

Statutory Guidance

The Roles and Responsibilities of the Lead Member for Children's Services and the Director of Children's Services



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Section 1: Introduction

- 1.1. *Every Child Matters (2003)* launched a programme of systemic change for children – to improve outcomes for every child: all children should be healthy, stay safe, enjoy and achieve, make a positive contribution and enjoy economic well-being.
- 1.2. The *Children Act 2004* underpins *Every Child Matters*. The outcomes above are set out in Section 10. Sections 18 and 19 respectively require each local authority to appoint a Director of Children's Services (DCS) and designate a Lead Member for Children's Services (LM). The DCS and LM must have direct responsibility and provide a clear line of accountability for local authority education and children's social services. They are also responsible for leading and facilitating the cooperation arrangements set out in section 10 that underpin Children's Trusts and also any section 75¹ arrangements relating to children's health. As a whole, these arrangements are the key to uniting partners and integrating services with the aim of achieving the best possible outcomes for all children within the local area.
- 1.3. *The Children's Plan: building brighter futures* explains the Government's ten-year strategy to make England the best place in the world for children and young people to grow up. It provides a vision of the future in which the needs of families, children and young people is at the centre of everything we do. Parents, including fathers, can access timely and helpful support, especially during the formative early years of a child's life and at key transitional stages of development. Children enjoy their childhood, and are able to achieve and make good progress in their learning, acquiring the skills they will need to succeed in adult life. The focus in all services is on prevention rather than tackling crises later on. It is this future that the LM and DCS are being asked to take a leading role in delivering.

1 Of the National Health Service Act 2006

4 Statutory Guidance: The Roles and Responsibilities of the Lead Member for Children's Services and the Director of Children's Services

- 1.4 This guidance, on the roles and responsibilities of the LM and DCS, has been updated to take account of the good progress already made, reinforce existing best practice and highlight the importance of the LM and DCS as leaders and champions for children, young people and their families. It aims to explain how the roles are distinct and complementary and how working together as a team, they can be most effective in driving clear improvements in outcomes.
- 1.5 Updated statutory guidance on Children's Trusts *Children's Trusts: statutory guidance on inter-agency cooperation to improve well-being of children, young people and their families* was issued on 18 November 2008. Under the Children Act 2004, the LM and the DCS must also have regard to statutory guidance *Working Together to Safeguard Children*. Other key guidance documents are listed in Appendix 3.

Status of this guidance

- 1.6 Sections 18(7) (Director of Children's Services) and 19(2) (Lead Member for Children's Services) of the 2004 Act require local authorities to have regard to any guidance issued by the Secretary of State in exercising their functions for the purposes of those sections. Local authorities must take the final version of this guidance into account and, if they decide to depart from it, have clear reasons for doing so.
- 1.7 Following consultation, revised statutory guidance will be published and replace the 2005 publication *Statutory guidance on the roles and responsibilities of the Director of Children's Services and Lead Member for Children's Services*.

Section 2: The Lead Member for Children's Services

Introduction

2.1 The Lead Member for Children's Services (LM) has a crucial role in defining the political priorities and outcomes with the DCS. They should make sure there is a vision in which integrated children's services have children, young people and their families at the centre of their activities. They should communicate this vision to the cabinet, executive and other councillors and in the boards and partnerships on which they are represented. The LM should listen to and involve children, and champion their interests both across functional boundaries within the local authority and across local partnerships, to ensure that the needs of all children, young people (including the most disadvantaged and vulnerable), their families and carers are addressed, with a focus on early identification and prevention. The LM should question and challenge, but not get involved in the day-to-day management of the delivery of services.

Designation of the Lead Member

2.2 The Lead Member for Children's Services has political responsibility for the leadership, strategy and effectiveness of the local authority's children's services. The function of designating the LM is the executive's responsibility and the LM must be a member of the executive. Once designated, the LM must agree a working relationship with other members of the local authority and the wider community.

2.3 The LM is an "office holder" under the Safeguarding Vulnerable Groups Act 2006². Consequently, the LM will be engaging in regulated activity by virtue of undertaking the role, and so will need to comply with the requirements of the new vetting and barring scheme (scheduled to go live in October 2009).

² See schedule 4, paragraphs 4(1)(b), 4(2) and 4(3) of the Safeguarding Vulnerable Groups Act 2006

Key roles

- 2.4 The Lead Member has a strategic role and will take decisions in respect of local authority children's services. The LM will exercise these functions within the local framework of accountabilities, and will be held to account in doing so through the local authority Overview and Scrutiny Committee. The Committee can require the LM to attend or provide information on matters relating to children and young people in the area covering the full range of services for children, not just those commissioned or provided by the local authority itself. This provides a means of ensuring strong local accountability for the delivery of local public services, including children's services.
- 2.5 The Lead Member for Children's Services has the following key roles:
- a) providing political leadership within and in partnership beyond the local authority, in order to:
 - engage and encourage local communities to contribute suggestions, comments and ideas on how children's services might be improved;
 - ensure that services delivered within the local area are designed by listening to the voice of children and young people and organised around their needs; and
 - improve outcomes for all and narrow the outcomes gap for vulnerable groups of children and young people;
 - b) championing the interests of children and young people within the local authority's area:
 - in particular through political engagement with the Local Strategic Partnership, Children's Trust and with local community organisations;
 - c) ensuring a clear focus on safeguarding;
 - d) promoting the safety and welfare of children across all agencies, especially looked after children; and
 - e) exercising political accountability:
 - for the effectiveness, availability and value for money of all local authority children's services.

