

## **Supporting Families in the Foundation Years: Proposed Changes to the Entitlement to Free Early Education and Childcare Sufficiency**

**Daycare Trust response**  
**February 2012**

### **1. Does the proposed statutory guidance make clear what local authorities should do to deliver the free early education entitlement and secure sufficient early education and childcare for two, three and four year olds?**

Daycare Trust acknowledges the motivation behind the revised Code of Practice, and the Government's desire to reduce the level of central prescription in the delivery of early education and childcare. We agree that it is sensible to review guidance regularly to see if there is superfluous information or whether it can be shortened to aid clarity.

However, we are concerned that on this occasion the shortening and slimming down has gone too far, and that the removal of a more detailed description of the requirements, the wider policy context and good practice information in the previous Codes removes material that is useful to those working in this area, as well as to parents and those advising them.

There is already evidence of local authorities failing to meet their duties under the Childcare Act, including sections 6, 7, 11 and 12, and associated regulations. This includes failing to deliver the free entitlement for three and four year-olds (including a lack of places in some areas, a lack of consideration for parental demand for flexibility, as well as allowing providers to charge compulsory or voluntary fees as a condition of providing the free entitlement), failing to ensure that there is sufficient childcare for working parents, and failing to provide information and brokerage to support parents to access childcare.

This evidence includes the following:

1. A survey of over 500 parents in summer 2010 whose children received the 12.5 hours of free early education entitlement for three and four year-olds. The survey, timed to coincide with both the extension of the free entitlement to 15 hours a week and the introduction of the current version of the Code of Practice for the free entitlement, showed:

- Many childcare settings charging top-up fees, with 23% of parents reporting they had been asked to pay for some of the 12.5 hour 'free' entitlement.
  - 7% of parents being charged 'upfront fees' with the free entitlement then 'refunded' to parents at the end of term.
  - A lack of transparency, with 12% of parents unsure whether or not they had been charged top-up fees; just 38% of parents receiving a bill with a clear break-down of costs; and no common language amongst childcare providers to communicate about the free entitlement.
2. Daycare Trust's Childcare Costs Survey 2012 (to be published in February 2012) found that in 50% per cent of Family Information Services, parents had reported a lack of childcare in the previous 12 months. The same survey found that 50% of English local authorities did not have sufficient childcare for all 3 and 4 year olds and 51% of local authorities did not have enough places for 2 year olds who will qualify for the free early education offer.
3. In a survey of NAFIS members in November 2011, we found that.
- 76 per cent of local authorities have experienced recent or planned cuts to their budget for family information, 62 per cent have cut staffing and 45 per cent have reduced outreach activity.
  - Five English local authorities were not offering a childcare brokerage service, despite the obligation to do so in regulations.
  - 22 local authorities in England have recently merged their Family Information Services into call centres or plan to do so by April. This figure is an underestimate as we did not receive survey responses from three local authorities where we know that this has already happened.
  - Where a merger into a call centre had recently occurred or was planned just three local authorities out of 22 had retained a second tier Family Information Service to deal with more complex enquiries.
  - Only two-thirds of FIS managers believed their service was fully compliant with the Childcare Act 2006.
  - Although the 2010 version of the Code of Practice introduced greater clarity over the use of additional fees and similar practices, we do not believe that the evidence shows that the need for detailed guidance has disappeared. Daycare Trust hears regularly from parents who have faced difficulties accessing their entire free entitlement.

There are already too few avenues for parents and those working with them to challenge local authorities' failure to meet the requirements of the Childcare Act, as described above. As far as we are aware there have been no legal challenges against a local authority, as this would be a costly and time-consuming process and not one which parents would undertake lightly. Although huge progress has been made in the last decade, we are concerned that in some areas early years services are not embedded and the availability and quality of services could easily be eroded.

We believe that there is still widespread misconception about the status of aspects of the Code of Practice which are phrased as 'should', and that these are seen as discretionary. Even though the Code emphasises that local authorities should not depart from the guidance unless they have good reason to do so, in practice the lack of accountability and challenge means that they will continue to ignore aspects of the Code.

The free entitlement, and indeed the wider early years sector such as Sure Start Children's Centres, is still a relatively immature sector. Awareness and take up of the free entitlement is still not universal (particularly among disadvantaged communities) and local authorities differ considerably in their commitment to ensuring appropriate provision for families.

Our concern is that by reducing the guidance so considerably, it lowers the bar for local authorities and leaves too much to local discretion and enforcement, which makes it more difficult for parents to understand their entitlements, as well as giving them fewer avenues to challenge should they need to. We have also had feedback from people working in local authorities within early years teams and Family Information Services that the lack of detail in the Code gives them less information with which to make the case for resources.

