

PACEY¹ response to Department for Education's consultation 'Childcare: regulatory changes'

16 September 2022

PACEY welcomes the opportunity to respond to proposed regulatory changes to childcare and early years in England.

Ambitious plans for the highest quality of early education and childcare should be at the core of Government policy. What we see in these proposed changes, however, is a focus on reducing costs and 'passing savings on' to families, with little mention of the needs of children and of the need for investment in a long-neglected sector.

We await the details of further reforms to the early education and childcare sector. However, in the meantime there is every indication that the proposals outlined in this consultation on regulation fall woefully short of our continued call for a long-term strategy for our sector. We want a long-term vision that includes aspirational investment, a focus on progressive outcomes for all children, and a robust workforce strategy to ensure that those working in childminder settings, nurseries and pre-schools can thrive in their work, and not just struggle to survive.

Our submission is drawn from the experiences of our members and others in the sector. That information has been gathered through an online survey with self-selecting responders. It was live between August 22nd and September 12th, 2022 and was shared via our social media channels, website and in our email newsletter to members in England. We received 205 respondents, of these 89% were childminders, 5% nursery or other group setting, 4% were classified as 'other role in early years sector' and 1% parent.

Proposal A: Ratios in Group-based settings

Changing the current statutory minimum staff:child ratios in England for 2-year-olds in group settings from 1:4 to 1:5 (reflecting the requirement in Scotland).

PACEY believes that fundamental improvements are required to address the low morale, departing workforce and escalating costs that the sector faces. This tinkering with ratio numbers in group settings will do very little to address the real deep-rooted problems.

This is reflected in the feedback we have received. Of our survey respondents, 53% either disagreed or strongly disagreed with this change being implemented and only 29% agreed/strongly agreed with the proposal.

The following are examples of comments we received:

¹ PACEY is the Professional Association for Childcare and Early Years. Our aim is for all children to experience high quality childcare and early learning. We support early years professionals, including our 25,000 members, to provide high quality provision through training, resources, advice and peer support, and champion the vital role they play in preparing children for a bright future.

- Only adds to workforce pressure, responsibility and stress which is already at an all-time high with challenges around recruitment, retention, low pay and poor mental health. Harder for staff to meet the demands and pressure on safeguarding and supervision.
- Demanding age group requiring time, resource and one-on-one engaged interactions (and those claiming the 2-year-old entitlement offer are particularly vulnerable facing family instability).
- Timing of this change is questionable - concerns about the impact of COVID on this particular age group on communication, language, social and emotional wellbeing.

PACEY is concerned that the purpose of the proposals has been misleading in communications to the sector and the wider public, having been posed as a solution to 'reduce childcare costs' for families. Only 2% of our survey respondents agreed that changing the statutory minimum ratios in settings would result in lowered cost of provision for parents (11% selected 'possibly' and 79% said it would not lower costs at all).

If the Department for Education (DfE) is expecting group settings to lower fees for families, it needs to consider the impact this could have on other areas of the early years and childcare sector.

One childminder said:

"To remain competitive, we have to consider the fees that other local providers set. Nurseries and other large group settings may be able to afford lowering their fees to fill more spaces in response to the ratio changes, but sole providers like childminders cannot afford to do that, especially with the current cost of living crisis."

Other considerations for group settings

Where children aged 3-4 are attending a setting for less than 4 hours per day, increasing ratios from 1:8 to 1:10 (as in Scotland). Where staff are qualified to Level 6, the ratio of 1:13 would continue to apply.

Again, a high number of respondents opposed this change mainly due to difficulty monitoring those numbers of children at a high-quality level, with 50% disagreeing or strongly disagreeing, and only 25% agreeing with it.

Allowing staff working to be included within the ratio at the qualification level they are working towards (e.g. a member of staff working towards a Level 3 qualification can be included in ratio as a Level 3, not a Level 2)

This was split among respondents with 32% agreeing or strongly agreeing with this proposal, 36% disagreeing and 31% who selected 'neither agree nor disagree'.