Political Leadership

- 2.6 The Lead Member provides political leadership to drive improvement in outcomes across the full range of children's services within the area, including those provided in other parts of the local authority which impact on children and young people and those commissioned or provided by Children's Trust partners. This requires making a strong case for effective and efficient targeting of resources to address the needs of children, young people and families.
- 2.7 It is part of the Lead Member's leadership role to ensure the effective discharge of the authority's statutory children's services functions. The LM will have access to the assessment and inspection reports to draw on to raise issues and the findings of the Overview and Scrutiny Committee to press on particular issues. Using that intelligence should ensure that the Director of Children's Services and other senior officers in the local authority are held to account by the Chief Executive and Elected Members for their contribution to children's well-being and narrowing the outcomes gap for disadvantaged groups against a background of improved outcomes for all children and young people.
- 2.8 It is important that the LM provides a voice for children, young people and families. They ensure that arrangements are in place for all to become actively involved in and make a real difference to the development of services, through dialogue with service deliverers, providing feedback on effectiveness and ensuring that their needs are fully reflected in the Children and Young People's Plan.

Partnerships

- 2.9 The LM cannot exercise decision-making functions in relation to the public, private, or third sectors, as each separate agency or body will retain its functional responsibilities, and will remain ultimately accountable for those functions. However, the Lead Member should work with other agencies in support of the DCS through both the Children's Trust and the Local Strategic Partnership so that, taken together, services effectively address the needs of children and young people in the local area.

- 2.10 The Lead Member should actively seek to promote the interests of children, young people and families within both the Children's Trust and the Local Strategic Partnership. In relation to Children's Trust partners, the Lead Member should ensure that their governing or executive bodies or boards are aware of their shared responsibility for improving outcomes for all children and narrowing the outcomes gap for children from disadvantaged groups; that information about the extent to which those responsibilities are being met is available; and that they are encouraged where necessary to review and improve their own contribution. The LM should ensure that the DCS also exercises this function at chief officer level.
- 2.11 In two-tier authorities the LM has an important role in establishing effective working relationships with the Elected Members of the district councils, helping to encourage their full engagement with the Children's Trust.
- 2.12 Robust governance and monitoring frameworks should be in place within the local authority, under the auspices of the DCS, and in local partnerships with responsibility for local authority children's services. The frameworks need to cover arrangements for staff management, financial management (including audit), risk management (in particular in relation to safeguarding and promoting the welfare of children) and information management to support effective decision making. The LM needs to be satisfied that these are in place.

Safeguarding

- 2.13 The LM has an important role in safeguarding and promoting the welfare of children. They should ensure that the local authority fulfils its responsibilities to the children for which it is the corporate parent and that all other relevant agencies share responsibility for safeguarding and promoting welfare. Through the Chief Executive, the LM will hold the DCS to account for the work of the Local Safeguarding Children Board which co-ordinates and ensures the effectiveness of what is done by the board partners to safeguard and promote the welfare of all children. These safeguarding responsibilities include all children who are in the local authority area, including those who are in a secure establishment (Young Offender Institute, Secure Children's Home or Secure Training Centre), in foster care, disabled children in residential care and children and young people placed outside the local authority's area.

- 2.14 The Government has already said, in *Local Safeguarding Children Boards: A Review of Progress (2007)*, that it believes that appointing independent chairs to LSCBs is important to avoid conflicts of interest and provide independent scrutiny. This is one of the key issues being considered in the current stocktake of Local Safeguarding Children Boards, and Ministers will consider in the light of the findings of this work if the statutory guidance on *Working Together* needs to be revised.
- 2.15 The LM must work closely with the other members involved with adult social services to ensure effective transition arrangements are in place for those who will need social care support throughout their lives.
- 2.16 In order to ensure that co-ordinated action is in place to safeguard vulnerable children and deliver improved outcomes for all children and young people, the LM should receive regular reports from the DCS about how services are being delivered. The LM should question and challenge further where necessary, but not get involved in the day-to-day management of the delivery of services.

Corporate Parenting

- 2.17 All members of the local authority have a shared responsibility for corporate parenting, but the Lead Member has the leading role in ensuring that children looked after by the local authority have their interests protected, their opportunities maximised, their educational achievement enhanced and their care shaped to meet their needs. In practice this means Lead Members should make sure they are provided with the information they need about the well-being of individual children in local authority care: their educational results; any special needs; number of placements; general health; and safety. And if relevant information is not forthcoming they should ask for it. Strategies to encourage and support other Elected Members' involvement in and responsibility for corporate parenting include: corporate parenting panels; training and seminars; meeting a representative group of looked after children regularly to listen to any concerns; attending annual awards ceremonies to celebrate achievement; encouraging councillors to mentor individual children and champion their educational achievement; and sharing responsibility for visiting children and children's homes.

