



Government consultation on Early Years Foundation Stage regulatory changes

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) is a trade union and professional association representing over 24,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business leaders 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. Our response is based on the views of our members, obtained through discussions at ASCL Council, with relevant advisory groups, and prompted and unprompted emails and messages.
3. When considering the impact of any proposals on different groups, it is ASCL's policy to consider not only the nine protected characteristics included in the Equality Act 2010, but also other groups which might be disproportionately affected, particularly those who are socio-economically disadvantaged. We have answered any equality impact questions on this basis.

B. Key points

4. ASCL has responded to all relevant sections in this consultation. We have not responded to the questions in the section covering proposed changes which are relevant to childminders only, as we do not represent childminders.
5. ASCL welcomes the proposals in the consultation which support the early years sector in being able to navigate and implement the EYFS, and of proposals which support improvements to standards or safeguarding.
6. ASCL does not support proposals which could lead to any reduction in standards, or which may compromise the safety of children and the wellbeing of staff.
7. We are disappointed that the proposals in the consultation appear to largely focus on increasing capacity and reducing standards within early years settings, without adequate consideration of necessary safeguards or a child's needs and learning. We are also disappointed in the lack of focus on 'closing the gap' between disadvantaged children and their peers.
8. This is particularly concerning given that this gap was already widening pre-pandemic, as outlined in the published end of Key Stage 1 and 2 statistical data in 2022 and 2022 ([KS2 Early Release](#)), and is widening further at all Key Stages post pandemic.

9. We are also disappointed by the lack of reference to financial investment in the early years sector in this consultation. This is essential to enable the sector to remain viable, to improve staff recruitment and retention, and to enable it to play its crucial role in minimising the effects of disadvantage. In ASCL's 2021 [Blueprint for a Fairer Education System](#) we call for “*Sufficient resources [across all sectors] to deliver the education to which ... all children and young people are entitled.*”
10. We note and refer to the following reports and findings in our response:
- The Early Years Alliance's [Freedom of Information investigation findings](#) into the DfE's thinking behind the early years funding rates which were announced in 2015 and came into effect in 2017.
 - The Early Years Alliance's [workforce survey](#) and [ratios survey](#).
 - The Education Endowment Foundation's recent independent [evaluation](#) of the National Day Nurseries Association's Maths Champions programme, which builds the knowledge of nursery practitioners to support children's early mathematical development. This provides more evidence of the benefits of providing structured professional development and support to staff working in early years settings on young children's learning and development, particularly that “Children eligible for the Early Years Pupil Premium who received the programme made, on average, up to six month's additional progress in early maths development”.
11. These reports and findings all confirm the need for financial investment in the early years, not an increase in capacity.
12. Further measures must be taken to address the cost and the availability of childcare, to include the quality and safety of provision and the recruitment and retention of staff. This must involve valuing the early years sector through better pay and increased opportunities for career progression.

C. Answers to specific questions

Part 1: General changes

Proposed EYFS language changes

Question: To what extent do you think the draft frameworks published alongside this consultation are easier to understand than the existing EYFS? To what extent do you think the draft frameworks published alongside this consultation are easier to understand than the existing EYFS?

- *Much easier*
- *Slightly easier*
- *No change*
- *Slightly more difficult*
- *Much more difficult*

13. Much easier. ASCL welcomes anything that makes the EYFS easier to navigate and implement.

Proposed changes to Section 1: Learning and Development English as an Additional Language: Out of the below options, what do you think the expectation in the EYFS frameworks for all provider types should be in regard to how they support children whose home language is not English?

- *Providers must take reasonable steps to provide opportunities for children to develop and use their home language in play and learning, supporting their language development at home.*
- *Providers should take reasonable steps to provide opportunities for children to develop and use their home language in play and learning, supporting their language development at home.*
- *Providers may take reasonable steps to provide opportunities for children to develop and use their home language in play and learning, supporting their language development at home.*
- *Don't know*

14. ASCL supports changing this wording to 'may'. This would mean that the expectation for providers to do this would be removed and, instead, it would be up to providers to decide themselves how to best support English as an Additional Language. However, it is important that where practitioners can meet this requirement, they should be fully supported in doing so.

Proposed changes to Section 2: Assessment

Collection of physical evidence

Question: Do you agree with the proposed language change around the collection of physical evidence, currently found in section 2.2 of the EYFS, for all providers?

- *Yes*
- *No*
- *Don't know*

15. Yes. ASCL agrees that this proposal would allow more time to be spent focusing on quality interactions with children.