Therefore, as well as retaining aspects of the Code which set out in more detail what is acceptable (and therefore giving parents an important reference) we would like to see more active monitoring of the delivery of the duties under the Childcare Act by the Department for Education.

In relation to the sufficiency guidance, the most recent version of the guidance was created less than two years ago, after a consultation and a lot of work by (then) DCSF officials, local authorities and other stakeholders. Further detail was added to the guidance in an attempt to align the delivery of Childcare Sufficiency Assessments across local authorities, to allow comparison of data nationally. We believe the lack of any national analysis of sufficiency data has been a major gap since the implementation of the Childcare Act. Completing such an analysis would allow Government to identify where there were particular gaps in sufficiency, whether geographically, for certain groups, or at certain times. Such an exercise has been conducted in Wales, and has yielded useful findings. From Daycare Trust's analysis of Childcare Sufficiency Assessments, we believe they are weak in a number of areas. Crucially, the action plans attached to CSAs are very variable in quality and many local authorities are not held to account for these action plans. In many CSAs there is little analysis of childcare for parents working atypical hours, the interaction between informal and formal childcare, and the impact that a lack of affordable childcare has on parents' ability to work, and therefore on the local labour market.

We also believe that many CSAs are methodologically flawed since they focus on parents who are currently using childcare, rather than utilising research methods to reach out to parents who are not currently using services (and therefore identifying

unmet demand). We believe that improving the quality of CSAs, monitoring local authorities' use of CSA action plans, and collating the findings nationally, would make them a more useful exercise and justify the resources needed to complete them. It would enable the Government to better target its resources through supporting services that will make the most difference to parents and children. For example CSAs could be a useful tool for identifying the childcare needs of lone parents who the Government wishes to support to return to work.

**2. Should eligibility for the two year old entitlement, to be set out in regulations, be based upon the criteria (set out in paragraph 4.4) used to identify which school-age children are entitled to free school meals?**

Yes. Daycare Trust agrees with the proposed eligibility criteria for identifying the initial 20 per cent of two year-olds who will be entitled to early education. Using the existing FSM checking service will be a simple way for local authorities to check whether a family is eligible for the entitlement (subject to the system continuing to work after the transition to Universal Credit). Local authorities should, however, be allowed to use their discretion to award places to disadvantaged children who fall outside FSM eligibility.

Clearly the announcement that the entitlement will be extended to cover 40 per cent of families from 2014 changes the proposals considerably, and we understand that the Government will come forward with further proposals about how this further group is identified. Daycare Trust urges the Government to find as simple a method as possible to reduce complexity for both parents and local authorities. A complex means-test which requires parents to produce evidence of income would be off-putting and have significant costs for local authorities.

One initial suggestion that we would like to make is that the entitlement could be linked in some way to the receipt of Working Tax Credit. This would ensure that low income working families could also be targeted, and would therefore have additional benefits in reducing their childcare costs, making work more financially viable as well as providing benefits to their children. The entitlement could also be extended to certain other groups, for example disabled children and those with special educational needs.

**3. Should looked after children be given the legal entitlement to free early education at age two?**

Yes. Daycare Trust supports this suggestion, although we hope that many local authorities are going beyond this and offering a full package of support for looked after children and any foster families in which they are living. Given the very high proportion of looked after children who achieve poor educational outcomes, we believe that local authorities should be offering full time, high quality early education as part of a package of wider support.

**4. Do you support the setting out in guidance of further groups of children, beyond those given a legal entitlement in regulations, who should be given priority consideration for free early education at age two?**

Yes. The Government's suggestion is that local authorities use any additional resources arising from lower than full take up by economically disadvantaged and looked after two year-olds to provide places for other children. The consultation says that the "Government hopes that local authorities will make the most of this flexibility".

While we agree with the suggestion of specifying further groups of children in guidance, we are pessimistic about the extent to which additional places will be provided, given the challenge that local authorities face in increasing the number of places for those children with a statutory entitlement, and their wider budgetary pressures. We believe that any underspend will effectively be swallowed up for other local authority services. In order to prevent this there needs to be much more robust evidence collection of the number of two year olds accessing free early education, and on the total amount spent on delivering these places, in order for local communities and parents to hold their councils to account. The Government has made a useful start in this respect by publishing expected numbers of children who will be eligible from September 2013, but this information needs to be regularly updated and compared with actual numbers. We firmly believe that the corollary of local discretion is complete transparency in order to facilitate accountability.

