

# Local Government Association response to the DfE consultation 'Revised guidance for virtual school heads and designated teachers'

Date: 27 November 2017



The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

The LGA welcomes the opportunity to comment on this [consultation](#).

1. The LGA welcomes the opportunity to comment on the new guidance for local authorities and schools on promoting the education of looked-after and previously looked-after children. This is a positive policy that should help to improve educational outcomes for some of our most vulnerable children and young people and help them to get the support they need to achieve their potential.
2. Our comments outlined below are intended to clarify responsibilities further, and to ensure that the guidance supports the overall wellbeing and development of looked-after and previously looked-after children to support their educational progress.
3. **Statutory guidance for local authorities on promoting the education of looked-after children and previously looked-after children**
  - 3.1 The guidance outlines a range of new responsibilities for virtual school heads (VSHs), most notably the requirement to promote the education of previously looked-after children. This new burden must be adequately funded, however local government has yet to be consulted on this.
  - 3.2 Our key concern with regard to the revised statutory guidance for virtual school heads (VSHs) is the emphasis given to educational attainment above all other outcomes. Councils are very clear on their role, as corporate parents, to help looked-after children and young people make good educational progress and to have high expectations of them. However, prioritising educational achievement (as emphasised, for example, at paragraphs 2 and 49) undervalues the significant other needs of looked-after children, in particular their emotional and mental wellbeing. VSHs and schools should be working with children as individuals, at their own pace and according to their specific needs. We also believe that all of the corporate parenting principles should be central to the authority's ethos and work with looked-after children, rather than emphasising principles e) and f), as suggested at paragraph 6.

# Submission

- 3.3 Acknowledgement of the key role played by the VSH in giving looked-after children the best opportunity to reach their full educational potential is positive. However, it must be recognised that the responsibility to advocate for children and to hold high expectations for them extends beyond the VSH to the entire authority as corporate parents, including social workers, the Director of Children's Services, Special Educational Needs and Disabilities (SEND) co-ordinators, the Chief Executive and councillors.
- 3.4 In a number of cases throughout the guidance, wording on the proposed involvement of the VSH could be stronger. The current wording is open to interpretation, for example VSHs "may be invited to comment on proposed SEND provision" (paragraph 63) and the VSH should "normally" be consulted on a school place (paragraph 15). This could result in variable responses between authorities. If the VSH is to have a genuine role in improving the educational outcomes of previously and currently looked-after children, their involvement in these issues should not be optional.
- 3.5 Similarly, the role of the child's social worker and carers to support VSHs could be strengthened. For example, behaviour management strategies should not only be agreed between the VSH and the school (paragraph 23), but should also involve the child's carers and social workers to ensure all relevant factors are taken into account. The child's social worker should also have the latest copy of the PEP, but they are not mentioned in paragraph 24. We also feel that consultation with the VSH should be explicitly referenced with regard to the social worker's role in acting on any changes required to meet the child's education needs identified by the IRO (paragraph 28).
- 3.6 There are several areas in which local authorities have limited or no powers to discharge the duties assigned to them by the guidance. Paragraphs 2 and 5 refer to access to high quality education placements and the avoidance of drift or delay in the provision of these; however, local authorities have no power to direct academies to take looked-after children, even where this is in the child's best interest. Even where requests for places are referred to the Education and Skills Funding Authority, only one referral in ten is successful.<sup>1</sup> Annex 2 refers to the VSH's responsibilities with regard to children in custody, identifying the expectation that the VSH will "ensure that the learning needs of the individual are being met". Local authorities have no powers to ensure educational provision or additional support for young people in secure custody.
- 3.7 In addition, paragraph 2 asks VSHs to "ensure the educational achievement of [looked-after children] is seen as a priority by everyone who has responsibilities for promoting their welfare". The VSH should certainly promote and encourage this prioritisation, but it must be recognised that they have no power to compel other organisations to do so, particularly as corporate parenting principles only apply to local authorities.
- 3.8 The guidance could be considerably stronger on the requirements on academies and other non-maintained provision. While maintained schools have very clear duties to help the VSH secure appropriate education for a looked-after child, the requirement on non-maintained provision amounts

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<sup>1</sup> <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2016-10-31/HL2837>

only to relationship-building. We know that in some areas, relationships between schools and the local authority are much stronger than others, and there must be a clear route of escalation where an academy refuses to engage, such as through the Education and Skills Funding Agency.

