



## **Daycare Trust's Response to the Consultation on the Childcare Bill.**

- 1.1. Daycare Trust is the national childcare charity campaigning for quality affordable childcare for all and raising the voices of children, parents and carers.
- 1.2. Daycare Trust welcomes the commitment of the Government to improving the quality, availability and affordability of early education and care and commends the publication of the Childcare Bill Consultation document.
- 1.3. Daycare Trust has worked alongside experts in the childcare sector, academics, parents, providers, decision makers and other stakeholders to raise the debate on early education and care. It has recently published a 'vision' of universal early education and care; a policy paper looking at the costs and benefits of a 2020 vision for the sector; a paper on the current status and a vision for an integrated children's workforce and a international comparative analysis of early education and care provision and policies.<sup>1</sup>
- 1.4. Overall, we see the consultation paper on the Childcare Bill as a fundamental and important first step to support the needs of all young children and their families. It shows a commitment to improving the accessibility of early education and care and a commendable attempt to end the postcode lottery that has characterised access to childcare in the past. However, while we welcome the new increased role of local authorities in delivering good quality early education and care, we are concerned that not enough resources are provided to local authorities to deliver their statutory duties.
- 1.5. Daycare Trust has worked for 20 years raising the voices of parents, children and carers. We have conducted research and campaigned for high quality childcare and a better qualified, paid and more diverse

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<sup>1</sup> Daycare Trust, Universal early education and care in 2020: costs, benefits and funding options. A report for Daycare Trust and the Social Market Foundation by PricewaterhouseCoopers. October 2004.  
Cameron, C., Building an integrated workforce for a long-term vision of universal early education and care. Daycare Trust. November 2004  
Reale, D. ed., Learning *with* other countries: International models of early education and care. Daycare Trust July 2005.  
Daycare Trust, A vision of universal early education and care. May 2005.

workforce. We are keen to work with the Government and with local authorities in the development and implementation of policies aiming at improving the quality, availability, accessibility and affordability of childcare. For this purpose, in the sections below, Daycare Trust provides its critical evaluation of the Childcare Bill.

1.6. This response highlights the following points:

- Daycare Trust welcomes the proposed statutory duty on local authorities to secure adequate affordable childcare in their area.
- Daycare Trust is concerned, however, that sufficiency defined as childcare that allows parents to make a choice about work is too strictly linked to the employment status of parents. Such a definition risks ignoring the needs of many children particularly vulnerable children from workless households.
- We welcome the special attention in the proposal for the needs of low income families and families with disabled children. We believe that special regard should also be paid to the needs of families from black and minority ethnic (BME) background.
- We welcome the extension of the duty to provide information to parents on childcare to ensure that parents with children aged 0-19 have access to the full range of information they may need as parents.
- We are concerned that the proposed complaint mechanism for parents to use if their childcare needs are not met is too vague. We believe that lack of clarity might result in the mechanism failing to respond to the needs of parents or to act as a lever for ensuring that local authorities comply with their new duties.
- Daycare Trust warmly welcomes the proposal for a duty on local authorities to improve the well-being of children up to the age of five by improving the outcomes for all children and by narrowing the gap between groups with poor outcomes and the rest.
- We also welcome the intention to mainstream the delivery of early years services within the larger responsibility of local authorities. We believe that a legal underpinning can contribute strongly to placing children centres on a long term footing. However, Daycare Trust is concerned that unless extra resources are provided, local authorities will not be placed in the position to fulfil the new statutory requirements.

- We welcome efforts to integrate education and care in a single framework for children aged 0-5. However, we are concerned that the introduction of an Ofsted-run voluntary approval scheme for child carers caring for children over five years old, while it is in line with the wider Government agenda for lighter touch regulation, seems to be at odds with the commitments and goals expressed in the Ten Year strategy and the Children’s workforce strategy for increasing the quality of early education and care provision.
- Similarly, we oppose the elimination of the liC scheme. We believe in fact that quality assurance schemes make an important contribution to driving up quality. Daycare Trust’s view is that the scheme needs an increased commitment at the national and regional level.

