

Department for Education Consultation: Powers to Delegate Children's Services Functions
South East Strategic Leaders and South East England Councils response

Summary

1. This is a response of South East Strategic Leaders (SESL) and South East England Councils (SEEC). Together SESL and SEEC promote the views and interests of all tiers of government across the South East, representing over 8.7m residents. This submission should be considered alongside separate member responses, which highlight the particular views and concerns of individual authorities.
2. Councils should have maximum flexibility and local discretion to determine how best to deliver children's services. SESL and SEEC broadly support the draft regulations, which should give greater powers to councils to choose, from a broader range of options, how best to provide children's services.
3. Within the existing legislative framework, councils are already exercising freedom and flexibility to innovate and drive improvements in children's services. While we welcome Government's intention to give councils even greater powers to develop new delivery models, it is not the case that innovation only takes places in a context of failure and as a result of Government direction. Through its Children's Services Innovation Programme and other channels, Government should recognise and further incentivise councils to make the most of existing opportunities.
4. Democratically accountable local authorities are best placed to drive improvement in children's services. Even where facing failure, councils should retain local discretion over how their children's services functions are provided. The Department for Education (DfE) should support councils to follow the path of improvement determined by its political leadership, helping to broker sector-led improvement arrangements where this is the council's preferred response.
5. Government should help to build capacity within the sector so that more good and outstanding councils are enabled to support those that are deemed inadequate. Building on successful examples of sector-led improvement in the South East will result in a benefit-ripple that helps to raise the performance of all councils, enabling those who are good to become even better.
6. Draft regulations should ensure that elected members retain their leadership of and accountability for children's services, as well as their position as Corporate Parents. The disaggregation of services should not dilute effective local partnership arrangements or joint working.
7. Where a commissioning route is chosen, councils will need to invest in training so that staff can effectively commission services in more complex areas of children's services. The market will also take time to develop and Government should take action to encourage a range of experienced providers that can take on the full breadth of services for children.
8. Proposed regulations do not include sufficient checks and balances to quality assure commissioned provision. These could be strengthened by requiring Ofsted to inspect all providers of children's social care services, not just local authorities as primary commissioners.
9. Proposed regulations do not safeguard against the potential for perverse incentives and distorted decision making by profit-making private sector companies. Nor do they include mechanisms to safeguard children in the event of market / corporate failure.
10. Introducing alternative service delivery models can be a positive driver of improvement but it is also important to ensure Government makes adequate funding available to support rising demand for children's social care.

Main Submission

1. Introduction

1.1. This is a response of South East Strategic Leaders (SESL) and South East England Councils (SEEC). Together SESL and SEEC promote the views and interests of all tiers of government across the South East, representing over 8.7m residents. Our members have differing local perspectives on alternative models of service delivery and how best to meet the needs of their local communities. This submission should be considered alongside separate member responses, which highlight the particular views and concerns of individual authorities.

2. Councils should have maximum flexibility and local discretion to determine how best to deliver children's services

2.1. SE Councils take their corporate parenting role and statutory responsibilities for ensuring the safety and wellbeing of children extremely seriously and are accountable to communities for outcomes. As democratically accountable bodies, with sound community knowledge and strong relationships with public sector partners, councils are best placed to determine how to provide children's services locally and should have maximum flexibility to exercise their local discretion. **SESL and SEEC broadly support the draft regulations, which should give greater powers to councils to choose, from a broader range of options, how best to provide children's services to meet local circumstances without the interference of the Secretary of State.**

3. Councils are already exercising freedom and flexibility to innovate and drive improvements in children's services

3.1. **While we welcome Government's intention to give councils even greater powers to innovate in the delivery of children's services, it is not the case that innovation in service delivery models 'only takes place in a context of failure and as a result of Government direction'. Within the existing legislative framework, South East councils are already making use of existing freedoms and flexibilities to innovate in the way they discharge their children's social care functions.**

3.2. Under the Troubled Families initiative, our member authorities have redesigned and improved aspects of their children's services, particularly early help. Wiltshire council, for example, has remodelled its Referral and Assessment service building on system redesign achieved in 2010. The council's family support service, 'Wiltshire Families First', is commissioned by the council and run by children's charity Action for Children.

3.3. In Buckinghamshire, a new education charity, 'Buckinghamshire Learning Trust', has been established to deliver school improvement and educational support services in Buckinghamshire and surrounding areas. The 'user mutual' has a Service Level Agreement with Buckinghamshire County Council to deliver performance outcomes in return for grant funding.

3.4. In the wider South East region, London Boroughs Richmond and Kingston have established 'Achieving for Children' – a community interest company, wholly owned by the two London Boroughs, set up to deliver a range of children's services. Income generated by the company will be fed back into service delivery to enhance outcomes for children and young people across the boroughs.

