

Consultation on Draft Code of Practice on the Provision of Free Nursery Education Places for 3 and 4 Year Olds

A copy of the Consultation Response Form, as completed and returned by East Sussex County Council in September 2005.

The closing date for this consultation was
30 September 2005

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Please tick if you want us to keep your response confidential.

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|------------------------------|--|
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If your enquiry is related to the policy content of the consultation you can contact the 3 and 4 Year Old Offer Team on:

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If you have a query relating to the consultation process you can contact the Consultation Unit on:

Telephone: 01928 794888
Fax: 01928 794 311
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Please put an X in the box below that best describes you as a respondent

| | | |
|--|---|--|
| <input checked="" type="checkbox"/> Local Authority | <input type="checkbox"/> Private Provider | <input type="checkbox"/> Maintained Provider |
| <input type="checkbox"/> Independent School | <input type="checkbox"/> Voluntary Provider | <input type="checkbox"/> Parent |
| <input type="checkbox"/> National Organisation(Please Specify) | <input type="checkbox"/> Union | <input type="checkbox"/> Other(Please Specify) |

Please Specify:

- Although this is primarily a local authority response, in East Sussex, we have consulted over 100 nursery education providers in the private, voluntary, independent and maintained sectors and included their views within this document. We have also widely consulted across the local authority and with a number of parents.

The Department will ensure that sufficient additional resources are factored in to the general funding arrangements for schools and LA to support the enhanced universal entitlement. We intend that funding to support the enhanced entitlement to 38 weeks is distributed, along with funding for the current entitlement, via standard formula funding (currently Education Formula Spending). However, Authorities which use a proportionately higher number of Private Voluntary and Independent settings to provide the minimum entitlement of 33 weeks will be affected most by the enhancement to 38 weeks.

1 What interim arrangements, if any, should be made to divert funding to authorities with a high proportion of PVI's?

Comments:

- In East Sussex we have a high % of provision within the PVI sector and therefore we need funding to reflect the take-up patterns within that sector and would suggest that during the first year of funding we would benefit from the ability to claim funds in retrospect enabling us to make up any shortfall in funding that the additional 5 weeks will produce. When funding was claimed direct from the DfES LAs were able to claim for variations within the maintained sector which exceeded the baseline headcount. This would cushion any changing claim patterns as a result of the increased weeks.
- As our pattern of overall take-up is proving higher than the 85% we would welcome consideration being given to raising 'universal' funding calculations from 85% to 90% or higher to mirror reality
- Given the transitional nature of the general funding formula (to be reviewed for 2008/09) it would be more equitable and cause less turbulence in local authority budgets to distribute the funding available for enhanced entitlement for 2006/07 and 2007/08 as a separate sum based on the numbers of children in PVI's
- The Authority currently funds additional support to children with statements of special educational needs in pre school education settings and also a significant number of pupils who are at Early Years Action Plus of the SEN Code of Practice. The planned increase in hours funded through NEG will have a significant implication for this already very overstretched budget and we would welcome a consideration of SEN enhancement within the NEG funding.

2 We are planning to phase the roll out of funding to extend the free entitlement to 15 hours per week. Should we phase in the entitlement to 15 hours per week based on age cohorts, on the level of disadvantage in a particular area, or are there other mechanisms which all local authorities could use? How best do you think this should be handled?

Comments:

- East Sussex has consulted with partners through its 0-5 reference groups, 0-5 strategy team, Every Child Matters Priorities Group, Children services Managers Group as well as focus groups and forums for schools and PVI sector ; this consultation has shown that universal roll-out is strongly favoured across all sectors, even if this means delaying the introduction of the increase to 15 hours per week
- If phased entitlement is to be considered, then the majority of consulted PVI and maintained sector providers have indicated that they would only support this if it was introduced by age cohorts. There was strong resistance to any funding based on where a child lives or other mechanisms considered –this is based upon our experience of the introduction of 3 yr old funding. However we would ask that you view this with caution as we believe that this could cause financial hardship for both providers and parents. i.e. providers required to offer additional hours just for 4 year olds would result in them having to pay for additional rent/staffing etc. for a potentially very small group, so this would be on the proviso that there is a sufficient increase in the funding when the additional entitlement is brought in to provide bridging funding of some sort – maybe a transformation fund.
- The consultation documentation does not make it clear what consideration has been given to the impact on the maintained sector. Where a maintained nursery class currently operates a morning and afternoon session, there would not be sufficient time available in the afternoon to extend to 3 hours unless there was the ability to include a lunch hour/club within the 3 hour session. Running sessions back to back would incur additional staffing costs to enable staff breaks and this could amount to £10,000 per year per nursery class and reception class. In East Sussex our admission process admits children part-time in the September of the academic year of the child's fifth birthday and children start full-time at the beginning of the term of their fifth birthday this offer is to be for all children within the Foundation Stage and therefore we would welcome further consideration to the impact on our admissions process and the implications for any change across both our PVI and maintained sector.
- Some maintained sector would favour phasing the funding through prioritising children accessing nursery classes, this would cause difficulty of equality with other sectors providing for the same age cohort.

