



Department
for Education



Department
of Health

Promoting the health and well-being of looked-after children

Government consultation response

March 2015

Contents

Introduction	3
Summary of responses received and the Government's response	4
Main findings from the consultation	5
Question analysis	6
Question 1	6
Question 2	6
Question 3	8
Question 4	8
Questions 5, 6 and 7	9
Government response	10
Health assessments	10
Strengths and Difficulties Questionnaire (SDQ)	11
Commissioning	12
Notifications and out of authority placements	12
Mental health	13
Roles and responsibilities of designated professionals	13
Care leavers	13
Voice of the child, information sharing and consent	14
Adoption	14
Title of the guidance	14
Next steps	15
Annex A: List of organisations that responded to the consultation	16

Introduction

Statutory guidance on promoting the health and wellbeing of looked-after children was first issued by the Department of Health in 2002. This was updated jointly by the Department of Health and the then Department for Children, Schools and Families in 2009.¹

This guidance was issued under section 7 of the Local Government Social Services Act 1970, and local authorities must act under it in discharging their duties to promote the health of the children they look after (section 22 of the Children Act 1989, duty to safeguard and promote the welfare of looked-after children). It was also issued under sections 10 (cooperation to improve wellbeing) and 11 (arrangements to safeguard and promote welfare) of the Children Act 2004.

This consultation ran from 27 November 2014 to 9 January 2015. It sought views on an updated and revised edition of the 2009 guidance, which reflects the National Health Service reforms following the Health and Social Care Act 2012. In particular, it sought to ascertain whether the draft document set out clearly the roles and responsibilities of local authorities, clinical commissioning groups (CCGs) and NHS England and whether it included the essential information required to enable local authorities and health bodies to carry those out.

Consultation responses could be made online or by email. The Who Cares? Trust also organised an event to seek the views of looked-after young people and care leavers. Prior to the formal consultation, the Department for Education and the Department of Health consulted informally with a range of interested individuals and organisations, including at an event at the Royal College of Nursing and a round table discussion hosted by the National Children's Bureau.

¹ [Statutory Guidance on Promoting the Health and Well-being of Looked After Children](#)

Summary of responses received and the Government's response

There were 82 responses to the consultation. These included a response summarising the views of young people from an event organised by the Who Cares? Trust. The highest proportion of responses was received from designated health professionals (37%), most of whom identified themselves as designated nurses. Responses were also received from non-clinical managers in health service organisations, named health professionals, local authority senior managers and children's voluntary sector organisations.

The majority of respondents who answered questions one and two indicated that the guidance was clear about the roles and responsibilities of local authorities and the NHS. Of those who said it was not clear, more respondents said this in relation to the role and responsibilities of the NHS (37%) than local authorities (20%).

Particular sections of the draft guidance where more clarity was sought related to commissioning, including the role of the responsible commissioner, information sharing in relation to CCGs, the voice of the child and who should carry out a looked-after child's initial health assessment. There were other areas where respondents indicated they wanted more detailed guidance, namely on the provision of mental health services for looked-after children and use of the Strengths and Difficulties Questionnaire (SDQ).

Some respondents indicated they wanted the guidance to include:

- more information/references to research about the health needs of looked-after children
- a greater degree of prescription around the provision of child and adolescent mental health services (CAMHS)
- further detail about the content of age-appropriate health assessments
- guidance on action when doctors refuse to undertake health assessments for looked-after children placed out of authority
- more information about meeting the needs of care leavers (namely relevant and former relevant children).

The statutory guidance sets out the way in which local authorities, CCGs, NHS England and service providers should discharge their statutory responsibilities within the broad framework of primary and secondary legislation. Its purpose, however, is not to provide a summary of research evidence about the health needs of looked-after children, capture examples of good practice or prescribe the detail of how statutory functions should be implemented at local level.

Main findings from the consultation

Promoting the health and well-being of looked-after children

Most respondents indicated that the guidance was clear, though they generally felt it was clearer about the roles and responsibilities of local authorities than of the National Health Service.

