



Dr Andrea Coscelli CBE  
Chief Executive  
Competition and Markets Authority  
The Cabot  
25 Cabot Square  
London  
E14 4QZ

May 21 2020

Dear Dr Coscelli,

We are writing to you as leaders of membership organisations who between us, represent 36,000 members from childcare and early years providers (childminders, nurseries, pre-schools, maintained nurseries and school based settings). We want to set out our position in regard to your recently announced programme of work to investigate reports of childcare and nursery businesses failing to respect cancellation rights during the Coronavirus (Covid-19) pandemic.

We note that the three areas for investigation are:

- Weddings and private events
- Holiday accommodation
- Nurseries and childcare providers

We believe it wrong that childcare providers, a number of whom are currently contributing to the national response to Covid-19 throughout the UK by opening for key workers' and those of vulnerable children as well as providing families with remote support for early education, have been drawn into a review which appears to have been heavily influenced by poor business practices in other commercial sectors.

We have also noted that the CMA has stated that you would expect consumers would receive a full refund if childcare providers haven't been able to fulfil a contract due to the current lockdown. We have serious concerns about the potential impact on all early education and childcare providers should this approach be followed without consideration of the wider market issues including insurance cover and consistent and historic underfunding through UK Government funded schemes. Unlike one-off transactions like a holiday or a wedding, childcare is as service that families rely on every day for many years; ensuring this service is sustainable and still present when parents/carers need to go back to work is a critical distinction your investigation will need to make.

We have all been clear to our members, who haven't been delivering emergency childcare, that they should focus on staying in touch with the children and families who have been using their childcare service and to explore whether parents are able to pay a voluntary retainer fee, so their childcare setting can remain in business to care for their children when this pandemic is over. This has also in many cases been linked to parental demand to keep spaces open for their children.

Furthermore, we have made it clear to our members that continuing to charge or refusing to give a refund when their service is closed is not advisable, especially as they will want their families to return to them afterwards.

We know from our members that the vast majority of childcare providers are closed and not charging fees or are open to key worker's children and vulnerable children despite making significant losses and putting their own health at risk. Childcare providers are struggling like many other businesses at the moment. They have had to contend with forced closures; insurers who despite offering business interruption in their policies have not paid out for claims; and conflicting government guidance on staff furlough and government funded early education entitlement. This has been compounded by years of UK Government underfunding of the early education entitlements.

While we recognise that parents are also facing a difficult position with many looking at reduced income or people being left out of work as a result of the Coronavirus outbreak, data from the Department for Education in England shows that 54% of private nurseries, 74% of voluntary run childcare settings and 81% of childminders either run at a loss or just break-even<sup>1</sup>. This means that the sector is generally not in a secure financial position coming into this crisis.

Many providers use contracts with parents and families that include clauses around unexpected closures that are outside their own control, however these are appropriate for short-term issues not weeks of enforced closure. We believe that most members may not be following normal contracts at this time and adopting more of an informal COVID-19 approach or policy, taking into account where we all find ourselves and parental ability to pay. We also know that a great many providers are going out of their way to connect with their children remotely; providing reassurance, activities and complementary resources to support home learning environments. We are aware that some parents continue to pay retainer fees voluntarily and in other cases, parents have utilised their cancellation clauses in their pre-existing contracts.

Childcare providers are providing a vital service that will be key to supporting people to return to work and helping children who have missed out on their early education to catch up. They need to be supported to recover from this pandemic, not unnecessarily investigated. We need them there and in business when working parents return to their jobs and when we begin to kick-start the economy.

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/795332/Frontier - SCEYP 2018 Finance Report v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795332/Frontier_-_SCEYP_2018_Finance_Report_v2.pdf)

As you further your investigation in regard to businesses failing to respect cancellation rights, we urge you to ensure that the childcare and early years sector is not further put at risk through a misrepresentation of their practice. We have first-hand knowledge of the many concerns and challenges facing the sector and there is no capacity for further stresses.

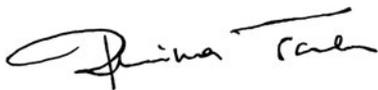
In light of the above, we are jointly requesting urgent clarification from you about how the investigation into early education and childcare providers will be conducted and that we be included going forward. We are also asking that providers' approaches to working with parents are fully considered as part of any investigation with an understanding of the financial pressures they are under as well as their position as a consumer of services such as insurance. We would welcome the opportunity to discuss these matters and more of the details about your investigation with you or members of your team. You can contact Helen Donohoe, Policy Advisor, PACEY in the first instance [REDACTED].

Regards,

Liz Bayram  
Chief executive of the Professional Association for Childcare and Early Years (PACEY)



Purnima Tanuku,  
Chief executive of National Day Nurseries Association (NDNA)



Graeme McAlister  
Chief executive of Scottish Childminding Association (SCMA)

