

## **Early years foundation stage (EYFS): regulatory changes consultation**

### **Response from Early Education, July 2023**

#### **Proposed changes to Section 3: The safeguarding and welfare requirements - Qualifications, training support and skills: group and school based providers**

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

No

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

No

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

L2 quals in maths and English should remain mandatory. The current challenges recruiting L3 practitioners with L2 maths result from failure to ensure school leavers achieve basic maths qualifications, largely due to the curriculum of the maths GCSE. It also reflects the continued tendency to push non-academic school leavers towards "hair and care", rather than promoting a career ECEC as an aspirational career for all. This is the "tyranny of low expectations" for EY practitioners, many of whom are young, female and economically disadvantaged.

It is not just the managers who need the L2 maths, but those who work directly with children, who need to be taught by practitioners who are confident with and enjoy maths, understand mathematical concepts and can use mathematical language correctly themselves to be able to teach it. Those who have not achieved a L2 in maths are less likely to fit this requirement, and this puts additional responsibilities on overloaded managers to support staff with what should be a core area of knowledge. Holding a L2 maths qualification is one way, along with good CPD, that managers can ensure that all staff "have the right maths skills and knowledge to deliver the EYFS curriculum effectively". Could DfE develop a more appropriate L2 qualification for EY practitioners with more relevant content, that would be recognised as GCSE equivalent for career and qualification progression including if practitioners wish to train as teachers?

#### **Proposed changes to Section 3: The safeguarding and welfare requirements - Qualifications, training support and skills: group and school based providers**

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

No

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

No

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

We strongly oppose this. It would endanger quality and safeguarding. It could not be assumed that individuals working towards a L3 would have knowledge and skills equivalent to a L2, and similarly for a L6/L3. Trainees may not have any relevant childcare qualifications or experience when they start training. Conditions such as completion of a minimum part of the course or a maximum period for which the dispensation would apply would not address our concerns. This change would allow employers wilfully or negligently to take on underqualified individuals to reduce costs, only employing individuals at this lower level (as we know occurs in Scotland at present). It would not be practical to implement checks on how this flexibility was used or how "competent" was defined. It could increase workload for other staff, who may not agree with a manager's assessment of whether a colleague is "competent and responsible". It would need to be made clear that in no circumstances would this apply to managers, as that could mean a setting being run without any Level 3s, purely on the basis of the manager being registered for a Level 6 qualification. Further, we question this as a way to "allow trainees opportunity to gain relevant experience, helping them to meet practical assessments and improve work-readiness". Trainees can gain these experiences by working in high quality settings with good mentoring. They do not need to be counted in the ratios to achieve this.

**Proposed changes to Section 3: The safeguarding and welfare requirements - Qualifications, training support and skills: group and school based providers**

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

No

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

The concept of "peak hours" is not meaningful in this context. It may apply in the sense of numbers being lower or higher at certain times of day, but not in terms of children's learning and development through early education and care.

It was a core principle of the introduction of the 30 hours that "care" and "education" are inextricably linked in the early years and this principle should be maintained.

Children's needs do not reduce at the start and end of the day. These are key time for parent partnerships and identifying any safeguarding concerns. Points of transition are when children need a consistent key person and emotionally available adults the most. The care and education of children are inextricably linked, and appropriate leadership is needed throughout the day. There should be no reduction of quality or impact on children's wellbeing.

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

We strongly oppose this. Children's needs do not reduce at the start and end of the day and these are key for parent partnerships and identifying any safeguarding concerns. Points of transition are when children need a consistent key person and emotionally available adults the most. The care and education of children are inextricably linked, and appropriate leadership is needed throughout the day. There should be no reduction of quality or impact on children's wellbeing.

The proposed change will not help recruitment as it will not be viable to recruit practitioners solely to work from 7-9 or 5-6 who hold all the mandatory qualifications, safeguarding, PFA, food hygiene etc. It requires significant investment in those staff which would not make sense if they then were not able to count in ratio within core hours. It also increases workload if qualified staff are picking up work with children from less experienced staff and facing additional issues where children are dysregulated and have not been well supported at the start of the day.

Whilst it frees the setting up to pay less to staff in those times staff may opt to not work them and not accept a change of contract to do so.

**Proposed changes to Section 3: The safeguarding and welfare requirements - Qualifications, training support and skills: group and school based providers**

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

No

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

Not Answered

**46 Please explain your rationale for your choice above and share any comments you wish to be considered.**

We strongly oppose any moves to dilute the qualification profile of the EY workforce, especially with the changes to the 2yo ratios. It will impact on quality, safety, outcomes and wellbeing of children and practitioners.

The current funding crisis could mean settings feel obliged to use these flexibilities to survive, not because they think they provide adequate staffing for quality provision.

If the DfE is taking the lead from Scotland in relation to L2 ratios, it should likewise set requirements for all practitioners to hold a benchmark qualification for their role or (if in their first 5 years in post) be working towards it, and to maintained professional registration with the relevant body, and be achieving a minimum of 12 hours per year of Continuous Professional Learning.

The long-term sustainability of the sector will not be helped by a short-term reduction of qualification requirements as this fails to address the issues of pay, status and career progression which are causing the recruitment crisis. It will also put more pressure on qualified staff. Instead, government should drive up standards and wages to attract long-term entrants to the field.

We note that this is detailed under Safeguarding and Welfare (3.28) – but the qualifications of staff and child:staff ratios relate strongly to the quality of the learning environment and child outcomes as well as to safeguarding and welfare.

