Amendment Regulations for Independent Schools; consolidated regulations for Non-Maintained Special Schools; and revision of National Minimum Standards for Boarding Schools and Residential Special Schools

Consultation Response Form

The closing date for this consultation is: 11 March 2010
Your comments must reach us by that date.
THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online or offline response facility available on the Department for Children, Schools and Families e-consultation website (http://www.dcsf.gov.uk/consultations).

The information you provide in your response will be subject to the Freedom of Information Act 2000 and Environmental Information Regulations, which allow public access to information held by the Department. This does not necessarily mean that your response can be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies. You may request confidentiality by ticking the box provided, but you should note that neither this, nor an automatically-generated e-mail confidentiality statement, will necessarily exclude the public right of access.

Please tick if you want us to keep your response confidential. ☐

Name: Fiona Smith
Organisation (if applicable): Royal College of Nursing
Address: 20 Cavendish Square
          London
          W1G 0RN

If your enquiry is related to the policy content of the consultation please email:
IndependentSchoolRegulations: Stephanie.lidster@dcsf.gsi.gov.uk

Non-Maintained Special School Regulations: Janice.halladay@dcsf.gsi.gov.uk

National Minimum Standards: Elaine.haste@dcsf.gsi.gov.uk

or telephone:
0870 000 2288

If you have a query relating to the consultation process you can contact the Consultation Unit on:

Telephone: 0870 000 2288

Fax: 01928 794 311

e-mail: consultation.unit@dcsf.gsi.gov.uk
Please tick the box that best describes you as a respondent.

<table>
<thead>
<tr>
<th>School Proprietor, Governor, Head or staff member (please complete the next section)</th>
<th>Other type of educational setting (please specify below)</th>
<th>Professional body/Association</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parent/carer</td>
<td>Inspectorate</td>
<td>Local Authority</td>
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<tr>
<td>Other Professional e.g. social worker-GP</td>
<td>Child or Young person</td>
<td>X Other</td>
</tr>
</tbody>
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Please Specify:
This is a collated response from members of the Royal College of Nursing. The RCN is a professional membership organisation with a membership of over 370,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets. The Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector, including educational settings. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

Please tick the box that best describes the school you own/run/attend/work in:

<table>
<thead>
<tr>
<th>Independent School (day provision only)</th>
<th>Independent School (with residential provision)</th>
<th>Independent School specially organised for pupils with SEN (day provision only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent School specially organised for pupils with SEN (with residential provision)</td>
<td>Non-Maintained Special School (day provision)</td>
<td>Non-Maintained Special School (with residential provision)</td>
</tr>
<tr>
<td>Maintained Special School (day)</td>
<td>Maintained Special School</td>
<td>Maintained Boarding School</td>
</tr>
</tbody>
</table>
Section 1 (Questions 1 - 2) is relevant to all respondents.

Section 2 (Questions 3 - 7) is relevant to those interested in regulations affecting Independent Schools

Section 3 (Questions 8 - 13) is relevant to those interested in regulations affecting Non-Maintained Special Schools

Section 4 (Questions 14 - 19) is relevant to those interested in the National Minimum Standards for Boarding Schools and Residential Special Schools

Section 1 - General Questions

We are interested in your views on our approach to implementing Recommendation 1 of Sir Roger Singleton's review of safeguarding arrangements 'Keeping our School Safe'.
1 Do you consider that the actions proposed will improve the quality of safeguarding within schools; reduce overlap, and eliminate inconsistency; update requirements; and fill gaps as necessary?

| X Yes | □ No | □ Not sure |

Comments:
The proposals will provide clarity and consistency in standards of provision. The core minimum standards plus additional requirements for boarding and special needs schools are welcomed.

2 Bearing in mind that we need a system that will work within the context of existing primary legislation for all types of educational settings (from maintained, through non-maintained, to independent). Is there anything that you think would improve proposals?

| □ Yes | □ No | X Not sure |

Comments:

3 The regulations introduce a new leadership and management standard for independent schools. The intention is that the standard will enable inspectors to make judgements about how effectively a school's leadership and management support the current regulatory standards. Do you agree that the new standard achieves this aim?

[ ] Agree  [ ] Disagree  [ ] Not sure

Comments:
4 The new standard also introduces the requirement for a procedure which allows staff to raise concerns about the welfare of pupils without being disadvantaged. Do you think this proposal will improve standards for pupils?

