



Department
for Education

Childcare regulatory changes: equality impact assessment

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Policy Overview

This document records how the Parliamentary Under Secretary of State (Minister for Children, Families and Wellbeing) will consider how we pay due regard to equality of opportunity for all groups with protected characteristics as defined by the Equality Act, in consideration of the [Childcare: Regulatory changes consultation](#) launched by the Department for Education on 4 July 2022.

The key themes in the consultation were to amend the Early Years Foundation Stage (EYFS) Statutory Framework to make three changes:

- 1) a change to the current statutory minimum staff:child ratios in England for 2-year-olds from 1:4 to 1:5;
- 2) clarifying that childminders can care for more than the specified maximum of three young children if they are caring for siblings of children they already care for, or if the childminder is caring for their own child;
- 3) clarifying that “adequate supervision” while children are eating means that children must be within sight and hearing of an adult.

Background

Staff:child ratios for 2-year-olds and childminder ratio flexibilities

Staff:child ratios are set out in the Early Years Foundation Stage statutory framework (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’.

Staffing ratios have existed largely unchanged since the 1970s, and in the later 1980s were codified based on common practice at the time. Whilst the department keeps EYFS requirements under internal review on a regular basis, the last formal review of staff:child ratios was in 2013; no changes were made following the review.

Following an 11-week consultation from July-September 2022, the Government announced as part of the 2023 Spring Budget, that it would proceed with the proposed changes on staff:child ratios and adequate supervision whilst eating. The Government is making these changes in support of the childcare reforms announced in the 2023 Spring Budget, and the significant increase in demand for childcare that is likely to emerge. These changes will support the childcare sector and provide greater flexibility to providers to utilise their staff in a more efficient and effective way.

We have decided to mirror the Scottish model, given that Scotland applies ratios very similarly to England (with some slight differences). There is no evidence to suggest that the Scottish model is unsafe, and evidence shows high parental satisfaction rates¹.

Adequate supervision whilst eating

Tragically, a child dies in the UK every month from choking and hundreds more require hospital treatment². Snack and meal times for babies and young children can be a high-risk environment for choking incidents.

The EYFS 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.

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.

Proposal and rationale

Staff:child ratios for 2-year-olds and childminder ratio flexibilities

Through the consultation, we proposed to make changes to the statutory minimum staff:child ratios for children aged 2 in group-based settings, and to provide clarification around the exceptions in childminder ratios for sibling groups and for a childminder's own children.

Staff costs account for 69% of the cost of running a childcare setting for private and 78% of the cost for voluntary group-based providers³, and we know that regulations on minimum staff:child ratios drive key decisions about staffing.⁴ Current, and proposed, ratios are minimum requirements – we know that childminders and managers of early years settings know their children best, so it is right that we give them the flexibility they need to staff their settings based on their knowledge of the care and education their children require at any time.

Childminders are also an important part of the early years sector, providing childcare that is flexible and affordable.⁵ However, childminder numbers have declined steadily year on

¹ [Quality of early learning and childcare - Parents' views and use of early learning and childcare: report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/04/Quality_of_early_learning_and_childcare_-_Parents_views_and_use_of_early_learning_and_childcare_report_-_gov.scot)

² The Royal Society for the Prevention of Accidents (ROSPA): <https://www.rospa.com/resources/hubs/keeping-kids-safe/choking?msclid=970e0c7cbbdf11ec80d100ddfb16845b>

³ <https://explore-education-statistics.service.gov.uk/find-statistics/childcare-and-early-years-provider-survey/2022>

⁴ [Childcare: Regulatory Changes - July 2022 consultation \(education.gov.uk\)](https://www.education.gov.uk/government/consultations/childcare-regulatory-changes-july-2022) p.13.

⁵ [Providers' finances: Evidence from the Survey of Childcare and Early Years Providers 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/111111/Providers_finances_Evidence_from_the_Survey_of_Childcare_and_Early_Years_Providers_2021)

year.⁶ While the decline in childminder numbers has not affected the overall sufficiency of early years childcare places, it has reduced the availability of one form of affordable and flexible childcare, limiting parental choice.⁷ The two proposals⁸ consulted on are designed to provide childminders with greater clarity about how they can apply their ratios in specific circumstances.

