

Children and Families Bill House of Lords Report Stage briefing: Clause 74 – Childminder agencies

Clause 74 revises the Childcare Act 2006 so that a childminder may register with a childminder agency rather than Ofsted. Agencies would be inspected by Ofsted, whilst childminders registered with an agency would be monitored by the agency itself. The government argues that this will remove ‘red tape’ in the form of Ofsted registration and that agencies would offer support to childminders, ‘making it easier for them to concentrate on delivering high quality care’.

Summary

- Clause 74 will undermine successful childminder registration arrangements that serve the interests of children, parents and childminders themselves. The agency model will increase costs for childminders and parents and do little to attract new childminders to the profession.
- We favour removing the clause from the Bill and concentrating on credible steps to support childminders and deliver affordable, high quality care for children and parents. If the clause is not deleted, there are amendments that would improve the proposed quality monitoring and evaluation arrangements, and ensure consistent and transparent quality information for parents.
- Given the concerns about the agency model, the government should properly pilot and consult on childminder agencies.

Views of parents and childminders

Parents and childminders have voiced a number of concerns about the impact the option of joining an agency will have on the quality and safety of childcare provided. In a PACEY (formerly the National Childminders Association) survey with Netmums, the majority of parents stated that:¹

- Ofsted registration and inspection of individual childminders provides them with confidence that a childminder is suitable to care for their child (80%).
- They would be less likely to use a childminder if they were regulated by an agency rather than Ofsted (75%).

The majority of childminders who have responded to PACEY’s own research on this issue have stated agencies would:

- Confuse parents and create a two-tiered system of childminding regulation (82%).

¹ National Childminders Association and Netmums (2012) *Childminders: Parents views of using and choosing childminders*; PACEY (2013) *More Great Childcare Childminder Survey* (384 responses)

- Damage hard-won parental confidence in registered childminding (57%).
- Lower standards of care as happened in other countries (77%).
- Create a potential conflict between an agency's drive to make profit (by retaining childminders on its register) and ensuring quality of care (77%).
- Lead to greater costs for their business.

The majority of registered childminders are unlikely to take up the option of joining an agency, with over 70% stating that they can see no benefits to joining.

Childminder inspection

The local authority led childminder registration system did not work effectively before the Care Standards Act 2000, through which registration with Ofsted became mandatory in 2001. A localised system did not provide confidence to parents or work as a mechanism to raise the standard of early education. There were different local approaches to regulation and inspection and no common standards to provide a reliable, transparent measure of quality. There were also serious difficulties for childminders: delays in registration were common and the high cost of registration could be a barrier for people who wished to join the profession.

In 1999, registration with Ofsted was chosen from the options available to the government for a new system of regulation because Ofsted had a track record of quality improvement and is trusted by parents.² Ofsted registration became mandatory for childminders in 2001 when the then government also started to fund an expansion of childminder quality networks, which provide free or subsidised training to childminders.

Individual childminder registration is affordable for childminders and has played a key role in improving standards in the childminding profession. The proportion of childminders receiving an 'outstanding' and 'good' Ofsted grade rose five per cent to 71 per cent between 2009/10 and 2011/12.

Childminder agencies would have high fixed costs because of mandatory support and monitoring requirements (which are elsewhere typically subsidised by Ofsted and local authorities). The government estimates that Ofsted currently spends an estimated £708 per childminder inspection.³ With lower economies of scale, agencies will need to increase costs to parents, risk business failure, or provide a less robust assessment than Ofsted.

Ofsted has advised that the best way to improve childminder quality and bring down

² Standing Committee G (Care Standards Bill), Sixteenth Sitting, 29 June 2000, House of Commons Official Report, p. 557

³ [Evidence Pack, Childcare: Children and Families Bill 2013](#), Department for Education (2013) p. 5

the costs of regulation is to create a regional hub and spoke model based on outstanding provision.⁴ Ofsted also noted in its recent *Good early years provision for all* consultation document that the challenge mechanism of inspection is an important part of driving improvement in early years provision.⁵ Moreover, PACEY (formerly the National Childminders Association) reports that childminders rarely leave the profession due to Ofsted registration and is campaigning to maintain individual Ofsted inspection of childminders.⁶ For childminders, participation in a credible unified early years regulation system is rightly a key concern.

The agency business model and costs to parents

Whilst childminders pay £35 a year to register with Ofsted, inspection costs are far higher than this at around £350 per childminder per year and are subsidised by the government as a policy choice to support high quality care. This is in common with other early years providers. Local childminder quality networks are also subsidised by local authorities so that childminders can access affordable continuing professional development, which in turn supports high quality local childcare without passing costs directly to parents.

Childminder agencies would not receive these subsidies and would need to meet these costs directly, either through higher registration fees for childminders or through higher costs to parents. Childminder agencies offer local authorities a route to reduce spending on childminder quality networks and transfer costs to professionals and parents.

