

# Childcare: extending protection and broadening support National Family and Parenting Institute's response to the Sure Start consultation

**August 2004**

The National Family and Parenting Institute (NFPI) was established with Government support to improve services for families and parents. It conducts and analyses research on services - especially from users' points of view, advises Government and others on family policy, coordinates family and parenting organisations, produces public information for parents and practitioners, and campaigns for a 'family friendly' society.

NFPI welcomes the opportunity to comment on the consultation paper *Childcare; extending protection and broadening support*. Family support is the cornerstone of providing children with a good start in life and childcare provision is integral to that support.

According to 4Children's Policy Manifesto<sup>1</sup>:

- One in three young people go home to an empty house at the end of the school day;
- 65 per cent mothers work and 25 per cent work unsocial hours;
- More than 50 per cent employees have no access to flexible working hours;
- There is only one registered childcare place for every five children;
- 21 per cent of families seeking childcare cannot find a place.

If services are to work for parents and carers, then they need to be developed as part of a partnership between the parent and the state, not for the professionals' or providers' benefit. A user-focus has to be embedded. Broadening eligible childcare for financial assistance under the Working Tax Credit and providing greater flexibility by including childcare in the home will greatly increase the choice of provision available for parents and could give them more control over their ability to take advantage of flexible working arrangements.

## Questions

### Approval of an individual carer

#### **1a. Do you agree that the proposed criteria for the approval of an individual carer are appropriate?**

The three proposed criteria for the approval of an individual carer are appropriate. Every parent would feel reassured to know that the person to whom they have entrusted the care of their child(ren) has been cleared through an enhanced disclosure from the Criminal Records Bureau (CRB); has attended an induction course on providing childcare in a domestic situation; and has a relevant first aid certificate.

However, the consultation paper is not clear on how all the checks and induction courses are to be financed, whether the costs would be the responsibility of the employing family, or the child-carer. Although families would benefit by being eligible for financial assistance through the Working Tax Credit (WTC), the set up costs may be prohibitive for many of the families that would most benefit from using a child-carer in their own home, eg larger families or parents on a low income who work shifts. Likewise for a child-carer, the cost of gaining a CRB check and attending induction and first aid courses may deter them from pursuing that career option.

Recent cases have also highlighted problems with disclosure from the CRB (the Huntley case is one such example) and parents would need reassurance that information gained through this route would be reliable and trustworthy. The process of applying for a police check would also need to be simple to administer. If approval is to be renewed annually, both parents and child-carers would need reminders to renew the CRB check to ensure that eligibility continues from one 12 month period to the next and therefore does not disrupt any tax credit eligibility.

#### **1b. We propose to make available a “Guide to employing an approved carer” for parents. Do you think this would be helpful? What should this cover?**

A guide to employing an approved carer would be helpful for parents as for many this would be their first experience of being an employer. Taking the lead from advice available for disabled users accessing direct payments for their care needs, the guide would need to include the following:

- Clear guidance on what constitutes an ‘approved carer’;
- The differences between a registered child-minder and an approved carer;
- A comparative ‘pros and cons’ of the different types of eligible childcare available;
- Information on compiling job descriptions;
- How to find a child-carer;
- Interviewing and choosing child-carers;
- How to obtain an enhanced disclosure from the Criminal Records Bureau;
- Advice on contracts of employment;
- Paying the child-carer;
- Information on insurance;
- Information on tax and National Insurance payments;
- Responsibilities of being an employer;

- Cancellation of approval - including advice on what to do if the parent is not happy with care provided by the child-carer, with specific advice if they suspect any form of abuse.

## **Approved childcare on non-domestic premises**

### **2a. What should be the minimum duration of care/activities provided by a regular school term time club or activity in order for it to be eligible for approval for tax credits or tax and NICs exemptions?**

The Children Act 1989, c. 41 Part X Child Minding and Day Care for Young Children amended by Care Standards Act 2000, Part VI Child Minding and Day Care for Children in England and Wales places responsibility on all providers of childcare for children under the age of eight to be registered with Ofsted if the provision is for more than two hours a day and for more than six or more days a year. This leaves some breakfast clubs and other supervised activities not deemed by Ofsted to be care, outside of this responsibility and therefore unregistered.

