

EXPLANATORY MEMORANDUM TO

THE CARE PLANNING, PLACEMENT AND CASE REVIEW (ENGLAND) REGULATIONS 2010

2010 No. 959

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations bring together in one instrument provisions about the way local authorities plan and review the care of “looked after children” in England. A looked after child is a child who is in the care of a local authority by virtue of a care order or a child who is provided with accommodation by a local authority in the exercise of their social services functions (with some exceptions).

2.2 These are in part consolidating Regulations which revoke and replace three earlier instruments relating to the care of looked after children.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 These Regulations apply in relation to children who are looked after by a local authority in England, regardless of the type of placement they are in (whether, for example, a placement with a parent, with a local authority foster parent, in a children’s home, or in other accommodation). This includes ‘eligible’ children (children who are looked after by a local authority, are aged 16 or 17, and have been looked after by a local authority for a total of at least 13 weeks which began after they reached the age of 14 and ended after they reached the age of 16) who had previously fallen within the ambit of the Children (Leaving Care) (England) Regulations 2001. This instrument therefore relates to the Children (Leaving Care) (England) (Amendment) Regulations 2010 which subject to consultation will be made and laid later this year and make amendments to the 2001 Regulations to (inter alia) remove eligible children from their ambit.

4.2 These Regulations are made under powers in the Children Act 1989 (“the 1989 Act”) some of which (sections 22C, 23ZA, 23ZB, 25A and 25B and paragraphs 12A-E of Schedule 2) were inserted by the Children and Young Persons Act 2008 and are being used for the first time, and others (sections 23D, 23E, 26 and 104) which are amended by that Act.

4.3 These Regulations bring together for the first time provisions about the placement of children, about the planning of their care and about the review of their cases which were previously dealt with in different instruments, and require a consistency of approach to these issues. Some of those earlier instruments are revoked by these Regulations. Others will be revoked or amended by a proposed set of Regulations relating to care planning for children other than looked after children, which the Department intends to make later this year to come into force at the same time as these Regulations (1st April 2011).

5. Territorial Extent and Application

5.1 This instrument applies in relation to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The duties of local authorities to provide accommodation for children who are in their care, and maintain all looked after children in other respects, are included in the 1989 Act as amended by the Children and Young People's Act 2008. These Regulations and the accompanying guidance (issued under section 7 of the Local Authority Social Services Act 1970) consolidate previous Regulations (made under the 1989 Act) and guidance relating to care planning and case review for looked after children into one coherent and easily accessible package. These Regulations and the guidance form a central spine to local authorities' work with looked after children and streamline existing processes.

7.2 The objective of these Regulations is to improve outcomes for looked after children by improving the quality of care planning processes.

7.3 There are on average about 60,000 children who are looked after, at any one time. Outcomes for these children have improved over recent years but are still strikingly poor.

7.4 Local authority expenditure on services for looked after children is over £2 billion. The care planning process is key to how this money is spent effectively.

7.5 The Regulations form part of a package of measures to address outcomes for looked after children following the "Care Matters" Green Paper and White Paper. We received more than 2,000 responses from groups and individuals to the Care Matters consultation. The Children and Young Person Act 2008 which followed the Green and White Papers received Royal Assent in November 2008.

7.6 Evidence gathered in the context of the development of the White Paper indicated that improvement to local authority practice in care planning, placement decisions and case reviewing is key to high quality services to this most vulnerable group of children, in order to improve their outcomes.

7.7 Stakeholders and children and young people in or leaving care agree that despite the existing statutory framework and guidance, problems persist in the care system. These problems include:

- too many changes of placement; placements not matched to needs; poor standards in residential care;
- not all schools well equipped to support children in care effectively;
- an abrupt start to adult life, and at a much younger age than their peers;
- too many adults with a say in a child's life but little real accountability and too few opportunities for the child's voice to be heard.

7.8 Many of the concerns about the failings in the care system are largely attributable to weak or absent care planning such as the failure to update the core assessment of need when there is any important change in the child's circumstances; failure to undertake timely and effective reviews of

the care plan; failure to consult the child and other significant persons in the child's life appropriately; and failure to implement decisions.

7.9 The objective of the Regulations is therefore to improve local authority practice in care planning, placement decisions and case reviewing, in order to ensure that care plans for looked after children are responsive to the full range of children's needs and the outcomes for looked after children are improved.

7.10 A consultation has been held about draft Care Planning Regulations and accompanying guidance. A total of nearly 1000 practitioners and managers attended a series of events, and around 100 formal responses were received, demonstrating a strong interest from a relatively small sector of children's social care.

Consolidation

7.11 As part of these consolidating Regulations, the following earlier Regulations are revoked:-

- Contact with Children Regulations 1991 (SI 1991/891),
- Definition of Independent Visitors (Children) Regulations 1991 (SI 1991/892),
- Placement of Children with Parents etc Regulations 1991 (SI 1991/893).

8. Consultation outcome

8.1 The Department carried out a 12-week consultation, including a series of 9 regional events with stakeholders, about the Regulations and associated Guidance.

8.2 Overall, the majority of responses supported the broad direction of the new Regulations and accompanying guidance. 79% agreed or strongly agreed with the main changes brought about in the Regulations, and only 7% disagreed. Respondeees said they found it helpful to have the requirements in relation to care planning consolidated into one place. 75% agreed that the guidance makes it clear what local authorities must do to implement the draft regulations. The outcome of the consultation is set out in more detail on the DCSF consultation website <http://www.dcsf.gov.uk/consultations> . .

9. Guidance

9.1 These Regulations are being accompanied by statutory Guidance:

- *Putting Care Into Practice: Statutory Guidance for Local Authorities On Care Planning, Placement and Case Review For Looked After Children* – this is statutory guidance in relation to the relevant provisions in the 1989 Act and these Regulations. This Guidance will become the revised Volume 2 of the Children Act 1989, replacing some existing Volumes and integrating guidance issued since 1991. It covers each of the elements of care planning required throughout the child's journey in the care system.
- *IRO Handbook: Statutory Guidance For Local Authorities and Independent Reviewing Officers on Reviewing Arrangements for Looked After Children* – this provides statutory guidance for independent reviewing officers about their distinct responsibilities in relation to looked after children under the 1989 Act and these Regulations, and replaces the 2004 Independent Reviewing Officers Guidance.
- *Statutory Guidance: Securing Sufficient Accommodation for Looked After Children* – this provides guidance for local authorities and their partners about the local authority's duty under section 22G of the 1989 Act to take steps that secure, so far as reasonably practicable, sufficient accommodation for looked after children within the local authority area.

- *Short Breaks Statutory Guidance: How to Safeguard and promote the welfare of Disabled Children Using Short Breaks* - this sets out how the legal requirements on short break services and support for children in need apply for different settings and arrangements.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that there will be requirements on local authorities in care planning, which will inform how they work with other bodies in the provision of services for looked after children.

10.2 The impact on the public sector is that the requirements on local authorities in relation to care planning are set out in one set of Regulations. These will streamline existing Regulations and implement the care planning, placement and case review provisions of the Children and Young Persons Act 2008 which are set out in the Impact Assessment:

- a) strengthening the role of the independent reviewing officer (IRO)
- b) defining the entitlement to independent visitors for looked after children
- c) setting out the processes that local authorities must follow whenever they make a placement of a looked after child, so that, as far as reasonably practicable where they can not be reunited with their parents or placed within their extended families, they are placed close to their communities, within their local authority areas.
- d) requirements for looked after children to be visited by social workers at intervals no less than those specified.

