EXPLANATORY MEMORANDUM TO

THE CHILDREN ACT 2004 INFORMATION DATABASE (ENGLAND) REGULATIONS 2007

2007 No.

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations make provision in respect of the establishment and operation of a database ('ContactPoint') under section 12 of the Children Act 2004. The Regulations place a requirement on local authorities to participate in the operation of the database**;** specify what information will be held, who must or can provide it, and how long it can be retained**;** who can be granted access**;** and how accuracy will be maintained.

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

None.

4. Legislative Background

4.1 The legal framework for ContactPoint is provided by Section 12 of the Children Act 2004 which came into force on 1 January 2006. Section 12(5) of the Children Act 2004 provides for Regulations to be made in relation to the establishment and operation of a database. The Regulations are subject to Affirmative Resolution by both Houses. During the passage of the Children Bill in 2004, a commitment was made in the House of Lords to undertake a public consultation on how sensitive services should be handled. Further information about this consultation and the outcome can be found at paragraph 7.5.

4.2 The Information Sharing Index (England) Regulations 2006 were brought into force on 7 April 2006. These Regulations provided for data matching trials to take place as essential initial work in the development and implementation of ContactPoint. The Information Sharing Index (England) Regulations 2006 will be revoked by these Regulations.

5. Extent

This instrument applies to England.

6. European Convention on Human Rights

The Minister of State at the Department for Children, Schools and Families, Beverley Hughes, has made the following statement regarding Human Rights:

"In my view the provisions of the Children Act 2004 Information Database (England) Regulations 2007 are compatible with the Convention rights".

7. Policy background

7.1 The Secretary of State for Education and Skills, on 8 December 2005, announced in a Written Ministerial Statement that the Government has decided to establish a database, known then by the working title 'information sharing index' and now known as ContactPoint.

7.2 ContactPoint is a key element of the Government's Every Child Matters programme to transform children's services, by supporting more effective prevention and early intervention, to ensure that children get the additional services they need as early as possible. The goal is to improve the five outcomes for children set out in the document "Every Child Matters: Change for Children" (DfES December 2004): being healthy; staying safe; enjoying and achieving; making a positive contribution; and achieving economic well-being. ContactPoint aims to improve the experience of public services for all children, young people and families. It will enable practitioners across education, health, social care, youth justice and the voluntary sector to find out who else is working with a child or young person so that they can, where appropriate, work together to deliver better coordinated support.

7.3 In order to create a record on ContactPoint containing basic information for each child, it is both necessary and most efficient to draw upon a number of existing sources for the relevant data items, there being no single data source which currently contains them all. Some specified national and local data sources are required to supply data and others are permitted to supply.

7.4 ContactPoint will hold basic identifying information on all children in England until they reach 18 (in the case of young people with learning disabilities or those leaving care, the record can be retained up to the age of 25, with their consent), contact details for their parent(s) or carer(s) together with names and contact details for those providing education, the GP Practice and practitioners providing specialist and targeted services to a child.

7.5 Details of practitioners providing sensitive services - sexual health, mental health and substance abuse - may only be added to ContactPoint with the informed and explicit consent of the child, young person or, where appropriate, their parent. These sensitive service practitioner contact details will be hidden from the view of users except for local ContactPoint Management Teams who will broker contact between practitioners (and the user who provided the information who will be able to read and amend such details). This approach and the definition of sensitive services was the result of a consultation conducted between October 2004 and January 2005. A summary of the results of that consultation can be found at: http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1280.

7.6 The Regulations require local authorities to participate in the operation of the database. Child records will be allocated, by the Secretary of State for Children, Schools and Familes, to local authorities based on the available information about a child's ordinary residence. Where a child record is allocated to an authority (or where there is an agreed transfer of a child record from one authority to another), the local authority is responsible for (a) data accuracy and quality; (b) that the conditions of access are met before access is granted; (c) for granting access; (d) for ensuring that users only have access to the parts of record that they should; and (e) for disclosing information where appropriate (e.g. subject access requests made under the Data

Protection Act 1998 (DPA)). National partners who will be named in the Regulations (some national charities, the Child Exploitation and Online Protection Centre and the Children and Family Court Advisory and Support Service) have agreed to participate in the operation of ContactPoint in respect of (b) and (c) only and then only in respect of those employed by the national partner.

7.7 Practitioners will be able use ContactPoint to indicate that they have initiated an assessment using the Common Assessment Framework (CAF). They will also be able to indicate that they are acting as the Lead Professional (LP). CAF is a nationally standardised approach to conducting an initial assessment of the needs of a child and for deciding on action to meet those needs. LPs coordinate provision of services and act as a single point of contact for a child and their family when a range of services are involved and an integrated response is required. ContactPoint will provide a means for these key practitioners to be quickly identified reducing the likelihood of duplicate assessments, referrals or service provision and increasing the likelihood that a better, more coordinated service can be provided for children, young people and families.

7.8 A child's entire record will become archived material on the date they reach 18 years of age (or up to 25, where they have given consent), when they leave England (with no intention of returning within 3 years) or a year after the child dies. The information will remain in archive for 6 years (the archive is where data is stored for 6 years after it is removed from the live system and access is restricted to the Secretary of State for Children. Schools and Families and local authority ContactPoint Management Teams). In the case of a section 47 enquiry (instigated where there is reasonable cause to suspect that a child is suffering or likely to suffer from significant harm) or an investigation by a Local Safeguarding Children Board, this period could be extended if the information forms part of the enquiry or investigation. Provision has been made for the retention of a child's record on ContactPoint for up to three years after he is no longer ordinarily resident in England to ensure that the records of children of service personnel or diplomats are not lost from the system when they are posted outside England with their family with the full intention to return. The average length for a posting overseas for both diplomats and forces personnel is three years. Provision has been made to retain the child record on the live system (where users will access records with appropriate restrictions) for a year after a child's death to minimise unnecessary or inappropriate contact with the family. A practitioner being aware that the child has died before making contact with the family will ensure that they can act with appropriate sensitivity and avoid causing any additional distress. Data relating to the provision of services (contact details, start and end date of service provision) will be retained on the live system for one year after the end date and then moved to archive unless a practitioner indicates that in their professional judgement the information they hold may be of value for a period of longer than a year but no longer than 5 years. Data relating to a CAF will be retained on the system for one year after the date of a subsequent assessment. If there is no subsequent CAF, the information will be retained on the system until the record is due to be archived. As described above, information that a CAF has at some point been undertaken may prove helpful to a practitioner who subsequently becomes involved. There is also a facility to retrieve a child's record from the archive, assuming it has been there for less than 6 years, if they return to England.

7.9 Concerns were expressed during the passage of the Children Bill in 2004, both in the Lords and in the Commons and also raised by the Joint Committee on Human Rights,

as to whether the establishment of a database of all children in England constituted an unjustified interference with the human right to privacy protected under the European Convention on Human Rights. The Government believes that a universal database is proportionate and justified. It is not possible to predict which children will need additional support or at what point they will need it so a universal database is necessary to enable early intervention and effective prevention. The type and amount of information held on ContactPoint will be stringently restricted and no case information will be held.

7.10 Concerns were also raised in debates on the Children Bill about ensuring the accuracy and quality of data held on Contact Point. Each local authority in England will be responsible for the records of children in their area and will have dedicated resources, funded by the Department for Children, Schools and Families (DCSF), to carry out data matching and cleansing - a resource of 300 individuals across England with a specific responsibility for ensuring accuracy and quality of data held on ContactPoint. That resource is in addition to a further 300 posts, also funded by DCSF, to manage the local operation of ContactPoint. Organisations that supply data to ContactPoint are already required, under the DPA, to keep their records accurate and up-to-date. All organisations and local authorities must take reasonable steps to ensure that information supplied to or held on ContactPoint is accurate and up-to-date. In line with the DPA, ContactPoint also provides for data subjects (children and young people) or their parents/carers to see what is being held on their record and where inaccuracies are found to have those accuracies corrected. There will be a process in place to ensure this can happen.