3 How can local authorities encourage and incentivise schools and playgroups offering stand alone sessional provision to build towards offering a full integrated day for the child?

Comments:

There are three main barriers to moving to the full integrated day – all of which have significant funding implications; Buildings/space workforce and quality.

- Infrastructure: Pre-schools would welcome the opportunity to move onto school sites, however, costs relating to this are prohibitive and the maintained sector is not always willing or able to co-operate and work in partnership.
 - Security of tenure for the PVI sector is also an issue as schools are not often able to commit the use of available space for longer than one academic year
- Accommodation: has proved to be the biggest issue as many pre-schools are unable to expand within their current premises due to restrictions and suitability of rural church and community halls or oversubscribed urban community venues
- Do parents really want their very young child on a school site from 8-6?
- There will always be a demand for sessional provision particularly in rural communities. Not all parents want or need extended days – therefore the ability to meet part of the offer is still valid.
- Offering flexibility of hours/days can reduce the number of children accessing nursery education as 'places' will be lost , i.e. a current nursery class provided 2x 25 place sessions reaching 50 children would become a 25 place provision.
- All sessions (PVI and Maintained) should receive funding for 3 and 4 year olds on roll, with retrospective adjustments;
- The flexibility could be on a session basis of hours (we really do not think half hours are necessary, as many PVI settings will give provision beyond NEG funding)
- Whilst it is important to be fair and equitable, the impact of changes to funding in LEA nurseries needs to be considered very carefully, there are already financial issues in schools with nurseries in assuring funding to remain open when there is low take-up at the same time to use these developments for LEA nurseries to consider broadening their provision.
- We would welcome consideration of how schools can exercise their `community facilities powers with greater ease i.e. the power of Governors to provide childcare provision as part of the being an extended school without some of the current restrictions.
- Will the Private and Voluntary sector be allowed to take 'paid for' inset days to keep them in line with the maintained sector?

4 The Secretary of State wants to incorporate a selection of good practice case studies in the Code of Practice showing how local authorities and providers working together in partnership have successfully delivered integrated early education and childcare services wrapped around the free entitlement. We would welcome a brief summary (no more than 200 words) of the approach and outcome, together with contact details.

Comments:

Whitehill School:

Took a partnership approach to developing its nursery provision. By working with a private provider they have established both care and education provision. The educational element of the foundation stage is supported through quality input from the school's foundation stage leader which is supported through the service contract between the two organisations. This has enabled staff to share inset days, to share curriculum themes and shared events with reception and nursery children. Parents participate in these events.

The private provider now has moved to provide wrap around care for children attending the reception year part-time and is about to extend to provide after-school provision for older children.

This relationship has built over the past 5 years being supported by the childcare team, early education advisory team, inclusion team.

5 We are aware some issues can make it difficult to offer a fully integrated day for the child, such as premises and staffing arrangements. Are there other barriers to moving towards a fully integrated day for the child? How should these be overcome?

Comments:

- Difficulty in recruiting staff of sufficient skill and expertise is not just an issue for PVI sector but also for schools and in small rural communities can be an obstacle to delivering any service.
- For full-day care provision often food and hygiene standards are insufficient-where kitchen facilities are limited
- Additional costs and requirements to sessional groups when they move to register as full day-care
- In a two tier authority there continue to be planning issues for full day care both in community and school venues.
- Premises in many cases are not appropriate for offering extended hours/sessions and are often community run/based and so used for a number of other uses
- Nursery Education Grant does not reflect the real financial cost of a session. If all providers are to remain viable and are unable to charge top-up fees, this needs to be seriously considered. Within the Neighbourhood Nursery initiative there was recognition of the need to balance charging parents with the free element and a transitional revenue funding stream could help to bridge the changes in provision.
- Many staff currently working in the sector do so because the current hours of work fit in with their family life. These changes may see experienced staff leaving the sector, which we can little afford – providers may need to pay extra to staff to work outside of school hours to meet their own childcare needs and as such will take their fees in excess of the economic means of the very parents we hope they will serve.
- In a maintained nursery that only opens in the morning the only issue is funding. There needs to be sufficient financial reward in place to enable viable extension of hours and charging policies that reflect a parents ability to pay
- We must be able to ensure quality of care and education. Partnership may or may not be the answer as it may re-enforce a two tier workforce during a transition to an early years pedagogical approach.