Parents often find that they need only a minimal amount of childcare to enable them to work. This could be sending their child to a breakfast club operating before the start of the school day, or to activities for older children, provided on school premises but run by parents or other independent organisations that are not registered with Ofsted and are therefore currently not eligible for tax credits.

Many parents, who are required to work office hours with no access to flexible working arrangements, require 'wrap-around' childcare provision that supports their working day. Setting a minimum duration for eligibility for approval for tax credits or tax and NICs exemption at one hour would allow parents to drop their child(ren) at a breakfast club at 8.00am, giving them an hour to get to work for 9.00am would certainly increase eligibility. This should include provision for both children under eight years and older children.

The eligibility for after school activities should also be set at one hour minimum, allowing after school activities such as drama clubs, sports sessions and keep-fit that are run by parents and only last for one hour to also be eligible for tax credits. These activities are often more acceptable to children than after school clubs and are invaluable for working parents.

### **2b. What should be the minimum duration of care/activities provided by a club or activity operating during school holidays in order for it to be eligible for approval for tax credits?**

The lead should be taken from the Children Act 1989 (Ch. 41). registration requirement for provision for under eight year olds, that any provision that runs for more than two hours a day, for six or more days should be registered. Approval for holiday schemes should have the same minimum duration.

### **2c. How best should we establish that a service would be reliable? Should the manager applying for approval be required to provide details of management and staffing arrangements to ensure the service is one that parents can rely on?**

**OR**

Should we simply ask for a declaration that the service will be guaranteed as always available on the basis for which it is approved?

The majority of parents want reassurance that any childcare provision that they invest in, will be reliable, of good quality and good value for money. As many schemes and clubs require a block payment upfront, the knowledge that the provision will continue for the duration covered by the pre-payment and will provide the service that is advertised, would be an essential motivator in the uptake of the provision.

Essential factors for parents investing in childcare provision are that the service will meet the needs of their child(ren); be available at the times that it states that it will be available for; and provide adequate staffing ratios to ensure child safety and protection. In the rush to increase availability of tax credits and NICs exemptions for working parents, we must be careful not to provide a two-tier system, whereby Ofsted regulated provision has more stringent requirements on service provision than those eligible for the new 'light-touch' regulation. We must also ensure that parents are not under the impression that a provision has been assessed by Ofsted, when it simply has a voluntary certification that allows parents access to tax credits etc.

However, the balance has to be struck with the opportunity of encouraging more childcare provision eligible for parents to claim tax credits that encompasses a greater constituency of children - including provision for 8-14 year olds, than Ofsted regulated provision and at times that suit the working patterns of parents. It may be that different types of provision require different criteria. For instance, it may be beneficial for parents to know that a holiday scheme has provided details of management and staffing arrangements, but perhaps not so important for a drama class run by a parent that operates for one hour, once a week after school. What we must ensure against is that the choice between different childcare provisions is not made confusing for parents by introducing numerous regulatory criteria.

**2d. Do you agree that the proposed criteria are appropriate for approved childcare outside the home that otherwise is not required to be registered?**

Under the Children Act 1989 The Day Care and child Minding (National Standards) (England) Regulations 2003. Statutory Instrument 2003. No.1996], Ofsted inspected provision have to include the 14 National Standards 'outcomes' and also to demonstrate how they will meet each Standard. It may not be appropriate for voluntary certificated provision to operate under the same stringent criteria; nevertheless there are some Standards that it would be reasonable for parents to expect the approved provision to adhere to, for example staff: child ratio, requirements on physical punishment, confidentiality and record keeping. These need to be included in the proposed criteria.

The criteria for approved childcare outside the home should also increase the number of named individuals who meet the criteria for approval as an individual child-carer to at least two. Otherwise in the case of sickness or other unscheduled time off, the service would be unable to operate, given that the manager is required to declare that at least one named individual would be supervising the service to children at all times.