7.11 Concerns have also been raised in Parliament about security and access. Security is a key priority for ContactPoint. The design and operation of ContactPoint will adhere to ISO27001, the new international standard for information security management systems, which addresses issues such as physical, environmental and personnel security, communications and operations management and compliance with security policy and is designed to give confidence both to those using the system and those whose information is held on it. ContactPoint will also conform to relevant Government security standards and will be subject to review by independent security experts.

7.12 Controlling access to ContactPoint is an important part of ensuring that the information within it remains secure. Access will be **strictly restricted** to those who need it as part of their work. User numbers are estimated at 330,000 (based on experience in the East Sussex Trailblazer and on workforce analysis carried out in the 17 early adopter authorities) and will include practitioners from education, health, social care, Connexions (a service to support young people aged 13-19 in England in relation to their personal and learning development to ensure a smooth transition to adulthood and working life), voluntary sector, youth justice and the police. Before being granted access to ContactPoint, users will be required to have a current (not more than 3 years old) enhanced Criminal Records Bureau disclosure, to have been trained in the safe and secure use of the system and compliance with the Computer Misuse Act 1990 and the Data Protection Act 1998. In relation to the enhanced CRB disclosure, any convictions for offences against children or under the Computer Misuse Act 1990 or the Data Protection Act 1998 are likely to preclude someone from having access.

7.13 There will also be special arrangements to protect the records of children whose circumstances may mean that they are at increased risk, for example, where they are fleeing domestic violence. Information that could reveal the whereabouts of the child can be hidden from view of ContactPoint users. These decisions will be taken on a case by case basis and will be based on the level of threat posed if information becomes more widely available – this is entirely consistent with the principles of the DPA. It will be possible, in an emergency, for a restricted number of practitioners (those who operate out-of-hours and are often required to safeguard children, for example, practitioners in Accident & Emergency or social care), to access the information that is hidden from view by using a process to reveal the data. If a practitioner instigates this process, a warning will be given that accessing the data will result in notification to the ContactPoint Management Team and an immediate investigation. If they choose to proceed, they will be granted 'one time only' access to that data and as soon as the user closes the record the data will be protected again. No other user will be able to access the data. If the practitioner needs to access the protected data again they will be required to repeat the process. These issues will be reflected in staff training and in the guidance that will govern the operation of ContactPoint.

7.14 Unauthorised access will be prevented by using a combination of measures. Firstly, strong 2-factor authentication. This will require the user to provide evidence of something they hold (a token) and something they know (a password), neither of which would allow someone to gain access without the other - passwords alone will not be adequate. Secondly, all users will be trained in the importance of security and good security practice. In addition, users will be made aware, through mandatory training, that their use of ContactPoint will be audited at every stage, that their access will be subject to continuous monitoring and that suspected misuse will be investigated and that this could lead to disciplinary procedures within their own organisation. Where appropriate, an investigation may result in prosecution that could result in a fine or imprisonment.

7.15 There is a range of existing legislation that includes penalties for the improper use of data. The Computer Misuse Act 1990 provides that unauthorised access, or attempted unauthorised access to a programme or data held on a computer may be punishable by imprisonment or a fine. The DPA provides that a serious offence, with a penalty of a fine up to the statutory maximum (or unlimited if the case went to the higher courts), will be committed where personal data is unlawfully obtained or disclosed without the consent of the data controller. A public consultation entitled 'Increasing penalties for deliberate and wilful misuse of personal data' was held between July and October 2006. Based on the responses to the consultation, the Government has decided to seek to introduce an amendment to the DPA as soon as parliamentary time allows to increase the penalties available to the Courts to enable those guilty of offences under section 55 of the DPA to be imprisoned for up to 2 years on indictment, and up to 6 months on summary conviction. These increased penalties could, of course, be applied to misuse of ContactPoint. The full response to the consultation is available at http://www.dca.gov.uk/consult/misuse_data/consultation0906resp.pdf.

7.16 The draft Regulations and the partial Regulatory Impact Assessment which refers to earlier consultation within Government and with key stakeholders (attached at Annex 1) were subject to a formal public consultation which concluded in December 2006. There were 256 formal responses from local authorities, children, parents and representative bodies from health, education, youth justice and the voluntary sector.

ContactPoint has an ongoing relationship with the Information Commissioner's Office, which has been engaged throughout the development of the policy, including the regulations and associated guidance (out for public consultation until on 27 July 2007). In addition to the formal written responses, workshops were arranged to seek views on the draft regulations. Participants included:

- all 150 local authorities in England;
- 11 Million (previously known as the Office of the Children's Commissioner);
- health sector (British Medical Association, General Medical Council, Nursing and Midwifery Council, Community Practitioner & Health Visitor Association and the Royal Colleges of GPs, Nursing, Midwifery and Psychiatrists);
- youth justice sector (Child Exploitation & Online Protection Centre, Association of Chief Police Officers, Youth Justice Board, Metropolitan Police, Rainer (a charity which supports young people that have been involved with the criminal justice system) and a member of a Youth Offending Team);
- voluntary sector (Barnardo's, Parentline Plus, National Council of Voluntary Child Care Organisations, National Youth Agency, NCH, Home-Start, Save the Children, NSPCC and National Family and Parenting Institute);
- local authority and inspection bodies (Healthcare Commission, Local Government Association, Audit Commission and the Improvement and Development Agency for local government); and
- around 300 children and 70 parents were consulted through the British Youth Council, the Commission for Social Care Inspection and Triangle.

7.17 In the light of responses to the consultation we have amended the Regulations in the following ways:

- to allow access to be granted to service managers and family court advisers in CAFCASS (Children and Family Court Advisory and Support Service), staff in Fire and Rescue Services involved in education and prevention programmes and a small number of staff in Child Exploitation & Online Protection Centre (CEOP) - an agency that supports children and families who are the victims of online abuse;

- national partners (Schedule 2 lists them) will be able to manage access by their own employees;

- to strengthen the existing conditions of access (an enhanced CRB certificate and undergoing mandatory training using materials developed by DCSF) by adding a requirement that the enhanced CRB certificate be renewed every three years. The Government also intends to introduce a requirement that users be subject to monitoring by the Vetting and Barring Scheme. This scheme is to be introduced under the Safeguarding Vulnerable Groups Act 2006, in autumn 2008. The Government proposes to introduce this requirement through consequential amendment made under that Act;

- in addition to the Secretary of State for Children, Schools and Families, local authorities will be able to disclose information, both from the live system and from the archive. This will enable local authorities to respond to Subject Access Requests made under the DPA, requests for information under other legislation, a court order, a section 47 enquiry or investigations by Local Safeguarding Children Boards;

- a number of new data items have been added to Schedule 1 - the name of the local

authority with responsibility for the child's record; contact details for school nurse, midwife and health visitor; an indicator that there is no known address for the child or that a child has left England; date of death; metadata (information that describes and gives information about other data such as the date the information was last updated or verified); numbers used to identify the child's record in practitioners' systems. These numbers will only be visible to practitioners employed by an organisation that supplied them. Practitioners will not be able to see metadata – it will be used for data matching and cleansing purposes only;

- there is now no specific requirement in the Regulations for local authorities to make arrangements for complaints. Mechanisms for managing complaints already exist within local authorities (and partner organisations). The ContactPoint guidance will recommend that the process for making a complaint about ContactPoint is made clear within existing procedures and in local promotion/publicity materials to support the implementation and ongoing operation of ContactPoint; and