10.3 An Impact Assessment is attached to this memorandum.

10.4 The Regulations will come into force on 1st April 2011 to provide sufficient time for local authorities to implement the various changes made by the Children and Young Persons Act 2008 Training materials and further engagement events will be developed during 2010-11 to assist practitioners and managers who work with looked after children to understand how the different practice implications will work together.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 Officials engage with a variety of stakeholders in a number of different ways including meetings, conferences and correspondence. Many aspects of the care planning system covered by the Regulations will be included in the Department's ongoing dialogue with stakeholders. We will use these to review the implications of the Regulations for local authorities' workload and the time spent on developing and maintaining care plans. In particular, we will collect information from local authorities about the number of IROs and independent visitors they will require, and the costs they expect to incur in needs assessment arising from the out of authority placement process. We will also collect information from some LAs on the number of case reviews they are doing.

12.2 We have already established a new annual Ministerial stocktake (which began in November 2009) to review progress in improving outcomes for children in care, with the involvement of key stakeholders and representatives of local government and health services and of young people in care. The stocktake includes a published report on the current state of play across a range of issues in the Care Matters programme, of which care planning is an important part. We would expect future stocktakes to include evaluation of the impact of the care planning regulations.

12.3 Outcomes for looked after children are affected by the care planning process. We will look continue to look at these through changes in ten National Indicators, which are reported and monitored annually.

12.4 Ofsted are to lead a three year programme of proportionate inspection of services for children in care, with a particular focus on the White Paper and the reforms made by the Children and Young People Act 2008. We will review the need for further rolling inspection at the end of this three year programme.

12.5 Children in Care Councils, which all local authorities have been asked to develop, provide a means to ensure that looked after children are consulted on services, that their views are listened to, and they are able to influence decisions which affect them collectively. Our aim is that these Councils will provide a means by which their views about how care planning is working at local level can be put directly to those responsible for corporate parenting, including Directors of Children's Services and Lead Members.

13. Contact

Stuart Lorkin at the Department for Children, Schools and Families (tel: 020 7340 7292 or email: Stuart.Lorkin@DCSF.gsi.gov.uk) can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Department for Children, Schools and Families	Title: Impact Assessment of Care Planning, Placement and Case Review Regulations and associated guidance.	
Stage: Final proposal & Implment	Version: #0.62	Date: 23/2/10
Related Publications: Care Matters: Time for Change		

Available to view or download at:

Contact for enquiries: **Andrew Dalton**

Telephone: **0207 340 7352**

Outcomes for looked after children (children in care) are strikingly poor. Evidence gathered to develop the White Paper "Care Matters" indicated that improvement to local authority practice in care planning, placement decisions and case reviewing is key to high quality services to this most vulnerable group of children, in order to improve their outcomes. This is justified on equity grounds. Also since the current regulatory framework was introduced in 1991, the challenges and expectations about local authority care have changed. Intervention is justified to ensure the use of the latest information and knowledge about these challenges and expectations in local authority care

There are existing regulations dating back to 1991. The aim of the 2010 regulations is to consolidate and clarify into one comprehensive document the local authority duties towards all the children in their care in relation to assessing their needs, care planning and reviewing; and for making the right placements to match each child's individually assessed need.

The objective is to ensure that care plans for children who are looked after by local authorities are responsive to the full range of children's needs. This includes strengthening the role of the Independent Reviewing Officer (IRO) so that children's wishes and feelings are at the centre of the statutory process of planning for their future care.

What policy options have been considered? Please justify any preferred option.

0) Not to bring in new regulations to consolidate and clarify the existing regulations.

1) To bring in new Regulations for Care Planning, Placement and Case Review.

Option 0) was considered but rejected during passage of the Children and Young Persons Bill. This would fail to address the flaws in the care system which are largely attributable to poor quality care planning. Option 1) was chosen to strengthen care planning and to implement aspects of the Act.

2) An additional option to externalise the IRO service (to make it independent of local authorities) was considered and rejected as it would be a less effective and immediate response, would have additional cost implications and could have adverse effects on children's placement stability.

The overall Care Matters programme will be reviewed by an annual ministerial stock-take. Regular statistical first releases are published which will show the impact of policy on outcomes for children. At local level, Ofsted inspect local authority performance against relevant indicators.

1st March 2010

Summary: Analysis & Evidence

Policy Option: Implementation of the CYP Bill	Description: As outlined in the evidence base.
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Costs of implementing those aspects of the CYP Act which are covered by these Regulations measured over the remainder of the period CSR 2008-11 with additional one-off transitional costs. See the evidence analysis for a breakdown of costs.
	One-off (Transition) Yrs	
	£ 1.5m	
	Average Annual Cost (excluding one-off)	
£ 4.84m	Total Cost (PV)	£ 47m
Other key non-monetised costs by 'main affected groups' The Regulations are largely focused on public sector reforms and will not have significant cost implications for the private and voluntary sector.		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Amount below estimates discounted lifetime benefit of reducing the incidence of children in care moving schools in year 10 to 3% as in the general population (assuming 60,300 children in care currently). This is a conservative lower bound estimate based on the economic impact of a single provision on educational attainment.
	One-off Yrs	
	£ 0	
	Average Annual Benefit (excluding one-off)	
£ 32.57m	Total Benefit (PV)	£ 303.44m
Other key non-monetised benefits by 'main affected groups' The monetised benefits above are based on a single provision and do not take into account the wider benefits of school stability and improved educational attainment, or the impact of other provisions of the Act that are set out in the Regulations on educational attainment, improved health status and reduced criminal activity.		

Benefits of improving outcomes for children in care, particularly the impact of reducing abuse and neglect and providing a stable and secure environment, are difficult to quantify given current data. However, potential benefits, both to the individual and in terms of reduced public expenditure, are significant.

Price Base Year 2010	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ 256.44m
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					England
					April 2011
					Ofsted
What is the total annual cost of enforcement for these organisations?					£ N/A
					Yes
					No
What is the value of the proposed offsetting measure per year?					£ N/A
What is the value of changes in greenhouse gas emissions?					£ N/A
					No
Annual cost (£-£) per organisation (excluding one-off)		Micro N/A	Small N/A	Medium N/A	Large N/A
		Yes/No	Yes/No		

N/A

N/A

N/A

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background and Summary

Outcomes for Children in Care

1. Outcomes for children in care are strikingly poor. For example, in 2008:
 - 14% of children in care gained five GCSEs at grades A*-C, compared to 65% of all children¹;
 - Care leavers are much more likely to be not in education, employment or training (NEET) as compared to young people as a whole. Due to timing and definitional differences the figures are not strictly comparable, but 31%² of former care leavers were NEET compared to 17% overall for young people of a similar age.
 - children in care are twice as likely to be subject to a final reprimand or warning or convicted of a crime as other children³.
2. The factors that contribute to these poor outcomes are complex, reflecting the children's pre-care experiences and personal needs. For example:
 - 61% of children enter care because of abuse or neglect, which has a profound impact on a child's development⁴;
 - 45% of 5-17 year olds in care are assessed as having a mental health disorder – four times higher than for other children⁵;
 - 28% of children in care have a statement of special educational needs (SEN), compared with 3% of all children⁶.
3. In addition, evidence suggests that expenditure on children in care is escalating disproportionately – but with no corresponding improvement in outcomes:
 - between 2000-01 and 2005-06 expenditure increased in nominal terms by almost £247m (36%) for residential care and by £414m (75%) for foster care. Nearly £2bn a year is spent by local authorities in England on placements alone at present;
 - the level of spend varies significantly both between local authorities and between placements;
 - there is no clear link between spend and outcomes or spend and star ratings of either the local authority or children's services.
4. Government has previously taken action to improve outcomes for all children, including those in care, through the *Every Child Matters* reforms introduced in 2003. Government has also acted specifically to help children in care – in particular via the *Quality Protects* initiative to improve the management and delivery of children's social services (and especially services for children in care); the Social Exclusion Unit's report⁷ on the education of children in care; and the Children (Leaving Care) Act 2000. As a result, outcomes overall have improved – e.g. 14% of children in care for at least a year achieved at least five good GCSEs in 2008, compared with only 7% in 2000⁸. However, improvements are at far too slow a rate to reduce the gap in achievement and life outcomes between children in care and their peers.
5. Stakeholders and those in or leaving care agree that despite these helpful interventions problems persist and things still go wrong throughout the care system. The problems include:
 - too many changes of placement; placements not matched to needs; poor standards in residential