**2. Does the primary aim of ensuring the availability of childcare to enable parents to work, along with a particular focus on lower-income families and those with disabled children, form an appropriate basis for defining scope and judging sufficiency?**

2.1. Daycare Trust welcomes the proposed statutory duty on local authorities to secure adequate affordable childcare in their area. Daycare Trust believes that local authorities have a key role to play in ensuring that local childcare needs are met and are potentially well positioned to assess, in a participatory way, the needs of local children and families. Daycare Trust believes that this is key to ending the postcode lottery, promoting partnership working and engaging parents, children and stakeholders.

2.2. A clear definition of the scope of the duty is fundamental to achieve the objective of securing adequate childcare for all families who need it. It will be crucial for parents to access services and for local authorities in their delivery duties.

2.3. Daycare Trust recognises the challenges presented by identifying a definition of sufficiency of provision. We believe that any duty to provide childcare should be child- centered and respond to the needs of families.

2.4. Daycare Trust is very concerned, however, that the concept of sufficiency as indicated in the proposal, is too strictly linked to the employment status of parents. Defining sufficiency as childcare that allows parents to make a choice about work presents some inherent problems.

2.5. A strict welfare to work approach to the duty risks bypassing the best interests of the child. We strongly believe that “adequate childcare”

should be interpreted as good quality, accessible and affordable childcare available to all children who need it. Its adequacy should therefore be measured on it being child-centered, of the highest quality and responding to the needs of families.

- 2.6. Research shows very clearly that all children benefit from good quality childcare and that children from disadvantaged backgrounds benefit proportionately more. We therefore welcome the special attention in the proposal to the needs of low-income families and families with disabled children. Daycare Trust's research clearly shows that low-income families and families of disabled children encounter higher barriers in accessing childcare.<sup>2</sup> We are however concerned that the language of the document refers exclusively to "working parents".
- 2.7. We believe that the needs of vulnerable children of non-working parents should also be a measure for defining scope and judging sufficiency. Parents might not work due to mental ill health, disability or drug and alcohol misuse. The Bill should also include reference to the childcare needs of those parents who are not working but are undertaking training as the availability of financial support for these parents is limited.
- 2.8. Similarly, we are concerned that low-income is to be defined by the eligibility for the childcare element of the working tax credit. We need more clarity on how this criterion will be used. While more families are now accessing tax credits, research shows that the uptake is still relatively low. Additionally, as a study from the Institute of Fiscal Studies clearly shows, families entitled to this form of financial help are not necessarily the poorest. Families with the lowest incomes tend to be those where no adults are working. The IFS shows that the majority of the recipients are in fact families on middle or average incomes.<sup>3</sup>
- 2.9. We are also concerned that the specific needs of families from black and minority ethnic backgrounds are not included as families needing special regard in the provision of childcare. Research shows that parents from black and minority ethnic communities are less likely to access childcare and early years services than their white counterparts. Daycare Trust found that parents from these communities find the lack of culturally appropriate services, lack of information and inflexibility of services are specific barriers to their use of childcare. We believe that the needs of these families are specific and need a specific approach from local authorities. Including BME groups within the category of low-income

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<sup>2</sup> Daycare Trust, Talking about childcare. Conversations with parents and children from low-income families. April 2004.

Daycare Trust Everyone Counts. March 2005.

<sup>3</sup> Institute for Fiscal Studies, Green Budget, January 2005.

families is too simplistic and would not address the specific barriers encountered by these families.<sup>4</sup>

2.10. Unless a child centred approach is adopted in assessing sufficiency, the risks is that local authorities will be placed at odds with the other duty proposed in the document, namely the duty on local authorities to improve the well-being of children up to the age of five by improving the outcomes for all children and by narrowing the gap between groups with poor outcomes and the rest.