- during the passage of the Children Bill in the House of Lords concern was expressed about the provision for a practitioner to indicate on the database that they had a concern about a child. It was stated that this would require a subjective judgement, with the practitioner having to decide what the threshold would be with a consequence that many minor concern indicators would be flagged on the database, masking any indications of serious concerns. In response Baroness Ashton made a commitment, in the Report stage debate on 5 July 2004, to undertake a public consultation on how concerns should be handled. As a result of that consultation the Government announced, in July 2005, that it would define 'concern' as 'has information to share', 'is taking action' or 'has undertaken an assessment'. Concerns continued to be raised by practitioners and local authorities, in respect of how the 'information to share' and 'action taken' indicators would work in practice. These concerns focused on the need for a degree of judgment by a practitioner and the inferences that might be drawn about the level of concern practitioners had about individual children and young people. We have listened carefully to the concerns raised and indications will now be made in one of the following ways:

    - recording a universal service or the active involvement of a specialist/targeted service. A practitioner who is providing such services can be expected to hold information which could be important to another practitioner and which they may consider appropriate to share;

    - recording the name of the nominated Lead Professional who is taking action to co-ordinate a response to a child's needs;

    - recording when an assessment has been undertaken under the system known as the Common Assessment Framework indicates action taken and, potentially, information to share; and

    - where the provision of a service has ceased and a decision is made to extend the period of retention beyond the one year minimum, this would indicate that the practitioner still, potentially, has information to share which they believe to be relevant and important to others.

  We believe that this approach addresses the concerns by removing the requirement for practitioners to make a judgement about whether they have information to share or are taking action and simply recording their involvement, their role as lead professional or

as the holder of the CAF assessment.

7.18 The Regulations now laid before Parliament reflect the outcome of the public consultation. A summary of the results and the Government response to the consultation can be found at: http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1431.

7.19 In addition to the Regulations, the Government has developed draft guidance for users, their managers and operators of ContactPoint, which is currently out for public consultation. This guidance can be found at http://www.dfes.gov.uk/consultations/conDetails.cfm?consultationId=1482. It sets out the key statutory requirements of section 12 in relation to local authorities and national partners and provides support for users and their managers to ensure the appropriate use and operation of ContactPoint. Users must agree to have regard to the guidance as a condition of access to ContactPoint. Organisations and bodies consulted are along the same lines as those set out in paragraph 7.16. The consultation will close on 27 July 2007. The Government will also develop training materials which local authorities and national partners must use in order to fulfil one of the conditions of access to ContactPoint.

7.20 Since the passage of the Children Bill, ContactPoint has generated a degree of media interest including reports that users will be able to access many other systems via ContactPoint and consequently have access to a wide range of case information. There have also been reports about the data that will be held on ContactPoint (e.g. fruit and vegetable consumption, political persuasions of parents). It has never been the intention of Government to record or hold information of this type - section 12 of the Children Act 2004 precludes the inclusion of any case information on ContactPoint. Nor is it the intention of Government to create a system that provides access directly into other systems – this was made clear during the passage of the Children Bill and consistently in materials produced and published by ContactPoint. The Government recognises the importance of developing and distributing communication materials, including materials for the general public, to ensure that the aims of ContactPoint are understood. There are plans in place for the delivery of appropriate communications aimed at the full range of stakeholders including delivery partners, practitioners, children, young people and families, the general public and the media.

8. Impact

8.1 A final Regulatory Impact Assessment (RIA) has been prepared for this instrument and is attached at Annex 1. The RIA confirms that the delivery of the project is affordable within the budget envelope set out as part of the announcement in December 2005. Following Machinery of Government changes announced on 28 June 2007, the Secretary of State for Children, Schools and Families has assumed responsibility for establishing and operating the database from the Secretary of State for Education and Skills.

8.2 The impact on the public sector is thought to be largely positive. This is based on the experiences of those local authorities that have already introduced local systems as a result of Government funding for Trailblazers. The costs of establishing and ongoing maintenance of ContactPoint will be met by grants from central Government. The expected benefits – which relate to time savings – will enable practitioners to devote more time to the provision of services for children, young people and families.

9. Contact

Chris Hirst at the Department for Children, Schools and Families (Tel: 020 7273 4921 or e-mail: chris.hirst@dfes.gsi.gov.uk) can answer any queries regarding the instrument.

Annex 1

Regulatory Impact Assessment for the Children Act 2004 Information Database (England) Regulations 2007

Title of proposal

The Children Act 2004 Information Database (England) Regulations 2007.

Purpose and intended effect

Objective

It is proposed that regulations should be made under Section 12 of the Children Act 2004, for the establishment and operation of a database for children and young people in England[1].

Since the publication of the draft regulations for consultation, the tool previously known by the working title of Information Sharing Index, has been named ContactPoint. All future references to the tool and to the project to create it in this document will use the name ContactPoint.

ContactPoint will contain basic details for all children and young people in England and contact details for their parents or carers, and for any practitioners with whom they have had contact.

ContactPoint will not contain case information relating to the child or young person, and access to information held in the ContactPoint will be limited to practitioners who have passed appropriate security checks, received training in the use of ContactPoint and been authenticated as registered users.

The purpose of the ContactPoint is to make it easier and less time consuming for practitioners in the children's workforce to obtain contact details for other practitioners who are involved with a child or young person.

This information will enable practitioners to:

- Take account of other practitioners' involvement with a child or young person when they undertake assessments of that child's circumstances and needs;
- Undertake joint multi-agency service planning and delivery; and,
- Provide earlier and more effective intervention and support to children and young people and their families.

ContactPoint is simply a tool to help practitioners achieve these policy objectives. It is part of a wider programme of change called *Every Child Matters*. ContactPoint will not itself achieve the objectives set out above. Rather it will allow practitioners to implement this over-arching programme of change in the Children's Workforce.

Background

The final report of the inquiry led by Lord Laming following the death of Victoria Climbié[2] found that better information sharing was a key change needed to minimise risk to children, alongside other major changes in the way children's services are organised. The report recommended that:

[1] *The Children Act Information Database (England) Regulations 2007*
[2] *The Victoria Climbie Inquiry: Report of an Inquiry by Lord Laming*, January 2003

- Front-line staff in each of the agencies that regularly come into contact with families with children must ensure that in each new contact, basic information about the child is recorded. This must include the child's name, address, age, the name of the child's primary carer, the child's GP, and the name of the child's school if the child is of school age. Gaps in this information should be passed on to the relevant authority in accordance with local arrangements. (*Recommendation 12*)

- The Government should actively explore the benefit to children of setting up and operating a national children's database on all children under the age of 16. A feasibility study should be a prelude to a pilot study to explore its usefulness in strengthening the safeguards for children. (*Recommendation 17*)

The Government's strategy for change in the provision of children's services was set out in *Every Child Matters (ECM)* in September 2003. It highlighted better information sharing between workers and practitioners in the children and young people's workforce as key to successful early intervention. Previous policy had not formally endorsed information-sharing as best practice and such sharing was inhibited by concerns about privacy and confidentiality of information.

The Children Bill was presented to Parliament in March 2004, and subsequently received Royal Assent on 15 November 2004. The Children Act 2004 imposes for the first time statutory duties on practitioners and organisations involved in delivery of children's services to co-operate to improve children's well-being and to safeguard and promote their welfare. Local authorities have responsibility to ensure that children and young people receive services that they are entitled to receive and which help ensure their wellbeing. This function is discharged by the Director of Children's Services in each local authority area. Statutory guidance on the duties imposed on local authorities includes an expectation that improved information sharing practice is embedded throughout every local area. Without a tool such as ContactPoint, practitioners will continue to struggle to identify and contact other practitioners working with the child, and outcomes for children will not be improved to the extent that is possible.

