

Daycare Trust and Family and Parenting Institute response to *Consultation on Early Education and Childcare Staff Deployment*

Daycare Trust is the national childcare charity, campaigning for high quality, affordable childcare for all and representing the voice of children, parents and carers on childcare issues. The Family and Parenting Institute is an independent charity that exists to make the UK a better place for families and children. In January 2013, Daycare Trust and the Family and Parenting Institute merged and a new organisation will be launched in April 2013. Collectively, both organisations have almost 40 years' experience of policy and campaigning on issues affecting families.

Summary

While we support the government drive to improve quality and reduce the cost to parents of childcare, we oppose the proposed changes to mandatory ratios in childcare and other specific measures in the consultation document. We believe that:

- 1 Low staff-child ratios are critical to child development and quality in childcare. We are particularly concerned about the consequences of changes to ratios for children aged up to 36 months, which could threaten quality and care for infants at a critical stage of their development.
- 2 International evidence needs to be handled with care. Daycare Trust contributed to a recent research project with the London School of Economics on international childcare practices. Based on this research and other international evidence, the current ratios in England are appropriate and there is no strong case for change.
- 3 We fully support the drive to bring down the costs of childcare for parents. However, we believe that the economic rationale for the proposed reforms is flawed and will not deliver savings to parents.
- 4 The government's plans create a genuine risk of increased divergence in quality in childcare based on parents' ability to pay.

We would encourage the Department to use this consultation as an opportunity to reverse its approach to ratios.

The Department has also asked for views on other proposals set out in the *More great childcare* paper. We are particularly concerned about three further aspects of the government's plans:

- 5 We support the government's direction of travel on qualifications, but are disappointed by its selective interpretation of the Nutbrown Review recommendations. In particular, we believe that linking the graduate childcare qualification to the PGCE qualification is necessary to break down the professional barriers faced by teachers in early years, and that childminders must in future be expected to have achieved a level 3 early years qualification.

- 6 Local authorities fulfil a crucial role in childcare quality improvement. Whilst unnecessary overlap with Ofsted should be avoided, we disagree that it is in the public interest for Ofsted to be the sole organisation empowered to drive quality improvement in the early years sector.
- 7 Ending mandatory Ofsted registration and inspection for childminders and replacing it with a less intensive regime will undermine the challenge mechanism that, along with the introduction of the EYFS, has been critical in narrowing the quality gap between childminders and other early years settings. It will also lead to confusion for parents who will no longer be assured that individual childminders (and their settings) have been inspected.

1. Staff-child ratios

The current regulatory ratios were formalised following the Children Act 1989. Prior to that act, individual local authorities established quality requirements in their areas. The Children Act empowered the Secretary of State for Education to publish statutory guidance on childcare quality, although local authorities were not obliged to follow them. In preparing the Children Act childcare guidance, the government of the day consulted widely and looked at the most successful examples of local authority practice. Local authorities had based their own ratios on an analysis of what was viable for providers, taking into account the needs of children, parental decision-making, the pressures and stresses on staff and what was viable as a business model. These factors are interdependent: for example, quality depends not only on the practical capacity of staff to monitor children, but their wellbeing and morale; and business models that are not based on quality are generally not viable because parents will not choose providers they do not trust.

Local variation in ratios was in practice minimal, with fewer than ten local authorities using higher ratios than those recommended by the first statutory guidance in 1992.¹

The ratios were made statutory following the Care Standards Act 2000. This did not radically alter or impose new standards, but ended an anomaly that allowed a small number of providers to remain understaffed. The current ratios were not therefore centrally imposed; they were drawn from effective local practice. They are also not arbitrary, but have been 'learnt' by regulators and providers based on real experiences over a long period.

The idea of linking ratios to qualifications is not new. Linking more generous ratios to qualifications has in the past been a tool used by local authorities improve quality. However, local authorities used this incentive to impose lower ratios on providers using unqualified staff within the current regulatory minimums.

This background means that it is unlikely the ratios the Department has set out will be widely taken up by high quality providers. However, as we describe later in our

¹ A report by the Secretaries of State for Health and Wales on the Children Act 1989 in pursuance of their duties under Section 86(3) of the Act (1992), p. 54

response, the importance of public funding to many providers means that take-up will be driven for providers, and ultimately parents, who have the least choice.