The approval documentation would need to be available for parents using the provision so that they can ensure that all criteria is being adhered to.

## Responsibility for the quality of the environment and the quality of care

### 3a. Do you agree that approval of care outside the regulated sector should not extend to premises checks?

It is absolutely right that premises checks should not take place in parents' own homes. Unless there are known child protection issues, it should be left up to parents' discretion to maintain a home environment that is appropriate for the care of their child(ren).

However, child-care provision that is provided outside of the home should be subjected to premises checks. The environment in which the provision is provided has an impact on the quality of the care. Holding a qualification appropriate for the care or development of children, membership of provider organisations or participation in quality assurance schemes does not ensure the appropriateness, or health and safety aspects of premises.

If premises are not to be checked, it would be useful to provide parents with guidelines for good practice that highlights environmental factors that should give parents cause for concern.

### 3b. Do you agree that commitment to quality standards over and above those required for approval could be demonstrated through qualifications, membership of provider organisations and quality assurance schemes?

Qualifications, membership of provider organisations and quality assurance schemes are sound ways of supporting quality standards over and above those for approval. Parents and their children are also well placed to evaluate the quality of the provision. It would be beneficial to include parents and their children in the process of approval and renewal to ensure that the provision does actually provide the service that it was set up to provide and is meeting the needs of those who use it.

As stated above at **2d**, approved provision should also include some reference to agreed National Standards that can ensure the quality of the service provided.

## Renewal of approval

### 4. Do you agree that approval should be renewed on an annual basis?

An annual renewal system would seem to be appropriate. It is important not to insist on over burdensome administration for parents, individual child-carers, or smaller child-care provision, balanced against providing quality care and adequate protection for the children that are using the childcare.

Alongside this, there should be very clear guidelines for parents and employers on what to do if issues of abuse, or suspected abuse, arise – including information on warning signs to look out for.

In cases of a child-carer moving from one family to another within the 12 month approval period, parents would need advice on taking up references and checking of previous employment history to ensure that the child-carer has not moved as a result of disqualification by reason of the nature of an offence or listed on POCA/List 99.

## Cancellation of approval

### 5. Do you agree with the proposed provisions for the cancellation of approval?

While NFPI accepts that it would be difficult for the approval body to have a statutory role in child protection, there is some concern that the approval body will have no authority to investigate complaints about quality of care. Parents using Ofsted regulated provision can make a complaint about the quality of care provided by childminders, day care providers or schools, but the structure suggested for 'light touch' regulation does not provide the same recourse. As child care has been shown to be an integral component in tackling some of the disadvantages of child poverty, and not just through increasing family income by allowing parents to work, it is important that the quality of the provision should be regulated.

Also of concern is that although the individual or manager needs to give consent to the approval body keeping details of any complaints made against the provider and passing these on to official, designated bodies where appropriate, parents considering employing that individual or utilising that service are not automatically informed and have to contact the approval body to ensure that the approval is still valid. NFPI would like parents to gain direct access to this information, to facilitate an informed choice regarding child-care for their child(ren).

Any guidance prepared for parents would need to make very clear what their responsibilities are; the criteria for approval of the provision; and to explain the procedures that are in place to investigate child protection issues.

#### **Right of appeal**

### 6. Do you agree with the proposed provisions for providing a right of appeal?

The proposed provisions for providing a right of appeal seem appropriate.

## Regulatory Impact Assessment

### 7. Are you satisfied that the information given in the RIA is presented in a way that accurately portrays the costs and benefits of each option?

Option 2, which requires primary legislation, has not been costed in detail as preliminary work demonstrated that the benefits to parents would be outweighed by the costs of a regulatory scheme. Given that the proposals in the consultation are interim but nevertheless do require some secondary legislation under the Tax Credit Act, it would have been useful to have a clearer picture of how much the regulation route would cost.

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<sup>1</sup> 4Children (2004) *Creating Opportunities; Building Futures*. Available to download in pdf from <http://www.4children.org.uk/information/show/ref/147>