2.11. We strongly welcome the implication in the document that local authorities will need to assess the local childcare market to develop a realistic and robust picture of current and future needs for childcare. We believe that integrating such needs and demand analysis into the wider local planning duties of local authorities is paramount. We believe that clear guidance that illustrates models of childcare assessment will need to be developed. Such guidance will need to be based on examples of best practice and be a genuine guide to local authorities to deliver their new statutory duties. Daycare Trust has extensive experience in impact assessment and needs analysis and we look forward to working with the government and local authorities in the implementation of the new duties.

**3. Apart from the issues set out in paragraphs 20-26 of the consultation document, are there other significant issues that should be included in the guidance for local authorities?**

3.1. Daycare Trust believes that partnership working between local authorities and stakeholders is as important as partnership working *within* local authorities. In their role as market managers, local authorities will be called to engage with the non-maintained sector and particularly with the private and voluntary sectors in new ways. Many authorities are still unclear about what such a new role will entail particularly when this implies putting in place new procurement practices. However, in many cases expertise on interacting with the private and voluntary sectors exist in other sectors within local authorities. It is important that the guidance encourages cross learning within local authorities particularly on procurement policies and practice.

**4. What are the issues that need to be addressed to provide parents with an accessible complaints mechanism?**

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<sup>4</sup> Daycare Trust, Parents' Eye. 2003

- 4.1. Daycare Trust strongly welcomes the proposal to place a specific requirement on local authorities to be pro-active in seeking the views of parents, children, providers and the wider local communities. Daycare Trust's work with many local authorities shows that authorities need support and the resources necessary to build their capacity to conduct appropriate consultation with stakeholders.
- 4.2. Daycare Trust's research shows that lack of information is a great barrier to accessing good quality childcare. Improving communication and marketing strategies to inform parents about childcare provision is paramount to create a system of services that responds to the needs of families and is informed by such needs.
- 4.3. We therefore welcome the proposal to strengthen the existing duty on local authorities to establish and maintain a service providing information to the public about childcare with an extended duty to ensure that parents with children aged 0-19 have access to the full range of information they may need as parents.
- 4.4. We also welcome the proposal to provide parents with a complaint mechanism if their childcare needs are not met. We note however that the mechanism as outlined in the document presents some problems.
- 4.5. Firstly, it is not clear when parents will be entitled to activate such a complaint mechanism. The document clearly states that local authorities are not obliged by the duty to meet the individual childcare needs of every working family but to ensure that at "a community level" the authority is taking action to address gaps in childcare. Local authorities will be required to act only where there is enough demand to ensure that provision can be set up sustainably. This places the *onus* on parents to prove that sufficient demand actually exists against the supply-demand analysis conducted by local authorities. Additionally, demand linked to sustainability of provision can be very problematic as the level of demand could be distorted by the cost of provision.
- 4.6. Secondly, if set against a judgement of sufficiency interpreted as childcare that enables parents to access work, parents' complaints will have no influence on improving the quality of provision. In line with the stated objectives in the Ten Year Strategy of making parents one of the pillars of quality control of early education and care provision, the complaint mechanism needs to be used as a lever to improve quality not just to assess quantity.
- 4.7. It is also not very clear what the complaint process is. Daycare Trust believes that parents will need full and detailed information on their

entitlement to complain and what are the effects of a complaint procedure.

4.8. Similarly, unless the complaint mechanism is clearly defined, local authorities will be potentially exposed to continuous complaints filed against them which might impact on their ability to fulfil their statutory duties.

**5. Is this an effective way of placing children's centres on a secure long-term footing, while retaining the flexibility necessary for effective implementation and avoiding creating new burdens?**

5.1. Daycare Trust strongly welcomes the commitment expressed in the proposed bill to provide certainty to early childhood provision by mainstreaming service delivery. Research shows the benefits of good quality provision for children, their families, communities and society at large. Mainstreaming provision will provide further legitimacy to services and raise awareness on the benefits of early childhood services.

5.2. As stated above, Daycare Trust strongly supports the introduction of a new duty on local authorities to improve the well-being of children up to five by improving the outcomes for all children and by narrowing the gaps between groups with poor outcomes and the rest.

