

Family and Childcare Trust response to Ofsted consultation *Good early years provision for all*

Q1. To what extent do you agree or disagree that a judgement of 'requires improvement' should replace the 'satisfactory' judgement?

Agree.

On balance, we agree with the proposed change, but we also have some questions and concerns.

The change must be accompanied by a co-ordinated programme of support and monitoring from both Ofsted and local authorities. The current quality support offer to providers is patchy, so establishing a regulatory framework that rests on the presumption that providers have appropriate assistance risks creating frustration, undermining the credibility of the regulatory framework and potential unintended consequences for childcare availability.

The change must also be communicated effectively to parents as well as providers in order to avoid unnecessary confusion and anxiety. Parents in particular will reasonably interpret a 'requires improvement' judgement differently to a 'satisfactory' grade. The new label may have a positive impact on provider behaviour, but will also lead to anxiety for parents. This can be addressed as long as they are in possession of good information on a provider's strengths and weaknesses. Ofsted has recently reduced the number of sub-groups used in inspection judgements, which reduces the transparency of judgements for parents and those working with providers to improve quality. It is therefore essential that Ofsted explains the change clearly and makes available complete information on what a 'requires improvement' judgement means for individual providers.

The capacity of the inspection framework alone to drive improvement will be finite. Entrenched poor provision is linked to complex market and quality factors, such as the difficulty of maintaining occupancy or limiting staff turnover. The deterrent of a poor grade may not lead to improvement for many providers unless these changes are accompanied by a sufficient quality support offer.

Q2. To what extent do you agree or disagree that Ofsted should introduce a re-inspection within two years for non-domestic settings judged as 'requires improvement'?

Strongly agree.

We believe two years is too long to delay a re-inspection. Parents and the public will wonder why a provider with a 'requires improvement' judgement is not re-inspected for up to two years. We are in favour of both more frequent inspections and prompt re-inspections where problems are uncovered through monitoring or inspection.



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We would be concerned by any significant divergence between the inspection framework for domestic and non-domestic providers, though appreciate Ofsted must wait for the Children and Families Bill to proceed through Parliament before addressing childminder inspection.

If the changes Ofsted is proposing are driven by a desire to improve child outcomes, it must accept that the quality of provision from childminders is equally as important as nursery care. It is difficult to calculate precise figures, but childminders accounted for 236,900 childcare places in 2011 and are providing a high proportion of care for the youngest children (for which there were approximately 1 million places in 2011, though many childminder places will be taken by older children). These children, in the 0-24 months range, most need and benefit from high quality care.

The argument that it is undesirable or impractical for childminders to be registered and inspected routinely by Ofsted is weak. We are concerned Ofsted's reasoning and advice on this issue is driven by resource considerations. Ofsted, for example, argues that membership of a local network is the greatest driver of high quality childminder provision, implying that Ofsted registration and inspection is an incidental factor. In contrast, we strongly believe it is the combination of Ofsted registration, professional credibility and a strong local quality offer through networks that leads to high quality. Ofsted registration has had a major and positive impact on the quality of childminding provision. We hope to see Ofsted accept rather than withdraw from its role in regulating and supporting childminders.

Q3. To what extent do you agree or disagree that if a non-domestic setting has not made sufficient progress to be judged 'good' at its third inspection it should be judged to be 'inadequate'?

Neither agree nor disagree.

We believe this step needs to be considered carefully. Breaking the link between performance and grade would have consequences for both providers and parents, and would almost certainly have some effect on sufficiency and the childcare market.

Ofsted grades are used by parents to understand quality. If a provider receives an unsatisfactory grade but is providing care that does not of its own merit justify an unsatisfactory grade, there will be an excessive perception of risk. There would be a significant deterrent effect through implications for a provider's business, but also anxiety for parents with the least affordable choices.

This approach could penalise providers in marginal cases, i.e. where a provider close to 'good' receives a second 'requires improvement' and becomes 'unsatisfactory', whilst some 'requires improvement' providers of a lower standard continue to operate for a number of years. The business implications of an 'unsatisfactory' grade will mean it is harder for a provider close to achieving a 'good' grade to continue to improve at this stage. The results of this approach would in some cases inevitably be arbitrary.



