

**EXPLANATORY MEMORANDUM TO
THE CHILDCARE (EARLY YEARS REGISTER) REGULATIONS 2008**

S.I. 2008 No. 974

THE CHILDCARE (GENERAL CHILDCARE REGISTER) REGULATIONS 2008

S.I. 2008 No. 975

**THE CHILDCARE (EARLY YEARS AND GENERAL CHILDCARE REGISTERS)
(COMMON PROVISION) REGULATIONS 2008**

S.I. 2008 No. 976

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 explanatory memorandum covers three statutory instruments made by the Secretary of State for Children, Schools and Families. These statutory instruments are made under Part 3 of the Childcare Act 2006 (“the 2006 Act”) and make provision concerning the registration of certain childcare providers in registers operated by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (the Chief Inspector).

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

3.1 None

4. **Legislative Background**

4.1 At present, childminders and other providers of childcare for children under the age of 8 are regulated by Part 10A of the Children Act 1989 (“the 1989 Act”).

4.2 Part 3 of the 2006 Act replaces (for England) that regime. Chapters 2, 3 and 4 of Part 3 of the 2006 Act require the Chief Inspector to maintain two childcare registers: the Early Years Register (EYR) and the General Childcare Register (GCR). Childminders (excluding nannies) and other providers of childcare for children from the age of 0 to the 1st September following their 5th birthday must register in the EYR. The GCR is divided into two Parts. Childminders (excluding nannies) and other providers of childcare for children from the 1st September following their 5th birthday up to the age of 8 must register in Part A of the GCR. Childminders (including nannies) and other providers who are exempt from registration in the EYR or Part A, and those who care for children aged 8 and over, may voluntarily register in Part B of the GCR. The Childcare (Voluntary Registration) Regulations 2007 (S.I. 2007/730) (“the 2007 regulations”) already enable people to register in Part B of the GCR.

4.3 The Childcare (Early Years Register) Regulations 2008 make provision relating to registration in the EYR, including the requirements for registering and the information that must be included in an application for registration. The Childcare (General Childcare Register) Regulations 2008 make similar provision for registration in Part A and Part B of the GCR (and therefore replace the 2007 Regulations which will be revoked). They also make provision governing the activities of registered childcare providers.

4.4 The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 make provisions which are common to registration in both the EYR and the GCR. These include provisions about the Chief Inspector's powers to suspend registration and a right of appeal against suspension, provisions about disclosure of information about childcare providers and other persons, and provisions about the information which must be included in registration certificates.

5. Territorial Extent and Application

5.1 These instruments apply to England.

6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do 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 exist for the regulation of childcare. Currently, the arrangements for regulation differ between education and childcare, and providers who are not eligible to register under the 1989 Act seek quality assurance from over 50 different schemes. The arrangements are confusing and involve the application of different sets of standards.

7.2 The 2006 Act reforms the regulation and inspection regime for childcare. The new regulatory framework brings together the existing separate registration and inspection arrangements for childcare and nursery education for under 8s in a coherent way. The Chief Inspector will administer two registers as described in paragraph 4.2 above. The registration regimes are designed to ensure that children are cared for in a safe and secure environment and are engaged in worthwhile activities.

The EYR

7.3 The EYR applies to the youngest and most vulnerable group of children (those aged 0 to 5 years). It is essential that these children are protected and thorough safeguards provided in legislation. Therefore the requirements contained in the Childcare (Early Years Register) Regulations 2008 are set at a higher threshold than those for the GCR as they relate to the youngest age-group. The Regulations contain more requirements that the Chief Inspector must be satisfied about before granting registration, and these will require a pre-registration visit to be carried out by Ofsted. The Regulations also require more detailed information to be provided about the applicant and other people who may have contact with the children.

The GCR

7.4 The requirements of the Childcare (General Childcare Register) Regulations 2008 are less onerous in certain respects than those relating to the EYR to reflect that children who are under compulsory school age have different requirements from school-aged children. However, the Childcare (General Childcare Register) Regulations 2008 still ensure that providers and others are suitable to provide childcare.

7.5 In addition, the Regulations set out requirements for the childcare which is provided once an applicant is registered. These cover matters such as the safety of the premises and activities, the suitability of staff and other people on the premises, and the manner in which children are looked after. (For the EYR, these sorts of requirements are contained in the Early Years Foundation Stage which providers must comply with, rather than in the Regulations themselves.)

