EXPLANATORY MEMORANDUM TO

THE EARLY YEARS FOUNDATION STAGE (LEARNING AND DEVELOPMENT REQUIREMENTS) (AMENDMENT) ORDER 2008

2008 No. 1952

THE EARLY YEARS FOUNDATION STAGE (WELFARE REQUIREMENTS) (AMENDMENT) REGULATIONS 2008

2008 No. 1953

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Early Years Foundation Stage (Learning and Development Requirements) (Amendment) Order 2008, and the Early Years Foundation Stage (Welfare Requirements) (Amendment) Regulations 2008 make amendments to the Early Years Foundation Stage (Learning and Development Requirements) Order 2007 ("the Learning and Development Order") and the Early Years Foundation Stage (Welfare Requirements) Regulations 2007 ("the Welfare Regulations") respectively.

2.2 The Learning and Development Order and the Welfare Regulations are amended to give legal effect to the revised document entitled "*Statutory Framework for the Early Years Foundation Stage"* ("the Document") which was published on 19th May 2008.

2.3 The Welfare Regulations are also amended in a number of respects. In particular, the amendments provide a transitional period for two particular categories of childcare providers to meet the relevant qualifications requirement for childcare staff as set out in the Document, and make other changes to the child to adult ratio requirements for early years provision in independent schools.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Section 44 of the Childcare Act 2006 ("the 2006 Act") allows learning and development requirements and welfare requirements to be contained in a document, and enables an order made under section 39(1)(a), and regulations made under section 39(1)(b), to direct that those requirements have effect, or have such effect as specified in the order or regulations. The learning and development requirements and the welfare requirements, which together make up the Early Years Foundation Stage ("EYFS") are set out in the Document. The Document was first published in March 2007 in order to give early years providers sufficient time to become familiar with, and ensure compliance with, the requirements it contains. A revised version has now been published and the statutory duty to comply with the EYFS in section 40 of the 2006 Act comes into force on 1st September 2008.

4.2 Amendments to the Learning and Development Order, and the Welfare Regulations, give effect to this revised version of the Document. Amendments to the Welfare Regulations also specify that the welfare requirements contained in the Document have a modified

effect in relation to certain categories of early years providers.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Publication of revised EYFS Statutory Framework Document

7.1 A revised version of the Document was published on 19th May 2008. The Learning and Development Order and the Welfare Regulations are therefore amended to specify that the revised version has legal effect. The revisions made to the Document provide clarification on areas where feedback from local authorities and early years providers has indicated this would be helpful.

Transitional arrangements for certain providers affected by section 96(5) of the Childcare Act 2006

7.2 Until 1st September 2008, there is no limit on the number of people who may provide childminding on domestic premises and be registered as childminders. However, section 96(5) of the 2006 Act provides that where more than 3 childminders or assistants operate from the same domestic premises at the same time, this is not early years childminding, and therefore the providers must be registered to provide other early years provision (rather than childminding). As a result, some childcare providers who are registered as childminders prior to 1st September 2008 (under the register maintained under Part 10A of the Children Act 1989) will be required to be registered as childcare providers other than childminders from 1st September 2008 when they transfer across to the early years register.

7.3 Neither the current National Standards (which contain the requirements for child minders and day care providers registered under Part 10A of the Children Act 1989) nor the EYFS welfare requirements require childminders to hold a formal qualification. However, the EYFS does require that, in registered early years provision other than childminding, all managers and supervisors must hold a relevant level 3 qualification and half of all other staff must be qualified to level 2. Level 2 and level 3 qualifications are set out in the National Qualifications Framework and determined by the Qualifications and Curriculum Authority. The qualifications that will be 'relevant' to early years provision are determined by the Children's Workforce Development Council. Appendix 2 to the Document includes further requirements about qualifications for early years providers other than childminders.

7.4 The Welfare Regulations, therefore, are amended so that the effect of the Document is modified in relation to such providers, with the requirement to have those qualifications being disapplied until March 2011 to allow this category of providers time to gain the necessary qualifications. However, until such time as those qualifications have been obtained, providers will have to operate within the more stringent child to adult ratios for childminders, rather than those for other providers.

Transitional arrangements for independent schools

7.5 Government does not currently prescribe the qualifications that staff in independent schools must hold. The Welfare Regulations are amended so that the effect of the Document is modified in relation to early years provision in an independent school. The modification is that, for all independent school classes for children aged 3 and over, the requirements in the Document to have level 2 and level 3 qualifications are disapplied for a period of one year (until 1st September 2009) during which independent schools will not be required to meet these requirements. (They will, however, still be required to meet qualification requirements for any early years provision for children under the age of 3, for which the school must be registered on the early years register). This modification is to allow a period of transition during which independent schools can train staff or alter their staffing arrangements in order to meet the requirements of the EYFS.

Reception classes in independent schools

7.6 For independent schools, the EYFS imposes the same ratio and qualification requirements in relation to reception classes as to nursery classes. These requirements are set out in paragraphs 9 and 10 of Appendix 2 to the EYFS Document. The EYFS does not, however, place ratio and qualification requirements on reception classes in maintained schools provided they fall within the legal definition of an infant class (a class containing pupils the majority of whom will attain the age of five or over during the course of the school year). Regulations made under the School Standards and Framework Act 1998 limit the size of infant classes to 30 pupils per "school teacher" (which is defined in section 122 of the Education Act 2002 and related regulations).

7.7 In order to ensure that there is not a higher level of requirement placed on independent schools than there is on maintained schools, the Welfare Regulations are amended so that the effect of the Document is modified in relation to an independent school class in which the majority of children will reach age five or older during the school year. The modifications are that a ratio of one member of staff for every 30 pupils is required where that member of staff has a certain level of qualification as set out in the EYFS Document, and that the requirement to have another member of staff qualified to level 3 is disapplied. The modification also enables certain instructors and persons qualified as teachers outside of the United Kingdom to be counted towards the ratio.

