

Title: Registration of Social Work Providers - Validation stage IA IA No: RPC14-FT-DfE-2273 Lead department or agency: Department for Education Other departments or agencies:	Impact Assessment (IA)		
	Date: 20/04/2015		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
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Summary: Intervention and Options **RPC Opinion: Awaiting Scrutiny**

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
	£42,320	-£3,866	Yes OUT

What is the problem under consideration? Why is government intervention necessary?
 Removal of a current requirement in the Care Standards Act 2000 for social work providers to register with Ofsted and (by the associated regulations governing fitness and registration) to pay a registration fee. Intervention is appropriate to remove the unnecessary administrative and financial burden associated with registration. The effect will be a cost saving to both providers of social work services (all of which are private or voluntary sector firms) and to Ofsted.


What are the policy objectives and the intended effects?
 The proposal is to drop the requirement for social work providers to register with Ofsted. By doing so we hope to encourage a wider range of new providers to consider entering the children's services market and inject fresh thinking and innovation to service delivery.

 The changes will have no impact on inspection. As now, Ofsted will include consideration of these contracted out arrangements as part of their wider local authority inspection framework.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 The Department's clear view (along with Ofsted and Her Majesty's Chief Inspector) is that the registration requirement is unnecessary and our aim is to use a clause within the Deregulation Bill to achieve our policy objective of removing the burden. The Regulatory Policy Committee has previously agreed that this is a deregulatory and fast track measure and, therefore, we are not exploring any other policy alternatives at present. However, if the clause within the Bill on removal is lost during its Parliamentary journey, we would need to gauge the weight and nature of the concern expressed before considering future handling.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year						
Does implementation go beyond minimum EU requirements?			No			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY:  Date: 20/4/15

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2009	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
		Low:	High:	Best Estimate: 0.042	

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				0
High				0
Best Estimate				0

Description and scale of key monetised costs by 'main affected groups'

N/A

Other key non-monetised costs by 'main affected groups'

N/A

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	
High	Optional		Optional	
Best Estimate				0.042

Description and scale of key monetised benefits by 'main affected groups'

£0.042m based on estimated savings in registration fees for an estimated 5 new providers (0.015m) and savings in the fees that the 5 existing and 5 new providers would otherwise incur in making variations (0.027m).

Other key non-monetised benefits by 'main affected groups'

A removal of confusing bureaucracy to clarify that Ofsted is responsible for quality assuring children's services.

Allowing new and existing providers to devote resources which would otherwise have been used for administrative purposes to be invested in children's services delivery.

Removing potential barriers for new providers to enter the children's services market.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

The rate at which new providers will enter the market over the next 10 years is impossible to predict with certainty, given that local authority delegation is a permissive power not statutory. The number of variations registered providers would otherwise make is also difficult to forecast. We have sought to make reasonable and conservative assumptions based on relevant evidence here.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0.042m	Net: 0.042m	Yes	OUT

Evidence Base (for summary sheets)

Problem under consideration

Local authorities can currently enter into contracts for private and voluntary social work providers to perform various functions on behalf of the authority relating to looked after children (children in care), child protection and early intervention.

Allowing local authorities to delegate to providers of social work services was originally piloted in 2009 in a small number of areas via a partial commencement of part 1 of the Children and Young Persons Act 2008 (CYPA). Full commencement of the CYPA occurred in November 2013. The aim of the initiative is to allow social workers to work in independent units, free from the hierarchy of local authority decision making and with more autonomy.

Prior to commencing their contracts, these social work providers are required, under the Care Standards Act 2000, to register with Ofsted and pay a registration fee. It is currently an offence to provide or manage a social work service without Ofsted registration. Registration requires submission of application forms, personal identification, details of financial position, various policies, details of arrangements with local authorities, staffing details, details of premises, insurance details, relevant qualifications, police checks, references, health statements, fitness questionnaire etc. It is followed by a registration visit which looks at the provider's fitness to provide/manage a children's service establishment and whether premises are safe. The visit does not seek to answer questions regarding the quality of the services provided themselves. Providers are required to pay fees to Ofsted in order to register. The fees are £2,046 per provider plus £1,024 per manager. In addition major and minor variation fees of £3,070 and £99 apply.

