

Questions

In responding, please state if your response(s) relates to a specific English region, and if so, which region.

Q1: Do you agree with our proposed scope (both the services and geographic scope) for this market study, as set out in **paragraphs 23-26, 28**. If not, what areas would you suggest we include, exclude or prioritise, and why?

23. We propose to focus on the supply of early years education and childcare services in England. We include the following types of services:²²
 - childminders who operate on domestic and non-domestic premises and providers of childcare on domestic premises;
 - nurseries, and other group-based providers operating on non-domestic premises;
 - school-based providers which can be maintained nursery schools or schools offering nursery classes.
24. While we recognise that delivery of education and childcare go hand in hand, we will not assess educational standards of provision (that is for Ofsted).
25. These providers operate under a range of business models and at different scales, both of which we will consider in our analysis, including:
 - private, voluntary and independent (PVI) providers;
 - directly publicly funded and local authority operated providers;
 - from small providers operating a single site up to large group operators.
26. We include services provided for children from birth until they start school (aged 4 or 5). While government-funded childcare entitlements for working parents begin from the term after a child turns 9 months old, families may use formal childcare before this point through self-funded provision. These services are typically delivered by the same providers and form part of the same sector.²³
28. We propose that the geographic scope of this market study is England. Early years education and childcare is a devolved policy area, with substantive differences across the UK nations, including variation in design of government support, regulatory frameworks and supply-side characteristics. From our engagement with UK and devolved governments during scoping, we also note that the governments are at different stages of the policy cycle. Within this geographic scope, we are interested in learning from the experiences in Northern Ireland, Scotland and Wales and will draw out lessons from our analysis for devolved governments' consideration. We will engage with the devolved governments to seek any input and share these insights.

A: There is undoubtedly a correlation between funding levels and the quality of education delivered, and this cannot be ignored; it directly affects staffing needs and how much the setting has to spend on learning and development. Focus on deprived areas and the paucity of good-quality nurseries in those areas. Plus, accessibility for SEND children must be a focus, and how funding can be made available for nurseries in those areas. Scope should also look at the extraction of profit from the business – how much is being sent back to shareholders. Social enterprise is key to offering a regenerative model, not an extractive one, where surplus is reinvested in the setting and

staff through investment in premises, the London Living Wage, etc. The scope should also focus on the additional charges levied to parents when they are accessing funded hours.

Q2: Do you agree with our articulation of the characteristics of a ‘well-functioning market’ for childcare services as set out in **paragraph 30**? If not, what should be changed and why?

30. The CMA describes a well-functioning market as one that delivers positive outcomes for consumers, including through effective competition between market participants, and, where relevant, harnesses competitive dynamics to deliver government policy objectives. This concept is a benchmark for evaluating the

A: There needs to be a safeguard – an Early Years version of a “triple lock” – to ensure that, given the reliance on government funding, there are safeguards in place for providers in the medium to long term against these funding rates, and this must be benchmarked and guaranteed against the National Minimum Wage and London Living Wage.

Deprived areas are not well served, and this is also not indicative of a well-functioning market – there is a higher prevalence of SEND children, with higher demands on staffing as a result. This is important for children and for the people who live in the local area. Market forces will not solve this problem on their own.

It is important that rules on pricing transparency are enforced and that fees are clearly expressed to enable like-for-like comparison.

There is an expectation that parents will base their decision on fees, location and facilities alone, but increasingly parents are mindful of quality and pedagogical factors, and these cannot be excluded from your investigation in the educational sector.

Q3: Do you consider that the childcare sector currently displays the characteristics of a ‘well-functioning market’ set out in **paragraph 30**? For each ‘yes’ and ‘no’ response, please explain why you consider this to be the case, what is driving this, and for ‘no’ responses how this could be remedied.

A: No: nursery settings in England vary widely in the quality of their offerings, standards, and outcomes for children. There is sufficient supply, but the offers differ, and therefore some nurseries are much more favoured than others. This could be rectified by local authorities having more funding to enable them to visit settings and provide further support, particularly with SEND.

Competitors do compete on price; however, what parents get for their money varies widely. Quality is difficult to compare, especially under the new Ofsted Inspection grading system, which most parents are unlikely to understand. Parents currently have no other way to measure quality.

There has been a decline in support from the Local Authority for quality improvements and for applying for funding, etc. There is an inconsistency in approach across boroughs. There is too much red tape, paperwork, and varying approaches by the Local Authority. Central control of funding would bring consistency and efficiency.

(There isn't a question 4 in the CMA Statement of scope)

Q5: Are there any specific areas we should focus on in relation to the consumer journey and choice, including families' ability to make informed choices, access and switch childcare services, or aspects of the consumer experience? Why?