¹ Statistical First Release 07/2009 (30 April 2009), DCSF, Outcome Indicators for Looked After Children: Twelve Months to 30 September 2008, England available at: <http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000842/index.shtml>

² Statistical First Release 25/2009 (published 13 October 2009) Children looked after in England year to 31 March 2009, DCSF, SSDA903 return, available at <http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000878/index.shtml>

³ Statistical First Release 07/2009 (30 April 2009), DCSF, Outcome Indicators for Looked After Children: Twelve Months to 30 September 2008, England available at: <http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000842/index.shtml>

⁴ Statistical First Release 25/2009 (published 13 October 2009) Children looked after in England year to 31 March 2009, DCSF, SSDA903 return, available at <http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000878/index.shtml>

⁵ *The Mental Health of Young People Looked After by Local Authorities in England*, Meltzer et al (2002)

⁶ Statistical First Release 07/2009 (30 April 2009), DCSF, Outcome Indicators for Looked After Children: Twelve Months to 30 September 2008, England available at: <http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000842/index.shtml>

⁷ *A Better Education for Children in Care*, Social Exclusion Unit, Cabinet Office (2003)

⁸ Statistical First Release, 30 April 2009, DCSF, Outcome Indicators for Looked After Children: Twelve Months to 30 September 2008, England available at: <http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000842/index.shtml>

care;

- not all schools well equipped to support children in care effectively;
- an abrupt start to adult life, and at a much younger age than their peers;
- too many adults with a say in a child's life but little real accountability and too few opportunities for the child's voice to be heard.

6. Indications are, therefore, that Government intervention to date has been too piecemeal to deliver the fundamental change which is necessary; and that a comprehensive intervention across the system is now needed. This is the intention of *Care Matters*, and the Children and Young Persons Act 2008 provides the legislative framework for this. The Regulations are being brought in under the Act, as part of the *Care Matters* reforms, to improve local authority practice in care planning, placement decisions and case reviewing. The Care Planning, Placement and Case Review Regulations implement a key part of this, because effective care planning is fundamental to the process of arranging care and services to meet the needs of looked after children.

7. If Government does not now address in a systematic and comprehensive way the problems that are evident throughout the care system, a significant proportion of children in care will continue disproportionately to experience poor outcomes in life, both as children and later as adults. For instance, they are likely to continue to be not in education, employment or training (NEET), experience mental health problems, enter the criminal justice system, become homeless or become a teenage mother – with the disproportionate associated social costs. The gap between children in care and their peers would remain huge. These children would not enjoy the five *Every Child Matters* outcomes which they have every right to expect and to which the Government is committed to securing for all children.

Background on care planning

8. Local authorities have a responsibility to assess and review a child's care plan and ensure their wellbeing is safeguarded and promoted. Effective care planning (combined with increased participation of children and young people in the care planning decisions that affect them and ensuring regular contact with social workers) ensures a child's needs are being met and helps to improve access to education and health services and increase placement stability.

9. When, following an assessment that the child needs to enter care, a child becomes looked after – the social worker must ensure that the child's needs and the services to meet these are documented in their **care plan**. Care plans should be drawn up before the child becomes looked after, or in the case of an emergency entry to care, within 10 working days of becoming looked after. This care plan should be the basis of plan presented to court in cases where it is necessary for a LA to apply to a Court for a Care Order. The care plan includes key documents including the Health Plan⁹ and Personal Education Plan.¹⁰ The care plan should inform the decision as to which placement (e.g. foster care or children's home) will be most suited to meeting the child's needs.

10. All care plans must be kept under review. The review meeting is one of the key components within the core processes of working with children and families. The purpose of the review meeting is to consider the plan for the welfare of the child and then to monitor the progress of the plan and make decisions to amend the plan as necessary in light of changed knowledge and circumstances. It is important to distinguish the two functions of reviewing – as a process of continuous monitoring and reassessment, and a review as an event when a child's plan may be considered, reconfirmed or changed and such decisions agreed and recorded in consultation with all those who have a key interest in the child's life, including the child. Since September 2004, reviews must be chaired by an Independent Reviewing Officer (IRO).

Importance of care planning and placement to outcomes

11. Many of the concerns about failings in the care system are largely attributable to weak or absent care planning e.g. failure to update the core assessment of need when there is any important change in the child's circumstances; failure to undertake timely and effective reviews of the care plan; failure to consult the child and other significant persons in the child's life appropriately; and failure to implement decisions. These failings can result in poor decision making in relation to care placements, for example inappropriate care placement moves that undermine the stability of school placements or decisions being made on the basis of budgetary considerations rather than in the best interests of the child.

12. We aim to significantly improve the quality of care planning processes by having a single set of care planning regulations and in doing so send a strong signal about the importance the Government places on effective care planning.

⁹ See Promoting the Health of Looked After Children (Department of Health 2002)

¹⁰ See Guidance on the Education of Children & Young People in Public Care (May 2000)

1. Options considered about producing revised Regulations

13. We considered options:

0) Maintaining the status quo – not to bring in new regulations to consolidate and clarify the existing regulations.

This was considered but rejected during passage of the Children and Young Persons Bill. It would fail to address the failings in the care system which are largely attributable to weak or absent care planning. Furthermore the draft regulations take forward provisions which the Children and Young Persons Act 2008 (“the Act”) sets out in broad terms, but leaving the detail about implementation to be specified in regulations.

1) To develop the Care Planning, Placement and Case Review Regulations to consolidate local authority duties in a clear and comprehensive way.

The current Regulations were developed in 1991, when the importance of providing looked after children with a quality personalised service was not as fully recognised as today. Since then incremental changes have been made as a result of new regulations – e.g. to ensure that every looked after child has their own Personal Education Plan and Individual Health Plan; along with a completely new planning framework for care leavers up to age 21.

14. The new Regulations are intended to consolidate local authority duties in a clear and comprehensive way.

15. At present there are 9 sets of Regulations that relate to local authorities’ responsibilities for looked after children, as well as Children Act statutory guidance. The aim of the current draft regulations is to issue one comprehensive document setting out in one place the core duties of local authorities to assess need, plan and review care and match each child to the most suitable placement.

16. Improving how local authorities approach their responsibilities for care planning, placement decisions and case reviewing is key to improving outcomes. The Regulations are therefore being brought in as part of the Care Matters reforms to local authority practice for looked after children. The new Regulations consolidate regulations from earlier legislation, as well as implementing some specific changes introduced the CYP Act.

17. We also considered an option with respect to IROs (see para 25).

Care Planning Regulations in context of the Children and Young Persons Act

18. The Care Planning, Placement and Case Review Regulations (“the CPPCR Regulations”) are fundamental to the implementation of the Children and Young Persons Act 2008¹¹. The Act aims to reform the statutory framework that governs how local authorities, as their “corporate parents”, plan for and support looked after children. The new Regulations make a significant contribution to the wider package of reforms aiming to improve outcomes for children in care and set out in the White Paper *Care Matters: Time for Change*. The White Paper built on responses to the earlier Green Paper *Care Matters: Transforming the Lives of Children and Young People in Care* and the conclusions of four working groups established to advise the Government on best practice in supporting those in care.

