Childcare:

extending protection and broadening support

SureStart

Consultation

Foreword:

The Goverment's childcare strategy is a key part of supporting families with children. By providing quality, accessible and affordable childcare that is available to parents when and where they need it we are creating the conditions for children to develop, parents to work, train or receive basic education, and for families and communities to escape poverty.

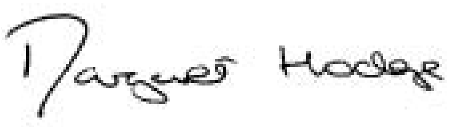
The Government has already made significant progress towards making childcare more affordable to many working families through the childcare element of Working Tax Credit, (now worth £700 million a year to working parents) and through measures to extend the tax and NICs exemptions for employer-supported childcare. In March 2004 the Chancellor announced his intention to extend financial support for childcare to larger numbers of families by broadening the range of childcare that is eligible.

We are now proposing a voluntary scheme for the approval of carers who provide childcare in situations that are not regulated by Ofsted. This includes:

- Care of children of any age in the child's own home by a third party, whether by an individual "nanny" employed by the parents or by a carer employed by an agency;
- Providers of unregulated childcare services outside the home. This includes out of school clubs and 'childminding' (in the childminder's own home) for children over 7 as well as provision that does not fall under Children Act Part XA for children under the age of 8.

The new scheme does not attempt to intervene in or override a parent's judgement when they choose who cares for their child or what sort of care is provided. It is intended to provide parents, for the first time, with basic reliable information to help inform their choice. This will help parents select childcare that is safe, that is right for their children and that is backed up by access to financial support to make it affordable.

I hope that you can help us to develop these ideas which, in time, will make a substantial difference to the lives of large numbers of families.



Margaret Hodge
Minister for Children, Young People and Families

1. Introduction

1.1i The Government's ambition is to provide accessible, affordable, quality childcare for all parents. The latest data highlights strong growth in the day care and out of school sectors, and an equally encouraging levelling out of the decline in childminder numbers. Taking account of turnover, this has added more than 540,000 places, for over 991,000 children, to the stock of places available since 1997.

ii. Childminders are defined in the Children Act 1989 as people who look after one or more children under the age of 8 for more than two hours a day on domestic premises for reward. Childminders must be registered by Ofsted and are usually self-employed. Care in the child’s own home is specifically exempt from regulation, as are services caring for children over the age of 7 or services operating less than 2 hours a day (such as breakfast clubs). This means that parents using such care could not, until recently, benefit from childcare that is eligible for tax credits support. In addition, parents are not able to obtain information about the suitability of potential carers from the Criminal Records Bureau. This can only be done by bodies such as nanny agencies. We recently introduced some limited schemes to start to open up access to tax credits for such services but we now want to go much further.

iii. Specifically, we want to do more to support families by:

- broadening the approval of childcare where individual providers meet acceptable standards;
- extending government support through the tax credits system to make quality childcare affordable to a wider range of parents;
- encouraging employers to help with the cost of registered and approved childcare;
- ensuring that approval processes are as straightforward as possible;
- putting in place checks on the suitability of a person to work with children that are not currently a requirement where care is unregulated;
- providing a means whereby parents can get information about the suitability of individuals to work with children.

iv. This consultation document lays out how we propose to do this and seeks views on this approach.

2. Background

2.1i In summer 2002, we consulted on a limited Home Childcarer (HCC) scheme to allow working parents who use approved childcare in their own homes access to the childcare element of the Working Tax Credit. We are publishing the results of that consultation at the same time as issuing this consultation.

ii. The Home Childcarers scheme was launched in April 2003, based on approval by Ofsted of registered childminders to work as Home Childcarers in the parents' home. Under this scheme, Home Childcarers are required to undergo a brief induction course emphasizing the difference between working as a childminder and working in the parents' home. In addition they have to abide by a Code of Practice[1] that is based on the National Standards for Under Eights Day Care and Childminding[2] and to agree to being assessed by Ofsted at regular intervals.

iii. Although there has been considerable interest, take up of this Home Childcarer's scheme has been disappointing with only 174 carers approved in the first nine months. Many have commented that the requirement to be registered as a childminder is inappropriate for nannies working in the parent's own home and that the registration process creates an unnecessary barrier to approval.

iv. In December 2003, following consultation, the Chancellor announced changes to the tax and national insurance exemptions for employer supported childcare to give employers a greater incentive to help their staff with the costs of childcare provision. These changes will have a significant impact on many parents in addition to those receiving the childcare element of Working Tax Credit. From April 2005 employers will be able to help their staff with the cost of childcare by either contracting directly with a registered childcarer or providing childcare vouchers for parents to use to pay a registered or approved childcarer. The benefit-in-kind of the provision of up to £50 a week will be exempt from tax and National Insurance Contributions (NICs). The changes also mean however, that the existing NICs exemption on employer-provided childcare vouchers will only be available on childcare vouchers where the childcare used is registered or approved. Families currently benefiting from the existing NICs exemptions for employer-provided vouchers where the care is not registered or approved, will lose these benefits unless they either change to registered care or get their carer approved.

