



Consultation Response Review of Statutory Duties Placed on Local Government

About Children England

Children England is the leading membership organisation for the children, young people and families' voluntary sector and the Department for Education's overarching strategic partner. With member organisations working in all parts of the country ranging from small local groups to the largest household names in children's charities, Children England is in a unique position to use the collective voice of the voluntary sector to achieve positive change for children. Children England provides capacity building, support and information to its members and the wide range of voluntary sector organisations working with children, young people and families. It does this by building active networks, promoting good practice, stimulating policy debate and ensuring that the issues that matter most to its members are taken up with decision makers.

Children England is committed to working alongside its members in the creation of a society where children and young people are valued, protected and listened to, their rights are realised and their families supported.

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Introduction

We welcome the opportunity to comment on these duties and we certainly understand the Government's motivation for reviewing them. However, the approach taken by the Government is rather unhelpful and certainly not conducive to a constructive and informed debate about either the burdens on local government or the responsibilities of the state more generally.

It seems odd that the Department should choose to run only an 'informal' consultation on something so key to the Government's decentralisation agenda and important to the lives of millions of children, young people and adults across the country. Given the scope of this consultation, both in terms of the pure volume of material to consider and the potential impact of any changes, it is clearly inappropriate that the Government chose not to follow best practice and ran the consultation for only six weeks, half the recommended time. That this consultation closes on a bank holiday Monday and does not even appear in the 'Consultations' section of the Communities and Local Government website are further deviations from best practice and will result in many organisations and individuals who could have made an informed contribution to the consultation missing out on the opportunity to do so.

The problems caused by this failure to follow best practice are compounded by the unstructured approach that the Government has taken. No indication has been given as to the Government's intentions, principal areas of interest or time scales for potential changes. Without knowing what the Coalition plans it is impossible to offer a constructive critique. Many of our members that would rather be concentrating on delivering frontline services are likely to waste precious hours worrying and writing about specific duties that the Government never had any intention of removing or reforming. This consultation is actually closer to a crowd sourcing exercise; processes which have generally generated plenty of heat but very little light.

Most critically, this approach completely fails to take into account the way in which individual duties are woven together to provide a safety net. Tinker with one in isolation and the whole structure could unravel. At the very least, gaps will emerge through which vulnerable individuals are likely fall. For example, the Munro review is taking a systematic approach to child protection precisely because piecemeal reforms have failed. Indeed, any review of statutory duties must reflect the work that Munro and other similar reviews have already done.

Given the unstructured fashion in which this consultation has been carried out, it is essential that any policies arising from it are subject to a further, more rigorous, consultation, lasting a full 12 weeks. We would suggest that this is done on a department by department basis, allowing for a far deeper analysis of how central government aims are delivered locally. These potentially momentous changes deserve greater scrutiny than this consultation can provide. As such, rather than commenting on every duty that should be retained, we will highlight those which are most important.

Department for Education

The list of Department for Education statutory duties contains a number that relate to safeguarding and child protection. Duties DFE_5, DFE_8, DFE_102 and DFE_103 are of particular significance. As noted in the introduction, we believe that the systematic approach taken by the Munro Review is the correct one. Tinkering with individual elements of the state's approach to safeguarding children has proven to be unsuccessful in the past. As such, we do not think that this consultation is an appropriate way of reviewing safeguarding statutory duties. Any decisions about future changes should await Munro's final report.

There are a large number of duties concerning fostering and adoption which were created primarily in the Children Act 1989 and the Adoption and Children Act 2002. This includes DFE_2-4, DFE_65-67, DFE_89-95, DFE_111-115 and DFE_169-188. As with safeguarding, we believe that all duties relating to corporate parenting should be considered in the round rather than individually. Indeed, a major consultation on care planning guidance was completed only last year with many of the proposals coming into power on 1 April 2011. These changes should be given time to bed down before further revision is considered.

Amongst the duties that relate to SEN, DFE_36, DFE_62 and DFE_166 are the most important, dealing as they do with children's access to education. Similarly, DFE_30 (which the voluntary sector has long called for) and DFE_32 are both also vital for ensuring that all children, no matter their circumstances, receive suitable, fulltime education. Finally, DFE_38 and DFE_110 in very different ways both help to deliver a high quality schooling environment.

While certainly not perfect, the experience of our members is that the statutory establishment of the Director for Children's Services (DFE_104) and Lead Member for Children's Services (DFE_105) roles has led to an improvement in management and accountability of children's services departments. For voluntary organisations working regionally or nationally this consistent structure has enabled easier engagement with multiple local authorities. Engagement has been further enhanced by the establishment of Children's Trusts and we therefore regret that the Government has signalled its intention to scrap DFE_108. The Education Bill also removes the duty on schools to cooperate. We believe that this is a mistake as it fails to recognise the impact that a wide range of public services have on the academic achievement of children. As such, it is important that DFE_106 is protected.

The Government recognised in its recent child poverty strategy that action needs to be taken at both a national and local level if efforts to reduce child poverty are to be successful. The strategy also echoed the recommendations of the Allen and Field reviews which both called for a focus on early years. Given the significant reduction in the size of central government grants to local authorities, we believe that DFE_128 and DFE_167 should be retained so as to ensure that councils continue to develop clear strategies for combating child poverty and remain focussed on reducing inequalities amongst children aged below 5. Similarly, given the removal of ringfences and the overall reduction in funding for early intervention services, it is vital local authorities continue to have a duty to provide sufficient children's centres to meet local need. These play an extremely important role in supporting families yet in a recent

survey our members reported that sure start services are amongst those hardest hit by the cuts. We therefore request that DFE_134 is protected.

As the Contact Point database was switched off in August 2010, there is no need for DFE_109 to remain on the statute book.

Ministry of Justice

As with DFE_30 mentioned above, MOJ_14-23 are vital for ensuring that vulnerable children and young people receive suitable education and training opportunities even if they are unable to attend a mainstream school. Those leaving the youth justice system are far more likely to successfully integrate back into their communities, find sustainable employment and not reoffend if they are given the opportunity to learn key skills whilst detained. The costs of removing these duties will be high for both young offenders and society as a whole.

Duties MOJ_24-45 set out the role of Youth Offending Teams (YOTs) and local authorities more generally in running youth offending services. These duties have ensured a broadly consistent approach across the country and have been a significant improvement on the previous arrangements. While setting out minimum standards, they are not so onerous as to preclude the use of local discretion and the development of more tailored solutions to meet specific community needs.

Government Equalities Office

At a time when there is considerable pressure on local budgets and rising demand for some public services, it is essential that councils should continue to think carefully about the impact of their plans on disadvantaged and minority groups. These groups are generally more reliant on public services and as such a reduction in public spending is likely to hit them harder. GEO_1-7 are vital safeguards and should be kept.

Department for Work and Pensions

With the local authorities no longer required to produce a children and young people's plan and children's trusts arrangements being weakened, we believe that it is particularly important to retain DWP_34. Local cooperation arrangements, child poverty needs assessments and joint child poverty strategies will all help to ensure that councils make suitable arrangements for supporting the most vulnerable children in their area.