<table>
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<th></th>
<th>X Yes</th>
<th>No</th>
<th>Not sure</th>
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Comments:
We are pleased to note the requirement for procedures to enable staff to raise issues of concerns without fear of reprisals.
5 The regulations contain proposals for implementing some of the recommendations in Sir Roger Singleton's review of safeguarding arrangements 'Keeping our School Safe'. These include strengthening the requirement for schools to comply with locally agreed procedures, arranging for an independent scrutiny of the schools safeguarding arrangements and providing the Department with a copy of the report of their annual review of safeguarding policies and procedures. Do you think these proposals will strengthen safeguarding arrangements in independent schools?

<table>
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<tr>
<th>X Yes</th>
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<th>Not sure</th>
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Comments:
The independent scrutiny of schools is particularly welcomed.

6 Have you any comments on our proposal to give independent schools the choice of publishing information for parents on a school's website or sending the information on request?

Comments:
Parents should be able to choose the means by which they would rather receive information. For some parents they may wish to receive via the post whilst others will prefer to access electronically via a website or email.
7 Have you any other comments on either of the draft Independent School Regulations?

Comments:

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Section 3 The Education (Non-Maintained Special Schools) (England) Regulations

8 The regulations propose to introduce a right of appeal to the First-tier Tribunal against a decision by the Secretary of State to withdraw approval of a non-maintained special school or not to approve a change in the arrangements in relation to such a school. Currently schools can only challenge a decision by the Secretary of State by seeking judicial review we felt that natural justice should allow for a formal appeal process. Do you agree with this proposal?

[ ] Agree  [ ] Disagree  [ ] Not sure

Comments:
9 The draft regulations introduce a requirement that non-maintained special schools should comply with the Regulatory Reform (Fire Safety) Order 2005. Under the FSO, the responsible person must carry out a fire safety risk assessment and implement and maintain a fire management plan. This brings non-maintained special schools in line with maintained special schools and independent schools. Evidence suggests that this a technical amendment as non-maintained special schools are already complying with this requirement. Do you agree with this requirement?

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<tr>
<th>Agree</th>
<th>Disagree</th>
<th>Not sure</th>
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Comments:
10 Our current thinking on governance is that we do not want to put additional burdens on schools. The draft regulations specify the minimum requirements but schools will have the opportunity to adopt their own model provided they comply with the regulations, and of course, requirements imposed by the Charity Commission. Do you agree?

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<tr>
<th>Agree</th>
<th>Disagree</th>
<th>Not sure</th>
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Comments:

11 The draft regulations introduce a requirement that non maintained special schools should have a formal complaints procedure. All non-maintained special schools which offer residential accommodation already have a complaints procedure and the vast majority of day schools also have a complaints procedure. Do you agree with this requirement?

X Agree | Disagree | Not sure |

Comments:

It is imperative that all schools have a formal complaints procedure in place which is known to parents and pupils.

We note however that 7.3 makes reference to regulatory bodies for education and social care. We would anticipate that where appropriate information should also be made available in respect of health care staff i.e. doctors and nurses.
12 We also propose to remove the requirement on a non maintained special school to send a copy of the school prospectus to the Secretary of State on an annual basis. Do you agree with this proposal?

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<tr>
<th>X Agree</th>
<th>Disagree</th>
<th>Not sure</th>
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Comments:
As a result of the Singleton Review two new provisions have been introduced:-

13 a) a. Requires that non-maintained special schools complete an annual review of their safeguarding policies and procedures, they are required to send a copy to the DCSF and placing local authority about those policies and procedures and about how their safeguarding duties have been discharged. Non maintained special schools are already required to have a child protection policy and procedures in place that are in accordance with local authority guidance and locally agreed interagency procedures as described in 'Safeguarding Children and Safer Recruitment' we do not therefore feel that this will be an increased burden. Do you agree?

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<th>Agree</th>
<th>Disagree</th>
<th>Not sure</th>
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Comments:
It is crucial that all schools have clear safeguarding policies and procedures in place, and that these meet the standards required. We are pleased to note additions have been made in respect of internet safety issues.
13 b) b. Requires non-maintained special schools with residential accommodation to send copies of Ofsted welfare inspections to parents if requested to do so. We feel that schools will already be doing this and so will not be an increased burden. Do you agree?

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<tr>
<th>X Agree</th>
<th>Disagree</th>
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Comments:
It is imperative that parents have access to full information from Ofsted inspections.

Section 4   National Minimum Standards for Boarding Schools and Residential Special Schools

14 a) Is it clear how the revised document applies to the two different types of schools (Boarding Schools and Residential Special Schools)?