Application of certain of the welfare requirements to registered early years providers only

7.8 Early years provision in schools for children aged 3 and over is exempt from registration in the early years register, and will not be inspected or regulated by the Chief Inspector for Education, Children's Services and Skills ("the Chief Inspector") under Part 3 of the 2006 Act. Rather, the early years provision will be inspected as part of the arrangements for the wider school's inspection. The requirements in regulations 7, 8, 9, 10 and 11 of the Welfare Regulations should only apply to registered providers, since the Chief Inspector is not intended to have enforcement powers in relation to early years provision in schools which is not required to be registered, and the Chief Inspector does not require information from schools. The Regulations, therefore, are amended so that the requirements only apply in relation to registered early years providers.

Information requirements

7.9 Regulation 8 of the Welfare Regulations (as amended by these Regulations) requires registered early years providers to notify the Chief Inspector when the events listed in the Schedule to the Welfare Regulations take place. These Regulations amend the Schedule to ensure that registered childcare providers who are companies, partnerships or unincorporated associations are required to notify the Chief Inspector of changes of specified people who are members of that organisation. This is in order to ensure the suitability of those involved in the provision of the childcare.

7.10 Regulation 8 itself is also amended to specify the types of information that must be supplied to the Chief Inspector when the provider notifies a change of a person involved in the childcare provision or living or working on the premises where the childcare takes place.

Consultation

7.11 The Department has consulted the Chief Inspector, local authorities and key representative bodies for early years providers on the proposed changes to the Welfare Regulations, in accordance with section 43(2) of the 2006 Act.

7.12 Most of the responses to the consultation were positive. Ofsted and key stakeholders were particularly supportive of changes to bring the requirements on independent schools in line with those on maintained schools. They also agreed that it was sensible to provide a transitional period for independent schools, and childminders who were affected by section 96(5) of the 2006 Act, in order to help them meet the qualification requirements.

7.13 The Independent Schools Council raised the issue of whether the proposed requirements for ratios and qualifications were sufficiently broad, particularly since some independent schools employ specialist instructors or staff with overseas qualifications to work in their early years provision. Their aim was to secure similar flexibility to that which is available to maintained schools. In response to this, the provisions relating to instructors (i.e. qualified swimming instructors, music tutors and others with similar qualifications) and overseas trained teachers were included in the Regulations.

8. Impact

A full Regulatory Impact Assessment for the EYFS was published in July 2007. An updated version was published with the Explanatory Memorandum to the Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008 in July 2008.

9. Contact

Sally Pickles at the Department for Children, Schools and Families Tel: 020 7273 1101 or email: sally.pickles@dcsf.gsi.gov.uk can answer any queries regarding these instruments.

Summary: Intervention & Options

Department /Agency:	Title:	
Department for Children, Schols and Families	**Impact Assessment of the Early Years Foundation Stage (EYFS)**	
Stage: Final	**Version:** 4	**Date:** 10 June 2008
Related Publications: The Early Years Foundation Stage - Setting the Standards for Learning, Development and Care for children from birth to five		

Available to view or download at:

http://www.standards.dcsf.gov.uk/eyfs/

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What is the problem under consideration? Why is government intervention necessary?

Research shows that there is a persistent positive effect of attending higher quality pre-school settings and can lead to better educational and social outcomes for all children.

What are the policy objectives and the intended effects?

The overarching aim of the EYFS is to help young children from birth to five to achieve the five Every Child Matters outcomes by creating a framework for early years provision that contributes to the delivery of the best possible outcomes for children; ensures that children are safe and well-cared for; reduces bureaucracy for childcare and early years providers whilst ensuring the standards of services are high quality and continuously improve; and encourages a level playing field amongst providers.

What policy options have been considered? Please justify any preferred option.

The preferred option is to introduce a new statutory framework for children from birth to five, bringing together current statutory frameworks and the non-statutory Birth to Three Matters. A single framework will reduce bureaucracy for practitioners and create a level playing field between maintained, voluntary and private sectors, ensuring consistency for children regardless of settings they attended. The alternative options would be to

- maintain the status quo by continuing to have separate standards for children aged birth to three and three to five but this is neither feasible nor viable
- include in the EYFS more stringent requirements such as higher staff:child ratios, higher staff qualifications, and mandatory outdoor play areas but this would place unacceptable demands on the early years sector leading to its destabilisation

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

A post implementation review will take place as pert of the longer term EYFS review from 2010, allowing enough time for the EYFS to be fully embedded and based in part on Ofsted inspections.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description: **Introduce a new statutory framework for the early years (EYFS) from birth to five.**

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£16m	1
Average Annual Cost (excluding one-off)	
£ 1.5m	10

Description and scale of **key monetised costs** by 'main affected groups' Sessional care providers - £9m to convert level 2 staff to level 3 for supervisory staff (para 26&27); DCSF - £7m to support EYFS implementation and training for practitioners and schools (para 29); Ofsted - £1.5m additional annual costs of early years inspections

Total Cost (PV) **£ 29m**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£ 0	
Average Annual Benefit (excluding one-off)	
£ 65m	10

Description and scale of **key monetised benefits** by 'main affected groups' All registered providers will be able to apply a ratio of 1:13 for 3&4 year olds where a person holding an appropriate level 6 qualification is employed representing a reduction in staff levels for the PVI sector. We estimate savings to be in the region of £65m pa. to PVI settings (details paragraph 25)

Total Benefit (PV) **£ 560m**

Other **key non-monetised benefits** by 'main affected groups' Positive effects on children's maths and reading outcomes, socio-behavioural outcomes and independence and concentration

Key Assumptions/Sensitivities/Risks A single early years framework will reduce bureaucracy for providers and help create a level playing field between maintained, voluntary and private sectors. Changes to qualification requirements may result in additional costs to some providers - substantial Government funding provided to meet such costs.

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£ 531m**

What is the geographic coverage of the policy/option?				England	
On what date will the policy be implemented?				1 September 2008	
Which organisation(s) will enforce the policy?				Ofsted	
What is the total annual cost of enforcement for these organisations?				1.5m	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				Yes/No	
What is the value of the proposed offsetting measure per year?				£	
What is the value of changes in greenhouse gas emissions?				£ 0	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ Decrease of £ **Net Impact** **£**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Introduction

1. This Impact Assessment covers the introduction and implementation of the Early Years Foundation Stage (EYFS) which is given legal force through an Order and Regulations made under the Childcare Act 2006. It includes the Early Years Foundation Stage (Learning and Development Requirements) Order 2007; the Early Years Foundation Stage (Welfare Requirements) Regulations 2007 and the Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008.

