

EXPLANATORY MEMORANDUM TO
THE LOCAL SAFEGUARDING CHILDREN BOARDS (REVIEW) REGULATIONS
2013

2013 No. 2299

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

2. Purpose of the instrument

These Regulations make provision for the review of Local Safeguarding Children Boards (“LSCBs”) by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (“the Chief Inspector”).

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

None.

4. Legislative Context

4.1 The functions of LSCBs are prescribed in regulations 5 and 6 of the Local Safeguarding Children Boards Regulations 2006 (S.I. 2006/90) (“the LSCB Regulations”) and include, for instance, developing policies and procedures for safeguarding and promoting the welfare of children and undertaking serious case reviews.

4.2 Section 15A(1) of the Children Act 2004 (c.31) (“the Act”) allows the Secretary of State to make regulations to specify the functions of LSCBs which may be reviewed by the Chief Inspector. Under section 15A(2), the Secretary of State may also make regulations to allow or require the Chief Inspector to conduct a review of any of the functions of a LSCB specified under section 15A(1).

4.3 These Regulations are the first exercise of those powers and are being made in order to ensure that the Chief Inspector is able to review any of the functions of a LSCB at the request of the Secretary of State or at any other time the Chief Inspector considers appropriate or necessary.

5. Territorial Extent and Application

These Regulations apply to England.

6. European Convention on Human Rights

As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 LSCBs are established by local authorities under section 13 of the Act. Section 13, read with regulation 3 of the LSCB Regulations, set out who the Board partners and representatives are. Board partners include multi-agency partners from health, justice, police, education and social care. The objective of LSCBs, as set out in section 14 of the Act, is: (a) to co-ordinate what is done by those represented on the Board for the purposes of safeguarding and promoting the welfare of children in the area; and (b) to ensure the effectiveness of what is done by each such person or body for those purposes. The functions of LSCBs in relation to that objective are prescribed at regulations 5 and 6 of the LSCB Regulations (as explained in paragraph 4.1 above).

7.2 The Chief Inspector announced in April 2013 his decision to defer the proposed multi-agency inspection of looked after children and child protection which was to be carried out, from 1st September 2013, with the Care Quality Commission, Her Majesty's Inspectorate (HMI) Probation, HMI Constabulary and HMI Prisons under section 20 of the Act. An inspection under section 20 would have allowed the Chief Inspector, acting with one or more named inspectorates, to review the functions of LSCBs as part of its inspection of child protection (see section 23(3)(b) of the Act). Following this announcement the Chief Inspector consulted between 14th June and 12th July 2013 on an alternative framework for the inspection of children in need of help and protection, looked after children and care leavers which was now to be carried out by the Chief Inspector, acting alone, under section 136 of the Education and Inspections Act 2006 (c. 40). Section 136 allows the Chief Inspector to inspect the performance by local authorities of their social services functions relating to children (as listed at section 135 of that Act).

7.3 The Chief Inspector's alternative inspection framework included the proposal that a review be undertaken of the effectiveness of the LSCB in fulfilling its statutory functions and that a separate graded judgment be made on the LSCB.

7.4 The Chief Inspector's powers at section 136 of the Education and Inspections Act 2006 provide some scope to review LSCBs. The Chief Inspector could, for example, inspect the local authority's role in establishing the LSCB and any function the local authority has under sections 13 to 16 of the Act in ensuring the LSCB's effective working. Section 136, however, does not allow the Chief Inspector to inspect the performance by LSCBs of their functions. These Regulations are being made to ensure that the Chief Inspector may review those functions and to prescribe the manner in which the reviews and the subsequent reports of the review are to be completed.

8. Consultation outcome

8.1 The Department has undertaken a consultation which ran from 5th July to 26th July 2013. This consultation was targeted at the following key partners: the Chief Inspector, the Care Quality Commission, Her Majesty's Inspectorate (HMI) Probation, HMI Constabulary HMI Prisons, the Association of LSCB Chairs, the Association of

Directors of Children's Services, the Local Government Association, and the Society of Local Authority Chief Executives. Officials in the following other government departments were also consulted: the Home Office, the Ministry of Justice and the Department of Health.

8.2 The targeted nature of the consultation was due to the relatively limited number of key partners impacted by these Regulations. Following the closure of the consultation, key concerns around the scope of the Regulations have been addressed. The Department has responded to key points raised in the consultation and shared this response with those key partners consulted.

9. Guidance

There is no relevant Departmental guidance on the application of these Regulations. Key partners who were consulted, and are the bodies affected by these Regulations, have been informed of the outcome of the consultation. Further operational information as to how the review is carried out is a matter for the Chief Inspector working with key partners. Prior to conducting a review under these Regulations, the Chief Inspector will publish an inspection framework.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as we do not consider it has an impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is judged to be minimal. This is because the Chief Inspector already examines the effectiveness of the LSCB as part of their current inspection of local area child protection arrangements, even though they can only do this currently by focusing on how the local authority performs its functions in relation to the LSCB. Once these Regulations are in force, the Chief Inspector will only be able to request documentation which relates to the performance by the LSCB of its functions or documents that are pertinent to the review of the performance of those functions. We would expect LSCBs to have an effective way of keeping records and board papers in a way that meant they were accessible within a reasonable timeframe.

10.3 The Chief Inspector will only be looking at third party information which is pertinent to its review of the performance by the LSCB of its functions (for example, multi-agency audit information). This is information which will already have been shared with the LSCB. These Regulations do not give the Chief Inspector additional powers to request or review operational documentation or sensitive intelligence held by partner agencies.

11. Regulating small business

The legislation does not regulate small business.

12. Monitoring & review

There is no specific monitoring or review of these Regulations planned. However, we will of course take into account any concerns that may be raised in relation to these Regulations and take action accordingly.

13. Contact

Ivan Wintringham at the Department for Education Tel: 01142742706
or email: Ivan.Wintringham@education.gsi.gov.uk can answer any queries regarding the instrument.