

Government consultation on childcare: regulatory changes

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) represents over 21,500 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million children and young people across primary, secondary, post-16 and specialist education. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to contribute to this consultation.

B. Key points

3. ASCL does not support the key proposal in this consultation to change the current statutory minimum staff:child ratios in England for two-year-olds from 1:4 to 1:5.
4. We are disappointed that the proposals in the consultation focus only on increasing capacity within early years settings, without adequate consideration of necessary safeguards, or any consideration of a child's needs or learning. Instead, we call for the government to put immediate and substantial financial investment into early years education and Covid recovery.
5. These proposals are particularly concerning in the context of the impact of the pandemic. There is growing evidence that the pandemic has led to significant developmental, learning and social gaps being presented by pre-school children as they move into Reception classes. This exacerbates gaps which were already widening pre-pandemic, as outlined in the last published Key Stage 1 statistical data (2019). We believe that this is the wrong time for consideration of this consultation's proposals, when the focus should be on effective Covid recovery. We reference evidence presented in the [Education Endowment Foundation \(EEF\) Attainment Gap Report 2018](#) in support of this point.
6. These proposals are an inadequate solution to the much bigger issue, i.e. the need for significant funding into early years education. In ASCL's [Blueprint for a Fairer Education System](#) we call for "*Sufficient resources ... to deliver the education to which we have agreed all children and young people are entitled.*"
7. [The Early Years Alliance](#) survey of over 9,000 early years settings in England, carried out in April and May 2022, shows that 90% of nurseries and pre-schools in England are opposed to the government plans to relax childcare ratios. Only 2% indicated that changes to ratio rules would result in them lowering fees for parents.

8. We agree that measures need to be taken to address the increased cost of childcare for families, the availability of childcare and the quality and safety of provision, and the retention of childcare staff. Our view is that the answers to these concerns lie in better pay and career progression opportunities for early years practitioners, rather than increases in ratios.

C. Response to questions

Question 10: Do you agree or disagree with the proposed change to the current statutory minimum staff: child ratios in England for 2-year-olds from 1:4 to 1:5?

9. We do not agree with the proposed change.
10. It is imperative that the government makes changes to early years provision, but not by ratio changes. Instead, the focus should be on the following actions:
 - Invest in early years provision and on urgent Covid recovery to reduce widening gaps
 - Use this investment to support a reduction in the costs of childcare provision for parents
 - Invest professional recognition into the vital role childcare staff play in the early years of a child's development

We say more about each of these actions below.

Invest in early years provision and on urgent Covid recovery to reduce widening gaps

11. The last pre-pandemic end of [Key Stage 1 statistical data](#) showed that only 75% and 76% of pupils met the expected standard in reading and maths respectively, and only 69% in writing. For disadvantaged pupils, the percentage is worrying low, at 62%, 55% and 62%. For pupils with SEN, the numbers are even more concerning, with only 30%, 22% and 33% meeting expected standard or above in these subjects.
12. End of [Key Stage 2 provisional statistical data in September 2022](#) provided the first true snapshot of how children have been affected by the pandemic. These stark figures show substantial widening of disadvantaged and SEND gaps: *“The disadvantage gap index has increasing from 2.91 in 2019 to 3.21 in 2022 to the highest level since 2012, suggesting that disruption to learning during the COVID-19 pandemic has had a greater impact on disadvantaged pupils”*. At this time, investment into early years education provides the greatest opportunity to narrow gaps and make a lasting difference to the lives of children.
13. Our members tell us that the current cohort of two-year-olds have been noticeably affected by the pandemic. They are not used to being around other children and many are therefore struggling with language and communication skills, and need help managing their emotions. Of these, some have unidentified SEND which was not picked up sooner due to missed health visitor checks (pandemic-related), and these children need additional support and attention. It takes time to apply for and obtain the additional funding entitlement to support children with SEND. Settings need at least their current levels of staffing to address these issues. Saving money and reducing provision through these proposals in this consultation would, in our view, be fundamentally the wrong decision at this time.

14. The following research supports our view that early years settings need additional funding to support young children as we begin to emerge from the pandemic.
15. The CLS working paper 2022/6 [The forgotten fifth: Examining the early education trajectories of teenagers who fall below the expected standards in GCSE English language and maths examinations at aged 16](#) (Lee Elliot Major and Sam Parsons) found *“identification of falling below expected standards in pre-school assessment of ‘school readiness’ (age 3) and in teacher assessment of literacy and number skills at school entrance (age 5) are both highly predictive of failure to attain a grade 4 or higher in GCSE English language and maths at age 16.”*
16. This paper goes on to conclude that *“future attempts to improve standards in English and maths will likely only succeed if high quality support is provided during the pre-school years, support is provided to improve the home learning environment, and teachers are able to identify, diagnose and respond appropriately to children falling behind at early education stages.”*
17. The [Education Endowment Foundation \(EEF\) Attainment Gap Report 2018](#) highlights the following:
- there is a 4.3 month gap at the start of school between disadvantaged children and their classmates
 - this more than doubles, to 9.5 months, by the end of primary school
 - it more than doubles again, to 19.3 months, by the end of secondary school
 - the gap between disadvantaged pupils and all others is evident even when children begin school at age 5 and increases at every stage of education afterwards
18. If the disadvantage gap is not addressed in the early years, there is very little chance of closing it later on. Therefore, it is essential that this is the priority of the government moving forward, rather than the proposals outlined in this consultation.