19. An impact assessment for the Act has been published¹². This builds on the two previous assessments which accompanied the Green and White Papers. An equalities impact assessment was also done, which considered the implications for disability, ethnicity and gender equality at the Bill stage. This built on previous equality impact assessments completed for the Green and White Papers.¹³

20. This assessment has been done on the basis: firstly that the profile of need in the population of looked after children will remain constant¹⁴ and secondly that the children’s services workforce has the necessary skills and experience to deliver. The wider *Care Matters* programme should help ensure this is the case, in particular the workforce reform programme¹⁵ and the improvements to foster care training and support.

21. The provisions of the Act which are covered by these Regulations are:

e) strengthening the role of the Independent Reviewing Officer (IRO)

¹¹ http://www.opsi.gov.uk/acts/acts2008/ukpga_20080023_en_1

¹² Available in the IA library at Dept for Business Enterprise and Regulatory Reform <http://www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=aad9464ad0114f66b2ee37cfc4ad4a1a>

¹³ Available at http://www.dfes.gov.uk/publications/timeforchange/docs/timeforchange_IA.pdf, http://www.dfes.gov.uk/publications/timeforchange/docs/timeforchange_EIA.pdf and <http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1406>

¹⁴ The report of the working group on the Future of the Care Population (available at <http://www.dfes.gov.uk/publications/timeforchange/docs/7132-DfES-Beyond%20Care%20Matters.pdf>) considers further the impact of the *Care Matters* proposals on the population of children in care.

¹⁵ For more information on the workforce reform see pages 125-129 of the *Care Matters* White Paper.

- f) extending the entitlement to independent visitors for looked after children
- g) setting out the processes that local authorities must follow whenever they make a placement of a looked after child, so that, as far as reasonably practicable where they can not be reunited with their parents or placed within their extended families, they are placed close to their communities, within their local authority areas.
- h) requirements for looked after children to be visited by social workers at intervals no less than those specified.

a) Role of IRO – Effect of Revised Regulations and Guidance

22. The Regulations and Guidance specify, in relation to IROs, that:

- IRO must spend time with the child before the review, to prepare them for these key meetings and to be satisfied that the child has been properly consulted about any proposals for their future. We will expect IROs to either have the skills, or access to specialist input necessary, so that can establish the views of children with communication difficulties or complex needs.
- IROs will have the authority to adjourn review meetings if they are not satisfied that the review has all the information necessary to make a rounded judgement about the viability of the child's care plan and whether any proposals are in the child's best interests.
- Set out a description which specifies the qualifications and experience the IRO must have and requires him to be independent of the operational management and the resources committed to the case.
- Outlining that referral by an IRO of a case to CAFCASS should no longer be seen as a last resort¹⁶, but considered as a real option to ensure proper scrutiny of local authority decisions in cases where individual IROs believe that it is appropriate to escalate their well founded professional concerns;
- Following consultation, the Regulations have been strengthened to ensure that the IRO is consulted (rather than merely informed) if the plan is to change school at Key Stage 4.

23. In addition, guidance to local authorities will give information about optimum caseloads for IROs; and provide additional guidance on the new duty to cooperate with the IRO where the IRO is not an officer of that authority. At present there is considerable variability between local authorities in the size of IRO caseloads, impeding the effectiveness of some IRO services.

24. The Children and Young Persons Act also includes an enabling power (section 11) so that if in future, these measures to strengthen the IRO function do not contribute to a significant improvement in outcomes for looked after children, then Ministers have the power to regulate so that the function could be delivered by a national body outside local authority control.

25. An additional option (2) to externalise IRO services (to create a new independent national service completely outside of local authority control) was considered and rejected. This option would be a less effective and immediate response, would have massive additional cost implications and could have adverse effects on LA capacity to plan and review children's cases during the lengthy transitional phase needed to develop a completely new national reviewing service.

26. In consultation, most IROs themselves felt that they should remain employed by the local authority, with certain provisos such as increased separation of line management from operational activity; standardisation of monitoring and reporting; independent legal advice; and common agreement on the role and position of IROs in care planning for children in care. This view was echoed by other respondents including local authorities who felt that taking IROs out of the local authorities would weaken their power and influence.

Costs – IROs

27. Some but not all authorities will need to recruit more IROs. At the Bill stage and for consultation, we anticipated that, nationally, approximately 50 additional IROs would be needed to deliver improvements to the IRO function, however not all would be recruited in the first year. The gross costs for an experienced IRO in the south of England are about £38,000 p.a. Thus we estimate an additional initial recruitment of 50 IROs required would cost £1.9m per annum, however we estimate only £1.3m in the first year. This, and the development and training needs

¹⁶ Current guidance suggests the power should be used "...[i]f all other methods of resolving an identified problem [in relation to the child's case] have proved or are proving unsuccessful and there is a danger of the child's human rights being breached ... so that legal proceedings can be brought to achieve a remedy." Independent Reviewing Officers Guidance, published in 2004 by DFES, paragraph 5.4.

arising from the changes made to the IRO role, is included in the dedicated change fund for the implementation of Care Matters (see para 81).

28. At consultation stage, the IRO handbook proposed a recommended case load of 50 per IRO. As a result of responses, which commented on resource implications of the changes in IRO role, this has been eased to a range for 50 to 70. On this basis, we consider that the 50 additional IROs estimated above, and included in the change fund, will be sufficient to meet the changes in the IRO role.

29. There may be some costs to CAFCASS and to local authorities if lowering the threshold for IRO referral to CAFCASS leads to legal proceedings in some cases. CAFCASS have indicated that it is prepared to accept such costs if they lead to improved services for children in care. The pressure on local authorities to resolve cases in order to avoid litigation will inevitably mean that there will only ever be a small number of cases and therefore, in practice any additional legal costs will be minimal. We will hold centrally an additional £0.5/0.5m over the CSR period as a contingency for an increased number of court cases.

b) Extending entitlement to independent visitors

30. The Act gives more children in care (particularly those who are placed at a distance from their home or are in residential care) access to an Independent Visitor by placing a duty on local authorities to consider this as an option as part of the care planning process. Independent visitors offer children befriending from someone outside of the system in which they are cared for, thereby giving them the chance to develop meaningful relationships and widening their horizons beyond care. Anecdotal evidence suggests this can help raise aspirations and can help improve emotional well-being and improve stability.

Costs of extending entitlement to an independent visitor

31. The average annual cost is estimated at £3.0m, based on 1,500 more children being provided with an independent visitor per year (£2,000 per child per year).

c) Specifying the processes to be followed by local authorities whenever they make placements..

32. Placements out of authority make care planning and placement commissioning more difficult and frequently lead to poorer outcomes for children in these placements. The introduction of specific criteria that must be followed by local authorities every time they consider placing a child will necessarily require improvement in local planning and commissioning to ensure the local market can meet the individual and diverse needs of children in care. (See section on sufficiency duty para 38-43).

33. We estimated at consultation stage a transitional cost of £1.5m for introducing the needs assessment to inform local authority strategy and planning, based on cost of £10,000 per needs assessment for each local authority.

34. During consultation, comments were made about the proposed requirement that the Director of Children's Services made the decision to place a child out of area. This has been eased so that a nominated officer is now required to sign off the decision. The wording of the Regulations relating to Out of Area placements has also been eased, to enable Authorities to place children with foster carers who have been approved by them, and who live in neighbouring Authorities. We do not anticipate any increase in the estimated costs arising from these changes.

d) Requirements for looked after children to be visited by social workers at intervals no less than those specified.

