

# **NEU response to the UK Department of Education Childcare: Regulatory changes consultation**

The NEU is concerned about the government's proposed changes to ratios within early years settings in England.

This sector has faced great difficulties over the last few years, from continuous underfunding to recruitment and retention shortages. These proposed changes place additional pressure on professionals who deserve manageable working environments that enable them, and children, to thrive.

Our issues with the changes can be summarised as:

- The quality of early years provision will worsen, particularly for disadvantaged families.
- Professionals will face greater amounts of workload and existing recruitment and retention problems will be exacerbated.
- Newer staff will be given more responsibility inappropriate to their experience which is not acceptable for them or the children they are supporting.

## **10. 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?**

We disagree with this proposal and would like the government to consider the views of professionals, as well as parents, in surveying satisfaction with the system. Due to existing recruitment and retention difficulties, practitioners have already seen the detrimental effects of low adult-to-child ratios on provision quality<sup>1</sup> and workload<sup>2</sup>. Decreasing the adult-to-child ratio means staff will be less able to give the high levels of individualised supervision that babies and young children require in order to feel secure and learn<sup>3</sup>. As the proposal notes, England's staff ratios are amongst the highest in Europe, and this enables staff to familiarise themselves with the unique likes, dislikes and needs of each child. This contributes greatly to learning, including social and emotional development<sup>4</sup>, which have been greatly impacted by the pandemic<sup>5</sup>. Increasing the number of children assigned to each practitioner reduces opportunities for developing these relationships and practices. Decreasing the ratio may also limit the range of exciting and adventurous activities practitioners can safely plan for, which help support child development.

Children require space to move within and outside settings. We are concerned that increasing the numbers of children to staff will reduce the amount of space for essential play and could present health and safety risks. For SEND children using walking aids or wheelchairs the 'space' factor is clearly crucial to their development. Also, for autistic children, increased numbers and potential noise in a setting may cause triggers and have long term effects on their progress. Whilst the proposal claims there is no evidence that Scotland's model is unsafe, we should be aiming to create the safest environments possible. Not being unsafe should be the starting point for health and safety measures, not the result.

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<sup>1</sup> [Breaking point - staffing shortages Nov/Dec 2021 \(eyalliance.org.uk\)](https://eyalliance.org.uk/breaking-point-staffing-shortages-nov-dec-2021)

<sup>2</sup> [The stability of the early years workforce in England \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/91241/20200721_early_years_workforce_in_England.pdf)

<sup>3</sup> [Our response to DfE consultations on funding and ratios – Early Education \(early-education.org.uk\)](https://early-education.org.uk/our-response-to-dfe-consultations-on-funding-and-ratios-early-education)

<sup>4</sup> [Birthto5Matters-download.pdf](https://www.birthto5matters.org.uk/downloads/Birthto5Matters-download.pdf)

<sup>5</sup> [Education recovery in early years providers: summer 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/education-recovery-in-early-years-providers-summer-2022)

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

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

We disagree with both statements. Whether the children are siblings, or the childminder's own, increasing the number of children will affect childminders' capacity to supervise and support children safely and effectively, as outlined in response to question 10.

**13. (For childcare providers) 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 disagree with this statement. All children, regardless of the hours they attend, should receive the same quality of care. The consultation offers no explanation as to why the government believes that if a child attends a setting for a differing number of hours, this can alter the number of adults required for safe, high-quality provision. NEU members would suggest there are none which could justify that. The ratio may be recommended by the Scottish Care Inspectorate<sup>6</sup> but the Scottish government have also invested into recruitment and professional development within the sector<sup>7</sup>, therefore the impact on provision quality is less evident. Nonetheless, we would still argue against flexible ratios during shorter hours of provision.

Those not eligible for 30 hours free childcare, and therefore only receiving 15, are disproportionately more likely to be the most disadvantaged families. These families are more likely to use childcare for shorter periods of time, given their lower allocation of free childcare, meaning these proposals are more likely to disproportionately impact disadvantaged families. It would be wrong for any family to experience a decrease in adult support, and quality of provision that would come with these proposals. It is even worse that this proposal could discriminate against those who likely need the most support. Those who can pay for the longer sessions will not experience the same

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<sup>6</sup> [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)

<sup>7</sup> [Early education and care - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/early-education-and-care/pages/2.aspx)

reduction of adult support for their children. Any caring government, truly concerned with levelling up, would not suggest a proposal which would result in this.