**5. Should guidance propose that priority consideration for free early education at age two is given to any of the following groups (insofar as they do not meet eligibility criteria set out in regulations)?**

Children with special educational needs and disabled children - yes

Children in need - yes

Children identified by health visitors/other health professionals/children's centres - yes

Service children - yes

We believe that in the initial stage of extending the entitlement in September 2013, local authorities should be given discretion to make their own arrangements and that all of the above groups should be suggested as groups which local authorities may choose to prioritise. There may be other groups that specific authorities wish to prioritise, for example, Gypsy and Traveller children.

Free early education places should be considered an essential part of an effective early intervention strategy and professionals working with families (such as health visitors) should be able to recommend a place is given to any child who is at risk of poor outcomes due to their *family* circumstances. This could be unrelated to any material disadvantage – for example where there is illness or disability affecting the parents or another child in the family.

**6. Do you agree that eligible children should start to receive an entitlement to free early education from the term following their second birthday (1 September, 1 January or 1 April)?**

Yes, we support this suggestion as it mirrors the arrangements for three and four year-olds. We would like the guidance to recommend that local authorities plan outreach activities well in advance and to work with parents to make their choice of setting and all the necessary arrangements so that the child can benefit from the full year of early education.

**7. Do you agree that, where a child first meets eligibility criteria part way through the year, the entitlement should commence from the start of the month in which the next school term begins?**

Yes. Daycare Trust believes that allowing the entitlement to commence from the start of the month in which the next term begins, while allowing local authorities to offer a place sooner, strikes an appropriate balance.

**8. For a part-year entitlement, do you agree that regulations should allow flexibility, requiring the local authority to secure an appropriate number of hours, rather than setting out a precise number of hours?**

No. Daycare Trust believes that regulations should specify a minimum number of hours that a child can receive should they start their entitlement part-way through the year.

The aim of this would be to encourage local authorities to provide additional hours should a child start their entitlement late – perhaps even up to a full-time place for one term. We consider this to be a fair solution (given that local authorities will have received funding based on that child receiving 570 hours of early education) and one which might allow a child to ‘catch up’ and receive the maximum benefit from the entitlement.

The consultation suggests that a disadvantage of specifying a termly allowance is that terms vary in length. We therefore suggest that the minimum number of hours is based on a weekly figure – ie 15 hours for the number of weeks in the term/terms remaining in that school year.

**9. Do you agree that, once they take up a free place, a child should remain entitled to a place until they become eligible for the free entitlement for three year olds, regardless of whether their family's circumstances change?**

Yes. Daycare Trust agrees that it would be inappropriate to remove an entitlement from a child part way through the year, due to the disruption for the child and the disincentive for parents to look for work.

Many disadvantaged parents are also engaged in the peripheral/temporary labour market meaning that any change in their circumstances may only be short-term.

Maintaining a child's eligibility will ensure that parents' acquisition of unstable work does not negatively impact on their children.

#### **10. How should funding for the free entitlement for disadvantaged two year olds be passed to local authorities from 2013-14?**

Daycare Trust is concerned that the full amount of funding allocated for two year-old places will not be used for this purpose, since the funding is currently distributed through the Early Intervention Grant, which is not ring-fenced and in 2011/12 was considerably lower than the amount allocated under predecessor grants in 2010/11.

We therefore recommend that in 2013-14 funding for two year olds should be integrated with funding for three and four year olds and delivered through the Dedicated Schools Grant. We have concerns that the current arrangements could prevent some parents from accessing what will soon be a statutory entitlement. We believe that it is inconsistent to have a statutory entitlement to a free early education place, but no requirement on the local authority to provide adequate funding to meet this entitlement. Moreover, having two, three and four year old funding allocated from the same budget would help make the process of funding more transparent for providers and parents.

Funding early years provision through the DSG is not without problems, however. Daycare Trust has long argued that there are particular sustainability challenges for providers in disadvantaged areas who are not able to charge additional fees to working parents, in addition to providing the free entitlement.

In the Government's recent consultation on schools funding, which included a number of questions on early years funding, it was suggested that targeting resources on individual children and targeting it towards settings in deprived areas represent entirely different approaches, and suggested that they would lead to different outcomes. Daycare Trust believes that in fact both approaches are needed. Childcare providers need the resources and incentives to take on disadvantaged children and to provide them with the best possible start in life, but at the same time there is a need for providers to be able to set up and remain sustainable in poorer areas. We therefore recommend identifying resources for targeting disadvantaged children at a national level, alongside additional funding that local authorities can provide as a lump sum or on an ongoing basis to providers operating in disadvantaged areas.

In addition, in many areas early years departments do not secure a fair amount of funding for the services they provide, because decisions are made locally by the Schools Forum, which is dominated by representatives from the school sector. The recent National Audit Office report on the free entitlement highlighted that the proportion of the DSG spent on the free entitlement varied widely, from 3.5% to 9.8%, with some evidence that those authorities spending a higher proportion on early years were those with higher levels of deprivation. We believe that a more transparent and strategic way of allocating funding is needed, which would ensure that funding intended for early years is spent in this area.

