

Consultation on the Raising the Participation Age (RPA) regulations

Consultation Response Form

The closing date for this consultation is: 13 April
2012

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>).

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

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

Reason for confidentiality:

Name Yolande Burgess
Organisation (if applicable) London Councils
Address: 59½ Southwark Street
London
SE1 0AL

If your enquiry is related to the policy content of the consultation you can contact Andrew Ettinger on:

telephone: 0207 3408248

e-mail: raisingtheparticipationage.mailbox@education.gsi.gov.uk

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

Telephone: 0370 000 2288

e-mail: consultation.unit@education.gsi.gov.uk

Please tick one category that best describes you as a respondent.

<input type="checkbox"/> Local Authority	<input type="checkbox"/> College	<input type="checkbox"/> School
<input type="checkbox"/> Parent	<input type="checkbox"/> Young Person	<input type="checkbox"/> Employer
<input type="checkbox"/> Voluntary/Community Sector	<input checked="" type="checkbox"/> Other	

Please Specify:

London Councils represents all 32 London boroughs, the City of London, the Metropolitan Police Authority and the London Fire and Emergency Planning Authority. London Councils is committed to fighting for more resources for London and getting the best possible deal for London's 33 councils. We develop policy, lobby government and others, and run a range of services designed to make life better for Londoners.

This response has been prepared with the Young People's Education and Skills Board made up of key stakeholders in London, including the Greater London Authority, the Association of Colleges and the London Work-based Learning Alliance. The Board is chaired by London Councils' executive member for children and young people and is the lead strategic body for 14-19 education and training in the capital.

Residency in England

- 1 Do you consider it appropriate that the Government does not regulate on residency in relation to the duty to participate in order to allow for maximum local discretion?**

☒ Yes

☐ No

☐ Not Sure

Comments:

We agree that Government does not need to regulate in this area. We also agree that it would not be appropriate to place a duty on someone to participate who could not then access a funded learning place to fulfil it; and that consequently the funding regulations for learner eligibility¹ provide a suitable overall interpretation for the RPA duty.

The regulations would provide a sound basis for guidance, as suggested in the consultation, which we would recommend as it will be important to ensure consistency where judgements do need to be made. Whilst judgements on whether a young person is "resident in England" may only need to be made in a small number of cases across the country, residency judgements are made more frequently in London (and other metropolitan areas) due to factors such as high levels of immigration.

We also recommend that Government reviews the need for regulations on residency should the Secretary of State for Education commence enforcement legislation under Section 74 of the Education Act 2011.

Defining Full-time education

- 2 a) Which of the two options set out in paragraphs 4.4 - 4.13 do you prefer i.e. option 1 (setting an overall hourly minimum level for full-time education for all provision) or option 2 (a more tailored approach)?**

☐ Option 1 (setting an overall hourly minimum level)

☐ Option 2 (tailored approach)

☒ Neither

Comments:

We do not support option 1 for a number of reasons, principally those set out in the consultation document: whilst accepting that this would be the simplest approach, it could lead to non-beneficial changes to programmes and poses a risk for certain types of bespoke re-engagement programmes, which could impact negatively on the most vulnerable young people.

We support a tailored approach, but we do not support the proposals outlined in option 2. Our rationale and suggestions for a tailored approach are set out below.

¹ http://readingroom.lsc.gov.uk/YPLA/ypla-Funding_Guidance_Regulations_2011-12_gn-Jul11-v1.pdf

Option 2 purports to set out hourly minimums for various settings where young people can engage in full-time education, yet sets a minimum for further education colleges **only**. The option excludes schools² (sixth forms) as “*full time education already has a settled meaning of about 190 days per year*”. 190 days a year could translate into any number of hours so is quite meaningless when considering hourly minimums. The option proposes that education delivered by Independent Specialist Providers should automatically be regarded as full-time and further proposes not to specify RPA requirements for home education, in line with home education pre-16. For re-engagement provision it is proposed - rightly in our opinion – that expectations and outcomes rather than hours should be agreed. In essence, and as noted above, the option makes a proposal for minimum hours for one setting only – further education colleges.

This is counter-productive to the current aim of creating a level playing field for the sector and could have a long-term damaging impact on colleges, which are fundamental to the engagement and re-engagement of young people.

We consequently propose that hourly minimums should **not** be set for RPA for the following reasons:

- The post-16 education sector is already heavily regulated in terms of what does and does not constitute full-time provision.
- ‘Hours’ (guided learning hours and/or contact time) are a significant component in the funding methodology, therefore auditable - the [16-19 funding formula review](#) suggests contact time/guided learning hours will remain significant.
- The [Study Programmes for 16-19 year olds](#) consultation proposed an expectation on the number of hours for the delivery of a stretching programme of study.

Setting a further minimum requirement on hours is simply unnecessary. Setting a minimum for RPA also suggests a lack of trust in the professional judgement of educators to determine the right programme of learning for individuals, which does not meet with current policy direction.

We support the suggestion that expectations and outcomes should be the principal aims, not just for re-engagement provision but for all provision to demonstrate that it is achieving the *point* of RPA. Participation is not an end in itself but a means to achieving an end-result – progression and transition to successful and rewarding adult life.

Expectations regarding achievement and progression must underpin RPA. We recommend that the Department works with the post-16 sector, including Voluntary and Community sector and private organisations, to develop a clear set of expectations and intended outcomes that complement existing success measures and the developing Key Stage 4 and 16-18 destination measures. Should the Department take up this recommendation, London Councils would be keen to work with officials to facilitate this work across London.

