

EXPLANATORY MEMORANDUM TO
THE CHILDCARE (EXEMPTIONS FROM REGISTRATION) ORDER 2008

2008 No. 979

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 This Order specifies the circumstances in which the provision of childcare does not attract the requirements for compulsory registration under the Childcare Act 2006. The Order will reduce regulatory burdens on providers, simplify existing arrangements, and be clearer to parents and providers.

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

3.1 None.

4. **Legislative Background**

4.1 Prior to the Childcare Act 2006 coming into force, under Part XA and Schedule 9A of the Children Act 1989 (the 1989 Act) the following categories of childcare are exempted from compulsory registration:

- 4.1.1 childcare for a total period of two hours or less per day (section 79A(7), Part XA);
- 4.1.2 childcare on particular premises for less than six days a year (paragraph 3 of Schedule 9A);
- 4.1.3 childcare that takes place in the child's own home (for a maximum of two families) (section 79A(4), Part XA);
- 4.1.4 childcare between 6pm and 2am (section 79A(8), Part XA);
- 4.1.5 childcare in hotels etc. for children who are guests between 6pm to 2am subject to a limit of two "clients" per person providing the care (paragraph 2A of Schedule 9A); and
- 4.1.6 childcare in certain schools and in certain other establishments and (paragraphs 1 and 2 of Schedule 9A).

4.2 Under Part XA of the 1989 Act the responsibility for deciding whether a particular setting should be registered or not falls to the HM Chief Inspector of Schools as the registration authority in England (HMCI). Guidelines agreed by the Department for Children Schools and Families and HMCI in September 2001, set out criteria for Ofsted to use in making judgements in individual cases about whether a setting should be registered.

4.3 Part 3 of the Childcare Act 2006 (the 2006 Act) replaces this regime in England with a new reformed regulation and inspection system. Section 32 creates two registers, the early years register ("EYR"), and the general childcare register ("GCR") which contains two parts, Part A for those subject to compulsory registration, and Part B for voluntary registration. Chapter 2 and Chapter 3 of Part 3 provide that childcare providers who offer childcare for children aged from birth until immediately before the September following their fifth birthday will be required to register in the EYR; or, if their provision is for children aged between the September after their

fifth birthday and eight years old, they will be required to register in Part A of the GCR. Chapter 2 and Chapter 3 however give the Secretary of State powers to specify circumstances where childcare is exempt from the relevant requirement to register. This instrument specifies those circumstances.

4.4 Persons providing childcare in respect of which they are not required to be registered under Chapter 2 or Chapter 3 will be able to register in Part B of the GCR on a voluntary basis.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Government's ten year strategy for childcare – *Choice for parents, the best start for children* – set out a commitment to rationalise and simplify the complex and confusing arrangements that currently exist for childcare.

7.2. The 2006 Act introduces in England a new, reformed regulation and inspection system, creating two distinct regimes for compulsory registration and regulation, the EYR and the GCR. Providers who are registered on the EYR will be required to implement the Early Years Foundation Stage.

7.3 As part of this reform towards a more proportionate regulatory regime, these regulations extend and define more clearly the categories of childcare that will be exempt from compulsory registration on the new registers.

7.4 The existing legislation exempts specific categories of childcare from compulsory registration, based on the type of provision; when the care is provided; the operating hours; and where the care is taking place. In addition, under the legislation HMCI is responsible for deciding whether a particular setting should be registered and on this basis has not normally registered activity based settings such as drama, dance or music schools if satisfied that the childcare is incidental to the main purpose of the provision.

7.5 This Order retains the following existing exemptions: provision in hotels where this occurs between 6pm and 2am for no more than two clients; childminding where care is provided between 6pm and 2am; and childminding in the parents' own home (nannies), although this Order adopts the slightly wider definition of parent than appears in section 79A(4) of the 1989 Act.