The consultation questions on ratios relate solely to changes in staff:child ratios. These proposed changes to ratios would amend the existing statutory minimum requirements for 2-year-olds from 1:4 to 1:5, however, providers will continue to be free to staff to tighter ratios if that is their preference.

These proposed changes would provide greater autonomy to settings and childminders, enabling them to:

- expand their reach so that as many families as possible can benefit from affordable, flexible childcare;
- exercise greater professional judgement in deciding the makeup of the groups of children they care for and/or the way in which they staff their settings, according to the needs of their children.
- to deliver the ambitious childcare reforms announced as part of the Chancellor's 2023 Spring Budget and help providers meet the significant increase in demand for childcare that is likely to emerge.

Adequate supervision whilst eating

We intend to change the wording in the EYFS to be explicit that “adequate supervision” while children are eating means that children must always be within sight and hearing of an adult – not just within sight or hearing.

Evidence gathered by Natcen showed that for 98% of group based providers and 97% of childminders, adequate supervision while eating is already understood to mean that children are within sight of a member of staff. We believe that an explicit requirement in the EYFS will reinforce this practice and ensure the safety of children in early years settings.

Technical detail of our proposal

The proposal to 2-year-old ratios would require a change to paragraph 3.33 of the EYFS via amendments to the EYFS (Welfare Requirements) Regulations 2012.

⁶ <https://www.gov.uk/government/statistics/childcare-providers-and-inspections-as-at-31-march-2023>

⁷ <https://www.gov.uk/government/statistics/childcare-providers-and-inspections-as-at-31-march-2023>

⁸ In reference to the proposal around childminder ratio flexibilities for a the sibling(s) of child(ren) cared for by the childminder and the proposal around childminder's own child(ren).

Current wording for children aged 2 years:

*there must be at least one member of staff for every four children.
at least one member of staff must hold an approved level 3 qualification.
at least half of all other staff must hold an approved level 2 qualification.*

Proposed new wording for children aged 2 years:

*there must be at least one member of staff for every five children
at least one member of staff must hold an approved level 3 qualification
at least half of all other staff must hold an approved level 2 qualification*

The proposal to change wording around childminder ratio exceptions, for siblings and childminder's own children, would require a change to paragraph 3.43 of the EYFS via amendments to the EYFS (Welfare Requirements) Regulations 2012.

The current wording for childminder ratio exceptions:

If a childminder can demonstrate to parents and/or carers and Ofsted inspectors or their childminder agency that the individual needs of all the children are being met, exceptions to the usual ratios can be made for example:

- *when childminders are caring for sibling babies, or*
- *when caring for their own baby, or*
- *to maintain continuity of care, or*
- *if children aged three to five only attend the childminding setting before and/or after a normal school day, and/or during school holidays, they may be cared for at the same time as three other young children.*

In all circumstances, the total number of children under the age of eight being cared for must not exceed six per adult.

The proposed new wording, below, would remove 'babies' from the wording of the first bullet point, and change the wording of the second bullet point from 'baby' to 'child', to clarify that flexibility is not limited to only babies in these scenarios.

The proposed new wording for childminder ratio exceptions:

If a childminder can demonstrate to parents and/or carers and Ofsted inspectors or their childminder agency that the individual needs of all the children are being met, exceptions to the usual ratios can be made for example:

- *when childminders are caring for siblings, or*
- *when caring for their own child, or*
- *to maintain continuity of care, or*
- *if children aged three to five only attend the childminding setting before and/or after a normal school day, and/or during school holidays, they may be cared for at the same time as three other young children.*

In all circumstances, the total number of children under the age of eight being cared for must not exceed six per adult.

The proposed new wording below on adequate supervision whilst eating would require a change to paragraph 3.29 of the EYFS via amendments to the EYFS (Welfare Requirements) Regulations 2012.

The current wording on adequate supervision whilst eating:

Staffing arrangements must meet the needs of all children and ensure their safety. Providers must ensure that children are adequately supervised, including whilst eating, and decide how to deploy staff to ensure children's needs are met. Providers must inform parents and/or carers about staff deployment, and, when relevant and practical, aim to involve them in these decisions. Children must usually be within sight and hearing of staff and always within sight or hearing.