Common Provisions

7.6 The Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 contain provisions which are common to the registration of providers in both the EYR and GCR. There is power to suspend a person's registration which is intended as a short-term measure whilst the Chief Inspector considers whether to cancel the registration permanently. This consideration might involve conducting an extensive investigation involving other agencies such as the police, or seeking other information from third parties. The power is exercisable only in relation to concerns about the risk of harm to a child, and the regulations place certain time limits and other safeguards on what the Chief Inspector can do. In addition, there is a right of appeal against suspension, which is currently to the Care Standards Tribunal but when the relevant provisions of the Tribunals, Courts and Enforcement Act 2007 are in force, it will be to the First-tier Tribunal established under that Act.

7.7 The regulations also contain provision which allows the Chief Inspector to refuse or cancel registration if unable to verify or check certain types of information which are relevant to whether the prescribed requirements for registration are met because consent to disclosure has not been given by the applicant or another person.

Consultation

7.8 The Government consulted publicly in summer 2005 on the proposed provision in the Childcare Bill which became the Childcare Act 2006 and set the legislative framework for the new registration arrangements. Local authorities, childcare provider organisations and parents were all involved in providing feedback, which informed the further development of proposals. A key concern raised during this consultation was the proposal to allow childcare providers caring for children aged six and seven to be registered voluntarily. In response, the Government amended its plans to ensure that providers who care for children in this age range will still have to be registered.

7.9 The Government consulted on the more detailed requirements and arrangements for the EYR and GCR during summer 2006. Responses were received from individuals, childcare providers, national childcare organisations and local authorities. In addition, the Department held meetings with national organisations and around 50 childcare providers. Local authorities also held meetings with childcare providers in their areas. The consultation showed that many respondents thought that the proposed arrangements struck the right balance between providing reassurance that the provision will safeguard children and at the same time being proportionate and manageable.

7.10 Some respondents were concerned that the arrangements would not provide adequate assurance of quality. However, the arrangements will work in combination with other levers to drive up quality in the sector, such as extended schools support, new duties on local authorities to secure advice and guidance for providers and better information for parents.

7.11 Many respondents felt that, in relation to the GCR, the proposal to inspect 10% of providers would be insufficient. The GCR inspection cycle will be carried out proportionately on the basis of risks to children rather than automatically to a pre-determined cycle. Ofsted will at any time be able to request evidence that registered providers are meeting the requirements, and will carry out a number of inspections randomly. The prospect of unannounced spot checks, and an inspection as a result of any complaint, will provide a strong incentive for compliance. However the inspection arrangements will be kept under review and changes made if necessary. There were also concerns that a compliance driven process would not give sufficient assurance about children's well-being. However, the GCR will ensure that essential safeguards are in place around the suitability of adults caring for children and having regular contact with them. Providers will be required to demonstrate to the Chief Inspector that certain requirements, such as having a first aid certificate, and suitability to care for children (which will involve enhanced Criminal

Records Bureau checks being carried out) have been met. Ofsted will ensure that appropriate systems are in place for checking documentation.

7.12 Further consultation on draft regulations was undertaken from April to June 2007, focusing on the detail of the SIs. The majority of respondents agreed with the proposed regulations. A total of 37 responses were received, including those from the main childcare organisations and 14 local authorities. The response to the consultation was generally positive with over 60% of respondents supporting the proposals.

Guidance

7.13 The Chief Inspector will produce material to support childcare providers who wish to be registered, and to help parents, local authorities, schools and others in understanding the requirements of these regulations.

8. Impact

Impact assessments for the Childcare (Early Years Register) Regulations 2008 and the Childcare (General Childcare Register) Regulations 2008 are attached to this memorandum. No impact assessment has been prepared for the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 because no impact on the private, charity or voluntary sector is foreseen and the costs to the public sector fall below £5 million.

9. Contact

Patrick Heisel at the Department for Children, Schools and Families Tel: 0207 273 5716 or e-mail: 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 compulsory part of the Ofsted Childcare Register	
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? Currently childcare providers, including schools are required to register provision for under the age of 8 with Ofsted and comply with a range of standards and regulations. The arrangements can appear confusing to parents and burdensome on providers as children of compulsory school age do not have the same welfare requirements as younger children and so it is not necessary to prescribe the same level of childcare requirements. The government is intervening to help make the arrangements more proportionate whilst ensuring all registered childcare reaches a minimum standard of quality and safety according to the age of the child.