### **Proposed changes to Section 3: The safeguarding and welfare requirements - Ratios**

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

Yes

### **Proposed changes to Section 3: The safeguarding and welfare requirements - Paediatric First Aid (PFA)**

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

Yes

### **EYFS – general**

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

All these changes which are intended to increase flexibility will impact negatively on quality. The extensive research on how quality makes a difference to children's outcomes, shows we should not be contemplating changes which will reduce quality, particularly given the impact of the pandemic.

These changes increase safeguarding risks and will impact on children's outcomes and readiness for school. Settings in deprived communities already have lower levels of well qualified staff. To lower this further will create even more disadvantage for the most marginalised and disadvantaged communities.

The workforce crisis is a result of chronic underfunding, not inflexibility on qualifications or ratios.

Has consideration been given to the cumulative impact of these changes? Any one of these changes risks impacting quality, but all of these together could see quality fall significantly, and put immense pressure on the few remaining qualified staff within settings, making it even less likely they will stay.

Most importantly, what consideration has been given to children's views and needs: children want and deserve sensitive, attuned, staff who understand their needs and can spend time with them: in other words prioritising quality over flexibility.

We strongly oppose the proposals to make it voluntary to take reasonable steps to support EAL. This is fundamental to meeting equality requirements, and to good practice in L2 language acquisition.

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

No

The EYFS framework should set minimum standards for quality, and the government should seek to increase these for example through a workforce strategy that over the long-term (eg 10 years) would work towards a sector where all staff would have a minimum of a Level 3 qualification and all settings had a qualified teacher or graduate providing pedagogical leadership in the classroom. It should not be seeking to provide further flexibility to lower standards in place of providing adequate funding and workforce planning. A more highly qualified workforce could certainly be achieved given appropriate levels of pay.

**Further Comments**

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

The children who will be worst affected by any diminution of quality caused by a lack of funding are children in PVI's in economically disadvantaged areas.

These children are statistically more likely to be from a minority ethnic background, and more likely to have SEND. These changes are likely to increase the disadvantage gap for these children.

Children with SEND are already more likely than other children to be missing out on an early education place, or to receive fewer hours (half the number of children with SEND access the 30 hours compared to the 15 hour entitlement). Further pressure on the number of staff and their expertise will further reduce the ability of settings to support children with SEND, especially those with the most complex needs.

The majority of the early years workforce are women, and many of are young and low paid (over 40% on benefits) . The data on ethnicity in the workforce also suggest that staff from minoritised ethnic communities are less likely to be in higher paying or

leadership roles. The pressures of losing expertise within the team will impact on staff welfare, negatively affecting this mainly female, low paid workforce.

## **52 How would you mitigate against these concerns?**

By putting in place a workforce strategy to increase the pool of qualified staff available, increasing funding so that practitioners are paid an appropriate

wage and enabled to stay in the sector, ideally including a national pay scale to ensure all employers adhere to the same standards.

### **Additional comments sent by email**

#### **New Route to Becoming Qualified – Experience-Based Route**

We do not agree with the proposal for an experience-based route as set out in the proposal.

Offering “approved status” which is not a qualification would appear to be an erosion of standards, with a risk of inconsistent approaches to assessment. It would only work where practitioners are well supported in a quality setting where managers and experienced staff have the time and training to support colleagues – in practice workloads are already excessive. Further, this risks staff gaining “approved status” having limited experience of practice beyond their own setting.

Practitioners would be better served by a route which allows them to gain the full Level 3 qualification rather than “approved status”. A qualification would expand their knowledge and skills base. We see this also as a matter of equality of opportunity, particularly for women, who would have limited opportunity for further career development.

Instead, could more be done to address barriers to staff achieving a qualification? We would welcome discussion about the possibility of accelerated routes and accreditation of prior experience and learning, for instance as a route for experienced childminders wanting to work in settings. A qualification has more portability within and beyond the profession. The DfE should be looking to put in place qualification routes which meet the needs of adult learners in the workplace.

#### **English as an Additional Language**

We strongly oppose this proposed change as it would jeopardise inclusion and equalities, which are mandatory principles of the EYFS, not optional. There is no need to change from “must” to “should” given the reference to “reasonable requirements”. It would be unreasonable to expect a setting to have staff who spoke every language spoken by children and families. It would be reasonable for a child’s Key Person to try to learn a few common words in the context of the needs of the unique child, to encourage parents to bring in home language resources, and make other small, reasonable adjustments. Many settings already do this well with children speaking a multitude of different languages. This is a key part of creating an inclusive environment. We know that children often learn a concept in their home language or languages first – then acquire additional vocabulary in their new language(s). Supporting home languages and supporting parents to do this is essential, and practitioners need to be supported to understand how to do this.

### **Key person role – childminder assistants**

We have no objection to allowing childminder assistants to take on the role of key person. This would create greater parity with other settings, We suggest that where childminder assistants hold a key person role they also undertake appropriate Key Person training

Consideration should be given to whether there should be minimum qualification requirements for anyone with a Key Person role across the sector.

### **Section 3: Safeguarding and Welfare - 3.5 in childminder version**

The amended wording could provide greater clarity, but there is still scope for confusion. It is unclear whether childminders should be sharing concerns about other childminder's children, or just about childminders not meeting the requirements of their registration.

### **Childminder training**

We would be concerned to see a reduction in training for childminders which could diminish quality and lead to lower outcomes and poorer experiences for children.

Would it be helpful to give guidance as to what childminders might need to know so that individuals can consider what training might be helpful eg those with knowledge of the EYFS through working in a school or group-based setting might benefit from training on the specifics of being a childminder.

Childminders need knowledge and understanding of the EYFS not only to implement it, but also to help in conversations about a child's experience of the EYFS with parents. The wording could perhaps reflect this.