

National Childminding Association

Proposed Children and Families (Wales) Measure

Response to the National Assembly for Wales' Legislation Committee No. 2

30 April 2009

The National Childminding Association (NCMA) is the only charity and membership organisation that represents home-based childcare in England and Wales, with approximately 47,000 members. NCMA promotes quality home-based childcare so that children, families and communities can benefit from the best in childcare and education.

Working in partnership with Government, Welsh Assembly Government, Care and Social Services Inspectorate for Wales (CSSIW), local authorities, integrated children's centres, community-focused schools and other childcare organisations, NCMA aims to ensure that every registered childminder has access to services, training, information and support to enable them to provide a professional service. NCMA offers to work with all local authorities across Wales.

NCMA's mission statement is "to ensure that families in every community have access to high quality, home-based childcare, play, learning and family support so they can help their children reach their full potential."

NCMA believes that:

- Children thrive in home-based childcare – emotionally, physically and socially.
- Children's needs are paramount. Their needs, rights, wellbeing and development should come first.
- Childcare must be high quality. By this we mean it should provide a positive play and learning experience for every child and their family.

Proposed Children and Families (Wales) Measure

NCMA welcomes the opportunity to provide evidence on the principles of the Proposed Children and Families (Wales) Measure to the Legislation Committee. We are encouraged that the Welsh Assembly Government and the National Assembly is looking in detail at issues of how best to address child poverty, which is recognised as a significant barrier to children's attainment, well-being and future life chances.

Given NCMA's role as the leading professional association for registered childminders and nannies, this response **focuses on the parts of the proposed measure that are within our area of expertise and of concern to our constituency, notably Part 2 Childminding and Day care for Children.**

Consultation Questions

1. Is there a need for a proposed Measure to deliver the stated objectives of:
 - contributing to the eradication of child poverty;
 - making provision in relation to child minding and day care for children;
 - establishing integrated family support teams to provide services to families where there are children who need to be, or who are, looked after, and this is related to needs on the part of their adult carers (such as dependence on drugs and alcohol); and
 - making provision for play opportunities for children?

NCMA response:

We agree with the general principle of the proposed Measure and welcome the strategic approach to delivering the statutory provision in taking forward the Welsh Assembly Government's commitment in terms of child poverty.

The provision of flexible, affordable quality childcare can play a crucial role in helping to alleviate child poverty. Paid work, supported by continuous skills improvement through training and development is recognised as the most sustainable route out of poverty. However, for parents living in poverty, there are obvious challenges not only with accessing work, but also in securing affordable childcare to support them.

Considered and funded plans to support and develop quality childcare provision and enable more parents to work, particularly those in disadvantaged areas will contribute to securing better opportunities in the long term for families and will have wider benefits for the economy as a whole.

Childminding has a particularly important role to play in helping to alleviate child poverty. This is because registered childminders are well placed to support those parents and families considered 'hard to reach' and most in need of dedicated support. For example, home-based childcare, with a greater degree of one-to-one engagement is particularly beneficial for families with disabled children, who often face higher costs than other families and where paid employment can significantly boost income and alleviate poverty. In addition, childminding services can support young parents and/or single parents by providing flexible childcare to help them look for, or undertake employment, return to study, or in their roles as parents.

It is important to note that high quality childcare has developmental as well as socio-economic benefits. While the Measure focuses on child poverty, it is important to consider the significant benefits to children's learning and development that high quality childcare can deliver. A range of longitudinal studies, including the Effective Provision of Pre-school Education (EPPE) project have concluded that high quality pre-school care and education is related to better intellectual and behavioural outcomes for children and that investment in quality provision is a critical factor¹.

¹ The Effective Provision of Pre-School Education (EPPE) Project, 1997-2004 (funded by Department for Education and Skills)

2. How will the proposed Measure change what organisations do currently and what impact will any such changes have?

NCMA response:

It is difficult to assess the impact at this stage on organisations and agencies, for example, local authorities, involved in work which could be affected by the proposed Measure. It is crucial that, going forward, extensive consultation is undertaken with all delivery partners and agencies to ensure that the implementation of any Measure takes account of different perspectives.

3. Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives?

In considering this question, consultees *may* wish to consider the nature of the provisions in the proposed Measure that:

- (a) contribute to the eradication of child poverty (sections 1-12), particularly in relation to:
 - the broad aims for eradicating child poverty and preparation of strategies (sections 1-5)
 - services to tackle child poverty (sections 6-9).
- (b) make provision in relation to child minding and day care for children (sections 13-48), particularly in relation to:
 - registration provisions (sections 13-27);
 - emergency protection provisions (sections 28-29);
 - safeguards and disqualification provisions (sections 30-33);
 - inspection provisions (section 34-35);
 - offences and penalty provisions (sections 38-43).
- (c) establish integrated family support teams (sections 49-58), particularly in relation to:
 - teams (sections 49-52);
 - boards (sections 53-54);
 - annual reports (section 56).
- (d) secure sufficient play opportunities for children (section 60); and
- (e) ensure participation of children in local authority decision making (section 61).

NCMA response:

We welcome Part 2 of the proposed Measure, which largely consolidates and clarifies current legislation (repealing and re-enacting Part 10A of the Children's Act 1989 together with Schedule 9A) and ensures that the standards of childminding are maintained.

NCMA is committed to developing and maintaining the highest standards in home-based childcare practice. Effective and proportionate inspection and regulation plays an important role in monitoring standards and helping to ensure that children are cared for in safe and stimulating environments. It is crucial that any future regulatory framework takes account of different types of childcare providers to ensure that bureaucracy involved in administering the process is kept to a minimum.

While a commitment to effective regulation is a welcome part of the proposed Measure, there needs to be a future commitment to ensuring that this will not lead to a more time-consuming inspection regime that undermines the childminder's primary task of caring for children, being attuned to their needs and facilitating play-based learning opportunities to help them develop.

This is as much about effective communication on the part of CSSIW and Welsh Assembly Government about the duties of the practitioner to ensure that there is consistency, as it is about the legislative elements of the regulations. Experience from the implementation of Early Years Foundation Stage in England is that, while many childminders are supportive of the framework, there is a perception among many childminders that the administrative burden of observation and demonstrating quality practice in inspection has increased. While the Government and regulator are both clear that this should not be the case, the absence of consistent communication has developed this perception among some practitioners.

Part 2 Sections 29, 39 + 41 relate to the enhancement and strengthening of regulation and enforcement powers for the Care and Social Services Inspectorate in Wales (CSSIW).

NCMA understands that in relation to section 39 the nature of the "minor offences" relating to non-compliance has yet to be agreed and will be placed in regulations and be subject to further consultation. Taking the judicial power of imposing penalties from the justice system and allocating it to another body has implications which need to be considered:

- **Development of categories of offence and appropriate penalties** – it is clear that while the Measure sets the principles of fixed penalties for 'minor' offences, the categories and penalties require considerable thought and definition. NCMA is concerned that moving to such a system requires the definition of a complex tariff of offences and penalties to ensure clarity around what constitutes an 'offence' and what level of penalty the practitioner could expect.
- **Appeals process defined** – the Measure does not define the appeals procedure for providers subject to a penalty. This will need to be considered to ensure transparency and consistency in the gathering and presentation of evidence.
- **Standardisation of approach across Wales** – given the complexity of inspecting childcare providers, it is crucial that consideration is given to

how the approach will be standardised across Wales to ensure transparency and fairness.