Section 12 of the Act, which came into force in January 2006, gives the Secretary of State for Education and Skills the power to make regulations to enable the establishment and operation of one or more databases. These would contain basic information which will assist a practitioner to:

- Obtain basic identifying information about a child with whom they have contact, regardless of the geographical boundaries of their own service or agency;

- Identify whether a child is getting the universal services to which they are entitled (so that appropriate action can be taken in circumstances where, for example, it is not clear what provision is being made for the child's education);

- Determine which other practitioners are currently (or have recently been) involved with a child or young person; and

- Determine whether any practitioners have indicated that they have undertaken an assessment under the Common Assessment Framework (CAF).

The provisions at Section 12 of the Act apply to the establishment of the database (ContactPoint) in England only. However, section 29 of the Act gives provision for the establishment of a database in Wales, subject to the will of the Welsh Assembly.

The details of how these will work in practice are to be set out in regulations and guidance. It is these regulations, to be made under section 12 of the Children Act 2004, that form the topic of this RIA.

Rationale for Government intervention

The Government outlined its strategy for change in the management and delivery of children's services in December 2004 in *Every Child Matters: Change for Children (ECM:CfC).* The strategy

sets out a national framework for local change programmes to build services around the needs of children and young people.

The strategy requires local authorities and their partners to improve information sharing practice and processes, building on the foundations laid by local information sharing and assessment projects and trailblazers, and to improve multi-agency planning and delivery of services for children and young people.

Around 30% of children and young people in England are in receipt of specialist or targeted services at any point in time. These services are provided to children and young people with identified needs, and are in addition to the 'universal' services (i.e. education and primary healthcare) which every child is entitled to receive.

However, it must be borne in mind that children and young people's needs evolve over time. Those children and young people whose needs are currently met by universal services may develop needs for additional specialist or targeted services at any time.

If the practitioners who encounter these children and young people are to determine the most appropriate, effective and timely action to meet their needs, it is important that they should be able to:

- Obtain demographic information about the child or young person, and their parents or carers; and

- Identify and make contact with any other practitioners who are involved.

At present, there is no reliable means by which practitioners can achieve this. In the absence of a tool such as ContactPoint, this means that:

- Children and young people may receive less effective or less timely intervention and support than they might otherwise have done;

- Children's services may not be delivered in the most effective or efficient manner, including through multi-agency working, where appropriate;

- Children and young people who are missing universal services may not be quickly identified and provided with these services; and

- Children with unidentified or unmet needs for targeted or specialist services may not receive these in good time to prevent their needs escalating towards more specialist support and intervention[3].

There is a need, then, for a solution that helps practitioners to:

- Contact other practitioners who may hold that information, even if they are working outside of the child or young person's immediate or current home area; and

- Implement multi-agency working to meet the needs of children and young people, where necessary across local government geographical boundaries.

This need will not be met without a central system holding the required information about all children in England. The existence of limited, local indexes in certain local authorities under existing legislation has been facilitated by "Trailblazer" funding provided by the ContactPoint project. However, the comprehensive national system required to cross over local authority boundaries will not be created except by statutory intervention by central Government.

[3] The costs of meeting such unidentified or unmet needs have not been included in the cost-benefit analysis, as they are potentially too diverse to capture in financial terms; however, any such incremental cost would be more than offset by savings from avoiding the need for more specialist intervention.

ContactPoint will help practitioners to:

- Take account of the involvement of other children's services practitioners when considering the child or young person's circumstances and needs;

- Identify where a lead professional has been appointed to coordinate the services provided to a child or young person;

- Identify whether a Common Assessment Framework has been completed by another practitioner who has contact with a child or young person that might assist in assessing their needs or the best way to help them;

- Plan and implement interventions and support for children and young people using multi-agency working where appropriate;

- Provide early and appropriate intervention for children and young people, which may help to prevent their circumstances declining; and

- Verify that a child or young person is in receipt of the universal services to which they are entitled (so that local authorities, for example, can ensure that they discharge their statutory duties to provide education for every child).

Children who are currently in receipt of the universal services to which they are entitled and who have no further service needs will, nevertheless, benefit from the creation of ContactPoint which helps practitioners to identify the child, their parents or carers and any current or recent practitioner involvement, should the child be referred to them in the future.

The creation and implementation of ContactPoint will nonetheless be a complex undertaking. In order to create and maintain a record for every child and young person under 18, each local authority and organisations providing data will need to play an active part in the creation and ongoing management of ContactPoint. In the absence of regulations and guidance there would be no requirement for local authorities to do so, and no requirement for practitioners or organisations at local or national level to provide information about children and young people and about practitioner contacts to support this.

In the absence of regulations and guidance, each local authority would have to establish a series of data sharing agreements and protocols with the practitioner groups in their local area. Then, in order to create a national database, each local authority would need to establish data sharing agreements with each of the other 150 local authorities, to enable information sharing between them. In practice, a significant number of authorities might choose not to participate, or to delay action to enable them to concentrate on other priorities. Practitioners and organisations providing information to populate the databases might similarly choose to opt in or out of participation in ContactPoint.

This would be complex and cumbersome to implement and manage, in practice. The resulting gaps in coverage, together with the differing levels of engagement of practitioner groups between local authority areas, would result in considerable variation in the quality of information collected in different areas across the country.

This, in turn, would limit the impact of ContactPoint on improving service delivery and outcomes for children and young people. As a result, the project would not meet the policy objectives.

The alternative to this scenario is to introduce ContactPoint with regulations and guidance, which will enable the appropriate sections of the Children Act 2004. The proposed regulations require or permit local authorities, practitioners and bodies to perform the functions required to make the ContactPoint a success and to ensure that it meets the policy objective to create a national database to record basic information about practitioners' contact with children and young people.

Creating regulations to enable the establishment and operation of ContactPoint is in accordance with the precautionary principle: regulating to prevent a threat of serious harm, even if the likelihood of that threat is statistically low. If better information sharing improves outcomes for children and young people, and contributes to averting a future tragedy, then regulation is appropriate.

Consultation

Within government

The government agencies and departments that have been consulted on the proposals for ContactPoint and associated regulations include:

- Cabinet Office;
- Department for Constitutional Affairs (DCA);
- Communities and Local Government (CLG) - formerly the Office of the Deputy Prime Minister;
- Department of Health (DH);
- Department for Work and Pensions (DWP);
- HM Revenue and Customs (HMRC);
- Home Office; and
- Office for National Statistics (ONS).

Consultation within government has included participation by selected departments in:

- The ContactPoint Project Board;
- The cross-departmental committee of Ministers which approved the ContactPoint project in December 2005; and
- Bilateral discussions with national sources of data to produce Memorandums of Understanding to permit data to be provided to ContactPoint.

Public Consultation

Children and young people, and their parents and carers, are significant stakeholders in ContactPoint, and therefore of the regulations and guidance. Consultation with children, young people and families has been carried out within the ContactPoint project and also within the wider ECM programme.

Local Authorities and practitioner organisations have also been extensively involved in discussion and development of the project and of the proposed regulations. All 150 Local Authorities in England have been consulted. A number of forums have been created to support this engagement. These include the:

- Information Sharing Advisory Group (ISAG) – an advisory body which includes representatives from a wide range of organisations. A list of the organisations represented is attached at Annex A);
- Trailblazer Keep in Touch (KiT) - this was a consultative forum to ensure that the Project was informed by the experience of Trailblazer projects which were established to develop and test a range of improvements in information sharing and assessment in selected local authority areas – it has now disbanded;

- Local Authority Implementation Support Group (LAISG) - a consultative forum consisting of 20 Local Authorities whose purpose is to inform implementation of ContactPoint (this group includes members from the disbanded Trailblazer group).

Trailblazers' experience with local databases helped identify a range of direct benefits of a database approach at local level and also benefits they believed a national system would bring that their local systems did not. Trailblazers have also undertaken significant communication and consultation with children, young people and families. This has included publication of information about the content and purpose of local databases and dealing with enquiries from the public about data security and privacy.

Other bodies that have been consulted on the project and the proposed regulations include the National Health Service (NHS), the Independent Schools Council, the Information Commissioner's Office, 11 Million (previously known as the Office of the Children's Commissioner), and a number of voluntary sector organisations.