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1 The Code of Practice for Home Childcarers can be found at www.surestart.gov.uk/surestartservices/childminding/homechildcarers (click on Code of Practice).

2 The national standards for under eights day care and childminding in England can be found on the Sure Start website at "www.surestart.gov.uk/ensuringquality/standardsandregulation" (click on Childminding).

v. The Chancellor also announced that we would be looking at ways to widen parents' access to tax credit help for the care of children over the age of 7 beyond the existing scheme. The existing scheme allows for accreditation of quality assurance schemes that in turn approve providers of group care for over 7s that meet their high standards. Again, take up has been limited with in the region of 150 clubs approved nationally. It appears that the time taken for providers to meet the rigorous requirements of a quality assurance scheme, (on average 12 months) while improving the quality of the setting can act as a barrier to approval.

vi. During 2003 we conducted an extensive consultation on formal regulation of the over 7s sector. Although many respondents saw advantages to having this area of provision regulated, a significant minority, which included the Better Regulation Task Force, expressed concerns that the imposition of compulsory regulation would be disproportionate to the risks. The number of providers and distribution of provision dealing exclusively with over 7s is hard to determine. The majority are holiday schemes, out of school clubs and childcare on domestic premises. Holiday schemes are often set up at very short notice and offer specialised activities as well as care.

vii. This led us to consider the advantages of introducing initially a voluntary certification scheme which would not only allow parents to access tax credit but also enable us to assess the impact on the sector. Although it was originally envisaged that such a scheme would be administered by Ofsted, after detailed discussion, this is not now considered appropriate.

viii. There are thus several forms of childcare, for which the Government wants to provide financial support, that are exempt from the requirement to register and currently (with the exceptions noted above) not eligible for Tax Credits. These encompass childcare in the parents' home as well as childcare for children over the age of 7 inside or outside the home and care that falls outside existing regulation under Part XA of the Children Act.

ix. We are now proposing to create a single, light touch approval scheme for carers across these categories. Carers that are approved under the new scheme will be able to provide qualifying care for the childcare element of Working Tax Credit and for tax and the new NICs exemption for employer-supported childcare.

x. The new scheme is designed to be non-intrusive and to leave responsibility firmly with parents for determining the nature and quality of care while ensuring basic measures are in place to protect children. Through this consultation we are seeking your views on the principles that should underpin the scheme. We are not at this stage considering compulsory regulation.

xi. The approval scheme will need to operate on a cost recovery basis by charging carers that apply for approval, so it is important that it builds on existing infrastructure and involves minimal bureaucracy in order to keep costs and charges down. Families on low to moderate incomes may be able to claim through the childcare element of the Working Tax Credit, some help with the cost of any approval charge that the carer passes on to them.

xii. Following this consultation, we expect to lay regulations before Parliament in Autumn 2004 and launch the scheme in early 2005. This will tie in with the tax and NICs exemptions for employer supported childcare that will be introduced in April 2005. Regulations relating to Housing Benefit will also be changed to reflect this new category of eligible childcare and we are exploring whether the Care to Learn scheme for teenage parents and other support for key groups of parents should also allow for approved childcare to be eligible.

xiii. We intend to enter into a contract with a consortium of organisations that would, in combination, provide the various elements of the approval process, but in a way that ensures it is seamless for applicants. This reflects the fact that this is a light touch approval scheme and it would not be appropriate to involve Ofsted. The consortium would charge all applicants at the point of seeking approval such that the costs of running the service can be recovered. In the rest of this document, this consortium is referred to as the “approval body”.

3. Approving unregulated childcare: the proposals

3.1 Approving childcare on domestic premises

i. The majority of childminders who care for over 7s in their own homes are registered to care for younger children as well. Indeed, many childminders who currently care only for older children do so because they have had them since they were small. Registered childminders caring for children in their own homes rather than the parents’ home are already eligible carers for Tax Credits and related purposes and have no need to seek this new approval. The proposed criteria set out below are intended to apply only in circumstances in which registration is not required under the Children Act.

ii. The majority of an estimated 50,000 – 60,000 nannies working in England are recruited directly by parents through local contacts rather than through an employment agency. The law does not allow for parents as individuals to seek or receive police record disclosure information from the

Criminal Records Bureau on nannies or other carers whom they may employ in their own home. Only childcare organisations or employment agencies can currently get access to such information.

iii. The approval process that we are proposing puts suitability at the forefront. It will provide parents for the first time with information regarding the suitability of individual carers. By doing this we aim to assist parents in making employment decisions while minimising the level of intrusion into private family arrangements.