The proposed new wording would replace the last sentence with "Whilst eating, children must be within sight and hearing of a member of staff" as follows:

The proposed new wording on adequate supervision whilst eating:

Staffing arrangements must meet the needs of all children and ensure their safety. Providers must ensure that children are adequately supervised, including whilst eating, and decide how to deploy staff to ensure children's needs are met. Providers must inform parents and/or carers about staff deployment, and, when relevant and practical, aim to involve them in these decisions. Children must usually be within sight and hearing of staff and always within sight or hearing. Whilst eating, children must be within sight and hearing of a member of staff.

Consideration of the Protected Characteristics identified in the Equality Act 2010

Adequate Supervision

Disability: overall impact positive

A person has a disability for the purposes of the Equality Act 2010 if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

We have identified impacts under limb 'advance equality of opportunity between people who share a protected characteristic and those who do not'. We consider that there will be positive impacts for children with Special Educational Needs and Disabilities (SEND) when ensuring all children are within sight and hearing whilst eating, due to the potential of some of these children sharing this protected characteristic having additional needs when eating. Making it clear that all children should be within sight and hearing whilst eating will ensure early years practitioners are able to monitor these children closely.

However, consultation responses analysed by Cooper Gibson Research found in statements about staff supervision in respect to children being within sight and hearing whilst eating, there were concerns when considering staff with hearing loss.⁹ We believe providers could mitigate against this by assessing how they deploy their staff during snack and meal times.

Other characteristics: neutral impact

We have not identified any impacts for any other protected characteristics under any of the other limbs of the PSED, but we will keep this under review.

Staff:Child Ratios for 2-Year-Olds

Sex: overall impact positive

Women are overrepresented in the early years workforce. Group-based and school-based providers report that 98% of their paid staff are female, whilst 98% of childminders are female.¹⁰ The proposed changes to staff:child ratios are likely to have multiple impacts on the workforce and therefore may have a disproportionate effect on women.

The aim of the policy change is to support the sector in delivering the ambitious childcare reforms announced in the Chancellor's 2023 Spring Budget, and provide them with greater flexibility to utilise their staff more efficiently and effectively. We would expect the ratio changes to have a positive financial impact on the workforce in general, certainly compared to the counterfactual, in which costs may rise more sharply than if we did not

⁹ Cooper Gibson Research, p.46

¹⁰ <https://explore-education-statistics.service.gov.uk/find-statistics/childcare-and-early-years-provider-survey/2022>

introduce this policy. This may have a positive economic impact on women, with regard to the first and second limbs of the PSED.

In addition, reducing the ratio of staff to children (so there are more children per staff member) could *theoretically* result in some cost savings to parents. At this stage, this is purely hypothetical, as it is dependent on provider behaviour and providers choosing to pass any cost savings onto parents rather than mitigate cost increases elsewhere. However, if this does transpire, and this policy change helps make childcare more affordable for parents, this is likely to have a disproportionate positive impact on mothers i.e. women, again particularly with regard to the first and second limbs of the PSED.

Analysis conducted by Natcen found that the likely impact is that 15% of group settings with 2-year-olds would see an initial financial gain (through increased income and/or reduced staff costs), but a maximum of 28% (including those unlikely to make a change) might see an initial financial gain. 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, whilst 31% said they would pass on some of it, and only 5% indicated they would pass on most or all of it.¹¹

More affordable childcare enables more women to work or increase their working hours, as per the findings from the childcare and early years survey of parents, which asked mothers some specific questions about their levels of work and the factors influencing their decisions about going to work¹². This is primarily pertinent to the second limb of the PSED.

However, it is important to recognise that evidence gathered from Natcen suggests that if ratio proposals were implemented, only a small minority of providers would pass on any cost savings to parents. Natcen's findings suggest that a maximum of 12% of settings might be expected to pass on fee savings to parents, reflecting the substantial proportions of settings that would not be making any changes to their provision, would not have any financial gain from the changes or who would not pass on any financial gain to parents in the form of reduced fees.¹³ In this sense, with regards to sex, proposed changes may have a neutral impact, as parents would be unlikely to see any cost savings and so their perceptions of childcare affordability would remain the same.

