

Consultation On Draft Code Of Practice On Provision Of The Free Entitlement For 3 and 4 Year Olds

Consultation Response Form

The closing date for this consultation is: 8
January 2010 Your comments must reach us
by that date.

department for
children, schools and families

THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online or offline response facility available on the Department for Children, Schools and Families e-consultation website (<http://www.dcsf.gov.uk/consultations>).

The information you provide in your response will be subject to the Freedom of Information Act 2000 and Environmental Information Regulations, which allow public access to information held by the Department. This does not necessarily mean that your response can be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies. You may request confidentiality by ticking the box provided, but you should note that neither this, nor an automatically-generated e-mail confidentiality statement, will necessarily exclude the public right of access.

Please tick if you want us to keep your response confidential.

Name Kate Goddard
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If your enquiry is related to the policy content of the consultation you can contact Greg Thompson on:

Telephone: 02073407005

e-mail: gregory.thompson@dcsf.gsi.gov.uk

If you have a query relating to the consultation process you can contact the Consultation Unit on:

Telephone: 01928 794888

Fax: 01928 794 311

e-mail: consultation.unit@dcsf.gsi.gov.uk

Please mark an X in the box below that best describes you as a respondent.

<input type="checkbox"/> Parent / Carer	<input type="checkbox"/> Private / Voluntary provider - sessional	<input type="checkbox"/> Private / Voluntary provider - full day care
<input type="checkbox"/> Independent School	<input type="checkbox"/> Maintained nursery school	<input type="checkbox"/> Maintained nursery class
<input type="checkbox"/> Childminder	<input type="checkbox"/> Networked childminder	<input type="checkbox"/> Local Authority
<input checked="" type="checkbox"/> National organisation	<input type="checkbox"/> Other (please specify)	

Please Specify:

Please let us know your job role if applicable.

Comments:

1 Is the Code structure and layout clear?

XYes

No

Not Sure

Comments: In general we believe that the code is very well written and makes helpful distinction between what local authorities are required to do by legislation and what is suggested as good practice by the code of practice.

As there is not a 'general comments' field, will include general comments here:

Levels of funding for the free entitlement

Representations to Daycare Trust from providers continue to be made about the level of funding available for the free entitlement. This may be a particularly acute issue in London, and certainly many of the providers we are in contact with are in London, through our specific London project (a separate response from a seminar held as part of our London project has been submitted). Therefore we are concerned that providers will continue to charge top-up fees via one way or another (eg requiring parents to take more than the 15 hours, asking for 'voluntary' contributions), and that local authorities will turn a blind eye to this practice for fear of jeopardising their sufficiency duty. We would urge the DCSF to continue dialogue with local authorities and providers over the next year or so until the introduction of the EYSFF, and would be happy to facilitate a meeting with London providers we are in contact with through our project.

However, whilst the levels of funding are clearly a big issue on the ground, our recent research *Quality costs* (undertaken with the Institute for Fiscal Studies and the Social Market Foundation) found at a 1:8 adult:child ratio which many providers have to use, the funding levels are probably slightly low to provide high quality provision (although with a ratio of 1:13 the current indicative funding levels allocated by local authorities should be sufficient). The *Quality costs* project calculated that with current wages, the cost of a free place for a three and four years need not exceed £4.44 per hour outside London (in London the costs are on average 20% higher). However we also suggest that a high quality premium should be paid on top of this rate to settings which meet certain criteria, in particular as regards staff qualification; this would allow those qualified staff to be paid more and retained in the sector (see p 30 of *Quality costs*). This is crucial to improving quality.

A copy of *Quality costs* is in the post to Jennifer Robson. In addition we would welcome an opportunity to meet with DCSF colleagues to discuss the findings more in detail.

Staggered intakes

In chapter 5, the draft code talks about counting on a termly basis. We would agree that this is essential, but believe there should be flexibility about when that count is carried out, so that providers can stagger children's entry to the setting. We have heard examples of local authorities imposing one count day on the first or second week of term, which may not suit the process of settling-in periods for all settings.