7.6 The Order extends the existing exemptions as follows. The 1989 Act exempts all childcare provision that operates for less than two hours a day. This Order changes the exemption to all provision where individual children are looked after for two hours or less per day. In doing so the Order focuses on the individual child rather than the operating time of the provision. This creates a more proportionate regulatory regime which is easier to administer and which takes into account the choice and responsibility of parents to determine the type of provision they utilise for short term care. Whereas the existing legislation requires HMCI to determine on an individual basis whether activity based provision should register, this Order specifies the categories of activity based provision exempt from registration. By doing so, the Order provides greater clarity to parents and providers - the current arrangements where exemptions are granted on an individual

basis are confusing to providers and parents. The Order is proportionate and takes account of the age and the amount of time that young children aged three to five spend in the provision.

7.7 The Order creates the following new categories of exemptions. These are:

7.7.1 All provision (other than childminding) where individual children are cared for for four hours or less and where “clients” remain on the premises or within their immediate locality, for example to shop or engage in leisure activities, and where there is no longer term commitment by the provider to provide care for the children. This exemption is introduced to create a flexible, proportionate approach towards provision which is designed to provide short term care only and which those using it can monitor and influence because they are in the vicinity.

7.7.2 All provision where this is being made as part of a “home education arrangement” for children of compulsory school age. This Order will exempt provision such as tutors commissioned by parents in discharge of their duties in respect of ensuring their children’s education. This is care which is selected by parents and which they can closely monitor. Home education by parents themselves is not classed as childcare and is therefore excluded from registration.

7.7.3 Open Access Schemes (supervised adventure playgrounds where older children can come and go unaccompanied). These are currently required to register only where staff are on site but are difficult to regulate as children can come and go as they please and staff/child ratios are difficult to enforce. Such provision is already required to meet key safety measures and health and safety requirements and staff are required to be Criminal Records Bureau checked. The Government believes that it is disproportionate to require such provision to meet additional requirements (for example, staff/child ratios) under childcare legislation where existing safety measures are in place and where additional regulations would be difficult to monitor and enforce.

7.7.4 All provision made on particular premises for 14 days or fewer in any year and where Ofsted are notified in writing at least 14 days before the first day of operation. This would typically cover mobile creches (for example at exhibitions) and this exemption is consistent with the intentions of this Order to remove from compulsory registration provision which is designed to provide only short term care.

7.8 The final category of new exemption that this Order introduces is for provision made in maintained, approved non-maintained or independent schools for a child who is a registered pupil at the school but who has not yet attained the age of three when admitted but will do so before the expiry of his/her first term at the school. The existing legislation requires Ofsted to determine on an individual basis whether provision should register and in practice such provision has not been required to register. This Order provides clarity and does so in a way that is consistent with the Government’s aim of developing a proportionate regulatory approach for childcare. The alternative approach would be to require schools to register in such cases which would be disproportionate and burdensome for schools and likely to restrict the choice for parents. Schools would be subject to the registration requirements for childcare in addition to being required to satisfy requirements under schools legislation. In addition, schools would be subject to two separate inspection systems; one for the regular school inspection arrangements and an early years inspection (which in some cases could be required simply because one child had attended the provision for a few weeks before they turned three). Under this exemption, such provision (for the younger child) would be included as part of the normal school inspection. This Order strikes a balance between the arrangements made by schools (and chosen by parents) to admit children approaching their third birthday without creating disproportionate regulatory arrangements.

Consultation

7.9 The consultation on the Childcare (Exemptions from Registration) Order was held from 22 January until 23 April 2007. Responses were submitted online and via the DfES consultation email address. A total of 69 responses were received. They came from a range of groups including 13 local authorities, 10 representative organisations and a number of childcare providers. The Department held consultation meetings with a non-departmental public body and other representative organisations.

7.10 The consultation sought views on a choice of three options to be introduced in September 2008 (when the new EYR and GCR registers come into force). The first option was to retain the current categories of exemption but not to extend or add any new categories of exempted provision. On this option, the Government argued that the current legislation and arrangements are confusing to providers and parents, difficult to administer and had created a regulatory regime that was disproportionate to risk. The second option (the Government's preferred option) was to use the existing legislation as a basis on which to extend the range of exemptions, defining more clearly the types of activity based provision to be exempt, and introducing new categories of exemption, for example, to cover open access provision and provision made as part of home education arrangements. This option presented greater clarity than the existing arrangements, would be easier to administer, and took account of the age of individual children and how long they would be cared for, and parent choice and responsibilities. The third option was to introduce a system requiring all provision for children aged under eight to be registered on a compulsory basis. The Government argued that this would be disproportionate to risk because it took no account of the nature of the provision or how long individual children spent in the provision. It would also mean that government would be regulating provision in the child's own home which is currently exempt, which Government considers to be inappropriate.