We consider that the current requirement that providers of social work services in England register separately with Ofsted is unnecessary. This is because there is already a general duty on local authorities under section 11 of the Children Act 2004 to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children and Ofsted inspects providers to ensure this duty is carried out. The registration regime introduced by the CYPA adds complexity to that basic principle and duplicates the due diligence that would be expected of a contracting local authority. It also risks offering false assurance to commissioning authorities that the quality of provision by a third party has been judged and accepted by Ofsted (by virtue of the registration) when in fact the information needed for registration and the visits themselves, as explained in the above paragraph, fulfil an administrative need only – not answer questions regarding the actual provision vulnerable children receive. Furthermore, the registration requirement muddies questions of accountability for quality of provision - ultimate accountability and responsibility for the delivery of children's services (whether delegated to a third party or not) remain with the local authority; but it could be perceived through the 'registration brand' that the third party provider is ultimately accountable – this is not the legal position and could be confusing for the public in circumstances where the Secretary of State may have to intervene to address failings in provision.

Rationale for intervention

Social work plays a pivotal and often leading role in safeguarding people's rights and building relationships to support and empower children, adults and families to make important choices about the direction of their lives.

Local authorities can currently enter into contracts with private and voluntary social work providers for the discharge of a range of statutory children's social care functions, which can include children in care, care leaver and child protection functions. Prior to commencing these contracts, these social work providers are required, under the Care Standards Act 2000, to register with Ofsted and (by the associated regulations governing fitness and registration) to pay a registration fee. It is an offence to provide or manage a social work service without Ofsted registration. We intend to use the Deregulation Bill to remove this requirement given that both Ofsted and the Department consider it to be an unnecessary regulatory burden.

Neither the requirement itself, nor the registration fee payable, confers any additional guarantees of quality service provision or higher levels of inspection for third party providers. Therefore, it offers no

added value in determining how well a service will be delivered. The requirement is also bureaucratic by introducing confusion in the system as to who is responsible for quality assuring children's services. Ultimate accountability and responsibility for the delivery of children's services remain with the local authority, whether or not it chooses to delegate functions in this area of social work. Removal of the requirement does not amount to a watering-down of quality controls, as Ofsted will continue to consider the quality of children's services as part of its single inspection framework of local authority inspection, and to hold local authorities to account where they are inadequate or require improvement.

Ofsted itself believes that the requirement is a distraction from its primary focus of robustly inspecting local authorities' services, including delegated children's social work functions. Additionally, the bureaucratic nature of the requirement risks dissuading potential social work providers from entering the market.

Description of the Policy Change

The policy change is a deregulatory measure to remove the requirement for potential social work providers to register with Ofsted. Changes to regulation are the only route to achieve the policy objective as the current regulatory framework requires these providers to register. The relevant clause is within the current Deregulation Bill. We anticipate that the measure will come into effect via a commencement order two months after Royal Assent. This measure has previously been confirmed by the RPC as being in scope of One-in, Two-Out and classed as OUT. There will be benefits to social work providers through a reduction in registration fees payable to Ofsted due to the removal of the requirement to register with Ofsted. There will also be benefits to providers from the reduction in the administrative burden associated with the registration process.

Costs and Benefits to Business

The market for social work providers was established only recently. Allowing local authorities to delegate to providers of social work services was originally piloted in 2009 in a small number of areas for children in care and care leavers via a partial commencement of Part 1 of the Children and Young Persons Act 2008 (CYPA) until November 2013. Full commencement of the CYPA occurred in November 2013 and there are currently five registered providers in England. The current one-off registration fee for providers is £2,046 per provider and £1,024 per manager (providers typically have one manager).

Existing providers will not need to re-register and so will not make savings on these fees. There is considerable uncertainty around the rate at which new providers may join the market over the next decade, given that local authority powers to delegate children's social care functions remain discretionary – with different local factors driving commissioning decisions - and have only recently come into force. A similar policy, the Right to Request, was introduced in the NHS in April 2011, allowing NHS staff to propose the transfer of NHS services *en bloc* to a new social enterprise controlled by staff. As a result there are now 18 such mutuals offering community health services in their locality, an entry rate of around 5 providers per year (although we do not know such growth will be sustained over a longer period).