2. The Order and Regulations giving effect to the Early Years Foundation Stage, and regulations allowing exemptions to the Learning and Development requirements of the EYFS have been made.

Purpose and intended effect

Objective

3. The overarching aim of the Early Years Foundation Stage is to help young children from birth to five to achieve the five *Every Child Matters* outcomes of staying safe, being healthy, enjoying and achieving, making a positive contribution, and achieving economic well-being by creating a regime of childcare and early years regulation and inspection that:

- contributes to the delivery of the best possible outcomes for children;
- ensures that children are safe and well-cared for;
- reduces bureaucracy for childcare and early years providers whilst ensuring the standards of services are high quality and continuously improve; and
- encourages a level playing field amongst providers.

Rationale for government intervention

4. The DfES-funded longitudinal research study of 3,000 children, *the Effective Provision of Pre-school Education (EPPE) project* has shown that there is a persistent positive effect of attending higher quality pre-school settings: on children's outcomes in maths and reading at age 10; on socio-behavioural outcomes at age 10; and on children's independence and concentration, which in turn led to children achieving better than expected in reading and maths relative to their background. The study also provided evidence that quality was higher overall in settings which integrated care and education (and in nursery schools). In addition, settings that have staff with higher qualifications have higher quality provision and that in the most effective centres 'play' environments were used to provide the basis of instructive learning.

5. The existing legal framework makes a distinction between childcare and education, with separate requirements and inspection regimes for each. Many providers offer both childcare and nursery education and are therefore subject to two sets of requirements and two legal frameworks. The Early Years Foundation Stage removes these unnecessary distinctions and allows providers to access all the information that they require from one source.

Consultation

Within Government

6. The Government consulted across Whitehall right from its early thinking up to and including the legislative process that culminated in the Childcare Act 2006, which contains the legislative framework for the new system of registration and the legal framework for the EYFS, including a Regulatory Impact Assessment for the Bill as a whole. These detailed proposals have been discussed with Ofsted, a non ministerial government department which acts as the registration authority for childcare in England.

Public consultation

7. In summer 2005 the Government consulted widely on the proposed provisions within the Childcare Bill which became the Childcare Act 2006 and set the broad legislative framework for the new registration arrangements.

8. In summer 2006 the Government consulted on the Early Years Foundation Stage which sets out learning, development and welfare requirements for childcare providers looking after 0-5 year olds. There were 1800 formal responses to the Early Years Foundation Stage consultation and a range of consultation events attended by over 7000 stakeholders. Responses to the consultation demonstrated overwhelming support for the creation of the EYFS but asked for the final documentation to be easier to read and to navigate. Some respondents said that there should be higher staff: child ratios, more highly qualified staff and that all providers should be obliged to provide an outdoor play area.

9. The statutory consultation on the draft proposed Learning and Development Requirement Order was published on 20th December 2006 and closed on 2nd February 2007. We received 46 responses to the consultation; of these 25 made comments which were in some way related to the Order, 16 of which were broadly welcoming. We also held meetings with major stakeholders as part of the consultation. The majority of comments were related to areas outside of the scope of the consultation such as outdoor play, ratios, qualification level of the workforce or drafting comments on the EYFS statutory framework document, which was attached for information with the consultation document. Stakeholders made a point of commenting on the open dialogue throughout the EYFS process. They said that the statutory framework was much clearer and more accessible than earlier documents and were pleased to see so many of their comments and suggestions reflected in the current draft.

10. Following this consultation the full Early Years Foundation Stage documentation was published on 13 March 2007.

11. The success of both Birth to Three Matters and the Foundation Stage has been largely due to the early years sector's involvement in their development. The Government continued this approach during the development of EYFS. Groups of practitioners, heads of centres, headteachers and national organisations have all contributed to thinking on the early direction of the EYFS. In addition discussions were held with local authority early years staff and lead early years staff from higher and further education.

12. The statutory consultation on exemptions to the EYFS learning and development requirements ran from 1st March to 24 May 2007. The consultation provided the opportunity for

respondents to give their views on the circumstances accepted as possible grounds for exemptions and the process by which exemptions could be obtained. The Government response to the Early Years Foundation Stage Learning and Development Exemptions consultation set out Government's initial thinking on the circumstances in which exemptions may be sought. These were:

a. **on a short-term basis**: circumstances in which providers are temporarily unable to deliver the full EYFS learning and development requirements, but are making every effort to do so within a short period.
b. **in respect of an individual child**: circumstances in which the EYFS learning and development requirements, or some element of them, cannot be delivered for that child or where that child's parent feels strongly that the child should be exempted from some element of the learning and development requirements.

The response document made it clear that this policy would be kept under review and, following further consultation with stakeholders and parents, Government announced that regulations would also provide for a third type of exemption:

Where the principles governing the provision conflict with the EYFS*:* where a majority of parents agree with the provider's assessment that an exemption is required because the established principle which governs their practice conflicts with elements of the EYFS learning and development requirements.

13. All the above mentioned consultations, along with the Government's response, can be found on the Department's consultation website: http://www.dcsf.gov.uk/consultations/

Options:

Option One - Maintain the existing regime

14. The Childcare Act 2006 places a duty on the Secretary of State to specify 'learning and development requirements' and 'welfare requirements' which are together to be known as the EYFS. Therefore the option to leave the Birth to Three Framework as a non statutory document, the Foundation Stage as part of the National Curriculum and the elements of the National Standards for under 8s day-care and childminding as separate frameworks is neither viable nor feasible. The existing system puts unnecessary burdens on both providers and Ofsted in delivering and inspecting early years learning and childcare. To continue to distinguish between education and care would also go against the evidence gathered by EPPE, that children benefit greatly when education and care are fully integrated to provide a high quality early years experience.