We understand that the Government is currently reviewing the Dedicated Schools Grant and considering moving to a national funding formula. In a response to the recent consultation on schools funding, we stated that Daycare Trust opposes the introduction of a funding formula, and a move away from a Spend Plus approach, if it is going to mean that local authorities with high levels of deprivation lose out at the expense of those with lower levels of disadvantage. We would welcome further information about the precise implications of a formula as although the consultation said that in the short term allocations would be largely based on what local authorities are currently spending, it does not say what would happen over time. We cannot agree that it is 'fairer' to have a formula without a clearer explanation of the winners and losers. Such an analysis has been conducted by the Institute for Fiscal Studies in relation to school funding, but we are not aware of a comparative analysis for early years.

In the long term, Daycare Trust believes that a new approach should be taken which seeks to allocate funding for children's learning and development more evenly across a child's life (from birth to 21) and which allows services to be jointly commissioned by different bodies, so that they can be accessed by families in a seamless way. We believe this should be based on a cost-benefit model, which would show the benefits of spending proportionately more in a child's early years (as suggested in the Marmot Review of Health Inequalities, and the work of economist Professor James Heckmann, for example).

**11. What are the key challenges for local authorities and early education providers in securing sufficient places of good quality early education for disadvantaged two year olds, and how might Government help to meet them?**

There are a number of challenges which local authorities face.

**Capacity**

There is a major challenge for local authorities to make available many more places for two year olds by September 2013, and more again by 2014. In some local authorities, the number of additional places is several hundred more than they are currently delivering. Local authorities with large numbers of disadvantaged children – London boroughs for example, who could have more than 50% of their children eligible even in the first wave – have a huge challenge to quickly scale up capacity. A further related challenge is the lack of capital funding associated with the extension of entitlement. Local authorities and providers are reporting the difficulties they will have in securing new provision, or ensuring that existing provision is suitable for two year-olds, with no capital funding available. Again, in London there are particular challenges related to the high cost of premises and difficulty securing outside space.

We welcome the Government's approach to date of publicising the offer among local authorities and the expected number of places that they will need to find, and of monitoring this in the run up to the entitlement becoming statutory, but believe that the



Government may need to consider providing additional funding to local authorities to support capacity building.

We also believe that there is great potential for delivering the offer through childminders, and that local authorities should prioritise identifying appropriate childminders and ensuring that they meet the relevant quality criteria.

Some local authorities and providers are reporting that the level of funding offered by local authorities is too low to incentive providers to offer two year-old places. Others are suggesting that there needs to be a greater differential in the funding available between high and low cost areas.

### **Quality**

Daycare Trust recommends that places for two year-olds should be of higher quality than those for three and four year-olds. Local authorities will therefore need to support settings to raise their quality levels, yet there are challenges related to the low levels of qualifications among much of the workforce, and the poor quality of some training courses. In particular, many practitioners do not have appropriate training in working with very young children and supporting their development, which is essential if they are to be working with disadvantaged two year olds. Daycare Trust is currently conducting a research project on improving quality, in partnership with the University of Oxford and A+ Education and funded by the Nuffield Foundation. Through this research we have heard from both providers and local authority staff that funding cuts have already had a huge impact on their ability to provide training and other support for quality improvement work.

Government could assist with this through funding targeted quality improvement activities, and through providing funding for settings to recruit and retain highly qualified staff (for example through re-establishing the Graduate Leader Fund).

### **Take up**

We believe that the expected take up of 70% used in the Government's impact assessment is overly optimistic, especially given the reduction in outreach and information services in many local authorities. The impact assessment states that the Government has not put aside programme costs to support the identification of eligible two year olds, since Sure Start Children's Centres and health visitors are already engaged in outreach activity. While this may be the case in some local authorities, we believe that there is far from universal coverage of effective outreach activities.

Some areas have reduced the funding for Sure Start significantly, others have very poor coverage of health visitors. We have also seen cuts to outreach activities delivered through Family Information Services – according to a recent Daycare Trust/NAFIS survey of Family Information Services, 45% had seen a reduction in their outreach services. We are concerned that at a time when outreach in to disadvantaged communities is needed more than ever, financial pressures on local authorities are leading them to cut back on this essential work.

We feel there is an inconsistency in creating a new statutory entitlement, but at the same time reducing local authorities' ability to deliver through significant funding cuts. The removal of the ring-fence for Sure Start funding, among other streams relevant to this entitlement, further adds to the likelihood that not all the funding earmarked for the places will in fact be spent on it.

