

**From:** Roger Gough, Cabinet Member for Children, Young People and Education  
Andrew Ireland, Corporate Director of Social Care, Health and Wellbeing

**To:** Children's, Young People and Education Cabinet Committee – 22 November 2017

**Subject:** CHILDREN AND SOCIAL WORK ACT 2017: CONSULTATION ON DRAFT STATUTORY GUIDANCE, SECTIONS 1-3

**Classification:** Unrestricted

**Previous Pathway of Paper:** None

**Future Pathway of Paper:** None

**Electoral Divisions:** All

**Summary:** On 16 October 2017 The Department for Education (DfE) published draft guidance to accompany Sections 1-3 of the Children and Social Work Act 2017. These statutory guidelines are currently out for consultation.

**Recommendation:** The Children's Young People and Education Cabinet Committee is asked to **NOTE** the content of the report and **REVIEW** the draft Kent County Council response to the consultation questions.

## 1. INTRODUCTION

- 1.1 On 16 October 2017, The Department for Education (DfE) published draft guidance to accompany Sections 1-3 of the Children and Social Work Act 2017. These statutory guidelines are currently out for consultation.
- 1.2 The following paper outlines the main provisions in each set of guidance, their potential implications for KCC and ends with the draft KCC response to the consultation questions attached as Appendix A.

## 2. BACKGROUND

### 3.

- 2.1 The Children and Social Work Act was developed as the main vehicle through which a number of high-profile Government reforms to children's social care could be put on a statutory footing. However, whilst the Act itself received Royal Assent in April 2017, it remained a piece of 'skeletal' primary legislation i.e. the majority of the provisions were yet to be enacted.
- 2.2 In late September 2017, the Secretary of State (SoS) exercised the powers conferred by Section 70(2) and (3) of the Act - commencing the (Children and

Social Work Act 2017 (Commencement No. 1) Regulations 2017). These relate to: Section 8 (Care Order, Permanence and Provision); Section 9 (Adoption, Duty to have Regard to Relationship with Adopters); Section 33 (Power to Secure Proper Performance in combined authorities); and Section 42 (Improvement Standards – allowing the SoS to determine and publish improvement standards for social workers in England and to carry out assessments as to whether these standards have been met). However, these provisions relate to elements of the Act which had already been set out in some detail prior to their publication.

- 2.3 In October 2017, Government published the draft regulations summarised in this paper. These provisions relate to sections in the Act about which there was previously little detail.

### 3. CORPORATE PARENTING

- 3.1 The 'Applying Corporate Parenting Principles to Care and Pathway Planning' draft guidance sets out the application of corporate parenting principles and the role that local authorities play in this regard in law for the first time. The guidance relates to Section 1 of the Act.
- 3.2 This guidance states that all local authorities - **both Counties and Districts** - must have regard to the needs of all Children in Care (CiC) and Care Leavers (relevant and former relevant children) **whether they are or were the local authority looking after a particular child/young person**. The guidance also **applies to the whole local authority**, not just the Council's children's services functions, and from the Chief Executive Officer (CEO) and elected Members down to front-line staff on the ground. It is expected this will create 'a strong corporate parenting ethos' that is 'not just about keeping children safe, but also promot[ing] recovery, resilience and wellbeing.'
- 3.3 It is proposed that local authorities will need to demonstrate they are fulfilling their responsibilities by adhering to the 'seven needs' or principles identified in relation to a Council's work with CiC and Care Leavers. These are:
- a. to act in the best interests, and promote the physical and mental health and wellbeing, of those children and young people
  - b. to encourage those children and young people to express their views, wishes and feelings
  - c. to take into account the views, wishes and feelings of those children and young people
  - d. to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners
  - e. to promote high aspirations, and seek to secure the best outcomes, for those children and young people
  - f. for those children and young people to be safe, and for stability in their home lives, relationships and education or work; and
  - g. to prepare those children and young people for adulthood and independent living.