Structure to support the Lead Member

2.18 The role and responsibilities of the Lead Member for Children's Services are broad and where appropriate the LM may be supported by one or more Elected Member. The remit of the support roles could be as wide or as limited as the local authority wishes. However, in framing the roles, the local authority should ensure that the Lead Member maintains effective overview of children's services and has overall political accountability. What this means in practice is being aware of the things that are concerning children young people and their families in the area by, for example, visiting schools and children's homes and talking to the staff and to the young people directly. It also means being in touch, receiving and challenging data and other evidence, and having frequent and regular meetings with the DCS and other officers to establish a clear overview of what the local (and national) situation is. And it means reporting progress to other councillors, dealing with their queries and providing help and advice to local people when they ask.

Section 3: The Director of Children's Services

Introduction

- 3.1 The Director of Children's Services is tasked with enabling all children and young people in the area to achieve their potential across all five outcomes and to ensure that the outcomes gaps between the most disadvantaged children and their peers are reduced. This can only be achieved through provision of excellent services in which the local authority and its partners in the Children's Trust work together focusing on the needs of the child, young person and family.
- 3.2 This involves the huge challenge of orchestrating and leading a wide range of activities, people and agencies – many of which they do not directly manage – in a joint local effort to improve outcomes and narrow gaps for children and young people. The broad purpose of the role is to provide a clear line of accountability for children's services, to promote leadership in improving outcomes for all children and to provide services which address children and young people's needs. From the national perspective, driving the ambition of the *Children's Plan* and *Every Child Matters*, to the level of the individual child, safeguarding and promoting welfare, the DCS is involved in the lives of all children, young people and families in the local area. The DCS role is about championing children, especially the most disadvantaged and vulnerable. Real results can only be achieved through the partnership working of the Children's Trust, facilitated by the DCS. This requires leadership, child-centredness, innovation, creative thinking and meticulous use of data and other information.

Appointment of the DCS

- 3.3 The Director of Children's Services is a politically restricted statutory chief officer post³. This means the postholder will be prevented from being politically active, for example standing for or holding office in any local

³ under section 2 of the Local Government and Housing Act 1989 (as amended)

authority, or canvassing on behalf of a political party or candidate. The function of appointing the DCS is the executive's responsibility. The DCS will be a member of the local authority senior management team, and will be accountable to the executive.⁴The DCS should report directly to the Chief Executive (head of paid service) who reports to the Council on the performance of its officers.

- 3.4 Like the Lead Member, the DCS role is an "office holder" under the Safeguarding Vulnerable Groups Act 2006⁵. Consequently the DCS will also be engaging in regulated activity by virtue of undertaking the role, and will need to comply with the requirements of the new vetting and barring scheme.
- 3.5 The DCS and Lead Member should work together as a team exchanging information and views so that they can fulfil their responsibilities effectively. The DCS should have direct access to all members of the authority, including the Leader, to work closely with them, so children's services are delivered effectively and co-ordinated with related policy areas.

Local Authority Functions

- 3.6 The DCS has direct responsibility for education and children's social care and other functions (see Appendix 1). The local authority's functions relating to child employment under section 559 of the Education Act 1996 (as amended) sections 18(2) and 27 of the Children and Young Persons Act 1933 ("the 1933 Act") and section 37 of the Children and Young Persons Act 1963 are education functions (as defined by section 96 of the 1933 Act) and therefore fall within the DCS's areas of responsibility by virtue of section 18(2) (a) of the 2004 Act. This is also the case for local authority functions relating to the provision of youth service facilities set out in section 507A and 507B of the Education Act 1996 (as amended).
- 3.7 As a member of the local authority senior management team the DCS should contribute to planning the provision of the full range of council services and promote the interests of children, young people and families across the range of local authority services, including planning, housing, transport and leisure. The DCS should ensure that all council services take account of the needs of children and young people and understand how these services

⁴ See Schedule 1 to The Local Authorities (Standing Orders) (England) Regulations 2001 SI 3384.

⁵ See Schedule 4, paragraph 4(1)(c) of the Safeguarding Vulnerable Groups Act 2006

contribute to improving outcomes and narrowing gaps for children from disadvantaged backgrounds and those who have special educational needs and/or disabilities.

- 3.8 The DCS must ensure that adequate systems and protocols are in place for the effective discharge of children's services functions. However, line management responsibility for some of the authority's officers who contribute to the discharge of those functions may lie elsewhere in the authority.