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Q4. To what extent do you agree or disagree that if an inadequate setting remains inadequate after re-inspection within 12 months, and there exist statutory grounds for cancellation, Ofsted should take steps to cancel the setting's registration?

Neither agree nor disagree.

We understand Ofsted wishes to obtain changes to the law so that statutory grounds for cancellation is easier to pursue, so this is a difficult question to answer. If children are put at risk of harm, we would expect Ofsted to move to cancel registration. We would not, however, wish to see the parameters of grounds for cancellation widened to the extent that providers that have the potential to be 'good' are forced to close.

There is the potential for unintended consequences, particularly for the free childcare offer and local childcare sufficiency. Ofsted has been open that it does not intend to work with providers at the individual level. Currently, there is an inconsistent offer of local quality improvement support to providers. Due to budgetary pressures and government policy, this support offer is declining in capacity. Ofsted may therefore be adopting an approach that is poorly synchronised with the ability of providers to move out of the current 'satisfactory' category. There is a risk of reducing childcare sufficiency and creating greater churn of providers for poorly served groups. This could in some cases undermine rather than serve access to childcare and the work prospects of parents.

We are particularly concerned that, whilst larger providers usually have in-house quality improvement teams, smaller providers are likely to struggle with a reduced support offer from local authorities. It is often smaller providers that meet demand in low income and rural areas. As around a quarter of providers fall in the 'satisfactory' category, in the absence of significant new quality and business support a proportion of these providers would eventually be either deregistered or go out of business. We believe wherever possible the free offer should be limited to 'outstanding' and 'good' providers, but in practice this aspiration cannot currently be met in many areas. Under these proposals, the availability of childcare both through the free offer and directly could be undermined.

Q5. If you disagree with proposal IV above, how long do you think an inadequate setting should be allowed to remain open before these steps are taken to cancel its registration? Please state reasons (if you can).

We do not wish to suggest a period without understanding precisely what Ofsted expects will in future be considered grounds for cancellation.



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Q6. Do you have any further comments?

We would like to see Ofsted fulfil a more pro-active role as part of a joined-up quality improvement system alongside local authorities. However, the government is proposing to remove statutory duties on local authorities that drive quality support for providers and important quality levers such as the ability of local authorities to limit free offer funding to high quality providers. This gives the impression that Ofsted is filling a gap vacated by local authorities, which will not in practice be the case. Regulation and quality improvement must be shaped by an over-arching vision and purpose. This is not currently the case, with a large number of recent and planned changes to the EYFS and qualifications framework, in addition to the proposals considered by this consultation, that put in place more exacting standards as the capacity of the sector to meet those standards is reduced.

There must be clarity on where the boundaries of Ofsted's role in quality improvement lie. Is Ofsted's role still limited to compliance or does it have a role in quality? If the latter, then Ofsted must show that it has the expertise, capacity and local knowledge to do this work.

There is currently a great deal of anxiety and confusion amongst providers and local authorities about the future of early years quality assurance. Ofsted has a role in addressing destabilising confusion by communicating clearly about its role and the extent of its remit in quality improvement.

Ofsted has rightly made the case for these proposed changes on the basis that there is a correlation between the quality of early years provision and educational outcomes. However, Ofsted grades in themselves are a relatively crude measure of quality and have a mixed correlation with educational outcomes. Quality that closes the 'achievement gap' is therefore not only about helping failing providers achieve a higher Ofsted grade. It is right that Ofsted focuses its resources on raising the standard of the lowest quality providers but we are concerned that Ofsted may be sending a message that engenders complacency in providers with a 'good' grade—the largest category of providers—for many of which there is significant room for improvement. Ofsted must play a role in creating a culture and expectation of constant quality improvement, so that no matter that their current level of performance, providers are always striving to improve.

We welcome the measures Ofsted has already taken and those it has committed to in order to improve its expertise in early years care, and look forward to working with Ofsted as its role continues to develop.



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