Option Two- Full EYFS Statutory Framework (Government's Recommendation)

15. To introduce a new statutory framework for the early years from birth to the end of the academic year in which a child has its fifth birthday. The new framework would bring together the current statutory Foundation Stage, elements of the National Standards for Under 8s Day Care and Childminding and the non-statutory Birth to Three Matters. This would fulfil our commitment in the Ten Year Strategy for Childcare to create a single framework for childcare and learning, focused on providing excellent developmental opportunities. It will reduce bureaucracy for practitioners and also help to create a level playing field between maintained, voluntary and private sectors, ensuring a consistent, high quality experience for all children, regardless of which setting they attend. Regulations will provide for exemptions from elements of the Learning and Development requirements. These will allow providers to apply for exemption where a majority of parents agree with the provider's assessment that an exemption is required because the established principle which governs their practice conflicts with

elements of the EYFS learning and development requirements; or where they temporarily lack the capacity to meet the full EYFS learning and development requirements. Finally, parents will be able to apply to providers for exemption in respect of their own child(ren) on the grounds of a conflict with their philosophical or religious convictions. Crucially, there will be no exemptions from the welfare requirements, ensuring that all provision has a legal obligation to ensure that premises and people are suitable and meeting the needs of the children.

Option Three – Full EYFS Statutory Framework which places greater requirements on providers

16. During consultation on the Early Years Foundation Stage there was a sizeable minority of respondents pressing for more stringent requirements for providers. In particular there were calls for higher staff:child ratios, a requirement for all staff working with children to be qualified to L3 as a minimum and a requirement for all providers to have an outdoor play area on site. The third option would be to include these more stringent requirements in the Welfare Requirements for the Early Years Foundation Stage. This could pose severe problems for many settings, who would not be able to meet the higher cost implied and for settings, such as childminders living in flats or inner city daycare settings, which could not physically manage to obtain an outdoor play area on site. Additionally, there would not be enough time, before September 2008 (as legislated for by the Childcare Act 2006) for settings to ensure that their staff had attained qualifications at the appropriate levels (for example if the Government required all staff working in childcare settings to have a minimum of a full and relevant Level3). The Government knows that some providers still struggle to meet the qualification requirements set out in the national standards and, therefore, believe it is better to support the workforce to upskill now, and to increase qualification requirements at a later date when we know providers will be in a position to respond. We already know that many providers will need a lot of support in attaining the standards required by Option 2 in time for September 2008 and our assessment is that to can place further legal requirements on providers at this time would destabilise the sector.

Costs and benefits

Sectors and groups affected

17. The term ‘early years provider’ includes maintained schools, non-maintained schools, independent schools, and childcare registered by Ofsted on the Early Years Register (to be introduced in September 2008). From September 2008, it will be the legal responsibility of these providers to ensure that their provision meets the learning and development requirements, and complies with the welfare regulations, as required by Section 40 of the Childcare Act 2006.

18. The primary groups affected are:

Children – who will have the prospect of better outcomes from receiving higher quality early years provision due to an integrated learning and development framework.

Parents – who will have reassurance of consistent standards regardless of the provider they choose.

Providers who will have to adapt from operating in compliance with the National Standards for day care and childminding and delivering the Birth to Three Matters and the Foundation Stage, to delivering the EYFS and integrating the learning and care.

Ofsted – who will have to inspect settings against the EYFS requirements.

Schools – who will experience reduced burdens for over 3 year olds as they will be inspected as part of the school inspection arrangements.

19. Regulations made under the Childcare Act 2006 provide for exemptions from the learning and development requirements, either for individual children or whole cohorts, as outlined above. The Government anticipates that the number of providers and parents seeking exemptions on these grounds will be minimal given the flexibility the EYFS offers to accommodate the range of early years approaches and the needs of all children including children with special education needs (SEN) and/or disabilities.

Benefits

20. <u>The content of the EYFS statutory framework document will ensure that:</u>

- Young children will have access to a rich, coherent experience whether, for example, they receive early years provision through a free part-time place in the nursery class at their local community primary school, or whether they access provision from 8am to 6pm every week day. They will be safeguarded as they learn and develop socially, physically and mentally through play-based activities, regardless of the age at which they access early years provision – from birth right up to the end of the year in which they have their fifth birthday.

- Parents of young children will be reassured that if they are at work their children are safe and protected, as well as developing and learning as appropriate to their needs.

- For all those working with children in this age group, whether they are teachers, childminders or playgroup staff, there will be a common quality framework that will continue to drive up quality across all settings and strengthen the identity of the early years sector, whilst ensuring flexibility for the many different providers in the sector.

- By applying the same system to all providers the Government will ensure a level of consistency and quality across all settings yet remain flexible enough to allow practitioners to follow their own philosophy or methods. It will not introduce a prescriptive curriculum or require formal education for children below compulsory school age.

Costs

EYFS Learning and Development Requirements

21. All funded settings must already comply with the terms of the Curriculum Guidance for the Foundation Stage and many settings are already delivering high quality, integrated early education and care in line with the existing frameworks. In order to meet the EYFS learning and development requirements (part of which are the same as exist now as the Foundation Stage) all practitioners should carefully consider the needs, interests, and stage of development of children in their care and use this information to plan a challenging and enjoyable experience. Many practitioners will already be undertaking this process to meet the individual needs of the child and the new requirements will represent no change.

Welfare Requirements

22. The Childcare Act allows for the welfare requirements (currently contained in the National Standards) to be specified in regulations and set out in full in the EYFS Statutory Framework Document. For each of these areas, the EYFS sets out the outcome which providers are required to meet, the requirements with which they must comply to meet those outcomes, and additional guidance and good practice. The Government envisages that the replacement of the National Standards by the EYFS welfare requirements will not result in a net increase in costs to

most settings. Changes that have been made to the national standards are in the form of clarifications to ensure the welfare requirements are streamlined, and do not duplicate the learning and development requirements or carry additional financial costs for providers.

23. At full occupancy approximately 65% of a setting's expenditure is spent on staff. Therefore changes to ratios and qualifications requirements, in financial terms, would vastly outweigh other changes. The Government has not made changes that would affect the other large areas of expenditure, such as rent and rates.

Ratios and Qualifications

24. Through the welfare requirements in the EYFS, staff requirements will be more flexible. The EYFS applies to provision in all sectors, a single set of requirements for adult: child ratios will be applied to all early years settings except in reception classes This approach will allow providers to apply more flexible ratios for 3 and 4 year olds if they have appropriately qualified staff.

