



Department
for Education

Childcare Regulatory Changes

Government consultation response

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Introduction

The [Early Years Foundation Stage](#) (EYFS) statutory framework is mandatory for all early years settings, including maintained schools, non-maintained schools, independent schools, all nurseries and childminders on the Early Years Register, and all childminders registered with an early years childminder agency. It sets the standards that all early years providers must meet to ensure all children have the best start in life and are prepared for school.

Section 3 of the EYFS sets out the safeguarding and welfare requirements and explains what early years providers must do to: safeguard children; ensure the suitability of adults who have contact with children; promote good health; manage behaviour; and maintain records, policies and procedures. This section includes staff:child ratios for all providers (including childminders). See Annex A for detail of the existing staff:child ratios. Section 3 also includes the requirement that children ‘must usually be within sight and hearing of staff and always within sight or hearing’.¹

Background to the reforms

The government launched a consultation on 4 July 2022, and the consultation closed on 16 September 2022.² The consultation sought views on changes to the staff:child ratios as set out in section 3 of the EYFS, and the EYFS wording around supervision whilst eating to ensure children are kept in sight *and* hearing of adults whilst eating, rather than sight *or* hearing.

The ratios proposals were as follows:

- Moving to the staff:child ratios for two-year-olds, from a ratio of 1:4 to 1:5, in line with the Scottish system; and
- Amending EYFS wording on childminder ratios to be clear that childminders have flexibility within their ratios in circumstances where they are caring for sibling children, or their own child.

These changes would align the English system to that of Scotland. England’s current ratio requirements for two-year-olds are tighter than many comparable countries’ standards. This is a small change that will align England’s regulatory framework more closely with Scotland and other countries. The Scottish system has similar ratios to England, but these differ for children aged 2. Whilst in England our ratio is 1:4 (one adult to four children), Scotland applies ratios of 1:5 (one adult to five children) and we have no

¹ [Statutory framework for the early years foundation stage \(publishing.service.gov.uk\)](#)

² [Childcare: Regulatory Changes - July 2022 consultation \(education.gov.uk\)](#)

evidence to suggest that the Scottish model is unsafe. In addition, Scotland's Care Inspectorate has previously stated that there is no current evidence indicating that the previous minimum staffing ratios for early learning and childcare (ELC) settings should be adjusted or that the needs of children were not being met with their workforce model.³

Ratios vary internationally, for example from 1:3 in Norway for children under 3-years-old⁴, and a ratio of 1:6 in the Netherlands for children aged 2-3 years⁵. In Australia, all states have a ratio of 1:5 for 2-year-olds (except Victoria which has a ratio of 1:4)⁶, and in Spain, they have ratios of 1:16-20 for 2-year-olds⁷. Like-for-like comparisons must be treated with caution due to very different childcare systems, but England has equivalent or slightly tighter ratio requirements than other comparable countries⁸. This change would ensure that England's ratios for 2-year-olds remain broadly consistent with other countries internationally.

We understand that childcare is vital for working parents. There are 435,000 parents in England with children under three years who are inactive due to caring responsibilities⁹. This cohort is made up disproportionately of women, and the more time they spend outside of the labour market, the less likely they are to return and the lower their future expected earnings. The UK's female inactivity rate is higher than in the best performing OECD countries¹⁰.

As Government set out in the consultation document, the aims of these proposals were to give childcare providers more flexibility and autonomy and trust them to make decisions about their settings and the needs of their children. The changes outlined in this document are part of a wider package of investment in the childcare sector announced on 15 March, to support more parents into work. These new staffing flexibilities for providers are a sensible and proportionate step, alongside Government's additional investment, which will help meet the demand among newly eligible parents for childcare support.

In addition to the proposals regarding staff:child ratios, this consultation also sought views on adequate supervision whilst eating. Mealtimes and snacks for babies and young

³ [Guidance on adult to child ratios in early learning and childcare settings.pdf \(careinspectorate.com\)](#)

⁴ [Organisation of centre-based ECEC | Eurydice \(europa.eu\)](#)

⁵ [Organisation of centre-based ECEC | Eurydice \(europa.eu\)](#)

⁶ [Educator to child ratios | ACECQA](#)

⁷ [Organisation of centre-based ECEC | Eurydice \(europa.eu\)](#)

⁸ [R210-The-changing-cost-of-childcare.pdf \(ifs.org.uk\)](#)

⁹ [IFS \(2021\) Women much more likely than men to give up paid work or cut hours after childbirth even when they earn more](#)

¹⁰ The UK's female inactivity rate was 15th lowest in the OECD in Q3 2022. OECD, [Short-Term Labour Market Statistics \(oecd.org\)](#). Q3 2022. Data extracted on 02 Mar 2023.

children can be a high-risk environment for choking incidents¹¹. The proposal put forward was to change the wording in the EYFS to be explicit that “adequate supervision” whilst children are eating means that children must always be in sight and hearing of a member of staff – not just within sight or hearing.