There is limited choice of childcare in many areas, particularly for parents working atypical hours who require the flexible childcare childminders offer, and the potential for childminder agencies to inflate childcare prices for particular groups of parents.

Childminder numbers

Concerns have been raised during passage of the Children and Families Bill about the fall in the number of childminders. It is correct that the number of registered childminders fell by around 17 per cent between 2003, when Ofsted registration began, and 2013 (from 72,000 to 56,000).⁷ However, the majority of that change occurred well after Ofsted registration began, in the three years from 2007 to 2010 (when numbers declined from 70,000 to 58,000), during which time the recession was at its most acute and there was similar consolidation in the wider childcare sector.

It is also important to understand these figures in context. Between 1982 and 1990

⁴ [The Report of Her Majesty's Chief Inspector of Education, Children's Services and Skills 2011/12: Early Years](#) (2012), p. 5; p. 12

⁵ [Good early years provision for all](#), Ofsted (2013), p. 7

⁶ See the '[Individual Inspection Matters](#)' campaign

⁷ Ofsted [registration data](#)

the number of childminders increased from 44,145 to 83,904.⁸ This rise reflects the sharp increase in female employment over the same period, as the services sector grew whilst the manufacturing sector declined, and the absence of alternative formal childcare arrangements. In contrast, from the early 1990s female employment has plateaued and the number of formal childcare places has dramatically increased, from less than 100,000 in the early 1990s to 1.3 million in England today. This means there was both stagnant demand and an affordable alternative to childminders in the form of nursery places. In recent years the numbers of childminders has stabilised, with more childminders joining than leaving the profession in 2010/11, but a small decline in 2011/12.

The number of registered childminders must also be seen in the context of persistently low childminder wages (the average wage for a childminder in 2011-12 was £12,200⁹).

More must be done to attract new entrants to the childminding profession but childminder agencies will not address these causal factors. Government can support childminders through structural investment that addresses low wages and builds on the success of childminder quality networks to create a credible, consistent registration and quality support system.

Experience of childminder agencies in the Netherlands

The childminder agency proposal is based on a model created in the Netherlands. Separate assessments of the experience of the Netherlands by Daycare Trust and the Institute for Public Policy Research show that there are significant weaknesses to this model which should cause policy makers in England to think carefully before proceeding along similar lines.¹⁰

Research commissioned for the coalition government's Childcare Commission noted that deregulation and marketization in the Netherlands had 'largely failed'. The number of childminders rose exponentially because a loophole in legislation allowed relatives of children to register as childminders and claim state financial support.¹¹ The policy had less success in attracting new professionals to childminding. At the same time, a continuous decrease in quality has been observed due, for example, to insufficient training and increased pressures on staff time. Ultimately, the Dutch government reversed its policy of deregulation, re-imposing cost controls and minimum quality standards, and in 2012 began the process of formalising these standards in regulations.

There are two key lessons from experience in the Netherlands:

⁸ *The Rumbold Report: Starting with Quality*, Department for Education and Science (1990), para. 34

⁹ *Childcare Provider Finances Survey*, Department for Education (2012), p. 42

¹⁰ *Double Dutch: The case against deregulation and demand-led funding in childcare*, Kathleen Henehan and Graeme Cooke, Institute for Public Policy Research (2012); *Childminders in the Netherlands*, Eva Lloyd and Daycare Trust staff, Daycare Trust (2012)

¹¹ *The Costs of Childcare*, Helen Penn and Eva Lloyd, Childhood Wellbeing Research Centre (2013), pp. 38-44

- The Dutch government was forced by declining standards to revisit the agency model and tighten regulatory arrangements; and
- the success the Netherlands achieved in raising childminder numbers and reducing costs to parents was caused by significant investment (the Netherlands also at this time created a duty for large employers to contribute to childcare costs). Agencies, even in a deregulated model, are of themselves unlikely to bring down costs to parents or increase the number of childminders in the profession without matching investment.

Key questions:

- How will childminder agencies avoid a conflict of interest between assessing the quality of childminders and offering their services for profit to parents?
- How will the agency model be effectively piloted if trials take place in advance of enabling legislation, in particular the vital areas of safeguarding, quality assurance and inspection?
- How will parents have access to reliable information on the quality of childminders, which they currently obtain through Ofsted inspection grades and reports?
- How will the government ensure childminder agencies do not increase registration costs to childminders and childcare costs to parents?
- How will the government ensure there is a consistent national offer of quality and professional support to childminders, not a 'post code lottery'?

Childminder agency tabled amendments (as of 24 January)

Individual childminder inspection

Schedule 4

BARONESS HUGHES OF STRETFORD BARONESS JONES OF WHITCHURCH

Page 171, line 15, after "agency" insert ", or any individual childminder registered at the agency,"

Page 171, line 21, at end insert—

"() The Chief Inspector must at such intervals as may be prescribed inspect all early years provision registered with an early years childminder agency."

