



Department  
for Education

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## **The Regulation of Childcare**

# The Regulation of Childcare

This consultation seeks views on reforming the regulatory system for childcare providers. It seeks to remove burdens and simplify processes. It proposes replacing the General Childcare Register with a Child Safety Register.

**To** Early years and childcare providers and sector organisations, schools, parents and local authorities

**Issued** 16 July 2013

**Enquiries To** If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288 or e-mail: [childcarerequirements.consultation@education.gsi.gov.uk](mailto:childcarerequirements.consultation@education.gsi.gov.uk)

## Contact Details

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288 or via the Department's '[Contact Us](#)' page.

## 1 Introduction: overall aims

- 1.1 *More Affordable Childcare*, published on 16 July 2013, described a broad range of measures to encourage the supply of affordable childcare that meets the needs of busy, working families. These measures included the creation of a consistent and coherent system of regulation which promotes a prosperous and growing childcare market. The government aims to have the necessary legislation in place during 2014, subject to parliamentary timetables, and would like to hear a wide range of views on the proposals.
- 1.2 As described in *More Affordable Childcare*, parts of the current system are unnecessarily prescriptive, difficult to understand, and awkward to navigate. The

system also fails to offer a clear approach to the requirements which should apply to the care of children who are, and are not, attending school. For children attending school, the regulation of care outside the school day should focus on the essential requirements for children's safety and welfare.

**3** The government proposes to:

- remove burdens and simplify processes, enabling providers and parents to more easily navigate the system;
- replace the General Childcare Register with a Child Safety Register, working together with the Early Years Register to offer greater flexibility and clarity;
- maintain and strengthen the safeguarding and welfare requirements, ensuring consistency around the essential requirements for keeping children safe;
- make it easier for schools to offer out-of-hours care and accept younger children;
- support parents to make common sense, informal arrangements with their friends and neighbours by increasing the amount of time that a child can be looked after from two to three hours without needing to register; and
- introduce greater flexibility for providers operating in multiple premises while maintaining safeguards.

## **2 Proposed approach**

### **Registration and the Early Years Foundation Stage**

**2.1** The government proposes to streamline registration processes and simplify requirements, with a single set of essential measures to ensure children's safety. Most childcare providers are required to register with Ofsted, to ensure that standards are met and to support parents to make informed choices about childcare. Registration also ensures that eligible parents are able to use tax credits and employer-supported childcare vouchers to pay some of the costs for suitable childcare. There are two registers, both operated by Ofsted: the Early Years Register (EYR)<sup>1</sup>, for providers caring for children aged up to five years old, and the General Childcare Register (GCR)<sup>2</sup>, for providers caring for older children (and others registering voluntarily, for example nannies). Providers on the EYR must meet all the requirements of the Early Years Foundation Stage

(EYFS), covering learning and development as well as welfare and safeguarding.<sup>3</sup> Providers on the GCR must meet a smaller set of separate requirements. Most providers of childcare for children aged five and over are required to join the GCR if they look after children aged under eight for more than two hours per day. Other providers, including nannies and those who only look after children aged eight and over, have a choice whether or not to register on the GCR.

- 2.2** In practice, most providers look after children of a variety of ages and are required to join more than one register, which means having to follow two different sets of requirements. The current arrangements include requirements which are unnecessarily prescriptive, which duplicate other legislation, and which do not make an effective contribution to children's safety or to the quality of childcare. Consequently, parents can find it difficult to know what the law requires, and find it difficult to make informed decisions when choosing childcare.
- 2.3** The government intends to align the requirements of the two registers around a single set of essential measures for child safety, and clarify the role of the two registers in supporting parents to make confident decisions about childcare. The role of the Early Years Register (EYR) is to safeguard children not yet in compulsory education, and to promote early years provision which equips children to take full advantage of the opportunities they will encounter in school and provides the right foundations for good future progress through school and life. The government proposes to replace the GCR with a Child Safety Register (CSR), clarifying that the purpose of regulation of childcare for older children is to specify minimum standards to keep children safe and secure. In addition, the reforms in this consultation will build on the government's proposal, not included in this consultation but previously published in *More Great Childcare*, to make it easier for schools to provide early education for younger children, by allowing schools to accept two-year-olds without registering separately on the EYR, in line with the approach to three and four year olds.

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1 - The Childcare (Early Years Register) Regulations 2008 (S.I. 2008/974) as amended

2 - The Childcare (General Childcare Register) Regulations 2008 (S.I. 2008/975) as amended

3 - The Early Years Foundation Stage (Learning and Development Requirements) Order 2007 (S.I. 2007/1772), as amended and the Early Years Foundation Stage (Welfare Requirements) Regulations 2012 (S.I. 2012/938)

**2.4** Overall, these proposals will reduce bureaucracy, enable providers and parents to navigate the system more easily, and promote a more flexible childcare market. The changes will give professionals more freedom to decide the detail of how to meet requirements, for example, requirements relating to staff training, risk assessment, behaviour management, and staff deployment. This includes the removal of ratio and qualification requirements for staff caring for older children in group settings. We will continue to require providers to meet essential requirements to safeguard children and ensure their wellbeing, and where necessary we propose to strengthen these requirements: for example, a requirement for all providers to have a lead person trained in child protection.