The EYFS already requires that those responsible for preparing food in early years settings are competent to do so. It also stipulates that adequate supervision arrangements must be in place at all times, including while children are eating, and that Paediatric First Aid (PFA) training must ensure competence to help a baby or child who is choking. It is essential that children under five are within sight of staff members while eating so that immediate action can be taken, if necessary, to ensure their safety.

Finally, this consultation document also sought views on further options for reforming ratios in future, proposing to work with the sector and parents to shape the future regulatory framework.

This document sets out a summary of views from the consultation and the government’s response. The consultation responses were analysed by an independent organisation, Cooper Gibson Research.

In addition, to help us understand how the proposed changes to early years staff:child ratios might affect early years provision, the Department for Education commissioned the National Centre for Social Research (NatCen) and Frontier Economics to conduct a study with early years providers which ran from 7th July to 1st August 2022. Early years providers who took part in the [2021 survey of childcare and early years providers](#) conducted by Natcen on behalf of DfE and agreed to take part in future research were invited to take part in this study. Participants taking part in the survey were also able to take part in this consultation. The responses to the questionnaire have also been used to inform the consultation response. A summary report of responses from the study has been published on GOV.UK.

¹¹ The Royal Society for the Prevention of Accidents (ROSPA):
<https://www.rosipa.com/resources/hubs/keeping-kids-safe/choking?msclkid=970e0c7cbbdf11ec80d100ddfb16845b>

Summary of responses received and the government's response

The Childcare: Regulatory Changes consultation was launched on 4 July 2022 and closed on 16 September 2022. In total, the consultation received 14,043 responses.

This figure includes:

- 9,813 parents
- 1,190 group-based providers on the early years register
- 608 maintained nursery schools
- 552 childminders
- 366 primary schools with nursery provision
- 504 organisations providing childcare
- 166 local authorities
- 130 charities
- 16 membership organisations
- 7 Ofsted
- 1 childminder agency

Main findings from the consultation

Proposal A: Group based settings (2-year-old ratios)

Staff:child ratios are set out in the EYFS as the number of children per staff member. The minimum ratio requirements vary according to the age of the child and the qualification level of staff. They apply to the total number of staff available to work directly with children. The EYFS states that 'exceptionally, and where the quality of care and safety and security of all children is maintained, changes to the ratios may be made'.

This proposal concerned staff:child ratios when caring for 2-year-olds in group-based settings to align the English system with that of Scotland. The Scottish system has similar ratios to England. Both countries apply a ratio of 1:3 (one adult to three children) for children under 2-years-old, and 1:8¹² (one adult to eight children) for children aged 3 and over. However, these differ for children aged 2 where in England our ratio is 1:4 (one adult to four children), whilst Scotland applies ratios of 1:5 (one adult to five children).

¹² In England when children aged 3 and over are supervised by an adult with an approved Level 6, a ratio of 1:13 can be applied. In Scotland, children aged 3 and over attending a setting for less than 4 hours per day, a ratio of 1:10 can be applied.

We asked

Q. 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? Please explain your rationale for these views.

We heard

The vast majority of respondents to the consultation responded to this question and whilst a very small number agreed with the proposals, most respondents disagreed with the proposals. This was a consistent finding across all of the different types of respondents, such as parents, group-based providers and organisations representing the sector.

Of those who disagreed with the proposal, five main themes emerged from the responses:

- concerns for the overall quality of provision in group-based settings
- staff workload, wellbeing, recruitment and retention implications
- concerns for child wellbeing, development and progress
- failure to address the current and most pressing challenges in the early years sector
- concerns that any financial savings made by setting owners, as result of introducing the proposal, would not be passed onto parents/carers.

Of those who agreed with the proposal, the following themes were identified:

- proposal A offers increased autonomy and flexibility for owners to make the best decisions for the needs of their settings
- proposal A would go some way to addressing current retention and recruitment challenges
- agreement with proposal A providing certain caveats are in place.

Examples of such caveats included:

- ensuring that safety standards were maintained by, for example, having sufficiently qualified and experienced staff, being offered only by providers with a good or above Ofsted judgement, or having flexibility for when staff have to leave the room
- allowing providers the choice of implementing the change based on whether it was right for their contexts.

Natcen survey findings: Proposal A

The survey undertaken by Natcen found that the majority of group settings with 2-year-olds (70%) said they would be unlikely or very unlikely to change their provision if ratio requirements were relaxed, with 45% saying they would be very unlikely. Twenty-eight percent of group settings with 2-year olds said they would be likely or very likely to make any changes to provision. This corresponds to 19% of all group settings (including those with and without 2-year-olds).

