

The Ofsted Childcare Register

Consultation Response Form

The closing date for this consultation is: 29
September 2006

Your comments must reach us by that date.

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education and skills

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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 **Stephanie Mathivet**
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N7 9AD

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

Telephone: 020 7273 4744

e-mail: jon.robinson@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

Please mark an X in the box below that best describes you as a respondent.

<input type="checkbox"/> National organisation	<input type="checkbox"/> Private provider	<input checked="" type="checkbox"/> Voluntary/Community provider
<input type="checkbox"/> Childminder	<input type="checkbox"/> Nanny/homecarer	<input type="checkbox"/> School
<input type="checkbox"/> Parent/carer	<input type="checkbox"/> Local authority	<input type="checkbox"/> other (specify)

Please Specify:

1 Do the requirements strike the right balance between providing reassurance that the provision will safeguard children, and give them a good experience and being proportionate and manageable for the provider?

<input type="checkbox"/> Strongly agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither agree nor disagree
<input type="checkbox"/> Disagree	<input checked="" type="checkbox"/> Strongly disagree	

Comments:

The Alliance is concerned that the Statutory Instrument detailing exemptions to compulsory registration has not been published for consultation in tandem with this document. As a large provider of short term occasional care (otherwise referred to as creche provision) we find it difficult to respond as much of what we provide in this area falls into both categories of being registrable – ie more that 2 hours a day or more than 5 times per year and much falls outside of these categories. In addition, much provision of this nature is hard to define and we have experienced inconsistencies in approach to regulation of some short term occasional care that we provide. It is not clear how much of the provision previously exempt will remain outside compulsory regulation and how much will now fall into voluntary regulation. Without a definition to work with it is difficult for us to comment on the elements of the question as above. We recognise the difficulties in defining this type of care and would have welcomed this as an opportune time to contribute towards a discussion in clarifying the definitions that will determine exemptions.

Alongside this aspect of exemptions is also the clarification of definition in relation to short term occasional care that may require to be on the compulsory register. Again this depends of the satisfactory definition that separates this type of provision from either full day care or sessional day care. We note that the draft Welfare Requirements in the EYFS document do not make distinction between these two types of day care. Discussions on these regulatory matters have not been held with the relevant sectors before publishing these consultations, neither has there been any supporting documentation detailing a rationale behind the department's thinking in this area.

Furthermore the Alliance believes that all provision under the age of 8 should maintain the ratios that are currently in operation.

2 Does the proposed treatment of compulsorily and voluntarily registered providers make sense and provide sensible flexibility?

<input type="checkbox"/> Strongly agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither agree nor disagree
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Disagree

Strongly disagree

Comments:

As above, we feel that the definitions and exemptions have not been detailed sufficiently at this stage in order to make comment on whether this 'makes sense and provide(s) sensible flexibility'

3 Which of the options on staffing ratios is most appropriate?

x 1:8

1:13

Flexibility (1:8 or 1:13) linked to provision/qualification

other (specify)

Comments:

The Alliance strongly believes that all provision for children under the age of 8 should maintain the ratios that are currently in operation. We have not supported the proposal to lower ratios for 3-5's in the EYFS and do not feel it is helpful to do so for 6 and 7 year olds either, irrespective of staff qualification and nature of the activity. Furthermore, we feel that that there may be times when more generous ratios are required – ie for children with special needs. We do not feel that provision out of school that is for 'study support' should have different ratios. For most children of this age the whole notion of 'study support' is questionable and even where an element of this type of activity may be woven into provision, on the whole 6 and 7 year olds will require play based social and recreational activities after school hours where 1:8 ratios are preferred.

We are aware that there may well be financial incentives to reduce ratios in order to spur the growth of out of school provision that is affordable to parents. The Alliance does not believe that this should be at the expense of children's well-being and developmental needs and feels that this is the priority for any kind of service for young children. Therefore we also strongly disagree that the ratios should offer options that may be 'flexibly applied'. We worry that this may encourage inappropriate provision in order to cut costs. It is not true to say that any activity in out of school that is not 'structured or study support' is free flow play. Children may be engaged in activities that have structure such as drama, sport or art activities that need a various levels of staff support and intervention. A game of 5 a side football, for example requires 2 adults in case one child is accidentally injured and requires attention of 1 adult while the other gets on with the game. Reducing ratios puts unnecessary stress on staff and offers no 'value added' incentive.

There is 'value added' however, in recognising the relationship aspect of provision. Children are happiest in provision where they have good relationships with staff and know they can go to them and get their attention if needed. 6 & 7 year olds are still very young and require these relationships for emotional security, for appropriate role models etc. When adults are merely 'caretaking' these relational aspects of the provision suffer and children's development and well being is compromised.

4 Do you support the intention behind the requirement about reliability? Does this pose any practical problems (please specify)?

<input type="checkbox"/> Strongly agree	<input type="checkbox"/> Agree	<input checked="" type="checkbox"/> Neither agree nor disagree
<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly disagree	

Comments:

The Alliance recognises the need for reliability and believes that this is further argument to maintain existing ratios to ensure adequate staff to ensure reliability of service.