Additional functions

- 3.9 Each local authority has the discretion to include in the DCS's remit any additional functions it considers appropriate⁶. The local authority also has the discretion to give the Director of Adult Social Services (DASS) functions in addition to those relating to adult social services. It may choose to combine the functions of the DASS or DCS with other responsibilities such as leisure, housing, community services or any other local authority functions. The DCS should work closely with the DASS to support young people with social care needs during the transition to the adult social services system; identify any adults in contact with social services who are parents or carers and ensure the needs of their children are taken into account; and ensure a co-ordinated approach to meeting the care needs of communities.
- 3.10 There are clear distinctions between the roles and statutory responsibilities of the DCS and the DASS. While it is legally permissible for a local authority to combine the role of DCS with the role of the DASS, it is not recommended without a very strong justification. Any local authority taking this decision should ensure that its structures fully integrate education and children's social care. It should not have a second tier structure split distinctly into education and social services.
- 3.11 In considering whether to extend the remit of the DCS to encompass other functional responsibilities, the local authority will need to consider very carefully whether such an extension of the role would still permit the DCS to provide sufficient personal focus to the well-being of children in the local area, as set out in the Act and in this guidance.

6 Section 18(5) of the Children Act 2004

Joint DCS appointments

3.12 Section 18(8) of the Children Act 2004 provides that two or more local authorities may appoint a joint DCS to cover their local authority areas. This option may be appropriate for smaller neighbouring authorities which collaborate to deliver certain services. However, local authorities should consider the pressures that can result on a single officer holding more than one post and the potential impact on performance.

Structure to support the Director of Children's Services

3.13 Local authorities are best placed to decide what arrangements are most appropriate to support their DCS, taking into account their specific local circumstances and priorities. Local authorities have discretion over the structure and the organisation of service delivery below the DCS. The adopted model must secure proper accountability and ensure that the structure facilitates and supports the provision of effective services which in turn improve outcomes and narrow gaps for the most disadvantaged.

Key roles

3.14 The Director of Children's Services has the following key roles:

- a) leadership:
 - within the local authority to sustain the necessary changes to culture and practice;
 - within the local authority's area, so that all services contribute to improving outcomes for all and narrowing the gap for disadvantaged groups;
- b) championing children, young people and their families within the local area, in particular through:
 - professional leadership of the Children's Trust and engagement with the Local Strategic Partnership by strengthening the Children's Trust (and wider Local Strategic Partnership) to sustain effective joint working with and between bodies which commission, provide, or have an interest in services affecting local children and young people;

- production and publication of the Children and Young People's Plan and the relevant targets within the Local Area Agreement (along with the statutory DCSF targets);
- c) safeguarding children – promoting the safety and welfare of children across all agencies; especially looked after children; and
- d) management of the local authority's children's services, with professional responsibility and accountability for their effectiveness, availability and value for money.

Leadership

- 3.15 The DCS has the major leadership role in the local area both within the local authority and with the wider partnership arrangements. In their professional capacity DCSs should drive through cultural change and improved practice to bring about a step change in improved service delivery, for example by setting a shared vision for the local area as a whole, identifying within it specific projects for joint working, brokering joint commissioning agreements between partners, promoting joint training for the different groups of professionals and enabling greater dialogue between them, facilitating sharing of information and setting up multi-agency working environments including where appropriate co-located bases. This should lead to measurable improvements in outcomes for all children, young people and their families and narrowing the gaps in outcomes for disadvantaged groups.
- 3.16 The Director of Children's Services should ensure that there is clear leadership at all levels of children's services within the local authority, including for schools. The Government's vision for leadership in children's services is to have "resilient, well-informed, creative and innovative leaders with the requisite skills, knowledge and experience to ensure the effective delivery of integrated provision for children, young people and families at the local level"⁷. This is especially important where practitioners are working in integrated services and multi-agency teams.

⁷ From the National Development Framework for Leaders and Managers of Children's Services 2008

Partnership working

- 3.17 The DCS must lead the work with partner agencies to strengthen the Children's Trust and engage with the Local Strategic Partnership. The Children's Trust should establish strategic priorities for children, young people and their families within the local area and reflect these within the Children and Young People's Plan⁸. The plan must cover the full range of services affecting local children and young people, and requires close engagement of the key strategic partners through the Children's Trust. The DCS will monitor partners' delivery of locally agreed targets and priorities, as set out in the Local Area Agreement and Children and Young People's Plan, and hold them to account through the Children's Trust and wider Local Strategic Partnership. To do this effectively the DCS will need to gain a detailed knowledge of the quality of services in terms of what children, young people and families actually experience when they use them. This will require a systematic and ongoing consultation with the service users and include making specific arrangements to target and engage hard-to-reach groups. Some examples include, Youth Parliaments, attending School Councils, or Children in Care Councils as well as ad hoc information acquired from visits and correspondence.
- 3.18 Statutory 'relevant' partners in the Children's Trust include the district councils (where there is a two-tier system of local government), primary care trusts and the Strategic Health Authority, youth offending teams, probation and the police; and the Learning and Skills Council. In counties with district councils, the DCS should ensure the district councils are fully engaged through the Children's Trust in co-ordinating strategic service policies that impact on children in the area.⁹ The DCS is responsible for engaging Children's Trust partners, including where appropriate private and third sector organisations, and other delivery partners such as schools (including Academies),¹⁰ colleges, primary care organisations and other NHS trusts (and through these health partners, seek frontline input and advice from GPs and other professionals). This engagement will be built around improving outcomes for children and young people rather than around organisational

8 The Children and Young People's Plan guidance is currently being revised and will be re-issued in December 2008

9 See *Children's Trusts: statutory guidance on inter-agency cooperation to improve well-being of children, young people and their families*

10 As outlined in the consultation document *Legislative changes to Children's trusts*, schools will become statutory relevant partners

boundaries and professional disciplines. The DCS should ensure that private and third sector partners are able to play a real and effective role at the strategic level of planning and commissioning and providing children's services.