"Financial investment and increased support is needed in early years - the most important years of life, as this will have a significant positive impact on later learning and well-being. This ratio change isn't investing in children or valuing them, it isn't providing the best start in life, nor is it helping parents and families. It places unnecessary pressure on an over stretched and undervalued workforce." Comment from practitioner

Proposal B and C: Childminder settings

Changes to wording around staff:child ratios for childminders when caring for sibling groups (Proposal B) and their own children (Proposal C).

In general PACEY believes these proposals would be welcomed by childminders for possible increased flexibility and earning potential, and by parents, allowing them more choice if they are looking for provision for siblings. The majority of our survey respondents were also in favour of updating the terminology within the EYFS to be clearer that childminders can exceed ratios when caring for sibling babies and sibling children (Proposal B, 75% of our survey respondents agreed) and for their own babies and children (Proposal C, 68% agree).

However, clarity is needed around “Continuity of care”. We suggest explaining in some way that “continuity of care” is for existing children/families and does not apply to new business - some childminders may be wrongly applying this as clear protocol does not currently exist.

“I don't apply any ratios flexibility for fear of accidentally overcrowding and find myself in trouble with Ofsted”

We are concerned that the change may encourage childminders to increase ratios in under 4's as a permanent solution. This is not necessarily a negative, but we suggest some way of monitoring this to ensure that suitable risk assessments are done and that childminders are supported with that decision.

We suggest some additional clarification and guidance on this to accompany this update. The DfE needs to consider that ‘exceptionally’ childminders can and do already expand ratios under section 3.31. PACEY provided guidance around this with support from Ofsted stressing that risk assessments need to be applied, permission obtained from parents, that it is to support continuity of care and not for new business etc. Any change to wording in 3.42 and 3.43 needs to recognise how this is different to 3.31 to avoid confusion and be accompanied by additional support. We had some feedback on the new proposals that it is unclear whether the information is ‘new’ or clarification.

We asked our survey respondents ‘As a childminder, do you already apply flexibility to ratios for children under five in your setting under the existing framework?’ 10% said they permanently apply flexibility to ratios, 23% “regularly”, 39% “occasionally” 27% said they never do this.

We know that the majority of childminders use their professional judgement to make this decision:

“This is very much dependent on individual circumstances, the particular children in my care and their stage of development and understanding, their needs and. If I believed quality of care was compromised, I wouldn't provide flexibility on any occasion.”

Other considerations for childminders

Eight-year olds

The DfE might consider whether children approaching age 8 (i.e. in year 3 at school) could be considered as ‘over 8’ under ratio requirements, in the same way that EYFS children are regarded as

over 5 once they begin full-time school in September. This is a move we believe would be welcomed by childminders in increasing flexibility.

Impact on wraparound provision

The DfE should consider the possibility that expanding this flexibility for under-fives whilst retaining the maximum of six under 8's could discourage childminders from having older children in the setting. We know that provision for wrap-around and care for school-aged children is in short supply in some areas where parents are returning to the workplace, with many childminders relying on EYFS children to make a living.

Related children

The proposed updates bring to light the issue around childminders being unable to claim entitlement funding for children related to them. The Childcare Act makes it clear that 'childminders cannot claim early years funding for their own child or a related child, even if they are claiming funding for other children.'

PACEY has already suggested a review of this rule as part of a wider package of support for childminders, as we know this is a major barrier for many. In our survey, 86% of respondents support a change in this rule.

Many childminders who have children in the 2-4 age group send their children to nurseries or a different setting due to this rule. Changing that rule would have a great impact on the sector and, under the new proposed ratio wording, the place that the childminder is 'using up' by having their child in the setting would be profitable.

"This rule undermines an Ofsted Registered Childminder's professionalism and has a significant and detrimental impact on the child being cared for due to having to leave their already-established setting."

Adequate supervision while eating

DfE proposal to make paragraph 3.29 of the EYFS explicit that adequate supervision whilst eating means that children must be within sight and hearing of a member of staff.

PACEY supports this clarification within the EYFS. It is our understanding that the vast majority of practitioners already interpret the guidance in this way however we support the amendment to make this abundantly clear.

"It should go without saying that all children should be always under supervision and especially whilst eating. Not least to avoid a choking incident (which can be silent) and to be available immediately if needed"

Helen Donohoe

Policy Advisor

helen.donohoe@pacey.org.uk
