



The role and responsibilities of the designated teacher for looked after children

Statutory guidance for
school governing bodies



department for
children, schools and families

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Executive summary

This executive summary is an 'aide memoir' of responsibilities of governing bodies and designated teachers appointed by them to promote the educational achievement of looked after children. It should not be read as a substitute for the full guidance which should be fully understood by all governing bodies and designated teachers.

1. Statutory framework

- From 1 September 2009 the governing bodies of all maintained schools are required under the Children and Young Persons Act 2008 (the 2008 Act) to appoint a designated teacher to promote the educational achievement of looked after children who are on the school roll.

2. The role of the governing body

- The governing body must ensure that the designated teacher undertakes appropriate training (section 20(2) of the 2008 Act).
- As a minimum governors must consider an annual report from the designated teacher which contains the information described in section 2.10 of this guidance.
- The governing body and school leadership team should consider the report and act on any issues it raises so as to support the designated teacher and maximise the impact of the role.

3. The role of the designated teacher within the school

- The designated teacher should have lead responsibility for helping school staff understand the things which affect how looked after children learn and achieve.
- The designated teacher should:
 - promote a culture of high expectations and aspirations for how looked after children learn
 - make sure the young person has a voice in setting learning targets
 - be a source of advice for staff about differentiated teaching strategies appropriate for individual children and in making full use of Assessment for Learning
 - make sure that looked after children are prioritised in one-to-one tuition arrangements and that carers understand the importance of supporting learning at home
 - have lead responsibility for the development and implementation of the child's personal education plan (PEP) within the school.

4. The role of the designated teacher in developing the personal education plan (PEP)

- All looked after children must have a PEP as part of their overall care plan. The PEP should be sent to the designated teacher when the child becomes looked after or joins the school.
- The PEP is a shared document which includes the information that everyone needs to help their conversations, planning and the delivery of strategies required to make sure the child gets the support and provision needed to succeed.
- The designated teacher leads on how the PEP is used as a tool in school to make sure the child's progress towards education targets is monitored. S/he makes sure that it is updated and available in time for the local authority review of the child's wider care plan. For each statutory review of the care plan the PEP must include:
 - any new information about progress towards education targets since the last PEP review
 - information about what has not been taken forward.
- The designated teacher has a key role in helping looked after children make a smooth transition to their new school or college, including making sure there are effective arrangements in place for the speedy transfer of information.

5. The relationship of the designated teacher to others beyond the school

- The designated teacher has a key role in making sure there is a central point of initial contact within the school who can manage the process of how the school engages with others (e.g. social workers, virtual school heads), works in a joined up way and minimises disruption to the child's education.
- The designated teacher should make sure that:
 - there is an agreed process in place for how the school works with others in focusing on how everyone contributes to promoting the child's educational achievement;
 - school policies (e.g. around Home School Agreements) are communicated to social workers and carers;
 - the school does everything possible to maximise educational stability for the child, especially by finding ways of sharing information through the PEP and in providing advice to the local authority about the impact of disrupting education.

Chapter 1. Statutory framework

- 1.1 Many looked after children have suffered disrupted learning and may have missed extended periods of school. The gaps in their learning – and in many cases the emotional impact of their experiences – are likely to have become significant barriers to their progress. The complexity of this fragmented educational experience needs careful assessment and planning. Excellent practice in supporting looked after children already exists in many schools. Making the designated teacher role statutory is intended to help ensure that effective practice becomes universal.
- 1.2 Section 20 of the Children and Young Persons Act 2008 (“the 2008 Act”) places a duty on the governing body of maintained schools¹ to designate a member of staff (the ‘designated teacher’) as having responsibility to promote the educational achievement of looked after children² who are registered pupils at the school. This includes those aged between 16 and 18.
- 1.3 Under section 20(2) the governing body must ensure that the designated teacher undertakes appropriate training.
- 1.4 Section 20(3) gives the Secretary of State for Children, Schools and Families (DCSF) powers to make regulations setting out the qualifications and experience which the designated teacher should have.
- 1.5 The Designated Teacher (Looked After Pupils etc)(England) Regulations 2009 (the Regulations) require that the person designated is:
 - a qualified teacher who has completed the appropriate induction period (if required) and is working as a teacher at the school (regulation 3(2)) or
 - a head teacher or acting head teacher of the school (regulation 3(3)) or
 - a person who has had responsibility for promoting the educational achievement of looked after pupils for at least six months immediately before the Regulations came into force and who is training to be a teacher and likely to qualify before 1 September 2012 (regulation 3(4)).

If the governing body applies regulation 3(4), it should be of the view that there is a reasonable prospect of fulfilling the conditions laid down in the Regulations by September 2012.

¹ A “maintained school” means community school, foundation school, voluntary aided school, voluntary controlled school, community special school, foundation special school or maintained nursery school.

² For a definition of looked after children see page 29 of this guidance.

The flexibility to appoint a member of staff, provided that he or she is likely to gain qualified teacher status by September 2012, is **not** intended to water down the importance of the designated teacher role. It is designed to ensure that staff who are currently undertaking the role effectively and who are on course to qualify as a teacher by 2012 are able to continue with the role. Governing bodies should never use this flexibility to appoint someone to the role where there is no intention to, or prospect of, their becoming a qualified teacher by that date. Regulation 3(4) has a limited shelf life. Governing bodies will no longer be able to use it to make an appointment once there is no prospect of qualifying by 1 September 2012.

- 1.6 This statutory guidance to governing bodies of maintained schools in England is issued under section 20(4) of the 2008 Act. In discharging its functions under section 20, the school's governing body must have regard to this guidance.
- 1.7 The guidance does not attempt to provide comprehensive answers on all aspects of how the role should be carried out in every school. It is intended to provide a helpful framework which schools should use in order to make sure the role of designated teacher is effective in helping looked after children to succeed.
- 1.8 The role of the designated teacher needs to be understood as part of the wider statutory responsibilities on local authorities for looked after children, both in terms of arrangements for their care and the particular duty on local authorities under the Children Act 1989, to promote the educational achievement of the children they look after.