10% of group settings not currently offering care for 2-year olds said that they would definitely or probably start offering places to 2-year olds if the ratio change were introduced.

The most common reason given by providers who said they were likely to make changes to their provision was that this would help with staff shortages.

The most common reason given by providers who said they were unlikely to change their provision was that they believed relaxing ratios would compromise their quality of care. Other common reasons included concerns that the new ratio would put children's safety at risk or that it would put additional strain on their existing staff by increasing the number of children they are responsible for.

Impact on provision

Providers were asked what impact the ratio change would have on how they delivered provision. Among the 28% of settings that said they would be likely to change their provision:

- 69% said they expected to reduce their staffing levels;
- 62% expected to increase the amount of care delivered;
- This includes 32% who said they would both reduce their staffing levels and increase the amount of care offered to 2-year-olds.

Among settings who would increase the amount of care offered to 2-year-olds:

- 79% said that their income would increase, with an average anticipated increase in income of 6%. Overall, the likely potential impact is that 8% of all group settings with 2-year olds would see an increase in their income, but a maximum of 16% (including those unlikely to make a change) might see their income increase because of the proposed ratio change¹³.

¹³ The **maximum potential impact** is based on there being a chance that anyone other than those reportedly *least likely* to make a change could be impacted by a change in ratios. It is calculated as the total number of providers who said they were 'very likely' to 'unlikely' to change their provision if new ratios were introduced, as a proportion of all providers. Providers who said they were 'very unlikely' to change their provision were not asked about the potential impact on provision. The most realistic impact is those who responded 'likely' or 'very likely'. This is referred to as a **likely potential impact**.

- Evidence gathered by Natcen suggests that an additional 17,400 - 24,500 2-year-olds could be looked after across group settings, an increase of approximately 4-6%.

Among settings reporting that they would reduce staffing levels:

- 60% said that staff costs would consequently be lower. This may reflect that some staffing changes, for example staff being redeployed or working fewer hours, may not be sufficient to reduce total staff costs.

Overall, the likely potential impact is that 9 – 15 % of all group settings with 2-year olds would see a reduction in their staffing costs. Taking income and costs together, the likely impact is that 15 – 28 % of group settings with 2-year olds would see an initial financial gain (through increased income and/or reduced staff costs).

Among settings who expected that they would see some financial gain:

- Most (64%) reported that none of the gain would be passed on to parents through reduced fees.
- 31% said they would pass on some of it and only 5% indicated they would pass on most or all of it.
- Overall, the likely impact is that 7 - 12% of all settings with 2-year olds would pass on any savings to parents.

Among settings expecting some financial gain and not expecting to pass all the gain on to parents:

- Most (63%) said they would use any financial gain to support the financial sustainability of their provision, for example by building up reserves or paying back loans.
- Around half of the settings (53%) said they would use it to pay for additional resources for staff training or career development.
- Just under half (49%) said they would use the surplus to increase staff salaries.

Government response to proposal A

The Government recognises that the early years is a vital part of a child's education and remains committed to ensuring parents can access affordable, high quality, flexible childcare. We also recognise that childcare is a key enabler for parents to work and that the gap between parental leave and the current free entitlement hours is a significant barrier to work. This is why on 15 March 2023, Government announced a significant new investment in childcare. We will provide over £4.1 billion by 2027-28 to fund 30 hours of free childcare per week (38 weeks per year) for eligible working parents with children aged nine months up to three years in England. In addition we will provide £204 million in

2023-24 (from September 2023) and £288 million in 2024-25 to substantially uplift the hourly funding rates paid to providers to deliver the existing free entitlement offers.

The Government remains committed to supporting the childcare sector and providing flexibility to providers, to help more parents to access childcare in support of their working lives. Therefore, alongside the funding announced at Budget on 15 March, we will also proceed with the proposed changes to staff:child ratios for 2-year-olds from 1:4 to 1:5, to bring English ratios in line with Scottish ratios.¹⁴ These will be new statutory minimums – providers will continue to decide the staffing levels for their settings to meet the needs of the children in their care. This change will come in from September 2023 subject to parliamentary procedure.

Like-for-like comparisons must be treated with caution due to very different childcare systems, but England has equivalent or slightly tighter ratio requirements than other comparable countries. This change would bring England's ratios for 2-year-olds in line with Scotland, and ensure they remain broadly consistent with other countries internationally. Furthermore, Scotland's Care Inspectorate has suggested that there is no evidence that the needs of children were not being met under their workforce model¹⁵.

The proposed changes to ratios would continue to be a statutory minimum requirement for settings, and there will be no obligation on providers to operate at the statutory minimums – i.e. providers can continue to work to tighter ratios if they decide that is best for the children and staff at their setting. The Government trusts that setting managers know their children and their staff best, and fully supports the judgement of setting managers and practitioners to work at the ratios that are right for the individual needs of their staff and children.