6 How can settings be best supported to spread the free entitlement across a minimum of three days?

Comments:

- For the Private and Voluntary sectors, this could cause major issues. Small village and community based provision could see the same small number of children spread over more days, the effect being very low numbers on some days making providers unviable financially on those days – we would support an approach which allows rural pre-schools to sustain a family support role whilst not necessarily meeting this offer. We would wish to see greater incentive to childminders and rural pre-schools to work together.
- Staffing and staff ratios could be difficult to manage when there is such variable take-up of the offer as there is not always a consistent local work pattern (e.g. servicing a factory, shift work etc) the spread of minimal demand will challenge sustainability. If a provision offers this but it is not taken up locally, who will meet the cost incurred by the provider?
- Will staff ratios be brought in line with the maintained sector for 3 and 4 year olds?
- The changes need to be communicated and marketed effectively to parents and carers, preferably on a national basis for greater impact
- Are the maintained sector included in this? Will schools be expected to offer 3 times 5 hour days to all 3 and 4 year olds? How would this be applied to existing admissions policies and authorities who admit children age 4 into reception on a part-time basis?
- There will always be providers in all sectors who would cease to be viable if this was a requirement. It would be impossible for all sectors to effectively deliver the Foundation Stage curriculum to all children

7 What, if any, additional conditions might local authorities reasonably impose in relation to eligibility for inclusion in the local Directory of Providers?

Comments:

- Our existing conditions are already working well (available on request) – some of which are included below.
- Agreement to respond to information requests from other service / team areas, i.e. training, ISA, CAF
- Pre-School SENCO/ Inclusion
- Provide Action Plans to LA
- Requirement to attend training
- Agree to conform to the LA self-evaluation / quality monitoring regime
- Demonstrate flexibility and provide choice for parents
- Transparency of funding arrangements
- Must apply to be included in the Directory at least the term before they intend offering nursery education, enabling LA's to ensure the quality of deliver is present and for both owners and managers/supervisors to participate in induction (this would apply to both new staff in schools as well as PVI sector)

8 How can we make more effective use of approved childminder networks in delivering the free entitlement and joined up services?

Comments:

Networks are part of the `core offer' for children's centres and as such need to meet that challenge – we would consider the qualification status of childminders should get greater emphasis.

- Better information and marketing to parents and providers, again at national level would have greater impact
- Use of childminders on approved networks as bank staff for schools as well as PVI settings
- More partnership working between providers
- Develop a greater 'model' of how childminders could be used and integrated into the delivery of the Foundation Stage
- The family support role of childminders with families with a child with SEN, at risk. Traveller families, teenage parents, could be given a higher profile within the national promotion of the foundation stage.

9 Would there be any difficulties in a new approach where DfES is no longer informed or directly involved in the process leading to the withdrawal of funding for PVI providers?

Comments:

- There is always a potential conflict between the assumption that local standards are not compatible with national standards a framework or transparent protocol of expectations would be beneficial to ensure an overall consistency of practice nationally without returning to the previous situation where local authorities were often viewed as interpreting guidance at widely differing levels.
- Knowledge of providers is much better locally so there are great benefits to setting local improvement targets
- We would question whether within the current OfSTED process we have sufficient involvement locally to 'approve' or 'reject' action plans where the expectation is set by OfSTED rather than ourselves. Provider quite rightly respond to expectations set by OfSTED and could therefore question a LA's ability to make a judgement resulting in withdrawal of grant or closure. For this to be successful there needs to be greater links between LA quality expectation and the OfSTED judgement.
- Could the DfES offer training and/or guidelines/protocols to LAs on this issue to ensure consistency on a national level? Without this any local standards can be viewed by schools and PVI providers as without the necessary 'teeth'.

10 What charging arrangements should be introduced to ensure that a) parents can secure more provision in addition to the free entitlement if it is available, and they are willing and able to pay; b) providers are not unduly burdened with accounting requirements.