42% of working mothers reported that factors which helped them go out to work included having reliable childcare¹⁴. Evidence gathered by Natcen indicated the likely impact of the proposed changes to ratios. Group settings with 2-year-olds (that were asked how they would change their provision in response to the ratio change) were fairly evenly divided between those who said they would increase the amount of care offered to 2-year-olds (61%) and those who said they would reduce staffing levels (62%). If providers likely to make changes increased the number of children looked after in line with their

¹¹ Findings from the early years staff:child ratio consultation survey, Natcen, Nov 2022, p.9

¹² [Childcare and early years survey of parents, Reporting Year 2021 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service.gov.uk)

¹³ Natcen report, p.28

¹⁴ [Childcare and early years survey of parents, Reporting Year 2021 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service.gov.uk)

expectations, there could be additional provision for around 17,400 2-year-olds, an increase of 4%. Also taking account of providers who said they would start offering places to 2-year olds because of the ratio change, the evidence suggests that an additional 24,500 2-year-olds could be looked after across group settings, an increase of approximately 6%.¹⁵ This could have a disproportionately positive impact on mothers and/or fathers looking to move back into the workplace, as the creation of additional spaces could support parents find reliable childcare as a result of the ratio change which could enable more 2-year-olds to attend nursery.

On the other hand, analysis of the ratios consultation by Cooper Gibson Research found evidence to suggest that if ratios were increased, women might consider the safety or quality of care to be compromised and may therefore leave work to care for their children. If such proposals were adopted, such concerns could have an adverse impact on the labour market, women's career development and the gender pay gap.¹⁶

However, we intend to mirror the Scottish model, given that Scotland applies ratios very similarly to England (with some slight differences), and there is currently no evidence to suggest that the Scottish model is unsafe, or that quality has been compromised. Evidence shows high parental satisfaction rates¹⁷.

Also, according to Natcen, 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, and just under half (49%) said they would use the surplus to increase staff salaries. This indicates that proposed changes to ratios could have a positive impact on staff (and by association women, as they make up the majority of the workforce) as it could result in their salaries increasing and/or better training opportunities which may lead to better quality provision for children.¹⁸

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% of all group settings with 2-year-olds would see a reduction in their staffing costs, but a maximum of 15% (including those unlikely to make a change) might see a reduction because of the proposed ratio change.

Cooper Gibson reported that alongside children with SEND and those experiencing social and economic disadvantage, female staff were reported as one of the main groups who would be disproportionately and unfairly affected by any changes of ratios.¹⁹ This

¹⁵ Findings from the early years staff:child ratio consultation survey, Natcen, Nov 2022, p.9

¹⁶ Cooper Gibson Research, p.46

¹⁷ [Quality of early learning and childcare - Parents' views and use of early learning and childcare: report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/04/Quality_of_early_learning_and_childcare_-_Parents'_views_and_use_of_early_learning_and_childcare_report_-_gov.scot)

¹⁸ Findings from the early years staff:child ratio consultation survey, Natcen, Nov 2022, p.9

¹⁹ Cooper Gibson Research, p.9

could result in a negative impact on women, who make up the vast majority of the early years workforce, if they are required to cut back on working hours.

There is also a risk that the proposed changes exacerbate existing workforce pressures, with staff in settings expected to look after more children per individual member of staff than currently. This may have a negative impact on workplace wellbeing, stress and burnout, and given the make-up of the early years workforce, would therefore have a disproportionate impact on women.

Pregnancy and Maternity: negative impact

Analysis by Cooper Gibson Research found that there could be a negative impact on pregnant staff if the ratios proposal for 2-year-olds came into effect. 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 in becoming tired through caring for more children with a higher ratio. There was a view that women should be supported to fulfil work roles in the early years sector and that flexible working practices should form part of this.²⁰

The change to ratios will provide managers with the flexibility to utilise staff in the most efficient and effective way, and we believe providers could mitigate against the above risk by assessing how they deploy pregnant staff. In addition, we have decided to mirror the Scottish model, given that Scotland applies ratios very similarly to England, with some slight differences. There is currently no evidence to suggest that the Scottish model is unsafe, or that quality has been compromised. Indeed, evidence shows high parental satisfaction rates²¹.

However, the changes will continue to be minimum requirements for settings, and there will be no obligation on providers to incorporate the ratio change, they will be able to continue to staff to tighter ratios if that is their preference. We trust that providers will adjust their ratios to best meet the needs of their children and staff.