- 3.9 The LGA has recently published a resource pack for councillors to support them in the corporate parenting duties, including promoting the educational attainment of looked-after children, which we believe would be a useful addition to the list of useful resources. This can be accessed at <https://www.local.gov.uk/corporate-parenting-resource-pack>

**4. Does the statutory guidance clearly explain what is expected of local authorities and the Virtual School Head in discharging the duty to promote the educational attainment of children who were previously looked after children?**

- 4.1 We have a number of concerns around the role of the VSH in relation to previously-looked after children as outlined in the statutory guidance. In particular, it is not clear how the VSH will be informed about a previously looked-after child in their area. Equally, it is unclear how they should find out about a child who was adopted from outside England and Wales. We would welcome a stronger statement requiring both the VSH and schools to inform the other when they become aware of previously looked-after children within the school to ensure children are identified and receive the support they are entitled to.
- 4.2 Paragraph 44 places the duty upon the VSH for the area in which the child is in education, rather than where they live. However, responsibility for looked-after children is with the VSH at the child's home, or placing, authority, which may be different. This means that when a child ceases to be looked-after, they may be transferred to a different VSH with no previous knowledge of that child, the support they need or their background. Children who were previously looked-after, and their families or carers, may still be receiving support from their home authority, and it is therefore more joined-up to leave responsibility for their educational achievement with the VSH at their home authority. Education settings will need to work with more than one VSH if they are working with children placed both in area and out of area, therefore leaving responsibility with the home VSH is not an additional burden on education settings.
- 4.3 We are unclear why the duty to promote the educational achievement of previously looked-after children does not extend to those in private schools, home education or other non-state-funded provision (page 7). All previously looked-after children deserve the best opportunity for an excellent education; this should not be affected by the type of provider.
- 4.4 The guidance should note that previously looked-after children may also be living with carers, rather than parents, for example through Special Guardianship Orders.
- 4.5 Paragraph 49 requires the VSH to build relationships with local mental health specialists and other partners. While we agree that addressing mental health issues is important if a child or young person is to progress well in education, we feel that building these relationships is the responsibility of the child's social worker and for the authority more widely, and that the VSH's involvement in these issues should be directed through the child's social worker.

**5. Does the structure of the guidance help clarify the duties which apply to looked-after and previously looked-after children?**

5.1 Yes.

**6. Is the information provided on positive characteristics of interventions in the *Pupil Premium Plus* section in *Promoting education of looked after children* helpful in encouraging use of interventions supported by evidence?**

6.1 The broad principles presented in this section will already be guiding the use of PP+ in the vast majority of cases. Collated evidence on what is known to work for different groups of children, presented in a way that is clear and easy to access, would be more useful in encouraging the use of evidence-based interventions, along with support for training of VSHs to keep up to date with effective interventions, and resources to support local evaluation of interventions.

**7. Do you agree that Virtual School Heads should publish a clear policy on the use of Pupil Premium Plus, including any top sliced funding?**

7.1 Yes.

**8. Does the new section on mental health give sufficient information to enable Virtual School Heads to help schools in supporting looked-after and previously looked-after children with mental health needs?**

8.1 We are concerned that this section focuses almost exclusively on identifying and measuring mental health issues, rather than providing practical advice on how to support children and young people beyond signposting to information. Dealing with social, emotional and mental health issues early can support children to achieve better outcomes at school<sup>2</sup> so this guidance should be stronger on the role of schools and VSHs where problems are identified, for example through working with the social worker to facilitate access to support or amending the PEP. However, it should also be noted that many children's mental health services have long waiting lists and timely interventions are not always available.

8.2 Paragraph 56 suggests that VSHs should "encourage" schools to complete their element of the Strengths and Difficulties Questionnaire (SDQ), but the accompanying *Guidance for Designated Teachers* is considerably stronger in requiring the designated teacher to "put in place robust arrangements to complete their element of the SDQ". We feel that this stronger wording should be reflected in the Guidance for VSHs, emphasising that teachers have a responsibility to support VSHs in this.

8.3 The section is extremely limited on how VSHs can help schools in supporting previously looked-after children with mental health needs. It would be useful here to outline where the use of the SDQ would be appropriate, how the VSH can support links with Public Health, CAMHS and the NHS where relevant, and the extent of support that is expected in relation to previously looked-after children, for example teacher training and parental support.

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<sup>2</sup> <https://www.nspcc.org.uk/globalassets/documents/research-reports/achieving-emotional-wellbeing-for-looked-after-children.pdf>

**9. Do you agree with the emphasis in the *School exclusions* section on Virtual School Heads being proactive in building relationships with designated teachers to help ensure behavioural issues are resolved early?**

- 9.1 This is an important relationship to develop, however there must be an equal duty upon designated teachers to build relationships with the VSH, particularly in academies and other non-maintained provision. The guidance also states that where a school has a concern about a looked-after child's behaviour, the VSH should be involved at the earliest opportunity only "where necessary" (paragraph 59), which should be strengthened to state "in all cases" to ensure the VSH is aware of issues.