Question for local authority respondents only.

2 If you are a local authority, are you clear from the Code what you should do to deliver the free entitlement from Sept 2010?

Yes

No

Not Sure

We are not a local authority, but it is clear from our discussion with providers and local authorities that not all are currently enforcing the 'no top-ups' rule as they realise that to do so would make providers unsustainable and they would therefore lose provision.

Question for providers only.

3 If you are a provider are you clear from the Code how the LA should work with you to deliver high quality, flexible provision in return for funding?

Yes

No

Not Sure

Comments:

Question for parents or carers only.

4 If you are a parent does the Code make clear what you are entitled to when accessing the free entitlement?

XYes

No

Not Sure

Yes, although it would be very helpful to have a parents' version of the code, with just those elements that are relevant to parents and in plainer language, rather than parents having to trawl through the full code. This is something that Daycare Trust would be willing to undertake for the department and we feel it would be an extremely useful document. We are pleased that the code is strong on parents being offered a free place without any strings attached.

The one thing that concerns us vis a vis the draft code is the section on parental contracts. We understand that parent contracts can be very useful in encouraging consistent attendance, which is important for children's development, as well as for parental involvement in the setting, but any sort of contract needs to be flexible rather than punitive. The need to sign a contract may be offputting for some parents, particularly if they have a mistrust of authority and contracts. We recommend that some of the wording in paragraph 6.23 in particular be amended to state that parental contracts should be flexible to allow for changes in circumstances (rather than discussing the conditions under which contracts can be amended or broken).

5 Do you think anything is missing from the Code or could be made clearer?

As mentioned above, we believe that some of the wording around parental contracts should be changed.

We recommend that the wording in paragraph 2.8 about parents' bills should be clearer, so that there is a requirement on providers to set out bills clearly and evidence the free place.

In Chapter 3, as well as local authorities informing the FIS about what is available through the flexible free offer, FIS should also know **which** providers are offering that flexibility so that parents have all the information they need.

One issue out-with the code is whether independent schools should be able to access free entitlement funding, given that they are fee-paying from age 5 onwards. We have also heard representations from independent schools that they should not be included in the funding and therefore should be free to set their own pricing structure rather than using the EYSFF.

This question refers to chapter 3 of the draft guidance.

6 Do you agree with the principle of a Core Offer of Flexibility for parents to ensure that all parents, wherever they live, have access to a defined offer of flexibility?

XYes

No

Not Sure

This question refers to chapter 3 of the draft guidance.

7 a) Do you agree with the first two suggested models of flexibility in the Core Offer (3x5 hours and 5x3 hours)?

XYes No Not Sure

We agree that this is the minimum flexibility that should be offered. Some parents will want to have their young child at home some days of the week but they should still be able to take up their full free entitlement.

7 b) Do you think either of the other two possible models should be included (9+3+3 and 6+6+3)?

XYes No Not Sure

Daycare Trust believes that the greatest flexibility possible should be available to parents. Both of these models would be more useful to parents working two days a week, for example, and therefore facilitate work and support the drive to end child poverty. We understand that the pattern of shorter hours over more days is the optimum for children, but the free entitlement can also helpfully support the whole family, and greater flexibility supports this.

We realise that not all early years settings would be able to offer these models, particularly the 9+3+3, depending on their opening hours, but if possible these should be offered.

7 c) What other common models might be achievable?

This question refers to chapter 3 of the draft guidance.

8 Do you agree that LAs should have a role to broker a local flexible offer which balances parental demand with provider capacity?

XYes

No

Not Sure

Although the minimum requirements of flexibility discussed above should be a requirement for all those able to offer extended provision in a local authority area.

This question refers to chapter 4 of the draft guidance.

9 Do you agree that LAs should prioritise free entitlement funding to the highest quality providers, funding others where necessary to uphold sufficiency and accessibility?"