Another factor that will make it difficult to identify eligible children is high mobility among disadvantaged groups (which may be increased as a result of the changes to Housing Benefit and the benefit cap).

As well as the challenges in identifying families who may be eligible for the entitlement, there is a further challenge in providing information to families to support their choice, due to cuts to local authority Family Information Services. As described in the answer to question 1, there have been cuts to funding and staffing to FIS around the country, and some local authorities are not offering a brokerage service. We believe this represents a significant risk to effective delivery of the two year-old offer, and the families involved are likely to need significant support to access their entitlement.

We believe that the Government should identify good practice in identifying eligible two year-olds, and working with parents to encourage and support them to take up the entitlement. This can build on the evaluation of the two year-old pilots, the learning from the current trials, and work undertaken by local authorities in the next year or two. This could highlight the role that local services such as Family Information Services, children's centres, schools, Jobcentre Plus, health services and others should play in publicising the entitlement.

**12. Do you support the proposal that free entitlement hours could be taken between 7am and 7pm (rather than between 8am and 6pm as currently)?**

Yes. Daycare Trust welcomes this change, which was recommended in our 2011 report entitled 'Open all hours: flexible childcare in the 24/7 era'. We believe that this proposal strikes a balance between making the entitlement work better for parents (therefore making it more likely that they use the entire entitlement, and potentially reducing their costs) and the impact on children's development. Many providers are reporting that they can effectively use this time to support the child's learning through appropriate activities. The limit of 10 hours for any session, which is the same as the current Code, also offers effective protection. We believe that in practice this modest proposal will result in very little change, as in our experience very few providers offer much flexibility in when parents can access the hours. In our report we identified other steps that need to be taken to support parents working outside of normal office hours, and local authorities in particular should pay much greater attention to the childcare needs of this growing group of parents.

**13. Do you support the proposal to allow the free entitlement to be taken over two days per week rather than three days?**

Yes. Daycare Trust strongly supports this proposal, but we believe without a strengthening of the wording of the Code of Practice very few families will be able to access the offer in this way. We recommend that another option is added to the guaranteed models of delivery so that it can be accessed:

3 hours a day over 5 days of the week  
5 hours a day over 3 days of the week  
7.5 hours a day over 2 days of the week

We believe that this is a modest addition which would make a significant difference to families.

**14. Would you like to see any other changes in the statutory guidance in order to improve take up and/or flexibility?**

Yes. As above - adding a 7.5 a day over 2 days a week option to the guaranteed models of flexibility available to parents.

Strengthening the expectation of a stretched offer over more than 38 weeks per year. We believe that the current version of the Code is a watering down of the expectations in the previous version in relation to a stretched offer. It said that local authorities should “Assess local demand and capacity relating to a free entitlement offer of fewer hours a week over more weeks of the year, to offer a “stretched” entitlement to any parent who wants it.” It also stated that: “The Government expects local authorities to consider parental demand for a “stretched” offer as part of their next Childcare Sufficiency Assessment in preparation for enabling any parent who wants it to access a “stretched” offer from September 2012.

However the new version of the Code is less clear that the Government supports a stretched offer – it says that local authorities should “assess whether there is provider capacity to enable parents to take fewer free hours a week over more weeks of the year”. This clearly places the emphasis on providers, rather than on the needs of parents.

The Government will be well aware of the challenges that parents face in finding childcare during the school holidays, and this extends to many parents using early education services which only operate during term times. We see no reason why there should not be an expectation of a stretched offer to be available at providers that are open for most weeks in the year – namely day nurseries, childminders and children’s centres. We believe that there should be no presumption about whether the parent wishes to access their entitlement over 38 weeks per year or more weeks. Where providers are open for 48 weeks per year, they should offer parents to take fewer hours each week as a matter of course.

There is clearly a greater challenge in relation to maintained provision which is only open for 38 weeks per year. Where a parent chooses a maintained setting as their main provider, we believe that they should be able to use fewer hours per week and use any remaining hours at a different provider during the holidays, for example a childminder. This could be limited to a single additional provider (as is already the case) and procedures could be put in place to ensure that the child's learning is continuous through sharing of records between the two providers.

We are concerned about how little progress has been made in offering parents greater flexibility, and that the revised Code is a missed opportunity to support a culture of flexibility, promoting it as something that can benefit both parents and providers alike (through providing opportunities to fill quieter periods or offer more places with the same staffing and physical capacity, for example). With the challenge of capacity building for the new two year-old offer, and the desire to have more childminders delivering the free entitlement, we believe that greater flexibility should be a key feature of the new early education landscape.

