

Auxiliary Aids for Children with Disabilities

Consultation Response Form

The closing date for this consultation is: 5
December 2011

Your comments must reach us by that date.

THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online response facility available on the Department for Education e-consultation website (<http://www.education.gov.uk/consultations>).

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

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

Reason for confidentiality:

Name	Anna Gill & Carrie Britton (Co-chairs)
Organisation (if applicable)	The National Network of Parent Carer Forums
Address:	c/o S North, Contact a Family 209-211 City Road, London EC1V 1JN

If your enquiry is related to the policy content of the consultation, please contact Mark Sands by telephoning 0207 7838269 or emailing mark.sands@education.gsi.gov.uk

If you have a query relating to the consultation process you can contact the CYPFD Team by telephone: 0370 000 2288 or via the Department's ['Contact Us'](#) page.

Please mark the box which best describes you as a respondent.

<input type="checkbox"/> Local authority	<input type="checkbox"/> Maintained mainstream school	<input type="checkbox"/> Maintained special school
<input type="checkbox"/> Independent mainstream school	<input type="checkbox"/> Academy/Free school	<input type="checkbox"/> Independent/non-maintained special school
<input type="checkbox"/> Professional association/union	X Parent/Carer	X Other

Please Specify:

The National Network of Parent Carer Forums is a network made up of the 151 Local Parent Carer Forums across England. There is a steering group made up of representatives from the nine regions and one non regional representative, who are all parent carers of disabled children

The Steering Group have responded to this consultation in line with our protocol on prioritisation of consultations.

The Department is aware of concerns that some schools and local authorities may have about the implications of the new requirement, especially that it could create an unlimited obligation on them. However, noting what is said in this consultation document about the inter-relationship between the new duty and schools' and local authorities' existing duties under the SEN framework and the limits placed on the new duty by the reasonableness test, the Department believes that the new requirement should be commenced, and should take effect from 1 September 2012. This would coincide with the start of the next academic year and also with schools' funding cycles (both for independent and maintained schools).

1 a) Do you agree that the Government should commence the auxiliary aids requirement of the reasonable adjustments duty under the Equality Act 2010 (the "third requirement") in relation to schools and local authorities when exercising education functions?

X Yes

No

Not Sure

Comments:

We welcome the introduction of the new requirement, and see them as essential to continuing to promote access to schools for children and young people with all types of disability and special educational needs, and hope that it will also prevent the need for lengthy delays in admission and exclusion that many children face. Despite the duties that have already been in place historically through the Disability Discrimination Act and the Disability Equality Duty, we know from our membership that many children still face huge inequalities and lack of access to aides and equipment at school, and therefore there is clear evidence that these further anticipatory duties are required to try to redress this and ensure that children with SEND are welcomed in schools.

We are members of SEC and support their response that:

the introduction of the requirements will strengthen the entitlement of children who do not have statements to have their needs anticipated and their requirements met.

As well as providing protection from discrimination in admissions, the provision of education and exclusions or other forms of detriment, schools' duties cover the provision of 'any benefit, facility or service.' The extension of the reasonable adjustments duty to include auxiliary aids and services strengthens pupils' access to those benefits, facilities and services. SEC particularly welcomes the additional entitlement that this will provide in terms of access to and participation in such activities as after-school clubs

where disabled pupils have been at a disadvantage in the past.

1 b) If you answered "no" or "not sure" to question 1a, please state your reasons and, if appropriate, what steps you think could be taken to make commencement of the requirement acceptable.

Comments:

NA

Assuming that the duty is to be commenced:

2 a) Do you agree that 1 September 2012 is an appropriate commencement date for the new auxiliary aids requirement?

X Yes

No

Not Sure

Comments:

We believe this is a fair timescale, and enables schools to have the opportunity to plan and consider what steps need to be taken to ensure that this requirement is met.

2 b) If you answered "no" or "not sure" to question 2a and think that the commencement date should be earlier or later than 1 September 2012, please state when you think the commencement date should be and the reasons why having an earlier or later commencement date would be appropriate.

Comments:

NA

When responding to the following question, please bear in mind that the power to make regulations only permits the following matters to be prescribed:

- matters to be taken into account in deciding whether it is "reasonable" for a person to have to take a particular step in complying with the reasonable adjustments duty;

- descriptions of persons to whom the first, second or third requirement of the reasonable adjustments duty does not apply;
- circumstances in which it is, or in which it is not, reasonable for a person (such as a school or a local authority) to have to take steps of a prescribed description; or
- things which are, or which are not, to be treated as auxiliary aids.

3 The Equality and Human Rights Commission will be producing a statutory code of practice and guidance for schools which will include advice on what schools must have regard to in relation to operating the reasonable adjustments duty. If you think this is unlikely to be sufficient to address your concerns about understanding the implementation and operation of the new requirement, please tell us what more will be needed or are there matters that could usefully be prescribed in Regulations?

Comments:

We think it would be helpful to also provide information for parent carers so that they are also aware of the impact of this regulation and what this means for them and their child, and what they can expect from schools.

We think it would be particularly helpful to have information about what will and will not be treated as an auxiliary aid for parent carers.

We would be pleased to work with you in relation to this if it would be helpful.

4 The Department is aware that there is a cohort of children who are disabled but do not have SEN, or who might require reasonable adjustments unrelated to their SEN. However, we are not clear on exactly what additional auxiliary aids and services these disabled children might require other than those that a school might currently be providing, either simply through "common sense" adjustments, or through SEN provision (including School Action, School Action Plus and statements).

We would therefore welcome any specific information that can be provided about the circumstances, and number, of children who might currently be missing out on the provision of auxiliary aids and services because of the current absence of the auxiliary aids requirement on schools and local authorities exercising their education functions.

Comments:

Many children with health care needs may not have SEN, but often face challenges in ensuring that their needs are met safely at school. Whilst many schools use a “common sense” approach to issues, there are huge variations across schools about what “common sense” looks like.

Some general “common sense” guidelines for use in all schools would be helpful in ensuring some consistency across the country, particularly as more schools become Academies, and that ensure children’s needs are met in the most helpful and least oppressive way possible.

5 If you have any further comments or suggestions, please enter them here.

Comments:

We warmly welcome the implementation of these requirements, and see them as a further step towards promoting equality of access for our children. However, robust statutory guidance, with clear information about the implications of non compliance will be essential to ensure that these requirements are met in spirit as well as in letter.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply X

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

XYes No

All DfE public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DfE consultations are conducted, please contact Carole Edge, DfE Consultation Co-ordinator, tel: 01928 738060 / email: carole.edge@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 5 December 2011

Send by e-mail to: AuxiliaryAids.CONULTATION@education.gsi.gov.uk

Send by post to: Mark Sands, Department for Education, Special Educational Needs and Disability Division, 1st Floor, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT.