



Department  
for Education

# **The regulation of childcare**

**Consultation report and government  
response**

**February 2014**

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## Introduction

The Government published *More Affordable Childcare* in July 2013 to articulate its plans to improve the quality and availability of childcare, in order to support parents back into work and to empower them to make informed childcare choices.

In tandem with publishing *More Affordable Childcare*, the Government launched a public consultation on “The Regulation of Childcare” which ran from 16 July to 30 September 2013. This consultation sought views on proposals to amend the childcare regulatory system to:

- create a more consistent and coherent childcare registration system that is easier for providers and parents to navigate; and
- promote a prosperous and growing childcare market which meets the needs of working families.

Our measures will:

- make it easier for schools to offer out-of-hours care from 8am to 6pm;
- help parents to make more informal childcare arrangements with friends;
- allow providers to register multiple premises in a single registration process and enable childminders to operate on non-domestic premises for part of the working week; and
- streamline and strengthen measures and accountability to keep children safe by aligning requirements and introducing a new Child Safety Register to replace the General Childcare Register, to work alongside the Early Years Register.

The Government welcomes the number and breadth of responses that were received to the consultation. We are grateful to respondents for taking the time to let us have their detailed and helpful comments and we have considered carefully all the views that were expressed. We welcome the considerable support that was shown for the general principle of simplifying, and in places strengthening, the safeguarding and welfare requirements. We have noted and listened to areas of common concern and set out how we intend to respond. These measures will bring much needed flexibility to parents and providers. They are part of a longer term drive for comprehensive, coherent reform that will increase provision, improve quality and help parents with the costs of childcare.

## Summary of responses

The public consultation on “The Regulation of Childcare” closed on 30 September 2013. There were 386 responses with 67% responding online, 29% through email and 4% on paper. Officials also conducted discussions with a range of representatives and providers, some of which were organised through our strategic partner, *The Children’s Partnership*. Overall there was broad support from respondents for:

- the principle of simplifying the registration system and streamlining/enhancing safeguarding requirements; and
- removing the learning and development requirements for out-of-hours providers for children who are in the Reception Year during the school day.

There were some proposals which received less support:

- changing the requirements for out-of-hours providers for children in the Reception Year and for children aged five to seven years;
- increasing the threshold for compulsory registration from two to three hours; and
- removing the requirements for local authorities to approve childminder training.

Some respondents expressed concern about the removal of a number of specific welfare and safeguarding requirements.

We have noted and listened to areas of common concern and set out below how we intend to respond.

## Respondents

The breakdown of respondents to the online consultation was as follows:

	Number	Percentage
Other*	88	23%
Local authority	83	22%
Childminder	64	17%
Breakfast/After-school club	58	15%
Nursery	32	8%
Childcare or early years organisation	25	6%
Parent/Carer	17	4%
Maintained school	8	2%
Playgroup	6	2%
Independent school	4	1%
Holiday activity provider	1	0%
<b>Total</b>	<b>386</b>	<b>100%</b>

*\*This included training providers, early years consultants and national organisations.*

## Main Findings

**Question 1: Do you agree that the childcare registration system should be simplified, while strengthening the requirements to protect children from harm?**

Options	Responses	
Yes:	267	71%
No:	68	18%
Not Sure:	42	11%

There were 377 responses to this question. The majority of respondents (71% of those who responded to this question) agreed with the proposal to simplify and strengthen the safeguarding requirements to protect children from harm. Nearly four-fifths of the respondents provided detailed comments.

- Several felt that the current childcare registration system was too bureaucratic, confusing or lacked clear guidance.
- Some had concerns about safeguarding and quality.
- A number of respondents welcomed the proposal if clear and robust safeguarding and inspection frameworks were in place.

In response to the views expressed, the Government will proceed to replace the General Childcare Register with a new Child Safety Register and align safeguarding and welfare requirements from birth to age seven, with some additional duties for children under five years.