25. For 3 and 4 year olds, all registered early years providers will be able to apply a ratio of 1:13 between 8am and 4pm when a person with Qualified Teacher Status, Early Years Professional Status or another suitable level 6 qualification is working directly with children. At other times they will have to continue to meet the existing 1:8 ratio requirement. This represents a reduction in minimum staffing levels for the PVI sector if they choose to take advantage of this flexibility. Our modelling, based on the 2005 Parents Survey, suggests that savings to schools and the PVI sector as a result of changes to the ratio requirements could be in the region of £65m p.a. Total discounted cost savings over 10 years are estimated to be £560m[1] . However, if settings need to increase salaries to draw more graduates into the market, this saving would fall.

26. As the Government is applying one framework across all settings, the qualification requirements for sessional care will be brought into line with those for full day care. The current requirement for full day care is that a supervisor has to be qualified to level 3, and half of all other staff to level 2. In a sessional care setting, only the manager needs to be qualified to level 3, and all other staff to level 2.

27. In 2005 there were 28,800 supervisory staff employed in sessional care settings. 74% (21,300) of them had at least a level 3 qualification. 90% (25,900) had a Level 2 (so 10% are currently below the necessary requirement). The survey also shows that 97% of providers (full day care, sessional care and out of school) have at least one member of staff with a level 3 qualification or higher. Based on these 2005 figures, the regulation change would require 26% of staff (7,500) to improve their qualification to Level 3. At up to £1,200 per training course to convert Level 2 to Level 3 staff, the total cost will be in the region of £9m. Government funding through the Sure Start Extended Schools and Childcare Grant and the Transformation Fund is aimed at helping private sector providers to achieve Level 3. Research consistently shows the impact that qualifications have on child outcomes, and the Government feels that this is an appropriate and affordable change to secure improved outcomes. It will also contribute to the Government's agenda to increase the general skill level of the population as well as its aim to have a better qualified childcare workforce.

Meeting the Additional Costs

28. Government invests some £3bn each year in the delivery of the free entitlement to nursery education for 3 and 4 year-olds. Funding is provided to local authorities through the Dedicated Schools Grant (DSG) and is intended to cover provision delivered in accordance with

[1] See annex 1

the core Foundation Stage Curriculum and the National Daycare Standards by providers in the maintained, private, voluntary and independent sectors.

29. Substantial additional funding was also provided for Sure Start in the2007 Spending Review. The Sure Start, Early Years and Childcare Grant for 2008-11 totals over £5 billion including capital funding. It includes funds made available to Local Authorities to ensure all early years education and childcare workers receive appropriate training, development and support to enable them to successfully deliver the EYFS from 2008. Specifically, this total includes a £305 million Graduate Leader Fund to increase the number of support graduates leading practice in the private, voluntary and independent (PVI) sector. In addition, in preparation for implementation, the DCSF made available £7m of funding in 2007 to support training on the EYFS for practitioners in the PVI sector and schools.

30. The Government has worked closely with the National Strategies, the Children's Workforce Development Council (CWDC) and Awarding Bodies to develop training units for members of the workforce who work face to face with children under 5 in regulated settings in England. Ultimately the units are likely to form part of a larger Certificate or Diploma which in themselves may be deemed full Level 3 qualifications and with credits that can be transferable towards larger qualifications.

32. Under the Learning and Skills Act 2000, the **Learning and Skills Council** (LSC) has funding and planning responsibilities for all post-16 education and training other than higher education. Over time we would expect EYFS requirements to be embedded within accredited qualifications for those joining the sector or wishing to become better qualified and the LSC will play its part in delivering such qualifications.

33. Government appreciates the impact that childcare costs can have on the family budget, which is why substantial additional help (£3m a day) is provided through the tax credit system. At April 2007, the childcare element of Working Tax Credit (WTC) was benefiting around 414,000 lower and middle income families.

Administration costs

34. Ofsted currently regulates and inspects settings which will provide the early years foundation stage. New arrangements are not finalised. The estimated additional annual cost of inspecting to a common standard across settings is £1.5m. The total discounted ongoing costs over 10 years are £12.91m[2]. Ofsted will also have one-off development costs, to develop the early years register and to train inspectors, estimated at some £3m.

35. The Government is also looking at the administration costs imposed by the EYFS requirements, particularly those costs incurred because of requirements to keep records or supply information to Ofsted as the registration authority. In 2005 the administration costs associated with the national standards regulations were estimated to be £24m per annum for the record keeping requirements on providers and £4m for the requirements on notifying Ofsted of changes and providing them with copies of documents, etc. on request (taking into account business as usual costs). A survey which we carried out with a number of providers, showed that the administrative costs associated with the EYFS welfare requirements are broadly similar to the 2005 estimates.

36. Schools will not be required to have separate policies for the EYFS provided that the requirements are met through their policies which cover children of statutory school age. Childminders will not have to produce written policies but they will be expected to ensure that any assistants are aware of all policies and procedures, and that they are able to clearly define

[2] See annex 1

them for parents and others as and when requested. All providers need to ensure that, as well as conducting a formal risk assessment, they constantly reappraise both the environments and activities to which children are being exposed and make necessary adjustments to secure their safety at all times.

37. The Government has issued guidance for parents, early years providers and local authorities, setting out the circumstances under which it will be possible to seek exemption from the learning and development requirements of the EYFS, and the process for applications. The EYFS is a flexible and inclusive framework which is designed to accommodate the needs of individual children, including children with learning difficulties and disabilities, and to accommodate the many different philosophies and approaches employed by early years providers. For these reasons, we anticipate that exemptions will rarely be needed. The Government therefore anticipates minimal additional costs associated with Regulations enabling exemptions**.**