A public consultation on two aspects of ContactPoint (recording practitioner details for potentially sensitive services and recording concern about a child or young person) was conducted between October 2004 and January 2005. A summary of the results of that consultation can be found at http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1280.

The formal public consultation on the draft regulations and on the Partial Regulatory Impact Assessment was conducted between September and December 2006. The results are reflected in the revised regulations and this Regulatory Impact Assessment.

Consultation and communication with practitioners, their representative bodies and the public will continue throughout the life of the project.

Options

Options for achieving the policy objective

The department's policy objective is to provide earlier, more effective intervention and support to children and young people. The mechanism envisaged to enable this is to establish a national database to record basic information about children and young people, and practitioners' contact with them. The options for regulation are described below.

These options have been informed by input from, and consultation with, front-line practitioners and managers across a wide range of children's services organisations. They also reflect the experience of Trailblazers who have developed local database systems under existing legislation.

The options assess the impact of proceeding without and with regulations and statutory guidance.

Option 1: Implement the project to create a database with **no regulations or guidance**. This represents the 'Do Nothing' Option: the project to create ContactPoint would continue, but without the legislation that requires organisations to participate in and support this.

Under this option, it would not be impossible for DfES to create a single national database. Instead, each local authority would need to be persuaded to participate in the project, and to create a local database for which they would be responsible. Each local authority would have to establish a series of data sharing agreements and protocols with practitioner groups in their local area. They could then populate a database that could be provided by DfES.

Differing priorities for local authorities, practitioner groups and bodies across the country would result in considerable geographic variation in take-up and quality of information collected. As a result, this option would not meet the policy objective.

Option 2: Implement the project to create a database with **limited regulations and guidance**, covering only those organisations and practitioners who, under the terms of the Children Act 2004 are **required to disclose** information for inclusion in ContactPoint. These persons are prescribed in Schedule 4 of the Regulations.

This option could be implemented only for those organisations and practitioners identified in the Children Act 2004 as being required to disclose[4] information. However, the Act also provided for the addition of any other persons or bodies that the Secretary of State for Education and Skills might wish to add to the list of those required to disclose information for inclusion on ContactPoint. It is assumed in this option, that the regulations would name any additional practitioners or organisations that the department had already identified for inclusion in the Act. This would avoid the need for further enabling legislation later.

This option would enable the creation and implementation of a national database, but would prevent a range of key practitioner groups, including some in the health sector and many in the voluntary and community sector, from either providing information or making use of it. As a result, this option would not fully meet the policy objective.

Option 3: Implement the project to create a database with **full regulations and guidance** covering both organisations and practitioners who are **required to disclose** and those who are **permitted to disclose** information for inclusion in ContactPoint. Theses persons are prescribed in Schedules 4 and 5 respectively of the Regulations.

As for option 2, this option could, in theory, include only those practitioners and bodies listed in the Children Act 2004. However, in this case we assume that it is also extended to include any other person or bodies whom the Secretary of State for Education and Skills wishes to add to the lists of those required or permitted to share information[5].

This option would meet the policy objective in full and create a national solution.

Risks

The department has evaluated the risks associated with each option in detail. A summary of these risks is presented below.

The risks associated with **Option 1 (Do nothing)** are:

- Key bodies (e.g. Primary Care Trusts) cannot supply data without an established legal basis; if so, there would be no mechanism to ensure that the data required to meet the policy objective would be supplied. The resulting database would be missing substantive important data which could assist practitioner users, and ultimately affect outcomes for children.

- Local authorities and delivery partners would have differing interpretations of the legal position, regarding provision of data for inclusion on ContactPoint;

- Coverage and data held in ContactPoint would be incomplete, as a result of varying commitment and priorities across the country;

- There is no requirement for organisations and practitioners to provide the data required to populate the database and to ensure that every child or young person is covered;

- Supply of data to the database would vary widely between areas and organisations due to the lack of compulsion to do so, resulting in variations in practice and service provision;

[4] See Sections 11(1), 12(7) and 12(8) of the Children Act 2004.
[5] Section 12(7)(f) and (8)(e)

- Additional costs would be incurred, as there would be considerable duplication of effort in local authorities and partner organisations;

- The ability to provide support to children and young people would be reduced by the inconsistency of data available between different areas within England; and

- A comprehensive national database to record basic information about practitioners' contact with children and young people would not be achieved.

The risks associated with **Option 2 (Limited regulations and guidance)** result mainly from the failure to include 'permitted' practitioners and bodies (including many VSCOs) in the regulations. In theory, many of these organisations could be allowed to participate in ContactPoint if suitable information exchange agreements and protocols could be agreed. In practice though, this would prove cumbersome to arrange for a large number of organisations at national level, and would be dependent on each organisation's interpretation of its legal position. As a result:

- As for option 1, practitioners and bodies who are not 'required' to provide data for inclusion in ContactPoint would vary widely in their response;

- The database would exclude much valuable information about children and young people in hard to reach groups, which tend to be better served by VCSOs and small organisations;

- The resulting variation in coverage of both children and young people and practitioners would only partially meet the policy objective; and

- The lack of clear regulations and guidance for practitioners and organisations using ContactPoint may heighten perceptions that it could have a negative impact on privacy, necessitating additional resource to be allocated to stakeholder management and communications.

The principal risks associated with **Option 3 (Full regulations and guidance)** are that:

- The administrative costs incurred by practitioners and bodies in order to comply with the regulations are judged to be excessive; and

- Some local authorities or delivery partners may fail to comply with the regulations.

In addition, there are a number of delivery and implementation risks that are common to all options.

The project has plans in place to address these and other delivery and implementation risks which have been identified for the project. The mitigation measures are listed below:

- Provision of funding to cover the additional costs that will be incurred by key organisations preparing for implementation and supporting ongoing management of ContactPoint;

- User-friendly design, such as recording the reason for a search being done by the practitioner selecting a response from a drop-down menu with a single mouse-click;

- Provision of funding to enable automated data feeds to ensure the database is populated with comprehensive and current data;

Establishing efficient and effective monitoring and reporting of preparation, delivery and achievement (including benefits realisation) for ContactPoint;

- Ensuring that access to data is controlled and limited to approved, security checked users;

- Providing adequate training for users, covering both use of the database and information sharing best practice;

- Monitoring the use of ContactPoint and highlighting any potential misuse for investigation and possible disciplinary action;

- Restricting access to information held on the database about children and young people's use of sensitive services (services related to sexual health, mental health and substance abuse);

- Providing mechanisms for shielding information about children and young people who are deemed to be at risk of harm; and

- Communicating the purpose of ContactPoint to stakeholders; and

- Providing re-assurance to stakeholders about data security and privacy.

Compliance and enforcement

Compliance involves two different aspects, although they potentially affect the same organisations and people. They affect:

- Supply of data to ContactPoint; and

- Use of data from ContactPoint

During implementation, compliance with the regulations proposed under Options 2 and 3 will be monitored as part of the readiness assessment process in local authorities. This will be supported by national and local level communication and stakeholder engagement.

After implementation, compliance involves appropriate usage and protection of data in ContactPoint, and will be monitored by:

- Collection of performance metrics and management data;

- Inspections and assessment, as part of existing audit and performance management regimes; and

- Monitoring the use of the database through an audit function.

Supply of information to ContactPoint is prescribed by the proposed regulations: named organisations are either required or permitted to supply information. As the benefits of ContactPoint will not be realised without adequate data being available, it is essential that the required data is supplied in an accurate and timely manner.

Practitioners and bodies supplying information for inclusion in ContactPoint will collate and cleanse data before it is passed to the central team for inclusion in ContactPoint. In practice, this process will be largely automated, so that following an initial implementation cost the ongoing cost of data supply to ContactPoint will be quite modest. A part of the implementation and operating grants to local authorities will be used to cover costs of data cleansing and other costs incurred by local authorities and organisations supplying data for inclusion in ContactPoint.