35. Visits by social workers to looked after children are a key mechanism to ensure that a child's needs are being met and their views are being heard. There is already an implicit requirement for social workers to visit all looked after children and there is already an explicit visiting requirement for children placed with parents, in foster placements and placed for adoption. However there is evidence of some variability in practice, in particular visits to those looked after children placed in children's homes or those who are in custody. Additionally, young people have told us that they sometimes have problems in getting in touch with their social worker between visits.

36. The Regulations make explicit requirements for all placements of looked after children to be visited by social workers at intervals no less than those specified in the regs.

37. The majority of children in care (around 70%) are placed in foster care, and the existing requirement is for local authorities to visit children in foster care at specified intervals (within a week of first placement and then six-weekly subsequently). This is in practice generally met. Within the regulations we had initially aimed to create an easement in this for all looked after children, specifying that visits should take place at a minimum every 3 months.

We had anticipated that this was a minimum requirement, and that the majority of Authorities would continue with their existing practice of visiting every 6 weeks. In response to consultation responses, however, we have reinstated the original 6 weekly criteria, apart from where children are in long term placements where it is planned that they will remain until they are 18. In the vast majority of cases, therefore, the Care Planning Regulations will not give rise to an additional financial burden.

38. Only around 12% of all children in care are placed in residential care. Anecdotal evidence shows that, in the majority of those cases, placing authorities already continue to visit children. In fact, visiting is one of the core activities of good care. While there will therefore be some additional burden for a small number of local authorities, we do not anticipate that it will be a significant additional cost for most. The new duty describes what is expected professional practice and as such it is not plausible to regard this as a “new burden”.

Sufficiency duty Guidance

39. The Act also puts a general duty on local authorities to take steps that secure, so far as reasonably practicable, sufficient accommodation for looked after children within their local authority area (the “sufficiency duty”). This is not included in the CPPCR Regulations, however we are developing guidance on the duty to accompany the Regulations.

40. Local authorities already had a number of duties towards children within their area which are related to the sufficiency duty. These include a duty under the 1989 Children Act to provide a range and level of services to children in need and their families in the local area which are appropriate to their needs, and a duty to provide accommodation for children in need within their area who appear to them to require accommodation.

41. It is implicit that in order to fulfil their existing duties under the 1989 Children Act, the local authority must ensure that there is sufficient accommodation to meet needs locally. However, prior to the introduction of the sufficiency duty, there was no explicit statutory duty on local authorities to act strategically to address gaps in provision with their partners. The sufficiency duty introduced by the 2008 Act reinforces the duties under the 1989 Children Act by requiring local authorities to have regard to the benefit of having:

- a number of accommodation providers in their area
- a range of accommodation capable of meeting different needs.

42. The guidance on the sufficiency duty sets out how these requirements can best be met through a step change in commissioning practice in which local authorities and their Children’s Trust partners work with each other to:

- support and maintain diversity of services to better meet the needs of looked after children;
- place children within their local authority area where reasonably practicable;
- support the market to deliver more appropriate placements locally.

43. Where this is already working well, we see examples of children and young people having a choice of placement options, reduced placement breakdown, better links with universal and specialist services, lower numbers of children coming into care and reduced costs.

44. As a result of consultation, we have clarified the intent of the sufficiency guidance, in respect of the duty to provide accommodation and support within the Local Authority area, specifying that this duty in Section 22G needs to be seen alongside the duty in Section 22c, to provide appropriate placement that meets the child’s needs, which might involve – the placement being ‘close to home’ or within another Authority area. This will result in the guidance clarifying that for many Authorities, this will result in a significant minority of looked after children being placed outside of the local authority area, and as such could lead to a reduction any costs for individual Authorities.

Costs / benefits of sufficiency duty

45. The new statutory guidance is being introduced to help local authorities and their Children’s Trust partners to plan to meet the needs of looked after children and young people in the most efficient and effective way. This guidance is aimed at local authorities and their Children’s Trust partners. Because the duties on local authorities already exist, and the need to plan is already implicit, we do not consider it appropriate to give figures for the costs and benefits of the guidance itself in this impact assessment. What the guidance does it to provide support for local authorities by clarifying what is meant by sufficiency, and to set out the most effective way of meeting the duty through good commissioning practice. However, some examples showing the size of benefits are given in paras 68-71.

Short Breaks

46. There is an existing legal basis for LAs to provide short breaks for carers in relation to their duty to safeguard and promote the welfare of children within their area who are ‘in need’ (including disabled children) by providing a range of services appropriate to those children’s needs. Section 17(1) of the Children Act 1989

provides the basis for this. However, whilst short break provision clearly contributes to meeting the LA's general duty, the 1989 Act does not impose a specific duty to secure short break provision.

47. In Section 25 of the Children and Young Persons Act 2008, the Government introduced a new statutory duty on LAs to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring.

48. In introducing this new duty, which the Government intends to bring into force from April 2011, it also stated that it would make related regulations in order to further define the legal requirements surrounding short break provision. The consultation on the content of these regulations began on 1st February 2010. An Impact Assessment¹⁷ on the Short Breaks Regulations is available with the consultation documents, this refers to the draft version of the regulations that is likely to change during the consultation process.

49. The *Care Planning, Placement and Case Review Regulations and Guidance* refer to short breaks, not in respect of the new duty to provide short breaks, but (in regulation 50) to set out the requirements that should be taken into account in planning for short breaks. The aim is to have a system of care planning, placement and review which is proportionate to the needs of the child and family. Regulation 50 provides for some easements in recognition of the continuing role of birth parents in exercising their parental responsibility for their child.

50. The statutory guidance describes how responsible authorities should come to decisions about whether to provide short break accommodation under section 17(6) or section 20(4) of the 1989 Act. Some aspects of care planning and reviewing do not apply for children in a planned series of short term breaks, in order to have a proportionate response to the needs of the child and family where parents are able appropriately to discharge their parental responsibilities.

51. We consider it appropriate that the costs and benefits of the short breaks duty are covered in the short breaks consultation and IA, but that it is not appropriate in this IA (about the Care Planning regs and guidance) to quantify any costs and benefits from the considerations which are set out for the LA to take into account in making decisions.

Benefits

52. The CPPCR regulations form part of the package of measures in the Act. Overall, these provisions, when brought together and implemented alongside the wider Care Matters reforms form a wider package which is intended to realise the following benefits:

- An improvement in outcomes for children in and leaving care and on the edge of the care system; and
- Increased value for money in the local provision of services for children in care.

53. Brigading care planning and review regulations in one provision will lead to an increased focus on transparency and quality of care planning and emphasise the importance of decision-making based on the welfare and assessed needs of the child.

54. Additionally, the proposals will reinforce the importance of seeking a range of placement options when making care planning decisions supported by the regional commissioning arrangements.

55. The following analysis considers the ensuing benefits in more detail, examining particularly the wide-ranging benefits of improving outcomes for children in care and the associated reduction of downstream costs.

56. In quantifying the benefits of the Act, the analysis focuses particularly on the substantial benefits flowing from raising the educational attainment of children in care that arise from the Act and specifically the requirement that local authorities don't move a looked after child from a school as a result of a care placement move, particularly at Key Stage 4, unless it is for exceptional reasons. Current data on educational attainment allows us to demonstrate most clearly a reliable causal link between the policy intention of the Act and educational outcomes, and to illustrate the benefits of the Act demonstrably outweigh up front costs.

Potential benefits of improving outcomes for children in care

57. Children in care experience very poor outcomes, even taking into account the socially disadvantaged backgrounds from which many of these children originate. Evidence suggests that many of these poor outcomes have large social and economic costs, as well as personal costs for the individuals themselves.