Summary costs and benefits table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	No clear benefits- as complexities would remain and serve to undermine the expansion of extended schools and children's centres	Annual costs currently at £88 million but likely to increase as market grows[3]
2	All providers will follow the same statutory framework, across maintained, voluntary and private sectors, ensuring a consistent, high quality experience for all children, regardless of which setting they attend. It will also reduce bureaucracy for providers who are currently subject to separate sets of requirements for care and education. Our current modelling suggests the wage bill for the whole system is in the region of £5.6bn p.a., covering schools and the PVI sector. If the ratios requirements are changed in the way suggested, savings could be in the region of £100m p.a.	£3b over the period 2006-08 is provided to Local Authorities by the Government to ensure all early years education and childcare workers receive appropriate training, development and support from 2007 onwards that will enable them to successfully deliver the EYFS from 2008. In addition, funding to support quality and workforce development is also available through the Graduate Leader Fund (£305 million between 2008 and 2011), the Outcomes, Quality and Inclusion strand of the Sure Start, Early Years and Childcare Grant (£440 million between 2008 and 2011) and from the LSC. We envisage that the removal of the national standards and the creation of the welfare requirements will not result in a net increase in costs to most settings. There may be some costs to sessional providers as we are applying one framework as far as possible across all settings. This will result in an increase in

[3] From the summary of the cost benefit analysis contained in the Regulatory Impact Assessment for the Childcare Bill which can be found on the DfES website

		costs for some sessional settings.
3	As in option 2 above plus a higher qualified workforce leading to better outcomes for children Marginal increase in opportunities for outdoor play	As above with additional cost of • £170m to bring all providers up to L3 (based on an estimated 142000 childcare workers below L3 and an estimate of £1200 to bring them up to L3) • Higher overall pay bill for settings to pay for L3 workers • We estimate the cost of providing outdoor play area and facilities to each PVI provider without them at £50k per setting (excluding the cost of acquiring land). And based on total number of providers of 17473, 15% of whom do not have an outdoor play area, the potential cost of making the provision for 2621 providers would be £131.05m (provided that they were able to acquire the necessary land.) Potential destabilisation of the sector due to increased demand for outdoor play facilities and higher qualified workers that they are not able to meet in the time available.

Small Firms Impact Test

38. The majority of childcare is provided by small voluntary and private sector providers, with a few large firms having a relatively small share of the market. According to the latest available data from December 2006 there are 108,062 providers, broken down as follows:

Setting	Dec - 06
Full day-care	13,764
Sessional Day Care Playgroups	9,216
Out of school clubs	10,735
Childminders	71,539
Crèches	2,808
Total	108,062

Competition assessment

39. Consideration has been given to the potential impact of the Early Years regulation requirements and the EYFS on competition. The framework will not adversely affect the number or size of firms, or stifle competition. In fact, changes to the ratio requirements and the simplification of the regulatory regime help to create a more level playing field between PVI and maintained providers. All settings will be able to access training to bring them up to the appropriate standard if they need support in delivering the EYFS.

Enforcement, Sanctions and Monitoring

40. All providers will be subject to inspection by Ofsted. Ofsted will inspect the quality of the delivery of the EYFS and how well providers are meeting the welfare and learning and development requirements. Inspection will be carried out proportionately so that where concerns are raised (for example, through complaints received) an inspection may be undertaken earlier than would otherwise be the case. Where relevant and necessary, Ofsted will be able to remove a registration or to require action to be taken to improve as at present.

41. Providers must comply with all the legal requirements set out and should have regard to the statutory guidance. Ofsted will base its regulatory and inspection judgements on whether a provider has met the general and specific legal requirements, and has had regard to the statutory guidance. This guidance gives examples of action providers are likely to have to take in order to meet the general and specific legal requirements; however providers may be able to comply by using other methods, in which case they can depart from the statutory guidance provided that they are able to demonstrate that their alternative approach achieves the same ends.

42. As now under existing requirements, it will remain an offence to fail to comply with certain of the welfare requirements. It is an offence for a provider to fail to notify Ofsted of certain events, which are set out in the relevant welfare requirements, and also in the Schedule to the welfare regulations. It is also an offence for a provider to give corporal punishment to a child.

Implementation and Delivery Plan

43. The Department has funded the National Strategies to develop a briefing pack for LAs to help them in planning and providing support on the EYFS to providers in the area. The package includes information on how the EYFS will affect various providers and how they can access support and advice. LAs have been responsible for providing training and support to all providers on the EYFS during the period of transition.

Post-implementation review

44. A post-implementation review will take place as part of the longer term EYFS review from 2010. This will allow enough time for the EYFS to be fully embedded and be based, in part, on LAs' monitoring returns to the National Strategies and inspections undertaken by Ofsted.

45. Review and evaluation will be based on the monitoring of inspection (Ofsted annual reports on early years, local authority performance management arrangements etc), progress towards wider Government commitments (such as PSA targets) as well as evidence from research and field-forces and advisors working within the sector.

46. Ofsted will remain the Department's key delivery partner through their inspection of early year's provision. Liaison and specific consultation will continue with the sector and specific representative organisations to ensure that the implementation of the measures of the Act (and wider related policy) is inclusive and delivering as designed. The Department will work closely with Ofsted and these organisations on any specific new issues or unintended consequences that come to light in the run up to implementation.

47. The content of the Early Years Foundation Stage is set out in regulations. This approach should ensure the greatest possible flexibility within legislation and enable the regulatory regime to adapt and evolve as the childcare market matures and continue to deliver the best possible outcomes for children. In particular it will allow for minimum standards such as required qualifications to be raised, supporting improvements in quality.

Summary and Recommendation

48. Following publication of the Government's response document to the EYFS consultation outcomes, the DfES has worked in partnership with representative organisations in the early years sector and the National Strategies to develop the final EYFS framework and package of supporting materials, ensuring that it reflects practitioners' views and expertise. Responses to the EYFS consultation, including the consultation on exemptions from the EYFS learning and development requirements, demonstrated overwhelming support for the creation of the EYFS, bringing together the existing separate frameworks for education and care and building on the Birth to Three Matters Framework, the Curriculum Guidance for the Foundation Stage and the national standards for under 8s day care and childminding. For many providers this will mean no change in practical terms of delivering high quality education and care, other than a reduction in bureaucracy brought about by the introduction of a single set of requirements. The reform that will be brought about by the introduction of the EYFS and a system that focuses on child outcomes by reducing bureaucracy and ensuring regulation is proportionate will not adversely affect the sector and will reduce cost by 10-12% per annum.[4]

49. The core cost to secure the delivery and implementation of the EYFS learning and development requirements will be to cover training and development. The Sure Start, Early Years and Childcare Grant for 2008-11 totals over £5 billion including capital funding. It includes funds made available to Local Authorities to ensure all early years education and childcare workers receive appropriate training, development and support to enable them to successfully deliver the EYFS from 2008. Specifically, this total includes a £305 million Graduate Leader Fund to increase the number of support graduates leading practice in the private, voluntary and independent (PVI) sector. In addition, in preparation for implementation, the DCSF made available £7m of funding in 2007 to support training on the EYFS for practitioners in the PVI sector and schools.

