

Ofsted consultation on the Regulation of Providers on the Early Years Register

Daycare Trust response April 2012

Q1. To what extent do you agree or disagree that we should ask providers themselves to look into minor matters that do not suggest any risks to children?

Disagree

Daycare Trust disagrees with the proposal that Ofsted should pass complaints made by parents back to the provider and leave the provider to take any action they consider necessary. It is important that parents are clear about what action they can take if they are unhappy with any aspect of provision – we believe making a complaint to Ofsted should continue to be an avenue open to parents, and that they will expect that something is done as a result of this complaint. This proposal suggests that anything not relating to risks to children is a minor matter as Ofsted will only investigate if it involves matters that ‘do not suggest any risks to children’. We believe that a whole range of factors can affect the experience of the child and the likelihood the provision will contribute to positive outcomes for children in their care, including meeting the requirements of the EYFS.

If parents do not feel they can report such issues with their provider, or indeed have done so already but do not feel they have adequately responded, it is essential Ofsted provides them with the opportunity to take the issue further. We think it is important that parents are not only supported by Ofsted reports to choose high quality provision but are also able to drive up quality improvement whilst their children are in the setting by demanding more and having recourse to another body when action is not taken.

Although the consultation document states that Ofsted will expect providers to record how they have dealt with complaints in their records, to be checked during the next inspection or visit, this could not be for some time (up to 47 months depending on when they were last inspected). During this period, the onus is on parents to ensure they have complied, something not all parents may feel comfortable with.

If Ofsted do go down this route, then it is imperative that what is defined as a minor matter is clearly explained. Moreover, we believe that if minor matters are raised on more than one occasion, this could be a sign of a deeper problem with the setting and something needs to be in place to ensure that when this occurs, Ofsted can respond. Ofsted has a strong brand identity with parents, and it is fitting that Ofsted should be the one that can take issues further. In addition, parents could be advised to raise issues with their local authority who have a quality improvement function and may also have ways to leverage improvements (for example through free early education funding). However we believe that it is essential that parents know which bodies are able to take concrete action and would not advocate a return to a situation where local authorities were acting as regulators. It could lead to confusion to parents and inconsistency for providers operating in more than one area.

Finally, we agree with the proposal that Ofsted carry out a full inspection and publish the inspection report on its website when potential non-compliance is reported. However, we would welcome clarification of how a decision would be made as to what would warrant such action. We would also recommend that Ofsted considers whether repeated complaints about minor matters should trigger the need for a full inspection as this could be a sign of a deeper problem with the setting.

Q2. To what extent do you agree that we should retain the current arrangements for notice of inspections?

Agree

Daycare Trust agrees that it is important that all providers should have as little notice of inspections as possible and we believe there should be a level playing field between different types of providers. We therefore welcome the move towards no notice inspection for schools, which will remove the current discrepancy whereby provision in primary schools has a minimum of two days notice of an inspection, yet PVI providers have no notice inspections.

We would also like to highlight that childminders have reported difficulties with the inspection process as they do not have the capacity to discuss their practice with the inspector or talk them through their paperwork (as they will often have no one to take care of the children in order to conduct a one-to-one interview with the inspector). Childminders have informed us that this puts pressure on them to report everything in the written information they provide to the inspector as they do not have the chance to talk it through. This may be one cause of the perception of excessive paperwork related to the EYFS and inspection process. Childminders also feel it disadvantages them as they feel they have less time to describe their achievements to the inspector (as

compared to a nursery manager, for example). A potential solution could be that inspectors stay until the children have been collected so childminders are able to speak alone with the inspector.

Q3. To what extent do you agree or disagree that Ofsted should continue making the online self-evaluation form available?

Agree

We agree that Ofsted should continue to make the online self-evaluation form available as our research with providers revealed that they found it useful as an internal tool to support self-evaluation. They also valued the opportunity to show Ofsted what they had done to plan how to improve their practices. However, providers were less positive when the tool was seen as something which is mandatory, even though it has never been. For this reason it is important that Ofsted makes it clear to providers that this particular form is not mandatory, although self-evaluation is. The aim should be to achieve a culture of ongoing self-evaluation and reflective practice – this message should be repeated as much as possible.