Chapter 2. The role of the governing body

- 2.1 The appointment of a designated teacher in accordance with the Regulations is a core function of the governing body. This chapter sets out what the school governing body collectively will need to do in order to fulfil its duty under section 20 of the 2008 Act and the Regulations.
- 2.2 The way in which the role of the designated teacher will be carried out will vary from school to school. It will depend on the number of looked after children on roll and their individual needs as well as, for example, whether the school caters for primary or secondary age children. If, for example, a secondary school had a significant number of looked after children on roll the governing body may decide to designate more than one qualified teacher, perhaps with one responsible for pre-16 and a second for post-16 pupils.
- 2.3 Schools are undergoing significant changes as they respond to the needs of 21st Century learners. In line with the workforce agreement, they have been remodelling themselves in ways that mean not all aspects of the job of the designated teacher need necessarily be carried out by a single individual or by a qualified teacher. While lead responsibility for raising attainment of looked after children on roll must rest with a qualified teacher, schools will need to decide how functions within it, including pastoral and administrative tasks, are most appropriately delegated to suit their own circumstances.
- 2.4 The designated teacher should be given the appropriate level of support in order to fulfil their role. Some schools may never have had a looked after child on roll and the designated teacher may not, therefore, be familiar with some of the issues and processes they need to know about.
- 2.5 The governing body should, in partnership with the head teacher, ensure that, through their training and development, the designated teacher has the opportunity to acquire and keep up-to-date the necessary skills, knowledge and training to understand and respond to the specific teaching and learning needs of looked after children.
- 2.6 Governing bodies and the school leadership team should also make sure that the designated teacher role contributes to the deeper understanding of everyone in the school who is likely to be involved in supporting looked after children to achieve.
- 2.7 The governing body should ensure that the designated teacher is a member of the teaching staff with appropriate seniority, professional experience and status to provide leadership, training, information and advice to others that will influence decisions about the teaching and

learning needs of looked after children. Where the designated teacher is not a member of the senior leadership team, a member of the team should be designated as a champion of looked after children issues to work closely with the designated teacher.

- 2.8 The governing body, in partnership with the head teacher, is responsible for monitoring how well the role is working. The governing body is **not responsible for the performance management of the person undertaking it unless of course the designated teacher is the head or acting head.**
- 2.9. Indicators which demonstrate that the role is being implemented efficiently and is making a real difference include ensuring that:
- the school has a clear overview of the educational needs and progress of looked after children on roll;
 - the school's policies are effective in reflecting the needs of looked after children;
 - resources are allocated to support the designated teacher to carry out this role effectively for the benefit of looked after children.
- 2.10 As part of the arrangements for monitoring the effectiveness of the role, governing bodies should, **as a minimum, receive an annual report** from the designated teacher. The report should enable the governing body to make overall judgements about the designated teacher role in the context of wider school planning in relation to:
- any workload issues arising as a result of the number of looked after children on roll at the school and the number of local authorities which are involved;
 - levels of progress made by looked after children who are currently or have been on roll within the past twelve months in relation to all children at the school (i.e. educational, social and emotional progress);
 - whether the pattern of attendance and exclusions for looked after children is different to that of all children;
 - any process or planning issues arising from personal education plans (PEPs);
 - whether any are identified as gifted and talented and how those needs are being met;
 - whether any have special educational needs (SEN) and whether those needs are being met through statements or School Action or School Action Plus;

- how the teaching and learning needs of looked after children are reflected in school development plans and are being met in relation to interventions and resources;
 - training provided for the designated teacher in order to impart knowledge and understanding about the education and well-being of looked after children to colleagues;
 - work with virtual school heads or their equivalents in local authorities;
 - the impact of any of the school's policies, for example on charging for educational visits and extended school activities, on looked after children.
- 2.11 To protect a child's need for confidentiality, it is important to ensure that the report does not mention individual children by name.
- 2.12 The governing body and school leadership team should then consider what picture this information is providing and what needs to be done to address any issues raised by the reports in relation to:
- whether the designated teacher has sufficient time and resources to carry out their role effectively;
 - any training, support and development needs required to ensure the role can be carried out effectively;
 - the extent to which school policies take account of the particular needs of looked after children;
 - whether the school is making the fullest possible use of all available resources, such as one-to-one tuition, in order to provide the maximum opportunity for looked after children to achieve two levels of progress within a Key Stage.
- 2.13 In addition to considering and acting on an annual report, school governing bodies should make sure that there are arrangements in place to keep themselves informed about provision for, and attainment of, looked after children on the school's roll on a more regular basis.

Chapter 3. The role of the designated teacher within the school

- 3.1 The designated teacher has a leadership role in promoting the educational achievement of every looked after child on the school's roll. The role should make a positive difference by promoting a whole school culture where the personalised learning needs of every looked after child matters and their personal, emotional and academic needs are prioritised.
- 3.2. The designated teacher should have lead responsibility for helping school staff to understand the things which can affect how looked after children learn and achieve. **Everyone involved in helping looked after children achieve should:**
- have high expectations of looked after children's involvement in learning and educational progress;
 - be aware of the emotional, psychological and social effects of loss and separation from birth families, the reasons for that separation and that some children may find it difficult to build relationships of trust with adults because of their experiences;
 - understand the reasons which may be behind a looked after child's behaviour, and why they may need more support than other children but the teacher should not allow this to be an excuse for lowering expectations of what a child is capable of achieving;
 - understand how important it is to see looked after children as individuals rather than as a homogeneous group and to not publicly treat them differently from their peers;
 - appreciate the importance of showing sensitivity about who else knows about a child's looked after status;
 - appreciate the central importance of the child's PEP in helping to create a shared understanding between teachers, carers, social workers and most importantly, depending on age and understanding, the child him or herself of what everyone needs to do to help them to achieve their potential;
 - have the level of understanding they need of the role of social workers, virtual school heads (or equivalent) in local authorities and how education – and the function of the PEP – fits into the wider care planning duties of the authority which looks after the child.