3.2 Criteria for the approval of an individual carer

i. We propose that, to be an approved childcarer under the new scheme, individuals would have to meet **three** basic criteria:

- They have to show that there is nothing in their background that makes them unsuitable to care for children. In the vast majority of cases this would be achieved through obtaining an enhanced disclosure from the Criminal Records Bureau (CRB);

- They have to show that they have some understanding of working with children. Many carers will already have childcare qualifications but as a minimum we would expect approved carers to have attended an induction course covering providing childcare in a domestic environment. We will provide guidance on the content of the induction course with variants according to the role of the carer;

- At the time of application for approval they must have a valid first aid certificate relevant to the care of children. This would help to ensure that an approved carer would be well prepared to deal with any accidents that might arise.

3.3 Approved childcare on non-domestic premises

i. The Children Act requires that providers of care for children under 8 outside the home for more than two hours a day and for six or more days per year should be registered by Ofsted. All registered care is automatically eligible for Tax Credits and does not need to seek separate approval. Eligibility for the tax and NICs exemptions for employer-supported childcare from April 2005 will follow the criteria for tax credits.

ii. Care provided on school premises under the direction of the school governors is also automatically eligible for Tax Credits where a charge is made. That leaves a range of out of school care and activities for older children on school premises, but run by parents or independent organisations, that is not currently eligible for Tax Credits.

iii. As children get older, they may still require some supervision but the distinction between care and activities becomes more difficult to maintain. We want the approval scheme to extend eligibility to a wide variety of forms of group care or supervised activities for older children provided that the activity is regular or for a substantial period of time so that the child's participation enables the parent to work. This might include breakfast clubs or after school sessions or holiday play-schemes.

iv. We also want to include care for under 8s that is not required to be registered by Ofsted under Part XA of the Children Act. This could be, for example, a breakfast club that operates on a daily basis but for only one and a half hours per day or regular supervised activities for children (where these are not deemed by Ofsted to be care) at the weekends to fit with parents' work/shift patterns.

v. Sitter Services or other employment services, where childcarers are employed by the Service and parents charged a fee for care provided, would not be approved as group based care, but each individual sitter would have to be approved because the care is in the child's home. Residential services such as residential holiday clubs would not be eligible for approval, and the service would have to provide the childcare in England.

vi. Given that these are areas of childcare that have never been subject to regulation before, we want to keep bureaucracy to a minimum whilst introducing, for the first time, a measure of protection for children.

vii. We propose that the approval of a service (defined by a scheme based in or operating out of a given location rather than an organisation with multiple outlets) would involve the following criteria:

- At least one named individual would need to meet the criteria for approval as an individual stated above – the manager would be required to declare that at least one of these named individuals will be supervising the service to the children at all times (the approval documentation would indicate who are the designated leaders so that parents can ensure that this arrangement is followed);
- The manager would be required to provide evidence that all other staff or volunteers that come into contact with children are suitable consistent with the responsibilities of a childcare organisation under the Protection of Children Act. This would be demonstrated by showing that enhanced CRB checks had been obtained on all employees and volunteers;
- The manager would be required to declare that the provision does not fall to be regulated by Ofsted;

- The service should be such that parents can rely on it to provide childcare while they work.

3.4 Responsibility for the quality of the environment and the quality of care

i. Childcare in parents' homes should be left to parents' discretion and it would be inappropriate for Government to dictate standards for the home environment. Childcare provided elsewhere for children aged over 7 in non regulated settings is, by its nature, extremely diverse. Minimum standards to fit all possible circumstances are difficult to agree and, without extensive bureaucracy, impossible to enforce. We are not currently intending to extend the scope of regulation beyond the limits imposed by the Children Act.

ii. Approval for Tax Credits is voluntary. We consider that the single most important measure of child protection outside the regulated sector is to ensure that all individuals in regular contact with children have been vetted through a Criminal Records Bureau disclosure. Beyond that, we consider that parents have a right to choose the nature of childcare for their own children and with that right comes a responsibility to check the quality of the environment and the quality of care provided. Holding a qualification appropriate for the care or development of children, membership of provider organisations or participation in quality assurance schemes such as those endorsed through Investors in Children can help parents identify high quality care. We therefore do not propose to include premises checks or quality standards within the approval scheme.