Whilst changes to the regulatory ratios have been minor, it is not the case that the current ratios have gone unexamined. Successive governments commissioned a literature review, *Staff-Child Ratios in Care and Education Services for Young Children*, in 1995 and the further *Research on Ratios, Group Size and Staff Qualifications and Training in Early Years and Childcare Settings* in 2002. Each report confirmed that higher ratios result in better outcomes for staff and children. It is notable that when conditionality has been raised in these reviews, it has been proposed to operate *within* current ratios, so providers using less qualified staff would have to meet ratios lower than the current statutory minimum, rather than ratios above them. We note that recent guidance for local authorities on funding the free childcare offer notes that local authorities may wish to provide a premium to providers offering high quality care through, among other approaches, more generous staffing than the regulatory minimum.² This is consistent with what is known about securing high quality care that will have the most impact on raising children's wellbeing and achievement.

This background indicates that the Department's proposals are problematic because they will meet resistance from professionals and parents. We also believe the proposals cannot be justified on an objective analysis of quality taking into account all the relevant evidence. Childcare ratios must be guided by evidence and clear principles to be widely supported by parents and professionals. We are concerned that the Department's proposals do not meet this standard.

The push for higher qualifications in childcare reflects the strong evidence base on how healthy child development can be supported.³ The same evidence base shows that time and attention are a fundamental aspect of high quality care for infants. If high quality staff care for too many children, they cannot deliver high quality care. The EYFS framework makes this point:

*[T]he more time that staff spend working directly with children, the better the quality of interaction and overall learning experience for children.*⁴

The Tickell Review also set out concisely the needs of young children:

The contribution of parents and carers to their child's early development cannot be overstated. Strong bonds between parents and their children, forged from the outset, are critical for the development of wellbeing. Children begin to develop language from birth, and their progress depends on warm and positive interaction in safe, stimulating environments. A flow of conversation that is responsive to a child's interests and abilities is essential to their language and wider development. Children need opportunities to move and to explore their surroundings through all their senses, to talk with adults and to play with them. Without this, a child's development

² *Implementing the Early Years Single Funding Formula: Practice Guidance* (July 2009), p. 39

³ *The Early Years Foundation Stage (EYFS) Review: Report on the Evidence* (2011)

⁴ *Reforming the Early Years Foundation Stage: Government response to consultation* (2011), p. 25

*is likely to suffer, limiting their capacity to engage with new people and situations, and to learn new skills.*⁵

As this description highlights, staff time, among other factors, is an important part of quality in early years. For staff delivering quality childcare involves interaction, observation and planning, as well as supervision. Each of these factors is limited by the number of children present. The Tickell Review found that staff confirmed this point:

*The general feeling among early years practitioners is that the higher the number of staff to children, the better. Where there are fewer staff to children, practitioners have said that this impacts on their ability to observe and assess individual children, and ultimately on their ability to support fully their development.*⁶

Academic evidence supports the experience of those working directly with children. The Effective Provision of Pre-school Education study confirmed that the quantity of interactions is a significant factor in learning and development outcomes:

*Children's cognitive outcomes appear to be directly related to the quantity and quality of the teacher/adult planned and initiated focused group work for supporting children's learning.*⁷

Subsequent research has supported these findings. For example, recent research found that progress in developing language skills in infants depends both on the quality and quantity of staff interactions.⁸

We are disappointed that government ministers have repeatedly cited the support of the Organisation for Economic Co-operation and Development for the proposals set out in *More great childcare*. First, we are not aware that the OECD or any of its staff have expressed such support. Second, the OECD confirmed in its report *Education Today 2013: the OECD perspective* that 'Child-to-staff ratios play a key role in ensuring quality for better child development'.⁹ The OECD has also recently highlighted that England's 1:8 ratio for children over 3 is above the OECD average of 1:7 and should be reduced.¹⁰ The clear message from such expert sources is that both low ratios and highly qualified childcare staff are necessary for healthy child development.