Of the 82 responses received, the highest proportion of respondents (37%) identified themselves as designated health professionals for looked-after children; most of these were nurses.

The main areas of the guidance on which respondents commented were: roles and responsibilities in relation to commissioning of services for looked-after children, including who pays, the roles and responsibilities of designated and named professionals, particularly in relation to completing health assessments, and notification arrangements.

Question analysis

The consultation asked seven questions. Questions 1a and 1b, 3a and 3b and 4a were quantitative. Questions 2 and 4b, 5, 6 and 7 sought qualitative information about aspects of the draft that needed further clarification and/or would be improved by including additional information.

The following sections of this document set out the main themes that emerge from the comments provided by respondents, many of which provided helpful drafting suggestions in relation to particular paragraphs. It does not attempt to report on or respond to every individual comment received.

Question 1

1a) Is the guidance clear about the roles and responsibilities of local authorities?	Number of responses	Percentage
There were 60 responses to this question		
Yes	48	80%
No	12	20%
1b) Is the guidance clear about the responsibilities of the NHS?	Number of responses	Percentage
There were 62 responses to this question		
Yes	39	63%
No	23	37%

Question 2

Please tell us if there are any paragraphs in the guidance which are unclear, unhelpful or unnecessary.

The following points summarise the headline messages about where respondents expressed a wish for clarification:

- A recurring theme throughout responses was whether a looked-after child's initial health assessment should be undertaken by a registered medical practitioner. On the whole, designated and named nurses considered there should be more flexibility, particularly in relation to teenagers, who often refused health assessments with a doctor but were less likely to do so if they were offered by a registered nurse.

- A number of responses from named or designated nurses questioned what the guidance said about the requirement for nurses and midwives to conduct health assessment reviews under the supervision of a registered medical practitioner.
- Several respondents commented on the timescale for ensuring the initial health assessment and report and health plan were available for consideration at the first statutory review of the care plan.² They suggested that to have the health assessment and report available within 20 working days after the child started to be looked-after was unrealistic.
- Further clarification was requested in relation to commissioning arrangements and, in particular, the commissioner/provider split and the role of the responsible commissioner.
- Several respondents wanted the guidance to include more of an emphasis on the high proportion of looked-after children with mental health needs, and a greater degree of prescription around what that should mean for the provision of mental health services.
- There were mixed views on the use of the Strengths and Difficulties Questionnaire (SDQ) as a screening tool to measure the emotional and behavioural health of looked-after children. Some respondents commented that there were other screening tools available and questioned why the guidance required local authorities to use the SDQ.
- Several responses commented on the challenges involved in sharing information. They wanted more detail in relation to the notification process for children placed out of authority and moving between CCG areas. Several also highlighted the practical difficulties involved in fast-tracking the GP health records of looked-after children when they registered with a new GP.
- A significant number of named and designated nurses who responded said that looked-after children should always be registered with a GP on a permanent basis and there should never be temporary registrations.
- A number of responses indicated they wanted the guidance to apply to care leavers.

² The timescale is set out in the Care Planning, Placement and Case Review (England) Regulations 2010.

Question 3

3a) Does the structure of the guidance work for local authorities?	Number of responses	Percentage
There were 44 responses to this question		
Yes	37	84%
No	7	16%
3b) Does the structure of the guidance work for NHS organisations and professionals working with looked-after children?	Number of responses	Percentage
There were 53 responses to this question		
Yes	40	75%
No	13	25%

3c) If no, please specify how it could be improved.

The majority of respondents considered that the structure of the guidance worked for local authorities and NHS organisations and for professionals working with looked-after children. However, the proportion of respondents who felt it did not work for their professional setting was greater in relation to the NHS than for local authorities.

Where respondents felt that the guidance did not work, it was usually in the context of wanting more clarity around particular sections, such as the responsible commissioner or commissioning more generally. Other comments related to the desire for a greater degree of prescription or flexibility around certain processes, and for more information to be included in relation to ongoing responsibilities for care leavers.