7.11. The majority of the respondents agreed with the Government's preferred option with 58% of the respondents agreeing that the current exemptions provided a sound basis for exemptions under the new system of registration; 49% that our approach in considering the age of the children and the length of time that they may attend the provision was sensible; 51% agreed that the proposals achieved the right level of state involvement in regulating the childcare sector and 51% agreed that the costs and benefits were appropriately assessed and that our preferred option represented the best way forward.

7.12 The debate focused primarily on whether any childcare (for children under eight) should be exempt from compulsory registration at all and if so whether there should be explicit standards for unregulated care to ensure that minimum standards were met. Half of those who disagreed with the proposals thought that all childcare for under eights should be registered. The Government's full response is set out in the consultation report on these proposals and can be found at <http://www.dfes.gov.uk/consultations/conArchiveSearch.cfm>

Guidance

7.13 The DCSF is communicating these changes through the childcare sectors providers' representative organisations (representing childminders, day care providers, pre-school providers), through Ofsted communication activities with local authorities, Children Information Services for parents and providers. A communication strategy has been developed to publicise the new arrangements and we are working with provider organisations to review the effectiveness of the arrangements.

8. Impact

8.1 An Impact Assessment is attached to this memorandum. The impact on the public sector is described in the Impact Assessment.

9. Contact

9.1 Patrick Heisel at the Department of Children, Schools and Families Tel: 0207 273 5716 or email: patrick.HEISEL@dcsf.gsi.gov.uk can answer any queries regarding the instrument

Summary: Intervention & Options		
Department /Agency: Department for Children, Schools and Families	Title: Impact Assessment of the Childcare (Exemptions from Registration) Order	
Stage:	Version:	Date: 31 March 2008
Related Publications:		

Available to view or download at:

http://www.

Contact for enquiries: Patrick Heisel

Telephone: 0207 273 (5716)

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

The current arrangements require all childcare for 0-8 years olds to be subject to Ofsted registration, including short term care which can be overly burdensome on providers. In addition the arrangements whereby Ofsted has on a discretionary basis exempted activity based provision (depending on the age of children and how long they spend in the provision) has caused confusion amongst the sector. There has also been confusion about the status of provision in schools where children are admitted in the term in which they turn 3 years.

What are the policy objectives and the intended effects?

The aim is to introduce new exemption provisions which allow a proportionate approach to the regulation of childcare providers, by removing the requirement on providers of short term childcare provision to register on a compulsory basis and defining activity based provision more precisely. The proposed arrangements will be clearer to parents and providers, more proportionate, and easier to administer.

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

The preferred option is to extend the current arrangements (exempting short term provision) to exclude more providers of short term childcare from the requirement to register and provide greater clarity about the categories of activity based provision not required to register on a compulsory basis. The alternative options would have been: to retain the existing exemptions which are confusing or to extend the requirement to register on a compulsory basis to all childcare providers which would be burdensome to providers, difficult and expensive to administer, and disproportionate to risk.

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

The policy will be reviewed in September 2009 after all the changes associated with these reforms have been implemented.

Ministerial Sign-off For SELECT 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:

Beverley Hughes Date: 31st March 2008

Summary: Analysis & Evidence

Policy Option: 1	Description: make the requirements for the regulation of childcare less burdensome and proportionate.
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There will be no cost to providers as a result of these proposals; some of the exempted providers will be able to apply to join the voluntary part of the Ofsted register.
	One-off (Transition)	Yrs	
	£ 0	0	
	Average Annual Cost (excluding one-off)		
	£ 0		Total Cost (PV) £
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Assuming 1,000 new creche providers annually not having to register could save £36,860 and a one off saving of £64,084. Details at paragraph 36. The one off saving represents the existing providers who will not need to register.
	One-off	Yrs	
	£ 64,084		
	Average Annual Benefit (excluding one-off)		
	£ 23,826	30	Total Benefit (PV) £ 714,792
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks The benefits are sensitive to changes in the assumptions to the number of providers affected and the likely cost saving for each provider. There is a risk that some providers will not choose to register on a voluntary basis or that