3.5 Renewal of approval

i. In the absence of a system for keeping checks information up to date, renewal of approval must involve repeating checks and confirming continuing suitability. It is important to balance the cost of re-checking against the potential for convictions to be recorded against an individual at any time after the original Disclosure has been issued by the CRB.

ii. Designated childcare organisations, including childcare providers regulated by Ofsted, come under the compulsory provisions of the Protection of Children Act (POCA). These require a new check to be carried out whenever someone employed by a childcare organisation changes employer.

iii. Childcare employment agencies are also covered by the provisions of POCA but have an 'easement' that allows for carers to work with a variety of families for up to twelve months before being rechecked.

iv. Approved carers operate outside the regulated sector and are not covered by the compulsory provisions of POCA. However, in order to ensure effective child protection we propose that the approval should be valid for a period of 12 months only. That means that approved carers would be able to change families or to work for more than one family within a twelve month period but that in all cases approval would have to be renewed on an annual basis.

v. We would expect the approval body to put in place a simplified system for renewal of approvals that would simply involve a fresh CRB/POCA check and hence be less costly than the original approval process.

3.6 Cancellation of approval

i. Designated childcare organisations that terminate the employment of a carer because of an act against a child have a duty in law to report this individual to the POCA list. This means that the case will be investigated and may lead to the individual being barred from working with children in future. Other childcare organisations may refer individuals to the POCA list but are not required to do so. It is an offence knowingly to employ in a childcare position anyone who is disqualified by reason of the nature of an offence or listed on POCA/ List 99.

ii. POCA cannot accept referrals other than from childcare organisations or regulators. Where the approved carer employed by a family is suspected of committing an offence against a child, this would be a matter for the appropriate child protection agency to investigate (Police, NSPCC or Social Services Department). Parents would be advised to notify the approval body if such an investigation had been initiated. Approval would be cancelled should the approval body be informed that a full investigation is underway. Should the investigation exonerate the carer, the approval could rapidly be reinstated.

iii. The approval body would not have a statutory role in child protection and would have no authority to investigate complaints about the quality of care. It would only be able to act on evidence presented that a person was in breach of their approval criteria. i.e. that they had committed, or were under investigation for, an offence that would otherwise prevent them from being approved. The guidance we are preparing for parents will advise them to notify the approval body if they become aware of information that might question the carer's approval.

iv. While any one incident may not be enough to warrant withdrawal of approval, the fact that a provider has had complaints made against him/her may be important information in the event of an investigation (or may suggest that an investigation is necessary). As a condition of being approved an individual or manager will need to give his/her consent to the approval body keeping details of any complaints made against the provider and passing these on to official, designated bodies where appropriate.

v. The letter notifying the provider of the approval will make clear the duration of the approval and will make clear that anyone considering employing the carer or using the provider should check with the approval body that the approval is still valid.

3.7 Right of appeal

i. In cases where the accusations were found to be unfounded, the carer would have a right to appeal against cancellation and to have their approval renewed. Those refused approval or refused renewal of approval should also have a right to appeal.

ii. We propose to provide access to the Care Standards Tribunal as the appeal body, who would be both an external and independent arbiter of approval decisions.

4. Obtaining financial support on the basis of using approved childcare

4.1i Parents who employ or use an approved childcare service will be able to quote the approval reference in their claim for Working Tax Credits or Childcare Vouchers, or other childcare support[3].

ii. It would not be appropriate for Government to get involved in approving childcare arrangements between members of a family where the care takes place in the home. For this reason, where the approved carer is caring for children to whom they are related in the child's own home, this would not be eligible for tax credits or other support, as has been the case with the current Home Childcarers scheme.

iii. However, eligible care provided by a relative outside of the child's home would enable access to tax credits or other support as this would be assumed to be in the context of a wider business arrangement (e.g. where a relative was running a breakfast club).

5. Regulatory Impact Assessment

5.1i. Attached to this Consultation Document is a Regulatory Impact Assessment (RIA) that presents the basis for the decision to implement a voluntary scheme, rather than maintain the status quo or impose regulation on these sectors of childcare.

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3 For more details on these schemes, see the Inland Revenue website (www.inlandrevenue.gov.uk), the Care to Learn site (www.dfes.gov.uk/caretolearn).

Partial Regulatory Impact Assessment (RIA) for the proposed extension of the approval of unregulated care

Purpose and intended effect of measure

Objective

The proposal intends to extend the approval of unregulated care to enable more parents in England to access the childcare element of the Working Tax Credit (WTC) and similar financial support, including tax/NICs exemption for employer support for registered or approved childcare, being introduced from April 2005.

The areas of unregulated care affected by this proposal include care provided in the child's home and care for children aged over 7, including out of school clubs.

