



Department  
for Education

# **Regulatory Impact Assessment**

**Literacy and numeracy qualification  
requirements for level 3 Early Years  
Educator staff**

**March 2017**

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## Introduction

The Small Business, Enterprise and Employment Act 2015 put into statute the Better Regulation Framework. This aims to ensure that any changes to the regulation of private, voluntary or independent (PVI) sector organisations meets the government's Principles of Regulation.

These principles set out that government will regulate to achieve its policy objectives only

- having demonstrated that satisfactory outcomes cannot be achieved by alternative approaches
- where analysis demonstrates that the regulatory approach is substantially superior to alternative, self-regulatory or non-regulatory approaches
- where the regulation and the enforcement framework can be implemented in a fashion which is demonstrably proportionate; accountable; consistent; transparent and targeted

Regulatory Impact Assessments (RIA) are essential to the policy-making process and one of the main mechanisms through which departments can demonstrate how changes in regulatory measures will affect businesses. They summarise the rationale for government intervention, the options considered and the expected costs and benefits.

# Rationale for intervention and intended effects

## Issue

The requirement in the [early years foundation stage](#) (EYFS) statutory framework for staff with an Early Years Educator (EYE) qualification (level 3) to hold GCSE English and maths at grade C or above restricts the ability of early years businesses to recruit able staff who have the potential to deliver high quality childcare. It restricts individuals who hold other level 2 English and maths qualifications (such as functional skills) from undertaking level 3 EYE qualifications and taking up related job roles in the childcare sector. This poses a risk to the 30-hour childcare entitlement set out in the Childcare Act which is to be delivered from September 2017 and to wider sufficiency in the childcare sector.

The current GCSE requirement only applies to staff undertaking EYE qualifications, and does not apply retrospectively to those staff already working at level 3 in the workforce. The previous government introduced the requirement, in September 2014, to strengthen the academic ability of new staff entering the workforce but it was not based on an assessment of the knowledge and skills required to specifically perform a level 3 childcare role. The current focus of government policy is for qualifications and regulatory requirements in the sector to reflect the skills needed to do the job. This is in line with government's wider focus through the Sainsbury review and apprenticeship programme on the development of sector led occupational standards and qualifications.

## Evidence

Since the GCSE requirement was introduced, the data from the Department of Business, Innovation & Skills (BIS) tells us the number of learners undertaking level 3 EYE qualifications through the apprenticeship route has reduced by 35% and standalone level 3 EYE qualifications has reduced by 43%. We do not yet know the impact of this reduction on the make-up of the workforce. The last provider survey was published in 2013 and an updated national picture is not due until the next survey is published early next year. However, employers are struggling to recruit sufficient level 3 staff to meet ratio requirements (set out in the EYFS) which impacts on their ability to maintain good quality provision.

## Consultation

Following a range of stakeholder engagement discussions, a formal consultation with the sector on the literacy and numeracy requirements for level 3 staff received 4,072 responses.

Responses suggest that the GCSE requirements have impacted upon both settings and training providers' ability to recruit and retain level 2 and level 3 staff.

Just over three-quarters of respondents stated that they had experienced difficulty recruiting to their setting or training course in the last two years. Just over half said they had experienced significant difficulties that had affected their organisation and a further quarter stated that the difficulties had had limited impact.

Analysis by respondent type shows that larger percentages of training providers and day nurseries (individual, small and large chain) than any other respondent types stated that they had experienced significant recruitment difficulties.

Almost two thirds of respondents stated that applicants' lack of the required GCSEs was their main recruitment difficulty.

Many settings and providers also highlighted the GCSE requirement as a major barrier to staff progression as staff were unable to progress to level 3.

It is clear, through analysis of both the quantitative and qualitative data, that, respondents strongly favour the acceptance of a functional skills qualification as sufficient for level 3 practitioners. This view was relatively consistent apart from key exceptions of Local Authorities and nursery classes attached to a primary or infants' school who favoured GCSEs. Introducing functional skills will also align with DfE requirements for all other apprenticeship frameworks.