**Question 2: Do you agree that, for children attending school reception classes, providers of wraparound and holiday care should not have to meet the learning and development requirements of the Early Years Foundation Stage?**

Options	Responses	
Yes:	264	70%
No:	83	22%
Not Sure:	32	8%

There were 379 responses to this question. Most of the respondents (70% of those who responded to this question) welcomed the proposal to remove the requirement for out of school provision to meet the learning and development requirements for children in Reception Year, as they felt it would give those children greater opportunities to relax, have fun and play. However some respondents felt that these activities should be developmentally appropriate and linked to the learning and development requirements.

The Government will remove the requirement for out-of-hours provision for children attending school reception classes during the school day to be guided by the learning and development requirements of the EYFS.

**Question 3: Do you agree that we should support parents by increasing the amount of time that a child can be looked after informally from two to three hours a day before providers need to register?**

Options	Responses	
Yes:	105	28%
No:	205	55%
Not Sure:	61	16%

There were 371 responses to this question with 28% supporting the proposal to increase the amount of time a child could be looked after informally from two to three hours a day before providers needed to register. Where respondents had concerns, the majority of comments were with regard to:

- safeguarding and de-regulating the market; and
- the quality of care.

A significant number of respondents said that they would welcome clarity about who would fall under the term “informal care”.

The Government is sympathetic to the argument made by a number of respondents that raising the threshold for “informal care” should not unintentionally lead to the de-registering of sessional providers, nor allow unscrupulous providers to exploit poor quality practices outside the regulatory and inspection framework. The Government therefore intends to amend this proposal so that the threshold for compulsory registration is raised to three hours where care is provided both “in friendship” for reward and in domestic settings only. The threshold will remain at two hours for all other providers.

**Question 4a): Do you agree with the proposal to simplify the system by allowing providers to register multiple premises in a single registration process?**

Options	Responses	
Yes:	180	48%
No:	111	30%
Not Sure:	81	22%

There were 372 responses to this question with nearly 50% of the respondents in favour of allowing providers to register multiple premises in a single registration process. They

felt that this would reduce bureaucracy and cost and enable more premises to be opened. Where respondents expressed concern:

- some wanted clearer details on the proposals and a robust system in place to ensure safety and/or quality;
- a similar number felt that inspection and registration checks should be carried out on each of the premises.

The Government plans to go ahead with this proposal to simplify and streamline the process by enabling providers to register multiple premises without completing a separate application for registration each time. We will continue to work with *Ofsted* who should satisfy themselves that each of the premises is suitable.

**Question 4b): Do you agree with the proposal for childminders to operate on suitable non-domestic premises for part of the working week?**

Options	Responses	
Yes:	134	38%
No:	126	35%
Not Sure:	96	27%

There were 356 responses to this question and 134 respondents (38% of the responses) were in favour of the proposal to enable childminders to operate on suitable non-domestic premises for part of the working week. They felt that this would enable childminders to support and work alongside each other and offer more flexibility during school holidays.

- Some of the respondents who were unsure about the proposal would welcome clarification about 'suitable registered premises' and wanted clear guidance and inspection regimes in place.
- A small number of respondents felt that this would infringe on parents' choice for home-based care or confuse parents.

The Government will proceed with this proposal as it will give greater flexibility to childminders (e.g. to offer a crèche facility at a wedding venue) and make it easier for schools to work with others to offer out-of-hours care from 8am-6pm (e.g. a childminder might care for school aged children at their school from 3.30pm onwards, having been based at home earlier in the day looking after pre-school children) . The ability to operate from non-domestic premises will be optional and there will be no obligation on childminders to change the way they work currently.

### Question 5: Safeguarding and welfare requirements

Currently, there are two sets of requirements which providers must meet to promote children’s welfare and to protect them from harm: for children under five, the Early Years Foundation Stage safeguarding and welfare requirements, and for older children, the requirements of the General Childcare Register.

Do you agree that there should instead be a single set of essential safeguarding and welfare requirements for all registered providers, covering children from birth to age seven, with some specific additional duties for the care of under-fives?