5.3. We also welcome the proposal to build on existing duties for cooperation as introduced by the Children Act 2004. We salute the proposal to give early year services a statutory underpinning which would give them a status consistent with other local authority responsibilities.

5.4. We welcome the proposal to give statutory status to guidance on the children's centre delivery model and the focus on a model of service delivery that is integrated, actively reaching out to children and families and including community and parental involvement in planning and delivery. We also welcome the emphasis on the need for local models of delivery to be able to take place as this encourages innovation and enables services to respond to the needs of local communities.

5.5. Measuring the adequacy and the impact on children's outcomes will need a strong and integrated assessment system. It is crucial that local authorities have clear guidance and the necessary time and resources to develop adequate baseline data and indicators.

5.6. Developing and maintaining good quality, accessible and affordable early years services has strong cost implications. Whilst we appreciate the Government's concern not to impose extra burdens on local authorities,

Daycare Trust is concerned that unless extra resources are provided, local authorities will not be placed in the position to fulfil their new statutory requirements. The new duties introduced by the Bill will place extra pressures and raise expectations on local authorities but do not provide extra resources, particularly to address the issue of market failures.

5.7. The rolling out of the ambitious children's centres programme will require long term sustainability in the future. Inadequate funding might expose local authorities to chronic failure in their delivery duties, increase fees for parents (thereby excluding vulnerable families) or, ultimately, expose families to uncertainty on the long-term stability of services.

5.8. Daycare Trust believes that to deliver the vision of children's centres in every community and adequate and high quality early education and care that responds to the needs of families a new funding regime should be envisaged. Current demand side funding policies cannot fulfil the combined objectives of increasing provision, quality and accessibility of childcare. We believe that supply side funding policies in the form of grants to providers should be progressively increased. These can be used as a lever to quality and to ensure availability and sustainability of provision.

**6. Will the proposal for these new duties on local authorities enable the existing wealth and diversity of providers to flourish and develop?**

6.1. Daycare Trust believes that a long term and ambitious vision of good quality, universal provision of childcare can only be delivered through partnership working and the involvement of all stakeholders.

6.2. Many local authorities have well-established partnerships with providers from all sectors. However, where this is not the case, it is important that any barriers in communication between local authorities and the non-maintained sector are addressed and overcome. We believe that a system of children's centres and delivery based on partnership working and on a participatory approach to needs assessment, has the potential to break such barriers.

6.3. Local authorities in their role of market managers will play a key part in ensuring that parents have access to childcare and addressing market failures. The relationship between local authorities and providers will be key to achieve the objective of providing sufficient childcare. It is important that local authorities clearly assess needs and conduct thorough supply and demand analyses in order to identify areas of major need for provision and are able to support local providers and influence

where new services are set up. We are concerned however, that the proposal does not provide any further means to local authorities to address market failures appropriately. A mixed childcare market will mean that incentives will be needed for providers to set up services in disadvantaged areas.

6.4. We believe that local children workforce development strategies, could and should be used by local authorities in nurturing their relationship with a diversity of providers and used to provide incentives and increase the quality and availability of provision.

**7. Does the approach to registration outlined in paragraphs 64 and 65 of the consultation document strike the right balance and capitalise appropriately on other inspection regimes?**

7.1. Daycare Trust has warmly welcomed the acknowledgement in the Ten Year Strategy that the distinction between education and care is a meaningless one and that such a distinction has created separate quality and regulatory systems in a sector where instead a holistic, integrated system reflecting the needs of the whole child is necessary.

7.2. We therefore salute the proposal in the Bill to create a single framework for early education and childcare services for children from birth to the end of the Foundation Stage, aimed at creating a single quality framework and simplifying and streamlining the existing system for regulation and inspection.

7.3. A new legal framework underpinning a new quality framework bringing together Birth to Three Matters, the Foundation stage and the national standards for under 8s daycare and childminding is good news and we welcome it in principle. However, more details will be needed on the new Early Development and Learning Framework (EDLF) and we look forward to the consultation on this framework next year. It is important that the EDLF is developed to reflect and respond to the developmental needs of children with the aim to achieve the best quality for children's experience.