Background

Home Childcarers

Childminders are regulated by the Office for Standards in Education (Ofsted) under the legal framework of Part XA of the Children Act 1989, as amended by the Care Standards Act 2000. Registration requirements include an inspection of the premises where care is provided. A childminder is defined as someone who:

- looks after one or more children under the age of 8 for more than a total of two hours a day on domestic premises (normally a childminder's own home) for reward;
- is registered and inspected by Ofsted – demonstrating the quality and standards of their care;
- is self-employed, runs their own business and provides a service to the families whose children they care for.

People who provide childcare in the child's home (home childcarers) are not regulated by Ofsted and therefore are not required to register.

The Home Childcarer (HCC) Scheme was launched in April 2003 to extend eligibility to the childcare element of the WTC to parents using childcare in their own home. Approval of the current home childcarers is under Tax Credit regulations.

The aim was to make childcare more affordable and, as a result, stimulate growth in supply. This would help parents, particularly lone parents, those working atypical hours and those with disabled children to get work.

Approval as a home childcarer was restricted to registered childminders and although there was considerable interest, reflected in the requests for briefing packs, take up has been disappointing. Initial evaluation suggests that the requirement to register as a childminder is seen as inappropriate for home childcarers, while existing childminders find the hours of work and employment status (employed instead of self-employed) unattractive.

The initial scheme was always seen as a first step that would assist in understanding the issues relating to approving home-based care. The Government is committed to finding the right way to extend this scheme to allow larger numbers of parents using home childcarers access to the childcare element of the WTC and similar financial support.

A full consultation on "Supporting the cost of home-based care" took place in 2002 prior to the launch of the initial HCC Scheme in April 2003. The majority of respondents agreed that the arrangements proposed for home childcarers were sensible, but many felt that nannies should be included from the outset of the initiative and that they should be regulated to bring them in line with registered childminders. Some felt that nannies had more recognised qualifications and experience and that this must be taken into consideration.

Children aged over 7

The Children Act Part XA places responsibility on all providers of childcare for children under the age of 8 to be registered with Ofsted. If care is provided solely for children aged 8 and over (over 7s) there is no responsibility on the provider to be registered.

An extensive consultation, which included a Regulatory Impact Assessment (RIA), was conducted in 2002 on proposals to regulate those who provided care for children over 7 years old, such as out of school clubs. Although many respondents saw advantages to having this area of provision regulated, a significant minority, including the Better Regulation Task Force, expressed concerns that the imposition of regulation would be disproportionate to the risks.

The previous consultation led the Government to consider the advantages of first introducing an initial phase of voluntary certification under tax credit legislation, which is the option now being recommended. Although a regulatory scheme under Part XA of the Children Act would have to have been administered by Ofsted, after detailed discussion, it is not considered appropriate for Ofsted to administer a voluntary approval scheme.

There are currently quality assurance schemes that enable providers to be approved for WTC but these are not light touch. The schemes can cost between £25 and £650, and can take 6–18 months for approval to be given. This is why there has been a slow take up and almost none by holiday schemes.

This RIA builds on and supersedes the previous RIA. After looking carefully at a range of options, including those set out in the earlier RIA, the Government has concluded that the best approach would be to take forward a combined voluntary approval scheme for providers of childcare which includes those looking after children over the age of 7 as well as those caring for children in the child's own home.

Risk assessment

The main purpose of these proposals is to ensure that more parents are able to access the childcare element of the WTC and receive assistance with their childcare costs.

There are currently 174 approved Home Childcarers.

A secondary purpose is, while supporting good quality childcare, to extend a measure of child protection to children being cared for by putting in place checks and quality assurance that do not exist at the moment. In particular, parents should have access to good information regarding suitability of individuals to inform their decisions and to improve choice. Although it is difficult to quantify, the Government believes that the effect of introducing checks will be to lessen the risk to children by deterring those with previous offences who might otherwise seek access to children in this sector and screening out those who are unsuitable.

Options

1. We have identified three options:

    a. Do nothing.
    b. A regulatory model requiring primary legislative changes.
    c. A voluntary light touch scheme based on Criminal Records Bureau (CRB) clearance and a minimum level of qualification.

The table below describes the options in more detail and sets out a preliminary assessment of benefits and costs for each of the options. Following consultation, this assessment will be refined to take into account a wider range of views.