The evidence is that ratios have a critical role in quality. The kind of trade-off between qualifications and ratios the *More great childcare* consultation document describes cannot be achieved without a reduction in quality. The government is not proposing a change that will have a small impact. The proposed new ratios would reduce the attention children receive from childcare staff by between 25 and 50 per

⁵ *The Early Years: Foundations for life, health and learning* (2011), p. 20

⁶ *Ibid*, pp. 39-40

⁷ *The Effective Provision of Pre-school Education Project: Final Report* (2004) p. 38

⁸ 'Promoting language in under 3s: Assessing language development and the quality of adult intervention', *European Early Childhood Education Research Journal*, Vol 19 Issue 2, Ferre Laevers (2011)

⁹ *Education Today 2013: The OECD Perspective* (2013), p. 21

¹⁰ [Quality Matters in Early Childhood Education and Care: United Kingdom \(England\) 2012](#)

cent. This will inevitably have a negative impact on quality. Matching improved qualifications with increased ratios will have, at best, a cancelling out effect. The current quality of early years care in England is not of a sufficient standard for any such trade off to be acceptable on cost grounds. Nor would this trade off serve explicit policy goals of raising children's educational outcomes and reducing social mobility. We are therefore firmly opposed to the changes to ratios the government has proposed.

2. International evidence

We do not agree that international comparisons lead to the conclusion that ratios in England are arbitrary or excessively stringent. The Department's table of international like-for-like comparisons does not provide a meaningful rationale for changes without considering the context of each of the countries involved.

The reasons for different regulatory approaches are various, but generally lie in different approaches to delivering childcare. For example, whilst Denmark has no statutory staff ratio, the real average ratio for children up to three is 1:3.3, comparable to the current English minimum and well below the proposed 1:6 for childminders. The majority of Danish childcare staff hold early years degrees. The absence of regulatory minimums is therefore linked to far higher expectations of quality than the government is proposing, and in fact the norm of high staff-child numbers.

In France, a minority of children below three in childcare attend formal settings, so the 1:5 ratio is not a good measure of actual practice, which is dominated by home carers. For older children, the French *écoles maternelles* have a far greater focus on scholastic aims than nurseries in England, and the relatively high number of children to staff reflects a very different pedagogical approach than that set out in the EYFS. This itself has become contentious in France, with repeated efforts to reform a system that has not succeeded in meeting aspirations for narrowing inequalities in outcomes for children.

We do not wish to labour the point. However, we are not aware of a compelling international example that advertises high ratios as a desirable component of early years care for young children.

3. The Department's economic rationale

The economic case for the proposed changes to ratios is unconvincing. First, as noted, few providers are generating significant profits, so it is likely that increasing margins would be taken as profit rather than passed on to parents. Profit margins in childcare are generally low, with three quarters (74 per cent) of profitable childcare businesses making less than £20,000, 59 per cent making less than £10,000 and 34 per cent making less than £5,000.¹¹ Just 44 per cent of nurseries surveyed in 2012 by the National Day Nurseries Association expected to make a profit in the coming year.¹²

¹¹ *Childcare Provider Finances Survey* (May 2012), p. 38

¹² *Business Performance Survey*, National Day Nurseries Association (January 2013), p. 8

Second, higher ratios are also likely to damage providers' ability to maintain occupancy. This is because parents take staffing levels into account when choosing childcare. A number of sources, including our own focus groups with parents confirm this point. A 2012 Daycare Trust and Mumsnet childcare survey showed that only 5 per cent of parents supported a reduction in the number of childcare staff, even if it meant that costs were reduced for them.¹³ Focus group research conducted by Daycare Trust and the Family and Parenting Institute in 2012 showed that parents across social groups attach high importance to low ratios and, without prior knowledge of regulatory ratios, generally suggest equal or lower staff minimums that are actually in place. This echoes the experience of successful providers, which find that they must emphasise staff-child interaction and quality to maintain high occupancy levels. Most recently, a YouGov to poll 1,600 parents commissioned by Policy Exchange found that 94 per cent believed that the number of staff per child was an important measure of quality, more than the 85 per cent who felt that the qualifications of staff was important.¹⁴

Higher qualification requirements will also erode margins through direct costs to providers in training fees and through the higher salaries qualified staff command.