Use this investment to support a reduction in the costs of childcare provision for parents

19. Top-up hours on either side of funded hours and additional charges, such as for lunches, is what keeps many childcare providers afloat. The cost for parents is often too high and not affordable. An article published by Donna Gaywood for Nesta on 22 August 2022 highlights the [high cost of childcare in England](#) by referencing an OECD study, and suggests that *“the government solution – to reduce the ratio of how many children an adult can look after in an attempt to lower the price for parents – leads to a misperception about the importance of early years carers when it comes to outcomes for young children.”*
20. Reductions to staff:child ratios should not be used as a cost-cutting measure to attempt to obscure the woeful lack of funding into early years settings, or the fact that the government appears to place little value on the importance of this provision.

Invest professional recognition into the vital role childcare staff play in the early years of a child’s development

21. Many staff in the early years sector are poorly qualified. Investment in terms of professional recognition is needed to ensure staff are able to and want to remain working in early years settings, are valued through a noticeable and acceptable rise in pay, and are provided with increased opportunities to access career progression through professional qualifications.

22. In the article referenced in point 19 above, Gaywood highlights that *“the sector is already under significant pressure, with serious recruitment and retention problems”*. The article references the results of the 2021 survey by Early Years Alliance on staff recruitment and retention in the early years sector in England, which revealed the following:
- *More than eight in ten settings are finding it difficult to recruit staff*
 - *Around half have had to limit the number of, or stop taking on, new children at their setting over the six months prior to the survey*
 - *Over a third of respondents are actively considering leaving the sector*
 - *One in six believe that staffing shortages are likely to force their setting to close permanently within a year*
23. An Early Years Alliance [survey](#) from May 2022 revealed that *“around nine in ten nurseries and pre-schools in England are opposed to government plans to relax childcare ratios”*. It also found that:
- 87% of nurseries and pre-school respondents and 54% of childminder respondents think that operating to looser ratios would have a negative impact on quality at their setting
 - 89% of nursery and pre-school respondents and 58% of childminder respondents think that operating to looser ratios would have a negative impact on staff and/or their own mental health wellbeing
 - Of those respondents working in nursery and pre-schools settings who would not be responsible for any ratio change decisions, a huge 75% said that they would be likely to leave their current setting if ratios were relaxed there
24. A [National Day Nurseries Association \(NDNA\) year-long research project](#) with the Education Policy Institute (EPI), which looked at the impact of the Covid-19 pandemic on the early years workforce, highlighted that the qualification level of staff in nurseries has been falling year-on-year, and that *‘A well-qualified, motivated and properly recognised workforce is crucial to the quality of care and early education our children receive.’*
25. As we uncover the extent of the impact of the pandemic on children, skilled practitioners are needed more than ever in early years settings. There is a significant risk, particularly during the current cost-of-living crisis, that large numbers of early years practitioners will leave the sector for roles in areas such as retail, which often offer higher salaries and lower stress. An increase in ratio size may seem a superficially attractive short-term solution, but will only exacerbate the problem in the longer-term as it will lead to additional pressure on remaining staff.

Question 11: Do you agree or disagree with Proposal B to change the EYFS wording on childminders’ ratio flexibility for siblings?

26. Not applicable as ASCL does not represent childminders.

Question 12: Do you agree or disagree with Proposal C to change the EYFS wording on ratio flexibility for childminders’ own children?

27. Not applicable as ASCL does not represent childminders.

Question 13: What are your views on having the following flexibility for 3–4-year-olds in your provision? Where children aged 3-4 are attending a setting for less than 4

hours per day, the ratio of 1:8 can be increased to 1:10 (as in Scotland), although where staff are qualified to Level 6, the ratio of 1:13 would continue to apply

28. Our view is that increasing ratios should not go ahead, for all the reasons outlined above.

29. An increase in the child to adult ratio in the context of an early years' workforce in England, which is lower skilled and lower qualified, is not comparable with settings in other countries.

Question 14: What further flexibilities would you consider adopting to deliver your provision?

30. Not applicable as ASCL does not run early years provision.

Question 15: Do you agree with the 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?

31. Yes.

Question 16: Please explain briefly your views about this, including if you foresee any unintended consequences for early years providers as a result of this change.

32. The safety of children must be prioritised.

33. Unintended consequences might, however, include the need to increase staffing provision at certain times of the day. The implications of this on early years funding must be recognised.

Question 17. What are your concerns (if any) about how the proposals may affect you or individuals in your organisation with protected characteristics?

34. We are deeply concerned about the impact of these proposals on children who need more support, particularly as we emerge from the pandemic. These include children from more disadvantaged backgrounds, and those with disabilities or specific needs not yet formally identified. An increase in ratio size will make it harder to provide these children with the support, time and attention they need and may, in some circumstances, compromise their safety.

Question 18. How would you mitigate against these concerns in your organisation?

35. We cannot see a way to mitigate these concerns if the government insists on proceeding with these misguided proposals.

Question 19. Are you content for us to use your comments in any reporting? Comments will be anonymised.

36. Yes.

Question 20. Would you be happy for the Department or a research body working on its behalf to contact you to discuss your response to this consultation? If you agree, your personal data and responses to the consultation will be shared to allow them to contact you about your response.

37. Yes.

D. Conclusion

38. We are grateful for the opportunity to contribute to this consultation.

39. We hope that this response is of value to the process. ASCL is willing to be further consulted and to assist in any way that it can.

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