XYes

No

Not Sure

As mentioned in the draft code and evidenced through numerous research reports, including DCSF-commissioned research, the quality of early years provision is essential if we are to improve outcomes for children, especially those from disadvantaged backgrounds. We found that for 3 and 4 year olds, the

High quality also has a cost attached to it, as Daycare Trust recently evidenced through our *Quality costs* project. We found that with a model of 50% graduate staff and pay equivalent to teachers' salaries, the cost per hour of early childhood education and care would be between £4.23 and £6.17 an hour for a ratio of 1:8 and £2.69 to £4.54 for 1:13. (The range reflects the different amounts given for premises costs.) Therefore this indicates that the current free entitlement spending, particularly at 1:13 ratio, should meet the cost of delivering the free entitlement, even with staff pay increasing substantially. However we recognise that most early years settings outside of the schools sector are not currently working at a 1:13 ratio and many say they would not want to (although we found no research evidence to suggest that a ratio of 1:13 with graduate staff would be detrimental) and so their costs would be closer to the £6 mark, higher than the current levels of free entitlement funding.

However we also suggest that a high quality premium should be paid on top of current hourly cost to settings which meet certain quality criteria, in particular as regards staff qualifications; this would allow those qualified staff to be paid more and retained in the sector (see p 30 of *Quality costs*). And without such a premium it is highly unlikely that settings will be able to improve the pay and conditions of their staff. This is crucial to improving quality.

We would be very happy to discuss our findings in *Quality costs* in more detail with DCSF colleagues.

We understand the difficulty of balancing quality with sustainability. However, we are concerned about the text in paragraph 4.4 which states that local authorities should not prioritise securing high quality provision above their sufficiency and flexibility obligations. We would argue that improving quality must always be at the forefront of local authorities' work.

We would also question whether the timescale of 18 months for quality improvement, as outlined in paragraph 4.7, is the right one, or whether 12 months would be more appropriate. With support from the local authority, this should give sufficient time to improve to a 'good' rating.

In paragraph 4.8 we recommend that the words 'high quality' be inserted before 'flexible' as it is even more important for disadvantaged children that the provision offered is of high quality.

This question refers to chapter 4 of the draft guidance.

10 Do you agree that EYQISP provides the most consistent assessment model for categorising providers who wish to deliver the free entitlement? If not, what do you suggest?

Yes

No

Not Sure X

Local authorities use a range of quality assessments methodologies, including increasingly ECERS and ITERS. We would urge the DCSF not to be prescriptive in their requirements on this as many local authorities have spent much time and effort embedding their own assessments. However we would welcome additional methodologies in addition to the Ofsted reports, and we feel that the wording in paragraph 4.1 get the balance right i.e. 'Wherever possible, the programme should be guided by the principles in the Early Years Quality Improvement and Support Programme (EYQISP) guidance'

We also think that parents would greatly benefit from being able to access more information on quality assurance that the local authority holds. We would recommend this information on categorisation is available to FISs and shared with parents in order for them to make an informed judgement about the setting they choose.

This question refers to chapter 4 of the draft guidance.

11 Do you think that the Code is the appropriate place to set out ambitions for all LAs to establish childminder networks?

XYes

No

Not Sure

Although we think that in paragraph 4.16 the second bullet point should specify a timescale or state 'within time constraints' for childminders to achieve their Level 3 if they are delivering the free entitlement.

This question refers to chapter 6 of the draft guidance.

12 Do you agree that LAs should put in place Provider Agreements with providers in all sectors?

XYes

No

Not Sure

Yes. Provider agreements are essential, particularly for ensuring that provision is free at the point of delivery.

(please note that there is an error on the box on page 32. The second bullet point should read 'provide information' rather than 'provider information')

13 Do you have any comments on the draft amending Regulations? *(Please note that this is only a draft of the proposed amending Regulations and the exact wording may change before they are finalised)*

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply X

Here at the Department for Children, Schools and Families we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

XYes

No

All DCSF public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DCSF consultations are conducted, please contact Donna Harrison, DCSF Consultation Co-ordinator, tel: 01928 794304 / email: donna.harrison@dcf.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 4 January 2010

Send by post to:

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Send by e-mail to: pathfinder.mailbox@dcf.gsi.gov.uk