Option	Description	Benefits	Costs
1	**Do nothing** There is already an approval scheme in place through the existing Home Childcarers (HCC) scheme based on an enforceable code of practice and operated through Ofsted. The major drawback to this route is that it first requires registration as a childminder, which includes a check of either the potential childminder's or parent's premises. Parents who use unregistered care will not have access to the childcare element of Working Tax Credits (WTC) or to employer provided childcare vouchers. It would also force an unnecessary level of regulation on home-based carers seeking approval, delay implementing the Government's commitment to extending the current scheme, and prevent more parents from receiving assistance with their childcare through WTCs. This in turn will have an adverse effect on the growth of approved home-based childcare. For parents of older children seeking to get the childcare element of WTC, unless their children attend a provision for younger children that is registered with Ofsted under Part XA of the Children Act, they must seek a group provision that has been approved by an accredited quality assurance scheme. There is presently no such scheme for lone providers within a home setting. The consultation responses highlighted the sectors' wish for the Government to introduce some form of approval/regulation for this area, and adopting this option may bring repercussions from large organisations such as the National Society for the Prevention of Cruelty to Children, 4Children, YMCA and Fair Play for Children who have continually expressed concern that this area of provision is not regulated.	This option requires no action and is without additional cost. A mechanism already exists for people to be approved as home childcarers, albeit via registration as a childminder with Ofsted, and the associated costs will remain in force. Parents employing approved home childcarers can currently access the childcare element of WTC if they are otherwise eligible. There continues to be a scheme for care for older children being eligible for the childcare element of WTC through accredited quality assurance schemes.	There would be no additional costs, but the cost of registering with Ofsted would continue for childminders and approved home childcarers. This is currently heavily subsidised by the Government. The current cost of the accreditation scheme is nominal. **Costs for a typical business** No change.

Option	Description	Benefits	Costs
2	**A regulatory model requiring legislative changes** For the over 7s this would be a mandatory scheme which would be implemented under section 79W of the Children Act. New primary legislation would be required for the Government to have powers to regulate home childcarers. This option would make it mandatory for care providers to register with Ofsted if they provided care for more than 2 hours a day for children up to and including the age of 14 years. Through these regulations it would be possible to set minimum standards relating to vetting staff which can include qualification criteria and premises. Ofsted would have the power to disqualify unsuitable people and time limit the certificate. Renewal could, if Her Majesty's Chief Inspector decided, be dependent on an inspection.	This is the over 7s option on which the Government consulted on in 2002, and which was supported by the majority of those responding to that consultation. Regulation would give the Government the power to set and monitor safety and standards for childcare catering for the over 7s who are currently not covered by the provisions of the Children Act. Depending on how widely the definition of home childcarer is set, such a scheme would require the registration of all providing childcare in the child's home and force many carers to demonstrate that they meet standards. What is not clear is how this would be policed, without unsustainable costs and high levels of intrusion into private arrangements.	Such a scheme would have to be regulated by the childcare regulator. Approval would incur most of the same costs as those for registering as a childminder and charges would have to be of the same order i.e. £675 per registration, if not subsidised. It should be noted that childminders receive financial assistance through start up grants. Current approval by Ofsted of an under 8s group care costs £1000, of which £775 is a Government subsidy leaving £125 payable by a group. Regulation under this option would cost the same, but would be payable by the provider with the possibility that the charges, in full or part, could be passed on to parents. **Costs for a typical business** For group providers this could impose a burden if there was no subsidy. However for providers that are aware of their responsibilities under POCA and Health and Safety, the burden would be less as they would have already complied with the majority of the regulations.

Option	Description	Benefits	Costs
3	**A voluntary light touch approval scheme based on Criminal Records Bureau (CRB) clearance and minimum qualifications** This option introduces a scheme that extends the HCC scheme and the one for those caring for older children under which approval requires evidence of identity, suitability to be with children and appropriate, base level training. A conservative estimate is that there may be 10,000 approvals per year. This estimate takes into account: • The number of parents currently using employer-provided childcare vouchers for unregistered care who will need to have their care approved by April 2005 if they are to continue saving National Insurance Contributions (NICs). • The number of nannies currently employed in England whose employers might benefit from the childcare element of WTC or the new tax and NICs exemption on employer-contracted childcare or childcare vouchers if they were to be approved. • The high turnover of nannies, whose average length of employment is estimated to be just over a year. • Estimates of the number of other forms of unregulated childcare based on figures supplied by local authorities. Based on these figures and on the scheme being run on a cost recovery basis through charges to carers, with Government helping with some start up funding, we estimate that the cost to the Government of setting up a light touch approval scheme would be £1,525,000 over 3 years, which includes an evaluation. The Government would contract for an approval service that would include registered bodies that can obtain CRB/POCA clearance and vet candidates	This proposal would widen access to the childcare element of WTC and the new tax and NICs exemptions (from April 2005) on employer-contracted childcare and childcare vouchers. It would provide an alternative route to financial assistance with childcare for those adversely affected by the changes in April 2005 to the NICs exemption on childcare vouchers. The minimal legislative changes needed may be achieved through new regulations under the Tax Credit Act and the Income Tax (Earnings and Pensions) Act. The Government considers that this option can make an important impact on the availability of affordable childcare. There would be minimum interference in domestic arrangements, invasion of privacy, maximising take-up and giving parents information and choice. This model would substantially increase the number of parents able to access the childcare element of WTC. This can have particular benefits for shift-workers and parents of disabled children who are more likely to be reliant on	The estimated cost for approval as a home childcarer under this option will be about £70 per person plus any expense incurred in obtaining the necessary qualifications. The Government would expect this to be paid by the employing parent as it will give them access to the childcare element of WTC, under which they can claim back up to 70% of their childcare costs. Not all parents may qualify for the childcare element of WTC, particularly if they are high earners, but others may benefit where their employers offer childcare vouchers worth up to £50 per week which from April 2005 will be exempt from tax and NICs. It is estimated, based on a number of sources, that approx 6,660 applicants will seek approval under this option in year one rising to 10,000 in year two, including growth and turnover. For over 7s the cost incurred by a sole carer (childminder in under 8s regulation) would be the same as above. It is estimated that the cost of approving a