The table below presents a conservative estimate of the maximum annual cost of compliance for stakeholder organisations under Option 2 and Option 3.

It should be noted that the costs below are purely those costs incurred by local authorities and employers of practitioner users in complying with the requirements of the Regulations. The costs of

creation and ongoing maintenance of ContactPoint will be met by grants from central Government, and are not included below.

Group / Sector	Number of Staff Affected	Annual Cost £000s	Benefits £000s
Education	44,000	2,500	10,412
Health Care (inc CAMHS)	55,000	2,313	39,264
Social Care	158,000	598	28,172
Youth Offending	23,000	117	5,512
Youth Support	23,000	117	5,227
Department of Work & Pensions	N/A	120	-
Office of National Statistics	N/A	60	-
Local Authorities	600	3	-
Benefits and Cost of Compliance for Options 2 and 3		**5,288**	**88,587**

Annual Benefits & Cost of Compliance with the Regulations[6]

The table above assumes 330,000 ContactPoint users at maturity. Should the final number be substantially more or less than this figure, both the costs and benefits would be adjusted pro-rata.

Enforcement of the regulations will make use of existing mechanisms and sanctions, to minimise the administrative burden of multiple compliance regimes. These are incorporated within:

- The Data Protection Act 1998. This requires that information sharing must be fair and lawful, and in accordance with a set of data processing principles.

- The Human Rights Act 1998. This stipulates conditions for lawful processing of information relating to individuals.

Unintended consequences

The impact of introducing ContactPoint and the proposed regulations has been considered in detail and discussed with stakeholders. The design requirements for ContactPoint have been developed and refined to mitigate unintended consequences, where these have been identified.

The potential impacts of greatest concern for stakeholders appear to be:

- Workload - An increase in workload for practitioners, as information collected in ContactPoint highlights previously unknown needs and thus increases knowledge of needs for children's services. Workload may also increase if practitioners make greater demands on one another for information exchange, joint planning and service delivery.

- Costs - An increase in administrative costs for practitioners and organisations, which imposes a burden of compliance on local authorities and delivery partners (see Compliance and Enforcement above); and

- Privacy - A perceived negative impact on the privacy of children, young people and their families.

The department has reviewed these concerns with stakeholders. Ongoing reviews of the project may highlight additional areas of concern. However, the conclusions drawn are, respectively:

[6] In addition, it is expected that the one-off costs for data to be provided by central Government departments (DfES, DWP and DoH) to support creation of the initial list of children and young people in England, by local authority area will be £3m (cost fully reimbursed by DfES under the ContactPoint project).

WORKLOAD

- Whilst ContactPoint will make it easier for practitioners to identify and contact other practitioners who are involved with a child or young person, the database itself only provides a tool to facilitate what is already established good practice. Where ContactPoint helps to highlight previously unknown needs, this should help practitioners to understand priorities for intervention and support, and to provide that intervention and support earlier to prevent children's circumstances from deteriorating.

- The time savings available from use of ContactPoint will be substantial (see Analysis of Costs & Benefits below). As these savings are not cashable, the time saved will be re-invested in planning, intervention and support. The availability of more complete information about the needs and circumstances of young people, resulting from greater efficiencies and more effective cross-agency working facilitated by ContactPoint, should result in better allocation of resources within and between children's services.

- The risk of greater workload on practitioners is offset by time savings from use of ContactPoint, improved resource allocation and more effective intervention for those children whose needs are highlighted for the first time through ContactPoint.

COST

- The majority of the costs incurred by local authorities and delivery partners undertaken in creating and maintaining ContactPoint will be funded by DfES. The department will also fund the costs of training, enhanced CRB-checking and support for users. These costs of setting-up ContactPoint will be funded by DfES grants to local authorities and national partners.

- The ongoing costs of operating and maintaining ContactPoint will fall on local authorities, but will be funded by annual grants from central government.

- The database will be designed to take information feeds automatically from practitioners' existing information systems, so that there will be virtually no requirement for practitioners to key information directly into the database. Required modifications of systems supplying data and case management systems used by practitioners will also be funded by grants from the department based on an analysis of costs and benefits of each modification. Use of ContactPoint by practitioners will typically save considerable time compared with using current methods for locating other practitioners working with the same child.

- The extra cost pressures arising from the existence of ContactPoint should be minimal. As a result, neither ContactPoint itself nor the regulations should increase the burden on local authorities or delivery partners, as the benefits to these organisations substantially outweigh the net costs to them.

PRIVACY

- The information which will be held on ContactPoint is specified in Schedule 1 of the regulations, and is limited to the basic information required to facilitate contact between practitioners who are involved with a child or young person. Public consultation asked for input on adding new data items not included in the regulations. These were name and contact details for health visitors, school nurses and lead midwife, as well date of death, numbers used to identify the child in other systems and metadata such as the source of the data. Responses showed that the majority of respondents supported the inclusion of each of the proposed additional data items.

- In addition, during public consultation, it was proposed to add the name of the local authority responsible for the child record, an indicator that a current address is unknown and numbers

used to identify the child in other organisations but made visible only to users from that organisation[7]. Consultation with local authorities indicates support for these changes.

- No case information will be held on ContactPoint and, in most cases, the information held will be information that is already held by practitioners in the children's workforce. Children and young people, and their parents and carers are already aware that this information is held and consider this to be benign.

- In response to concerns raised through consultation, practitioners will now indicate that they have 'information to share' or 'have taken action' by recording their contact details on ContactPoint rather than by using a separate indicator. Practitioners will still be able to indicate that they are the Lead Professional or if a common assessment has been undertaken.

- Regulations specify that records of children and young people can be retained until the child or young person reaches the age of 18 (or, in the case of young people with learning disabilities or those leaving care, the record can be retained up to the age of 25, with their consent); practitioner involvements will be archived 1 year after that involvement ends (or when the child reaches the age of 18, if that occurs first). Access to archived material will only be granted in circumstances specified in regulations and only the Secretary of State and local authorities will have power to determine such access. Archived records will be deleted after 6 years, unless there is an investigation ongoing at the time a record would otherwise be deleted.

- The Data Protection Act requires that data be held no longer than is necessary, and ContactPoint will comply with this.

- Trailblazers' experiences of implementing local databases under existing legislation, and on a consent basis, demonstrated that the concerns of children, young people and families can be addressed by effective communication of the content, purpose and benefits of the database.

- Regulations specify particular groups of people who may be granted access to ContactPoint – inter alia: health professionals, members of youth offending teams and head teachers of schools. The list is restricted and exclusive, in the sense that users can not have access unless they are specifically included in the list in regulations. Most of the public consultation responses indicated that no further categories should be added, nor should any be removed. A small number of additional groups of users, suggested as part of the consultation process, have been added to regulations. These are:

    - Officers of Children and Family Court Advisory and Support Service (CAFCASS);

    - Fire & Rescue Service staff involved with education programmes; and

    - Child Exploitation and Online Protection (CEOP) Centre.

- In addition, access to the system will be limited to users who:

    - Have enhanced Criminal Record Bureau checks (to be renewed every 3 years);

    - Are members of the Vetting & Barring Scheme to be established under the Safeguarding Vulnerable Groups Act; and

    - Have received training in the use of ContactPoint. The guidance also strongly encourages local authorities to ensure that all users have had information sharing training too.

- Access to the database will be governed by secure 2-factor authentication. This will ensure

[7] For example, the child's NHS number which uniquely identifies the child in the NHS records. This information would be held on ContactPoint but would only be visible to NHS users.

that a user can only gain access to ContactPoint when they have both something known (eg a password) and something in their possession (eg a token). In addition, an audit trail will be used to identify inappropriate use by users.