3.3 In promoting the educational achievement of looked after pupils **the designated teacher should:**

- contribute to the development and review of whole school policies to ensure that they do not unintentionally put looked after children at a disadvantage;
- make sure, in partnership with other staff, that there are effective and well understood school procedures in place to support a looked after child's learning. Particular account should be taken of the child's needs when joining the school and of the importance of promoting an ethos of high expectations about what he or she can achieve;
- promote a culture in which looked after children believe they can succeed and aspire to further and higher education;
- promote a culture in which looked after children are able to discuss their progress and be involved in setting their own targets, have their views taken seriously and are supported to take responsibility for their own learning;
- be a source of advice for teachers at school about differentiated teaching strategies appropriate for individual pupils who are looked after;
- make sure the school makes full use of Assessment for Learning (AfL) approaches to improve the short and medium term progress of looked after children and help them and their teachers understand where they are in their learning, where they need to go and how to get there;
- make sure that looked after children are prioritised in any selection of pupils who would benefit from one-to-one tuition and that they have access to academic focused study support;
- promote good home-school links through contact with the child's carer about how they can support his or her progress by paying particular attention to effective communication with carers.
In particular, they should make sure that carers understand the potential value of one-to-one tuition and are equipped to engage with it at home;
- have lead responsibility for the development and implementation of the child's PEP within school in partnership with others as necessary. Further information on the role of the designated teacher and the PEP is in the next section.

Chapter 4. The role of the designated teacher in developing the personal education plan (PEP)

4.1 What are PEPs and why are they important?

- 4.1.1 All looked after children must have a care plan which is drawn up and reviewed by the local authority which looks after them. The care plan will identify intended outcomes and objectives for the child and provide the framework to work with the child and carers in relation to his or her emotional and behavioural development, identity, relationships and self care skills. The care plan must also include a health plan and a PEP which are developed and reviewed in partnership with relevant professionals. In the case of the PEP, where the child is on the roll of a school, this will be the designated teacher.
- 4.1.2 The PEP, in addition to being part of the overall care plan, is part of a looked after child's official school record. If the child moves schools, it should be forwarded, along with other school records, to their new school, if known, and to the main contact (usually the child's social worker) in the local authority which looks after the child.
- 4.1.3 Unlike for other children, there will be more adults involved in the child's care and this adds to the complexity of communicating a shared understanding of roles and expectations. In the past, this has meant that there has been no common understanding of how to meet a child's educational needs. The PEP is a vital document because it provides a 'collective memory' about the child's education.
- 4.1.4 Where they are used effectively, PEPs improve the educational experience of the child by helping everyone gain that clear and shared understanding about the teaching and learning provision necessary to meet the child's education needs and how that will be provided. For this reason **the school and local authority (through strong links between the designated teacher and, for example, the local authority virtual school head) have a shared responsibility for making the PEP a living and useful document.**

4.2 Receipt of the PEP template by the designated teacher

- 4.2.1 When a child on the school's roll becomes looked after, the local authority which looks after him or her must ensure that the designated teacher is notified and receives the PEP. This should be pre-populated with basic information. This should include information about:

- the child's details that the school needs to know – such as age; care status; where the child lives; school history and whether the child has a statement of special educational needs (SEN) or are having their SEN met through School Action or School Action Plus;
- the child's carers;
- the child's parents and what restrictions might apply in relation to their contact with the child;
- whom to contact within the local authority that looks after the child (social worker and looked after children education team contact).

4.2.2 If a child has been looked after for some time, the PEP should include information about educational progress and how s/he learns best.

4.2.3 Children who are already looked after when they join the school should have an existing PEP. This should be transferred to the child's new school. If the local authority has not provided the most recent PEP, the designated teacher should make sure that this is followed up with the authority which looks after the child (e.g. through the virtual school head). This does not mean that the designated teacher has to do this him or herself; s/he only needs to make sure it happens.

4.3 What should the school do with the PEP?

4.3.1 When a child at the school becomes looked after, or when a looked after child joins the school either at the beginning of, or during, the school year, the designated teacher should make sure his or her specific educational needs are assessed without delay.

4.3.2 The designated teacher should work closely with other teachers as necessary to identify the young person's strengths and weaknesses and any barriers to learning. This assessment of learning needs should form the basis for the development or – if it already exists – the review and refinement of the PEP.

4.3.3 The designated teacher will be responsible for leading on the development and implementation of the PEP within the school once it has been received from the social worker, who initiates it as part of the wider care plan.

4.3.4 This does not mean that the designated teacher writes every part of the plan him or herself. Other staff in the school may need to contribute to this plan. The PEP is also likely to contain information about what the local authority and other agencies will do to support the child.

4.3.5 The key thing about a PEP is that it should set high quality expectations of rapid progress and put in place the additional support the child or young person needs in order to succeed.

Practice in relation to the development and review of the PEP differs across local authorities. In some cases, the local authority looked after children education service takes on a significant role in producing the PEP; in others designated teachers have a greater role. As long as those partnership arrangements between the school and local authority for developing and reviewing the PEP are working effectively for all parties, individuals should not feel constrained unnecessarily by this guidance. The designated teacher should, however, have ultimate responsibility for leading the process of target setting for individual looked after children in school and rigorously tracking their attainment progress.

4.3.6 The designated teacher should make sure that the PEP is an effective tool to help the school do everything possible to support the young person's educational progress. To be an effective tool in this respect the PEP should:

- identify developmental and educational needs in relation to skills, knowledge, subject areas and experiences;
- set short and long term educational attainment targets agreed in partnership with the child and the carer where appropriate;
- be a record of planned actions, e.g. on homework, extra tuition, study support (including the date by which these should be done), that the school and others will take to promote the educational achievement of the child based on an assessment of his or her educational needs;
- include information on how the progress of the child is to be rigorously monitored;
- record details of specific interventions and targeted support that will be used to make sure personal education targets are met, especially at the end of Key Stage 2 in relation to English and mathematics and at Key Stage 4 in achieving success in public examinations. In particular, one-to-one tuition appears to have a particularly significant impact on looked after children's progress and so this should be employed wherever appropriate as one of the key strategies for raising attainment;
- say what will happen or is already happening to put in place any additional support which may be required – e.g. possible action to support special educational needs involving the SENCO, educational psychologist, CAMHS or local authority education services;

- set out how a child's aspiration and self confidence and ambition is being nurtured, especially in consideration of longer term goals towards further and higher education, work experience and career plans;
- be a record of the child's academic achievements and participation in the wider activities of the school and other out of school learning activities (e.g. sporting, personal development, community);
- provide information which helps all who are supporting the child's educational achievement to understand what works for him or her;
- have clear accountability in terms of who within the school is responsible for making the actions identified in the plan happen.