## **Review**

This policy will be reviewed within 5 years of the broadening out of the qualification requirement.

## **Policy options (including alternatives to regulation)**

To broaden the current requirement for level 3 EYEs to hold GCSE English and maths at grade C or above to a requirement for staff to hold level 2 qualifications. In practice, this would mean staff who hold functional skills in English and maths could count in the level 3 staff: child ratios in the EYFS. This change would come into effect from 3 April 2017 in time to influence staff recruitment before delivery of 30 hours.

# Final assessment of impact on business

## Costs

The only significant cost to business associated with this de-regulatory measure is familiarisation, as calculated below. Costs accrued directly to the private sector deduct the 'public carve out', reflecting the proportion of activity in these settings that is publicly funded, which are not in scope for the purposes of estimating the EANDCB. Estimation of the public carve out and salary calculations can be found in Annex C & D.

	Number of Providers <sup>1,2</sup>	Time spent	% of cost to business (minus public carve out) <sup>2,3</sup>	Hourly Wage Cost (inc. on costs) <sup>1</sup>	Total Cost (p.a.)
PVI settings	24,483	0.5 hrs	65%	£15.10	£0.121m
Schools	24,081	0.5 hrs	5%	£39.87	£0.026m
					<b>£0.146m</b>
1 Childcare providers and inspections charts and tables, as at 31 August 2016, table 1					
2 SFR 20 - Schools, pupils and their characteristics: January 2016, tables 1a/1b/1c					
3 Education provision: children under 5 years of age, January 2016					

## Benefits

It is likely that an increase in the availability of level 3 EYE qualified staff will reduce recruitment and search costs for PVI settings in particular. Since September 2014, those trained to level 3 have needed at least a GCSE grade C in both English and maths to count towards staff: child ratios in childcare settings.

Another key benefit is that of an avoided potential shortage of level 3 qualified staff in the childcare sector. Under such a scenario the quality and availability of provision may begin to decline, as providers find it increasingly difficult to hire new workers.

In our consultation, which received 4,072 responses, just over three-quarters of respondents stated that they had experienced difficulty recruiting to their setting or training course in the last two years. Just over half said they had experienced significant difficulties that had affected their organisation, further evidencing a significant proportion of providers are struggling to maintain their current childcare provision or course due to recruitment issues.

This is a severe risk for the childcare sector and government going forward, with the national rollout of 30 hours due in September 2017. To meet the manifesto commitment many providers will have to supply new subsidised places across the country. Any shortage of available workers, or those working towards childcare qualifications, will likely reduce provider expansion opportunities, undermining the ability of government to deliver sufficient childcare places in many local authorities.

Although parts of the sector have called for the GCSE requirement to be changed, there are also many who want it to be retained. There is no single view and the consultation evidence presented suggests that respondents were somewhat divided on this issue. The majority of respondents favoured the acceptance of a functional skills qualification as sufficient for level 3 practitioners, but with key exceptions from Local Authorities and nursery classes attached to a primary or infants' school who favoured GCSEs.

However, it is clear that the sector agrees that strong numeracy and literacy skills are essential for those working with young children at a critical time in their development. That is why the decision has been made to broaden out, not remove, the GCSE requirement to include other suitable level 2 qualifications.

We will define the level 2 qualifications that are regarded as suitable. As all the qualifications are set at the same level they are all equally desirable, arming the workforce with the English and mathematical skills and knowledge to support our young children to develop. They all provide transferable skills, which we know is important to the workforce as it supports career progression.

As the EYFS sets out the minimum qualification requirements to meet the staff: child ratios, the broadening out of the requirement will allow employers and training providers with flexibility in setting their own specific entry requirements for staff and learners respectively.