- The limited information held, limitations on the length of time data is held, the security regime to prevent unauthorised access and the mechanism to detect inappropriate use, should ensure that neither ContactPoint nor the proposed regulations should have a negative impact on privacy of children, young people and their families.

Implementation and delivery plans

Implementation and delivery of the ContactPoint project and the regulations will be managed by the central project team which has been established in DfES. This team will place and manage contracts for the design and development of the database and for its ongoing management and support. They will coordinate stakeholder management and communications, and have managed the consultation on these regulations and will manage the public consultation on the supporting guidance. The central project team will also negotiate memorandums of understanding covering data supply by other government departments.

Decisions on implementation will be made by the Director of the ContactPoint project and the Project Board. The project is being conducted in line with good practice for government IT projects, and is subject to review at key decision points using the Office of Government Commerce's Gateway™ review process.

Implementation aims include creating the required software, hosting it on suitable hardware in a secure environment, rolling out the functionality to all local authorities in England, identifying and training users, linking national and local data sources to the database, and creating the long-term governance for ContactPoint.

A large part of the implementation will be performed by local authorities and some national partners. The central project team will work closely with local authorities to support readiness assessment and project planning. Local authorities will be responsible for working with delivery partners at local level, negotiating / facilitating the supply of information from practitioners' systems to ContactPoint, and coordinating administration, training and support for practitioners who will be ContactPoint users.

The central team will provide comprehensive support to local implementation teams through readiness assessments, provision of co-ordinating specialists to support implementation, management of grants to cover costs of implementation and system modifications, and providing toolkits to assist the process. Ongoing grants to local authorities will provide funding for ongoing operation of the database at local level.

A comprehensive list of stakeholders has been drawn up and a strategy is being implemented to communicate the existence, timing and benefits of ContactPoint to all stakeholders, including children, young people and families.

The experience of Trailblazer authorities is being used to inform implementation planning, in particular through the Trailblazer KiT and LAISG groups noted under Consultation above. In addition, 17 local authorities have been designated as Early Adopters; their experiences in implementing ContactPoint will be used to adjust implementation plans for the remaining 133 local authorities in England.

Project success milestones have been set as follows:

- Initial Operating Capability (IOC) - when the ContactPoint solution has been created and is in operational use by Practitioners in Early Adopter (EA) areas.
- End of Deployment (EOD) - when the functionality required by each Local Authority (LA) to

manage C&YP data and roll-out Practitioner Access has been deployed to each of the remaining LAs in England.

- Sustainable Operating Capability (SOC) - when ContactPoint has been rolled out to and is in operational use by Practitioners in every LA and National Implementation Partner (NIP), and take-up has reached the level expected to provide a critical mass of Users.
- Project Closure (PC) - when management and governance of ContactPoint have transferred from a project environment into steady state operation and the project to create and implement the solution has formally closed.

Costs and Benefits

Sectors and groups affected

The benefits of ContactPoint will accrue to:

- Central government;
- Organisations in the public, private and voluntary and community sectors that provide children's services;
- Practitioners; and
- Children, young people and families.

The costs of developing, implementing, managing and assuring use of ContactPoint, and of providing information for inclusion on the database, will fall to:

- Central government departments including DfES, the Department for Work and Pensions, and the Department for Health, each of whom will incur costs in preparing and supplying information at national level about children and young people. It should be noted that costs incurred by departments outside of DfES are to be reimbursed out of ContactPoint project funds.
- Organisations who are required or permitted to provide information for inclusion in ContactPoint as specified in Schedules 4 and 5 of the regulations. These organisations may incur costs in compiling and preparing this information. Where the cost to do so is significant (for example, major IT system changes may be required), such costs may be funded by grants from the department, based on an analysis of costs and benefits of inclusion of each data source. Responses to public consultation confirmed the project team's analysis of organisations affected. The cost implications will thus be limited, as the number of bodies affected is prescribed in the Regulations.
- Providers of existing practitioner systems, who may need to modify these systems to allow them to interface with ContactPoint. Modification of these systems and resulting accreditation may, where sufficient benefits are evident, be funded by the ContactPoint project.

Analysis of costs and benefits of each option:

The principal benefit of **Option 1 (Do nothing)** is that by introducing ContactPoint with no regulations or guidance the government can emphasise local ownership and responsibility for developing it. This would encourage local diversity, but would inevitably mean that some local authorities would have greater commitment and place greater priority on creation of the database than others. In the absence of a legal requirement for organisations to provide information to populate the database, the response from delivery partners would also vary widely, with the result that coverage of children and young people and inclusion of data about practitioner contacts would vary widely between geographic areas. Data sharing agreements would need to be negotiated between all central and local government bodies and suppliers of information. There would be no agreed framework limiting the range of data or of potential users who could have access to that data. This in turn would inhibit the involvement of parties who could otherwise make a substantial contribution to data, coverage or user numbers.

This option would not meet the policy objective. Nevertheless, the costs of trying to achieve a database in this way would be substantial. The costs incurred would reflect the number of local authorities in England that create local databases, and the level of integration that is achieved between them. If 120 out of the 150 local authorities in England contributed in a project to create a national database without legislation or guidance then the estimated implementation cost would be £288m (including VAT and inflation). The estimated operating cost of the local and national databases under this option is £54m per annum.

These estimates include costs that would be incurred by:

- The central project team - to manage the project and to contract for development and operation of a technical solution;

- Other government departments and bodies to prepare and provide information for inclusion in the database;

- Local authorities - to prepare for and manage implementation of the database, to undertake data cleansing and management on an ongoing basis, and to coordinate security checking and administration of users; and

- National and local bodies and practitioner organisations – to provide information for inclusion in the database.

The benefits associated with creating a database under **Option 2 (Limited regulations and guidance)** are that:

- Local authorities would be able to collect and manage relevant data from all organisations and practitioners who are required to provide it, without having to establish bilateral data sharing agreements with each of them;

- Data about children and young people could be shared between local authorities, without the need for negotiation of cross-border data sharing agreements, enabling a single record of practitioner contacts to be created for each child and young person, even if they have received services in more than one local authority area;

- The database would be implemented within a common, and well-defined legal framework in all areas; and

- The legal basis and process for organisations and practitioners who are ‘required’ to provide data would be clearly defined.

This Option offers significant benefits over Option 1 (No Regulations). However, the limited regulations would not cover those practitioners and bodies that the Children Act 2004 stated should be permitted to supply information for inclusion in the database. This would prevent a range of practitioner contacts, including many in the voluntary and community sector, from being recorded.

Since some children's services are delivered by public sector bodies in one area and by VCSO organisations in others, this would result in geographic variations in the level of coverage achieved from area to area for the same service type.

As VCSOs hold valuable information about children and young people in hard to reach groups, it would also make it more difficult for practitioners to identify such individuals and reach them with appropriate support. This runs counter to the policy objective of providing earlier, more effective intervention to all children.

As a result, this option would not fully meet the policy objective.

Option 2 would offer no significant cost advantage over **Option 3 (Full regulations and guidance)**.

Option 3 overcomes the disadvantages listed above and offers a number of further benefits, beyond those identified for Option 2 (limited regulations and guidance). These are that:

- All parts of the children's workforce will be able to work together to improve services and outcomes for children and young people;

- easier for practitioners to work together to deliver more effective, coordinated support to children, young people and families; this desired change in working practice may, as a result of ContactPoint, occur more consistently across the practitioner workforce, leading to faster development and implementation of best practice;

- It will be easier to implement coherent national monitoring, compliance and enforcement procedures; and

- ContactPoint can provide a better foundation and support for other Integrated Working project (including CAF, e-CAF, Lead Professional, and Multi-agency Working).

The estimated cost of implementing Option 3 is £224m (including VAT and inflation), and this option fully meets the policy objective. The estimated annual cost for operation of ContactPoint under this option is £41m per annum (including VAT and inflation)[8].

