

EXCERPT OF MINUTE OF MEETING OF THE EDUCATION COMMITTEE HELD ON 31 AUGUST 2000**"REGULATION OF EARLY EDUCATION AND CHILDCARE - THE WAY AHEAD" - SCOTTISH EXECUTIVE CONSULTATION**

16. With reference to paragraph 23 of the Minute of the meeting of this Committee held on 13 June 2000 when it had been noted that the Director of Education would report on the consultation paper by the Scottish Executive Education Department entitled "Regulation of Early Education and Childcare – The Way Ahead", there was submitted a report (docketed) dated 22 June 2000 by the Director of Education (1) summarising and commenting on the detailed proposals of the Scottish Executive for the regulation of early education and childcare following a review thereof by an Officer Working Group comprising representatives of the Departments of Education, Community Services and Social Work, and (2) setting out, in the Appendix to the report, the response to the Scottish Executive on the consultation.

Decided:

- (1) that the comments set out in the Appendix to the report be endorsed as the Council's formal response to the Scottish Executive on its consultation on detailed proposals for the regulation of early education and childcare, and
- (2) that the report be remitted to the Social Work, Community Services and Personnel Services Committees for their interest.

**NORTH LANARKSHIRE COUNCIL
REPORT**

To: Education Committee	Subject: Regulation of Early Education and Childcare
From: Director of Education	
Date: 22 June 2000	
Ref: MM/JR/LS	

BACKGROUND

This paper details the response made by the Council to the document "Regulation of Early Education and Childcare – the Way Ahead" that document the Executive's proposals for the future regulation of early years education and childcare.

The paper takes account of discussions with other Council departments, particularly Community Services.

RECOMMENDATIONS

The education committee is recommended:

- (i) To homologate the response which was submitted to the Scottish Executive after consideration by the convenor of the education committee.
- (ii) To refer this report to the Social Work Committee, Community Services Committee and Personnel Committee for information.

Members wishing further information on the content of this report are advised to contact;

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Michael O'Neill

NORTH LANARKSHIRE COUNCIL : DEPARTMENT OF EDUCATION
REGULATION OF EARLY EDUCATION AND CHILDCARE : THE WAY AHEAD

Report by the Director of Education

1. BACKGROUND

Regulation of Early Education and Childcare

1.1 In March 1999, the Scottish Executive issued a consultation paper "Regulation of Early Education and Childcare" to which responses were invited by 30 June 1999. The consultation paper set out the reasons why childcare providers and early education should be regulated and why the current framework is in need of review. A Council response was duly submitted to the Scottish Executive.

1.2 The three main aims stated for the regulatory framework were;

- (1) to ensure the safety of children.
- (2) to ensure that the early education and childcare experience promotes personal and social development as well as being enjoyable and stimulating.
- (3) to ensure that the regulatory burden is not disproportionate and that similar types of provision are subject to comparable regulation.

1.3 Aiming for Excellence

The above consultation paper was produced alongside the White Paper "Aiming for Excellence". The latter outlined the intention of Ministers to establish a new body to regulate care across all of the existing care settings including daycare for children.

1.4 Regulatory Care and the Social Services Workforce

Consultation on the new body "Commission for the Regulation of Care" is covered in the further paper "Regulating Care and the Social Services Workforce" which was published in December 1999.

1.5 Regulating Early Education and Childcare : The Way Ahead

This document "The Way Ahead" sets out the conclusions to the earlier consultation exercise. The document is compiled in three separate sections

- (1) **What Childcare to Regulate**
 Childcare comes in many different forms and is delivered in many different settings. It ranges from nurseries offering full day care all year round to care provided by relatives on a much less frequent basis. It is therefore necessary to make it clear what childcare requires regulation and what is able to be done without the need for regulation.
 At present daycare provided for more than 2 hours per day and more than 6

days per year for children under 8 years of age is regulated by The Children Act 1989. This includes childminding on domestic premises but excludes specific types of care notably that offered within an NHS hospital or in a school where it is managed by the hospital or school management.

Section 2 of the document details the proposed changes envisaged under the new proposals.

(2) How to Regulate

The White Paper 'Aiming for Excellence' sets out the intention to establish a Scottish commission for the Regulation of Care. The Commission would regulate a wide range of care services including residential care for children and adults and would assume responsibility for the regulation of childcare currently undertaken by local authorities under The Children Act 1989.

A major benefit arising from such a body will be a consistency of care standards across all caring services with inspection being carried out against a specific care standard, details of which are to be devised by a Care Standards Committee. Early Years and Childcare will therefore require the establishment of a standards committee to determine appropriate standards.