These benefits remain non-monetised, due to a significant lack of data on the childcare workforce, labour market vacancies in the sector, and underlying evidence with regard to the labour market behaviour of current and future workers. It would be disproportionate to gather the additional evidence required. This is primarily due to the fragmented and regional nature of the sector, and the need to canvas a wide sample of providers to achieve an accurate national picture of the benefits from a change in regulations. For instance, we have no reliable data on the number of current vacancies, the search or requirement costs associated with filling these vacancies. Whilst there is a compelling argument that providers' requirement difficulties will increase significantly if the regulations remain in place, we have no reliable means of building this into a national level assumption.



## Conclusion

Applying the one-off costs of £0.146m to the BEIS EANDCB calculator yields a 10-year annual direct cost to business of £0.017m. This is a small one-off cost that would round to zero for the purpose of EANDCB reporting. This figure ignores the potential benefits, which are not possible to monetise.

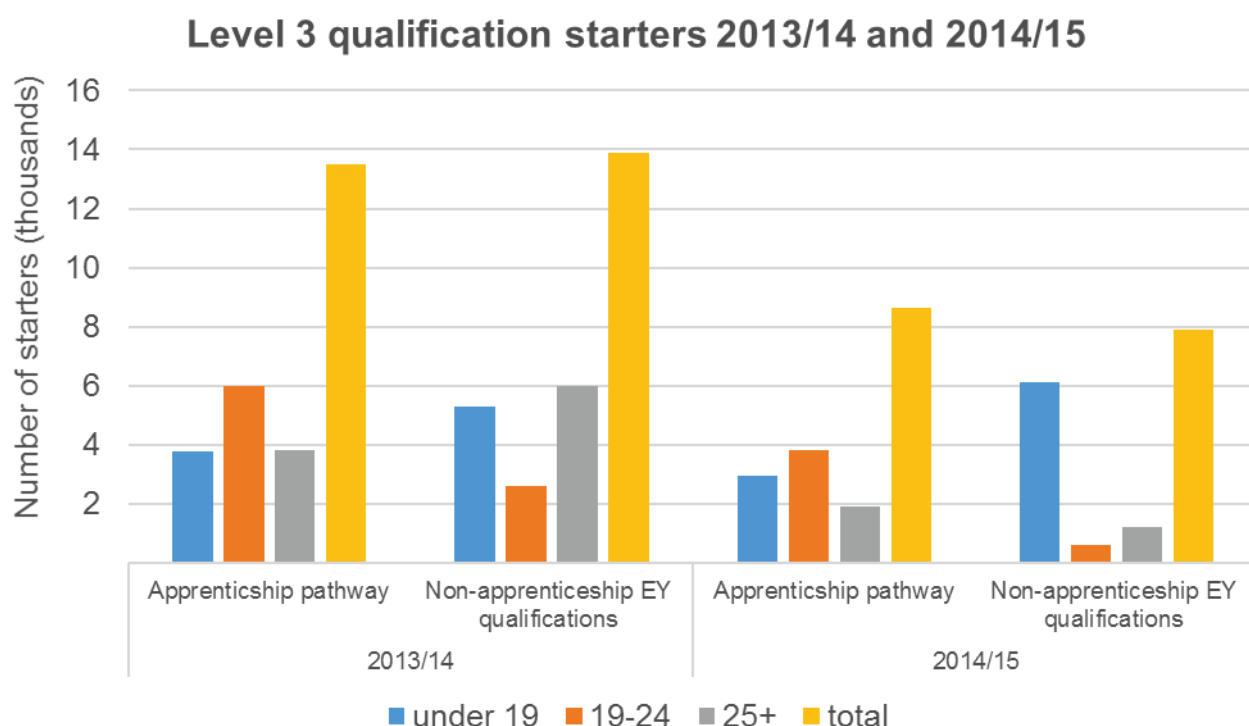
## **EANDCB/BIT status**

This proposal is a qualifying regulatory provision and is deregulatory. The annual direct costs to business are expected to be less than £0.1m (at £0.017m p.a.). Given the potential scale of non-monetised benefits which could not be monetised we have scored the EANDCB and BIT as zero.