## **2.5 Out-of-hours care for children in Reception class**

Many school-aged children, including those in Reception year, receive childcare outside the normal school timetable, for example at breakfast clubs or during the holidays. Parents and children are of course right to expect that this provision is safe, and the government will reaffirm the expectation that out-of-hours providers meet essential welfare and safeguarding requirements. But the current arrangements also include, for children who are also in reception class, a requirement for out-of-hours providers to be guided by the learning and development requirements of the EYFS. The government considers that this is excessive for this type of care: children will experience sufficient learning and development activity during their school day. The government therefore proposes to remove the learning and development requirement for out-of-hours providers, in relation to children attending Reception class.

### **Staff deployment**

**2.6** The government proposes to remove requirements that prescribe staffing and qualification levels in relation to childcare provided for school-aged children (up to age seven) outside the school day in order to align out of school provision with the requirements that govern the safety of children during the school day.

**2.7** Currently, providers other than childminders on the compulsory part of the GCR must observe a minimum of one adult to eight children. The manager must hold a relevant level 3 qualification and half of all other staff must hold a relevant level 2 qualification. For providers on the voluntary part of the GCR, at least one member of staff must have a relevant level 2 qualification, or training in the core skills as set out in the document 'common core of skills and knowledge for the children's workforce'. Apart from childminders, most providers on the GCR are

before/after-school clubs, or holiday clubs, where children should be free to relax, experience new things and/or develop new skills. They offer a break from the more structured learning they experience in the classroom. Parents rightly demand that childcare should be safe, and the government is strengthening safety measures – for example by requiring all providers to have at least one person trained in child protection. However, it is sensible that other requirements should be aligned with those in place during the school day.

- 2.8** The staff qualification and ratios requirements will also be removed for providers (other than childminders) registered on the EYR and offering care outside the school day or in school holidays for children attending reception class. This will ensure consistency between requirements for these providers and providers of similar care for older children and the requirements that govern these children during the school day.
- 2.9** The government will clarify a particular aspect of existing ratio requirements, to remove possible ambiguity in this area. The EYFS (paras 3.32-3.36) includes a requirement for providers to observe a 1:13 ratio with children aged three and over, when deploying a teacher (or Early Years Professionals or other full and relevant Level 6 qualification). We expect the teacher to be working with children for the vast majority of time. Where they need to be absent for short periods of time the provider will need to ensure that quality and safety is maintained. In addition, the government proposes to remove the restriction on providers' deployment of the 1:13 ratio for three and four years olds. Currently, this ratio can only be applied between 8am and 4pm. The government intends to extend the ratio to any times when a teacher (or EYP etc.) is working with three and four year olds.

### **Hours threshold**

- 2.10** The government proposes to support parents to make common sense, informal arrangements with their friends and neighbours by increasing the amount of time that a child can be looked after from two to three hours. Two hours a day is overly restrictive for parents needing more informal care either side of the school day. By raising the threshold to three hours before providers need to register, the government aims to further expand the supply of flexible childcare that supports working parents.

## **2.11 Multiple premises**

The government intends to introduce greater flexibility for providers by enabling them to register multiple premises through a single registration process. Currently, providers are required to submit separate registration applications for each set of premises in which they intend to offer childcare. This may be discouraging providers from setting up new, or expanding existing, provision. In particular, for schools wanting to engage other providers to offer out-of-hours ('wraparound') care on suitable school premises. The requirements can also discourage registered childminders from expanding their business by operating on suitable non-domestic premises for part of the working week or during school holidays. The government proposes to enable providers to register more than one set of suitable premises in a single process, and to notify Ofsted of any new premises without having to complete a new application to register each individual premises. When they are notified of new premises, Ofsted will continue to satisfy themselves as now that each of the premises is suitable, both at registration and inspection.

## **3 Specific proposals for consultation**

**3.1** The specific proposals covered by this consultation are as follows:

- a.** a new Child Safety Register (CSR) to replace the GCR, with a revised set of requirements for keeping children safe. The proposed revisions are listed in detail in Annex A.
- b.** an increase in the amount of time that a child can be looked after informally from two to three hours without needing to register.
- c.** introduction of an option for providers to register multiple premises in a single registration process, including for childminders aiming to operate on non-domestic premises.

## **4 How To Respond**

**4.1** This consultation is for anyone with an interest in the early years. The government is keen to hear from parents and carers, managers and staff of nurseries and other pre-school settings, childminders, health professionals, teachers and other practitioners, academics, local authorities and other

organisations.

- 4.2** Consultation responses can be completed online at [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations) by emailing [childcarerequirements.consultation@education.gsi.gov.uk](mailto:childcarerequirements.consultation@education.gsi.gov.uk) or by downloading a response form which should be completed and sent to:

Early Years Curriculum and Teaching Portfolio, Department for Education, First Floor, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

## **5 Additional Copies**

- 5.1** Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at: [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations)

## **6 Plans for making results public**

- 6.1** The results of the consultation and the Department's response will be published on the Department for Education website in November 2013.