[4] From the summary of the cost benefit analysis contained in the Regulatory Impact Assessment for the Childcare Bill which can be found on the DfES website.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	No

Annexes

ANNEX 1

Cumulative annual benefits (£s)

Year	annual benefit	discount rate	present value	cumulative
0	65,000,000	1	65000000	65000000
1	65,000,000	0.9662	62803000	127803000
2	65,000,000	0.9335	60677500	188480500
3	65,000,000	0.9019	58623500	247104000
4	65,000,000	0.8714	56641000	303745000
5	65,000,000	0.842	54730000	358475000
6	65,000,000	0.8135	52877500	411352500
7	65,000,000	0.786	51090000	462442500
8	65,000,000	0.7594	49361000	511803500
9	65,000,000	0.7337	47690500	559494000

Total annual discounted annual costs (£m)

Year	Annual costs	Discounted annual cost
0	£1.50	£1.50
1	£1.50	£1.45
2	£1.50	£1.40
3	£1.50	£1.35
4	£1.50	£1.31
5	£1.50	£1.26
6	£1.50	£1.22
7	£1.50	£1.18
8	£1.50	£1.14
9	£1.50	£1.10
Total	£15.00	£12.91

Annex 2

Learning and development requirements

1 The Childcare Act 2006 provides for the EYFS learning and development requirements to comprise three elements:

- **the early learning goals** – the knowledge, skills and understanding which young children should have acquired by the end of the academic year in which they reach the age of five (young children);
- **the educational programmes** – the matters, skills and processes which are required to be taught to young children; and
- **the assessment arrangements** – the arrangements for assessing young children to ascertain their achievements.

2 There are six areas covered by the early learning goals and educational programmes, these are:

- Personal, Social and Emotional Development;
- Communication, Language and Literacy;
- Problem Solving, Reasoning and Numeracy;
- Knowledge and Understanding of the World;
- Physical Development; and
- Creative Development.

Welfare requirements

3 The National Standards for Under 8s Day Care and Childminding have previously been encapsulated in 5 sets of standard documents containing the same 14 standards, but with slight variations in the supporting criteria depending on the type of care setting. The 5 sets of standards covered are: childminding; full day care; sessional day care; crèches; and out of school care. The EYFS brings these together under one document and practitioners will recognise the requirements, enabling them to use these more efficiently and avoid duplication.

4 Children learn best when they are healthy, safe and secure, when their individual needs are met and when they have positive relationships with the adults caring for them. The welfare requirements are designed to support providers to create settings which are welcoming, safe and stimulating, and where children are able to enjoy learning through play, to grow in confidence and to fulfil their potential.

5 The general legal requirements are listed within the EYFS and are expanded with more detailed specific legal requirements in the areas of learning and development. Both the general and specific legal requirements have the force of regulations and therefore must be complied with by all early years providers.

6 The general welfare requirements of the EYFS are:

Safeguarding and promoting children's welfare

- The provider must take necessary steps to safeguard and promote the welfare of children in the setting.
- The provider must promote the good health of the children, take necessary steps to prevent the spread of infection, and take appropriate action when they are ill.
- Children's behaviour must be managed effectively and in a manner appropriate for their stage of development and particular individual needs.

Suitable people

- Providers must ensure that adults looking after children, or having unsupervised access to them, are suitable to do so.
- Adults looking after children must have appropriate qualifications, training, skills and knowledge.
- Staffing arrangements must be organised to ensure safety and to meet the needs of the children.

Suitable premises, environment and equipment

- Outdoor and indoor spaces, furniture, equipment and toys must be safe and suitable for their purpose.

Organisation

- Providers must plan and organise their systems to ensure that every child receives an enjoyable and challenging learning and development experience that is tailored to meet their individual needs.

Documentation

- Providers must maintain records, policies and procedures required for the safe and efficient management of the settings and to meet the needs of the children.

7 As now, where Ofsted considers that a provider has failed to comply with any of the welfare requirements, they may give notice to the provider setting out (i) in what respect the provider has failed to comply with the requirements (ii) what action the provider should take to comply, and (iii) the period within which the provider should take that action.

Circumstances in which exemptions from the EYFS learning and Development requirements may be sought

8 **at provider level:**

a. where a majority of parents agree with the provider's assessment that an exemption is required because the established principle which governs their practice conflicts with elements of the EYFS learning and development requirements

b. on a time-limited basis where providers are temporarily unable to deliver the full EYFS learning and development requirements, but are making every effort to do so within a short period.

9 **in respect of an individual child**: circumstances in which the EYFS learning and development requirements, or some element of them, cannot be delivered for that child.

Annex 3

Early Years Foundation Stage (EYFS) - Equality Impact Assessment

Introduction

The Department has a duty to assess the likely impact of policies that we are proposing to introduce on minority ethnic groups and those with disabilities. From April 2007, this duty will also cover gender. With this in mind, Departmental policy is to encourage the completion of Equality Impact Assessments that cover the full range of groups at risk of disproportionate or negative impact. This assessment is set out below.

Everyone should have an equal opportunity to meet their aspirations, realise their full potential and improve their life chances. Equal opportunity will make for a fairer and more prosperous society. The DfES will work with our partners to ensure our policies and services recognise and respond to the diverse needs of all children, young people and adults, and to ensure that excellent learning experiences are universally available.

Context: the EYFS and equality and diversity

The primary focus of the EYFS is to meet the individual needs of children and there is significant flexibility to provide learning and development activities in a way that reflects the needs and circumstances of every child. The EYFS has been developed with the intention of being fully inclusive of all children regardless of their ethnicity, culture, religion or belief, home language, family background, disability or special educational need, gender or ability; and to support equal access to the range of integrated care and learning and development opportunities in early years provision. Guidance on exemptions from the EYFS learning and development exemptions will make clear that this provision is not intended for children with disabilities or learning difficulties, who should be supported within the EYFS to progress according to their individual needs.