4.4 Some looked after children will have a statement of special educational needs (SEN). Where this is the case, the PEP should include relevant information from the statement and annual reviews of the statement but does not need to duplicate the information in full.

4.5 **Making PEPs 'real': reviewing and monitoring in school**

4.5.1 The designated teacher should work closely with other staff in school to make sure the child's progress is rigorously monitored and evaluated. The designated teacher should:

- be able to judge whether the teaching and learning and intervention strategies being used are working;
- know whether the young person is likely to meet the attainment targets in his or her PEP.

4.5.2 If the young person is not on track to meet targets, the designated teacher should agree the best way forward with him or her in order to make progress and that this is reflected in the PEP.

4.5.3 A child's care plan is reviewed regularly by the authority which looks after him or her. These reviews are statutory and must be done six weeks after a child becomes looked after, at three months and thereafter at six monthly intervals. The review is chaired by an Independent Reviewing Officer (IRO). The IRO will ask about the child's educational progress as part of the overall care plan review and should have access to the most up-to-date PEP. In order that there can be an informed discussion at the statutory review of the care plan about the child's progress in school the designated teacher is responsible for ensuring that the PEP:

- is reviewed before the statutory review of the care plan and that it is up-to-date and contains any new information since the last PEP review, including whether agreed provision is being delivered;
- is clear about what has or has not been taken forward, noting what resources may be required to further support the child and from where these may be sourced.

4.5.4 The school and the local authority which looks after the child have a shared responsibility for helping looked after children to achieve and enjoy. Discussion about how together they can make that happen through the content, implementation and review of the PEP should be done through a meeting involving the social worker, the young person, carers and others such as, where appropriate, the virtual school head.

4.6 Transfer of the official school PEP record

4.6.1 The designated teacher has a key role in helping looked after children make a smooth transition to their next school or college. The designated teacher should make sure that arrangements are in place to achieve speedy transfer of the looked after child's school records to a new school and that the local authority responsible for looking after the child has the most up-to-date version of the PEP.

4.7 Transfer out of care

4.26 When children cease to be looked after (for example, because they are adopted or are subject to a Special Guardianship Order) their educational needs are unlikely to have changed significantly simply because their care status has changed. Although they will no longer be required to have a PEP, designated teachers will wish to give consideration to the implications of continuity for meeting the child's educational needs.

Chapter 5. The relationship of the designated teacher to others beyond the school

- 5.1 Schools will increasingly need to operate within a local system of schools and service providers, including the Children's Trust within which they are a statutory 'relevant partner'. This will mean schools, and specialist staff such as designated teachers, working more closely with other schools and other service providers, including health and children's social care. By working in this way, schools can share expertise, take early and preventative action and commission services that improve well-being for all their pupils and children in the locality, including the most vulnerable.
- 5.2 In addition, as statutory partners in the Children's Trust, schools will have the right to be represented on the Children's Trust Board. This will give them a stronger voice to influence local strategic decision making, which in turn means the school should receive better tailored services to support their pupils. They will also be better placed to provide the information and support parents and carers need to be involved in their child's learning.
- 5.3 The family arrangements for looked after children are more complex than for other children. Most will live with foster carers, some will live in residential children's homes and, in very limited circumstances, some may continue to live with their parents. All looked after children should have a social worker and some may require the involvement of other professionals, for example, SEN and CAMHS services.
- 5.4 The designated teacher role is key to making sure there is a central point of initial contact – not necessarily the designated teacher him or herself – within the school who can manage the process of how the school engages with others from outside of the school. This is important in order to make sure that the school plays its role to the full in making sure arrangements are joined up and minimise any disruption to a child's learning.
- 5.5 Local authorities have a duty under the Children Act 1989 to promote the educational achievement of the children they look after. That means they must give particular consideration to the implications of any decision about the child's care which has implications for his or her education.
- 5.6 Most local authorities have a dedicated team (sometimes known as the looked after children education service (LACES) team) which is responsible for ensuring that the child's care plan addresses his or her educational needs. Increasingly, local authorities are appointing a virtual school head who is a senior local authority manager with lead responsibility in the

authority for improving the educational achievement of looked after children by tracking and monitoring their progress as if they were in a single school.

- 5.7 Virtual school heads are likely to work closely with LACES teams, or their equivalent, and schools in order to support the educational achievement of all looked after children who are educated in schools across the authority as if the children attended a single school.
- 5.8 Designated teachers should ensure that arrangements are in place within the school to facilitate effective co-operation with other professionals, especially the virtual school head (or equivalent) in the authority where their own school is located, as well as the virtual school heads from other local authorities which have looked after children on roll at the school.
- 5.9 It is also vital that the school works closely with a child's carers in any way which will support looked after children to achieve their full potential. How this is achieved is likely to depend on the school existing arrangements for engaging with those who have parental responsibility for a child. These arrangements should be clear to everyone who is involved in caring for the child.
- 5.10 In putting these arrangements in place, designated teachers should make sure that:
 - there is an agreed process in place for how the school works in partnership with other professionals, such as the child's social worker and the child's carer, in order to review and develop the child's educational progress and how each person will contribute to driving up the child's educational achievement;
 - school policies in relation to, for example, home-school agreements, time-keeping and attendance, homework diaries and parents' evenings are communicated to carers and social workers and, where appropriate, birth parents, so that looked after children are not disadvantaged;
 - the child's teachers know the most appropriate person to contact where necessary. For example, in some cases authority to sign permission slips for school trips will be delegated to the foster carer by the social worker but for some children permission will be needed from the child's social worker;
 - there are positive and effective channels of communication and partnership working between the school and relevant partners to help looked after children get the most out of their school experience. This may result in the need to work with professionals from local authorities, such as virtual school heads, and dedicated looked after children education teams, SEN and CAMHS services.