Providers confirm that the reasons for the combination of rising fees and low profit margins are not stringent staff-child ratios. The main factors are increasing qualification requirements and therefore staff salaries; funding for the free offer that does not adequately cover costs, so providers must cross-subsidise by raising their fees elsewhere; business costs such as rent inflation; and the difficulty of maintaining occupancy levels.

The negative response to the government's proposals from childcare providers indicates there is not the potential for these changes to increase profit margins and reduce costs to parents. Providers struggling to make a profit have every incentive to advocate for a change that would help them financially. Providers have instead highlighted that other factors are far more important to their business.

4. Risk of greater disparities in quality developing in childcare

Ofsted inspection data shows that there is a difference in quality between childcare in the least and most deprived areas. A recent Policy Exchange report suggests that one reason for this is that where cost is a more important factor to parents, providers will tend to compete on cost rather than quality. The 2012 Department for Education *Childcare Provider Finances Survey* also indicates that profitability is more challenging for childcare providers in more deprived areas.¹⁵

Ofsted registration and the establishment of minimum standards in childcare, in combination with a greatly extended local authority role in providing early years care and support, has improved quality in childcare, and most likely decreased this quality gap. We are concerned that the government's proposals would push against further progress in reducing differences in quality.

¹³ www.mumsnet.com/family-friendly/childcare-costs-survey-2012

¹⁴ *Quality Childcare: Improving early years childcare*, Harriet Waldegrave (2013) p. 31

¹⁵ *Childcare Provider Finances Survey* (May 2012), p. 37

One particular concern is the effect minimum staff numbers have on staff morale and in turn on the quality of care providers deliver. Both the EPPE study and the Tickell Review raised this point:

*[T]here is strong evidence that under-qualified and under-supported staff have a detrimental impact on outcomes for children.*¹⁶

*[W]here staff-child interactions were rated as more 'Positive', better child social/behavioural outcomes are found.*¹⁷

The ability of providers to attract and retain high quality staff is not independent of ratios. Practitioners understand optimum staff-child ratios and will not gravitate towards or remain at settings that place an excessive burden on staff.

The providers most likely to use the higher ratios are those most reliant on care paid for through the free offer. Although local authorities may pay more to providers who use lower ratios, the reality of the financial pressure councils face means this is in practice rare. The majority of providers believe the free offer is underfunded, and despite guidance to the contrary, cross-subsidising childcare is a reality in most areas. The suggestion that the proposed ratios provide additional flexibility is therefore misleading because the factors that affect provider behaviour will ensure that the higher ratios must be taken up. The children in greatest need of high quality early years support are the very children most likely to receive lower quality care, both through receiving less attention from staff and having less positive interactions with those staff.

5. The government's response to the Nutbrown Review

We are glad that the government has accepted that training and qualifications for childcare staff should be improved, and linked this goal to raising the status of the profession. Staff working in the childcare sector should enjoy professional recognition in line with the absolutely crucial role of early care and education for children. Expectations of the knowledge and skills of childcare staff should be higher than is currently the case and these steps will help to achieve that.

However, we share Professor Cathy Nutbrown's concerns about aspects of the plans set out by the government in the *More great childcare* paper.¹⁸ The Nutbrown Review of childcare qualifications made very strong recommendations to improve the quality and status of the childcare profession, centred on giving graduates working in early years the same status and training as teachers by following a Post Graduate Certificate in Education programme. The government has missed the opportunity to take a big step forward in quality in early education by rejecting this recommendation.

¹⁶ *The Early Years: Foundations for life, health and learning* (2011), p. 4

¹⁷ *EPPE Project: Final Report* (2004), p. 31

¹⁸ *Shaking the foundations of quality? Why 'childcare' policy must not lead to poor-quality education and care*, Cathy Nutbrown (2013)

Giving graduates in childcare professional parity with teachers would boost their status and pay, and create a natural route for career progression. These are the problems that undermine the morale of staff currently working in early years and discourage graduates from joining the profession. The government has instead chosen to 'more closely match' training standards for the new Early Years Teacher (EYT) status with those of classroom teachers, but will maintain the professional ring-fence around graduate childcare staff by failing to link this training to the PGCE qualification. As a result, graduates considering a career in early years education may naturally have concerns about future career progression and an opportunity has been missed to attract more motivated, high quality graduates to childcare.