Price Base Year	Time Period Years 30	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate)
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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?			£ Nil		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ Nil		
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?		Yes	Yes	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of	£ 0	Decrease of	£ 65,868
Net Impact			£ 65,868 fall

Key: Annual costs and benefits: (Net) Present

[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

The Childcare (Exemptions from Registration Order) 2008.

Objective

1 The Childcare Act 2006 establishes an early years register (for 0-5s provision) and the Ofsted Childcare Register (OCR) which is in two parts; the compulsory element (childcare catering for 6-7- year olds only) and the voluntary element for childcare providers exempted by order from either early years or compulsory registration. Provision for 0-5 year olds will also be required, unless exempted, to deliver the Early Years Foundation Stage (EYFS). Powers within the Act allow for the Secretary of State by order to exempt certain childcare providers from early years or compulsory registration.

2. The intention of the Exemptions Order is to set out which childcare providers will not be required to join either the early years register or compulsory OCR, but can, if they wish, join the voluntary OCR if they satisfy the requirements for registration.

Background

3 The Government's ten year strategy for childcare – *Choice for parents, the best start for children* – sets out a commitment to rationalise and simplify the complex and confusing arrangements that currently exist for childcare.

4. Currently, childcare provision for children under the age of eight, including that in schools, is required to be registered by Ofsted and comply with a range of standards and regulations. Separately, nannies and carers for children in their own home can apply to the Childcare Approval Scheme, administered by an independent company under contract to the Department for Education and Skills. However, these combined arrangements appear confusing to parents and are not the most effective way of administering arrangements to identify provision that has met a certain suitability and quality threshold. Indeed, each of these arrangements applies a different set of standards.

5. The Childcare Act 2006 introduces a new, reformed regulation and inspection system, creating two distinct regulatory frameworks:

- An Early Years Register (which is underpinned by the Early Years Foundation Stage) and
- one for children after the start of compulsory school age and for those under 5 who are not otherwise registered – the General Childcare Register (to be known as the Ofsted Childcare Register) .

This replaces the current arrangements in England under Part 10A of the Children Act 1989.

6. Private and voluntary sector providers who offer childcare for children aged 0-5 will be required to join the early years register or, if their provision is for children aged 5 to 7 years old, they will be required to join the compulsory OCR. Provision for children aged 8 and over, as well as provision for younger children for whom registration will not be compulsory – for example, nannies and crèches – will be able

to join the voluntary element of the OCR.

7. Under the provisions of the Childcare Act, any childcare provided directly by a school's governing body for pupils over 3 on the school site will not be able to be registered by Ofsted; such provision would be inspected as part of the normal school inspection arrangements.

8. The voluntary OCR will operate from April 2007 and will accept applications from people or organisations providing: care in the child's home (nannies), other types of childminding, and other childcare provision for children over the age of 8 or which is currently not required to be registered by Ofsted under the Children Act 1989. The same people/organisations will be able to be registered under the Children Act 1989 for provision that is currently required to be registered, and under the Childcare Act 2006 for the purpose of voluntary registration.

9. From April 2007 until September 2008 childcarers, e.g. childminders and day care providers looking after children aged under 8, will still be required to be registered by Ofsted under the provisions of the Children Act 1989 (except for those not required to be registered by Ofsted).

10. From September 2008, the provisions of the Childcare Act 2006 will require all childminders and childcare providers looking after children aged 5 -7 to join the compulsory OCR, except for those exempted under the relevant exemptions order.

Rationale for Government Intervention

11. The key aims in developing the early years register and OCR are to:

- Remove the distinction between education and care for children 0-5;
- Help ensure children are cared for in safe and suitable provision and engaged in worthwhile activities, so that parents are reassured about the childcare they choose; and to
- Secure a process for doing so that is proportionate, within the context of the Gershon review of public sector efficiency and the Hampton review of regulatory inspection and enforcement, in order to make the best use of available resources, directing them to where they are needed most.