3.5. These examples illustrate that there is already considerable scope for councils to enter into a range of innovative partnership arrangements to deliver improved children's services. **Through its Children's Services Innovation Programme, and other channels, Government should recognise and further incentivise councils to make the most of existing opportunities.**

4. Local authorities are best placed to drive improvement in children's services

- 4.1. The localist thrust of the proposed regulations stands in contrast to recent examples where the DfE, in response to failure, has sought to impose alternative service delivery models on councils, which remove services from under direct local authority provision. This centrally imposed response to failure contradicts localism and can negatively impact on councils as a whole, fragmenting services and, where small unitary authorities are concerned, affecting councils' financial viability and capacity to provide services to the rest of their population.
- 4.2. Where a council is facing failure, DfE should work with that council to understand the impact of any proposed change on the whole council and its communities. **Even where facing failure, councils should retain local discretion over how their children's services functions are provided.** DfE should support councils to follow the path of improvement determined by its political leadership, helping to broker sector-led improvement arrangements where this is the council's preferred response.
- 4.3. In the South East, Hampshire county council has been supporting Isle of Wight council to improve its children's services since summer 2013. Ofsted's recent inspection of Hampshire's children's services function concluded that this arrangement 'has not compromised performance in Hampshire' and is mutually beneficial, with learning from the experience being used to re-evaluate aspects of Hampshire's children's services. This example illustrates that strong sector-led improvement approaches can offer wider benefits that would be lost if inadequate services were simply outsourced to the private sector. There is a strong desire across the South East to be able to support these kinds of arrangements. **Government should help to build capacity within the sector so that more good and outstanding councils are enabled to support those that are deemed inadequate. Building on successful examples of sector-led improvement in the South East will result in a benefit-ripple that helps to raise the performance of all councils, enabling those who are good to become even better.**

5. Areas requiring further consideration

- 5.1. There are several important issues arising from the draft regulations that need further consideration. Firstly, **draft regulations should ensure that elected members retain their leadership of and accountability for children's services, as well as their position as Corporate Parents.** Democratically accountable local authorities should continue to carry the overarching responsibility for children's services.
- 5.2. Secondly, **it is important that effective local partnership arrangements and joint working are maintained.** Local authorities have developed strong relationships with a range of local partners and are leading the local integration of services, an approach lauded by the Government and the Troubled Families programme. Councils are also longstanding institutions that bring continuity to service provision. Councils' strategic links to adult services and responsibilities for public health also help to ensure joined up working at key points of transition, helping to deliver consistent care pathways for young people and better outcomes. **It is important that the disaggregation of local authority services does not dilute these arrangements, resulting in fragmentation and service instability.**
- 5.3. Thirdly, councils that choose to delegate children's services, including high risk areas such as child protection, will **need to invest in training so that staff are equipped with the skills and capacity to effectively commission services in this more complex field.** The market will also take time to develop and **Government should take action to encourage a range of experienced providers that can take on the full breadth of services for children.**

6. Ensuring proper checks and balances

- 6.1. **The regulations as drafted do not include sufficient checks and balances to quality assure commissioned provision.** Where adult social care services are commissioned to third party providers, the Care Quality Commission inspects all providers, not just local authorities as the primary commissioners.

- 6.2. To apply the same approach to children's services, thereby strengthening the draft regulations, Ofsted should be required to quality assure all providers of children's services, not just local authorities. **There needs to be clarity about the national Quality Assurance system and inspection regime.**
- 6.3. Similarly the regulations do not safeguard against the potential for perverse incentives and 'gaming' of targets. **Outsourcing services to profit-driven private sector companies could distort decision making around life altering decisions**, such as whether or not to take a child into care. Councils, in contrast, are driven by the public good, not maximising value for shareholders. This was a particular concern highlighted by Professor Eileen Munro's review of child protection. **Mechanisms are also needed to safeguard children in the event of market and / or corporate failure and to avoid damaging public trust in the integrity of child protection services.**

7. Other enablers of improvement

- 7.1. **Introducing alternative service delivery models can be a positive driver of improvement but it is not the only one. Government could do more to improve services for children and young people by providing adequate funding to meet rising demand for children's social care.** Over the past three years the Local Government Association estimates that councils have absorbed £10billion worth of cuts. A recent member survey by the Society of Local Authority Chief Executives (SOLACE) indicates that since 2010 councils have cut funding for children's services by 10-15% on average. Against this backdrop, South East councils face increasing demand for services; between 2009 and 2013, the number of Looked after Children in the South East increased by 1,160, the largest regional increase. Councils have innovated and improved their offer to families and children but we are limited in what we can achieve by the funding envelope we receive from Government. New initiatives, like the Children's Services Innovation Programme, are welcome but we need sustainable funding from Government to drive continuous improvement over the long term.

South East Strategic Leaders

South East Strategic Leaders (SESL) is a partnership of upper tier authorities committed to nurturing the engine room of the UK economy and promoting public service excellence. SESL supports its members to create the conditions within which individuals, communities and businesses thrive. We aim to:

Influence – speaking with a stronger, united voice for South East strategic councils.

Inform – producing robust evidence relevant to practice.

Inspire – connecting people, sharing ideas, sparking innovation.

SESL is chaired by Cllr David Burbage MBE, Leader, Royal Borough of Windsor and Maidenhead.

Officer Contact: Philippa Mellish, SESL Policy Manager – philippa.mellish@hants.gov.uk - 07841 492507. For more information visit <http://www3.hants.gov.uk/sesl> Follow us on twitter: @SESLeaders

South East England Councils

South East England Councils (SEEC) was established in 2009. It is a membership organisation representing all tiers of local authority. The SEEC area covers Berkshire, Buckinghamshire, East and West Sussex, Hampshire, Isle of Wight, Kent, Oxfordshire and Surrey. SEEC's objectives are:

- To strive for a fair funding deal for the South East
- To promote the South East's position as a leading global economy
- To act as single democratic voice for South East interests
- To monitor the pulse of the South East.

SEEC is chaired by Cllr Gordon Keymer CBE, Leader of Tandridge DC.

Officer contact: Heather Bolton, SEEC Director – heatherbolton@secouncils.gov.uk - 07966 865525. For more information visit www.secouncils.gov.uk