

**Establishing pupil yields from housing development and securing developer contributions for education**

**Guidance for local authorities**

**Consultation Draft – September 2018**

**Consultation Response Form**

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| **Respondent Name** |  |
| **Local Authority**  |  |

While we are interested in all views about the draft guidance, respondents are requested to comment on some specific topics to help us analyse and present the results of the consultation. A combination of statements for agreement/disagreement and questions for detailed comments are set out below. Please consider these in conjunction with the relevant sections of the draft guidance.

Please email responses by 5pm on **8 October 2018** to planning.team@education.gov.uk

**Question 1**

Developer contributions may be necessary to mitigate impacts on education infrastructure, and the existence of basic need grant should not prevent those contributions from being considered ‘necessary’ under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. The draft guidance proposes that basic need funding should not be considered available for school places that are expected to be funded by a developer in accordance with Local Plan policies, viability assessment and an infrastructure funding statement. **See guidance paragraph 1.4.**

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| **Q1a** |
| This position will be beneficial and defensible when we negotiate developer contributions.

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| Strongly agree | Agree | Disagree | Strongly disagree |
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| **Q1b** |
| Do you have any suggestions for how the guidance on this could be improved (within the confines of current legislation and national planning policy)? |

**Question 2**

We are considering the feasibility of linking data from the National Pupil Database (pupil addresses and characteristics) to mapped developments of 10+ dwellings completed since 2008, providing derived pupil yield data at local authority level. This could include our analysis of variation in pupil yields according to development size, type of dwelling (flat/house, market/social housing), phases and types of education, and trends in pupil yields over time. **See guidance paragraphs 2.2 – 2.3.**

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| **Q2a** |
| You would support the publication of this data.

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| Strongly agree | Agree | Disagree | Strongly disagree |
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| **Q2b** |
| 1. Do you foresee any risks or negative effects from publication of this data, and if so, how could these be mitigated?
2. What additional information would be helpful either as part of the published data, or collected separately by local authorities through household surveys or other means?
3. Do you have any further comments on your answer to Q2a?
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**Question 3**

The draft guidance discourages discounts to education contributions from affordable housing, when it can be demonstrated that pupils from these homes will increase demand for school places in the relevant school catchment areas. **See guidance paragraph 2.4.**

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| **Q3a** |
| This guidance will support us in securing developer contributions from affordable housing where relevant.

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| Strongly agree | Agree | Disagree | Strongly disagree |
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| **Q3b** |
| Are there any other factors we should take into account? |

**Question 4**

The draft guidance encourages local authorities to identify how many children with special educational needs (SEN) requiring specialist provision will be generated by housing development, so that developer contributions can be sought and secured where appropriate. With robust evidence, it should be possible to require contributions in compliance with Regulation 122 of the CIL Regulations. In the event that new legislation allows the Section 106 pooling restriction to be lifted, local authorities are advised to seek developer contributions when at least one child with an EHC plan will live in the development. In the meantime, it may be more beneficial to seek such contributions only from very large developments, or to seek funds from CIL. **See guidance paragraphs 2.5 – 2.7.**

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| **Q4a** |
| This guidance will help us justify and defend requests for SEN contributions in planning obligations.

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| Strongly agree | Agree | Disagree | Strongly disagree |
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| **Q4b** |
| It is reasonable and defensible to seek developer contributions for SEN provision when a development yields at least one child with an EHC plan.

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| Strongly agree | Agree | Disagree | Strongly disagree |
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| **Q4c** |
| 1. In relation to Q4b, what alternative approach might be preferable and why? (e.g. should SEN contributions only be required when the need equates to a new classroom as a minimum?)
2. Do you have any further comments on this section of the guidance?
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**Question 5**

The draft guidance recommends that local authorities discontinue the use of former DCSF cost multipliers last published in 2008/09, and instead match developer contributions to your current costs in providing school places in your area or region. We publish annual scorecards which allow you to differentiate between the costs of new mainstream schools and expansions, ensuring that the amounts being requested from developers are directly related to the need being created. When there is an insufficient sample of capital projects in the latest scorecard (perhaps less than 3), we recommend you apply the relevant national average in the EBDOG National School Cost Delivery Benchmarking report, adjusted for location. We recommend the use of the EBDOG report for setting per pupil costs for SEN places. **See guidance paragraph 3.1.**

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| **Q5a** |
| We support this approach.

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| **Q5b** |
| Is there an alternative approach you would recommend, using up-to-date costs? |

**Question 6**

Safeguarding additional land for ‘future-proofing’ can be problematic when developers expect to receive residential land value. We recommend that requirements for additional land are incorporated in Local Plans at an early stage (where justified), ensuring that education is the only permissible use of the land in accordance with the adopted policy. Compulsory purchase powers may be considered where necessary. **See guidance paragraph 3.5.**

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| **Q6a** |
| This will support our discussions with planning policy colleagues and help us secure education land at an appropriate value.

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| Strongly agree | Agree | Disagree | Strongly disagree |
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| **Q6b** |
| 1. Can you suggest any improvements to the guidance on safeguarding additional land?
2. Are there any other factors we should take into account regarding land valuation?
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**Question 7**

In planning for schools in very large developments or new communities, we advise careful consideration of the timing of delivery to protect the viability of all affected schools and ensure that the new school places are available for residents of the development. The draft guidance advises the use of suitable Admissions Arrangements, PAN and opening strategy to achieve this, recognising that you will need to work with the RSC and academy trusts**. See guidance paragraphs 4.2 – 4.5.**

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| **Q7a** |
| Do you agree with this advice?

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| Yes | No |
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| **Q7b** |
| Are there any other factors this part of the guidance should take into account? |

**Question 8**

The Annex to the draft guidance provides advice on State Aid and public works contracts (OJEU), to help you support direct delivery of schools by housing developers where appropriate.

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| **Q8** |
| Do you have any comments about the advice in the Annex? |

**Question 9**

Requests for developer contributions are sometimes challenged on the basis that the catchment school for the development is at capacity only because it has admitted pupils from outside the catchment area. Developers may argue that, over time, children living in their development would have priority and be granted a place at the catchment school, while out-of-catchment children would need to attend other schools. At present, the draft guidance is silent on this subject.

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| **Q9a** |
| 1. Would you welcome guidance on this, including:
2. the extent to which you should support parental preference when considering school capacity for developer contribution calculations;
3. developer contributions for temporary provision for new pupils while the current out-of-catchment cohort moves through the school year groups; and
4. assessing the impacts of pupil displacement on other schools, if patterns of pupil migration are changed by housing growth within the catchment area of a popular school.

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| Yes | No |
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| **Q9b** |
| Do you have any further comments on your answer to Q9a, or recommendations about the content of such guidance? |

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| **Q10** |
| Do you have any other comments or recommendations for this guidance? |