## Annex A: Department of Business, Innovation & Skills (BIS) data on childcare qualifications

Anecdotal evidence tells us the impact of the GCSE requirement to date has been to reduce the number of people able to begin a career in early years or to progress within the sector. The requirement poses a risk to delivery of the government's 30-hour childcare entitlement which is set out in the Childcare Act and is to be delivered from September 2017.

Early years employers tell us they are struggling to recruit level 3 staff as there are insufficient numbers coming through who hold the necessary GCSEs. Take up of level 3 early years training places has dropped by up to 70% in some areas of the country.

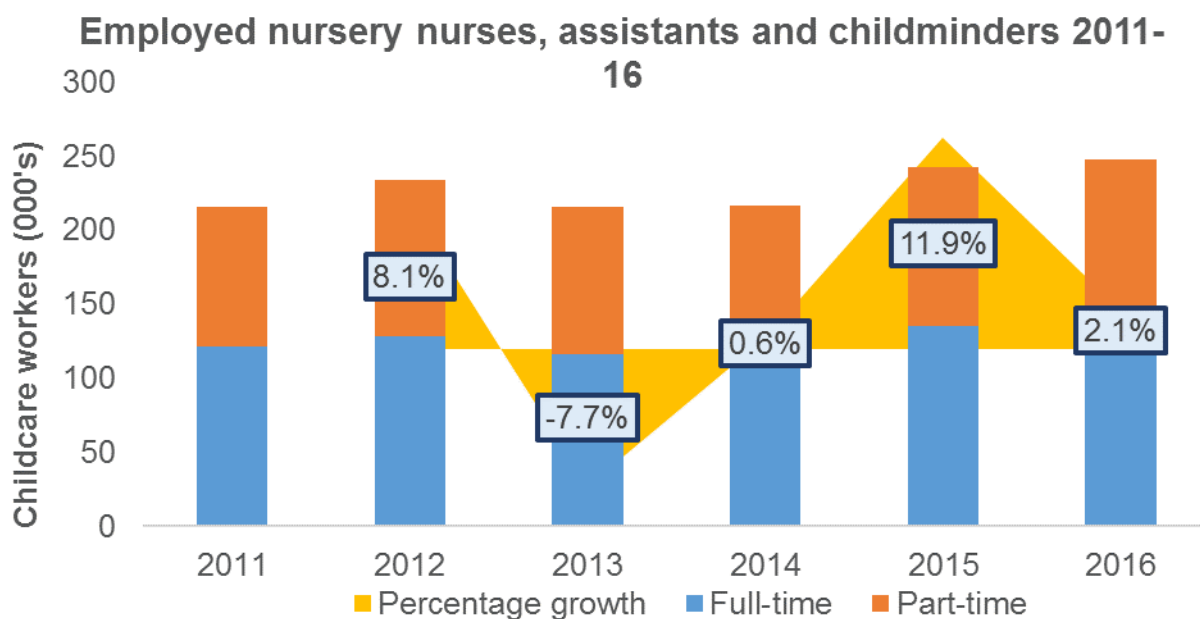


We do not yet have data that indicates changes in the size and make-up of the workforce since the GCSE requirement was introduced as new data is not due to be available until early 2017. We have some anecdotal evidence from employers gathered through consultation activity on the workforce strategy that they are struggling to recruit staff with the necessary GCSEs. Employers also tell us that they are turning away people they believe are capable of doing the job well but hold other level 2 qualifications such as functional skills which are not currently considered acceptable under the EYFS.

Ofsted data is an indicator of quality in settings and in March 2016 the proportion of settings rated good or outstanding increased from 85% in December 2015 to 86%. We know that there are 87% of staff at level 3 (2013 Provider Survey), a large proportion of which do not currently have GCSEs at grade C or above in English and maths (given the GCSE requirement began from 1st September 2014).