The revised Code suggests that local authorities *should act as a broker between overall parental demand in the area and provider capacity, seeking to provide the maximum possible flexibility where demand exists beyond the guaranteed models*. We believe that even under the existing Code, very few local authorities publicise a local offer of flexibility, and that the guaranteed models set out in the Code are the default position for most settings. This suggests that local authorities have not been proactive in responding to parental demand, and are concerned that the removal of many of the requirements for Childcare Sufficiency Assessments will make it even less likely that local authorities will undertake effective brokerage in relation to flexibility.

The previous Code also described practical tools for promoting flexibility which offered clarity and protection for providers, such as Provider Agreements and Parental Declarations (as well as flexibility premiums in the Early Years Single Funding Formula. As far as we are aware there has been no evaluation of the use and effectiveness of these tools. We recommend that Government undertakes a review of local authority practice in promoting flexibility.

**15. Should the same flexibility requirements apply to the two year old entitlement?**

Yes. Daycare Trust believes that the same flexibility requirements should apply for two, three and four year olds, but that these requirements should be significantly changed, as described above.

**16. Is the proposed model of a basket of eligibility criteria a workable way to ensure there is a transparent and consistent approach to determining eligibility to deliver free early education?**

Yes. Daycare Trust broadly supports the basket of eligibility criteria approach, and the strong emphasis which the Government is placing on the quality of early education. We believe that the new approach offers appropriate flexibility, and should lead to a raising of the bar in the expected level of quality for settings delivering the free entitlement. It sets a clear expectation that coasting at satisfactory is not acceptable and gives local authorities the tools to encourage settings to engage in quality improvement activities.

Impact assessment suggests that it is expected that 68% of provision will be high quality (rated good or outstanding by Ofsted). The impact assessment seems to suggest that the Code of Practice will require higher levels of quality for the two year-old offer than for three and four year-olds, but as drafted the Code does not suggest this. We will address this issue in our response to question 19.

If two year-olds are typically placed in higher quality settings, it is suggested that the benefits will continue right through child's early education as two year-olds are likely to stay in the same setting when they are three and four. We believe that while it will be many parents preference to keep their child in the same setting, there are a number of factors which mean that this may not always be the case.

If more childminders are able to deliver the two year-old offer than are currently delivering the three and four year-old offer, some parents may choose to move their child to a group setting at three. Evidence suggests that parents value the social interaction that group settings provide as their child moves towards school-age. Related to this is the issue of funding, and whether childminders will be able to continue to look after the child (while remaining sustainable as a business) if the hourly rate drops significantly when the child turns three. It has been suggested that many childminders do not feel that they can afford to deliver the three and four year-old offer based on current rates offered by local authorities. We believe that DfE and local authorities should do further work to find out if this is indeed the case, and should advise parents when they are accessing the two year-old offer whether their childminder will continue to deliver the free entitlement when the child is three, as this may impact on their decision.

Where a child does move from one setting to another, there should be a much more thorough 'handover' process, whereby the setting provides any evidence it has on the child's development (observation records etc) to the new setting, so that they can provide a continuous learning experience for that child.

So regardless of whether the Government decides to specify a higher quality requirement for two year-olds, it is essential that all settings delivering the free entitlement are incentivised and supported to improve the quality of their care. However, we have significant concerns about the likelihood of significant improvements in quality in the coming years, due to local authority budget cuts which has reduced the ability of early years teams to offer quality improvement services and training. In a survey last spring of 430 providers in London, carried out for Daycare Trust's London Childcare Providers Network, training was one of the most cited issues by respondents, with four in ten saying it was one of the top five issues facing them. 61% reported that there was

less training available from the local authority, with 42% reporting higher charges for training.

**17. Are the eligibility criteria, set out in paragraph 9.4, the right ones for providers offering the three and four (and from 2013 two) year old entitlement?**

Yes. Through our research and work with local authorities, we believe that they typically hold much more information about the quality of settings than that available publicly, and it is much more detailed and up to date than the Ofsted inspection result. It often includes the results of ECERS or ITERS assessments, and through our recent research with local authorities they told us that attaining a high mark in ITERS was essential to identify the best quality for two year olds.

However, if local authority judgements are to be used, we believe that these should be available publicly, to ensure transparency for the settings affected. This would also have the additional benefit of providing parents with more information on which to base their decision when choosing childcare.

We welcome the clarification that good or outstanding childminders will be able to deliver the free entitlement without being a member of a network, unless local authorities decide to impose additional criteria. However we believe this must be accompanied by an expectation that local authorities have a network. We therefore recommend that a new bullet be added to Section A3 which says that local authorities should have a childminder network.

The one area we think could be strengthened is the option about workforce qualifications.