7.4. While we recognise the efforts made to simplify and streamline the inspection regime for children 0-5, we feel that inspection and quality control will need to be assessed against the details of the new EDLF. We note however that in the effort to simplify the system, a rather complicated system of inspection is being identified, particularly for schools caring also for younger children. According to the proposal, schools caring for children up the age of 3 will need to be registered with Ofsted as early

years provision, while above this cut-off point they will be inspected as part of the whole school inspection.

- 7.5. It is important that parents are fully aware of the implications of such changes and the impact on the complaints procedures.
- 7.6. Additionally, it is extremely important to ensure that Ofsted inspectors are trained and equipped to inspect provision for 3-5s .
- 7.7. We look forward to the future consultation on the additional criteria that providers should meet to provide free early education. We believe that commitment to staff training and involvement of SENCOs and ENCOs should be an integral part of such criteria.
- 7.8. We note that the proposal is not clear about how local authorities will be giving help to providers to meet the requirements of the new framework. Local authorities will need clear guidance and the necessary resources to build the capacity of providers to meet the requirements of the framework.
- 7.9. Daycare Trust feels that there is a lack of coherence in the proposal between the stated commitment to high quality in the delivery, inspection and regulation of services and the *de facto* deregulation of out of school care for children aged 6-8.
- 7.10. The proposal suggests that out of school care taking place in schools or managed by schools will be subject to the school regulation and inspection regime. If not directly part of the school's management structure or settings, a set of criteria are proposed for a lighter approach and an entry onto a newly created Ofsted childcare register.
- 7.11. Daycare Trust strongly opposes such a proposal. We feel that this will lead to a loss of quality in provision and undermine the Every Child Matters Agenda which places children at the centre of services. It is not clear on what evidence the proposal to remove the requirement to register is based. We feel that the principle of proportionality has been applied inappropriately and with no regard to the rights of children to access the best quality provision. We note in this respect that para 76 of the consultation document does not include children in the list of beneficiaries of such a reform.
- 7.12. Since the Children Act 1989 which set out the regulatory framework for daycare and childminding, parents and the sector have shown a commitment to regulating childcare as a way to ensure good quality. When consulted on reforms to such a framework the consensus has been for extending the scope of regulation rather than reducing it.

7.13. In addition, we believe that far from simplifying the system for parents, this proposal risks leaving them confused between registered childcarers inspected against the national standards, childcarers for whom it is mandatory to be included in the new Register (childminders) and childcarers who have the option of applying for the Register. Daycare Trust's extensive experience in consulting parents on childcare issues shows that quality is extremely important for them and if parents are to be taken on board as partners to ensure high quality standards in provision, then a system that combines commitment to good quality and simplicity is necessary.

**8. Do the proposed criteria for entry to the Ofsted Childcare Register do enough to deliver quality provision and cover the minimum standards needed to ensure safe and reliable childcare provision?**

8.1. We believe that the criteria listed in the proposal represent the barest minimum standards to ensure safety but nothing in the Register ensures commitment to quality. The criteria appear vague (who falls into the definition of relevant staff? What are suitable childcare qualifications?) and there is no indication of a clear process for supporting providers in improving and investing in quality.

**9. Will the benefits of the proposed Ofsted Childcare Register encourage providers to apply?**

9.1. We believe that the eligibility for tax credits can act as incentives for providers to apply to the Register but so would the low requirements for those who register which could have a potentially negative impact on quality. However, for providers currently regulated within the existing framework the new Register would represent a step backwards in reassuring parents of the quality of their services.

**10. Should the required ratios be flexible depending on age and setting, and what ratios would be appropriate?**

10.1. Research shows that the quality of staff and the continuity of care are paramount for children's outcomes. We believe that careful attention should be placed on ratios and any suggestion to change current standards needs to be based on clear research evidence. While we recognise that strict ratio standards can place pressures on the cost and the delivery ability of settings, they are crucial for the quality of provision. Daycare Trust's recent comparative study on childcare provision in various countries shows that where ratios have been relaxed to improve

availability, such as in the case of Sweden, quality has suffered and policies have been reversed.<sup>5</sup>

**11. Is it appropriate to continue to require registration of childminders for children up to age eight?**

11.1. In line with the view expressed above, we strongly believe that childminders should be required to be registered to care for children up to the age of 8 and that the registration should be maintained within the current framework and standard levels and not as part of the new Register.

