair thanked Cllr Ford for the update.

Decision:

Members noted the verbal update.

5 Update from the LGA's Asylum, Refugee and Migration Taskforce

Cllr Gillian Ford updated members on the progress of the work from the LGA Asylum, Refugee and Migration Task Group.

Cllr Ford informed members on the outcome of the Taskforce meeting with the Minister for Immigration last Wednesday 6 March that focussed on concerns delivering better engagement with, and funding for councils as part of the new contracts for accommodation and advice for asylum seeking adults and families. It was acknowledged at the meeting councils need support in this area.

It was also mentioned that there will be a review over concerns of accessibility, age assessments, and a review of relevant Home Office programmes.

Members will receive a full briefing and information to support councils between this and the next Board.

Decision:

Members noted the update.

Action:

A further update will be provided at the next Children and Young People Board meeting.

6 Note of the Previous Meeting

Members noted the previous minutes from the last Board meeting 16 January 2019.

Members agreed the minutes.

7 Understanding the Middle Tier: Comparative Costs of Academy and LA-maintained Sectors

The Chair welcomed Professor Peter Earley (PE) and Jonathan Crossley-Holland (JCH) from Sara Bubb Associates to the Board to present their

research to date.

The Board discussed initial findings of the research, which will be published in due course.

Decision:

Members noted the presentation.

Appendix A -Attendance

Position/Role	Councillor	Authority
Chairman	Cllr Anntoinette Bramble	Hackney London Borough Council
Vice-Chairman	Cllr Roy Perry	Hampshire County Council
Deputy-chairman	Cllr Lucy Nethsingha	Cambridgeshire County Council
	Cllr Gillian Ford	Havering London Borough Council
Members	Cllr Natasha Airey	Windsor & Maidenhead Royal Borough
	Cllr Susie Charles	Lancashire County Council
	Cllr Laura Mayes	Wiltshire Council
	Cllr Roger Gough	Kent County Council
	Cllr Teresa Heritage	Hertfordshire County Council
	Cllr Bob Cook	Stockton-on-Tees Borough Council
	Cllr David Mellen	Nottingham City Council
	Cllr Clare Coghill	Waltham Forest London Borough Council
	Cllr Barry Kushner	Liverpool City Council
	Cllr Carl Cashman	Knowsley Metropolitan Borough Council
	Cllr Lesley Williams MBE	Gloucestershire County Council
Apologies	Cllr Dick Madden	Essex County Council
	Cllr Megan Swift	Calderdale Metropolitan Borough Council
	Cllr John Kent	Thurrock Council

LGA location map

Local Government Association

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Tel: 020 7664 3131
 Fax: 020 7664 3030
 Email: info@local.gov.uk
 Website: www.local.gov.uk

Public transport

Local Government House is well served by public transport. The nearest mainline stations are: Victoria and Waterloo: the local underground stations are **St James's Park** (Circle and District Lines), **Westminster** (Circle, District and Jubilee Lines), and **Pimlico** (Victoria Line) - all about 10 minutes walk away.

Buses 3 and 87 travel along Millbank, and the 507 between Victoria and Waterloo stops in Horseferry Road close to Dean Bradley Street.

Bus routes – Horseferry Road

- 507** Waterloo - Victoria
- C10** Canada Water - Pimlico - Victoria
- 88** Camden Town - Whitehall - Westminster - Pimlico - Clapham Common

Bus routes – Millbank

- 87** Wandsworth - Aldwych
- 3** Crystal Palace - Brixton - Oxford Circus

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Horseferry Road Car Park
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