Options	Responses	
Yes:	298	79%
No:	43	12%
Not Sure:	35	9%

Nearly 80% of the 376 respondents who answered this question supported this proposal. Over a third of those who provided comments indicated that they would welcome clear, robust and streamlined guidance.

In response to the views expressed, the Government will align essential safeguarding and welfare requirements for all registered providers from birth to age seven with some additional duties for care of under-fives. Some respondents expressed concerns about the removal of specific duties e.g. for providers to have a behaviour management policy. However, the Government is committed to reducing unnecessary prescription and giving providers increased flexibility and intends to remove such requirements and trust professionals’ judgement.

**Question 6: The Government remains committed to maintaining and improving the quality of childminding. When applying for registration, childminders need to demonstrate their suitability, and to meet the specific requirements of registration. As part of the registration process, currently, childminders are required to complete a local authority-approved training course before they register. The Government proposes to remove the requirement for this training to be approved by a local authority.**

Do you agree with this proposal?

Options	Responses	
Yes:	50	14%
No:	248	68%
Not Sure:	67	18%

Of those respondents which commented on the proposal to remove the requirement for local authorities to approve childminder training courses, 14% agreed. The majority of respondents who disagreed with this proposal expressed concerns about quality assurance and losing local knowledge to meet local need.

The Government has considered carefully the comments from respondents. It was apparent that some responses to this proposal reflected wider concerns about the local authority role and uncertainty about the Government’s commitment to training for childminders.

In response to the views expressed, we would like to make it clear that we agree with respondents about the importance of high quality training for childminders and the reason for this change is the refocused role of local authorities. We believe that by opening up the market, there will be improved access to training from a range of providers. On quality assurance, training would be expected to equip childminders for registration and Ofsted, whilst not accrediting the training, will still be interviewing prospective childminders before registration to ensure they meet the necessary requirements for registration.

**Question 7: The Government intends to retain the requirement that childminders and any assistants who might be left in sole charge of children (and at least one person in every group setting) must hold a current paediatric first aid certificate. However, the Government considers it unnecessary to require that first aid training is approved by local authorities, and instead proposes to specify the key details which the training must cover based on existing good practice guidance.**

**Do you agree with the proposal?**

Options	Responses	
Yes:	181	49%
No:	127	34%
Not Sure:	61	17%

On removing the requirement for local authorities to approve first aid training, nearly half of the 369 respondents (49% of those who responded) were in favour of this. Of those who were unsure (17% of those who responded), there was a clear view that if the local authority role was removed, there should be a minimum standard for the training.

For reasons mentioned above, such as refocusing the local authority role and opening up the market to enable providers to offer bespoke courses, the Government will proceed with this proposal, including making clear what the training should cover.

**Question 8: The Government is clear that childcare providers are responsible for taking all reasonable steps to manage and control risks. To clarify this responsibility, the Government proposes to simplify the requirement and focus on**

**practicalities rather than bureaucratic process. The proposed requirement will also achieve greater consistency with the equivalent requirements for schools.**

**Do you agree with the proposal to simplify the requirement on risk assessments?**

Options	Responses	
Yes:	211	57%
No:	97	26%
Not Sure:	62	17%

There were 370 responses to this question. Nearly 60% of those who responded were in favour of simplifying the requirement for risk assessment, however some respondents were concerned that this might result in risk assessments on practicalities not being done.

In response to the views expressed, the Government will simplify the requirement on risk assessments and focus on practicalities rather than bureaucratic process. Providers must ensure they take all reasonable steps to ensure staff and children are not exposed to risks and be able to demonstrate, including to Ofsted, how they are managing risks.