(3) Standards To Be Achieved

The local authority is currently responsible for regulating childcare and as part of this process it checks the adequacy of staff:child ratios, the proportion of suitably qualified staff and the suitability of the premises. In effect although these input based measures are important, and will continue within the Commission framework, it is proposed that the regulatory process will in future take greater account of output based measurements. This will require a greater emphasis on assessing whether or not the care and quality of experience offered to children is satisfactory.

It is proposed that all providers delivering a similar service will be subject to the same minimum input requirements whether they are in the public, private or voluntary sectors. Specific input issues affected will include training and qualifications of staff, type of staff required, adult:child ratios, ratios affected by different age groups of children and floorspace requirements.

2. **RESPONSE TO SEED**

- 2.1 The attached paper Appendix 1 is the North Lanarkshire response to the Way Ahead document. It covers the three sections listed in 1.6.

3. **RECOMMENDATIONS**

The education committee is recommended:

- (i) To homologate the response which was submitted to the Scottish Executive after consideration by the convenor of the education committee.
- (ii) To refer this report to the Social Work Committee, Community Services Committee and Personnel Committee for information.

MM/JR

June 2000

NORTH LANARKSHIRE COUNCIL : DEPARTMENT OF EDUCATION
REGULATION OF EARLY EDUCATION AND CHILDCARE : THE WAY AHEAD

(1) SECTION 2 : WHAT CHILDCARE TO REGULATE

- (1.1) The council welcomes the opportunity to place all early years and childcare providers on a level playing field (para 4).
- (1.2) The recommendation to exempt from regulation the after school-care managed by schools is worthy of further debate. Guidelines on the following issues would be helpful:
- (1) Appropriateness of staff and access to systems to check the qualifications and background of volunteers and staff.
 - (2) "Input" criteria, for example traditional housekeeping type issues regarding staff:child ratios and floorspace (para 5)
 - (3) The status of local authority NOF bids for out of school care funding.
- (1.3) The recommendation to include independent schools within the regulatory framework is welcomed (para 6).
- (1.4) The decision to limit the area of regulation to primary school age only is disappointing and could lead to confusion particularly in respect of summer playschemes where children have left P7 and are due to enter S1 (para 9). It would have been preferable to regulate for all children up to the age of 16 years. A "fit person" vetting for children up to the age of 14 years is not considered to be sufficient safeguard as vulnerable children occur in all age ranges. Concerns are expressed. The suggestion that older children are "likely to vote with their feet" is a concern given that this may result in unsupervised care at homes (para 10).

The intention to extend the age range to 16 years for children with a disability is noted but raises concerns because of the policy of this Council to provide for disabled children in an integrated setting.

- 1.5 It is accepted with reservation that it is difficult to regulate for short-term provision and it is agreed that existing threshold arrangements should continue (para 13).
- 1.6 The decision to continue to regulate childminding by friends for reward is welcomed (para 14).
It is further agreed that there needs to be further guidance on nanny services and the inclusion of nannies within the regulatory framework rather than in a voluntary code is welcomed (para 16).
- 1.7 It is considered that there is a clear role for the Commission to provide opportunities for parents seeking nanny care to have access to a system which provides the enhanced checks available to organisations. There are concerns about the clarity of SCRO details, for example indecent exposure being recorded as breach of the peace (para 18-20).

We welcome the proposal to give further thought to the possibility of providing a check facility for individuals. A definite commitment and timeframe for this aspect of childcare would be helpful (para 21).

- 1.8 We welcome the proposal to further consider the position of sitter services which directly employ sitters (para 22).
- 1.9 The document does not offer sufficient reassurance in respect of clubs and classes. Many parents use such services as alternatives to childcare and more specific guidance requires to be available. However, the large scale of this is recognised (para 23)
- 1.10 We await the proposals for such facilities but consider that the statutory index will cover only those persons known to authorities. There should be a system where all organisations can not only consult the index but also be able to vet adults seeking involvement with young children. It is considered that the most vulnerable children will be least likely to be safeguarded by a checklist for parents (para 24).