**14. What further flexibilities would you consider adopting to deliver your provision? (Select all that apply)**

- ☐ Create greater flexibilities within the ratios for group-based provision, for example, when looking after mixed age groups.
- ☐ 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) or, b) Revising the number of Level 2 and/or Level 3 staff required per ratio under the current rules.
- ☒ Other - please include any other options that you would like us to consider, or provide further thoughts on these proposed flexibilities.

We have selected the **Other** option in response to this question. Regarding the first option, we would encourage professional judgement on ratio numbers alongside maintained or increased adult-to-child ratios, rather than the use of a formula as stipulated in the 'Further information' section. Children at different levels of development require different and specialised levels of support. Older children do not necessarily need less of this. The level of adult support is dependent on the activities taking place, the child's stage of development and additional needs.

The second option is detrimental to staff, the profession and children. Staff working towards a qualification cannot be treated in the same way as those with a qualification. A qualified Level 3 practitioner will have a deeper understanding of child development and safeguarding<sup>8</sup> in comparison to someone who has recently finished their Level 2 qualification. The conflation of the two qualifications debases professional development and experience. Valuing professionalism is essential to improving quality of early years provision as well as retention and recruitment within the sector<sup>9</sup>. It also places unrealistic expectations on new, enthusiastic staff, who we need to keep within the

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<sup>8</sup> [Early years practitioner \(level 2\) qualifications criteria \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674441/early-years-educator-level-3-qualifications-criteria.pdf) [Early years educator level 3: qualifications criteria - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674441/early-years-educator-level-3-qualifications-criteria.pdf)

<sup>9</sup> [Report template long \(natcen.ac.uk\)](https://natcen.ac.uk/reports/early-years-provision-report-template-long)

profession. These practitioners deserve support and supervision, not unreasonable expectations that put them and children at risk.

**15. 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?**

☐ Yes ☐ No ☒ Don't know

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

**Please explain your views in no more than 300 words.**

**No.** We appreciate that this statement is aimed at ensuring children are safely monitored during mealtimes, which we certainly agree with. However, as urged by many early years professionals<sup>10</sup>, the role of adults during mealtimes is not only to ensure safety, but also to stimulate play and sensory experiences. This could easily be added to the paragraph amendment.

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

**Please give your answer in the box below, using no more than 300 words.**

As early years professionals will be responsible for a larger number of children and their workload is likely to increase, the attention given to children and their families is likely to decrease. There will be less time for staff to develop their understanding of protected characteristics as they will have less time to closely work with individual children and their families, some of which will have protected characteristics. Whilst deprivation is not a protected characteristic, we would again highlight the negative impact this ratio change is likely to have on socially disadvantaged families, who may *also* have protected characteristics. For example, poverty rates are higher and more persistent in black and minority ethnic backgrounds<sup>11</sup> therefore these families may be more affected by the ratio changes.

Many SEND issues, such as speech and language delay, autism and hearing impairment, should be picked up in the early years by experienced staff. The lowered ratio will limit

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<sup>10</sup> [Our response to DfE consultations on funding and ratios – Early Education \(early-education.org.uk\) Birthto5Matters-download.pdf](https://www.early-education.org.uk/Birthto5Matters-download.pdf)

<sup>11</sup> [Measuring-Poverty-2020-Web.pdf \(socialmetricscommission.org.uk\)](https://socialmetricscommission.org.uk/Measuring-Poverty-2020-Web.pdf)

the ability to do this and lead to later diagnosis and poorer outcomes in later life. Children with SEN and disabilities in the EYFS already face barriers to access since they rarely have an Education, Health and Care Plan (EHCP) in place yet still require additional support within the setting. Funding cuts to the sector mean that many settings regularly charge parents of SEND children more for their place or are not willing to admit the child at all. Increasing ratios will make it more difficult for settings to be inclusive, increase the difficulties for parents of finding an appropriate place and make it more challenging to provide the high-quality education and care that all young children require in the earliest years, including those with SEND. We would expect to see a full equality impact audit carried out before any changes are brought in.

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

**Please give your answer in the box below, using no more than 300 words.**

We would encourage maintaining or increasing the current adult-to-child ratio within early years settings. Increasing funding for these providers is a better way of improving capacity, without negatively impacting workload, safety and quality. We are also interested in whether the government have carried out a risk analysis into how increasing the ratio will affect recruitment and retention. If flexibility does improve as a result of this proposal, this could well be negated by staff leaving the profession.