This change to two-year old ratios will provide managers with the flexibility to utilise staff in a more efficient and effective way, and setting managers will ultimately have the choice to work to their preferred ratio (as long as this meets statutory minimum requirements). Providers must continue to ensure that staffing arrangements must meet the needs of all children and ensure the quality of care, safety and security of children is maintained. Providers must ensure that children are adequately supervised, including whilst eating, and decide how to deploy staff to ensure children's needs are met.

¹⁴ The Scottish system has similar ratios to England. Both countries apply a ratio of 1:3 (one adult to three children) for children under 2-years-old, and 1:8 (one adult to eight children) for children aged 3 and over. However, these differ for children aged 2 wherein England our ratio is 1:4 (one adult to four children), whilst Scotland applies ratios of 1:5 (one adult to five children). *[In England when children aged 3 and over are supervised by an adult with an approved Level 6, a ratio of 1:13 can be applied. In Scotland, children aged 3 and over attending a setting for less than 4 hours per day, a ratio of 1:10 can be applied.]*

¹⁵ [Guidance on adult to child ratios in early learning and childcare settings.pdf \(careinspectorate.com\)](https://www.careinspectorate.com/guidance/adult-to-child-ratios-in-early-learning-and-childcare-settings.pdf)

The Government recognises that although most respondents to the consultation disagreed with the proposal on 2-year-old ratios, there was agreement from a number of respondents. This corresponds with evidence gathered via the Natcen survey, which demonstrated that 19% of all group settings (those with and without 2-year-olds) would be likely or very likely to make changes to 2-year-old ratios.

We will also continue to explore a wide range of options to support parents and children to access a flexible childcare and early education offer that works for all families, ensuring that regulations are proportionate and effective.

Proposals B and C: Childminder settings

Proposal B: caring for siblings

These proposals concerned the staff:child ratios for childminders when caring for sibling groups (Proposal B).

Proposal B suggested changing language so it is clear that childminders can care for more than the specified maximum of three children under the age of 5 if they are caring for sibling babies or the sibling of another child they care for.

We asked

Q. Do you agree or disagree with Proposal B to change the EYFS wording on childminders' ratio flexibility for siblings?

We heard

The majority of respondents to the consultation responded to this question and whilst some agreed with the proposals, the majority of respondents disagreed with the proposals.

The reasons why respondents disagreed with the proposal reflected many of the same findings reported for Proposal A:

- concerns for the overall quality of provision in childminder settings
- sibling relationships should not influence staff:child ratios
- staff workload considerations
- concerns for child wellbeing, development and progress

Respondents who agreed with the proposal did so for the following reasons:

- Proposal B offers increased flexibility for childminders to make the best decisions for the needs of their setting
- Proposal B supports families by providing more spaces for children

- agreement with Proposal B as long as certain caveats are considered
- agreement with the aims of Proposal B but with greater clarification of specific wording

This was a fairly consistent finding across all groups of respondents except for childminders, who were more likely to agree.

Proposal C: caring for childminders' own children

These proposals concerned the staff:child ratios for childminders when caring for their own children (Proposal C).

Proposal C suggested changing language so it is clear that childminders can care for more than the specified maximum of three children under the age of 5, if they are also caring for their own baby and/or their own child.

We asked

Q. Do you agree or disagree with Proposal C to change the EYFS wording on ratio flexibility for childminders' own children?

We heard

We heard from a large number of respondents and whilst some agreed with the proposals, the majority of respondents disagreed with the proposals. The feedback to Proposal C was very similar to that of Proposal B. Of those that disagreed with the proposals, the key themes identified were:

- concerns for the overall quality of provision in childminder settings
- the relationship between a child and childminder should not influence staff:child ratios
- staff workload considerations
- concerns for child wellbeing, development and progress

Childminders were by far the largest group of respondents in favour of the change compared to other groups. The following themes were identified by those in agreement with the proposal:

- agreement as long as certain caveats are considered such as, not compromising on safety and safeguarding

- Proposal C allows increased flexibility for childminders to make the best decisions for the needs of their setting
- Proposal C provides more opportunities for childminders to look after their own children
- Proposal C supports families by providing more childcare spaces

Natcen survey findings: Proposals B and C

The survey conducted by Natcen considered both proposals relating to childminders in tandem, and so for the purposes of reporting on the evidence found, both proposals B and C will be considered together in this section of the government response.

The survey found that the majority of childminders reported that they would not change their provision in response to the proposed ratio change (56%), with 32% reporting they would be very unlikely to do so. Around a quarter (26%) reported they would be either likely or very likely to make changes. Almost one in five (18%) said that they did not know if they would make changes.