Question 4

4a) Is any <u>essential</u> information missing?	Number of responses	Percentage
There were 57 responses to this question		
Yes	47	82%
No	10	18%

4b) If so, please specify.

The main areas where respondents indicated they would like the guidance to include more information were:

- health services for care leavers and transition from children's to adult health, particularly in relation to mental health services
- clarity around the timing of health assessments and notifications
- clarity around the roles of designated professionals
- commissioning arrangements between local authorities, NHS England and CCGs, in terms of which body is responsible for commissioning particular types of health care.

Other areas where more detail was considered necessary included material around health promotion (specifically tobacco, substance misuse and sexual health and pregnancy), as well as child sexual exploitation, mental health and the role of professionals such as designated teachers and Virtual School Heads.

Questions 5, 6 and 7

Whilst this guidance is not a vehicle for including examples of good practice, are there any areas where you believe it would be helpful to include more detail and context?

What other terms would you find helpful to be explained in Annex C?

Are there other useful resources that should be included in the section on 'Further information' at end of the guidance?

There was a variety of suggestions for the addition of particular resources, explanations of particular terms used and examples. A number of respondents, however, commented that, because they were likely to become out of date, it was better not to include examples of good practice within the statutory guidance.

Government response

The Department for Education and the Department of Health welcome the constructive engagement with local authorities, health professionals, the Royal Colleges, professional associations, voluntary sector organisations and others, both prior to formal consultation on the draft guidance and through the 82 responses received. Both departments are particularly grateful to the Who Cares? Trust for organising an event in order to seek the views of young people on the draft guidance.

The purpose of this statutory guidance is to set out what the law requires local authorities, CCGs and NHS England, in particular, to do in order to discharge the duties placed on them in primary legislation and associated regulations. The guidance is not intended to spell out *how* those bodies should carry out their functions.

The response to this consultation is organised under the following thematic headings.

Health assessments

There were two major themes running through comments around health assessments for looked-after children. The first was about who should conduct the initial health assessment. The second was in relation to whether the guidance should specify that, where review assessments were undertaken by a qualified nurse or midwife, they needed to be done under the supervision of a registered medical practitioner.

Respondents have argued that what is important is that the person undertaking the health assessment of a looked-after child has the right skills, competences and understanding.

The legal requirements for who carries out health assessments for looked-after children are set out in the Care Planning, Placement and Review Regulations (England) 2010:

- Regulation 7(1) requires, before they are placed (or if that is not reasonably practicable, before the first statutory review of the child's care plan) a local authority to make arrangements for a registered medical practitioner (i.e. a GP or paediatrician) to carry out an assessment of a child's state of health and provide a written report
- Regulation 7(3) requires the responsible authority to make arrangements for a registered medical practitioner, or a registered nurse or midwife acting under the supervision of a registered medical practitioner, to review the child's state of health and provide a written report of each review.

These requirements carry forward those in the 1991 Care Planning Regulations. The revised statutory guidance simply reflects the legal position. Amending the legal requirements to enable registered nurses and registered midwives to undertake initial

health assessments, or to conduct health assessment reviews without supervision, is outside the scope of the guidance and would require seeking parliamentary approval for changes to the law.

Respondents have also remarked that some children refuse any health assessments, or may decline to have them done by a doctor. Under Regulation 7(4) of the Care Planning, Placement and Case Review (England) Regulations 2010, where a child refuses consent to an assessment being carried out, if he or she is of sufficient age and understanding, the requirement to arrange for a health assessment to take place and a written report produced does not apply.

A third area on which there were a number of comments was around the timings for when health assessments needed to be available. Responses suggest there is confusion about whether the health assessment should be available within 28 days or 20 working days. The 2009 guidance stated:

The first health assessment should result in a health plan by the time of the first review of the child's care plan, four weeks after becoming looked after.

The draft issued for consultation in November 2014 used the more precise terminology of 20 working days as specified in the Care Planning Regulations, thus acknowledging that weekends were not included in the timescales.

