

By email: area.send@ofsted.gov.uk

Friday 9 September 2022

ADCS response to the Ofsted / CQC consultation on a new approach to area SEND inspections

1. The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the *Children Act (2004)*. The DCS acts as a single point of leadership and accountability for services for children and young people in a local area, including children's social care and education.

General comments

2. ADCS welcomes the opportunity to comment on the draft plans for a new area-based inspection framework for assuring special educational needs and disabilities (SEND) services and support. Whilst ADCS members are broadly supportive of sharper focus on children and young people's lived experiences and outcomes, as well as the strength of local partnership working plus collective responsibility, there are some concerns about the longevity and relevance of the proposals as well as the timing of development and introduction.
3. The current framework of area-based visits is out of date; however, the replacement is being developed and introduced at a time when virtually every aspect of the system is facing reform. The draft framework has been informed by a recent green paper outlining the government's plans to reform SEND and alternative provision (AP), yet these plans were presented as preliminary and designed to generate discussion. Similarly, the new Schools Bill is in the early stages of its passage through parliament, meaning it is still subject to amendment and change and we await the government's full response to the *Independent review of children's social care*. Relatedly, integrated care systems and boards went live over the summer and a new inspection regime for adult social care is in the process of being developed, which is relevant to the older cohort of 18 – 25-year-olds with SEND.
4. In short, the health, children's social care, education and SEND systems are being reformed and the shape and scope of many of these reforms are still to be determined; we await the outcome of a public consultation about the plans contained within the SEND and AP green paper. ADCS members are concerned that the new framework will rapidly date in the same way the local area visits did. Instead, a programme of thematic visits could be used to fill the gap between the end of the old framework and the finalisation and introduction of the new one to support learning in the system and to inform ongoing reforms.

Specific feedback

5. Greater focus on impact is helpful, the criteria for evaluating impact is broadly in the right space, however, it feels impossible to overlook the fiscal context local areas find themselves in light of the very significant High Needs Block funding deficits and the extensive support now being provided by government to more than half of local authorities via the Safety Valve and Delivering Better Value programmes. See paragraph 12 for further related comments on alternative provision (AP) criteria.

6. ADCS members have raised concerns about the three proposed outcomes from this new inspection and the unintended consequences these de facto judgements may have on the system. From impacting on parental confidence and the morale of the workforce to increasing demand. This is a highly complex area of work; a narrative judgement is preferable as it can draw out strengths in local services, systems and partnerships as well as weaknesses or challenges. If judgements or outcomes are taken forward, some ADCS members expressed concern that outcome two 'inconsistent experiences' was overly negative in its framing while others noted the risks of a bias towards the middle judgement where there are only three, noting this was the rationale for Ofsted using four grades in other regulatory work.
7. Making headline judgements in the context of the SEND review and related green paper acknowledging there is: "widespread recognition that the system was failing to deliver," does not seem appropriate. There are significant concerns about the threshold for the 'widespread and/or systemic failures' outcome too. The draft guidance implies that just a single area of priority action could result in this grading. This calibration does not feel right and it is unclear how this threshold relates to the current Written Statement of Action under the existing framework.
8. More positively, there was support in the feedback received for the allocation of specific actions to specific agencies, under the current framework the local authority is frequently held accountable for the whole system, even when levers and decisions to influence change are outside of our direct control. The proposed changes to the make-up of inspection teams are a positive development and could support a greater shift towards collective responsibility. It was noted that the publication of area inspection outcomes on the CQC website would send a similar signal, at the present the outcomes of SEND area visits are only published on the local authority pages of the Ofsted website. Finally, it would be interesting to consider the role of central government departments and agencies here in responding to common challenges and issues identified in different areas, including financial challenges, exclusive practices in schools and waiting times for diagnostic or treatment services.
9. As already noted, there are very significant resourcing challenges within the system; the funding picture is difficult, there are ongoing challenges in recruiting and retaining caseworkers, with caseloads running into the hundreds. A number of ADCS members flagged concerns about the impact of introducing this new inspection on the workforce. ADCS has previously raised the need for focus and investment in caseworkers with government, they fulfil a vitally important role in liaising with families and coordinating other agencies and professionals.
10. The strategic plan is a new duty included in the green paper, if taken forward, this will become business as usual over time and it makes sense for it to be updated to take into account inspection activity. In the areas visited early in the cycle it will be important to balance this expectation with the fact this is not yet formally government policy and/or a requirement of local areas.
11. ADCS supports efforts to include children and young people's voices and experiences as part of inspection activity. The proposed sample size of six children is too small to draw conclusions from, although it is acknowledged that this will be cross referenced with surveys with children, parents and carers as well as the professionals working within the system. It is positive that there is a focus on children's feedback as ADCS members report that children's own feedback can differ from that of their parents and carers. Families who have had poor experiences of planning and/or the provision of support are more likely to

respond to surveys so feedback routes should be designed to achieve balanced feedback via high response rates to allow for a comprehensive picture of performance. In terms of the practicalities of administering a survey to children and young people with SEND, allowing maximum time for completion will assist in gathering responses as will the production of resources in different formats or languages.

12. Whilst AP was included within the green paper, there was mixed feedback from the ADCS membership about its inclusion here, with some feeling the scope was already too broad. Others felt the primary focus on LA commissioning and oversight of this provision above the quality of children and young people's experiences and the outcomes achieved was not quite right. Some felt this would be more appropriately dealt with via a strengthened focus in the inspection of education settings, others felt inclusion here makes sense if the plans included in the green paper are taken forward. Plans in both the green paper and the draft framework around transitional placements feel contradictory to inclusive aims and may further add to capacity pressures whilst disadvantaging pupils.
13. Overall, ADCS members felt that a strengthened focus on the role of schools and education settings is needed within the framework, whilst local authorities develop education, health and care plans, education settings are largely the mechanism through which support is delivered. On AP, existing school inspection activity and judgements could usefully be drawn in here to form a system level view of inclusion at all levels and stages of education. ADCS would support closer alignment with the frameworks for regulating schools and education providers, a higher profile for inclusion within the EIF in the future would be welcome.
14. On monitoring inspections, the proposal to undertake a visit at 18 months before a full reinspection at the three-year point was felt to be broadly proportionate and helpful in terms of burdens whilst offering local partners greater certainty; under the current framework revisits have taken several years. As with children's social care, it would be helpful for the inspectorates to take into account sector-led improvement work as well as engagement with the DfE's burgeoning support offer in this space.
15. The introduction of an annual engagement meeting is helpful but care should be taken to limit burdens and duplication with the annual conversation attached to the inspection of children's social care services.
16. To follow up on any specific points or comments within this response, please contact the relevant ADCS policy officer in the first instance via katy.block@adcs.org.uk