**10. The designated teacher for looked-after and previously looked-after children: Statutory guidance on their roles and responsibilities**

- 10.1 It is disappointing that the guidance encourages rather than requires schools to act in the best interests of looked-after and previously looked-after children. Stronger language in Paragraph 6 would be helpful to ensure designated teachers have appropriate seniority, skills and support to effectively carry out their role. Paragraph 7 currently suggests that “consideration may want to be given” to the impact of school policies on looked after children. We would like to see this strengthened to insist that school policies reflect the needs of looked-after and previously looked-after children, and take action where needed to support those children. Similarly, paragraph 10 should place this as a responsibility of all designated teachers – not just those who are “the most effective” – and give guidance as to how this can be achieved.
- 10.2 The guidance recognises the potential for unintended barriers and consequences of school policies (paragraphs 7 and 12), but should also acknowledge and challenge practice in schools that put in place intentional barriers. Anecdotally, we are aware that some non-maintained schools are reluctant to prioritise admissions of looked-after children due to potential additional needs or lower educational attainment, and it is essential that guidance makes clear this is unacceptable.
- 10.3 Annex 1 should include reference to consulting and listening to looked-after and previously looked-after children to ensure their experiences are taken into account when developing policies that impact them, and to monitor their effectiveness. It would also be useful for schools to consider how additional support is managed, for example if children are being taken out of classes to access support or meet with social workers, this can contribute to feeling ‘singled out’ or ‘different’.
- 10.4 It should be made clear through this guidance that not all looked-after and previously looked-after children will have experienced fragmented education, have special educational needs or mental health problems, or be in receipt of a wide range of different support (paragraphs 1, 3 and 50). Each child must be treated as an individual and given the appropriate support for their personal needs. Additionally, the statement in paragraph 2 that attainment for looked-after and previously looked-after children is lower than for non-looked-after children is unhelpfully broad. Some children will achieve the same or better results than their non-looked-after peers, while evidence shows that children in care achieve better educational outcomes than children in need who remain with their families.<sup>3</sup>

**11. Does the statutory guidance clearly explain what is expected of schools and the designated teacher in discharging the duty to promote the educational attainment of certain previously looked after children?**

- 11.1 As with the guidance for VSHs, we believe there needs to be more clarity around how a school will know whether a child is previously looked-after, and responsibilities to share this knowledge with the relevant VSH.

**12. Does the structure of the guidance help clarify the duties which apply to looked-after and previously looked-after children?**

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<sup>3</sup> <http://reescentre.education.ox.ac.uk/research/educational-progress-of-looked-after-children/>

- 12.1 The responsibility of the designated teacher to work with VSHs should be given more prominence within the guidance to ensure both parties are working proactively together for the benefit of looked-after and previously looked-after children. This is currently left until page 24, but as a key relationship, would be more appropriate within “the role of the designated teacher for looked-after and previously looked-after children”. The guidance should also strengthen the responsibility of the designated teacher to work with the VSH, for example in paragraph 62 ensuring the VSH is spoken to about disruption to a child’s education, and in paragraph 66, including the VSH in the process for partnership working to develop a child’s educational progress.
- 12.2 Paragraph 20 notes the need for the Personal Education Plan (PEP) and school records to be forwarded swiftly where a child moves school, but does not specify by whom. Insisting on a named person with responsibility for this, such as the designated teacher, will help to ensure this takes place. Similarly, paragraph 39 calls on the designated teacher to liaise with the VSH “or other officer” about the use of Pupil Premium+. Effective use of the PP+ is the responsibility of the VSH and this should be clear in guidance. Arrangements for the use of PP+ should be explicitly linked to in paragraph 42.
- 12.3 Paragraph 48 duplicates responsibilities within the guidance for VSHs (paragraph 61). This must be clarified to avoid the risk of both parties understanding linking the PEP to the Education Health and Care (EHC) plan to be the responsibility of the other. The guidance should also refer to statements of SEN, as in the guidance for VSHs, to allow for the period of changeover to EHC plans.
- 13. Do you agree with the increased emphasis on looked-after and previously looked-after children’s mental health and attachment in the *Special educational needs and mental health* section?**
- 13.1 An increased emphasis on mental health is welcome, however as with the guidance for VSHs, the guidance is minimal for previously-looked after children, and focuses on identification rather than support. There should be reference here to work with the VSH, and to potential sources of support.
- 13.2 We would also advocate the separation of special educational needs and mental health, as in the guidance for VSHs. These are very different types of need requiring different types of support, and therefore warrant separate consideration.
- 14. Do you agree with the emphasis on designated teachers being proactive in building relationships with professionals beyond the school?**
- 14.1 We are concerned that requiring the designated teacher to build relationships with other professionals working with the looked-after child, beyond the social workers and the VSH, will add unnecessary complexity and an additional burden to their role. The social worker is responsible for liaising with other professionals around the child, and is able to provide feedback to the designated teacher and the VSH on needs that must be responded to, as well as making sure that the PEP reflects these.
- 14.2 There should also be a recognition within the guidance that the parents or

guardians of previously looked-after children may not wish to engage significantly with the designated teacher. It should be clear to parents and guardians that this engagement is optional so that it does not appear intrusive, notwithstanding contact that would take place for any child where there are concerns about their behaviour, wellbeing or progress.

15. **Do you agree with the emphasis in the *School exclusion* section on designated teachers working with Virtual School Heads to help ensure behavioural issues are dealt with as soon as possible to help minimise the need for exclusion?**
- 15.1 Involving the VSH as soon as possible where a looked-after child is at risk of exclusion is positive, though the child's social worker should be informed at the same time to avoid delays in implementing appropriate support. We also agree that contacting the parents or guardians of a previously looked-after child before speaking with the VSH is appropriate.