12. Both the early years register and the OCR will set out requirements which, although different for the early years register and the compulsory and the voluntary parts of the OCR, are designed to provide some key standards of safety, security and suitability. Providers who join either register will have to meet the respective requirements. Registration therefore provides a level of reassurance for parents about the standards of provision that apply within that setting.

13. The Government recognises that, because of the age of the children and the length of time they may attend the provision, it may be appropriate for there to be tighter requirements for provision that is compulsory registered than that which is registered voluntarily. As previously stated, the early years register will require providers to deliver the EYFS as a condition of registration. Provision in a child's own home will also need to be treated differently, recognising the role and responsibilities of the parents.

14. Exemptions are important in ensuring a proportionate approach to registration and inspection. Government does not believe some categories of short term care should be required to register. For example, crèches, where parents are making use of short term care for their children while they shop or engage in leisure activities on the premises. In this example, compulsory registration would impose unnecessary burdens on providers.

15. The Government intervention is designed to simplify the existing system in which different types of childcare are working to a range of standards and to create a more proportionate system of registration so that care provided for short periods is not required to register on a compulsory basis. Without the intervention it would be more difficult for parents to navigate the childcare system and providers of short term care would be subject to the same regulatory framework as full day care which is disproportionate.

Consultation

Within Government

16. The Government has consulted within and shared early thinking with 10 year strategy partners including Her Majesty's Treasury, Department of Health and Department of Work and Pensions. The Government have also consulted with the Office for Standards in Education, in their role as the regulator of childcare. The Government also consulted across Whitehall on the Childcare Bill which contains the legislative framework for both early years register and the OCR.

Public consultation

17. The consultation document on the proposals in the Childcare Bill – issued in summer 2005 – discussed options for a later years register, administered by Ofsted, to cover provision for children aged 5 and over and identified the sort of requirements that would operate under it. Following that consultation, Ministers decided to make it compulsory for private and voluntary sector settings that provide for children from the start of compulsory school age up to the age of 8 to be registered.

18. In summer 2005, we consulted on the Early Years Foundation Stage learning and development and welfare requirements, principles which underpin the early years register.

19. In July 2006 a further consultation document – The Ofsted Childcare Register: A Consultation Paper – invited comments on proposals for the establishment of the Ofsted Childcare Register as provided for under part 3 of the Childcare Act 2006. This document set out the Government's thinking on the requirements that providers must meet in order to be placed on the register and the arrangements for checking that they continue to meet those requirements over time.

20. As part of this consultation, discussions were held with key stakeholders in the private and voluntary childcare sector, representing a wide range of views throughout England.

Options

Option 1 – Maintain the existing arrangements.

21. The types of provision listed below are all currently exempted in the primary legislation (Part 10A of the Children Act 1989) –

- a) provision which operates for less than 2 hours a day or less than 6 days a year;
- b) provision that takes place in the child's own home (nannies and babysitters);
- c) babysitting between 6pm and 2pm outside the child's own home;
- d) babysitting in hotels etc. comprising care provided for children of guests between 6pm to 2am.

22. In addition, activity based provision is currently exempted on a discretionary basis by Ofsted, albeit in accordance with guidelines agreed by the Department, on the grounds that childcare under the Children Act 1989 that is subject to registration should not include provision where the primary purpose is instruction or tuition in various activities, sports and other areas (e.g. music and language tuition).

23. With option 1, we would continue these arrangements under the Childcare Act 2006 and apply them to the early years register and compulsory OCR. Provision exempted from registration would, if it met the requirements, be able to join the voluntary register.

Option 2

24. Under this option we are proposing that childcare exempted under part 10A of the Children Act 1989

would be redefined under the Childcare Act 2006 along the lines of the current exemptions, except that short term and occasional crèche facilities would no longer be required to be registered.