What are the policy objectives and the intended effects?

To introduce a General Childcare Register (known as the Ofsted Childcare Register) to regulate childcare for children from the age of 5 to 14. The arrangements will remove some of necessary burdens associated with the current regime by setting clear requirements help ensure that children are cared for in safe and suitable provision. The arrangements will maximise access and choice for parents and promote good outcomes for children. Parents will be better able to navigate the childcare market and make informed choices between providers offering registered and unregistered care.

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

The preferred option is to require childcare providers to provide Ofsted with the minimum information needed to determine suitability to care for children and to require them to meet proportionate ongoing requirements designed to keep children in provide a safe and suitable environment appropriate to school age children.

The alternative option would be to require all providers to undergo a pre-registration visit by Ofsted as part of the registration process and meet the learning and development requirements for under 8s. This would increase burdens on providers and increase costs of registration and inspection and ~~unparticipate 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 autumn 2009, after all of the changes associated with these reforms have been implemented and when the new Independent Safeguarding Authority is introduced.

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 HughesDate: 31 March 2008

Summary: Analysis & Evidence

Policy Option: 1	Description: make the requirements for the regulation of childcare for children aged 5-7 less burdensome.
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups.' The existing providers will need to familiarise themselves with the new requirements. We think that this will take about an hour of a provider's time. Based on costings about the time it takes for a provider to collect and maintain records (details at paragraph 41) we estimate that this will cost around £628,112
	One-off (Transition)	Yrs	
	£ 628,112	1	
	Average Annual Cost (excluding one-off)		
£ 0			Total Cost (PV) £ 628,112
Other key non-monetised costs by 'main affected groups' .			

Benefits	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups.' As applicants will be able to submit information on-line we estimate that this will represent a 25% time saving. Based on costings about the time it takes a provider to provide information as part of the registration process we estimate this will save £46,075 per year (details paragraph 42).
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
£121,136	30	Total Benefit (PV) £ 3,634,080	
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks The process will be more streamlined and will encourage providers to join, if isn't this will reduce benefits. Removing the requirement for a pre-registration visit could increase the risk that premises will not be suitable at the point of registration. The costs could increase if providers spend more time than anticipated becoming familiar with guidelines.

Price Base Year 2005	Time Period Years 30	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 3,005,968
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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?			£		
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?			£		
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)			(Decrease)		
Increase of	£ 0	Decrease of	£ 671,017	Net Impact	£ 671,017

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

The OCR regulations cover the registration and on-going requirements for providers who care for children from the end of the foundation stage¹ to age 14. These regulations also incorporate the Childcare (Voluntary Registration) Regulations 2007 which came into force on 6 April 2007; these regulations are discussed on the RIA that accompanied those regulations.

Purpose and intended effect

Objective

The objective is to provide more streamlined and less burdensome registration arrangements for childcare for children from the end of the foundation stage (31 August following the child's fifth birthday) to age seven, who are required to register. The requirements will ensure that Ofsted (the registration authority) has the information and powers needed to operate an effective registration scheme, without putting an unnecessary burden on childcare providers. The new system is designed to be more streamlined and proportionate than the current system.

The registration regulations set out what is required of childcare providers in order for them to be registered by Ofsted, including what information applicants will have to provide on application, and the ongoing requirements they will continue to have to meet to remain registered.

Background

Currently childcare for children aged under eight is regulated by Ofsted under the Children Act 1989. The system includes registration, inspection, the handling of complaints and enforcement action to secure compliance with national standards. Under the Childcare Act 2006, there will be a new, reformed regulation system as proposed in the 10 year childcare strategy published in December 2004. Ofsted will operate two registers:

The Early Years Register (EYR)- childcare for children from birth to the end of the foundation stage will be required to register, unless exempt.

the Ofsted Childcare Register (OCR)- This register will have two parts:

- a. the compulsory part (cOCR)- childcare for children from the end of the foundation stage to the age of seven will be required to register, unless exempt.
- b. the voluntary part (vOCR)- childcare for children aged eight and over and for childcare for children of any age that is exempt from registration can register voluntarily, if it meets the requirements.