However, there are potentially greater political sensitivities around transfer of social work functions by local authorities and since the commencement of the CYPA just over a year ago no new independent social work providers have been set up, although we are aware that 3 are in the process of doing so (but have yet to register). The children's services 'market' (not including social work provision) is not a new idea – voluntary adoption agencies and private children's homes for example have been operating for a number of years providing alternative services alongside local authorities. The increase in scope however, through new regulations, to potentially delegate all children's social work services (including child protection) to different providers does take this aspect of the market in a new direction. The constraints lie in the number of alternate providers that currently exist – mostly charities – that have the expertise, capability and capacity to set up as independent social work providers. Because this element of the market is immature at this stage, unlike its counterpart in health care, we think it only right to make a conservative estimate that there is limited further growth in the number of social work providers over the next decade.

We have assumed that the 3 providers who we are aware of are likely to set up in the next year plus one further provider in the each of the two following years. This gives an estimate of 5 new providers who will each make a £3,070 saving on registration fees over the next decade, a total cost saving of **£15,350**.

If registered providers make any changes to their services, additional fees are incurred of £3,070 for a major variation and £99 for a minor one. Major variations could include reducing or increasing the number of managers – for example, to reflect the level of service provision where the number of direct users of children's services falls or increases in a particular area, where extra capacity to deliver services is warranted, (e.g. to carry out investigations into historical child abuse allegations), or to reflect a specific emphasis on aspects of the children's care system (e.g. to address female genital mutilation, child sexual exploitation etc.). Minor variations may include, for example, changes to reflect local authority boundary shifts following local government/regional restructuring.

The cost saving from no longer having to make these variations would apply to the existing 5 social work providers as well as the estimated 5 new entrants. We lack direct evidence on the extent to which providers will make any change, but information from Ofsted on one recent year's data on registered children's social care providers (residential care providers and fostering and adoption agencies) indicates that on average they would make 0-1 minor variations per decade and 1-2 major variations. We employ the conservative assumption that each of the 10 providers we estimate to operate in the next decade make one major variation and one minor variation to service delivery in that period. This gives an estimated cost saving of **£31,690** (we assume the cost savings fall equally across the decade and so amount to £3,169 per year).

This gives a combined total estimate of the savings in fees paid by social work providers to Ofsted over ten years of **£47,040** (in current prices). These fee savings also reflect a reduction in the workload of Ofsted, however, as Ofsted is a public sector body this has not been included in the calculation of business impact.

Using the EANCB calculator, the estimated present value of the benefits to business is £42,320.

In addition, the removal of the requirement to register will lead to some small reduction in the admin costs of completing the registration documentation, and preparation for registration visits. The reduced burden could then allow providers to devote those resources which would otherwise have been used for administrative purposes to be invested in the delivery of children's services. The benefits of these time savings have not been monetised as the Government did not specifically consult on the issue. The consultation in April 2014 about extending delegation of children's services did receive minimal views on removal of registration, but the Deregulation Bill covering Ofsted registration had already passed through the Commons by that stage.

The Ofsted inspection regime is entirely separate to registration. Regardless of whether a local authority has chosen to delegate its social care functions or not, it remains ultimately accountable for the delivery of those services and satisfying inspectors of both the quality of the service and any contract management/diligence arrangements when delegating to a third party provider. There will be no change in inspection activity levels or inspection fees relative to the baseline as a result of this measure. The removal of the registration requirement does not make any material difference to the number of likely inspections that would be carried out.

Risks and Assumptions

The rate at which new providers will enter the market over the next 10 years is impossible to predict with certainty, given that local authority delegation is a permissive power not statutory. The number of variations registered providers would otherwise make is also difficult to forecast. With little evidence on which to project different scenarios for these trends, we have instead sought to employ very conservative assumptions about the size of the benefits to business.