The costs of compliance with the regulations for users of ContactPoint will result from the need to record the reason for accessing a child's record held on ContactPoint. The amount of time taken to do so is expected to be far less than the amount of time saved by practitioners in obtaining this information from ContactPoint, rather than from existing sources, which is estimated, conservatively to be worth £88m per annum.

Local Authorities Impact Test

If option 3 above is chosen, local authorities will incur costs of £86m in set-up costs, but these will be reimbursed by the ContactPoint project out of its £224m funding. Most of these costs relate to training, implementation, enhanced CRB checking and data loading. Likewise, some £30m per annum will be incurred by local authorities in ongoing operating costs after implementation; this too will be funded by DfES out of the £41m per annum operating budget for ContactPoint. The costs forecast have been informed by the experience of Trailblazer local authorities. Further analysis currently underway in all local authorities will further inform these projections.

[8] Funding for the ContactPoint project was approved at this level by the Secretary of State in November 2005.

Incidental costs which are not specific to the ContactPoint project are not included in the figures above. These include potential new supply or upgrades of IT equipment, and training in basic IT skills. If incurred, these would be part of an LA's larger IT programme, whose benefits would need to be balanced with the costs incurred. Any such costs would not be driven by the ContactPoint project alone, and thus will not be funded by this project.

The essential costs incurred by local authorities to implement and operate ContactPoint will be paid for out of the central ContactPoint budget. A large portion of the benefits of using ContactPoint will accrue to local authorities, whilst the costs will be met from central Government.

Small Firms Impact Test

An impact assessment was carried out to consider the impact of the proposed regulations on organisations with fewer than 250 full time equivalent staff. In the context of ContactPoint, this is likely to include small Voluntary and Community Sector Organisations (VCSO's) and Case Management System providers.

The cost impact of the regulations and guidance on data providers in the Voluntary & Community Sector has been identified above and, where appropriate, is expected to be funded by the department.

The net effect of the project and of the associated regulations and guidance on such organisations is expected to be positive.

ContactPoint will, in most cases, draw information from Practitioners' existing Case Management Systems. The department will fund the modification of these systems to permit them to interface with ContactPoint, where this is technically feasible and commercially sensible. There should be no negative impact of regulations on the providers of such systems.

As a result, it is considered that none of the regulatory options would have a disproportionate affect on small organisations.

Competition Assessment

The Competition Filter Test has been applied and it has been determined that a full Competition Assessment will not be required to support this RIA, as implementation of ContactPoint regulations should have no discernable effect on competition.

Enforcement, sanctions and monitoring

<u>Enforcement</u>

Section 12 of the Children Act 2004, states that any person or body establishing a database must have regard to any guidance, and comply with any direction by the Secretary of State.

<u>Sanctions</u>

The following Sanctions are available:

- The provisions of the Data Protection Act (DPA) 1998 require that information sharing must be fair and lawful and in accordance with a set of data processing principles. The Act prohibits the unlawful disclosure, or accessing, of personal information. The penalties for an offence under the DPA are a fine up to level 5 on the standard scale (currently £5,000).

- The Computer Misuse Act 1990 provides that unauthorised access, or attempted unauthorised access to a program or data held on a computer may be punishable by imprisonment of up to 2 years and a fine of up to level 5 on the standard scale (currently £5,000).

- The Human Rights Act 1998 also stipulates conditions for lawful processing of information relating to individuals. The Act provides that it will be unlawful for a public authority or person to act in a way which is incompatible with a Convention right. Where a court finds against a public authority it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.

Any person or body required and permitted to use ContactPoint must ensure that, in supplying data, they act in a manner which ensures compliance with the legislation listed above.

In addition to the above sanctions, individual citizens may also seek to challenge misuse of information using existing complaints and appeals processes, or by taking civil action, where appropriate.

Monitoring

The suggested monitoring regime is that:

- ContactPoint will hold a full record of security-relevant events which will include all Practitioner access to ContactPoint. This audit log may be viewed or interrogated by administrators and used to identify any inappropriate use of ContactPoint. The Director of Children's Services in each local authority will be responsible for this monitoring, although in practice such powers may be delegated to administrators in his local authority ContactPoint team. Ultimately, the overall governance function for ContactPoint will remain with the Department for Education and Skills, in an ongoing governance team who will be responsible for policy and monitoring.

- Appropriate metrics and good practice inspections and assessments will be incorporated into current performance management regimes (i.e. Ofsted, Audit Commission, Commission for Healthcare Audit and Inspection, Commission for Social Care & Inspection (now incorporated into Ofsted), Joint Area Reviews, Local Area Agreements and Public Service Agreements), so that good practice can be identified and potentially unsafe or inefficient practices eliminated.

Implementation and Delivery Plan

Detailed implementation plans have been drawn up by the national ContactPoint project team, and a contract for the design of the system has been let and delivered. A further contract for building, testing and hosting the system is to be let in summer 2007. Each local authority is in the process of preparing for implementation, with support from a centrally-funded team of implementation coordinators. As each local authority is deemed to be ready, a deployment slot will be allocated to them. The functions of ContactPoint and their "slice" of the national data will be delivered to them at that time, and local data sources connected in order to supply local data to supplement the national data.

Post-Implementation Review

The impact of the statutory regulations and guidance will be considered in the post-implementation review of the project. This review will consider the degree to which the project has met its objectives and identify:

- Lessons learned for this and subsequent projects; and

- Follow-on actions to address any unforeseen challenges or consequences arising from the project (including requirements for modification or update of the statutory regulations and guidance).

Reviews in each local authority will take place during 2009, and national review will occur on closure of the national project.

Summary and recommendation

The estimated implementation cost of the ContactPoint project under Option 1 would be £288m. For Options 2 and 3 this would be reduced to £224m. Similarly the annual operating cost of ContactPoint under Option 1 would be £54m per annum, compared to £41m per annum for Options 2 and 3. All 3 options generate benefits at maturity which exceed the costs incurred.

However, neither Options 1 nor 2 fully meet the policy objective to create a national database. The policy objective can best be met by implementing regulations and guidance. This option fully meets the policy objective, at lower cost than Option 1, and with reduced risk when compared to Options 1 and 2. A summary of the costs and benefits of ContactPoint is presented below.

Option	Total benefit per annum at Maturity:	Total cost:
1	£64m pa	£54m pa + £288m set-up
2	£88m pa	£41m pa + £224m set-up
3	£88m pa	£41m pa + £224m set-up

Costs and Benefits of ContactPoint

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed …….

Date……...

Beverley Hughes
Minister of State for Children, Young People and Families
Department for Education and Skills

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Annex A

Information Sharing Advisory Group – Membership

Society of LA Chief Executives (SOLACE)
National Association of Connexions Partnerships
Association of Directors of Social Services
NHS Confederation

Birmingham Children's Hospital

NHS Connecting for Health

Department of Health

NHS East Midlands
Metropolitan Police

Association of Chief Police Officers

Youth Justice Board

Barnados

NSPCC
Refugee Council

Opportunity Links

Westminster City Council

Association of London Government

Government Office (East)

11 Million (previously the Office of the Children's Commissioner)

Improvement and Development Agency for local government (IDeA)

Stroud Council

Knowsley Local Authority
Unison
Information Commissioner's Office
British Association of Social Workers

General Social Care Council

Royal College of Nursing

Royal College of Midwives

Royal College of Paediatrics and Child Health
General Medical Council (GMC)

British Medical Association (BMA)

National Youth Agency (NYA)

National Children's Bureau (NCB)

National Family and Parenting Institute (NfPI)
Parentline Plus

Home-Start

Association of Teachers and Lecturers (ATL)

National Association of Secondary Heads and Union of Women Teachers (NASUWT)

Professional Association of Teachers (PAT)

Association of School and College Leaders (ASCL)

Tameside Local Authority