Childcare for children aged three and over that is provided directly by schools (i.e. by the school's governing body or proprietor) will not be registered on the new registers (providing at least one pupil attends). Their provision will still be expected to meet the registration

¹ The end of the foundation stage is 31 August after the child's fifth birthday.

requirements and will be checked by Ofsted as part of the normal school inspection arrangements.

The voluntary part of the Ofsted Childcare Register began in April 2007. The Early Years Register and compulsory part of Ofsted Childcare Register will begin in September 2008. Until September 2008 childminders and day care providers (including schools) looking after children aged under eight will still be required to be registered by Ofsted under the provisions of the Children Act 1989.

Rationale for government intervention

The split between the EYR and the OCR reflects the different needs of school age, and pre-school children. Pre-school children benefit immensely from receiving specific learning and development from the childcare. School age children, however, will receive learning and development throughout the school day and so have different needs out of school.

Therefore, childcare registered on the EYR will be required to deliver the Early Years Foundation Stage (EYFS), while the content of provision will not be specified on the OCR. The regulations will require providers to demonstrate at the point of registration that there is nothing in their background that makes them unsuitable to care for children and to agree to meet other requirements governing ongoing activity to ensure that the provision is safe and secure. This is a more streamlined process than at present and will allow providers greater flexibility in how they deliver their provision. It will also reduce burdens on providers (and Ofsted) as there will not be requirement for a pre-registration visit. The Government is proposing to continue with broadly the current level of intervention in the childcare market. This takes the form of compulsory registration and monitoring by Ofsted, in order to provide parents with a basic level of assurance that their children are safe and in a suitable environment when they are being cared for by others in formal childcare settings.

The rationale for government intervening in the childcare market is to ensure all registered childcare reaches a minimum standard of quality and safety and that these standards are clear to parents. Without government intervention it would be more difficult for parents to navigate the childcare market. There would be a risk that some children would end up in an unsuitable childcare environment.

Consultation

Within government

The Government consulted across Whitehall as part of the legislative process that culminated in the Childcare Act 2006, which contains the legislative framework for the new system of registration. 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

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. Local authorities, childcare provider organisations and parents were all involved in providing feedback, which informed the further development of proposals. A key concern raised during this consultation was the proposal to allow childcare providers caring for children aged six and seven to be registered voluntarily.

In response, the Government amended its plans to ensure that providers who care for children in this age range will have to be registered. This means that all provision for children under the age of eight will, unless specifically exempted, be subject to registration.

The Government consulted on the more detailed requirements and arrangements for the OCR during summer 2006. Responses were received from individuals, childcare providers, national childcare organisations and local authorities. In addition, the Department held meetings with national organisations and around 50 childcare providers. Local authorities also held meetings with their childcare providers.

The consultation showed that many respondents thought that the proposed arrangements strike the right balance between providing reassurance that the provision will safeguard children and being proportionate and manageable.

Other respondents were concerned that the arrangements would not provide adequate assurance of quality. However, the arrangements will work in combination with other levers to drive up quality in the sector, such as extended schools support, new duties on local authorities to secure advice and guidance for providers and better information for parents.

Many respondents felt that a pre, or post, registration visit was essential. There were also concerns that a compliance driven process would not give sufficient assurance about children's well-being. However, the OCR will ensure that essential safeguards are in place around the suitability of adults, the safety of premises and safeguarding children. Providers will be required to demonstrate to Ofsted through documentation that these requirements have been met and will continue to be met and enhanced CRB checks will be carried out for all registered providers. The Government will work with Ofsted to ensure that the systems for checking documentation are robust. We anticipate that this will not incur any significant extra costs as a result of this intervention.

There were concerns among many of the respondents that the 10% inspection rate would not be sufficient to provide assurances about child safety. However, the Government believes that inspections should be carried out proportionally on the basis of risk to children, rather than on a pre-determined cycle. The prospect of unannounced spot checks will provide a strong incentive for compliance. All complaints will also result in an inspection. For providers who are registered on the voluntary part of the OCR this will be the first time that their provision is subject to inspections by Ofsted. This will be a small number of providers so we expect any extra cost to be minimal.

Further consultation on the regulations was undertaken from April – June 2007, focusing on the regulations which specify some of the detailed requirements and arrangements for registration by Ofsted, and for suspension of registration. The majority of respondents agreed with the proposed regulations.

