

# Exemption from Ofsted Childcare Registration

## Consultation Response Form

The closing date for this consultation is: 23 April  
2007

Your comments must reach us by that date.

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

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

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

Name

Organisation (if applicable) Pre-school Learning Alliance  
Address: The Fitzpatrick Building  
188 York Way  
LONDON N7 9AD

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

Telephone: 0207 273 5439

e-mail: [andy.davey@dfes.gsi.gov.uk](mailto:andy.davey@dfes.gsi.gov.uk)

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

Telephone: 01928 794888

Fax: 01928 794 311

e-mail: [consultation.unit@dfes.gsi.gov.uk](mailto:consultation.unit@dfes.gsi.gov.uk)

Please tick one of the boxes below that best describes you as a respondent

<input type="checkbox"/> Creche	<input type="checkbox"/> Other daycare provider	<input type="checkbox"/> Nanny / Babysitter
<input type="checkbox"/> Childminder	<input type="checkbox"/> Local Authority	<input type="checkbox"/> Parent
<input checked="" type="checkbox"/> National Organisation	<input type="checkbox"/> Before /after school or holiday scheme provider	<input type="checkbox"/> Other (please give details below):

Please Specify:

The Pre-school-Learning Alliance is the largest voluntary sector provider of childcare in England. Through direct provision and its membership of 15,000 nurseries, sessional pre-schools and parent and toddler groups, the Alliance supports over 800,000 children and their families in the country.

In paragraphs 3.3 to 3.5 of the consultation paper we have referred to certain types of provision currently exempt from Ofsted registration and propose to carry forward these exemptions, with minor refinements, in the new registration schemes to be introduced in September 2008 under the Childcare Act 2006.

1 Do you agree that these current exemptions provide a sound basis for exemptions under the new system of Ofsted registration?

Yes

No

Not Sure

Comments:

The Pre-school Learning Alliance feels that the current exemptions are broadly correct. However we feel that there are some changes that should be considered:

- Babysitting

With regard to babysitting, it may be helpful to make the distinction between where care between 6pm and 2am outside the child's home is for leisure purposes on an ad hoc basis, and where it is a specific form of care for parents who are working, in training or receiving childcare under CA89 s17 arrangements. Therefore we would like to see that babysitting carries a broad definition in the exemptions that it is occasional and for reason of parental leisure. We do not see a reason for stipulating timing. Babysitting (paid or unpaid) for a friend while a parent has 3 hours off for the hairdresser or a doctor's appointment can take place during the day. Also the 2am timing seems superfluous as most parents would be loathe to collect their child, waking him/her, and the babysitter, to take them off home and would probably leave them overnight. Therefore we argue that babysitting, whether for reward or not, should be exempt at anytime during the day/night where it is expressly for the purpose of parent's leisure or other lifestyle activity that is not work or training/education. For registered childminders the additional child being babysat while childminding is taking place should be included in the total numbers that the childminder may care for to ensure total numbers are not exceeded.

- We do feel that where venues - such as hotels - advertise or endorse a babysitting service, they should be responsible for ensuring that that service is registered or regulated and that the babysitters are properly vetted. This may not need to come under Ofsted registration as it may already be covered under DTI trading standards or within the remit of the Safeguarding Vulnerable Groups Act. However, it is the Alliance's opinion that it is unlikely that parents on a short stay somewhere will have time to make their own checks and will reasonably assume that the hotel/venue has already done so.

Open Access Schemes

- The Alliance agrees that Open Access Schemes catering for the over 8s should

be exempted but allowed to join the VCR. However, many children under 8 attend, and they can be used by parents as childcare during school holidays. With this in mind the Alliance feels that where under 8s are present the schemes should not be exempted. This would then help these providers to make more refined decisions as to the nature of what they are providing and for whom, and prioritise the safeguarding of under 8s.

#### Activity based provision

- The Alliance believes that Activity based provision (by the stated definition) for under fives should be registered on the EYR and be exempt for the EYFS L&D requirements regardless of how long children attend for.

In considering exemptions policy, and particularly how crèches should be treated, we have looked at the age of children attending childcare provision and the length of time an individual child will be cared for, in the context of the expectation that every registered provider looking after 0-5 year olds should deliver the Early Years Foundation Stage.

2 Do you agree that our approach in considering the age of children and the length of time they may attend the provision is sensible?

Yes

No

Not Sure

#### Comments:

The Alliance believes that when considering crèche provision (short term occasional care) the exemptions policy should not be based on the length of time a particular child attends provision, but the length of time the provision is open for in total.

Some crèches will be set up for short periods of time and may have a specific purpose such as during an event (eg. a parent education class; a conference; a festival) where it makes sense to allow exemption where the provision is less than 2 hours or where the provision exists for less than two weeks (Although it needs to be clarified whether 2 weeks is 10 working days or 14 days for two calendar weeks).