Option	Description	Benefits	Costs
3 (con.)	in relation to any past convictions, as well as assessing other evidence relating to training. Such a service could be set up at relatively low cost by a consortium, with an existing Awarding Body in the childcare sector making approval decisions. In most cases confirmation of suitability would be achieved through obtaining an enhanced disclosure from the Criminal Records Bureau which would include a check of the POCA list. The Protection of Children Act (POCA) 1999 was established as the framework of a coherent cross-sector scheme for identifying people considered to be unsuitable to work with children. It ensures that when such people are identified they are prevented from gaining access to children through their work. We also feel that carers seeking approval should be able to demonstrate that they have some understanding of working with children. Many carers will already have childcare qualifications, for example many nannies will have level 2 or 3 National Vocational Qualifications in Care. There are no robust figures on the number of people holding qualifications in these sectors because they are not regulated and cannot readily be surveyed. We are proposing that as a minimum we would expect individually approved carers to have attended an induction course covering providing childcare in a domestic environment. We will be providing guidance on the content of the induction course with variants according to the role of the carer. They would also need to hold a valid first aid certificate covering the care of children. The approval body will need to be satisfied that overseas candidates have demonstrated their suitably and	home-based care, as well as parents of older children. As the scheme would replace the current HCC scheme which is regulated by Ofsted, this option would constitute a reduction in regulation.	group based service would be £100, plus the cost of obtaining CRB clearances for staff, currently £33 per person. The Government considers that in most cases any cost to parents will quickly be recovered through access to WTC or other support. **Costs for a typical business** Where the care for over 7s is provided in a group, the cost would be based on each individual being checked which would be slightly less than the cost for an individual home childcarer. For the person in charge there would be the added cost of collating information on people working within the setting. This cost is unlikely to exceed £100. These measures will be associated with a net reduction of childcare costs to parents and hence lower overheads on any business venture they undertake. However increased costs to nanny agencies if they seek to offer approved carers, could be passed on to parents.

Option	Description	Benefits	Costs
3 (con.)	qualifications to care for children in an unsupervised situation. To assist them in determining the equivalent of overseas qualifications, the approval body will have access to the information on the National Academic Recognition Information Centre (NARIC) database, although this will not cover all countries or qualifications. People from overseas can sometimes apply to their local police force for a certificate of good conduct or a letter saying they are suitable to work with children. For some countries the CRB is able to advise on the availability of information. The approval of group-based care (defined by a scheme based in or operating out of a given location rather than an organisation with multiple outlets) will be based on at least one named individual who meets the criteria for approval described above. The manager would be required to provide evidence that at least one of these named individuals will be supervising the service to the children at all times and that all volunteers and staff working with children have also had their suitability checked at least every 3 years. The same approval body would issue these approvals. It is proposed that the approval will be valid for a period of 12 months only. Providing all other conditions are satisfied, entitlement to the childcare element of WTC or the tax and NICs exemptions on employer-contracted childcare or childcare vouchers will be from the date the approval is granted.		Similarly for those that have complied fully with POCA there would be a negligible cost of approval.

Equity and fairness

The Government considers that the proposals would correct what many people regard as a current inequality, where a parent employing a registered childminder or approved home childcarer can access tax credit support, whereas a parent employing a fully qualified, experienced nanny with clear CRB checks cannot, unless that nanny first registers as a childminder, creating an unnecessary bureaucratic hurdle.

As WTC is most beneficial to families on lower incomes, extending access to Tax Credits is also aimed at promoting social inclusion and decreasing disadvantage particularly for parents of disabled children who are more likely to be reliant on home-based care.

Business sectors affected

The business sectors affected by a light touch approval scheme will be agencies supplying nannies or other childcarers, voluntary organisations in the childcare sector and any other businesses whose recruitment and retention needs will be assisted by the availability of more affordable childcare. This will particularly benefit service sector organisations that require staff to work atypical hours and where access to affordable childcare in the family home will be important.