This amendment is designed to ensure that all childminders continue to be inspected by Ofsted. It should be noted that, as clause 74 simply establishes a new registration framework for childminder agencies, removing the clause itself would have the same effect as this amendment.

Ofsted reporting on childminder quality

Schedule 4

**BARONESS WALMSLEY
LORD STOREY
BARONESS TYLER OF ENFIELD
BARONESS SHARP OF GUILDFORD**

Page 171, line 32, at end insert—

“the quality of the care and early education offered by the early years providers registered with the agency,”

Under the government’s proposed registration framework, when Ofsted inspects an agency it would also inspect a sample of childminders. However, Ofsted would be obliged only to report on the quality of support offered by an agency to childminders rather than on the quality of childminding care itself. This amendment would oblige Ofsted to report on the quality of care delivered by childminders.

Schedule 4

LORD NASH

Page 171, line 35, leave out “and”

Page 171, line 37, at end insert “, and

(c) the effectiveness of the arrangements of the early years childminder agency for assuring itself of the quality of the care and education provided by the early years providers registered with it.”

Page 178, line 44, leave out “and”

Page 179, line 2, at end insert “, and

(c) the effectiveness of the arrangements of the later years childminder agency for assuring itself of the quality of the care and education provided by the later years providers registered with it.”

This amendment, tabled by the government, extends the areas Ofsted must report

on when inspecting childminder agencies to include quality monitoring arrangements. Whilst this is a welcome improvement to the legislation, this language creates a lower standard for childminder agencies than equivalent early years providers (as noted below). It also does not resolve fundamental concerns about creating a regulatory framework in which commercial providers assess the quality of their own service provision, and in which there may not be clear information for parents on childminder quality.

Potential additional amendments

We are clear that the agency proposal has serious flaws and believe that the best way forward would be to remove clause 74 from the Children and Families Bill. Failing this, there are amendments that would help mitigate the flaws of the agency model:

1. Consultation

Despite a clear professional consensus that the agency model is flawed, the government has not consulted on childminder agencies and allowed evidence to shape contentious aspects of the proposal. The government plans to consult in 2014 on the Ofsted inspection framework and an agency framework document. However, these policy documents will be developed once the problematic aspects of the policy are already cemented in place. To ensure that the childcare registration and quality support system remains effective and credible, the government should first consult with the public and professionals before proceeding with the agency proposals.

2. Piloting childminder agencies

The Department for Education has arranged 20 ongoing childminder agency 'trials'. As no enabling legislation has been passed, these trials will not encompass the proposed registration and inspection arrangements for childminder agencies. It appears doubtful that these trials will therefore provide useful insight into the concerns raised in this briefing and by others about the quality and cost implications of the childminder agency model. One simple response to this would be for the government to use this legislation as the basis for organised pilots.

3. Ensuring reliable, consistent quality judgements and transparent information for parents

Parents value the simple and transparent assurance that Ofsted quality grades provide. Childminder agencies would not be obliged to provide quality information on individual childminders in line with Ofsted standards or the four point Ofsted grading scale. The draft illustrative regulations for agencies create requirements for agencies to monitor and report on the quality of childminders, but do not stipulate what standards agencies should have regard for in conducting that work. Different agencies might, for example, use a basic pass/fail system or a three star scale. This means that there is a risk of ineffective quality monitoring and reporting arrangements. There are two potential steps to mitigate these problems:

1). A requirement could be placed on agencies to carry out quality evaluation in accordance with a framework prepared by Ofsted (Ofsted is preparing a framework to guide its inspection of childminder agencies, not agencies' inspection of childminders). This approach makes sense because Ofsted has the greatest expertise in quality monitoring and evaluation and could produce a version of the inspection framework its own staff use to evaluate providers. This approach would help to ensure consistent and high quality monitoring by agencies and good information for parents. The powers for Ofsted to impose such a framework are likely already provided through the Childcare Act.

2). The Childcare Act (sections 50 and 61) requires Ofsted to provide a report on the quality of care delivered to children after each inspection of a provider. The language in schedule 4 could be made consistent with the Childcare Act to ensure that when inspecting an agency Ofsted makes a full judgement on the quality of care its childminders are delivering, based on the sample of childminders it inspects. An amendment to meet this aim would extend each of the two parts of Lord Nash's schedule 4 amendment (page 6):

including—

(a) the contribution of the early years provision provided by the early years childminder agency to the well-being of the children for whom it is provided,

(b) the quality and standards of the early years provision provided by the early years childminder agency, with particular regard to the Early Years Foundation Stage, and

(c) how far the early years provision provided by the early years childminder agency meets the needs of the range of children for whom it is provided.

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