25.To achieve this, we propose to replace the current exemption for childcare that operates for 2 hours or less with an exemption that excludes childcare where individual children are routinely looked after for 2 hours or less. In addition we propose to define this exemption further to exclude all provision looking after individual children for less than 4 hours, which is set up specifically so that parents and carers can shop, or engage in leisure or religious activities.

26.There is currently an exemption for provision that lasts for less than 6 days in any year on any premises, designed to exclude temporary or so called mobile crèches set up to serve those attending conferences, exhibitions, etc. However, many events last longer than 6 days so we are proposing to increase the exemption to 2 weeks.

27.Under the current arrangements Ofsted uses it's discretion to operate a policy of exempting activity based provision which we propose to replace by an order that defines the scope of registration more precisely. Taking the current guidelines as a basis, we propose an exemption for provision that meets all of the following criteria:

- a. It offers no more than 2 different types of activity;
- b. It caters only for children aged 3 plus – activities of this kind are not likely to be offered to younger children; and
- c. Children aged 3-5 do not attend the provision for more than 4 hours – if they do, again the EYFS should apply and the provision should be registered.

28.These criteria match reasonably closely with the current guidelines that Ofsted uses in deciding what provision to register.

29.We are also proposing that any provision that is not exempted and provides childcare for children aged 0 - 5 must be registered on the Early Years Register and deliver all the requirements of the Early Years Foundation Stage. Provision that caters only for children aged 6 and 7 must be registered on the compulsory element of the OCR and meet the requirements of that register.

30.Further information about exemption from the Learning and Development requirements of the Early Years Foundation Stage can be found in the RIA attached to the consultation “Early Years Foundation Stage (EYFS) – Learning and Development Requirement Exemptions, which is being launched at the same time as this consultation.

Option 3

31.This would require all providers to register on a compulsory basis and join the early years register or compulsory OCR as appropriate. This means that all providers currently exempted would be required to be registered with Ofsted including nannies providing care in the child's home, childminders and other group providers looking solely after children over the age of 7, babysitters in or outside the child's home and all providers of care operating for less than 2 hours per day or less than 6 days per year.

Costs and Benefits

Option 1

32.This would maintain the status quo but would not address the issue of crèches and activity clubs. It is essential that regulation is proportionate and it is not appropriate for crèches, who provide short term care for younger children while their mothers shop, to have to register with Ofsted, when registration would require them to deliver the EYFS. We should also redefine the scope of regulation to remove the need for any discretion in applying exemption policy.

Option 2

33. This carries forward the current exemptions under the Children Act 1989, but takes account of the changes brought about by the Childcare Act 2006 in establishing the compulsory and voluntary Ofsted Childcare Registers. The proposals are proportionate to the needs of the children taking in to account the purpose of the provision, the ages of the children and the responsibilities of the parents.

34. Information available from Ofsted at the end of July 2006 showed that of the 101,614 registered providers (70,182 childminders and 31,432 day care providers), 1,787 were registered crèche providers; it is likely that the majority of these would be exempted from registration under this option.

35. As a Department we are striving to minimise the burden on the private and voluntary childcare sector in complying with meeting the data collection / storage and information obligations imposed by our regulations. We are looking in particular at the costs of complying in terms of staff time and other expenditure e.g. storage.

36. We have looked at all the regulations with such requirements that crèches will not have to comply with if they are no longer required to register and have calculated a one off saving of £64,084 and is based on requirements to record, maintain and store information about the provision on the premises and to notify Ofsted of changes to the provision (1,737, existing number of registered crèches x the amount of time (1.75 hours) required to provide information to Ofsted at a unit cost of 36.86). These requirements are set out in the National Day Care Standards for crèches. This is a significant reduction which supports our recommendation of this option. The ongoing savings of £36,860 are based on a survey of providers carried out by Price Waterhouse Cooper in 2005 about the time taken for providers to provide information prescribed in regulations. (The information obligation used here is based on the amount of provider time it takes to provide information to register as a provider of day care and is estimated at 1.75 hours at a unit cost of 36.86. Our estimate is 1,000 crèche registrations annually this could save £36,860).

Option 3.