Discussions and correspondence have shown that small employers and voluntary organisations in the childcare sector welcome any action that will increase the availability of affordable childcare and improve the safety and quality of childcare. Many have been campaigning for the regulation of all childcare for a considerable length of time and will see these proposals as at least a step in that direction. The Government does not expect these proposals to have any direct effect on small business other than nanny agencies which may expect an increase in business. Benefits from the increasing number of approved nannies will be a matter for market competition on a level playing field.

The Government has considered the impact of this scheme on childminders and had early discussions with the National Childminding Association (NCMA). Experience has shown that the market for childminding is very different from the market for home childcarers, and that the profile of a typical childminder is very different from that of a typical home childcarer. It is significantly more costly to employ a home childcarer than to leave a child with a childminder, and childminders will often be mothers experienced in raising children, while home childcarers, while often well qualified, may not be as experienced. Initially, it is expected that the main candidates for approval will be existing home childcarers, and approval will simply mean that the parents using them are better able to afford their services. For this reason, it is not believed that there will be a great impact on the demand for childminding.

Competition assessment

The proposals are aimed at improving the affordability, quality and safety of childcare and are aimed at parents and individual carers rather than businesses. It is not believed that there are any competition concerns at present, as the measures will stimulate demand for approved childcare across the country. By setting the approval criteria relatively low, it should minimise the extent to which the scheme artificially segregates the sector.

Enforcement and sanctions

The interim proposal that is recommended will be voluntary. The approving processes will include a check on identity, qualifications and review of CRB disclosures. The Inland Revenue (IR) already has in place the means of checking for possible fraud with WTC applications, which the processes being envisaged will support. Any instance of child abuse will be a matter for the Police, but it is proposed to have systems in place to enable information about investigations to reach the approval body so that approval can be withdrawn where appropriate.

Consultation

Within government

The Treasury and IR are represented on the Project Board and have been widely consulted on the scheme since its original conception.

Consultation has also taken place with the Department of Trade and Industry (DTI – Agency Registration and Women's Employment Unit), Department of Health (DOH – Care Standards Tribunal and Domiciliary care team and NHS) Home Office (Criminal Records Bureau and Family Policy Unit, which is now in DfES and Immigration and Nationality), Department for Education and Skills (DfES – POCA etc), Department for Work and Pensions, Scottish Executive plus our legal advisors, DfES schools and workforce directorates.

Public consultation

There has already been full consultation on options and proposals for regulating over 7s providers. In addition, the Government consulted before introducing the current HCC scheme. This Regulatory Impact Assessment is being issued with a formal consultation document laying out the proposals.

Pre-consultation talks have also been held with the National Childminding Association (NCMA), Professional Association of Nursery Nurses (PANN), Recruitment and Employment Confederation (REC), Nanny Tax and Tinies Nanny Agency.

Monitoring and review

The interim proposal being recommended would only require secondary legislation under the Tax Credit Act to enable WTC to be based on approvals made by the approval body. The resulting tax credit claims would be monitored by the Inland Revenue.

It is also proposed to evaluate the scheme during its first two years of operation to ensure that the processes are effective and that the outcomes match our intentions. This will also enable us to develop more permanent arrangements for approving unregulated childcare.

Summary and recommendation

Option 1: No change

This is at no additional cost but will not substantially increase the number of parents able to access the childcare element of WTC. More importantly, it will not provide a reasonable option for some parents who currently use employer-provided childcare vouchers for unregistered childcare. These parents currently benefit from NICs exemption on the cost of the vouchers which they will lose from April 2005 unless the childcare they use becomes registered or approved.

Option 2: Regulation

This has not been costed in detail as preliminary work has demonstrated that the benefits to parents would be outweighed by the costs of a regulatory scheme, and that the imposition of regulation could be disproportionate to the risks.

Option 3: Light touch model

This has been costed at a total of £1.5 million over three years. This model would substantially increase the number of parents able to access tax credits and tax/NICs exemptions for employer- supported childcare. It would also introduce a level of checks and qualifications which do not exist for home based carers, other than approved home childcarers, at present. It balances the need to extend financial support and access to information to protect children against the imposition of further regulation on sectors of the childcare market that do not warrant it.

Therefore the Government strongly recommends Option 3. This model would substantially increase the number of parents able to access the childcare element of WTC and allow wider access to the new tax and NICs exemptions on employer-contracted childcare and employer provided childcare vouchers from April 2005. It would also introduce a level of checks and qualifications which do not exist for home based carers, other than approved home childcarers, at present.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed .... **Date** ....

Margaret Hodge, Minister for Children, Young People and Families

May 2004
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