¹⁷ The Impact Assessment and other consultation documents are available at <http://www.dcsf.gov.uk/consultations>

58. It is well documented that children in care have low attainment, poor health outcomes and many will go on to experience unstable lives as adults. There is a sound evidence base which quantifies the potential benefits of improving these negative outcomes.

59. However, there are also a number of other benefits for children in care which are just as important but very difficult to quantify. These include the impact on an individual's well-being of reducing abuse and neglect, and providing a stable and secure environment. The benefits of improving these outcomes are incalculable given currently available data.

60. The potential benefits of a successful government programme to improve outcomes for children in care, in terms of reduced public expenditure and benefits to the individual are therefore very significant.

61. The next three sub-sections summarise the evidence base on the potential benefits of improving educational attainment, health and crime for children in care.

Educational attainment

62. Educational attainment at age 16 is the passport to further education and employment, and a range of wider social benefits. Children in care have much lower levels of educational attainment at this age than other children:

	LAC	All children
Proportion who sat at least one GCSE or GNVQ	65.6%	98%
Proportion who obtained at least: 1 GCSE at grade A* to G or a GNVQ	63.2%	98%
Proportion who obtained at least Level 1: 5 GCSEs (or equivalent) at grade A* to G	41.4%	91%
Proportion who obtained at least Level 2: 5 GCSEs (or equivalent) at grade A* to C	11.8%	59%

63. There are therefore significant economic benefits associated with improving the educational attainment of children in care. On average, the additional lifetime earnings associated with gaining 5 GCSEs at A*-C compared to no GCSEs is £249,705. And the additional lifetime earnings associated with gaining 5 GCSEs A*-G compared to no GCSEs is £105,608.

64. To put the significance of the potential benefits in context, raising the GCSE attainment of the 60,300 children who were looked after in 2006 to equal the distribution for all children would lead to discounted lifetime earnings benefits of around £6 billion.

65. Raising attainment to the national picture will be difficult to achieve - children in care will have suffered many adversities before coming into care. But even raising the GCSE attainment of all current children in care to equal the distribution for children receiving Free School Meals, perhaps a more similar comparison group, would still lead to discounted lifetime earnings benefits of around £3.8 billion.

66. There were 60,300 children in care in 2006, of which 5,100 were in year 11. Based on a constant annual number of LAC in year 11, the resulting discounted lifetime earnings benefits from the yearly flow are between £534.3 million using the population comparison and £317.1 million using the FSM comparison group.

67. Put starkly, in order for the benefit of the Act to outweigh the cost would only require around 400 children in care who currently get no GCSEs or equivalent to instead get five or more GCSEs at A*-C grades – an average of less than three children per local authority.

68. These estimates are conservative as they do not take into account the wider benefits of educational attainment. There is robust evidence for positive correlations between years of education and improved health status, reduced risk of depression and other positive outcomes¹⁸ the potential benefits of which are set out below.

Health

69. Children in care have poorer health outcomes than other young people. One study found that among 11-15 year olds, the prevalence of children in care assessed as having a mental health disorder was 49% compared to 11% of all other children¹⁹. Other research has found that children in care are four times more likely than their peers to smoke, use alcohol and misuse drugs, less likely to be in good health and more likely to be depressed²⁰.

¹⁸ Feinstein et al, Centre for the Wider Benefits of Learning.

¹⁹ Meltzer, 2003, 'The mental health of young people looked after by local authorities', ONS

²⁰ *Care Matters: Time for Change* [chapter 5], page 90

70. There are substantial individual and social costs associated with ill-health. Analysis carried out for the Social Exclusion Unit calculated that if the rate of mental illness for care leavers could be reduced to that for the average person in the population, the saving in terms of public expenditure would be £529.9m per annum. Using adults from more disadvantaged backgrounds as a lower bound comparison group, the saving would be £211.7m. This estimate is the benefit resulting for the existing population of care leavers in society and not the annual flow.

Increased value for money in the local provision of services

71. There are also benefits in terms of public expenditure savings. Research has shown that children in care of compulsory school age tend to incur greater additional costs due to the larger proportion attending more expensive types of provision e.g. special schools and PRUs. One study estimates that the public expenditure saving on education if children in care had the same incidence of types of educational provision as all children is £2,780 per child. Given that there were 60,300 children in care in 2006, this could lead to savings of around £168 million²¹.

72. Spending on services for children and young people in care has increased substantially, even whilst the numbers in care have started to level off. It represents a significant proportion of the funding for children's services – nearly £2bn a year is spent by local authorities in England just on the placements for children in care – and yet, as outlined above, outcomes are still unacceptably low.

73. In some cases a lack of appropriate care provision in a local authority area can lead to children being in placements which do not meet their needs and which break down, or having to be placed out of authority, away from their friends, schools and support networks.

74. Benefits from securing high quality local provision, reducing inappropriate emergency commissions and improving quality should accrue to both, local authorities, in the form of financial savings, and to children in care, in the form of better outcomes. The Gershon Report²² and the Local Government White Paper made clear that there are clear efficiencies to be made and evidence of this is provided by a number of local authority case studies where investments in market management and market development have generated substantial savings from relatively small initial outlays in this area.

75. For example, Blackpool was concerned that, at £1,800-£5,000 per week, it was spending high and variable amounts on its placements in private residential care. It therefore took steps to improve its management of the market such as analysing existing patterns of provision, producing a 10-year market development strategy, establishing a standard price that it would pay for a placement and negotiating with providers. These actions have saved Blackpool £400,000 per year without having to sacrifice service quality.

76. Devon, Torbay and Cornwall have implemented a sub-regional commissioning process for their residential care placements. This has led to annualised savings of £250,000 from tenders in the first 3 months and a 450% increase in placement choice. Placements, from assessment through tendering to agreeing design with the provider, now only take 24 hours to arrange and the set-up costs were only £18,000.

77. North Lincolnshire's commissioning has long had a focus on prevention and early intervention and also takes an integrated, multi-disciplinary approach centred on the needs of the child. This model has been associated with much improved outcomes for children in care such as an increase in placement stability and permanence (from 44% in 2005 to 56% in 2006), a reduction in offending (from 6.6% in 2005 to 2.8% in 2006) and a fall in re-registrations on the Child Protection Register (from 18% in 2005 to 11.5% 2006).

78. Finally, Coventry was a net exporter of children in care and wanted to improve outcomes and reduce costs of placements. The Council was facing spiralling costs and a lack of control over the market so a two year procurement process was designed to block contract 30 beds for children aged 11 to 18. This resulted in £12m efficiency savings, averaging a 23% efficiency saving each year.²³

79. Although it can be difficult to extrapolate from case study evidence, there are reasons to believe that the examples of effective practice captured in the above case studies can be implemented in other local authorities. Whilst we don't attempt to calculate a precise figure for the improvements generated by better local authority commissioning and reduced out of authority placements, we are confident that similar benefits to those outlined above will accrue nationally.

Benefit calculation

²¹ Centre for Longitudinal Studies, 2002, 'The costs and benefits of education children in care'

²² Gershon, Peter, *Releasing Resources to the Front Line - Independent Review of Public Sector Efficiency* (2004)

²³ More details on these case studies can be found on the 'Joint planning and commissioning' pages of the Every Child Matters website (<http://www.everychildmatters.gov.uk/strategy/planningandcommissioning/localcommissioning/>).

80. The previous section presented robust evidence on the significant potential benefits of improving outcomes for children in care overall. However, we do not have sufficient evidence to quantify the impact of individual provisions of the Act, including improved care planning, on these outcomes.