In addition, the Government consulted on the scope of childcare regulation, and particularly on what forms of childcare should be exempt from the requirement to be registered by Ofsted. In response to this consultation the Government intends to also exempt some crèches who provide short term, temporary care from compulsory registration.

All the above mentioned consultations² can be found on the Department's consultation website: www.dfes.gov.uk/consultations/

Options

Option 1 – maintain the existing systems

Maintaining the current system would mean continuing with the complex system and requirements for under 8 provision described above. This would in turn mean retaining the confusion for parents and an inefficient way of administering the system. It would mean that childcare for over 5 would have to adhere to the current burdensome requirements.

In addition currently provision which has to be registered is visited prior to registration so that Ofsted can check that the provision is meeting the registration requirements and is suitable. Depending on the type of provision, the visit on average takes around a day to complete. Some additional time is required to prepare the report. Therefore all providers who are interested in applying to join the register – including those who choose to do so voluntarily (such as sport and activity-based provision) – would first have to be visited by an Ofsted inspector who would verify that

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[EYFS Learning and Development Exemptions](#); [Exemption from Ofsted Childcare Registration](#); (both currently live) [The Early Years Foundation Stage - consultation on a single quality framework for services to children from birth to five](#); [The Ofsted Childcare Register](#); [Childcare Legislation](#) (all archived consultations).

the provision met the requirements. This would be followed by an automatic inspection every few years according to an agreed cycle.

Option 2 – a proportionate approach

The Government's preferred option is to introduce a more proportionate approach to regulation for childcare for older children, care provided by nannies and short term care that takes account of the risks and directs resources to where they are needed most. Providers will have to meet certain requirements in order to be registered and they have to make clear at the application stage that they are doing so, including demonstrating that there is nothing in their background that does not make them unsuitable to care for children. Providers will also have to sign up to additional requirements which govern on-going activity. The requirements will focus on processes and policies for ensuring children are safe and secure and the provision is suitable. There will be no pre-registration visit and Ofsted will inspect a proportion of the registered provision on the basis of concerns or complaints and through sampling.

Costs and benefits

Sectors and groups affected

The proposals directly relate to provision in the private, voluntary and community sectors. A wide range of private, voluntary and community provision will be eligible to join the Ofsted Childcare Register, covering many different types of provider – group-based childcare, childminding, childcare in the child's own home, occasional and short-term care, activity-based provision, music or art-based provision and learning-based provision. The proposals also touch on state maintained school sectors in that the Government envisages that they will have to have regard to the requirements of the Register and, in developing extended services, work only with providers who are registered.

Benefits

Minimising the changes will ease the transition from the current to the new registration system. Through the application process Ofsted will be supplied with the key information that they need and retain the option to obtain additional specific information, both from the applicant and from other parties, if this is required. The arrangements for registration certificates would remain in place – a key benefit for parents – and children would be protected by Ofsted's powers to suspend a registration when there are concerns about their safety and welfare.

In addition, however, Ofsted is considering how best to administer the application and registration arrangements for those applying to be registered from September 2008, and this will provide the opportunity for a more streamlined system. Ofsted is exploring the scope for some application information to be supplied on line, and for document verification to be carried out at Post Offices, at a time convenient to the applicant. The online system already exists so the costs involved in supplying information online should be minimal. Overall, such an approach would reduce administrative costs both for applicants and Ofsted.

Ofsted would continue to make an assessment of a provider's suitability to look after children, including obtaining CRB checks to confirm the provider and manager of the setting had nothing in their criminal record to make them unsuitable, and that they were not barred from working with children. They would continue to make a judgement about the suitability of the premises, taking into account the provider's own assessment of risks and proposals for managing those risks. Ofsted would also make an assessment of the provider's capacity to meet other ongoing requirements applicable to the relevant registers.

Because the requirements would be less prescriptive, providers can operate their provision more flexibly and are more likely to be able to meet the requirements without significant burdens being placed on them. Because the children will all be school aged the requirements are less specific than for younger children. The general requirement is that providers and premises are

suitable to ensure that the care is appropriate, without restricting the provider e.g. to specific areas of space per child.