Childminders were asked an open-ended question about the reasons why they were either likely or unlikely to consider changing their provision. Of the majority who reported they would be unlikely to change their provision in response to the proposed ratio requirements, the most common reasons provided related to quality of care and safety (this mirrors the findings for group settings). Nearly three in ten childminders reported concerns that the changes would compromise the quality of care they provided and almost one quarter reported concerns that it would compromise child safety.

The most common reasons childminders gave for being likely to change their provision were to allow them to offer continuity of care for families (including those wanting childcare for siblings), or to increase revenue to help with their own living costs. All childminders (excluding those who were very unlikely to make changes) were asked whether new ratio flexibilities would impact their delivery of care. Of all childminders asked, 42% reported they would fill spare places, 42% reported reallocating places to younger children, and 16% reported they would do 'something else'.

Financial impact of proposed changes

To investigate the potential financial impact of the proposed ratio change on childminders, all childminders except those who said they were 'very unlikely' to change their provision were asked to report their current annual income from the delivery of childcare, followed by how much additional income they might expect to receive if the proposed ratio change were introduced. This was used to estimate the potential percentage change in income as a result of the ratio change. Overall, 79% of childminders asked reported an expected increase in income as a result of the ratio change. The average (median) increase expected was 20% of current income.

Putting these findings in the context of all childminders and factoring in the high proportion of childminders who said they were very unlikely to change their provision (and so would not expect to see their income change as a result), the findings suggest that a maximum of 49% of childminders might expect to see their income increase as a result of the proposed ratio change. However, the likely impact (excluding childminders unlikely to change their provision) is that 21% of all childminders would see an increase in income following the introduction of the new ratio requirements.¹⁶

Regarding parent paid fees, the survey found that the majority (60%) of childminders asked (childminders who were expected to change their provision) reported they would not pass on any of the anticipated financial gain to parents, with one third (33%) reporting they would pass on some of it and only 7% indicating they would pass on most or all of it.

Putting these findings in the context of all childminders, and factoring in those childminders who said they were very unlikely to change their provision or who did not expect a change in income as a result, the findings suggest that a maximum of 20% of childminders might expect to pass on any savings to parents. The likely potential impact, however, (excluding those unlikely to change provision) is that 8% of all childminders would pass on savings.

Government response to proposals B and C

The Government recognises that the early years is a vital part of a child's education and remains committed to ensuring parents can access affordable, high quality, flexible childcare. We also recognise that childcare is a key enabler for parents to work and that the gap between parental leave and the current free entitlement hours is a significant barrier to work. This is why on 15 March, Government announced a significant new investment in childcare.

We will provide over £4.1 billion by 2027-28 to fund 30 hours of free childcare per week (38 weeks per year) for eligible working parents with children aged nine months up to three years in England. In addition we will provide £204 million in 2023-24 (from September 2023) and a £288 million by 2024-25 to significantly uplift the hourly funding rate paid to providers to deliver the existing free entitlement offers.

The Government remains committed to providing flexibility to childminders, who are generally the most affordable and flexible form of childcare for many parents. This is why we will proceed with Proposals B and C, to clarify in the EYFS that childminders can

¹⁶ The first percentage is the number of all childminders responding they would see increased income calculated as a proportion of all childminders. The second percentage is the number of all childminders who said they were likely to change provision in response to the new ratio and who said they would see increased income calculated as a proportion of all childminders.

make exceptions to the usual ratios when caring for their own children and for sibling groups, as opposed to current wording which only states that this can be done when caring for babies and/or a childminder's own baby.¹⁷ This will support childminders to develop a childcare offer that can help siblings grow up together, and enable childminders to offer a more flexible provision whilst caring for their own children and babies.

We understand that childminders know their children and staff best, and fully supports the judgement of childminders to work at the ratios that are right for their individual needs and the needs of the children they care for. Childminders will have the choice to work to their preferred ratio (as long as this meets statutory minimum requirements outlined in the EYFS).

These clarifications are intended to support childminders with greater flexibility around the choice of provision they can offer. By clarifying this wording, we intend to support childminders who may care for siblings as well as babies. We recognise that not all childminders may enact this change, but given the small number that have indicated they would find this change beneficial, Government has concluded that this change will be worthwhile.

The Government recognises that although the majority of consultation respondents disagreed with proposals to clarify existing elements of the EYFS whereby childminders can make exceptions to the statutory minimum ratios for their own children and siblings of children in their care, there was some evidence of positive responses to the consultation. This aligns with evidence found in the Natcen report, which demonstrated that a minority of childminders were receptive to the proposed clarification to the EYFS wording.

It is important to note that both Proposals B and C are not a direct change to the childminder ratios. Paragraph 3.43 of the EYFS lists a number of examples whereby childminders can make exceptions to the usual ratios, if they can demonstrate to parents/carers and Ofsted inspectors that the individual needs of all children are being met. The current examples listed in the EYFS are not extensive, and so these proposals are a clarification of rules already allowed under EYFS wording. Any providers amending ratios by exception in line with EYFS guidance must ensure that all appropriate action is taken to ensure that the individual needs of all children are being met.