Back up plans may not provide the continuity that both children and parents require. A provider who makes frequent recourse to a back up plan is not demonstrating reliability simply because the plan is in place and operational. Securing emergency staff is one issue and all providers need to have contingency plans for cover staff. However, moving premises, even in emergency, raises issues of suitability of premises and liability if H&S measures are not appropriate. Any arrangement set up for emergency reasons should be done so at the point of registration so that possible emergency premises may be approved beforehand.

5 Does the information being requested with the application provide a good sense of how the provider measures up against the requirements?

<input type="checkbox"/> Strongly agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither agree nor disagree
<input checked="" type="checkbox"/> Disagree	<input type="checkbox"/> Strongly disagree	

Comments:

The Alliance disagrees with this question. The document does not define in 73 'applicant' and clarify any difference between 'applicant' and 'provider' or 'manager'. This needs to be as clearly defined as it is with the EY register to avoid confusion by the person filling out the form mis-defining themselves as the

'applicant' when they are the applicant's nominated person in the case of an organisation or committee. Further in 74, the checks of the applicant do not state what the requirements may be for this where the applicant is a committee and how a committee or organisation is to be judged 'suitable'.

However, we agree in principle with the needs for checks on the 'applicant', provide details of staff to be employed and for at least one person employed to have a first aid certificate. However, it is unlikely that this may be in place at the time that identity is checked.

What manner of 'guarantee' will be expected and how will it be enforced; what sanctions are to be in place for breach of the guarantee. Is the guarantee to be made to parents or to the regulator? Is it not up to the regulator to guarantee the public that the registration requirements have been met, otherwise what is the point of regulation?

6 Do these application processes require appropriate information and evidence?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Comments:

The Alliance has concerns around whether filling out a form and having a CRB check sufficiently demonstrates suitability to provide a service for young children. We would ask how the regulator will judge the suitability of premises and whether the provider is up to date with H&L requirements and is meeting these to the satisfaction of those regulating these aspects – such as EH for food regulations and the Fire officer for Fire regs. Meeting these is an indicator of suitability as much as anything else. Many childminders will now come under new regulations so this applies across the board.

Other documentation from these departments to say requirements are met, as well as a medical check should be provided as further evidence, as well as floor plans and photographs or video 'virtual tour', copies of risk assessments to the defined set of areas (58) and copies of Insurance documentation, staff qualifications, required policies and procedures etc.

Mention has been made of registration being cancelled or refused, but grounds are unclear. Will this just be on suitable person issues or to do with premises or provision? If the latter, how will these be assessed as worthy of refusal of premises will not be visited? What is the regulator's liability in registering a premises that then turns out to be unsuitable.

7 Are these the right arrangements for the transition to the Ofsted Childcare Register?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Comments:

The arrangements for providers for 5-7s to transfer to the OCR seem straightforward and of little fuss to the provider. It is unclear how parents will be informed and of the duty of providers to keep parents informed of this change and to whom they will have recourse if they have a complaint.

8 Do these arrangements effectively balance proportionality and the need for robust processes?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Comments:

There is a need for proportionality and the measures described seem to meet this. However, the Alliance feels that it is important that the regulator has some clear target identified as to the number of inspections that will be randomly carried out as a percentage of the total registered so the public have confidence that provision will not slip through the net. We feel though that 10% is far too low and it is not clear whether this figure will include those for whom inspections arise out of concerns/complaints. While it is a point that with older children the risk of malpractice is reduced as children are able to speak up to parents or teachers, the fact remains that many children do not speak out and many parents feel it necessary to compromise where they may be aware that their childcare is not as they might like it because they need that provision in order to go to work. It is also the age when bullying develops and in less structured environments, the risks of this are greater. It is also an age where peer influence is strong and it is evidenced that poor provision engenders poor behaviour and it is of concern that provision that is not well managed and where activities are not wholly engaging of children or where the ethos is not conducive to positive relationships between children/children and adults/children that there will be damaging effects on children that spill over into other aspects of life – especially school. In many cases children will not have the choice about whether and where they attend after school if the care is to enable parents to work. Regulatory measures need to be rigorous to ensure the experiences that children have outside of school 'add

value' to their whole physical, emotional/social, cultural and intellectual development.

9 Are these the right arrangements for schools?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Comments:

It is reasonable that services provided by schools outside of the school day are provided within current frameworks and not separately required to register, and the provision of statutory guidance should be sufficient to maintain quality. The Alliance would have concerns where these were not being followed that this places an unfair advantage on schools not to have to comply with regulatory requirements that are expected on voluntary/private providers.

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.

The questionnaire can be completed online at www.dfes.gov.uk/consultations/. Alternatively, completed questionnaires and other responses can be sent to the address shown below by 29 September 2006

Send by post to: OCR consultation, CSLD, Ground Floor Caxton House, Tothill Street London, SW1H 9NA

Send by e-mail to: OCR.consultation@dfes.gsi.gov.uk