The second concern Professor Nutbrown has highlighted is the government's silence on her recommendation that all childminders should be qualified to 'level three' (A-Level standard). The Nutbrown Review rightly argued that childminders should be required to meet the same standards as nursery staff. This would improve the professional status of childminders and standards of care. The government's own Effective Provision of Pre-School Education research shows that only high quality early education improves the outcomes of disadvantaged children, and that quality is strongly associated with having well-qualified staff. If the aims of the free early education offer for the poorest two year olds are to be fulfilled, we need to improve staff qualifications. This is all the more important because the government has committed to ending mandatory Ofsted inspection of childminders.

Professor Nutbrown has also set out a sensible critique of the government's plans to increase staff-child ratios in childcare. As she indicates in her response:

'I fear that any positive effects for children that might have come about through enhancement in qualifications will be cancelled out because there will be too few early years professionals working with them.'

6. Ofsted as 'the sole arbiter of quality'

We are concerned by the Department's intention to reduce the role of local authorities in supporting childcare quality improvement. Research by Daycare Trust, the University of Oxford and A+ Education, published in the report *Improving quality in the early years*, shows that Ofsted inspections are limited as a measure of quality.¹⁹ This does not represent a failure on Ofsted's part: there are simply many aspects of quality that fall outside its statutory remit. Ofsted grades do not, for example, provide good information on social and emotional development, the nature of the physical environment and the way that providers create stimulating experiences for children.

There are well established quality benchmarking tools that complement Ofsted grades and encompass quality in a way that parents recognise. Whilst the correlation between Ofsted grades and child outcomes is mixed, these quality tools have an established relationship with positive learning and development outcomes. Local

¹⁹ *Improving Quality in the Early Years: A comparison of perspectives and measures*, Sandra Mathers, Rosanna Singler and Arjette Karemaker, Daycare Trust (2012)

authorities have successfully used these quality tools to support benchmarking and target funding to improve childcare services.

Local authorities should not be discouraged from helping providers to assess and improve quality. There are still insufficient 'good' or 'outstanding' providers to deliver the free childcare offer in many areas. It is therefore crucial that local authorities are empowered to fulfil a quality improvement role, particularly where this supports social mobility policy goals.

The Department also proposes to allow providers to pay a charge for a quick Ofsted re-inspection if they receive a poor grade. Ofsted ratings are frequently the only measure of quality available to parents and a low rating therefore has significant implications for a provider's business. We are concerned, however, that this step reflects excessive delays between inspections and is a fix for inadequacies in the inspection framework that would be better addressed through proper resourcing and support for Ofsted's role. There is also a concern that this step will replace an incentive for providers to ignore problems identified at an inspection, because they cannot improve their grade for a number of years, with an incentive to ignore problems until they are inspected, knowing that they can then pay for a quick re-inspection.

The proposal to give Ofsted greater flexibility to target inspections must be considered carefully. We question whether targeted inspection, where the frequency of Ofsted inspection is aligned with past performance, is an appropriate model for children's services. Experience of targeted inspections in the adult care sector has been, at best, mixed. It is now widely recognised in the light of a series of exposures of poor care that adult care providers for vulnerable groups, such as those with learning disabilities, should not have been subject to a 'light touch' targeted inspection regime and must receive rigorous regulatory oversight. Targeted inspections depend on the accuracy of provider self-assessment and the relevance of past performance, both of which can easily prove to be fallible or out of date measures. The report on abuses at the Winterbourne view care home and more recently the Mid Staffordshire public inquiry provide reminders that regulation for vulnerable groups must not drift from its core safeguarding function in the light of concerns about 'red tape'. It is unclear why the government believes it is appropriate to move regulatory oversight of services entrusted with the care of young children, the most vulnerable group in society, towards a model that has not served the interests of vulnerable groups elsewhere.