This Government remains committed to ensuring parents can access high quality, flexible childcare, and that they understand the support they are entitled to.

¹⁷ For any exceptions to the statutory minimum childminder ratios, the total number of children under the age of eight being cared for must not exceed six per adult.

Further options for ratio reform

The consultation also invited views on further options for ratio reform, although these options were not proposed as part of the formal consultation.

We asked

Q. 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.

We heard

Just over half of respondents to the consultation responded to this question. Whilst some agreed with the suggestion, most respondents disagreed. Of those who disagreed with the flexibility, the following themes were identified:

- concerns for the overall quality of provision
- staff wellbeing, recruitment and retention implications
- concerns for child development, progress and wellbeing
- failure to address the current and most pressing challenges in the early years sector

The high cost of childcare was also criticised by some, with statements that this needed to be made more affordable for parents/carers, which would also support those seeking employment. Overall investment in the sector was also seen to be of long-term benefit, with some advocating wider system reform.

A small proportion of respondents agreed with the flexibility, but of those most did so with caveats to mitigate against potential safety concerns.

Examples of such caveats included:

- only if children's needs can be met and staff capability evidenced
- only if supervised by suitably qualified staff, such as those with level 3 qualifications
- it being helpful in exceptional circumstances such as staff illness or annual leave
- the flexibility being dependant on the needs of children counted within the ratio
- with greater financial support to meet children's additional needs
- it not being appropriate for lone workers

Of those who agreed with the flexibility for 3- to 4- year-olds, the main reasons they gave included:

- it is more manageable with 3- to 4-year-olds than younger children
- most childminders are able to extend ratios safely
- it would support staff recruitment difficulties

Of those in agreement, childminders were most likely to agree with this ratio flexibility compared to other providers or respondent groups.

Respondents were also presented with a multi-choice question asking what further flexibilities they would consider adopting to deliver their provision.

We asked

Q. What further flexibilities would you consider adopting to deliver your provision? Multiple choice (select all that apply)

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.

- I. Create greater flexibilities within the ratios for group-based provision, for example when looking after mixed age groups.**
- II. Revise the existing qualification requirements needed to be included within the ratio. Examples could include (and are not limited to):**
 - a) Allowing staff working towards a qualification to be included within the ratio at the qualification level they are working towards (e.g., a member of staff working towards a Level 3 qualification can be included in ratio as a Level 3, not a Level 2).**
 - b) Revising the number of Level 2 and/or Level 3 staff required per ratio under the current rules.**
- III. Other, - please include any other options that you would like us to consider, or provide further thoughts on these proposed flexibilities.**

We heard

Of those who responded to this question, around half said we should consider 'other options'. Just under half of respondents who responded to this question said we should

'revise the existing qualification requirements needed to be included within the ratio'. The least popular option was 'creating greater flexibilities within the ratios for group based provision', with around one fifth of respondents who responded to this question selecting this.

When looking across all childcare providers, one-third said they would consider the option to create greater flexibility within the ratios (including just under two-thirds of childminders). Qualitatively, concerns were expressed over the potential dilution of quality and/or not potentially meeting children's needs, including those children who are most vulnerable.

Revising the existing qualification requirements needed to be included within ratio was a more popular option among childcare providers, with approximately three-fifths of childcare providers indicating they would consider this.

However, qualitatively, concerns were expressed on the following themes:

- devaluing the profession at a time when there were retention and recruitment challenges
- devaluing higher level qualifications through permitting staff working towards these to carry out the same responsibilities
- reducing the quality of provision, for example in terms of the level of expertise required in light of the EYFS
- placing undue responsibility on staff working towards a higher qualification, for example recently qualified level 2 staff who might have neither the skills or experience required
- creating a loophole to appoint less qualified, cheaper staff, or potentially for all staff to be unqualified in a setting without sufficient safeguards/parameters
- disincentivising the completion of level 3 qualifications

Respondents were given the opportunity to provide open text feedback relating to 'other options for consideration'. The main responses to this question focused on government investment in the sector in one form or another. Respondents considered that the value of the profession needed to be recognised by central government, and more support was needed for parents to access childcare. Raising or retaining standards of qualifications required was also highlighted by some respondents.

The following comment from one organisation was reflective of wider responses that ratios should be considered as part of a wider picture:

"Providers were unanimous in saying ratios should not be considered in isolation as they are just one part of regulation of early education and care. There are space requirements, staff levels, qualifications, SEND provision and funding to review and this should be all done together." – *Membership organisation*

Government response

Government has considered the feedback given by respondents in answer to the non-consultation questions regarding areas for further regulatory reform. In addition to new childcare funding announced on 15 March 2023, we are continuing to explore a wide range of options to support parents and children to access a flexible childcare and early education offer that works for all families. Government will continue to work with the sector to consider what is best to support early years providers to deliver high quality, flexible childcare provision.