Daycare Trust's joint research with the University of Oxford and A+ Education – Identifying Quality in the Early Years: A Comparison of Perspectives and Measures (Sandra Mathers, Rosanna Singler and Arjette Karemaker) – has found that providers value tools which allow them to:

- have a sense of ownership over the process;
- encourage ongoing self- reflection;
- support and encourage them to plan improvements on a continual basis;
- encourage them to take a thorough look at everything they do; and
- enable them to get a good sense of how well their team was working and whether staff need any training or support.

For further information on the research here please see:

www.daycaretrust.org.uk/pages/published-research.html

Q4. To what extent do you agree or disagree that a short summary is all that is needed for small-scale providers?

Strongly disagree

We strongly disagree with the proposal to provide a short summary for small-scale providers. In our research with parents (referred to in previous answer) none said that the report was too long, although many felt a summary at the beginning which drew out

the aspects of care which were important to them would be very helpful. We feel strongly that parents should be able to compare different types of provision and this requires having the same information on each provider, whether group care or a childminder.

When reviewing an Ofsted report, parents said that it was difficult to find all the information regarding elements of quality which were important to them and many commented on the format and language of the report, which made it difficult to understand.

Parents made a number of suggestions to make Ofsted reports more useful which included:

- 'Annex A: record of inspection judgements' should be at the front of the report as it contained a quick overview and was helpful for giving a quick impression, telling them if they needed to look any further.
- A number of parents found it difficult to understand which parts of the text related to each of the judgements given in the table. For this reason some parents suggested that hyperlinks (for those who read reports online) or directions to where they could find further information in the report should be provided in the table.
- Similarly, many parents suggested the report would be more usable if it could provide hyperlinks to more detailed explanations of key terms and what different judgements mean (including examples of what they would look like in practice).
- Some parents suggested that the report could be structured along the key themes of the Early Years Foundation Stage (EYFS), with the report describing how well the setting was doing at meeting each of the key themes.
- Most parents said they would value a section which summarised the views of parents who had a daily experience of having a child in the setting.
- Parents mentioned a variety of things which they felt were key indicators of quality but which they could not find in the report. This included information relating to staff turnover, evidence of how staff interacted with the children, and whether staff were capable of spotting development issues. Additionally, some parents wanted to know if a setting was linked to other professionals with expertise in how to deal with development problems, and parents of disabled children wanted information on how capable a setting was of supporting children with disabilities.

It is interesting to note that Ofsted reports do in fact often contain these details, suggesting that the issues may lie at least partly in the accessibility of this information to parents.

Our research also uncovered a perception amongst parents that Ofsted reports evaluated how settings provide education, something most said they were not looking for from early years provision. However, parents had previously said they were looking for settings which could help the support their child's development. This is a key part of the EYFS and something Ofsted is set out to measure, suggesting that there is a misconception amongst parents as to what Ofsted reports can provide.

Our report recommends that parents are provided with additional guidance to help them understand the role and remit of Ofsted and that Ofsted should review the language and structure of reports to assess how they could be made more transparent and accessible to parents (Mathers et al, 2012).

Our research has uncovered a desire amongst parents for further support and guidance in choosing high quality childcare. Parents have told us that even though they now know what quality childcare looks like, they would have liked to have known this when originally selecting their childcare. Reducing the information available to parents following inspection would therefore not meet parents' needs.

The information referred to above can be found in further detail here:

www.daycaretrust.org.uk/pages/published-research.html

Q5. To what extent do you agree or disagree that the inspection criteria for each of the judgements are right and cover everything that inspectors should take into account?

Although we generally agree with many of the aspects included in the inspection criteria for the judgements we have substantial concerns with some of the proposed changes set out here, in particular the reduction in the number of sub-judgements. These sub-judgements provide essential information to parents choosing provision and provide important detail on strengths and weakness of provision for providers and those supporting them in their quality improvement work.

We are particularly concerned that Ofsted is proposing to remove the following sub-judgements:

- The effectiveness of the setting's engagement with parents and carers
- The extent to which children achieve and enjoy their learning

- The extent to which children feel safe
- The extent to which children adopt healthy lifestyles
- The extent to which children make a positive contribution
- The extent to which children develop skills for the future.