81. To demonstrate that the benefits of the Act are expected to substantially outweigh the upfront costs, we have taken the approach of indicating the benefits of the Act based on educational attainment alone and driven mostly by a single provision with:

- a lower bound estimate (see calculation below) of the attainment benefit for just one of the policies: the provision to prevent local authorities moving children in care between schools at KS4 save in exceptional circumstances.

Reducing school moves at Key Stage 4

82. The legislative change in the Act tackles one of the key factors which leads to mobility of children in care between schools in KS4. Children in care are more likely to move schools in the period preceding GCSEs than other children: 15% of children in care join year 10 outside the normal admission round compared to 3% of all children²⁴.

83. Research has identified a number of specific barriers to entry into GCSEs for children in care including late entry fees discouraging schools to enter children in care, educational history or coursework lost, and personal circumstances make the undertaking of exams difficult.

84. Wider research also shows that children that move schools at Key Stage 4 are likely to have lower attainment than those that do not move. Department for Children, Schools and Families (DCSF) analysis (2004) shows that of those pupils who were mobile during year 10, only 21.8% achieved 5 GCSEs A*-C. This compares with 52.4% of all other children who were not mobile during years 10 and 11²⁵. Therefore pupil mobility in year 10 effectively reduces the probability of gaining 5 GCSEs A*-C by 50%.

85. Further evidence from the DCSF' 2006 Contextual Value Added model suggests that pupil mobility in year 10 has the biggest single effect on attainment at Key Stage 4, even bigger than receiving FSM or having a statement of SEN. The same analysis suggests that joining school after September in year 10 reduces predicted attainment at KS4 by 76 GCSE points. This is equivalent to a fall of 12.5 grades i.e. a pupil predicted to get 8 grade As may instead get 4 grade Bs and 4 grade Cs²⁶.

86. Based on this evidence, we calculate that the discounted lifetime benefit of reducing the incidence of children in care moving school in years 10 to only 3% as in the general population is £97.7 million. This is based on the assumptions that pupil mobility in year 10 reduces the probability of gaining 5 good GCSEs by 50%, and that only 5.9% of children in care who move in year 10 would currently get 5 good GCSEs. This is quite a conservative estimate as it assumes that the 11.8% of children in care who currently get 5 good GCSEs do not move in year 11. This estimate is based on the existing population of children in care and not the flow. This means that the benefit will not be realised on an annual basis but is an estimate of the ultimate benefit that would result when all flows of current children in care have received a reduction in pupil mobility (we assume 60,300 current children in care).

87. This is a lower bound estimate for the impact of one part of the Act, and does not take into account the wider benefits of school stability and improved educational attainment. It also does not take into account the combined impact of all the other policies in the Act, including the impact of provisions to improve the quality and stability of placements for children in care and the evidence of the significance of a secure home environment to the educational attainment of children.

Funding for Care Matters

88. Alongside the publication of the *Care Matters* White Paper, the Government announced that a total of approximately £300 million would be provided over the period of the Comprehensive Spending Review 2008-11 to take forward the White Paper commitments.²⁷ The total funding package included a dedicated change fund of £22.5m (£5/7.5/10m between 2008-2011) to support local authority implementation of *Care Matters*.

89. The costs of implementing all the provisions in the Act were summarised in the impact assessment for the Bill/Act²⁸. These amount to £2.8m (transitional) and £22.06m (average annual costs over three years). The Care Planning, Placement and Case Review Regulations form a part of this, and the costs in the table below are a

²⁴ School Census: The data collected through the School Census is thought to under report numbers of looked after children and should therefore be treated with caution.

²⁵ DCSF contextualised key stage 2-4 value added model (2006), available at (http://www.dfes.gov.uk/performance/tables/schools_06/s12.shtml)

²⁶ National Pupil Database 2006.

²⁷ The total figure included £63m to implement the children's social care workforce measures outlined in 'Options for Excellence' and £66.15m to support improved educational outcomes for children in care.

²⁸ <http://www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=aad9464ad0114f66b2ee37cfc4ad4a1a>

subset of those already set out. The cost of these aspects of the Act which are taken forward in the Regulations comes to £2.5m transitional costs and average annual costs of £4.27m.

90. Our calculations have assumed that current funding levels are, for the most part, adequate for local authority services and that the numbers of children in care will not increase significantly over this period.²⁹

Local Authority Implementation of the Legislative and Regulatory Changes

91. Since 2004-05, local government has made significant inroads in delivering better value for money and using resources more effectively to improve outcomes for children and young people, including through improved service delivery for looked after children, care leavers and children on the edge of care. The reforms set out in the *Care Matters* White Paper and in part, implemented through the Act, will play a significant role in supporting local authorities to achieve better value from existing programmes over the next Comprehensive Spending Review period.

92. Whilst much of the answer is not about new resources, we recognise that implementing reforms may require investment upfront, and that some local authorities will face particular barriers or issues implementing these changes. Embedding change requires local authorities to take a longer term view on budgets, rather than basing decisions on short term funding pressures.

93. An example is the requirement that local authorities cannot place outside of their local authority area, unless this is in the child's best interests. Local authorities are presently funded to assess need and to make placements which are in the best interests of the child, and for most children these will be placements that are close to home. Initial investment in the local placement market can however deliver improved cost-effectiveness, by reducing reliance on costly spot purchased out of authority placements, and underpinning long-term shifts in priorities.

94. Where there are additional costs associated with provisions in the Act specific resources have been made available to fund them. However, in a number of instances we are not requiring local authorities to undertake activities additional to their existing statutory duties and therefore will not be providing additional funding.

95. We have set aside money for a change fund which we will allocate to Government Offices to distribute in order to support local areas through particularly difficult transitions.

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Provision	One-off costs (£m)	Average Annual Costs over CSR period (£m)	Notes
Care Planning and Reviews			
Strengthening the role of Independent Reviewing Officers (IROs)	1.0	1.27	2. Average annual cost is based on the costs of recruiting an additional 50 IROs (gross cost of approx £38,000 p.a.). Transitional costs cover a contingency for an increased number of court cases.
Extending entitlement to Independent Visitors	0	3.0	3. Average annual cost based on 1,500 more children being provided with an independent visitor per year (£2,000 per child per year).
Placements			
Out of authority placements	1.5	0	4. Transitional cost of introducing the needs assessment to inform local authority strategy and planning (based on cost of £10,000 per needs assessment for each local authority).
Total	2.5	4.27	
Total cost over the CSR period 2008-11	2.5	4.27	Note: one year – 2010-2011

²⁹ See the report of the working group on the Future of the Care Population.

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- **Implementation and evaluation**

96. We intend to construct a partnership-based approach to implementation across the statutory and voluntary sectors, developing a shared vision for change and establishing a joint delivery partnership with the key organisations delivering services to children. Officials already engage with a variety of stakeholders in a number of different ways including meetings, conferences and correspondence. Many of the aspects of the care planning system covered by the Regulations will be included in these ongoing contacts.

97. We will use ongoing contact with managers and practitioners to review the implications of the regs for their workload and the time spent on developing and maintaining care plans. In particular, we will collect information from LAs about the number of IROs and IVs they will require, and the costs they expect to incur in needs assessment arising from the out of authority placement process. We will also collect information from some LAs on the number of case reviews they are doing.

98. Inspection of services is essential to ensure that the provisions in the Act, and the wider Care Matters reforms are delivered and that outcomes for children and young people in care improve as a result. Ofsted will lead a three year programme of proportionate inspection of services for children in care, with a particular focus on the White Paper and Act reforms and exploring issues around consistency across regions and the sharing of best practice. Fostering services and children's homes are already subject to regulatory inspection to ensure that they are complying with the NMS and school inspections will draw together information on children in care in schools in the local areas. We will review the need for further rolling inspection in this area at the end of the initial programme. We will also work with Government Offices to ensure a continued focus on the needs of children in care throughout their work with local areas.