We have estimated that the new arrangements set in place by this intervention could cut the amount of provider time to complete an application by 25% (because of scope to provide information on-line). On information from the survey of providers mentioned above which showed that applying as a registered childminder, or as a provider of day care, providing prescribed information would take 1.75 hours to complete at a unit cost of £36.86. A 25% reduction in this cost would lead to a £9.20 cost saving per application. The most recent figures for the number of new providers registering with Ofsted, are 15,000 (quoted in The Annual Report of Her Majesty's Chief Inspector of Education, Children's Services and Skills 2006/07). Assuming that 5,000 of these provide care for 5-7 year olds the time saved on completing applications would represent a cost saving of £46,000. In addition, there will be no requirement for a pre-registration visit by Ofsted. Given the same level of new registrations (5,000) this would save £141,400. (This is based on information in the survey referred to above on the unit cost to providers of allowing assessors of accredited organisations access to the premises which is shown at £28.28 (x 5000 = £141,400). Together this gives a total benefit of £187,400 per year.

Costs

The Government intends that the Ofsted Childcare Register pays for itself through fees from providers. This means that the cost to Government will be greatly reduced in order that resources can be directed to areas of greatest need. In setting the fees, the Government will consider the impact on affordability and type of provider and therefore what, if any, subsidies are needed (and, if so, for how long). The level of fees will be determined as part of a wider review of fees.

For those elements of the proposed regulations which replicate, with only minor adjustments, the regulations governing the current system of childcare registration, the Government does not anticipate any increase in costs to childcare providers. Ofsted is seeking to improve the administration of the registration arrangements, for example, by developing more on line processes, and this should reduce costs by making the supply of information easier.

Nevertheless, the Government recognises that there will be a cost to providers to familiarise themselves with the new arrangements. Our estimate is based on a survey of providers carried out in 2005 by Price Waterhouse Cooper to establish the amount of time that it takes providers to meet the requirements of regulations and relates to the amount of time that a provider spends recording and retaining information about its provision (eg. a daily record of children looked after on the premises & accidents occurring on the premises). The survey showed this to take 3.45 hours at a unit cost of £73.28. As the current proposals are based on the existing requirements for registration we estimate that this will take about an hour of a provider's time, which will cost £21.22. Based on the existing number of providers (for 5-7 year olds) of 29,600 - calculated from information taken from the 2006 Childcare and Early Years Providers Survey - multiplied by the cost per hour we believe this will incur a one-off cost of £628,112 on providers.

The arrangements for the OCR reflects the different needs of school age (with those of younger children). The regulations will require providers to provide a safe environment with provision suitable for the age range of the children but allow the provider to determine the most appropriate content for their provision. Providers will be required to give information to parents on what activities their children will undertake. Therefore, parents can choose to use a provider who offers the type of provision they think is appropriate.

Net present value

The NPV will turn positive after four years as the total annual benefits become greater than the one-off costs. The annual benefits are discounted and cumulated in table 1 in the annex. After

30 years we estimate the total benefits to have reached £3,634,080, and this implies discounted annual benefits of £121,136. These results are very sensitive to changes in the assumptions as to how much cost saving will occur as a result of the intervention.

Small Firms Impact Test

Childcare and other out-of school hours activities are largely provided by small voluntary and private sector providers. Childminders in particular form a key part of the childcare market.

The requirements of the Ofsted Childcare Register will not pose any significant additional burdens on them. The requirements build on the current national standards and establish minimum standards and practices. They focus around ensuring the suitability of the people caring for the children, the safety of the premises used to deliver the provision, and the establishment of appropriate policies to consider complaints, to secure inclusive provision and to safeguard children. These are therefore issues providers ought to be addressing as a matter of course. In addition, local authorities will have a duty under clause 13 of the Childcare Act to secure information, advice and training for providers. The support they will be able to offer includes helping providers to meet the requirements for registration.

It is worth highlighting here one particular requirement – the need to have public liability insurance. We recognise that this will place a financial cost on the provider. However this requirement will ensure that, if there was a serious accident resulting through the fault of the provider, parents and their child will have recourse to some financial support. Moreover, there is a precedent for including this – the supporting criteria to the current national standards include a requirement that providers hold suitable public liability insurance.

Decisions about the level of fees to be charged both for initial registration and for on-going registration or renewal will be considered as part of a wider review of fees.