- 5.11 Securing school stability for looked after children is an integral part of what needs to happen in order to narrow the gap between what they achieve compared to other children. The stronger the working links and cooperation between the school and local authority, as well as the child's carers and whoever else is involved in providing support the greater the chances are of keeping the child's education on track. This does not mean that the designated teacher has to do everything in relation to every point of contact. The designated teacher should, however, make sure that the ways in which the school works with others outside of the school maximise the stability of education. In particular, designated teachers should:
- find ways of making sure that the latest information about educational progress, primarily through the PEP, is available to contribute to the statutory review process of the care plan;
 - be consulted by the child's social worker and/or others in the local authority such as the virtual school head or other local authority officer about any decision about changes in care placements which will disrupt a child's education or training;
 - provide advice in such cases about the likely impact of disrupting the child's education and what the local authority should do in order to minimise the disruption if a move in educational placement cannot be avoided;
 - make sure that if a looked after child moves school the designated teacher at the new school is provided with any information they need to help the transition process.
- 5.12 Every school does its best to avoid excluding children. In the case of looked after children it is even more important. Designated teachers in partnership with others in the school and the school governing body as necessary should:
- be involved in any discussions related to decisions about potential exclusions of looked after children on roll; and
 - make sure that the authority which looks after the child and the child's carers are involved in such a decision.
- 5.13 How the designated teacher and others within school work with local authorities, other agencies such as residential children's homes and CAMHS, and carers will take account of individual circumstances and local contexts. However, it should be part of a whole school approach to working with other agencies in order to deliver the best possible education for looked after children.
- 5.14 When reviewing how well the designated teacher role contributes to promoting the achievement of looked after children, the governing body and designated teacher should use this guidance alongside associated statutory and other relevant guidance documents to make sure looked after children have the chance to achieve all they possibly can.

STATUTORY INSTRUMENTS

2009 No. 1538

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Designated Teacher (Looked After Pupils etc)(England)
Regulations 2009**

Made - - - - - *19th June 2009*

Laid before Parliament *26th June 2009*

Coming into force - - - *1st September 2009*

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by section 20(3) of the Children and Young Persons Act 2008 (1):

Citation and commencement

1. These Regulations may be cited as The Designated Teacher (Looked After Pupils etc)(England) Regulations 2009 and come into force on 1st September 2009.

Interpretation

2. In these Regulations, “designated teacher” means the member of staff at a maintained school(2) who has been designated by the governing body for the purposes of section 20(1) of the Children and Young Persons Act 2008 (“the 2008 Act”).

Prescribed qualifications and experience of designated person

3.—(1) The governing body must ensure that the designated teacher meets each of the requirements in one of paragraphs (2), (3) or (4).

(2) The requirements in this paragraph are that the designated teacher—

- (a) is a qualified teacher within the meaning of section 132 of the Education Act 2002(3) (“the 2002 Act”);
- (b) if required to complete an induction period under regulations made under section 19 of the Teaching and Higher Education Act 1998(4), has satisfactorily completed such an induction period; and
- (c) is working as a teacher at the school.

(3) The requirements in this paragraph are that the designated teacher—

- (a) is the head teacher or acting head teacher of the school; and

(a) 2008 c.23 (“the 2008 Act”). Section 20(3) confers the power to make regulations on the appropriate national authority and section 20(7)(a) of the 2008 Act provides that the “appropriate national authority” in relation to a governing body of a maintained school in England is the Secretary of State.

(b) “maintained school” has the same meaning as in Chapter 1 of Part 3 of the Education Act 2002 c.32 (see section 20(7) of the Act).

(c) 2002 c.32.

(d) 1998 c.30. See the Education (Induction Arrangements for School Teachers)(England) Regulations SI 2008/657.

- (b) meets the requirements of regulations made under section 135 of the 2002 Act⁽⁵⁾, if required to do so.

(4) The requirements in this paragraph are that—

- (a) the designated teacher is working at the school;
- (b) the designated teacher has had responsibility for promoting the educational achievement of looked after pupils for a period of at least six months ending on 1st September 2009; and
- (c) the governing body is satisfied that the designated teacher is —
 - (i) taking steps to meet the requirements in paragraph (2)(a) and, if applicable, the requirements in paragraph (2)(b); and
 - (ii) is likely to meet those requirements by 1st September 2012.

(5) In paragraph (4), “looked after pupils” means children who are registered pupils⁽⁶⁾ at the school and who are looked after by a local authority within the meaning of section 20(5), or who fall within section 20(6), of the 2008 Act.

19th June 2009

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families

(a) Regulations made under this section are the Education (Head Teachers’ Qualifications)(England) Regulations SI 2003/3111 as amended by SI 2005/875 and SI 2005/3322.

(b) “registered pupil” has the same meaning as in the Education Act 1996 (c.56) (see section 20(7) of the 2008 Act).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first to be made under section 20(3) of the Children and Young Persons Act 2008 (“the 2008 Act”) and apply in relation to maintained schools in England.

Under section 20 of the 2008 Act, governing bodies of maintained schools must designate a member of the staff at the school as having responsibility for promoting the educational achievement of registered pupils at the school who are being looked after by a local authority; or who are care leavers (that is, relevant children or former relevant children within the meaning of sections 23A or 23C of the Children Act 1989); and those who have equivalent status under the law of Scotland or Northern Ireland (“looked after pupils”).

The Regulations provide that governing bodies must ensure that person (referred to as “the designated teacher”) has the prescribed qualifications and/or experience.

The designated teacher must be –

- (i) a qualified teacher who has completed the appropriate induction period (if required) and is working as a teacher at the school (regulation 3(2));
- (ii) the head teacher or the acting head teacher of the school (regulation 3(3)); or
- (iii) a person who has been doing the job of the designated teacher for six months immediately before the regulations came into force and who is training to be a teacher and likely to qualify before 1st September 2012.

Developing good practice: checklist of questions

As schools implement this guidance they may find the following questions useful as a starting point for reviewing policies which impact on how the role of the designated teacher is carried out in the context of wider school policies and taking account of numbers of looked after children on roll. These are taken from non-statutory guidance for governors which the DCSF published jointly in 2006 with the Advisory Centre for Education (ACE) and The Who Cares? Trust.