99. We propose to include evaluation of the impact of the care planning regulations in any future stocktakes of the Care Matters programme of reform. The first ever Care Matters Ministerial stocktake took place in November 2009, and Government is developing plans for future ones. The first stocktake includes a report on the current state of play across a range of issues in the Care Matters programme, of which care planning is an important part. It includes views from children and young people, from LAs and from the voluntary sector. The report was published³⁰ in November 2009.

Evaluation of outcomes for Looked After Children – National Indicators.

100. The Regulations are part of the package of Care Matters reforms intended to improve outcomes for Looked After Children. These outcomes are covered by ten National Indicators. Changes in outcomes are reflected in these indicators and reported regularly:

- Emotional health and wellbeing of children in care
- Timeliness of placements of LAC following an agency decision that the child should be placed for adoption
- Stability of placement of looked after children: number of moves
- Stability of placement of looked after children: length of placement
- Looked after children cases which were reviewed within required timescales
- LAC level 4 English KS 2
- LAC level 4 Maths KS2
- LAC 5 A-C GSCE
- Care leavers in education, employment and training
- Care leavers in suitable accommodation

101. This will provide data relevant to the benefits of the regulations. However, although an estimate of the benefits is given in the IA, we consider that it will not be feasible to distinguish the effect of the care planning regulations from other elements of the Care Matters programme.

Consultation

³⁰<http://publications.everychildmatters.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DCSF-01078-2009&>

102. The Care Matters Green Paper and a young people's version were published for consultation in October 2006. We received more than 2000 responses from groups and individuals to the consultation and many more responded through an extensive programme of consultation events. Over 12,000 young people in care saw copies of the Green Paper and over 5,000 gave us their views. In April 2007 we published a summary of the responses we had received and a separate summary of the responses from young people.³¹

103. The proposals in the Care Matters White Paper and the Bill were developed in response to an extensive consultation process. This included other government departments and public service providers including DH, HMT, DCLG, Home Office/Ministry of Justice, DWP, DCMS, Social Exclusion Task Force OfSTED, CSCI, the LGA and ADCS and with voluntary organisation involved in promoting the interests of children in care and providing current services including NCB, NCH, the Council for Disabled Children, Family Rights Group, BAAF, the Fostering Network, Barnado's, NSPCC, Rainer, Voice, A National Voice, The Children's Society and Who Cares Trust.

104. We had a pre-consultation about the draft regulations with a number of stakeholders, prior to the launching the formal consultation. This included the Children's Rights Director, Association of Directors of Children's Services, OfSTED, Cafcass, Ministry of Justice and Joint Youth Justice Unit, the Social Work Taskforce, Welsh Assembly Government and Youth Justice Board. This was broadly supportive of the draft regulations.

105. We have completed a formal 12-week consultation on the draft Regulations and Guidance. Some changes have been made to the Regulations and Guidance as a result of consultation, particularly on IROs (para 22& 28 above), the processes for LAs to follow when making placements (para 34), the requirements about intervals for visits (para 37) and the Sufficiency duty guidance (para 44). More detail about changes arising from the consultation is set out in the Government's published response, which is available among the consultation documents at <http://www.dcsf.gov.uk/consultations>.

Devolved administrations

106. Although there are provisions in the Act which apply to England and Wales, the CPPCR Regulations apply to England only.

Specific Impact Tests

Equalities impact

107. A combined equalities impact assessment was completed at Bill stage. This concluded among other things that improved care planning, coupled with improving the choice, standard, and commissioning of placements will ensure that children are better matched to placements that suit their needs. This will ensure the full spectrum of needs, including those related to the equality issues, can adequately be provided for. This will benefit children and young people of cultural, religious and minority.

Environmental and greenhouse gases impact

108. The Act will have no significant environmental impact including on emissions of greenhouse gases and no significant impact on sustainable development. Neither will it have a differential impact in rural areas or an adverse impact on rural circumstances and needs.

Competition Assessment

109. A competition assessment was completed at Bill stage. This concluded that the provisions would not significantly constrain the market, either by indirectly or directly limiting the range or number of suppliers or their ability to compete. No one firm has more than 10% of the anticipated market, and existing firms will not be at an advantage over new or potential firms. Overall therefore, it has been concluded that the provisions are unlikely to adversely affect competition in the market.

110. As part of the wider Care Matters implementation we will use existing powers to increase the range and number of suppliers and enhance, rather than limit, the ability of suppliers to compete. For example, by ensuring local authorities support private and voluntary provision to reduce the costs faced by these types of suppliers.

Small Firms Impact Test

111. A small firms impact test was completed at Bill stage, this concluded that it will not have an adverse impact on small businesses.

³¹ Available at <http://www.dfes.gov.uk/consultations/downloadableDocs/Care%20Matters%20Response.pdf>

Health Impact Assessment

112. As identified above, children in care have poorer health outcomes than other young people and are less likely to be in good health as adults. Securing the health and wellbeing of children in care is of fundamental importance and we outlined in the Care Matters White Paper a package of measures to promote these outcomes.

113. Provisions in the Act will not directly impact on the health of children in care, although they may impact indirectly on the wider determinants of health, particularly by improving educational attainment for children in care. The impact on outcomes is therefore likely to have positive health implications for this group of children and therefore help to reduce health inequalities. The Act will not however create significant demand on health services, such as primary or hospital care, health protection, accident and emergency services or need for medicines.

Bibliography

- Social Exclusion Unit, Cabinet Office, *A Better Education for Children in Care* (2003)
- Centre for Longitudinal Studies 'The costs and benefits of education children in care' (2002)
- Commission for Social Care Inspection, *The State of Social Care in England 2004-05* (2005),
- Department for Children, Schools and Families, *Care Matters: Time for Change* (2007)
- Department for Children, Schools and Families, *Care Matters: Transforming the Lives of Children and Young People in Care* (2006)
5. Department for Children, Schools and Families, *Consistent Care Matters: Exploring the Potential of Social Work Practices* (2007)
- Department for Children, Schools and Families, *Beyond Care Matters: Future of the Care Population* (2007)
- Department for Children, Schools and Families Contextualised Key Stage 2-4 Value Added Model (2006)
- Department for Communities and Local Government, *Strong and Prosperous Communities*, Local Government White Paper (2006)
- Department of Health, *Promoting the Health of Looked After Children* (2002)
- Farmer E and Moyers S, *Children Placed with Family and Friends: Placement Patterns and Outcomes*, Report to the Department for Education and Skills, School of Policy Studies, University of Bristol (2005)
- Gershon, Peter, *Releasing Resources to the Front Line - Independent Review of Public Sector Efficiency* (2004)
- Gordon et al, *Disabled Children in Britain: a re-analysis of the OPCS disability surveys* (2000)
- Jackson, S, Ajayi, S and Quigley, M, *Going to University from Care*, Institute of Education (2005).
- Meltzer, H and Corbin, T, Gatward, R, Goodman R, Ford, T, *The Mental Health of Young People Looked After by Local Authorities in England*, Office of National Statistics for the Department of Health (2003)
- The Children and Young Persons Act 2008 c23*, printed by The Stationery Office Limited, is available online at http://www.opsi.gov.uk/acts/acts2008/ukpga_20080023_en_1

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

	Yes	No
	Yes	No
	No	No
	No	No
	No	No
	No	No
	Yes	No
	No	No
	No	No
	Yes	No
	No	No
	No	No

Annexes