**12. Does the financial support for the Investors in Children scheme represent the most effective means of driving up quality?**

12.1. Increasing evidence shows that quality assurance has worked as an effective driver to raise quality of provision within settings of all types. Daycare Trust's view is that such schemes should be strongly supported. The Investors in Children (IiC) scheme has been instrumental in ensuring that quality assurance schemes are of high standards and the plethora of schemes in existence proves that there is a specific need for a national benchmarking mechanism such as IiC.

12.2. We note that there has been scarce commitment in publicising the existence of IiC. Where such efforts have been made at the local level, parents have relied on the importance of quality assurance schemes as evidence of good quality provision.

12.3. We believe that rather than abolishing IiC, a better use of resources would be to increase the commitment for the scheme both at national and local levels. We believe that quality assurance schemes should be seen as an integral part of the quality framework including the new EDLF, Ofsted inspection and new qualifications framework. In particular, with the new Ofsted three-year inspection cycle, quality assurance, together with training, will be key in raising quality of provision.

**13. What would be of most help to parents in choosing good quality settings?**

13.1. The most effective support for parents would be a national information programme on the meaning of quality in children's services. Daycare Trust's Research shows that trust in providers and staff is one of the main criteria guiding parents in choosing childcare for their children. However, there is still low awareness on what makes good quality early

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<sup>5</sup> Reale, D. ed. Learning with Other Countries: international models of early education and care. July 2005.

education and care provision and what benefits children's learning and development. It is important that an awareness raising effort is undertaken as part of the expansion in provision and that parents are then part of an ongoing debate and construction of knowledge on quality of practice in children's services.

**14. What factors should determine the balance between costs and subsidies? / 15. Where childcare providers need help with fees, how should a subsidy be administered?**

- 14.1. Following the success of current supply-side funding policies in the early education and care sector, namely the funding for the free early education entitlement for 3 and 4 year olds and to local authorities, our view is that, in the long term, supply-side grants should be progressively increased with the reliance on tax credits phased out.
- 14.2. The link between funding mechanisms and quality is particularly important. We believe that a new funding regime should be envisaged. Countries such as Sweden and Denmark present some interesting funding mechanisms in the form of direct grants to providers with some parental contribution capped to a maximum income related fees. The new regime recently introduced in New Zealand, linking the grant per child-hour to factors such as child:staff ratios and staff qualification levels, so giving providers a financial incentive to increase quality, is also a very interesting option for the UK, particularly for its direct link to improving quality.
- 14.3. Parents can also be expected to make a contribution to the non-free elements of education and care, but this should be subsidized by the state in a way that is related to income and the number of children in each family with particular attention to larger families. Our long-term vision is that parents should on average not contribute more than 30% of the cost of childcare.
- 14.4. We note that the £125 million a year Transformation Fund to support local authorities' investment in high-quality childcare provision could be made considerably larger if money were diverted from the childcare tax credit, which it is estimated will cost around £1 billion a year in 2007–08.

Overall Daycare Trust believes that many of the proposals developed in the Childcare Bill represent an important step in the long-term reform of the early education and care sector and children's services more generally. As stated in this response, we believe that to achieve the ambition of the Ten Year Strategy for an early education and care sector which is amongst the best in the world, local authorities will need adequate resources to fulfill their statutory duties. A genuine participatory approach to improving availability and accessibility as well as quality of provision is also key.

Daycare Trust looks forward to contributing to the future developments following the Childcare Bill.

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*For more information about this response please contact Daniela Reale, Policy and Campaigns Manager, by email [dreale@daycaretrust.org.uk](mailto:dreale@daycaretrust.org.uk) or by phone on 020 7840 3350 ext 202*