- **Selection and training of staff** – experience of introducing new regulatory frameworks in England and Wales suggests that inspectors understandably require considerable training and support to prepare effectively. It should also be recognised that childcare inspection is interpretive, in that providers are judged against broad criteria. This inevitably leads to different approaches by inspectors which, while understandable, may cause future challenges if, as the Measure proposes, inspectors assume a new role of imposing fixed penalties for what they consider to be ‘offences’.
 - **Information and training of stakeholders** – similarly, it is important that providers have appropriate support in preparing for any significant change in inspection and regulation. Experience of implementing the new inspection regime in England under EYFS suggests that where providers had access to dedicated training and support, they were more prepared and confident.
 - **Additional workload on current staff** – NCMA is aware that CSSIW staff already have an extensive workload which often presents challenges. If, as the Measure proposes, their remit extends to administering fixed penalties, the focus on ensuring settings provide safe and stimulating environments for children may be compromised. NCMA understands that there will be no additional funding allocated to deliver the Measure which may impact on the quality of this approach
4. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?

For example, is there capacity to implement the new duties in the proposed Measure through the existing programmes of Cymorth and Flying Start, and to undertake the work of the new Integrated Family Support Teams?

NCMA response:

The Flying Start programme has been in place for three years and is currently being evaluated. The programme to provide quality part-time childcare for 2 year olds may have capacity to implement the new duties if there is greater use of childminders in the programme. There has been little impact on childminding to date as parents are being steered towards more institutionally based day care provision. This is despite research which shows that home-based childcare is a preferable option for young children. The longitudinal Families, Children and Childcare study explored the quality of different types of childcare at 10 and 18 months and found that “throughout the first year mothers were more satisfied with the care given by individuals – relatives, childminders, nannies – than by more than one caregiver, in larger groups such as nurseries”².

² Families, Children and Child care study, 2008 - the quality of different types of child care at 10 and 18 months: a comparison between types and factors related to quality

Parents need access to a broad range of quality affordable, local childcare in order to make a choice which best suits their needs. Childminders are an important part of the spectrum of provision. Choice benefits not only the parents and children, but also employers and subsequently the economy as a whole.

As highlighted previously, childminders are well placed to support single parents and other hard-to-reach groups providing childcare to help them look for, or undertake employment, return to study, or in their roles as parents. Similarly, childminders have an important role in supporting families with disabled children who often face higher costs than other families and need more tailored support that a home setting can provide.

It is estimated that seven per cent of children and young people in the UK are disabled. In Wales, this translates to 65,000 children and young people aged from birth to 25 years and 43,000 children under 16 years of age. 8,000 children in Wales are severely disabled.

Affordable, accessible childcare for disabled children is critical to enable their parents to access employment and training and help reduce child poverty.

An estimated 55 per cent of families with a disabled child live in poverty. They face up to three times the costs of families with no disabled children, yet are more likely to be unemployed and be on low incomes. Only three per cent of mothers of disabled children work full-time and 13 per cent part-time, compared to 27 per cent and 39 per cent of other mothers³. Enabling parents with disabled children to work or train is a critical step towards alleviating their situation.

There have been a range of childcare initiatives in Wales in recent years, but to date very few have addressed explicitly the needs of disabled children and their families, who through no fault of their own disproportionately experience inequality and poverty.

While most parents with a disabled child would like to work, because very few use childcare or have experience of using childcare, their horizons are often restricted and their aspirations limited.

The transfer of the sixth Cymorth theme “building childcare provision” into the revenue support grant (RSG) in 2008-09 was planned but in practical terms caused disruption to the organisations delivering services to children during the transfer period, which has not been entirely resolved. If this experience is repeated when the remaining Cymorth themes are transferred to RSG in 2011 there could be a more widely spread interruption of children’s services

5. What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Section 2 of the Explanatory Memorandum (the Regulatory

³ Childcare for children and young people with disabilities, 2009 (funded by Welsh Assembly Government)

Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.

NCMA response:

It is stated that there are no additional costs for local authorities and no new demands than already under the Children Act 2004. However during the current financial situation when budgets are being cut or frozen this will have a detrimental impact on the ability to deliver the aims of the Measure.

To implement the new provision of CSSIW regulation and enforcement NCMA may be required to provide further support and guidance to childminders which may be beyond the current capacity level.

6. Are there any other comments you wish to make about specific sections of the proposed Measure?

NCMA response:

NCMA has no further points to make and looks forward to providing additional evidence in its oral session.