- 3.19 Priorities for the local area are formalised within the Local Area Agreement (LAA), which sits at the core of the new local performance framework¹¹. DCSs have a key role to play in ensuring that the main priorities for children, young people, and their families identified in their Children and Young People's Plan are championed in the LAA. The Comprehensive Area Assessment (which will replace the Comprehensive Performance Assessment from April 2009) will be carried out by the independent local service inspectorates and measure performance against all LAA targets, other local priorities and all the indicators in the national indicator set. Local Authorities and their local service-delivery partners will be held to account on these through a rigorous reporting system.

Universal services

- 3.20 The DCS should ensure that all appropriate local authority services engage effectively with the Local Safeguarding Children Board. The DCS will be held to account for the effective working of the LSCB by the LM.
- 3.21 Successful and high quality early childhood services will depend on local authorities leading multi-agency partnerships. Integrated services should be delivered through Sure Start Children's Centres and schools. The DCS will need to ensure the duties in the Childcare Act 2006 are delivered effectively, especially working with NHS and Jobcentre Plus partners to improve the outcomes of all children under five through integrated and accessible early childhood services. The DCS should also specifically ensure that early childhood services are a key part of local regeneration and employment strategies, and that links to other local initiatives and opportunities are exploited so the impact on the early years is taken into account, particularly in co-ordinated efforts to tackle child poverty.
- 3.22 The DCS plays a lead role, within the Children's Trust, in facilitating the engagement of schools with the wider children's service agenda. The DCS and their leadership team will need to work closely with all schools to ensure

¹¹ As outlined in the 2006 Local Government White Paper *Strong and Prosperous Communities*

that they understand and contribute to achieving the objectives and priorities for children and young people in the local area. This can be achieved by the DCS ensuring all schools are represented in the work of the Children's Trust Board, informing strategic planning and being kept up-to-date with key developments. Schools are key to ensuring that every child has the opportunity to fulfil their potential and have a duty to promote well being and community cohesion¹². The development of all schools into 21st century schools in line with the vision in the *Children's Plan* will require full commitment from the DCS working through the Children's Trust. The DCS also needs to ensure that schools are appropriately challenged and supported to play their role and that there is early action to identify and improve schools causing concern, using intervention powers where appropriate.

- 3.23 The DCS should ensure there is an effective 14-19 Partnership for the area, to deliver local targets on participation and attainment. In anticipation of other measures the Government is planning to introduce, the DCS should prepare for future duties to deliver the Diploma entitlement, raise the participation age and take on the responsibility for funding 16-19 education and training from the LSC. (Young people with special educational needs and/or disabilities up to the age of 25 are also included).

Accountability

- 3.24 The DCS reports directly to the Chief Executive and (through the Chief Executive) is accountable to the Leader of the Council, the Lead Member for Children's Services, other members of the council's executive and overview and scrutiny committees for ensuring that:
- a) all children's services comply with statutory requirements;
 - b) work by the local authority and its partners to safeguard and promote the welfare of children in the authority's area is operating effectively;
 - c) the needs of children and young people in the authority's area have been assessed;
 - d) resources from the local authority, other public agencies, the private sector, and the third sector, are identified;

¹² Section 21 of the Education Act 2002, as amended by the Education and Inspections Act 2006.

- e) services are appropriately targeted on narrowing the gap and delivering improved outcomes;
- f) the children's services provided or commissioned by the local authority and its Children's Trust strategic partners are effective at meeting identified need, are well integrated, child and family orientated, and directed towards achieving outcomes shared across agencies;
- g) there are sufficient financial, human and other resources available to discharge the authority's statutory children's services functions and maintain service standards in the future; and
- h) staff are supported and developed so that they have the necessary skills and competences.

Commissioning and contracted out services and functions

- 3.25 Services may be delivered directly by staff and officers employed by the local authority, or by other agencies or contractors under arrangements made by the local authority. The DCS has a key role in driving forward improvements in outcomes for all children, young people and families and narrowing the gap in the range of outcomes. This includes ensuring that all commissioners and providers of services for children and young people within the Children's Trust have a clear focus on prevention and early intervention for children who need additional help, while ensuring strong safeguarding arrangements. This also includes ensuring services reach those who need them, for example, increasing access to healthy school meals.
- 3.26 Where functions or services for children, young people or families and carers are contracted out to, or commissioned from, another organisation, responsibility for managing contracts rests with the DCS. It is essential that in framing a contract the DCS ensures that there are clear review mechanisms and accountability structures in place. These should allow the local authority to monitor the effectiveness and efficiency of the service, to require improvements to be made where the service falls short of the quality or efficiency specified, and that the DCS (and other officers) is supplied with the necessary monitoring and improvement information to report to the LM, Chief Executive and Council.