- 3.4 These principles are not new requirements, but are set out in statute ‘to help Local Authorities (LA) understand and fully comply with existing duties across the whole of their services as they discharge those duties to Looked After Children (LAC) and Care Leavers.’ As part of this, Government wants to see evidence that the principles are not being applied ‘formulaically’, but that they are having a material impact on how services are being delivered in relation to children and young people and on the ‘mind-set and culture of every part’ of the organisation.
- 3.5 Whilst these duties relate to both tiers of local government, it will be up to Counties to ensure they make arrangements to facilitate closer working – though Districts will be required to act in accordance with the corporate parenting principles and to consider how they apply them when exercising their functions. Likewise, whilst these duties relate only to local authorities, it is expected that the CEO and Director of Children’s Services (DCS) should work with other agencies to encourage them to support their LAs in this aim. **Therefore, council leaders should work to foster a shared understanding of the needs of CiC and Care Leavers across the LA and develop multi-agency strategies which take into account the needs of this cohort.**
- 3.6 The DfE considers the following service areas are those which the corporate parenting principles are of most relevance: **education, social care, housing, libraries, leisure and recreation, strategic policies (such as health and wellbeing plans) and local tax collection.** The other types of service provided by local authorities (including highways, transport planning, passenger transport, environmental health, waste collection, waste disposal and town and county planning) should consider the principles but not necessarily apply them or apply them only in a limited way, commensurate with their method of provision.
- 3.7 Local authorities will further be expected to:
- Publish information about the services they offer which may assist Care Leavers to make a successful transition to independence (including those that an authority has the power to provide but which are offered by others)
  - Obtain feedback from CiC and Care Leavers to assess how effectively they are discharging the principles in practice
  - Review the way in which they operate their corporate services in relation to the principles e.g. by ring-fencing apprenticeships for Care Leavers, in the development of JSNAs and Joint Health and Wellbeing Strategies, and in enabling CiC and Care Leavers to access sports, leisure and cultural services to promote their wellbeing. At a strategic level, local authorities may also wish to consider working with a regional network for collaborative outreach
  - Make arrangements to ensure that no CiC is refused a mental health or other health service on the grounds of their placement being short-term or unplanned

- Ensure their social workers, children’s carers and personal advisers (PAs) have the skills and training to help CiC and Care Leavers access the appropriate services
- Have regard to the need to encourage the views, wishes and feelings of CiC and Care Leavers, regardless of their age or circumstance, and use these views to help inform the design and delivery of services (particularly the local offer to Care Leavers)
- Ensure there are formalised transition arrangements for Care Leavers into adult services and that children placed out-of-authority receive the support they need in a timely way.

3.8 The guidance includes a set of example questions which LAs should ask themselves, to ensure they are delivering the corporate parenting principles effectively (see Appendix B).

3.9 To support this guidance, the DfE will shortly be introducing a ‘care leaver covenant’, that will enable organisations to make commitments to Care Leavers within the spirit of the corporate parenting principles in a way that is most appropriate to them.

#### 4. LOCAL OFFER

4.1 The ‘Local Offer Guidance’ relates to Section 2 of the Act. This will require local authorities to consult on and publish a local offer for their Care Leavers.

4.2 **The local offer should provide information about all the services and support that is available to Care Leavers in the local area where they live.** It should include information about their statutory entitlements, as well as any discretionary support that a LA might choose to provide. It should be readily available and accessible, including to Care Leavers with learning disabilities.

4.3 The local offer can include details of the services and support that the LA provides in relation to:

- **Health and wellbeing:** this will include services that teach about, support and enable good health and wellbeing. LAs should include links to, or information about, universal health services that might be particularly relevant to Care Leavers, as well as specific services for them
- **Relationships:** LAs will want to consider the services and/or support that is available to help Care Leavers develop and maintain positive social networks and to understand what positive relationships look like
- **Education and training:** Care Leavers should be supported to access appropriate education or training that will enable them to fulfil their goals. This will include the statutory support available to Care Leavers, specific support from the local authority and universal information such as careers advice and financial support for young people

- **Employment:** this will include information to Care Leavers about general employment support, such as careers support and links to local Job Centre Plus. LAs should also include any other employment support that they or partners deliver that is specifically available to Care Leavers, for example, any apprenticeships that the local authority offers, in particular where such opportunities are ring-fenced for Care Leavers
- **Accommodation:** Care Leavers should be supported to access appropriate and suitable accommodation. The LA should include relevant information about their Staying Put policy, the support available from Housing Services and any financial assistance that is available to Care Leavers
- **Participation in society:** this will include links to and information about activities or events happening in the local area that Care Leavers can get involved in.

4.4 When developing their local offer, LAs will be expected to consult with as many 'relevant persons' as possible e.g. Care Leavers and organisations or people that represent Care Leavers, in order to ensure their offer is meaningful and reflects the needs and wishes of their young people. **LAs will be required to publish their local offer between 6-9 months following commencement of this guidance.** All offers should be regularly reviewed to ensure the services provided reflect what Care Leavers need most. Furthermore, young people must be consulted prior to the publication of an updates to the offer.