Proposed changes to Section 3: The safeguarding and welfare requirements

Child protection

Question: Do you agree to the proposed change in both versions of the framework regarding electronic devices?

- *Yes*
- *No*
- *Don't know*

16. Yes. This change reflects the appropriate use of new technologies, such as smart watches.

Qualifications, training support and skills

Question: Do you agree with the proposal to introduce a qualification standards document, setting out the current Level 2 Early Years Practitioner and current and new Level 3 Early Years Educator criteria?

- *Yes*
- *No*
- *Don't know*

17. Yes. Having a new statutory document published on gov.uk to bring all early years qualification criteria into one place would go some way towards formalising the professional standards for early years, and bring the sector more in line with other regulated professions. It is essential that the government commits to focusing on high standards in the early years alongside training and professional development for early years staff. However, this also requires a commitment to improving pay to ensure enough staff can be recruited, and providing training and professional development to support retention and ensure all early years practitioners are valued.

Part 2: Technical detail of proposals: changes relevant to group and school-based providers

Proposed changes to Section 3: The safeguarding and welfare requirements

Suitable people

Question: Do you agree with this proposed change to the suitable people requirements in the of the Safeguarding and Wellbeing section for group and school-based providers?

- Yes
- No
- Don't know

18. Yes. ASCL agrees with the proposed change to recognise digital qualifications. However, appropriate steps must be taken to ensure all qualifications are verified, and this should not be seen as a method of allowing unqualified and unsuitable staff to be employed into early years settings at a time when recruitment and retention rates are challenging. The government must invest sufficiently into the early years sector to ensure this is a respected profession which attracts and retains high-quality staff.

Qualifications, training support and skills: group and school-based providers

Question: Do you agree with the proposal to remove the requirement for practitioners to hold a level 2 maths qualification to count within the Level 3 staff: child ratios?

- Yes
- No
- Don't know

19. No.

20. ASCL supports the proposal for managers appointed on or after 1 January 2024 to have already achieved a suitable level 2 qualification in maths, or to have done so within two years of starting in the profession. ASCL also supports the proposal that managers are responsible for ensuring staff have the right level of maths knowledge to effectively deliver the EYFS curriculum.

21. However, we do not support a reduction in standards to simply enable flexibility. High-quality early years education is vital for children's development. It is here that the disadvantage gap first appears and therefore this period is crucial to laying the foundations for future success. The Education Endowment Foundation's recent independent [evaluation](#) of the National Day Nurseries Association's Maths Champions programme, which builds the knowledge of nursery practitioners to support children's early mathematical development, shows that when staff are given the time and resources to undergo professional development in maths, it is hugely beneficial.

22. Investing properly in early years education, improving pay to ensure enough staff can be recruited and providing additional funding for training and professional development are key to ensuring children are given the best possible education from an early age.

Question: To ensure quality, do you agree that the requirement to hold a level 2 maths qualifications should instead be placed on setting managers?

- Yes
- No
- Don't know

23. No. See answer to previous question.

Question: If we were to remove the requirement for practitioners to hold a level 2 maths qualification, what additional or alternative training should we consider to ensure all level 3 practitioners have the right maths knowledge to deliver the curriculum?

24. ASCL does not agree with the removal of this requirement.

Question: Do you agree that an experience-based route should be introduced that allows practitioners to meet any missing Level 3 criteria and gain approval to count within the Level 3 staff: child ratios?

- Yes
- No
- Don't know

25. No. Children deserve to be taught by fully qualified staff. Allowing an experience-only route simply to support the Level 3 staff:child ratios only provides a quick solution to the urgent recruitment crisis faced by the sector, without putting the safety and education of children at the heart of this decision-making.

Question: Do you agree that students on long-term placements and apprentices should be able to count within the Level 2 staff: child ratios at the level below their level of study, if the provider is satisfied that they are competent and responsible?

- Yes
- No
- Don't know

26. No. Children deserve the highest quality education possible from an early age and this includes all staff being qualified and the safety of children being a priority.

Question: What mitigations (if any) are needed to ensure that the quality and safety of Early Years provision are maintained if students on long-term placements and apprentices are working within the staff: child ratios at the level below their level of study?

27. ASCL does not support this proposal. Minimum requirements, if it were to go ahead, would be that students on long-term placements and apprentices would need to be suitably qualified in Paediatric First Aid, be under the supervision of a fully qualified staff member at all times and not be left alone with a child or group of children in their care.

