

Monday 27 November 2017

By email: CSWACT.CONSULTATION@education.gov.uk

Consultation on changes to statutory guidance for local authorities and designated teachers

1. The Association of Directors of Children's Services Ltd. (ADCS) welcomes the opportunity to respond to the consultation on the proposed changes to statutory guidance for virtual school heads (VSHs) and designated teachers (DTs) in schools to promote the education of children currently, or formerly, in care. ADCS is the professional association for directors of children's services (DCS) and their senior management teams. Under the provisions of the Children Act 2004, the DCS is the chief officer responsible for the discharge of local authority functions with regard to education, children's social care and wider services for children and families.
2. The two documents out for consultation clarify new powers and duties introduced under the Children and Social Work Act (2017) in relation to the educational outcomes of children currently (and previously) in care. The updated guidance also includes information on the use of Pupil Premium Plus, promoting positive mental health and building interagency relationships.
3. ADCS believes the wording around the role of VSH could be stronger in several areas, for example, the draft guidance states that where a school has a concern about a child in care's behaviour, the VSH should be involved "where necessary," and that the VSH should "normally" be consulted on a school place. ADCS members report that a small but worrying number of academy and free schools have previously been reluctant to admit children in care due to additional learning or behavioural needs and/or lower educational attainment. It is essential that the final version of this guidance makes clear such behaviours are unacceptable. Linked to this the process for appealing against a decision not to admit with the Education and Skills Funding Agency (ESFA) can be lengthy and requires urgent review. Every single day out of education has an impact on a child's outcomes. ADCS members support the DCS being given the powers to direct all schools to admit a child in care (these powers could then be delegated to the VSH).
4. The new legislation brings academy schools under the statutory framework, this is welcome and ADCS believes the final version of this guidance should make this clear. For example, the draft guidance states: "The VSH should proactively build positive relationships with local academies and non-maintained provision regards the admission, support and behavior management of looked after children." It would be helpful if the duties of all schools in relation to children in care were clearly articulated as well e.g. proactively working with the virtual school, and a clear route of escalation outlined where concerns arise e.g. via the ESFA.
5. Several local authorities have already expanded the role of their virtual school to support children and young people who have been adopted. Whilst we welcome a focus on those who have left care, and remain vulnerable, it is unclear how the VSH

will be able to identify all of the children who have previously been in care elsewhere but are now living in their area or children who have been adopted from overseas.

6. It is important that the final version of the guidance clearly sets out what schools, adoptive parents and guardians can reasonably expect of the VSH, so that they understand their rights. ADCS members report adoptive parents and special guardians are already getting in contact with the virtual school to discuss their entitlements as this consultation has raised awareness of the expansion of the VSH's role and remit. A distinction therefore must be made between signposting, strategic interventions and casework. The expanded role of the VSH has significant resourcing implications and it is likely additional staffing capacity will be required to deliver these new duties. Individual ADCS members have suggested the expansion of the VSH's role may double the cohort the VSH is tasked with overseeing. This is a new burden and must be funded as such to have the desired impact on children and young people's progress and outcomes.
7. The guidance states this new duty relates to "previously looked after children who are in education in the area served by the VSH irrespective of where the child lives," to overcome the need for education settings to work with more than one VSH and minimise cross-border complications, however, this approach may result in a loss of history, break longstanding relationships and may duplicate existing arrangements. Children who have been adopted are eligible for support for up to three years from the date of the adoption order. It would be helpful if this was addressed in the guidance and if the views and wishes of children and their families could be included. The guidance should also recognise that parents or guardians may not wish to take up the offer of this support.
8. High level information on the use of Pupil Premium Plus for children in care is included here for the first time. This is helpful, however, the final version of the guidance would benefit from the addition of more detail on good practice in line with recommendations previously made by the Public Accounts Committee and the National Audit Office. Further, the guidance does not contain any specific information about the use of the Pupil Premium Grant - and how this differs from other forms of funding. It is not acceptable that schools can plan to use their funding over a number of academic years but the virtual school can't, the DfE should look to correct this disparity and enable funds to be carried forward by the VSH.
9. For children who have left care this funding is managed by the child's school. If the VSH is now responsible for the outcomes and achievements of this cohort of children, then they will need to understand how the grant will be utilised and should therefore be consulted on the school's spending plans. Funds for children who have left care are un-ringfenced which may make it more difficult for the VSH to understand how these monies are being spent and the impact this investment is having on children's outcomes.
10. In early 2016, the Departments for Education and Health set up an Expert Working Group to look at the mental health needs of children and young people currently and previously in care, as well as care leavers. The group has now reported and recommended the creation of an accountable, independent virtual mental health lead

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(VMHL) in each local area modelled on the role of the VSH. The primary responsibility of the VMHL would be to provide leadership and oversight of the local system, it is unclear why this recommendation has not been referenced here given the significant traumas children in (or who have left) care may have experienced in their early lives, including abuse, neglect or the loss of an immediate family member. Whilst the VSH can signpost families to sources of information and support, increasing pressures in children and adolescent mental health services mean that timely interventions are often not available when and where they are needed. ADCS suggests this section requires further discussion with the Department of Health.

11. It is important that the Designated Teacher (DT) in all schools is a qualified teacher with sufficient seniority to positively influence children's outcomes. The DT should have an understanding of the Children Act (1989) as amended by the Children and Families Act (2014) and basic social care procedures. It might be helpful for the final draft of the guidance to place a greater emphasis on collaborative working with all professionals involved with children in care e.g. the VSH, independent reviewing officer etc, and provide an overview of their role. The DT should have an appreciation of attachment and trauma and make sure their policies and school ethos reflect this. It would also be helpful if the guidance noted that dedicated time must be set aside to fulfil this demanding role. Finally, DTs work with children from age three up to 18 years in schools, it would be helpful if this extended to cover further education institutions as well given the raising of the participation age to 18 years.
12. Finally, clearer links to the Department for Education's (DfE's) new corporate parenting principles, the local offer, and the extension of personal adviser support for care leavers to the age of 25 might usefully be made here.
13. For further information, please contact Katy Block, ADCS Policy Officer, katy.block@adcs.org.uk.