4.5 It is worthy of note that the guidance proposes the provision of suitable housing *can* be reflected in the care leaver offer (though it does not make this compulsory). Best practice examples may include: specialist advice on housing options prior to leaving care; housing authorities choosing to give reasonable preference to Care Leavers in social housing allocations; preventing homelessness amongst Care Leavers and – where a Care Leaver does become homeless - taking action to assist the young person to secure accommodation and providing intensive support to help Care Leavers maintain tenancies, including training on managing their finances and avoiding rent arrears; and taking a corporate decision to exempt Care Leavers from paying Council Tax.<sup>1</sup>

4.6 An example local offer document has been published alongside the draft guidance, for review. This document is included for reference at Appendix C.

## 5. PERSONAL ADVISERS

5.1 As per Section 3 of the Children and Social Work Act 2017, the last set of guidance relates to the **extension of personal adviser support to all Care Leavers under the age of 25**. Under the new provisions, LAs will be required to offer all Care Leavers with PA support up until 25, irrespective of whether or

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<sup>1</sup> The guidance also reinforces that Care Leavers should be considered a priority need group in relation to homelessness legislation. The new provisions do not replace these duties.

not they are engaged in education or training. **This will include Care Leavers who return to the local authority at any point after the age of 21 up until the age of 25 and who request PA support.**

5.2 **This does not mean that all Care Leavers will need this support;** indeed, the new duties are designed to be flexible to the needs of each young person. It is therefore recognised that LAs will not necessarily need to provide the same level of support to Care Leavers aged between 21 and 25 as they do to Care Leavers aged 18-20. Rather, there is an expectation that support needs will taper over time. Nonetheless, it is stipulated that the new corporate parenting principles will be exercised in relation to this cohort; that LAs will be required to assess Care Leavers' needs and to develop and review a pathway plan for them if requested; and that PA support can be requested anytime up until the age of 25 – even if a young person had previously indicated they did not want it.

5.3 Further details include requirements that:

- All Care Leavers should know their PA and how to contact them
- Needs assessments should be proportionate and take into account the type of issues upon which the young person is making a request for support
- If the young person does not want or require support on an ongoing basis, the case can remain inactive until the care leaver makes another request for assistance
- The frequency of contact between PAs and Care Leavers will vary depending on the nature of each individual's circumstances
- If a PA considers that a young person needs support to avoid putting themselves at risk of harm, the PA may continue monitoring the welfare of the care leaver and to take appropriate action as necessary
- Although there is no requirement to proactively keep in touch with all young people aged over 21 up to age 25, the new duty will require LAs to make Care Leavers aware they can continue to request PA support as soon as possible after the person turns 21 and on at least an annual basis thereafter
- Any services or support offered by other LA Departments (such as Adult Social Care) should continue, unaffected by the extension of PA support
- **The new support should be provided to Care Leavers who reach the age of 21 after the new duty commences.**

5.4 The DfE is currently developing proposals in relation to data collection, but is working on the premise that they will only require data relating to young people who have requested support.

## **6. RECOMMENDATIONS AND NEXT STEPS**

6.1 The consultation questions and draft responses are set out at Appendix A for information and review.

6.2 It is proposed that the Council considers what actions and preparation it needs to undertake in order to successfully implement the new duties,

including in relation to our corporate parenting provisions; local offer; the structure and capacity of its PA teams to meet the requirements of the new duty; how we can best communicate the new duty within the LA and to partner agencies; and whether adaptations will need to be made to existing data and information systems, as well as policies and practice. Particular consideration may need to be given in relation to: independence training support and 'offer'; how the Council will discharge these responsibilities in relation to young people placed out of county (as well as implications in relation to Other Local Authority young people living in Kent); and how the Council can best work with colleagues in District Councils in relation to housing provision. It is furthermore suggested that the Council draw on the process of developing the local SEND offer, in order to harness the experience and lessons learned to inform development of the Care Leaver Local Offer.

- 6.3 As such, a separate project will be undertaken to comprehensively assess how the new requirements are likely to impact on us as an organisation and what the Council will need to do to implement the changes, including expectations in terms of human and financial resourcing. A separate paper will therefore be brought to the Committee outlining these implications in more detail in the New Year.
- 6.4 The consultation will run until 27 November 2017. To view the full consultation suite, please click [here](#).

## 7. Recommendation

7.1 Recommendation: The Children's Young People and Education Cabinet Committee is asked to <b>NOTE</b> the content of the report and <b>REVIEW</b> the draft Kent County Council response to the consultation questions.
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## 8. Background Documents

None

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