- 3.27 Where functions or services are outsourced as a result of a Government direction, the authority retains responsibility for ensuring the effectiveness and efficiency of those services as outlined above.
- 3.28 Where officers are engaged in the delivery of children's services, they will report to the DCS directly, or through their leadership and management team. This includes staff engaged in the provision of any prescribed healthcare services under a partnership agreement made between the local authority and an NHS body under regulations made under section 75 of the National Health Service Act 2006. Where services are contracted out by the local authority, those engaged in commissioning the services and managing the contracts should report to the DCS through the agreed structure.
- 3.29 Subject to legislation, local authorities will take over responsibility for commissioning provision for 16-19 year olds and learners up to the age of 25 with special educational needs and/or disabilities from 2010. To reflect the diverse travel to learn patterns of these young people local authorities will need to work together in sub-regional groupings. The DCS will need to ensure appropriate provision is commissioned for its resident learners, as well as commissioning provision from learning providers in its area on behalf of other local authorities. They will need to demonstrate how the approach to commissioning will help deliver the wider 14-19 agenda, including delivery of the Diploma entitlement and raising of the participation age.
- 3.30 The key to providing services which genuinely address the needs of children, young people and their families is to have in place systematic methods for listening to children, young people and their families. It has to go beyond surveys and include speaking directly for example to vulnerable groups which are often marginalised, such as looked after children and young offenders, as well as children who are in school. Different methods are needed for the different groups and there is no single solution, but an effective DCS will always be able to 'get under the skin' of what the services – and children's experiences of them – are actually like.

Section 4:

Complementary working between the DCS and LM

- 4.1 The DCS and the LM roles are different and complementary. Both have responsibilities as champions for children to improve outcomes and reduce gaps, and both are local leaders driving forward the changes needed to deliver better integration and child focus across the full range of services for children in the local area. But there are important differences: the LM provides political leadership and direction; and the DCS operates in a managerial and operational sphere. They have to work together as a team, without blurring the differences between their roles. To be really effective the team should retain scope for constructive challenge. An informed and confident LM can contribute to the necessary checks and balances in the system that helps ensure children are safe and services are running well.
- 4.2 Together the DCS and the LM should drive forward the development of a strong and dynamic Children's Trust to achieve the measurable improvements in outcomes for children envisaged in the *Children's Plan: Building Brighter Futures*. Both should narrow the gap and improve outcomes for all children by encouraging better partnership working, integrating planning, commissioning and delivery, across the full range of services for children provided by the local authority and its partners in the Children's Trust.
- 4.3 The DCS and the LM have responsibility in their different spheres for leading corporate parenting arrangements, both across the authority and with its partners in the Children's Trust. The DCS and LM should take the lead in ensuring that looked after children are listened to, individually and collectively, and that their needs are addressed. Both need to provide leadership across the local authority in safeguarding and promoting the welfare of looked after children. Both need to ensure that governance arrangements are in place to implement any decisions regarding looked after children across the authority and partner agencies. Both need to ensure that the strategic plans of the local authority and joint plans with partner agencies meet the needs of looked after children and care-leavers.

- 4.4 The DCS and the LM should work with partners to establish a framework of accountabilities for the effective discharge of their respective responsibilities, for articulating a clear local vision and for the delivery of services within this framework. They will work as partners to ensure that robust management, reporting, governance, partnership and audit procedures exist to enable services to be delivered effectively, thus enabling services to provide improved outcomes for all children and young people and narrowing gaps for disadvantaged groups of children and young people. The LM also has a political championing and leadership role to influence non-local authority service providers, including district councils in the area.
- 4.5 The Youth Crime Action Plan, published in July 2008, contains a range of proposals designed to tackle and reduce youth offending. In order to achieve this aim the DCS as the professional lead and the LM as the political lead should seek to ensure coherent planning between all agencies providing services for children, bridging the divide between the social welfare system and the criminal justice system so young people's wider needs are addressed and effective transitions occur. This will prevent young people who have offended or who are at risk of offending being perceived as purely the responsibility of the criminal justice system. We know that the effective resettlement of young people leaving custody and returning to the community is critical to breaking the cycle of offending. DCS and LMs must provide the strategic leadership that is required to ensure that these young people have access to the services and support they need to reduce re-offending. This includes ensuring that there is a joined up approach to resettlement plans and that the services are delivered appropriately. DCSs and LMs should also put in place procedures which enable Youth Offending Teams and the secure estate to escalate and resolve issues where resettlement services are not being delivered to young people leaving custody. Because of the configuration of the secure estate many young people in custody are not placed in a secure establishment in their local area. Consequently, in order to meet their responsibilities to all children who leave custody DCS and LMs should establish transition arrangements for children normally resident in their area who are placed in the secure estate outside of their area. Following consultation of the proposals contained in the Youth Crime Action Plan we will be taking forward work to further strengthen the local accountability structures for addressing youth crime and this work will have ramifications for the future role of the DCS and LM in this area.