## Annex B: Current numbers employed in the childcare market

The current childcare market in the UK is growing in terms of labour demanded from both the public and private sector. Data from the ONS shows that, while the childcare market is fairly volatile in terms of employment cycles, overall the trend of the last 5 years has been increasing numbers working in the sector; around 248,000 nursery nurses, assistants, and childminders worked in the sector in mid-2016, a 14% increase since 2011. This suggests a growing demand for childcare workers from the sector, at a time when the number entering level 3 qualifications has dropped nearly 40% since the introduction of the GCSE requirements.



Source: ONS Employment by Occupation, 2011-2016, Table EMP04

Note: part time workers were only recorded from 2012 onwards

## Annex C: Public sector carve out

### (1) PVI's:

- a. The 40% most deprived 2 year olds, alongside all 3 and 4 year olds are eligible for 15 hours' free childcare per week
- b. The median estimates for 'public provision' is 70% of 3- and 4-year-olds total hours, and 35% of those for 2-year-olds

Age of children attending PVI providers <sup>1</sup>		% of provision publically funded <sup>2</sup>	Total PVI provision public funded
<2	13%	0%	-
2	21%	35%	7.35%
3-4	39%	70%	27.30%
5-7	27%	0%	-
<b>Public carve-out (% of PVI provision)</b>			<b>36.65%</b>
1 Childcare and Early Years Providers Survey, 2013			
2 Education provision: children under 5 years of age, January 2016			

### (2) Schools:

	Student population aged 5 and under <sup>1</sup>	1,724,056
<b>Public Provision</b>	State-funded primary schools	1,601,404
	State-funded secondary schools	18,816
	State-funded special schools	10,714
	Pupil referral unit	59
	LA alternative provision	829
<b>Independent Provision</b>	Non-maintained special schools	138
	Independent schools	92,096
	<b>Public carve-out (% school provision)</b>	<b>94.65%</b>
	<b>Independent schools provision</b>	<b>5.35%</b>
1 SFR 20 - Schools, pupils and their characteristics: January 2016, tables 1a/1b/1c		

## Annex D: Wages of childcare staff for familiarisation costs

### (1) Average salaries for childcare workers/teachers:

	Position	Hourly wage <sup>1,2,3</sup> (2016 prices)	Weighted average hours worked per year <sup>1,4</sup>	Average gross annual salary
<b>PVI settings</b>	Junior staff	£7.97	1,363	£10,863.11
	Senior manager	£13.73	1,496	£20,540.08
<b>Independent Schools</b>	Primary teacher	£22.12	1,560	£34,507.20
	Leadership teacher	£31.13	1,650	£51,364.50

1 Childcare and Early Years Providers Survey, 2013

2 Annual Survey of Hours and Earnings, 2016 (provisional) / 2015 / 2014, table 16.5a

3 School workforce in England: November 2015, table 9 (a,b,c,d)

4 School teachers' pay and conditions document 2016 and guidance on school teachers' pay and conditions, September 2016

Note: hourly wages are taken as a weighted average of the hours worked in different setting types in each sector

### (2) Hourly wage calculations – including on-costs:

On-costs <sup>1</sup>	PVIs		Independent Schools	
Position	Junior staff	Senior manager	Primary teacher	Leadership teacher
<b>Training</b>	1% gross salary			
<b>NIC</b>	13.8% of gross salary above £7,956			
<b>Pensions</b>	1% of gross salary (above £10,000)		14.1% of gross salary	
<b>Total extra % costs (on top of annual salary)</b>	4.78%	9.97%	25.75%	26.79%
<b>Hourly wage (inc. on costs)</b>	£8.35	£15.10	£28.09	£39.87

1 Review of childcare costs: the analytical report, November 2015, Appendix 3 and 5



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