Strengths and Difficulties Questionnaire (SDQ)

Several respondents commented on the requirement for local authorities to use the carer's version of the Strengths and Difficulties Questionnaire (SDQ) as the tool to screen for emotional and behavioural difficulties. Responses focused on two aspects. First, they suggested that the emphasis on completing SDQs was driven only by the requirement for local authorities to submit SDQ data to the Department for Education as part of the children looked after at 31 March SSSDA903 data return. Secondly, some respondents commented that the SDQ was not useful because local authorities were required only to ensure that the main carer's version of the questionnaire was completed, rather than having to triangulate the total difficulties score from the carer's questionnaire with that of the SDQs for teachers and children to complete. For this reason, some preferred to use other tools to measure emotional and behavioural needs and did not see how the SDQ data helped identify the services needed for children.

Other points made related to bureaucracy and the capacity of health professionals to undertake SDQs.

The following points seek to address the issues raised. SDQ data collection, which was introduced in 2008, is the only outcome measure for tracking at a national level the emotional and behavioural difficulties of children looked after. It is an internationally

validated screening tool, which is simple to administer. There are two issues to consider:

- For the purpose of the SSDA903 data collection, and to reduce the administrative burden on local authorities, the Department for Education's requirement is for carers, not health professionals, to complete the two page carer's questionnaire. This is very straightforward and should not require any formal training. It should also take no more than between five to ten minutes for carers to complete.
- In order to make use of the data collected, the statutory guidance states that the information from the SDQ completed by the child's carer should feed into the information that forms part of the health assessment. If local authorities wish to triangulate the SDQ completed by the carer with the version for teachers and the child himself or herself, they can do that.

We have taken account of the consultation responses in the revised version of the guidance, to spell out and explain the SDQ process in more detail. We have amended references to the SDQ in the main text and created a new Annex B, which provides further information including a link to the SDQ website. We have also been explicit that, while the Department for Education requires local authorities to use the SDQ, there is nothing to stop them from using other tools as well.

Commissioning

This was one of the main areas of the guidance on which respondents sought more clarification, in relation to the role of CCGs, the responsible commissioner and the split between commissioners and providers of health care.

The draft guidance issued for consultation has therefore been amended to:

- include a contextual paragraph at the beginning of the section on commissioning to make it explicit that CCGs are the main commissioners of health services, with the exception of certain services commissioned by NHS England, local authorities and Public Health England
- be more explicit about which commissioners are responsible for particular matters and to make the split between commissioners and providers more clear
- simplify the language in sections of the guidance around the role of the responsible commissioner, to make it less technical.

Notifications and out of authority placements

The main concern in relation to notifications for children placed out of authority was about who needed to notify whom and by when. We have therefore expanded the point about notifications in the 'Main points' section and included additional text in the section on 'The

responsible commissioner'. We have also added further information in the section on 'Placement out of authority'.

Mental health

A recurring theme in responses was a desire for the guidance to place more emphasis on the proportion of looked-after children who suffer from poor mental health and to include more prescription around provision of mental health services for them.

We have amended the guidance to:

- make it explicit that promoting the health of looked-after children includes their mental and emotional health as well as their physical health;
- highlight the high proportion of looked-after children who have poor mental health, as well as the number with special educational needs; and
- strengthen the messages about the importance of addressing the mental and emotional health of looked-after children, because of the longer term impact on their education outcomes and life chances.

Future decisions on the changes and improvements needed to improve outcomes for children and young people with mental health difficulties will be informed by the report of the Children and Young People's Mental Health and Well-being Taskforce. The Taskforce included a particular focus on the needs of vulnerable groups, including looked-after children and care leavers.

Roles and responsibilities of designated professionals

Some respondents said that the section on the roles and responsibilities of designated professionals did not make sufficiently clear the differences between strategic and operational roles. The wording has been amended to clarify that the role is strategic, although individual professionals may also provide a direct service to children and young people separate from their designated role.