Planning

- How will the school include raising the attainment of looked after children in the school improvement plan?
- What policies has the school developed that encourage collaboration with other agencies and services e.g. health professionals, CAMHS, school attendance services?
- What is the policy on professional development for all staff in contact with vulnerable children?
- How does the school assist local authorities with requests to provide data on attendance, attainment and exclusions?

Raising staff awareness

- What safeguards does the school have in place for sharing sensitive information about individual looked after children with relevant staff members?
- What is the procedure for liaising with carers/residential children's homes and social services to ensure that the school has relevant information about a child's care history?
- How are the child's achievements communicated to the carer?

Admissions

- How are applications handled after the normal admission round?
- What are the arrangements for welcoming new (looked after) pupils and do they take into account that looked after children (perhaps arriving mid-term) may have additional support needs?
- What does the school do to ensure that new admissions are well supported by their peers?

- How does the school provide information to carers and social workers about the school's admission and appeal process?
- Who liaises with other agencies to ensure that an education placement works?

Record keeping and transfer

- Who reviews and keeps the child's PEP up-to-date?
- Who updates school records with current addresses of carers, birth parents, social worker, etc?
- What is the procedure to prepare information for transfer if a looked after child changes school?

Promoting inclusive schooling and good home-school communication

- How does the school record who is entitled to a child's report, receives invitation to parents' evenings and other school events?
- Are carers given a named person, such as the designated teacher, to contact if they have concerns?
- Are carers asked to sign the home school agreement even when their child may be placed temporarily in the school?
- What steps have been taken to ensure that carers have understood and signed the home school agreement?
- Does the school charging policy need to be changed to ensure better take-up of trips among groups of children, such as those who are looked after?
- Are a range of study support and out-of-school opportunities such as homework clubs, careers guidance and work experience available to looked after children even if they join school mid-year?

Promoting inclusive schooling: curriculum and options

- Have the needs of looked after children been considered in the context of the school's curriculum policy?
- What is the process when making a decision to place a young person on an alternative curriculum at KS4? Does the school always consult relevant professionals, the young person and his or her carers?
- Is flexible personalised learning available to looked after children?
- Does the school have a good baseline of information – informed by transfer of school records and thorough assessments – so that barriers to learning are quickly identified and actions are put in place to secure each pupil's progress?

- Is the school timetable flexible with regard to outside fixed activities?

Promoting high expectations and achievement

- What targets are there for looked after children in the school?
- Does the school include measures of individual children's progress?
- What are the specific barriers to achievement facing looked after children and can the school take action to remove them?
- Is there good liaison with foster carers and children's homes to support children's learning?
- If looked after children get behind, how is this identified and help provided?
- How does the school celebrate the educational successes of looked after children?
- Would regular access to a learning mentor help vulnerable children succeed?
- What revision support is available for examinations for children at risk of underachieving? How are looked after children encouraged and supported to attend these?
- How are looked after children encouraged and supported to access taster activities for further and higher education?
- Are looked after children engaged in the gifted and talented programme?

SEN

- How does the school ensure prompt identification of special educational needs of looked after children?
- Are carers informed that the child has special educational needs and that they can get help from the Parent Partnership Service?
- How are carers/social workers involved in assessments and reviews?
- How are young people involved in reviews and target setting?
- Is the level of support given to looked after children with special educational needs sufficient considering their status?
- Are there particular staff training needs in connection with meeting the needs of looked after children?

Exclusions

- When considering exclusion, does the head teacher and the governing body have regard to the Secretary of State's guidance on exclusion, *Improving Behaviour and Attendance: Guidance on Exclusion from School and Pupil Referral Units*?
- Is there any trend in exclusion rates of looked after children?
- What strategies does the school use to avoid exclusion of vulnerable children including looked after children?
- Is the appeal process fully explained to social workers and foster carers when a looked after child is excluded?
- Are young people in care encouraged to attend governors' hearings which are reviewing their exclusion?
- Does the head teacher's letter of exclusion always signpost carers to the ACE exclusion helpline?
- Has the appropriate person/team in the local authority with responsibility for children missing education been notified of the child's exclusion?
- Does the school take vulnerable children, such as looked after children, excluded from other schools?
- What are the reintegration arrangements for looked after children who have been excluded?
- What other agencies are working with the child and have they delivered the necessary support e.g. clinical psychology/CAMHS?
- Where a looked after child is at risk of exclusion does his or her PEP include pastoral support provision?

Promoting health

- Are the needs of looked after children considered in health-promoting schemes such as cycling to school; cycling proficiency training; 'walking buses' (pupils collected from an agreed location and then walk together to school escorted in safe groups by volunteers, with other pupils joining them en route); study support and out of school hours activities?
- Do the citizenship and PHSE curricula take full account of including children whose experiences and understanding of 'family' may be different?

Pastoral support

- What targeted interventions can the school initiate that focus on groups of children who have known risk factors, such as being in care?
- How does the school behaviour policy pre-empt escalating behaviour problems?
- How does the school ensure that initiatives such as lunchtime clubs and anti-bullying work include specific vulnerable groups such as looked after children?
- Does the school have procedures for contacting relevant professional help for specific problems, e.g. local authority Behavioural Support Team, CAMHS, educational psychologist?
- Are carers contacted on the first day of any unexplained absence?
- Is the governing body aware of additional funding streams?
- Are carers aware of the school's anti-bullying policies?

Study support

- Could the study support programme be more flexible to cater for the needs of looked after children?
- Does the school regularly consult with carers and looked after children about study support activities?
- Is the school in contact with the local authority study support co-ordinator to discuss ideas?
- Is one-to-one tuition provided for every looked after child?

Important information to help governors and designated teachers

The information in this section is not exhaustive but is intended to help governors and designated teachers understand some of the terms they may encounter in relation to looked after children.

Who are looked after children?