All these sub-judgements are essential aspects of quality provision, particularly ‘the effectiveness of the setting’s engagement with parents and carers’ as we know that the best outcomes are achieved when parents are actively involved in their child’s development. We also know that children achieve better outcomes when parents are supported to integrate the childcare setting’s activities with what happens at home, providing a continuous learning experience.

Moreover, these are aspects parents are most likely to value highly and most able to relate to and understand. Parents’ reported use of the inspection judgements table indicates the importance of these sub-grades in providing a ‘gateway’, helping parents to decide whether they need to look any further into the report. Narrowing down the judgement to four areas which superficially may sound quite similar to parents risks turning them off from reading the reports.

Additionally, in focus groups with providers and local authorities we found that these sub-grades provided important detail on the strengths and weaknesses of provision.

We are also particularly concerned that engagement with parents has been included within the partnership section, rather than given a section on its own, given the importance highlighted above. We do not believe it should be combined in a section with partnerships with external agencies as this is a completely different practice to everyday engagement with parents. We also feel that this section should be placed higher up, to emphasise its significance. Moreover, we recommend there should be an addition after ‘how effectively the setting promotes the engagement of parents in their children’s learning and development...’ (in Partnerships section) to include, ‘settings are expected to share with parents and explain thoroughly the results of the progress check at age two.’

This is set out clearly in the Statutory Framework for the Early Years Foundation Stage:

Practitioners must discuss with parents and/or carers how the summary of development can be used to support learning at home.

In addition, whilst we welcome that inspectors will take account of, ‘whether opportunities are provided for babies and young children to be active and interactive’ we

are concerned that this is only emphasised once throughout this section in the consultation document (which we assume reflects the new guidance for inspectors). We believe that this should be highlighted more strongly and should be a thread running throughout the guidance so it is clear to inspectors that they should be judging provision on how well it meets the needs of children of all ages. We are particularly concerned about this point as our research (Mathers et al, 2012) has found, both in the quantitative and qualitative analysis, that Ofsted inspections may not capture the quality of provision for those aged 30 months and under. Quantitative analysis showed few significant associations between the overall grade awarded by Ofsted and quality for infants and toddlers (aged under 30 months) as assessed by the ITERS-R scale. Moreover, in focus groups with local authority staff, a concern was expressed that Ofsted inspection results would not be the most useful way of determining high quality for the purposes of deciding funding for disadvantaged two year olds. As some local authority staff explained, settings which had done well on Ofsted had tended to do well on ECERS (evaluating provision for children aged 30 months – five years) but not on ITERS.

We would also question how Ofsted inspectors will be able to effectively capture ‘how well all children learn and develop and the progress they have made since joining the setting in relation to their starting points and capabilities’ under ‘Children’s Learning and development.’ It is difficult to effectively assess how much the setting has contributed to this progress and how much it is related to factors such as other provision the child might be using or have used and the influence of family members. Moreover, we would also be concerned that inspectors will be expected to judge whether children are reaching or exceeding expected levels of development by the time they leave the setting, if they do not have in-depth understanding of how children develop. As previously stated in our evidence to the Education Select Committee, we do not presently have information about the number of inspectors who have a background in early years education.

With regards to the proposal to replace ‘satisfactory’ with ‘requires improvement’, and ‘inadequate’ with ‘requires significant improvement or enforcement’, whilst we are happy with this change in terminology we would like further clarification as to whether those who are graded as ‘requires improvement’ will be inspected more often, reflecting changes Ofsted has announced for schools. According to Ofsted, from September this year there will be more frequent inspections for schools that are inadequate or satisfactory, and a longer interval for those judged good or outstanding. We would support more frequent inspections for those receiving these grades as we recognise that Ofsted does not currently have the capacity to follow up on recommendations made until the next inspection, unless a provider is judged inadequate and therefore has a follow-up visit. A further limitation of Ofsted inspections is that they only take a snapshot

of provision on the day of inspection; they are almost immediately out of date. Thus if a provider is judged satisfactory but takes immediate action to improve their provision and put into place any recommendations made by Ofsted and raises their standards to 'good', this will not be reflected in publicly available information for another three years, or longer if it is on the Childcare Register. We note that local authorities can make their own judgments about early years provision between Ofsted inspections, but information from local authority inspections is not readily accessible by parents.