37. To require every childcare provider to be registered on either the early years register or compulsory OCR would be disproportionate and costly. For example research indicates that there are potentially 54,000 nannies¹ who, under this option, would be required to be registered with Ofsted if not exempted. This compares with an estimated number of 3,500 nannies who would join the voluntary OCR². We have calculated that the cost of all nannies being required to register with Ofsted³ would be approximately £5,050,000. In addition under this option we estimate that approximately 7000 individual and group providers caring solely for children over the age of 7 would be required to register with Ofsted at a cost of approximately £663,000.⁴

Small Firms Impact Test

38. As the recommended option would reduce the number of childcare providers required to register this would be beneficial to some while remaining unchanged for most. The opportunity for those who are currently unable to be registered with Ofsted to join the voluntary register to gain the badge of Ofsted registration will be a significant benefit. In addition, providing they meet HMRC conditions, to be able to offer tax credit eligibility to parents using their provision will bring them into line with other currently registered provision. If anything, rather than disadvantaging providers the new regulatory system will bring greater equality.

Competition Assessment

39. The market affected is childcare provision in England, providers ranging from large chains of

¹ Information is not current but based on 2005 research data.

² Based on the current number of nannies approved by the Childcare Approval Scheme

³ Based on voluntary OCR fee of £100, in reality this fee would be higher for compulsory registration

⁴ Based on 700 individual providers (£100) and 6,300 group providers (£110). Fees used are for the voluntary OCR.

nurseries to self employed childminders running small businesses in their own home to nannies employed by parents to care for their children in the child's home. As explained in paragraph 29 – the Small Firms Impact Test – the impact of the proposed option for the exemption order would be unchanged for many providers and beneficial for the rest.

40. Completing the competition filter test resulted in all “NO” answers and therefore no further assessment is required.

Enforcement, sanctions and monitoring

41. The exemptions power will be monitored and enforced by the Office for Standards in Education (Ofsted) in their role as regulator of childcare. As administrator of both the compulsory and voluntary childcare registers, Ofsted will be to ensure that providers join the appropriate register and meet the prescribed joining requirements. Other regulations will give Ofsted the power to suspend or cancel registrations if the requirements of the register are not met or child safety is deemed to be at risk.

Implementation

42. . We have drawn up an ongoing communications campaign to communicate the new arrangements to local authorities, providers and parents including through the use of publicity material, placed articles in the early years and childcare press. We will continue to work with Ofsted so that existing and new providers are aware of the requirements. Our communications strategy will be kept under review.

Post-implementation review

43. A post-implementation review will take place in 2009. This will give these new arrangements sufficient time to bed in and will also allow the proposed new fee arrangements (currently being consulted upon) to be fully implemented. We will continue to work with Ofsted, providers and parents to monitor the implementation of these new arrangements and evidence collected during this period will be used to inform the review.

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	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
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	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

Table 1

Cumulative discounted annual benefits

Year		discount rate	present value
Year		0.035	
0	36,860	1	36860
1	36,860	0.9662	35614.13
2	36,860	0.9335	34408.81
3	36,860	0.9019	33244.03
4	36,860	0.8714	32119.8
5	36,860	0.842	31036.12
6	36,860	0.8135	29985.61
7	36,860	0.786	28971.96
8	36,860	0.7594	27991.48
9	36,860	0.7337	27044.18
10	36,860	0.7089	26130.05
11	36,860	0.6849	25245.41
12	36,860	0.6618	24393.95
13	36,860	0.6394	23568.28
14	36,860	0.6178	22772.11
15	36,860	0.5969	22001.73
16	36,860	0.5767	21257.16
17	36,860	0.5572	20538.39
18	36,860	0.5384	19845.42
19	36,860	0.5202	19174.57
20	36,860	0.5026	18525.84
21	36,860	0.4856	17899.22
22	36,860	0.4692	17294.71
23	36,860	0.4533	16708.64
24	36,860	0.438	16144.68
25	36,860	0.4231	15595.47
26	36,860	0.4088	15068.37
27	36,860	0.395	14559.7
28	36,860	0.3817	14069.46
29	36,860	0.3687	13590.28
30	36,860	0.3563	13133.22
		Total	714792.8