However, other short-term occasional care could be operating on a near full-time basis - such as a shoppers' crèche or leisure centre crèche. Where this is the case the Alliance feels they should be required to register with Ofsted.

For example, a sports centre which offers a crèche as a benefit of membership may potentially be (and often is) used by parents as 'free' childcare on a regular basis – the provision may be running 7 days a week for 8 hours a day. Even if children stay for less than 2 hours at a time, the provision ought to be registered. We also recognise that parents may choose to leave children in a crèche while shopping. However we see the definition of 'on the premises (or site) as

problematic. A large shopping centre cannot fill the definition of 'on premises' as parents are not nearby in an emergency. Therefore this provision should be registered. We also believe that registration of such provision will better meet the requirements of the Safeguarding Vulnerable Groups Act.

We are greatly concerned that exempting provision of this nature opens the way for disqualified or unsuitable persons to operate without checks on their activities and that this offers little recourse for parents.

We see the reasoning behind extending this to up to 4 hours, but believe that the longer the time, the more it encroaches upon care that fulfils the definition of childcare. For the young child, this is important, as there is a huge difference between attending a setting for 2 hours compared to 4 hours. The requirements for care are also greater as children need changing, feeding, comforting and a greater range of activities provided as the duration of the care increases. We therefore do not agree that the length of time should be extended beyond 2 hours.

There is also an issue around mobile crèche companies. It might be overly bureaucratic and unnecessary for Ofsted to have to come out to register all premises, when the provision may be operating in a building for just a day or a week. We would recommend that mobile crèche companies are registered as 'suitable persons', and that they be required to keep records, which can be audited by Ofsted, regarding risk assessments on each premises as well as carry out checks of suitability on staff they employ.

Our approach in excluding specific childcare provision from compulsory registration has been to carry forward what is working well under the current arrangements and to ensure that the new registers operate in a way that is proportionate. Basic safeguards in place for all children's services will be strengthened and for some types of childcare parents are best placed to carry out their own checks. Furthermore, voluntary registration on the Ofsted Childcare Register will be available to many providers who are currently unable to benefit from any kind of Ofsted registration.

3 Do you agree that our proposals achieve the right level of state involvement in regulating the childcare sector?

Yes

No

Not Sure

Comments:

Broadly the Alliance believes the proposals are close to striking the right balance – although we feel it is important that due consideration is given to the points made in this response before we could fully support the exemptions policy. From our experience we are aware that parents do not always use available means to

ensure the suitability of childcare providers they use – and these exemptions may not allow parents to make reasonable assumptions as to what provision is or is not registered. From the child’s point of view, any provision attended by a child should afford the same level of safeguarding of their welfare generally as well as protect them against possible abuse. While some of the suggestions make sense from a regulatory and operational point of view, they could on the other hand leave the field wide open for abusers and other disqualified and unsuitable persons to gain access to children.

The Regulatory Impact Assessment sets out three options, including the costs and benefits of each:

1. Maintain the existing arrangements
2. Include new definitions of the current exemptions in the new registration arrangements and in addition modify the existing definitions to exempt more short term and occasional crèche facilities and open access schemes, reflecting a more targeted approach to regulation.
3. Require all childcare provision to join the Early Years Register or compulsory element of the Ofsted Childcare Register as appropriate, with no exemptions.

4 Do you agree that the costs and benefits are appropriately assessed and that option 2 represents the best way forward?

Yes

No

Not Sure

Comments:

This consultation provides a valuable opportunity to modify exemptions policy to ensure that the most beneficial system is put in place to benefit Ofsted and providers. However, we are concerned to ensure that these cost-benefit options are considered only within the framework of how we can best adequately safeguard children – which is the ultimate purpose of regulation. Therefore the Alliance would agree that Option 2 is, broadly speaking, the best way forward, but only if the opportunity is used to improve the proposed arrangements to ensure children are adequately safeguarded.

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

**Please acknowledge this reply**

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

Yes

No

All UK national public consultations are required to conform to the following standards:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

Further information on the Code of Practice can be accessed through the Cabinet Office Website: <http://www.cabinetoffice.gov.uk/regulation/consultation-guidance/content/introduction/index.asp>

**Thank you for taking time to respond to this consultation.**

Completed questionnaires and other responses should be sent to the address shown below by 23 April 2007

Send by post to:

Better Regulation Team  
Quality & Standards Division  
Area 2B Caxton House  
6-12 Tothill Street

London  
SW1H 9NA

Send by e-mail to: [exemptorder.consultation@dfes.gsi.gov.uk](mailto:exemptorder.consultation@dfes.gsi.gov.uk)