**Question 9: Providers on the General Childcare Register (GCR) must meet minimum staff qualification requirements. For providers other than childminders, in particular out-of-hours providers, the Government considers it is unnecessary to prescribe staff qualifications in relation to children aged five to seven which do not exist in schools, and proposes to remove these requirements. Most providers on the GCR are also on the Early Years Register (EYR), and will continue to be expected to meet the relevant qualifications requirements set out in the Early Years Foundation Stage.**

**What are your views on this proposal?**

There were 304 responses to this question. We were able to estimate that around 16% were in favour of the proposals that staffing and qualification levels should be removed for providers other than childminders in particular out-of-hours providers, registered on the GCR. A large number of respondents felt that removing the staff qualifications requirement would not only devalue the care provided by wraparound and holiday providers, but could also have detrimental effect on the quality of care. Many felt that staff caring for children should have a minimum qualification and that the minimum numbers of adults to children should not be removed.

We have analysed and carefully considered the views expressed on this proposal and acknowledge the concerns raised. The Government intends to align requirements for out-of-hours providers (for children aged five to seven and those attending Reception classes) with requirements for maintained schools. This means there must be sufficient staff as for a class of 30 children during the school day. Like schools, providers must

follow their existing legal responsibilities relating to health and safety, including assessing risk and determining how many staff are required to supervise a particular activity, bearing in mind the age of the children. Providers on the new Child Safety Register will be required to have sufficient numbers of staff to support safety and for ensuring that children are not left unattended.

As set out in para 2.9 of the consultation document, the Government will extend the availability of providers' use of a 1:13 ratio for three and four year olds to any time when deploying a teacher (or Early Years Professional or other member of staff with a L6 qualification). Currently, this flexibility is only available between the hours of 8am and 4pm. We will also clarify in the Statutory Framework for the Early Years Foundation Stage that we expect the teacher (or EYP or equivalent) to be working with children for the vast majority of the time. Where they need to be absent for short periods of time, the provider will need to ensure that quality and safety is maintained.

**Question10: Questions 5-8 above were included in the list of proposed changes to requirements at Annex A. Do you have any further comments on the proposals listed at Annex A?**

Options	Responses	
Yes:	146	52%
No:	127	45%
Not Sure:	8	3%

A significant number of those who provided comments were in favour of those proposals which would introduce requirements for children age five to seven years old. Some respondents expressed concern about some of the proposals intended to give more flexibility and discretion (e.g. to manage behaviour), particularly in relation to weaker providers.

Having carefully considered these responses the Government intends to, as mentioned above, align safeguarding and welfare requirements for birth to age seven, with some additional duties for children under five years. We will also proceed with introducing some additional requirements for five to seven year olds to bring them in line with the Early Years Register. We believe this strikes the right balance between essential safeguarding requirements and giving providers discretion about how they organise their provision.

## Next steps

Subject to Parliamentary approval, we intend to amend the necessary regulations in April 2014 with a view to them coming into force in September 2014. We also intend that a revised EYFS which reflects these proposals will be published alongside the amended regulations.

## **Annex A: List of organisations that responded to the consultation**

115 Childcare Services Ltd  
4Children  
Acorn Out of School Club  
Aspatia Community Childcare  
Association for the Professional Development of Early Years Educators (TACTYC), The  
Association of Nanny Agencies  
Badger Club, The  
Barnsley Metropolitan Borough Council  
Bath & North East Somerset Council  
Bedford Borough Council  
Bizzykids Ltd  
Blackpool Council  
Bracknell Forest Council  
Bramcote Pre-School  
Bright Horizons Family Solutions  
Brighton and Hove City Council  
Bristol Association of Neighbourhood Daycare Ltd (BAND)  
Bristol City Council  
Britwell Baptist Preschool  
Buckinghamshire County Council  
Calderdale Metropolitan Borough Council  
Cambridge Kids Club  
Cambridgeshire County Council  
Carlton Out of School Club  
Central Bedfordshire Council  
Cheshire East Borough Council  
Child's Play Pre-school  
Childcare Corporation, The  
City of Bradford Metropolitan District Council  
City of York Council  
Class Of Their Own Breakfast and After School Club  
Collingham Out of School Club  
Communication Trust, The  
Coton Home Club  
Council for Awards in Care, Health and Education (CACHE)  
Cranbrook Primary Out of School Club  
Cumbria County Council  
Dawn Til Dusk