Race (including ethnicity): overall impact neutral

Minority ethnic working parents are more likely to spend a higher proportion of their income on childcare than white working parents. ONS data shows that the hourly median pay gap between White and the ethnic minority group has narrowed to the smallest since 2012, and stands at 2.3%.²² Whilst it has narrowed, it does indicate that people in minority ethnic categories remain less likely to earn more than white categories. However, in terms of perceptions of childcare affordability, data shows that 43% of White parents view childcare affordability as good (inc. very good and fairly good), 40% of Asian and 30% of Black parents.

Around 30% of White parents, 20% of Asian, and 30% of Black parents perceive childcare affordability as poor. Therefore, if this policy change does help to make

²⁰ Cooper Gibson Research, p.46

²¹ [Quality of early learning and childcare - Parents' views and use of early learning and childcare: report - gov.scot \(www.gov.scot\)](http://www.gov.scot)

²² [Ethnicity pay gaps - Office for National Statistics \(ons.gov.uk\)](http://ons.gov.uk)

childcare more affordable for parents, this may have a disproportionate positive impact on ethnic minority parents with regard to the first and second limbs of the PSED. This is on the basis that a pay gap exists between ethnic minority groups and white groups; it is plausible to theorise that ethnic minority parents may spend a higher proportion of their salaries on childcare, as they tend to have lower incomes than White groups.

However, please see the impact on the sex protected characteristic for fuller details about cost savings for parents. Data shows that a maximum of 12% of settings might be expected to pass on fee savings to parents.²³ In this sense, with regards to race and ethnicity, proposed changes may have a neutral impact, as parents would be unlikely to see any cost savings and so their perceptions of childcare affordability would remain the same.

In terms of workforce, the early years workforce is reasonably representative of the wider population in terms of race. Group-based providers reported that 82% of their paid staff were White British, 6% reported Asian, 5% reported White Other, and 4% reported Black²⁴. In the 2021 Census data 81.7% of people in England and Wales were White British, followed by Asian (9.3%) Other White (6.2%) and Black (2.5%)²⁵. As such, we have no evidence to suggest that the potential impacts of this policy change on the workforce will have a disproportionate effect on people based on their race.

In terms of the impact on children, findings from the consultation analysed by Cooper Gibson found that concerns were 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. Consequently, higher ratios would mean less staff time supporting their development.²⁶ This could result in a negative disproportionate effect on children from ethnic minority backgrounds.

Disability: negative impact

The 2022 Providers Survey shows that the majority of group-based providers and school-based providers (83% for both) and 19% of childminders reported that they had at least one child with SEND registered with their provision, which includes children with and without formal support in place and those not yet formally diagnosed. Both group-based providers and school-based providers had an average of five children registered with SEND.²⁷

Evidence raised through the consultation showed that across all respondents there was strong concern that increased ratios would have a negative impact on children with

²³ Natcen report, p.28

²⁴ <https://explore-education-statistics.service.gov.uk/find-statistics/childcare-and-early-years-provider-survey/2022>

²⁵ For further information on ethnicity facts and figures in England and Wales, see [Ethnic group, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/ethnogr)

²⁶ Cooper Gibson Research, Consultation report, p.45

²⁷ [Childcare and early years provider survey, Reporting year 2022 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://explore-education-statistics.service.gov.uk/childcare-and-early-years-provider-survey-reporting-year-2022)

additional needs/SEND, including those with Education Health and Care Plans. Around two-fifths of respondents commented on this. 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.²⁸

Additionally, Ofsted reported during the pandemic that of providers making referrals to external agencies, such as SEND or safeguarding teams, nearly 60% reported a similar number of children being referred to external agencies compared with the previous year. However, 31% of these providers reported that more children needed help from external agencies compared with last year. Providers in the most deprived areas were more likely to have referred children to external agencies during this period. This shows that more children since the pandemic have been referred to an external agency, of which a proportion had SEND. Potential changes to ratios could have a disproportionate negative impact on those 2-year-olds with SEND, as there may be less support available for them in the proposed larger ratio groupings of 1:5 (rather than 1:4).

Consultation responses analysed by Cooper Gibson Research found that several respondents commented that there are increasing numbers of children with unidentified SEND which is stretching the system already. Such needs are further compounded by COVID-19 effects on children's development. An increase in ratios was viewed as only serving to exacerbate such challenges with the effect that these children's needs will not be adequately met, increasing the achievement gap, and/or their safety being compromised. Reference was made to this group of children being especially evident in areas of high deprivation. In one case, evidence was cited of reduction in care hours for children with SEND to enable staff to manage their needs as well as those of their peers without SEND.