Appendix 1: Legislative Underpinnings

Children Act 2004

Section 18: Director of children's services

- (1) A children's services authority in England may, and with effect from the appointed day must, appoint an officer for the purposes of—
 - (a) the functions conferred on or exercisable by the authority which are specified in subsection (2); and
 - (b) such other functions conferred on or exercisable by the authority as may be prescribed by the Secretary of State by regulations.
- (2) The functions referred to in subsection (1)(a) are—
 - (a) functions conferred on or exercisable by the authority in their capacity as a local education authority;
 - (b) functions conferred on or exercisable by the authority which are social services functions (within the meaning of the Local Authority Social Services Act 1970 (c 42)),
so far as those functions relate to children;
 - (c) the functions conferred on the authority under sections 23C to 24D of the Children Act 1989 (c 41) (so far as not falling within paragraph (b));
 - (d) the functions conferred on the authority under sections 10 to 12 and 17 of this Act; . .
 - (e) any functions exercisable by the authority under [section 75 of the National Health Service Act 2006 or section 33 of the National Health Service (Wales) Act 2006] on behalf of an NHS body (within the meaning of [those sections]), so far as those functions relate to children[; and
 - (f) the functions conferred on the authority under Part 1 of the Childcare Act 2006].

- (3) Subsection (2)(a) does not include—
 - (a) functions under section 120(3) of the Education Reform Act 1988 (c 40) (functions of LEAs with respect to higher and further education);
 - (b) functions under section 85(2) and (3) of the Further and Higher Education Act 1992 (c 13) (finance and government of locally funded further and higher education);
 - (c) functions under section 15B of the Education Act 1996 (c 56) . . . (education for persons who have attained the age of 19);
 - (d) functions under section 22 of the Teaching and Higher Education Act 1998 (c 30) (financial support to students);
 - (e) such other functions conferred on or exercisable by a children's services authority in England in their capacity as a local education authority as the Secretary of State may by regulations prescribe.
- (4) An officer appointed by a children's services authority in England under this section is to be known as their "director of children's services".
- (5) The director of children's services appointed by a children's services authority in England may also have responsibilities relating to such functions conferred on or exercisable by the authority, in addition to those specified in subsection (1), as the authority consider appropriate.
- (6) The functions in relation to which a director of children's services may have responsibilities by virtue of subsection (5) include those referred to in subsection (3)(a) to (e).
- (7) A children's services authority in England must have regard to any guidance given to them by the Secretary of State for the purposes of this section.
- (8) Two or more children's services authorities in England may for the purposes of this section, if they consider that the same person can efficiently discharge, for both or all of them, the responsibilities of director of children's services, concur in the appointment of a person as director of children's services for both or all of them.

- (9) The amendments in Schedule 2—
- (a) have effect, in relation to any authority which appoint a director of children's services before the appointed day, from the day of his appointment; and
 - (b) on and after the appointed day have effect for all purposes.
- (10) In this section, "the appointed day" means such day as the Secretary of State may by order appoint. *[1st January 2008 (see SI . 2007 No. 1792 The Children Act 2004 (Director of Children's Services) Appointed Day Order 2007)]*

Section 19: Lead member for children's services¹

- (1) A local authority in England must, in making arrangements for the discharge of –
- (a) the functions conferred on or exercisable by the authority specified in section 18(1)(a) and (b), and
 - (b) such other functions conferred on or exercisable by the authority as the authority consider appropriate, designate one of their members as their "lead member for children's services".
- (2) A local authority in England must have regard to any guidance given to them by the Secretary of State for the purposes of subsection (1).

Duty to Appoint

The Children's Act 2004 placed a duty on every local authority in England that from the 'Appointed Day' it must:

- a. appoint a Director of Children's Services (section 18(1) of the Act); and
- b. designate a Lead Member for Children's Services (section 19(1)).

Schedule 2 of the Act removed the previous duty on local authorities in England to appoint a Director of Social Services (DSS) and a Chief Education Officer (CEO) and also amended the duty to appoint a Director of Social Services (DSS) under section 6 of the Local Authority Social Services Act 1970, so that local authorities in England are required to appoint a Director of Adult Social Services (DASS). The Department of Health (DH) has issued Guidance on the Statutory Chief Officer Role of Director of Adult Social

¹ This section came into force on 21st March 2008 (see SI 2008 No. 752 (C. 33) The Children Act 2004 (Commencement No. 9) Order 2008)

Services (May 2006) with supporting Best Practice Guidance on the Role of the Director of Adult Social Services (May 2006).

Functions and Services

The responsibilities and duties relating to children previously discharged by the statutory Chief Education Officer and Director of Social Services are assigned to the DCS. In addition the DCS must be assigned responsibility for the following functions conferred on local authorities under the Act ².