Debden After School Club  
Derbyshire County Council  
Devon Early Years and Childcare Service  
Dicky Birds Nurseries  
Dorking Nursery School and CC  
Dorset County Council  
Downsbrook Out of School Club  
Dringhouses Out of School Club  
Dudley Childcare Strategy Team  
Durham County Council  
Early Birds Nursery  
Early Childhood Education Group, Aspect of Prospects  
Early Education  
Early Years Partnership Group  
Eastern Regional Workforce Development Managers  
Essex County Council  
Exning Wrap-Around Care  
Family and Childcare Trust  
Fun Zone Leeds, The  
Garden Cottage Nursery  
H.O.P.E. for Children and their Families  
Hackney Play Association  
Halton Borough Council  
Hampshire County Council  
Happy Days Nurseries  
Hertfordshire County Council  
High Flyers Childcare  
Independent School Inspectorates  
Independent Schools Association  
Independent Schools Council  
Islington Childcare Coalition  
Islington Play Association  
Jesmond Nurseries Ltd  
Kate Greenaway Nursery School and Children's Centre  
Kent Play Clubs  
Kiddlywinks  
Kindergarten at St Joseph's Ltd, The  
Knowsley Metropolitan Borough Council  
KOOSA Kids Limited  
Lancashire County Council Early Years Consultative Group  
Leavesden Children's Centre  
Leeds City Council  
Leeds Play Network

Leicester City Council  
Lincolnshire Birth to Five Service  
Liverpool City Council  
Lizard C.H.I.L.D Trust  
London Borough of Barnet  
London Borough of Camden  
London Borough of Islington  
London Borough of Tower Hamlets  
London Early Years Foundation (LEYF)  
Mobberley Primary Out of School Club Ltd  
Monkfield Park Care & Learning Centre  
Montessori Schools Association  
National Association of Head Teachers (NAHT)  
National Children's Bureau  
National Day Nurseries Association (NDNA)  
National Union of Teachers (NUT)  
Nature Trails Day Nursery  
Network Nurseries Ltd  
New Road Nursery  
North Lincolnshire Council  
North Yorkshire County Council  
Northamptonshire County Council  
Nottingham City Council  
Nottinghamshire County Council  
Oakwood NS Ltd  
Oasis After School Club  
Ofsted  
Oldham Council  
Out of School Alliance (OOSA)  
Outburst After School Club  
Oxfordshire County Council  
Play 4 Ages  
Play School at Elsenham, The  
Play Torbay  
Playhouse Community Nursery  
Playscape Training Limited  
Playwise  
Plymouth City Council  
Pop SOC Breakfast and After School Club  
Poppleton Road Out Of School Club  
Pre-school Learning Alliance  
Professional Association for Childcare and Early Years (PACEY)  
R.B Kids Club

Recruitment and Employment Confederation  
Riverview C of E Primary School  
Rochdale Borough Council  
Rotherham Metropolitan Borough Council  
Rowley Lane Preschool  
Rutland County Council  
Sefton Council  
Sheffield Safeguarding Children Service  
Shining Stars Day Nursery  
SkillsActive  
SMASH Breakfast and After School Club  
Southampton City Council  
St Andrew's Pre School  
St George's Nursery School  
St John's Nursery Playgroup  
Stockport Local Authority  
Stockton-on-Tees Borough Council  
Sunderland Council  
Super Camps Ltd  
Surrey Early Years and Childcare Service  
Swindon Local Authority  
Tower Hamlets Local Authority  
Truro Nursery School  
Turvey Pre-School  
UNISON  
University of Nottingham Childcare Services  
VOICE  
Wakefield Council  
Wandsworth Borough Council  
Wilthorpe Primary School  
Wiltshire Council  
Wrenthorpe Pre-school (with Early Birds and Night Owls)  
XYZ After School Club  
Yorkshire Play



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