A: Nursery fees are still not readily available on most small chains and individual nursery websites. Where they are available, they should be displayed in a consistent format that allows clear comparison, whether daily, weekly or monthly. Parents don't have the visibility of fees they should have to make an informed decision. These should also show all additional costs transparently. Funding is too confusing for parents. There are a raft of charges, and no uniform way to set them or the accompanying rates. Opting out of additional charges can lead to problems, for example when a parent wants to bring their own food into the nursery, which can cause issues with intolerances and allergies.

Q6: Are there any specific areas that we should focus on because they have the potential to disproportionately affect vulnerable consumers (for example, those who may be at greater risk of poor outcomes or face additional barriers, including due to low income, disability, mental health, or because they are making decisions under stress or emotional pressure)?

A: Extra costs associated with delivering SEND provision, e.g. additional staffing, training and resources. Ensuring parents receive the additional hours to match those of working parents – 15 hours per week is not enough for these children in nursery and for families to be able to support their children. Hoops to jump through, paperwork to complete and deadlines to meet, which is challenging for some families to understand.

Term-time-only and shorter-length days leave families more vulnerable, as they are seen as less attractive to nurseries from a business perspective. These shorter and term-time-only sessions also aren't as effective at building relationships with families.

[REDACTED]

Q8: Are there any specific issues we should focus on in terms of how, and the extent to which, childcare providers compete to gain consumers and are incentivised/disciplined to meet consumers' preferences and needs? Why?

A: Children now tend to start only three times a year – January, April and September. There should be a means for parents to roll on throughout the whole year, rather than termly. It is hard to settle so many children at peak times of the year, and it is not good for the nurseries, children and families.

Rules vary by local authority – we operate in [REDACTED], which makes it challenging to keep on top of the many differences from place to place, [REDACTED].

School-based nurseries are expensive for the government to fund, inefficient for schools to run, and skew the market by removing an increasing number of 3- and 4-year-old children who drive sustainability in PVI and social impact nurseries.

There are additional incentives and funding streams, such as breakfast clubs, funding rates, teacher incentives, and capital funding, that favour school-based nurseries, while the vast majority of places are offered outside these favoured settings.

Q9: Are there any particular types of conduct or practices we should focus on that may adversely affect consumers or competition? What are they and why should we focus on them?

A: Rules around additional charges and opting out of them. Are they fairly applied? Are they fairly priced? If an amount is agreed for additional charges, this would be transparent for families and allow nurseries to plan. There should be clarity on what should and should not be covered in these additional charges. The option for parents to opt out of these charges causes significant difficulty, as it is up to the provider to determine the rules around opting out and to make it inconvenient for parents to do so. Consideration should be given to removing the option to opt out, but firmly enforcing that nurseries need to be able to prove their cost base for these charges so there is no profiteering.

Q10a: We are interested in whether the regulatory frameworks in this sector, and their enforcement, along with complaint and redress mechanisms, support good competition/consumer outcomes. Are there any particular areas we should consider? Why?

A: Ofsted self-polices its own complaints. There needs to be a way to take grievances to an independent party, such as an ombudsman. Under the new inspection framework, there needs to be an agreed mechanism for providing quality comparators for parents under the new, less transparent scorecard system, and for providers to complain about poor inspection outcomes.

Q10b: Are there elements of these regulatory frameworks that create unnecessary or disproportionate barriers to competitive dynamics, such as entering the childcare sector, expanding existing businesses, introducing new business models?

A: It should be investigated as part of this consultation what value for money there is in having children in smaller nurseries attached to schools. Low capacity in small classrooms allows only for a nursery of approximately 25 children, according to the Government's own data on new nursery settings in schools. These small nursery capacities make it impossible to run them in a cost-effective manner due to a lack of economies of scale and a lack of commercial experience within the school sector. Also, most schools do not want to take the youngest children and cherry-pick older children on higher ratios, which are more profitable, making it difficult for PVI settings to balance staff costs and income sustainably with a larger balance of younger children on 1:3 and 1:5 ratios.

Q11: More generally, are there any barriers to entering the provision of childcare services, or to expanding existing businesses, that you believe are unnecessary or disproportionate? If yes, please explain. Are there any particular barriers for smaller businesses?

A: Access to appropriate capital funding – previous allocations have been too small to make a difference. This will prevent entry into the market, particularly in deprived markets, where venture capital-backed interests will not want to invest. High variable costs mean that substantial working capital is required to get started, which is difficult for new entrants unless they have significant seed funding in place.

Starting a new nursery generally takes three years to reach maturity, and this requires funding that is only available to larger suppliers who can absorb early losses.