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<th>X Yes</th>
<th>No</th>
<th>Not sure</th>
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Comments:
The document is clearly structured, identifying core minimum standards and additional elements applicable to Boarding Schools and Residential Special Schools.
14 b) Are the extra requirements for Residential Special Schools appropriate and necessary?

<table>
<thead>
<tr>
<th>X Yes</th>
<th>No</th>
<th>Not sure</th>
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Comments:

15 a) Standards 4, 6, 10 (formerly RSS only standards) and Standards 38 & 39 (formerly Boarding only standards). Do you agree that the requirements of these standards are applicable to both boarding and residential special schools?

<table>
<thead>
<tr>
<th>X Agree</th>
<th>Disagree</th>
<th>Not sure</th>
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Comments:
The standards stated should be requirements of boarding and residential special schools.
15 b) Please comment on any benefits or problems you see in extending these standards to cover both school settings.

Comments:
The requirement to demonstrate adherence will raise standards and improve consistency in provision, as well as safeguard children and young people.

16 a) Is the addition of links to further guidance and legislation at the beginning of each section useful?

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<th>Yes</th>
<th>No</th>
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Comments:
16 b) Is there any other guidance that you would find useful to have included?

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<tr>
<th>X Yes</th>
<th>No</th>
<th>X Not sure</th>
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Comments:
In respect of the section on safeguarding we would suggest reference to Working Together and also the cross government guidance in information sharing.

17 Would you be in favour of bringing the vetting requirements for boarding/residential staff in line with staff working in day provision? This would mean that the CRB check could be completed after appointment in exceptional cases, but that all other checks must be completed before appointment. If yes, please explain why.

<table>
<thead>
<tr>
<th>No</th>
<th>X Yes</th>
<th>Not sure</th>
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Comments:
All checks must be undertaken before commencing in post. Children/young people could potentially be exposed to unknown risks if staff checks had not been checked beforehand.

It is unclear from the standards as to whether following the initial enhanced CRB check whether subsequent periodic checks are made throughout the individuals employment at the school - we would have anticipated that this would be the case so as to safeguard children and young people.
18 a) What impact would the removal of the requirement to have the CRB completed before starting work have on the safety and welfare of children living in the boarding/residential provision?

<table>
<thead>
<tr>
<th>☐ High impact</th>
<th>☐ Medium impact</th>
<th>☐ Low Impact</th>
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</thead>
<tbody>
<tr>
<td>☐ No impact at all</td>
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Comments:

There is a need to consider the potential impact upon children and young people if they are exposed to increased risk.

18 b) The current requirement for day provision is that staff have extra supervision if they start work before their CRB check is received - would such extra supervision be feasible in the boarding/residential?

| ☐ Yes | X No | ☐ Not sure |

Comments:

Our members report that this would be extremely difficult, with the likelihood that supervision would not be available meaning that children and young people could be exposed to risks.
We would welcome views and comments on any other aspects of the revised National Minimum Standards.

Comments:
We are concerned that the standards related to health care are somewhat limited. Essentially many independent boarding schools and residential special schools have children and young people with long term, as well as acute health care needs and in terms of facilities encompass 'sick bays' – some of which may be of a considerable size.

We would expect the regulations to refer to the need for such establishments to meet the Care Quality Commission essential standards of quality and safety. We would also anticipate explicit reference to joint inspection processes between Ofsted and the Care Quality Commission.

In respect of standard 26 we would expect there to be explicit reference to separate staff accommodation, including toilet and washing facilities. We have been made aware from our members that this is not always the case. We feel that this is an unacceptable scenario. In addition there is a need to include standards related to the provision of onsite 'health centres' – these would need to cover accommodation including confidential discussion areas, adequate hand washing facilities, toilets and examination and treatment area.

In section 14.13 we would expect to see a reference to training to support health needs such as asthma and diabetes.
Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply X via Fiona.smith@rcn.org.uk

Here at the Department for Children, Schools and Families we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

XYes Fiona.smith@rcn.org.uk    No

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 Donna Harrison, DCSF Consultation Co-ordinator, tel: 01928 794304 / email: donna.harrison@dcsf.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 11 March 2010

Consultation responses can be completed online at www.dcsf.gov.uk/consultations by emailing NMSandRegs.CONSULTATION@dcsf.gsi.gov.uk

or by downloading a response form which should be completed and sent to:

Consultation Response
Independent Schools and Schools Organisation Division
Department for Children, Schools and Families
Mowden Hall
Staindrop Road
Darlington
DL3 9BG