The current EYFS requirement is that in registered settings other than childminding settings, all supervisors and managers must hold a full and relevant level 3 qualification and half of all other staff must hold a full and relevant level 2 qualification. Could the Code as written mean that if one additional staff member above the half required held a level three qualification, the setting could say it is meeting that criteria? Or that a childminder with a level 3 qualification is able to meet it? We believe this does not go far enough to give reasonable grounds for belief that the setting is delivering high quality.

Also we believe the Code should be strengthened in relation to childminders. We welcome the change requiring childminders to attend a training course in advance of registration (rather than within 6 months of registration) but believe that it should be a requirement for them to pass this course.

**18. Does the proposed model strike the right balance between a consistent national quality standard for free early education provision and local authority discretion to address local circumstances?**

We have had feedback from some local authorities that this proposal is welcome, as it gives them local discretion to set localised eligibility criteria which reflect their local market, and which will give them the tools with which to engage providers in quality improvement activities. However some local authorities are less engaged with the quality agenda, and in these they may continue to keep blanket rules (for example through the use of Ofsted inspection results) which may not lead to a culture of quality improvement and could be frustrating for providers and parents alike. We recommend active monitoring of local authority schemes to see which criteria are most used, and whether discretionary criteria have been applied.

**19. Should local authorities be encouraged to set a higher quality threshold for providers delivering the two year old entitlement?**

Yes. Although there are clear challenges in delivering the places, the Government must set high aspirations if the funding is going to deliver the desired outcome ie reduce the gap in attainment between disadvantaged children and their wealthier counterparts. Local authorities and providers have more than 18 months until the entitlement becomes statutory and must use this time to raise quality and plan how to deliver the entitlement. We should not accept low standards for the most disadvantaged children.

However, we do not believe that Ofsted inspection results alone should be the basis for this (as was the case in the two year-old pilots) but that higher requirements should be outlined within the basket of eligibility criteria approach.

Evidence from Daycare Trust focus groups with local authority staff involved in working with providers to improve quality back this up. In these focus groups there was a concern that local authorities could not rely on the Ofsted result alone to determine funding for the two year old entitlement. Local authority staff told us that the settings they used to deliver the free entitlement for three and four year olds were providing high quality care for this group (as evidenced by their ECERS assessments which also assess quality for this age group specifically). However, local authority staff queried whether these same settings would be as high quality for two year olds as they had not done so well on their ITERS (a quality measure which evaluates how well settings are delivering care for all those aged under 30 months). It was also felt by these respondents that Ofsted did not manage to capture the quality of care for this age group in their assessments. The forthcoming report containing this research, by Daycare Trust, University of Oxford and A+ Education, will also include the findings of quantitative analysis which compared findings from ITERS and Ofsted results.

**20. Do you support the proposal that local authorities should prepare and publish an annual report on the sufficiency of childcare?**

Yes. Daycare Trust welcomes the requirement for local authorities to produce an annual report on the sufficiency of childcare, which should lead to greater accountability of the local authority's performance by elected members and the local community. With the current three-yearly assessment cycle, it has been considered good practice to produce

an annual update, and this is 'highly recommended' by the current Code. We acknowledge that the current three yearly Childcare Sufficiency Assessments have not always led to action within the local authority to meet any identified gaps and believe that annual reporting could lead to greater momentum for change. Although significant progress has been made in relation to places for three and four year-olds, local authorities have been less determined to meet other (non statutory) needs of parents. This is for a number of reasons, including funding pressures.

However we are concerned that moving to an annual report will mean that the exercise is a much more superficial one than the current thorough assessment every three years. We therefore believe that additional requirements are needed beyond what is contained in the revised Code, to ensure that the assessment is a useful exercise and that there is some level of consistency.

**21. Do you support the repeal, in principle, of Section 11 of the Childcare Act 2006 (the Duty to Assess Childcare Provision) and of the regulations which prescribe the assessment criteria to be used in the preparation and publication of Childcare Sufficiency Assessments?**

No. We believe that repealing section 11, and essentially allowing local authorities to include whatever they wish in their Childcare Sufficiency Assessment, will reduce the usefulness of the exercise and lead to widely different practices across the country. This will make it more difficult for parents to understand the reports and hold local authorities to account, and for Government and researchers to identify sufficiency trends. Although we accept that the current Code has not necessarily led to action on the part of local authorities to meet unmet demand, we believe that removing the requirements make this less likely, rather than more likely. We note the example of Scotland, which does not have an equivalent sufficiency duty, and where sufficiency is generally considered to be poorer than in England.