Competition Assessment

A simple competition assessment is sufficient to gauge the effect of the Ofsted Childcare Register will have on competition. The Government does not envisage that the number and size of providers would be changed significantly through the introduction of this register.

Although some providers will have to be registered – those who look after children aged 5 up to and including 7 – this does not change the current principle that provision for children under the age of 8 must be registered. However, under the Government's proposals, all providers who care for children aged 8 and over and any provider that is exempt from registration (such as nannies) will, unlike now, be able to be registered – they can apply voluntarily and will have to meet broadly the same requirements. Once registered, all providers will have the same status.

In order to streamline the arrangements and maintain a proportionate approach, provision made directly by a school governing body for pupils on the school site will not be able to join the Ofsted Childcare Register. This is because schools will already be addressing most of the requirements of the Ofsted Childcare Register around safe recruitment practices and suitable premises in delivering their educational activity and any such provision will be picked up through the main school inspection. However, the Government will expect schools – through guidance – to have regard to the requirements of the Ofsted Childcare Register in setting up their provision.

Race, disability, Gender Equality

No reason has been identified for these proposals to have any adverse impact on families from black and minority ethnic groups or to lead to discrimination between groups.

All providers which apply to join the Ofsted Childcare Register will have to meet prescribed requirements which relate predominantly to safety and security matters. One of the proposed requirements is that registered providers must have a policy to ensure the provision is inclusive and accessible, promotes anti-discriminatory practices and cultural diversity, and takes account of the needs of the child. The process for joining itself will also be straightforward and is being designed so that there are no unnecessary burdens on providers.

Parents will be one of the key beneficiaries of these proposals. The Ofsted Childcare Register will enable them to make better informed choices about the childcare they use. Using registered provision will also enable parents to access financial support through Working Tax Credits and employer-supported childcare schemes. As the Ofsted Childcare Register will allow a wider range of provision to be registered than is possible currently, more provision will – if it chooses to be registered – be eligible to give parents access to this support. This should be particularly helpful to families from black and minority ethnic backgrounds who are disproportionately represented in lower income groups.

Enforcement, sanctions and monitoring

The regulations will be implemented by Ofsted. Where information and other requirements are placed on childcare providers through these regulations, Ofsted is the registration authority that will enforce those requirements. Applications for registration will not be granted unless Ofsted has the information needed to determine that the applicant is suitable to provide childcare, on suitable premises, and that they will be able to meet the ongoing requirements.

Under the Childcare Act it is an offence to make a false or misleading statement in an application for registration, and if Ofsted prosecutes and a conviction follows the person may be fined. A range of other enforcement measures is available to Ofsted, including the provisions for suspending registration set out in the regulations.

57. Ofsted will be responsible both for monitoring the overall implementation of the regulations, and for monitoring childcare providers' compliance with the initial registration requirements. For the Early Years Register, ongoing compliance will be monitored by inspection – 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. For the Ofsted Childcare Register, inspections will be less frequent but there will be an annual process to confirm that the requirements of registration are continuing to be met.

Implementation

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

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

Annexes

Table 1

Cumulative annual benefits

Year	annual benefit	discount rate	present value
Year		0.035	
0	187,400	1	187400
1	187,400	0.9662	181065.9
2	187,400	0.9335	174937.9
3	187,400	0.9019	169016.1
4	187,400	0.8714	163300.4
5	187,400	0.842	157790.8
6	187,400	0.8135	152449.9
7	187,400	0.786	147296.4
8	187,400	0.7594	142311.6
9	187,400	0.7337	137495.4
10	187,400	0.7089	132847.9
11	187,400	0.6849	128350.3
12	187,400	0.6618	124021.3
13	187,400	0.6394	119823.6
14	187,400	0.6178	115775.7
15	187,400	0.5969	111859.1
16	187,400	0.5767	108073.6
17	187,400	0.5572	104419.3
18	187,400	0.5384	100896.2
19	187,400	0.5202	97485.48
20	187,400	0.5026	94187.24
21	187,400	0.4856	91001.44
22	187,400	0.4692	87928.08
23	187,400	0.4533	84948.42
24	187,400	0.438	82081.2
25	187,400	0.4231	79288.94
26	187,400	0.4088	76609.12
27	187,400	0.395	74023
28	187,400	0.3817	71530.58
29	187,400	0.3687	69094.38
30	187,400	0.3563	66770.62
		total	3634080