7. Childminder agencies and regulation

We are concerned that the Department's proposal will cause new costs to be passed on to parents. We have yet to see evidence of a sustainable model for childminder agencies that encompasses all of the roles the Department is proposing agencies will fulfil. For agencies to fulfil quality assurance, quality improvement and training and business support roles, it will be necessary for them to generate income through fees. Where these activities are currently provided through childminder networks, they are currently subsidised to some degree by local government. Similarly Ofsted achieves economies of scale which mean that local agencies would either need to charge more than Ofsted to achieve the same degree of monitoring activity, or

reduce that activity to avoid charging higher registration fees than Ofsted. Whilst we understand the Department's wish to allow local innovation, we believe clarity is needed to ensure that parents do not bear the cost of this change, and that quality assurance is not significantly watered down on cost grounds.

We also have concerns about agencies in relation to families with complex childcare needs (for example, parents with children with a disability, who work unusual hours, or who experience short term emergencies) who currently access support and childcare brokerage through Family Information Services. There is little clarity about how agencies will be expected to support parents more complex childcare needs. The Department should consider what safeguards can be put in place to ensure agencies do not 'cherry pick' the more profitable and straight forward childcare requirements and leave already disadvantaged families at a further disadvantage.

We do not agree that there should be an end to mandatory individual inspection of childminders by Ofsted. Two factors have driven central regulation of early years providers: first, the greatly extended use of childcare as more parents work in their children's youngest years brings a need to provide confidence in quality and safety to parents; second, the clear evidence and wide public acceptance that early education is critical to healthy child development means that early education, historically a low wage, low skilled profession, must supported to achieve a high level of quality and professionalism. Whilst regulation is not a complete answer to each of these challenges, it is a necessary part of an effective response to them.

Registration of childminders was not working effectively before the Care Standards Act 2000. The registration system did not provide the mechanism to provide confidence to parents or raise the standard of early education. There were 150 different approaches to regulation and inspection and no common standards to provide transparency in quality or give confidence to parents in childcare. There were also serious difficulties for providers; delays in registration were common and the high cost of registration was a barrier for people who wished to become childminders.

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.²⁰ Individual childminder inspection has played a key role in improving standards in the childminding profession. There is no reason to suppose returning childminder registration to a local level, with tolerance for a fragmented approach to registration and inspection, will not lead to the same administrative and quality difficulties the Care Standards Act aimed to correct.

In 2012 Daycare Trust published an analysis, *Childminders in the Netherlands*, which set out the potential risks of local childminder agencies.²¹ The paper highlights that childminders are already seen as the least trusted part of the childcare sector, and parents look to regulation to assure them of the quality of the service provided.

²⁰ Standing Committee G (Care Standards Bill), Sixteenth Sitting, 29 June 2000, *House of Commons Official Report*, p. 557

²¹ *Childminders in the Netherlands*, Daycare Trust staff and Eva Lloyd (2012)

Deregulation would run the risk of parents using fewer childminders, rather than more, or of a two-tier system developing.

Ofsted has noted that the challenge mechanism of inspection is an important part of driving improvement in early years provision.²² A key question when assessing the merits of the government's proposals to end mandatory Ofsted inspection of childminders is therefore of whether agencies will provide an effective inspection and challenge mechanism. Two issues lead us to believe that they will not: agencies will not be resourced sufficiently to replicate Ofsted's role (unless they charge an amount that will pass significant costs on to childminders or parents); and agencies will have an incentive to err on the side of generosity in assessing the performance of childminders because they will be judged by Ofsted on the relative performance of their childminders.

Parents want a regulatory system for childminders that ensures high-quality provision, training support and inspections for quality. This is best achieved by having childminders as part of a single, unified quality framework—the Early Years Foundation Stage—rather than childminders being subject to a separate regime which would run the risk of them being perceived as providing a second class service compared with nurseries. We support developing the role of childminder networks, which provide much needed support and training; and this can be achieved through an agency model which includes additional brokerage and business support. However, conflating this aim with a new voluntary inspection regime is unnecessary and likely to lead to problems.

²² *The impact of the Early Years Foundation Stage*, Ofsted (2011), p. 8