Comments:

Much of this has been reflected in previous comments

a)

- In a true world of choice, surely parents should be able to have the option to use a provider who charges more and choose to pay the difference?
- Should the term 'free' be revisited? If additional costs need to be levied, working parents should be able to claim the balance through WTC' clearly there needs to be a market range for this type of solution
- WTC childcare element should be paid directly to the provider, not the parent

b)

- The issue of top-up charges. In order for there to be sustainable and diverse provision available for true parental choice, consideration needs to be given either to the current funding levels or the ability for providers to charge the balance of the true running costs
- The NEG Funding for the 'free' entitlement must financially reflect the amount that providers need to charge to meet the delivery costs they incur
- Operating costs for providers increase at a rate higher than inflation and this is already causing ongoing sustainability issues when providers are not able to charge over and above the grant amount. i.e. the NEG payment does not reflect the increase in operating costs. In East Sussex we have consistently increased NEG payments by the inflation increase on the LA budget we have not top-sliced the NEG budget or reduced the direct passporting of payments to PVI providers in any other way. We already provide additional payments to providers for children with SEN and yet we continue to have sustainability challenges across the entire maintained and PVI sectors.

11 What arrangements, if any, should be introduced to ensure that parents purchasing additional services are not treated more favourably than those who only require or can only afford the free entitlement?

Comments:

- This should be covered and enforced within the Code of Practice and requirements to be included within the Directory, however, we acknowledge that enforcement would be challenging within large authorities
- It is suspected that parents wishing to purchase additional services which are not part of the local 'norm' will be treated less favourably. Feedback is that this is because of the economic strain this will put on providers – for the maintained sector this would reflect the need for increased flexibility and for the PVI sector this reflects the need to ensure an increase in 'free entitlement' payments against the risk of parental fee payment.

12 Do you have any other comments on the draft Code of Practice?

Comments:

We would like to share some comments from our extensive consultations

- Clarity and language is paramount. The Code of Practice should be easy to understand
- Whatever is decided, diversity should be encouraged
- WTC should be paid to providers
- Sufficient time must be given for the changes to be disseminated and understood before implementation (this is supported by the request for paid inset days for PVI sector)
- Whilst the drive to transparency and fairness between the maintained and PVI sectors is supported, this consultation does not make it clear if DfES are expecting school reception and nursery classes to meet the offer
- Equitable funding of providers
- The paper states that local authorities should fund both the maintained and PVI sectors fairly, transparently and equitably. It also goes on to say that parents can take up their free entitlement at more than one provider and over three or more days. In order to provide this flexibility funding of providers will probably have to be allocated on an hourly basis. However, this appears to be inconsistent with the approach proposed under the new school funding arrangements from April 2006. Local authorities will be required to use a single pupil count in January prior to the beginning of each financial year to calculate school budget shares. Unless the new version of the Financing of Maintained Schools Regulations provides for

flexibility on counting under fives it will be impossible to fund schools on a broadly similar basis to PVIs. If the Regulations do allow the appropriate flexibility this will obviously run counter to the intention of providing certainty over funding for maintained schools. The Code of Practice needs to provide clearer guidance as to how the contradictions of equity of funding, greater flexibility in provision but more certainty over maintained schools funding can be resolved.

- The consultation document refers to both 'the best interest of the child' and 'flexibility for parents' as paramount. Which one is it? There has been significant feedback from the EPPE research and the thrust of this development does not reflect the importance of parental involvement – rather is reflects the agenda of all parents returning to work during their child's pre-school years.
- Yet another initiative – not fully thought through and overburdening us and who haven't already had time to manage the other initiatives. This is a big project deserving of a great deal of time and thought.
- Concerns about quality. Who is the code of practice aimed at. Parents to enable them to work or children – what is best for them. 8am to 6pm care for children may reduce parenting skills and reduces parental responsibility.
- Unsure how this strategy enables sufficiency as it will require some difficult decisions which will require provision to close.
- There is a danger of two tier provision I.e., funded full-day and non-funded sessional pre-schools.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply

Here at the Department for Education and Skills we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

X Yes

No

Code of Practice on Consultation

All UK national public consultations are required to conform to the following standards:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

Further information on the Code of Practice can be accessed through the Cabinet Office Website: <http://www.cabinetoffice.gov.uk/regulation/consultation-guidance/content/introduction/index.asp>

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 30 September 2005

Send by post to:

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Send by e-mail to: EarlyEducation.CONSULTATION@dfes.gsi.gov.uk

All responses must be received by Friday 30 September 2005.

Additional Copies

If you wish to obtain a paper copy of this document it can be downloaded as a pdf. or word version from this site.

Copies of the document can be requested:

by post from
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A summary of the responses to this consultation will be published on the DfES Website later in 2005.

The outcome will form the basis of the Code of Practice on the Provision of Free Nursery Education for 3 and 4 Year Olds.