Adequate supervision whilst eating

This proposal concerned changing the wording in the EYFS to be explicit that ‘adequate supervision’ whilst children are eating means that children must always be in sight *and* hearing of a member of staff – not just within sight or hearing.

We asked

Q. 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?

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

We heard

We heard from a number of respondents and a substantial majority agreed with the proposal. When asked about their views, people commonly referred to safety reasons for children, such as spotting choking incidents or allergic reactions. A minority of respondents disagreed. Potential areas for disagreement included specifically for childminders the layout of a setting making this difficult in practice, and capacity issues with staff members needing a break. However, some respondents considered the change in wording to be insufficiently robust to ensure high safety standards. Their reasons included it being open to interpretation as to what ‘within sight’ explicitly meant. These concerns suggested that it could be interpreted that someone just needs to be in the room with the children rather than directly supervising them.

Government response

We welcome the considerable support for this proposal. As such, Government intends to proceed with changing the wording in the EYFS to be explicit that ‘adequate supervision’ whilst children are eating means that children must always be in sight *and* hearing of a member of staff – not just within sight or hearing. The safety of our youngest children is our priority and mealtimes and snack times for babies and young children can be a high-risk environment for choking incidents. As a baby or young child who is choking can be completely silent, it is essential that children under five are within sight and hearing of staff members while eating so that immediate action can be taken if necessary to ensure their safety.

Engagement with early years providers indicates that for an overwhelming majority of settings, adequate supervision whilst eating is already understood to mean that children are within sight of a member of staff. Consultation responses align with this and the

change in the requirement will bring the EYFS framework explicitly into line with what many early years providers are already doing in practice and help to ensure the safety of children in early years settings.

Impact on individuals in your organisation with protected characteristics

We are committed to ensuring equality of opportunity for all children and it is important for us to consider the possible impact that the consultation proposals could have on different groups. We asked for respondents' help in identifying any potential impacts of our proposals on people who share particular protected characteristics.

We asked

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

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

We heard

The consultation asked respondents to outline any concerns they might have about how the proposals may affect individuals with protected characteristics, and to suggest how these concerns might be mitigated. Just over a third of total respondents responded to the question around protected characteristics, and one sixth of total respondents answered the question around mitigating concerns. Any concerns raised related to:

- impacts on children (including those with SEND, disadvantaged children and those from ethnic minority backgrounds)
- impacts on adults, particularly the female workforce
- general concerns around the ratio proposals

Although this question was targeted at respondents from provider organisations, a wider range of respondents, including parents/carers, contributed their views.

Impact on children

Across all respondents there was a strong concern that increased ratios would have a negative impact on children with additional needs/SEND, including those with ECHPs (around two-fifths of respondents). Respondents felt that these groups need additional support which will prove more difficult to provide if staff are caring for greater numbers of children. Only childminders considered this less of a concern compared to all other provider types and other respondent groups. Although not a protected characteristic, some respondents also referred to fostered or adopted children being adversely affected.

Respondents noted that increased ratios could make it more difficult for parents/carers to find places for their child(ren). They thought that providers might be reticent to enrol these children, due to lack of staff or additional staffing costs incurred to meet needs, or declining admission requests. They said that this was exacerbated by the absence of funding for children with unidentified SEND. However, Government is investing an additional £204 million in 2023-24 to increase the hourly funding rate to providers, and £4.1 billion by 2027-28 to deliver a significantly expanded free hours offer. We also offer an Early Years Pupil Premium, through which providers can get up to £342 per year extra funding to support eligible children, including the most disadvantaged.

The next greatest concern was about the affordability of childcare and how this would adversely impact on disadvantaged children accessing high quality care. Respondents considered that more affluent parents/carers would be able to afford higher quality care with lower ratios in contrast to disadvantaged parents/carers. Disadvantaged children would consequently be more likely found in settings with higher ratios and accordingly fewer staff interactions, detrimental to their development. While disadvantage is not a protected characteristic, around one-third of respondents, mostly childminders and parents/carers, referred to this as a concern in response to this question.

Concerns were similarly raised over the impact for children from ethnic minority backgrounds with respondents stating that this group were more likely to be socially and economically disadvantaged. Reference was also made to research which showed children from ethnic minority backgrounds were disproportionately likely to have missed out on formal early learning during the pandemic. Respondents were therefore concerned that higher ratios would mean less staff time supporting their development.

Government is committed to enabling children from all backgrounds to access affordable, quality childcare, which is why, in addition to the new offer for eligible working parents of 9 month up to three-year-olds, and the existing 15 hours of free childcare per week for disadvantaged two year-olds, we are making sure that those families who are eligible for Universal Credit will have support with childcare costs upfront when they need it rather than in arrears. We will also increase support for these parents by increasing the childcare cost maximum amounts.