Under the Children Act 1989, a child is looked after by a local authority if he or she is in their care or is provided with accommodation for more than 24 hours by the authority. They include the following:

- (i) children who are accommodated by the local authority under a voluntary agreement with their parents (section 20);
- (ii) children who are the subject of a care order (section 31(1)) or interim care order (section 38); and
- (iii) children who are the subject of emergency orders for the protection of the child (section 44).

What is the difference between being “accommodated” and being on a care order?

Looked after children are “**accommodated**” by the local authority under section 20 when:

- there is no person who has parental responsibility for them;
- the child is lost or abandoned;
- the person who has been caring for him or her is prevented from providing him or her with suitable accommodation or care.

The local authority is also empowered to provide accommodation for any child if it will safeguard or promote his or her welfare.

The majority of children who are being accommodated by the local authority will be doing so with the full agreement of those who have parental responsibility for them. In practice, children are accommodated because there are particularly difficult family circumstances which mean that they cannot be cared for in their normal family environment. While they are accommodated, the child’s parents [or guardians] retain full parental responsibility and may at any time remove them from local authority provided accommodation.

Some looked after children are the subject of a **care order**. If the local authority believes that a child has suffered or is likely to suffer “significant harm” if s/he remains with his or her birth family then they can apply to the courts for a care

order to assume parental responsibility for the child. While it is possible that children on care orders live with their parents or other family members if that is what the courts decide, most will live with foster carers.

Admission requirements

Regulations made under the School Standards and Framework Act 1998 require admission authorities to give looked after children highest priority in their admission arrangements. This will ensure that they are guaranteed admission to preferred schools at the normal time of entry.

Outside the normal admissions round, local authorities may direct other admission authorities for any maintained school to admit a child in their care to the school best suited to his or her needs. Such action **must** be taken in the best interests of the child. Before giving a direction, the local authority **must** consult the admission authority for the school they propose to specify in the direction. The admission authority then has seven days to inform the local authority if it is willing to admit the child without being directed to do so.

If, following the consultation, the local authority decides to issue the direction it **must** first inform the admission authority, the governing body (if the governing body is not the admission authority), the head teacher and, if the school is in another local authority area, the maintaining local authority. If the admission authority (or the governing body if it is not the admission authority and only in relation to a looked after child who has previously been excluded from at least two schools) considers that admission of the child would seriously prejudice the provision of efficient education or efficient use of resources, the admission authority has seven days in which to refer the case to the Schools' Adjudicator. The Adjudicator may either uphold the direction or, if the local authority that looks after the child agrees, determine that another school in England **must** admit the child. The Adjudicator's decision is binding.

Adoption

Some looked after children are placed for adoption and will live with their prospective new parents prior to the final Adoption Order. When that happens, if they are of statutory school age, they may stay at their existing school or move to a new school. Before the final Adoption Order is made by the courts the child will retain his or her looked after legal status. That means, for example, that although placed for adoption he or she will have an adoption plan and a PEP. It also means that the child should continue to be treated in the same way as any other looked after child for the purpose of school admission priority arrangements and in relation to the designated teacher's role. Once the final Adoption Order is made, the child will no longer be looked after. However, his or her educational, social and emotional needs will not change overnight simply as a result of the final Adoption Order. Schools and designated teachers will, therefore, need to be sensitive to the arrangements for supporting the educational needs of children post-adoption.

Carers

A very important aspect of improving the achievement of looked after children will be the relationship established by the carer with school staff.

The nature of the carer will vary depending on the type of care placement, e.g. a residential care worker for those looked after children placed in a care home, or a foster carer for children placed with a family. The carer could be a member of the child's family and some looked after children are living with their parents – possibly as a prelude to returning home permanently from a care placement.

It will be important for school staff to have accurate, up-to-date information so that they know who should receive information between school and home.

Children and Young Persons Act 2008

This Act amends the Children Act 1989 and is intended to improve the transparency and quality of the existing care planning process. It places duties on the local authority looking after a child to avoid disruption to a looked after child's education and training wherever possible.

'Care leaver'

Local authorities often talk about 'care leavers'. When they do they are talking about children who fall within one of the following categories as defined by the Children Act 1989: 'eligible child', 'relevant child' or 'former relevant child'.

An "eligible child" is a young person aged 16 or 17 who has been looked after for the prescribed period (13 weeks since the age of 14) and is then eligible for services under the Children Act 1989 and who remains looked after by the local authority.

A "relevant child" is a young person aged 16 or 17 who has been looked after for the prescribed period (13 weeks since the age of 14) and is then eligible for services under the Children Act 1989 and who is no longer looked after by the local authority.

A "former relevant child" is a young person aged 18 to 21 (i.e. legally adult) who was either an eligible or relevant child. They are also eligible for services under the Children Act 1989.

Designated teachers have responsibility to promote the educational achievement of relevant children and former relevant children.

Care planning and reviewing

All looked after children have a care plan which sets out objectives for work with the child, the birth family and the carers in relation to the child's development needs. Components of the plan cover health, education, emotional and behavioral development, identity, family and social relationships, social presentation and self care skills. The local authority is responsible for making sure the overall care plan

covers these different strands in a way that meets the child's needs. These plans are reviewed at set times which are laid down within the statutory framework of the Children Act 1989 and associated care planning regulations.

Gifted and talented looked after children

As a group, looked after children achieve significantly poorer outcomes than all children. However, looked after children are no different from their peers and some may display special gifts and talents. No assumptions should be made about their abilities simply because of their looked after status.

Independent Reviewing Officer (IRO)

Section 118 of the Adoption and Children Act 2002 inserted new provisions into section 26 of the Children Act 1989 requiring local authorities to appoint an independent reviewing officer (IRO). The Review of Children's Cases (Amendment) (England) Regulations 2004 were made under section 26 (as amended).

Those regulations require all local authorities to appoint an IRO to participate in the statutory meetings to review the care plan of each looked after child. The IRO usually takes on the role of chairing the meeting. The IRO is also responsible for monitoring the performance of the local authority's functions in respect of each review.

The 2008 Act includes provisions that strengthen the role of the IRO. This group of social work professionals will have a crucial role in ensuring that looked after children are able to meaningfully participate in planning for their own care and that the care plan that the local authority prepares for them is based on a thorough assessment of all aspects of the individual child's needs.