- a. Section 10 – the duty to make and sustain arrangements to promote co-operation between the Authority and its partner organisations to improve the well being of children in the authority's area.
- b. Section 11 – the duty to make arrangements to ensure the authority's functions are discharged having regard to the need to safeguard and promote the welfare of children.
- c. Section 12 – the duty to participate in the operation of the database of basic information of all children in the Authority (ContactPoint).
- d. Sections 13, 14, 15 and 16 – the duty to establish a Local Safeguarding Children Board (LSCB) to co-ordinate and ensure the effectiveness of board members' activities for the purpose of safeguarding and promoting the welfare of children in the Authority's area. This includes appointing the chair, of consultation with board partners, and (where the chair is not the DCS or local authority chief executive) holding the chair accountable for the effective operation of the LSCB. Responsibility for the work of safeguarding and promoting the welfare of children by each agency or body rests with that agency or body. The LSCB, which brings together these key organisations, will have a role in evaluating how they fulfill that responsibility and ensuring that their safeguarding work is effective. This includes residential children's settings in the Local Authority area, including the secure estate³, and where placements are commissioned.

2 The functions mentioned in paragraph 4.5 d are part of the DCS's responsibilities by virtue of being designated social services functions (relating to children). See Schedule 1 of the Local Authority Social Services Act 1970 as amended by section 56 of the Act.

3 See the Local Safeguarding Children Board regulations 2006 (Statutory Instrument 2006/90) and Working Together to Safeguard Children (HM Government, 2006) chapter 3.

- e. Section 17 – the duty to prepare and publish a Children and Young People's Plan (CYPP) to set out the Authority's strategy for discharging their functions in relation to children and young people⁴.
- f. Section 20(9)(d) – responsibility for co-ordinating statements of proposed action in light of a Joint Area Review report, in consultation with partners⁵. The DCS will also exercise a key role in monitoring and evaluating implementation of the proposed action.

The DCS is also responsible for the following local authority functions that were modified by the Act:

- a. seconding at least one children's social worker and at least one education professional to the Youth Offending Team (YOT). This function is set out in section 39(5) of the Crime and Disorder Act 1998 as amended by Schedule 2 of the Act. YOTs, and the local authorities with responsibility for establishing them, will need to continue to discharge their statutory functions under sections 37-40 of the Crime and Disorder Act 1998 – including services to courts, dealing with offenders and submitting Youth Justice plans (except when these are no longer required for local authorities which have been high performing, and are judged as no longer required under the 'reducing burden's agenda'), and the DCS to contribute to corporate local authority responsibilities.
- b. the duty to promote the educational achievement of children in care. This function is set out in section 22(3A) of the Children Act 1989 as amended by section 50 of the Act; and
- c. the duty to provide the Secretary of State, if he so directs an authority, with information on individual children. This function is set out in section 83(4A) of the Children Act 1989 as amended by section 52 of the Act.

4 The Children and Young People's Plan (England) regulations 2005 (Statutory Instrument 2005/2149 as amended) and 2007 (2007/57) set out the matters to be dealt with in the plan, when and how it is to be published, how it will be reviewed and consultation requirements.

5 The Children Act 2004 (Joint Area Reviews) Regulations 2005 (Statutory Instrument 2005/1973) set out with whom the authority must consult, by when a written statement must be made, and to whom it must be sent.

All the duties in the Childcare Act 2006 under sections 1-4, including the duty to broaden the information provided to parents under section 12, also fall within the remit of the DCS. These sections create a duty on local authorities, working with their NHS and Jobcentre Plus partners, to improve the outcomes of all young children in their area and reduce inequalities between them, through the planning and delivery of integrated early childhood services.

Appendix 2: Useful Links

This section will contain hyperlinks to useful guidance and other documents/internet sites.

Appendix 3: How to respond to the consultation

The consultation on this revised draft guidance closes on **10 February 2009**. To submit your response to the consultation in email or writing, please send it to:

dcsandlm.consultation@dcsf.gsi.gov.uk

or

Local Area Policy Unit
Department for Children, Schools and Families
Ground Floor
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

To respond online please visit <http://www.dcsf.gov.uk/consultations>

We will use your responses to inform publication of final guidance in 2009.

Consultation questions

1. Does the guidance clarify the role and responsibilities of the Lead Member for Children's Services? If not, what more is needed?
2. Does the guidance clarify the role and responsibilities of the Director for Children's Services? If not what more is needed?
3. Does the guidance adequately explain the relationship between the Lead Member for Children's Services and the Director for Children's Services?
4. Does the guidance enable the LM and DCS to work effectively together?
5. Is there anything else the guidance should cover?
6. Appendix 2 will contain a list of other guidance and documents (with links) – can you recommend any publication you have found particularly useful?

All DCSF public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

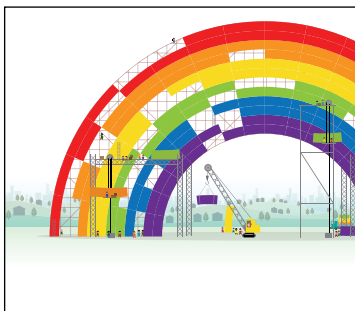
Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DCSF consultations are conducted, please contact Phil Turner, DCSF Consultation Co-ordinator, tel: 01928 794304/email: phil.turner@dcsf.gsi.gov.uk.



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