Linked to this, if increased ratios may result in staff having less time with individual children and being more pressured in their role, this could have a detrimental impact on their ability to identify emerging SEND. Additional concerns included:

- adapting the environment to meet individual needs could be more difficult with higher numbers of children
- local authority inclusion funding for accessing good quality places being more in demand and stretching budgets further
- lack of staff time for professional development that could support effective working with children with SEND
- lack of staff time to meet with parents/carers of children with SEND²⁹

Other concerns for staff with protected characteristics were highlighted, including staff with disabilities and mental health issues exacerbated by increased workload and pressure, and consideration for staff with hearing loss, for example in statements about staff being considered within sight and hearing to supervise children whilst eating.³⁰

²⁸ Cooper Gibson Research, Consultation report, p.43

²⁹ Cooper Gibson Research, Consultation report, p.44

³⁰ Cooper Gibson Research, p.46

We know how fundamentally important it is that SEND is identified early to enable the right support to be put in place, and in reducing the impact that a special educational need or disability may have in the long term. To mitigate against any negative impact on children with SEND, we will keep the PSED closely under review.

The change to ratios will provide managers with the flexibility to utilise staff in the most efficient and effective way. However, the changes will continue to be minimum requirements for settings, and there will be no obligation on them to incorporate the ratio change, they will be able to continue to staff to tighter ratios if that is their preference. We trust that providers will adjust their ratios to best meet the needs of their children and staff.

Age: neutral impact

Part 3 of the 2010 Act, which applies to the Secretary of State's decision-making and which includes the PSED in section 149 (set out earlier), does not apply to the protected characteristic of age in relation to people under 18.

The early years workforce has a reasonably even spread across the working ages. 22% of paid staff employed by group-based providers were under 25 compared with just 7% of paid staff employed by school-based providers. At the other end of the age distribution, 15% of staff in group-based providers and 24% in school-based providers were 50 or older³¹. This policy would apply equally to both school and group-based providers.

The impact of this policy change is dependent on providers changing their behaviour in response to the legislative change. We have used responses from the consultation to assess how practitioners and parents could respond to hypothetical changes. However, if providers do move to the new minimum ratios there is a chance that some may need to make redundancies, and/or not recruit new staff when vacancies arise. This may have a disproportionate impact on the basis of age, in terms of supporting new (potentially younger) people into the profession. However, until we have further evidence, this is purely speculative and not founded on evidence. We could assess the impact of proposed changes via data gathered as part of the yearly provider's survey, to determine whether any changes to age occurred.

Religion and Belief, Sexual Orientation, Gender Reassignment, Marriage and civil partnership: neutral impact

We have no evidence to suggest that this policy will disproportionately impact individuals sharing the protected characteristics of religion and belief, sexual orientation, gender reassignment or marriage as compared with those who do not. However, we recognise that a lack of data is deemed a negative consequence, and therefore, we will keep this impact under review and look for other possible sources of data that may help provide analysis in these areas. Nevertheless, should any issue arise, we would expect settings to consider and manage these locally, working with staff, parents and carers as they normally do.

³¹ [Childcare and early years providers survey: 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/childcare-and-early-years-providers-survey-2021)

Other - disadvantage gap and regional disparities

Although not a protected characteristic, it is also important to consider the impact that staff:child ratio change could have on the disadvantage gap. The ratio changes are a statutory minimum and it is the discretion of settings as to whether they choose to staff to a tighter ratio than the statutory minimum. Government does not require providers to operate at the current ratio requirements.

We know from polling data that as household income increases, so too does the proportion of parents likely to rate “staff members having a small number of children to look after” as an important factor in choosing a childcare provider (18% of families with a household income of less than £10K vs 26% of those with income of £45K+)³².

Broadly, evidence supports that having fewer children per staff leads to better child outcomes as it provides the opportunity for more individualised attention and it leads to better teacher and child behaviour.³³ This could lead to a two-tier system, where settings used by more affluent parents could afford to maintain lower staff:child ratios, thus perceiving to provide those children with higher quality provision.

This may widen the gap in the quality of childcare/early education provision between the most and least affluent families, and by association, geographical areas, thereby widening the outcomes gap between more disadvantaged children and their peers, as well as making childcare more expensive for some parents in some areas.