In terms of quality, the Early Years Foundation Stage sets the standards that all early years providers must meet to ensure that children learn and develop well. As of March 2022, 96% of all childcare providers on Ofsted's Early Years Register were judged either good or outstanding at their most recent inspection.

To support staff and leadership, Government launched a new National Professional Qualification for Early Years Leadership in 2021, to provide training and support for early years practitioners to develop expertise in leading high-quality education and care, as well as effective staff and organisational management.

Impact on adults

There were some strong views that any decisions on the change of ratios would have a disproportionate effect on female staff as these made up the majority of the workforce. This included the impact on pregnant staff becoming tired through caring for more children with a higher ratio. There was a view we should support individuals to fulfil roles in the early years sector and that flexible working practices should form part of this. We are making the changes outlined in this document to support providers the flexibility to staff according to the needs of their children and staff, including flexible practices.

More broadly, respondents expressed strong concerns about women being disadvantaged due to childcare affordability. While this included some reference to childcare staff, it was a more general point made with respect to its impact on women. It was considered that lack of affordability could mean women have to leave their jobs, or take reduced hours posts. A related point was that if ratios were increased, women might consider the safety or quality of care to be compromised and would therefore leave work to care for their children. Such concerns could have an adverse impact on the labour market, women's career development and the gender pay gap.

We recognise that affordability and quality of care are vital factors in the decisions that parents make. By increasing flexibility for early years providers, alongside investing £204 million into the existing entitlements from September 2023 to support the sector, this will help to bring down costs for parents. This is evidenced by this survey where 28%, over one in four providers, said they would change their provision by reducing the number of staff needed or increasing the amount of care provided if the ratio of 2 year olds they could care for at any time was increased to align with Scotland's framework. This will support parents, particularly mothers, to go back to, take up and stay in work. DfE's 2018 evaluation of the 30 hours free entitlement for working parents of 3–4-year-olds found that 26% of mothers and 7% of fathers who had taken up the entitlement reported working more hours as a result.¹⁸

General concerns about the ratio proposals

While the question focused on protected characteristics, around one-third of all respondents to this question took the opportunity to state or reinforce their general concerns about the proposals. A very small proportion of respondents stated that there were no concerns, although this did not mean that there were no concerns with the

¹⁸ [Evaluation of the first year of the national rollout of 30 hours free childcare \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

proposals overall. Some, for example, made reference to not making changes to ratios and so there were no concerns on this basis. A very small proportion of respondents also stated that the proposals made childcare more inaccessible.

Next steps

Government remains committed to ensuring parents can access high quality, flexible childcare, and that they understand the support they are entitled to. Government will continue to work with early years childcare providers, schools, parents, and carers to ensure we build upon the strengths of the current system and work towards a childcare offer that works for families now and in the future.

Government will proceed with the proposed changes to staff:child ratios for 2-year-olds from 1:4 to 1:5 and the proposals around childminder flexibilities. We will amend the EYFS wording to reflect this. We will also continue to explore a wide range of options to support parents and children to access a flexible childcare and early education offer that works for all families. We will keep regulations that govern the provision of early education and childcare under review. Government will continue to work with the sector to consider what is best to support early years providers deliver high quality, flexible childcare provision. Any further proposals for regulatory changes will be subject to separate consultation as necessary.

This government recognises that the early years is a vital part of a child's education and remains committed to ensuring parents can access high quality, flexible childcare.

We intend to change the wording in the EYFS to make it explicit that 'adequate supervision' whilst children are eating means that children must always be in sight *and* hearing of a member of staff – not just within sight *or* hearing. This will bring the EYFS into line with what many providers are already doing in practice.

These changes are intended to come into force by September 2023, subject to parliamentary process.

Annex A: Staff:child ratios

Staff:child ratios

[Statutory framework for the early years foundation stage \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Age of Child	Staff:Child Ratios	Staff Qualifications
Under 2	1:3	One staff member must hold a Level 3 qualification and at least half of all other staff must hold an approved Level 2 qualification.
2	1:4	One staff member Level 3 qualified and at least half of all other staff Level 2.
3 and over	1:8	One staff member qualified to Level 3, and at least half of all other staff Level 2.
3 and over	1:13	One staff member qualified to Level 6, and at least one other member of staff qualified to Level 3.
Reception (age 4-5)	Subject to infant class size legislation limit of 1:30	Teacher status (level 6)
Childminders	<p>1:6 under the age of 8 of which no more than three children can be classed as young children and only one child under age 1 (with exceptions for siblings).</p> <p>CMs are not required to be qualified to a certain level, but must register with Ofsted/CMA groups, and must have completed PSA training.</p>	



Department
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