Care leavers

The statutory guidance sets out what local authorities and the NHS need to do in order to discharge their duties to promote the health of looked-after children. Its scope does not extend to their responsibilities in relation to the health of relevant or former relevant children. As a result of the consultation, we have strengthened the section on care leavers to emphasise how important it is to ensure that professionals consider transition as part of pathway planning.

Voice of the child, information sharing and consent

The voice of the child should be at the heart of care planning. In several places throughout the guidance issued for consultation, the importance of the child's wishes and feelings is stressed. In the light of comments received on these matters, the guidance has been amended to include additional references to taking account of the child's wishes and feelings and obtaining the relevant consents. We have added a new annex on confidentiality and consent, reinstating material that was included in the 2009 guidance.

Adoption

Several respondents asked about progress towards adopted children being able to retain their pre-adoption NHS number. The reason for this is because important medical records may be lost as a result of these children being given a new NHS number. The Government agrees that children adopted from care should be able to retain their NHS number. There are, however, concerns about how this change could be achieved while at the same time having necessary safeguards in place to ensure a child could not be traced by his or her birth family. The Department of Health and the Department for Education will bring together representatives from the sectors to undertake a time limited project that will consider options to safeguard adopted children, whilst ensuring their previous health records are accessible to health professionals who need them.

Title of the guidance

Some respondents commented on the title of the guidance issued for consultation, in particular that it referred to promoting the 'health and welfare' of looked-after children rather than 'health and well-being'. The rationale for using the term 'welfare' was that it mirrored the wording in section 22(3) of the Children Act 1989, which places a duty on local authorities to safeguard and promote the welfare of a child looked after by them. Respondents considered that the term 'well-being' was broader and better understood. We have therefore reverted to the title of the 2009 guidance.

Next steps

The revised statutory guidance *Promoting the health and well-being of looked-after children* is being published alongside this response to the consultation on the draft.

NHS England is developing good practice guidance for dissemination when agreed.

Annex A: List of organisations that responded to the consultation

The following list is of the organisations that responded to the consultation. It does not include the names of individuals who responded but who did not indicate they were responding on behalf of an organisation.

Action for Children

Alder Hey Children's NHS Foundation Trust

Association of School and College Leaders

BAAF Health Group

Barnardo's

Blackpool Teaching Hospitals NHS Foundation Trust

Board of Deputies of British Jews

British Association for Counselling and Psychotherapy

British Association of Social Workers

Child Protection Standing Committee, Royal College of Paediatrics and Child Health

Children's Food Trust

Children's Social Care Services Ltd

College of Social Work

Cornwall Council

Coventry and Rugby Clinical Commissioning Group: Arden Cluster – responses returned from South Warwickshire NHS Foundation Trust; Coventry and Rugby Clinical Commissioning Group; Coventry and Warwickshire Partnership Trust

Coventry City Council

Cumbria Partnership NHS Foundation Trust

East Lancs CCG

Family Rights Group

Haringey CCG

Independent Children's Homes Association (ICHA)

Islington Clinical Commissioning Group

Lancashire Care Foundation Trust

Leeds Community Healthcare NHS Trust

London Borough of Newham

National Institute for Health and Care Excellence (NICE)

National Children's Bureau (NCB)

Nene and Corby CCGs

NHS England Looked After Children Safeguarding Group

NHS West Cheshire CCG; NHS Vale Royal CCG; NHS South Cheshire CCG; NHS Eastern Cheshire CCG

North Derbyshire Clinical Commissioning Group

North Lincolnshire Council

Nottinghamshire Children's Integrated Commissioning Hub

NSPCC

Office of the Children's Commissioner

Ofsted

Royal College of Nursing

Royal Cornwall Hospitals Trust

South Tyneside NHS Foundation Trust

South Warwickshire Foundation Trust

Sussex Community NHS Trust

The Children's Society

Torbay Council Public Health

Trafford Council

West Hampshire, North Hampshire and Farnham, North Hampshire, South Eastern Hampshire and West Hampshire CCGs

Whittington Health NHS

Who Cares? Trust

Worcestershire County Council



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