The health and safety of children is our utmost priority, and we will keep the impact of the staff:child ratio change under review to mitigate against any negative impact on equality. The respondents to the Natcen survey who said they expected to receive some financial gain from the ratio change, but were not planning to pass all of the gain on to parents, could implement changes that lead to an improvement in the quality of provision. For example, around half of them (53%) said they would use it to pay for additional resources for staff training or career development; and just under half (49%) said they would use the surplus to increase staff salaries. Therefore, the additional flexibility these measures create for providers may enable them to better compete on quality and flexibility of provision, to the benefit of children.

Evidence shows that people experiencing employment deprivation are very likely to also experience income deprivation.³⁴ This ratio change covers children aged 2 using childcare. 57% of all 2-year-olds use formal childcare³⁵, but 72% of eligible 2-year-olds are registered for the 15 hours entitlement for disadvantaged children³⁶. This suggests that disadvantaged 2 years olds are proportionally more likely to use formal childcare

³² [ipsos-dfe-covid-19-parents-childcare-survey_0.pdf](#)

³³ [Early-years-structural-quality-review_EPI.pdf](#) p.26

³⁴ [The English Indices of Deprivation 2019 \(publishing.service.gov.uk\)](#) p.17

³⁵ [Childcare and early years survey of parents, Reporting Year 2021 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#)

³⁶ [Education provision: children under 5 years of age, Reporting Year 2022 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#)

than average, and therefore changing ratios will more likely affect disadvantaged children at this age group.

Entitlement Places	Parent-paid Places	Overall Places
125,000	217,000	342,000

Monitoring and Evaluation

We have used findings from the consultation to inform this EIA, and we will continue to consider the equality implications of these developing options.

The health and safety of children is our utmost priority, and to mitigate against any negative impact on equality, we will keep the PSED closely under review. The change to ratios will provide managers with the flexibility to utilise staff in the most efficient and effective way. However, the changes will continue to be minimum requirements for settings, and there will be no obligation on them to incorporate the ratio change, they will be able to continue to staff to tighter ratios if that is their preference. We trust that settings will adjust their ratios to best meet the needs of their children and staff.

Overview of assessment of impact for staff:child ratios for 2-year-olds

Protected characteristic	Positive	Negative	Neutral
Disability		X	
Pregnancy and maternity		X	
Marriage or civil partnership			X
Race			X
Religion or belief			X
Sex	X		
Sexual orientation			X
Gender reassignment			X
Age			X

Overview of assessment of impact on adequate supervision

Protected characteristic	Positive	Negative	Neutral*	No impact
<i>Disability</i>	X			
<i>Pregnancy and maternity</i>			X	
<i>Marriage or civil partnership</i>			X	
<i>Race</i>			X	
<i>Religion or belief</i>			X	
<i>Sex</i>			X	
<i>Sexual orientation</i>			X	
<i>Gender reassignment</i>			X	
<i>Age</i>			X	

*A decision which maintains a positive impact and/or doesn't introduce a negative impact

Conclusion

The evidence suggests that for supervision whilst eating, there are positive impacts for children with a disability, and neutral impacts across the other protected characteristics considered within this EIA. However, there was concern when considering staff with hearing loss in statements about staff being considered within sight and hearing to supervise children whilst eating. We believe providers could mitigate against this by assessing how they deploy their staff during snack and meal times.

The evidence suggests that for staff:child ratio changes for 2-year-olds and childminder ratio flexibilities for their own children and siblings of children they are looking after, the overall impact is positive for the sex protected characteristic. For those with protected characteristics related to disabilities, pregnancy and maternity, the changes may have a negative impact. For race and the remaining characteristics there are neutral impacts.

The changes may have a negative impact on children with SEND as it may be more difficult to support their needs if staff are caring for greater numbers of children. The changes may also have a negative impact on pregnant staff due to concern they may become tired through caring for more children.

The health and safety of children is our utmost priority, and to mitigate against any negative impact on equality, we will keep the PSED closely under review. The staff:child ratio changes will continue to be minimum requirements for settings, and there will be no obligation on providers to incorporate them, they will be able to continue to staff to tighter ratios if that is their preference. We trust that providers will adjust their ratios to best meet the needs of their children and staff.



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