Question: Do you agree that qualification requirements for ratios should not apply outside of peak working hours?

- Yes
- No

- *Don't know*

28. No. Qualification requirements for ratios should apply at all times of the day. Children and families should be entitled to early years staff holding approved qualifications both inside and outside of peak working hours. This should be a minimum expectation, and any cutback made to this requirement in support of flexibility may only reduce safety and increase risks to the safeguarding of children.

Question: If yes, how should peak working hours be defined? For example, these could be standard across settings or dependant on individual settings' peak hours.

29. We do not support this proposal.

Question: What mitigations (if any) are needed to ensure that the quality and safety of early years provision is maintained if qualification requirements for ratios no longer apply outside of peak hours?

30. We do not support this proposal.

Question: Do you agree with the proposal to reduce the requirement for 'at least half of all other staff' to be level 2 staff per ratios?

- Yes
- No
- *Don't know*

31. No. Whilst ASCL understands that some feedback from the sector indicates that a reduction in the percentage of level 2 staff in these ratios would be helpful, we believe that this is in response to staff shortages. Rather than making unacceptable compromises in order to manage these shortages, the government must invest properly in early years education to ensure enough staff can be recruited, retained and valued. This, alongside providing additional funding for training and professional development, is key to ensuring children are given the best possible education from an early age, and not, instead, a reduction in standards.

Question: If yes, do you think it should be amended to:

- 30% of all other staff must hold an approved level 2 qualification [per applicable ratio]
- 40% of all other staff must hold an approved level 2 qualification [per applicable ratio]
- Other

32. N/A

Ratios

Question: Do you agree with these proposed changes to the ratios section of the Safeguarding and Wellbeing requirements for group and school-based providers?

- Yes
- No
- *Don't know*

33. Yes. ASCL is in support of the changes that would make it clear that only staff who hold Qualified Teacher Status (QTS), Early Years Teacher Status (EYTS) or Early Years Professional Status (EYPS) can unlock the level 6 staff:child ratios. This is because we agree it would support early years practitioners to decide what career path is right for them and support hiring managers when reviewing qualifications.

Paediatric First Aid (PFA)

Question: Do you agree with the proposed clarification to the wording of the Paediatric First Aid requirement in the group and school-based provider version of the EYFS, to make it explicit that all staff who have obtained a level 2 and/or level 3 qualification since 30 June 2016 must also hold a valid PFA qualification to be included in the required staff: child ratios?

- Yes
- No
- Don't know

34. Yes. ASCL agrees with proposal that, for a PFA certificate to remain valid, it must be renewed every three years.

EYFS – general

Question: Do you foresee any unintended consequences for early years providers as a result of these changes to the EYFS framework? Please state the specific area you foresee any issues in your response.

- Yes
- No
- Don't know

35. Yes. Any reduction in standards may lead to unintended safeguarding issues. This includes ratios and statutory requirements at times that are deemed 'out-of-hours', which may compromise children's safety.

36. Accepting lower standards in qualifications and training simply to support flexibility at a time when recruitment into the sector is challenging may lead to children not receiving their right to the best possible education from an early age. It is in the early years that the disadvantage gap first appears and therefore this period is crucial to laying the foundations for future success. Any reduction in standards will only widen the socio-economic gap.

37. Finally, the focus should be on improving pay and career progression to ensure that working in the early years sector is viewed as an appealing and valuable role. Many of the changes proposed in this consultation provide only a short-term solution to a longer-term concern.

Question: Do you think any further changes should be made to the EYFS framework to provide flexibility to early years providers?

- Yes
- No
- Don't know

38. No.

Further comments

Question: What are your concerns (if any) about how the proposals may affect you or individuals (both children and adults, including staff and volunteers) in your organisation with protected characteristics?

39. When considering the impact of any proposals on different groups, it is ASCL's policy to consider not only the nine protected characteristics included in the Equality Act 2010, but also other groups which might be disproportionately affected, particularly those who are socio-economically disadvantaged.

40. As set out throughout this response, we are deeply concerned that some of these proposed changes may have a disproportionate impact on children from disadvantaged backgrounds.

Question: How would you mitigate against these concerns?

41. We would urge the government to reconsider the proposals we believe would have this effect.

Question: Are you content for us to use your comments in any reporting?

42. Yes.

Question: Would you be happy for the DfE or a research body working on its behalf to potentially contact you to discuss your response to this consultation?

43. Yes.

D. Conclusion

44. I hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

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