However, we would be concerned if there were longer intervals for those judged good or outstanding. As we have previously stated in evidence to the Education Select Committee, we are concerned that even a three year cycle may not highlight poor or dangerous practice in early year's settings, as a consequence of high staff turnover in the sector. Private and voluntary sector day nurseries experience particularly high staff turnover. Changes in staff and/or management can easily change the environment in early years settings, thus inspections must continue to be made regularly. Daycare Trust recommends at least a two year inspection cycle for settings experiencing high staff turnover. Ofsted could consider setting a staff turnover threshold and when this is exceeded, a more frequently inspection regime be put in place.

Q6. To what extent do you agree or disagree that we should communicate electronically (for example by email or other online methods) as the main way of communicating with applicants and providers?

Agree

We agree that Ofsted should communicate with applicants and providers electronically. Whilst it is not considered in this question, we note that in the consultation it is proposed that parents will be asked to give more information about their provider through the use of electronic questionnaires. We agree with the assertion in this document that this will help overcome the challenges of seeking parents' view on the day of inspection, indeed we have long called for more efforts made to include parents and children in the inspection process to a greater extent than at present. We would like to add that Ofsted inspectors should endeavour to include phone calls or paper questionnaires within this process to ensure a wide range of parents are able to contribute, considering not all parents will have easy access to the internet.

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Further comments

Daycare Trust would also like to take this opportunity to make further comments on the proposed changes to how Ofsted operates, both including those in this consultation document and those which have been suggested elsewhere.

We would like to strongly express our support for the continuance of a single inspectorate covering *all* forms of provision, in light of recent comments made in reference to childminders. Sir Michael Wilshaw, HMCI, has recently suggested that childminders could be taken out of the Ofsted inspection regulation and inspection process and considered separately from other early years settings. Prior to Ofsted taking over the inspection of childcare in 2005, different early years settings were inspected by different bodies, using a range of different methods. The quality of information made available to parents was much poorer before 2005 and Ofsted's involvement. Additionally, bringing childminders into a unified early years inspection process has had a major impact on improving the quality of the learning environment for children cared for by childminders. Daycare Trust strongly recommends that the inspection of all early years provision remain the responsibility of one inspectorate and that all providers looking after children for more than two hours per day be required to comply with its requirements. At present, Ofsted has a strong brand identity. Many parents know that Ofsted inspects schools although they are less aware of its role inspecting early years' settings. Parental awareness of early years inspection reports and their use of them is likely to be damaged if Ofsted's inspection role is broken up and allocated to other organisations.

Daycare Trust strongly disagrees with the proposal that Ofsted no longer carries out a new interview each time the provider changes the person they nominate to represent them (point 5 under Registration section). As we have stated in answer to question 5, changes in staff and/or management can easily change the environment in early years settings dramatically. It is stated in the consultation document that Ofsted will continue to hold the registered provider accountable at all times and will check this understanding at inspection rather than in a separate interview. However, the next inspection could not be for as long as 47 months, depending on where they are in the inspection cycle, leaving a long period in which an unsuitable manager could be operating and in which the quality of a setting could dramatically change.

On a related point, while we agree that the responsibility to establish whether managers are suitable to work or be in regular contact with children sits best with the manager's employer, we would expect there be rigorous reporting requirements to ensure these are being carried out. Moreover, if the manager has changed in-between inspections, it is important that there is a mechanism whereby Ofsted can carry out spot-checks to ensure these checks are being carried out. Without this, there could be instances

whereby unsuitable managers are working with children who are not uncovered until the next inspection, which could be up to 47 months.

Finally, we would like to highlight our support for the assurance that, 'observation of activities and care practices will be at the heart of our inspections and constructive feedback through dialogue with providers and practitioners will continue to have high priority'. Our recent research looking at how different stakeholders conceptualise quality found that parents, providers and local authority staff tasked with improving quality all valued elements of quality which can only be captured through spending significant amounts of time observing how staff interact with the children.

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