² The term ‘school’ indicates maintained and non-maintained schools, Academies, Free Schools and also University Technical Colleges (UTCs) as UTCs come under the Academies programme for funding purposes

- 2 b) Or is there a hybrid option that you think more effective (please give details) - for example, that there is a blanket rate of hours for all full-time education but Independent Specialist Providers are exempt?**

☐ Yes

☐ No

☐ Not Sure

Comments:

Please refer to our response at 2 a).

- 3 a) Do you agree with our suggestion of 534 hours as the minimum requirement for full-time education under Option 1?**

☐ Yes

☒ No

☐ Not Sure

Comments:

Please refer to our response at 2 a).

- 3 b) Do you agree with our suggestion of 534 hours as the minimum requirement for full-time education for colleges under Option 2?**

☐ Yes

☒ No

☐ Not Sure

Comments:

Please refer to our response at 2 a).

- 4 a) Should the three options: i.e. working not for reward (paragraph 5.2), holding an office (paragraph 5.4) and self-employment (paragraph 5.5); be counted as valid means of participation when combined with part-time study?**

☒ Working not for a reward

☒ Holding an Office

☒ Self-employment

☐ None

Comments:

The above noted options all have the potential to provide young people with valuable experience, additional skills for the work place and the opportunity to test out potential career paths.

4 b) Are there any additional ways of working that you would consider relevant?

Comments:

Consideration needs to be given to acknowledging caring responsibilities where young people have made an informed choice about those responsibilities. The fact that this is a sensitive issue should not prevent us from challenging assumptions that all young people with caring responsibilities (including young parents) are not engaged in gainful activity.

5 a) Would requiring a volunteering organisation or business taking a volunteer or intern to have an agreement with that young person be a reasonable requirement?



Yes



No



Not Sure

Comments:

To guard against poor quality volunteering and internship experiences and the risk of exploitative practices, we suggest that an agreement between the organisation and the young person is an *essential* requirement.

In a depressed labour market with limited job opportunities, volunteering will be an important option to enable young people to gain some experience of the world of work. With this potential for growth in volunteering opportunities, it will be important to ensure that both organisations and young people are clear about the nature of the commitment they are making to each other.

5 b) What would be most useful to set out in guidance here?

Comments:

Guidance should be clear that a volunteer or internship agreement should be in place in the interests of both the young person and the organisation.

An example of what should reasonably be included in a volunteer agreement is currently available through the Government's online resource [Business Link](#). This site points organisations to sample agreements that have been prepared by [Volunteering England](#). We would recommend that guidance points to these existing sources of information and examples of good practice to avoid duplication and potential conflict in messages.

Guidance with regard to internships is also available via [Business Link](#). Again we recommend that guidance points to existing sources of information, particularly in respect to internships where other existing legislation should be taken into account (e.g. young people's rights and employers responsibilities under national minimum wage law).

6 Does the level of fines of 4 weeks and 8 weeks salary seem appropriate? If not, what could the level of fines be set at?

☐ Yes

☒ No

☐ Not Sure

Comments:

We do not believe that it is appropriate to set out financial penalties against employers under RPA for the following reasons:

- The duty to participate rests with the young person – it is inappropriate to apply punitive measures to employers whilst enforcement legislation is in abeyance.
- It is entirely reasonable for an employer to specify the pattern of part-time study that best suits the requirements of their employee's job, which may not be the young persons' preferred option. This type of regulation muddies the normal employer-employee relationship and could be used to inappropriately interfere with that relationship.
- Local authorities invest enormous time and resource into developing positive and constructive relationships with local employers, particularly in the interests of the young people they serve. There will *a/ways* be a solution to supporting employers to meet their duty for RPA; fines, or the threat of fines, are not a solution.
- 'Policing' employers and potential breaches of duties in relation to RPA would be ridiculously bureaucratic and a waste of precious resource that can be better deployed in the interests of supporting young people into work with learning.
- It is well evidenced that the significant majority of employers are reluctant to employ young people; information about punitive measures, even through well managed communications, would just act as a further disincentive to employers.

The duties on employers under RPA will need to be communicated effectively and positively by central and local Government to ensure that employers take on their responsibility to support young people to continuously improve their skills and as a consequence, better support London's economy.

7 Should the amount of fine be set at a maximum (i.e. up to 8 weeks salary) or as a guide level (i.e. to be approximately 8 weeks salary)?

☐ Maximum level

☐ Guide level

☐ Not sure

Comments:

Please refer to our response at 6.

- 8 Do you agree that it is right to exempt employers of fewer than 10 people from fines?**

☒

Yes

☐

No

☐

Not Sure

Comments:

Please refer to our response at 6.

- 9 In addition to information on how to check enrolment, and guidance to local authorities on the informal resolution of disputes, is there any other further information that could usefully be provided here?**

Comments:

Please refer to our response at 6.

- 10 Does setting out that a local authority can use any money raised from a fine here to cover their costs and contribute towards a tracking system - with any surplus returned to DfE - seem like a reasonable proposition?**

☐

Yes

☒

No

☐

Not Sure

Comments:

Please refer to our response at 6.

- 11 Do you have any other comments?**

Comments:

- 12 Please let us have your views on responding to this consultation (for example, the number and type of questions, was it easy to find, understand, and complete).**

Comments:

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 ☒

E-mail address for acknowledgement:

volande.burgess@londoncouncils.gov.uk

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?

☒ Yes

☐ 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 13 April 2012

Send by post to:

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Consultation Unit
Castle View House
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Runcorn
Cheshire
WA7 2GJ

Send by e-mail to: raisingtheparticipationage.mailbox@education.gsi.gov.uk