**22. Do you have any comments on the draft guidance for local authorities on the contents of the annual report?**

We believe the Code should include more detail on what should be covered in the annual report, including:

- where childcare is available within the local authority (ward level information)
- the times during which it is available – it should examine demand for flexibility, such as early or late opening, or weekends. This is particularly important as section A2 of the Code (in relation to the flexibility of the free entitlement) suggests that local authorities should act as a broker between parental demand for flexibility and provider capacity. Without monitoring this through their CSA, local authorities will not know what demand exists. Detailed work needs to be undertaken with parents to understand their needs.
- different groups of children and families – for example school age children.



Crucially, the annual reports should include local authority action plans to ensure that sufficiency gaps are filled. It is through describing and reporting on an action plan that local authorities can be held to account on their CSA by councillors and local communities.

We welcome the fact that disabled children are mentioned specifically in the guidance, but research suggests that there are other groups which also find it very difficult to find childcare – older children and those working outside normal office hours, for example.

**23. Are there further steps you believe the Government should take to ensure that parents have good information on their entitlements and choices?**

Daycare Trust believes that information is critical for ensuring that parents take up their entitlements and are able to exercise effective choice about childcare and early years services. Effective information provision is especially important in the light of the extension of the two year-old offer and changes to financial support for childcare through Universal Credit, as well as closing gaps in take up of the three and four year-old offer. The recent National Audit Office report on the free entitlement recommended that the Department should enhance the information available to parents to help them choose providers.

It is essential that Family Information Services are fully informed of eligibility criteria and how parents can access the two year old offer. Consideration must be given to local authorities who have cut their FIS and how parents are being informed of their entitlements. If this is not being provided by the FIS it must be delivered by other local professionals or local organisation in accordance with the Childcare Act. FIS also need to be well resourced to enable them to disseminate information to professionals who are working with disadvantaged families such as FIP workers, health visitors, social workers etc. A structured training programme for FIS on Universal Credit should be being delivered to ensure they are fully informed and are able to inform parents.

Daycare Trust is very concerned that spending cuts, as well as changes to the way that local authorities deliver information, are jeopardising the quality of Family Information Services. These changes were documented in our recent survey of Family Information Services (see answer to Question 1).

As a result of that survey we made the following recommendations:

- Local authorities must ensure that they fulfil the information duties outlined in the Childcare Act 2006 and its accompanying statutory guidance. This is of particular importance for those local authorities that have merged their Family Information Services into call centres.
- Central government should play a greater role in supporting good practice in the delivery of family information. We would like to see central government hold to

account local authorities that do not fulfil the duties outlined in the Childcare Act 2006 and its accompanying guidance.

- Ofsted should develop a more detailed schedule for inspecting Family Information Services when visiting local authorities in England.
- Local authorities should maintain a distinct and high quality information and advice service targeting parents, children and young people, with a clear and unified brand identity. Where savings have to be made, Connexions, Family Information Services and other information based services for parents, children and young people should be brought together under one roof. Such a move has the potential both to share best practice and to save money.
- We believe that information needs to be disseminated through a variety of means not just digitally as many disadvantaged families do not have access to the internet.
- Parents should also be given more information about how to identify high quality childcare. In recent focus groups with parents, they told us they would appreciate a guide to EYFS so they are aware of what standards settings are supposed to be meeting and so they can ask them about it when visiting settings. The forthcoming research report from Daycare Trust, University of Oxford and A+ Education will make further recommendations for reform of the Ofsted process and other mechanism so that it is more useful for parents in choosing high quality childcare.

**24. Please use this space for any other comments you would like to make on the free early education entitlement or on childcare sufficiency.**

We note that the impact assessment highlights as additional benefits of the new two year-old offer that it will have a positive impact on women, in terms of approving (sic) their ability to work and creating employment in a sector which is dominated by female employees. Although we feel that the employment benefits for parents as a result of the offer are limited, we welcome the Government's acknowledgement that investing in free early education has benefits for parents and children alike. We believe that increasing the flexibility of the free entitlement will have improved parents' ability to use the hours to support employment, volunteering or training. The move to being able to use the offer over two days will further strengthen this.

We believe that the quality of the workforce remains a major barrier to the Government achieving its objectives of improving social mobility and improving the educational outcomes for disadvantaged children. We welcome the review of qualifications by Professor Nutbrown, and recommend that the Government follows this review with a wider workforce strategy which describes an action plan for improving the quality of the workforce in both the short and long-term.

In relation to the predominantly female workforce, we note the commitment in the coalition statement to improve the gender balance of the workforce. This was a very welcome commitment to tackling what has proved an intractable problem over many years (and one which is not limited to the UK). Daycare Trust has done a lot of work on this issue and is currently discussing the issue with a group of providers led by Andy Morris from Asquith Nurseries. We would be happy to discuss how we can support the achievement of this commitment.

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