

**EXPLANATORY MEMORANDUM TO**  
**THE CHILDREN ACT 2004 (JOINT AREA REVIEWS) REGULATIONS 2015**

**2015 No. 1792**

**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**

2.1 These Regulations replace the Children Act 2004 (Joint Area Reviews) Regulations 2005 (“the 2005 Regulations”), with some modifications to enable the Chief Inspector of Education, Children’s Services and Skills, jointly with other relevant inspectorates, to review in a more effective and collaborative manner the effectiveness of local services and agencies in working together to protect and improve the well-being of children and young people. They are necessary to deliver the Government’s commitment (set out in report *Tackling Child Sexual Exploitation*, March 2015) to deliver a new system of multi-agency reviews, to assess more effectively how local agencies are working in a co-ordinated manner to protect children and young people.

2.2 The modifications reflect the fact that inspectorates will be working together to assess a range of service provision, not just local authority services. Where a review has taken place, the Regulations therefore require the Chief Inspector of Education, Children’s Services and Skills to determine whether a written response is required to the report and, if so, from whom. This determination must be included in the report. Where the Chief Inspector has determined that a response is needed, all relevant agencies must co-operate in the production of the response so that it reflects the joint nature of the inspection. All of those agencies, including the local authority, must publish and make available on request a copy of both the report following the review and the written response.

2.3 The Regulations also make an amendment to the Children Act 2004 (Children’s Services) Regulations 2005 in consequence of the enactment of the Health and Social Care Act 2008.

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

3.1 None.

**4. Legislative Context**

4.1 Joint area reviews of children’s services are carried out under section 20 of the Children Act 2004 (“the Act”) by two or more of the persons and bodies listed at section 20(4). The 2005 Regulations made provision for the purposes of such reviews.

“Children’s services” are defined by section 23(3) of the Act and by the Children Act 2004 (Children’s Services) Regulations 2005.

4.2 These Regulations revoke and replace, with modifications, the 2005 Regulations. They are required, first, to update the 2005 Regulations which have been amended a number of times since 2005 and which contain various references to legislation and bodies which are no longer extant.

4.3 Secondly, these Regulations are required to place different obligations on the Chief Inspector and the persons or bodies who are subject to joint area reviews under section 20 of the Act once a review has taken place (see paragraph 7.3).

4.4 The 2005 Regulations did not grant powers of entry or powers to obtain information to Her Majesty’s Chief Inspector of Constabulary or her Majesty’s Chief Inspector of Probation for England and Wales. These powers are required now in order to ensure that these persons have sufficient powers to participate in future joint area reviews. Paragraphs 6 and 7 of Schedule 1 to these Regulations rely on the power at section 20(8) of the Act to make additional provision for these purposes. Paragraph 8 of Schedule 8 ensures that all the inspectorates listed at section 20(4) of the Act can require information from the local Safeguarding Children Board for the purposes of a review.

4.5 Finally, these Regulations amend the Children Act 2004 (Children’s Services Regulations) 2005 to align the definition of “health care” in those Regulations with the definition in the Health and Social Care Act 2008.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England only.

## **6. European Convention on Human Rights**

The Minister of State for Children and Families has made the following statement regarding Human Rights:

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Following the scandal of child sexual exploitation in Rotherham, and reviews conducted by Professor Alexis Jay and subsequently Louise Casey, the Government published a report on *Tackling Child Sexual Exploitation* (March 2015). This report set out a number of specific commitments aimed at ensuring more effective action to prevent child sexual exploitation. The use of joint reviews to assess the effectiveness of multi-agency working was one of these commitments. Joint targeted reviews of safeguarding practice will support the development of more effective arrangements for safeguarding

and supporting children at risk of harm, including child sexual exploitation. Local authorities and other relevant agencies are already subject to separate and independent inspection frameworks; the introduction of joint reviews will ensure that the extent to which relevant services agencies co-operate with each other to share information and identify and address risks will be properly assessed.

7.2 The abuse which was uncovered in Rotherham has been the subject of a great deal of media attention. The importance of effective practice to safeguard children is a political priority; however, this particular policy has not received any significant media attention. A national consultation on the Regulations attracted a very low number of responses (see paragraph 8.1).

7.3 A legislative change is required to put in place the powers needed for all relevant inspectorates to access the information needed to conduct joint reviews. Of the four inspectorates participating in the planned joint reviews, only the Chief Inspector of Education, Children's Services and Skills and the Care Quality Commission had been granted powers of entry under the 2005 Regulations. These Regulations ensure that all four inspectorates have similar powers to enter premises and require information. The Regulations were also required to reflect the joint nature of the report following a review, to ensure that report reflects the work of all relevant agencies, not simply the local authority, as well as the extent to which services work effectively together (see also paragraph 2.2). They are also required to ensure that any written response is produced collaboratively by the agencies concerned and that it reflects the multi-agency nature of the inspection.

## **8. Consultation outcome**

8.1 A four week public consultation on the draft Regulations was launched on July 15 and closed on 11 August. The period of consultation was relatively short in view of the limited changes made in the Regulations. The detail of how inspections will operate in practical terms was subject to separate consultation by Her Majesty's Chief Inspector.

8.2 The consultation received five responses. All proposals were supported by the majority of, or all, respondents and the Regulations have therefore not changed as a result of the consultation, with one exception. The only change made as a result of consultation relates to concerns raised by the Secretary of State for Defence about the proposed removal of the requirement for the report following a review to be sent to a local radio station and a local newspaper. The regulations therefore retain this requirement, in support of the Government's transparency agenda.

8.3 The consultation document, and the Government's response, can be found at: <https://www.gov.uk/government/consultations/child-protection-services-joint-agency-reviews>

The parallel consultation on Ofsted's inspection framework document can be found at: <https://www.gov.uk/government/consultations/joint-targeted-area-inspections>

The response to that consultation will be published at the same time as the framework itself is formally published by the Chief Inspector of Education, Children's Services and Skills.

## **9. Guidance**

9.1 The Department for Education does not intend to issue guidance on joint inspections. The framework for inspection, which has been subject to separate consultation by the Chief Inspector of Education, Children's Services and Skills, sets out how inspections will be conducted.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is to ensure more effective inspection of safeguarding services, by enabling relevant inspectorates to work together. As now, it will be for relevant inspectorates to determine their own schedules of inspection.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The Department for Education is not intending to conduct a formal review or evaluation of these Regulations. The Department has regular discussions with Ofsted at both official and Ministerial level, including in relation to the operation of inspection frameworks and the outcome of inspections. The Department will therefore consider carefully the outcome of these inspections and their value in assessing the effectiveness of multi-agency working to safeguard children. This will inform thinking about future inspection frameworks.

## **13. Contact**

Kate Lyons at the Department for Education, Tel: 0207 783 8085 or email: [Kate.Lyons@education.gsi.gov.uk](mailto:Kate.Lyons@education.gsi.gov.uk) can answer any queries regarding the instrument.