Equality in the EYFS in practice

Implementing the EYFS in settings will promote equality in the following ways:

The central focus of the EYFS on providing integrated care, learning and development for all children will support the development of strategies for raising the quality of provision for all children. This will put the spotlight on inequalities in outcomes, and areas of practice where approaches need to be targeted or varied to deliver better outcomes for children: for example, focusing on writing skills for boys, who tend to lag behind girls.

Requiring observation-based assessment will allow a closer focus on the needs of individual children and therefore the development of ways of working with those individual children that take account of their needs in helping them to learn and develop to their full potential. It will also support the early identification of special educational needs and disabilities, and the development of effective intervention to support these children.

Placing specific emphasis on the conditions through which children may differ will help to support the flexible delivery of the learning and development requirements. For example, the EYFS will place value on linguistic diversity and support practitioners to provide opportunities for children to develop and use their home language in learning through play, as well as emphasising the need to support children in their development of Communication Language and Literacy skills in English.

The EYFS will support the reducing inequalities element of the PSA1 target, which seeks to close the gap in outcomes at the end of the Foundation Stage between children from more and

less disadvantaged areas (and from 2008, between higher and lower performing children). Inequalities in outcomes can be linked to ethnicity (see FSP data 2002-2005), disability or SEN. The EYFS will support practitioners in guiding young children through early learning experiences that evidence (including EPPE) suggests are particularly beneficial to disadvantaged children (those experiencing economic disadvantage or at any disadvantage due to unmet needs).

The EYFS will make it clear that settings need to need certain key regulatory requirements in relation to equality. For example, disabled children and those with SEN will benefit from tailored learning arrangements that will help to minimise regressive conditions and development delays. The EYFS will facilitate the provision of safe and supportive learning and caring environments, free from harassment, in which the contribution of all children is valued and where ethnic, religious, disability and gender stereotypes are challenged. All children will learn to value difference and diversity and to respect others. It will ensure settings demonstrate awareness and understanding of the requirements of different groups and reflect and respond to the culture, language, ethnicity, gender and ability of children.

Finally, all settings that fall under the EYFS will be required to plan to meet the needs of boys and girls, children with SEN, children who are more able, children with disabilities, children from all social, cultural and religious backgrounds, children from different ethnic groups including travellers, refugees and asylum seekers, and children from different linguistic backgrounds.
Costs to providers

The key costs of implementing the EYFS relate to training, and these are covered in detail in the main RIA. However, in addition to the general funding being made available to support the development of the early years workforce inclusion and equality is part of the core business for LAs and settings. They are already bound by clear duties through the amended Race Relations Act, the Disability Discrimination Act, and will be bound by the duties under the Gender Equality Duty which will come into effect from April 2007. Funding to support settings develop inclusive early years practices and environments is available within both the Dedicated Schools Grant and the Sure Start Extended Schools and Childcare Grant.

Potential negative impacts on equality

There is a risk that the focus of the EYFS on meeting the needs of every child begins to stretch the early years workforce to a point where the deployment of resource and adoption of new strategies for meeting needs creates new inequalities. For example, in a setting with very few girls, the boys begin to drain attention from the girls to help improve their writing skills to the extent that girls' writing begins to suffer. However, this risk exists with every policy focused on mainstreaming principles of inclusion, and the two key ways of avoiding it are through effective planning of the deployment of resource with reference to a system of prioritisation and targeting that nevertheless recognises a minimum level of service, and through frequent and ongoing monitoring of the progress of every child so that emerging inequalities can be as quickly identified as possible. These two aims are already built into the EYFS, so the risk of new inequalities emerging is minimal.

The other main risk is in relation to funding, which can act as a barrier to embedding inclusive practice. But as set out above, this assessment does not consider that funding will be a barrier in this case.

Complementary policies on equality

£538M has been made available for capital investment and £487M for revenue investment in children's centres services, focussing on the most deprived areas. The Sure Start Children's Centre Practice Guidance provides valuable information to help improve service design and

provision in a number of ways. It outlines the greater emphasis on outreach and home visiting needed to ensure that disadvantaged and excluded families who may be less likely to access services, do take-up and benefit from children's centres. It also gives clear advice on how to reach all groups and how to involve them in service consultations.

The latest draft of the Code of Practice highlights that Local Authorities should seek to maximise take up of the free offer by looked after children and children at risk of becoming looked after. LAs also have a responsibility to identify and reach out to particularly disadvantaged and hard to reach groups within their local community with a view to maximising take up of the free entitlement and improving outcomes.

Local Authorities receive sufficient funding to enable them to provide free early education for all three and four year olds through Dedicated Schools Grant. This ensures that children are funded at the same basic rate (with top ups for deprivation and other local factors) regardless of whether their parents choose to take up their free entitlement in the maintained or non-maintained sector.

Best practice and ongoing monitoring

Consultation on the draft EYFS document included questions around meeting the diverse needs of children. Respondents provided useful and important advice about inclusive practices in settings to meet the needs of all children. The Government has fully reflected these comments and the EYFS documents include practice guidance to support effective practice in this area.

As highlighted in the EYFS RIA a post-implementation review will take place as part of the longer term EYFS review from 2010; this will allow enough time for the EYFS to be fully imbedded and will be based, in part, on LAs' monitoring returns to the National Strategies. The successful implementation of the EYFS and aspects of equality set out in the EYFS will form part of this review.

The FSP scores and data from Sure Start provider and child level surveys will provide extra information about the extent to which the EYFS is having an effect on reducing inequalities in outcomes, although in these cases it will not be possible to isolate the effect of the EYFS.

Conclusion

This Equality Impact Assessment has examined the likely benefits of the EYFS in terms of improving equality of outcomes for children (as that is the main concern of the EYFS), and has also set out some of the ways in which other policies are seeking to improve access to services for all children, in a way which will complement the focus of the EYFS. On balance, the assessment presented here is that the EYFS will have a positive impact on equality in early years settings.