2. **SECTION 3 : HOW TO REGULATE**

- 2.1 Assumptions are made about those not funded to provide pre-school education. Many authorities are not in a demand-led partnership with providers in the independent and voluntary sectors. The higher standard of performance referred to should apply to those not in partnership arrangements (para 9).
- 2.2 The National Care Standards are welcomed but their compilation will require the widest possible discussion with the entire range of childcare settings. The existence of separate standards currently operating in the independent and voluntary sectors must be taken into account. Advice on the position of such alternative standards must be unambiguous (para 10).
- 2.3 The fully integrated service, standards and inspection procedures are welcomed, including intention to use performance indicators from The Child at the Centre. Considerable training issues will follow from this and the role of the Commission as a training provider/facilitator requires clarification. Clarification is also required on the statement that HMI "will inspect periodically" (para 11 – part 2) and whether or not there will be a continuing role for associate inspectors. There are concerns about double standards being used for inspections in the pre-school sector. Indications are that partner providers are inspected to a less rigorous standard and it is hoped that such a system will eradicate these concerns.
- 2.4 The move to a National Care Standard based an output-based quality assurance system is welcomed (para 13). It is a concern however, particularly where very young are concerned, that system of measurement becomes an end in itself and that opportunities for spontaneity and opportunistic play are diminished. There are additional training implications from such a change in emphasis. It is noted that a group will be established to develop such standards for early education and childcare. However, it is not clear if separate groups will be established to consider a similar system for older children for whom the Commission will be responsible and if the early education and childcare standards will include 0-3 year old children.

- 2.5 It is noted that the registration and inspection process will impose costs on local authorities. It is expected that the total cost of such procedures will be reflected in the financial settlement to the local authority (para 17).
- 2.6 It is noted that for nursery schools and classes provided by the local authority HMI, rather than the Commission, will continue to inspect (para 18). The intention to use the same quality indicators is welcomed but the regularity of these inspections requires clarification. Will there be annual Commission inspections for all such provision and HMI inspections every 5-7 years?
Is it not contrary to the principal of all provision being subject to the same system?
There will be training implications for HMI involved in the inspection of establishments providing services for younger children aged 0-3 years.

3. SECTION 4 : STANDARDS

- 3.1 The proposal to require all providers to meet the same minimum input standards is welcomed (para 2).
- 3.2 The move towards 100% staff being qualified is welcomed and the launch of the Action Plan in the summer is awaited (para 4). However, there are outstanding issues regarding what type of qualification is considered to be suitable and concerns about the regarding of SVQ Level 3 remain. In general, it is considered that this qualification varies greatly dependant on the training agency responsible for the assessment.
- 3.3 In the case of childminders it is considered that substantial advance training is required prior to registration as a childminder. Authorities and further education colleges currently offer varied training and this position should be regularised particularly given the isolation of childminders in relation to other childcare providers.
- 3.4 Further it is considered that merely to have the paper qualification is insufficient in some cases. The recent expansion in early years services has led to an increase in people returning to employment in this area who have not worked with children for some considerable time. There should be a requirement for people in such a situation to update their skills prior to returning to employment.
- 3.5 The statements in respect of the involvement of teachers in pre-school education are ambiguous. It is not clear what level of teacher "involvement" is anticipated (para 8). The repeal of the appropriate sections of the Schools Code 1956 is welcomed. However, guidance on its replacement is needed to clarify this section of the document (para 12). It is hoped that such guidance will make it clear that any teachers involved in pre-school education will require to be appropriately qualified to work with very young children.
- 3.6 The move to a national standards in respect of adult:child ratios is welcomed. This has been a considerable area of discontent among colleagues in the independent and voluntary sectors. Concern expressed in section 2, paragraph 4 about the management of the integration of children with disabilities is again an issue.
- 3.7 It is considered that the ratio of 1:15 in respect of children over eight years is insufficient (para 18). Where such a ratio previously existed it was for organised activities and not childcare.

It is not clear how this will affect groups which operate for a wider range of children. Practical difficulties are anticipated in the management the progression of children from one age range to the next.

- 3.8 The intention to extend the age range included in the domestic care area is welcomed (para 21). There will be practical issues for current registered providers as a result of this proposal, particularly in relation to their own children. The question of numbers where babies are looked after on domestic premises requires clarification, as does the reference to appropriate training and qualifications (para 21). It is disappointing that no specific advice is given in respect of ratios for outings.
- 3.9 The intention to refer the consideration of space standards to the Care Standards Committee is noted (para 22). It is suggested that this Committee will require to consult extensively on the issue given the diversity of provision and the practicalities of deciding on a standard for all sectors.
- With regard to local authority provision there has been no workable standard and this authority has to some extent adopted the Children Act guidance figure in the expansion of services for children aged 3-5 years. However the decision to reduce the number of children able to be looked after in certain premises may have a considerable impact on staffing and the location of provision. This is particularly difficult in isolated communities where there is limited accommodation for such use.