Information Communications Technology (ICT)

ICT can play a valuable role in supporting children's learning. Designated teachers may wish to work with the child's carers and social worker to help ensure that looked after children have appropriate access to ICT, including through any schemes which the local authority can access to prioritise ICT provision for looked after children and care leavers.

Looked After Children Education Service (LACES)

Most local authorities have a dedicated team that deals with the education of looked after children. They are often called LACES teams but can have other names (e.g. ELAC) and may have a range of other responsibilities operating in a multidisciplinary way. The LACES team will be a very important partner for the designated teacher and will provide an invaluable source of support and advice to designated teachers both about individual children and the education of looked after children more generally.

These teams will be able to:

- provide information on specialist services.
- help identify resources to support specific activities.
- co-ordinate support that may be required beyond that which is already provided by educational services.
- provide training for designated teachers on aspects of social care.

Out of authority placements

Up to 30% of looked after children do not live in the authority which looks after them. Schools may, therefore, have contact with authorities other than the one in which the school is located. It may also be the case that a school will have more than one looked after child on roll and that those young people will be looked after by different local authorities. Schools may, therefore, find themselves dealing with a number of local authorities. The virtual school head (or equivalent), or dedicated looked after children education team in the local authority where the school is located, should be a useful source of help and advice in facilitating contact with staff in other local authorities.

Pathway plan

All young people who are aged 16+ who have been looked after by a local authority for at least 13 weeks since the age of 14 and who are still looked after will be entitled to services under the Children Act 1989. Their care plan, of which the PEP is part, will become their pathway plan. The pathway plan undertaken around a young person's sixteenth birthday should start to identify the young person's long term needs, including the skills required for independence and the required programme of assistance. The local authority also has a duty to maintain a pathway plan for those young people who leave care at 16 and 17, who were previously "eligible" and are known as "relevant" (see 'care leaver' definition above) and those young people aged 18 to 21 who were either eligible or relevant. This plan is maintained until the young person is 21, or longer if he or she remains in a programme of education.

Permission slips

This is a common cause of concern for schools when they need permission for children to take part in activities such as school trips. While the responsibility for this rests with the child's social worker the task of signing permission slips can be delegated by social workers to carers. If this is the case then it should be noted in the child's personal education plan. No looked after child should miss out on the opportunity of a school trip as a result of delays in obtaining a permission slip. Schools should be told by the child's social worker whom the school needs to approach for permissions. As a general policy, it would be good practice for schools to allow enough time to obtain permission and should not wait until permission has been granted before reserving a place for the child.

Personal education plan (PEP)

This is part of a looked after child's care plan and needs to be developed with the school. It forms a record of what needs to happen and who will make it happen to ensure a looked after child reaches his or her full potential.

Personal education plan (PEP) review

Local authorities have a duty to carry out a review of the care plan of all children they look after in line with the statutory timetable established in care planning regulations. The reviews are carried out 28 days after the child becomes looked after, at the three and six months points and then subsequently at six monthly intervals. Reviews of the care plan can, if there is a significant change in the child's circumstances, should take place outside of these timescales. If there is a significant change in the child's circumstances which impacts on education it is very important that the PEP is reviewed and amended to ensure that it continues to meet the child's needs.

Special educational needs (SEN)

On average, 27% of looked after children have a statement of special educational needs. Another 30% will be on School Action or School Action Plus. Sometimes the special educational needs of looked after children are overlooked or support is delayed because learning difficulties are attributed to their social and emotional circumstances, frequent moves disrupt assessments and provision, or some looked after children are placed out-of-authority with difficulties in communication.

For many children, it is parents who are active in alerting the school to potential problems and supporting the school at home. Carers often need extra help, information and support – especially if their own children are grown up or they have no experience with the SEN processes.

If a looked after child has a statement of special educational needs, the information it contains does not need to be duplicated in the personal education plan: it is sufficient to include relevant information from the statement and annual reviews of the statement in the PEP and append the PEP to the statement. It is considered good practice to align the annual review of the statement with a PEP review.

Where a young person has a statement of special educational needs and a Transition Plan drawn up under that statement, it is good practice to make the pathway plan (see definition above) one and the same document.

Special Educational Needs Co-ordinators (SENCOs)

All maintained schools are required to have a SENCO who is a qualified teacher. In some cases the governing body may consider that it is appropriate for the SENCO to also take on the role of the designated teacher for looked after children. Not all looked after children will have special educational needs, however, and the governing body may not automatically consider it appropriate to appoint the SENCO to undertake this role without full consideration.

Special Guardianship Orders

Special Guardianship is designed to provide children with greater security than long term fostering without the absolute legal severance from the birth family which stems from an adoption order. Parents of a child cannot become a child's special guardian. A court may make a guardianship order for a child on application of any guardian of the child, a local authority foster carer with whom the child lives or anyone with whom the child has lived for three of the last five years.

'Virtual School Head'

A number of local authorities have appointed a 'virtual school head'. The virtual school head is a senior figure within a local authority whose role is to raise attainment and ensure progression of all looked after children and young people from that authority or being educated within that authority. They work strategically across the authority and with schools to monitor and support the educational achievement of looked after children as if they were in a single school.

Useful resources and further guidance

This is not an exhaustive list but includes key documents at the time of publishing this guidance which governing bodies are likely to find most useful or need to be aware of.

Raising standards of achievement

Improving the Educational Attainment of Children in Care (Looked After Children)
DCSF 2009

Improving the Attainment of Looked After Children in primary schools
DCSF 2009

Improving the Attainment of Looked After Children in secondary schools
DCSF 2009

Looked after children – good practice in schools
OfSTED, 2008

Taking Part: Making Out of School Hours Learning Happen for Children in Care
ContinYou, 2005

Special Educational Needs

SEN Code of Practice and SEN toolkit
DfES, 2001

Exclusions

Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units
DfES, latest edition

School admissions

School Admissions Code
DCSF, 2008

Websites

These are two websites which contain useful information on social care and teaching and learning strategies.

<http://www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/>

www.nationalstrategiescpd.org.uk/

Notes



You can download this publication at: www.dcsf.gov.uk/everychildmatters/earlyyears/
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