



Department
for Education

EYFS Space Requirements

Government consultation

Launch date 12 May 2025

Respond by 11 July 2025

Introduction

This consultation seeks views on whether to introduce flexibilities to the indoor space requirements in section 3 (the safeguarding and welfare requirements) of the [Early Years Foundation Stage \(EYFS\) statutory frameworks](#). In response to the [November 2023 Pulse Survey of Childcare and Early Years Providers](#) (published April 2024), one of the barriers identified by providers to expanding their childcare provision was physical space, and specifically the indoor floor space requirements set out in the EYFS.

Through this consultation we are seeking views on two potential options for amending the EYFS indoor space requirements and the potential benefits and risks for each option. The policy intent is to give early years providers more flexibility and autonomy to exercise professional judgement in the way in which they utilise their spaces to meet demand for places in their settings, according to the needs of the children they educate. We are also asking for your views on alternative ideas about how we might change the indoor space requirements, including whether we should leave the current space requirements as they are.

Currently, the EYFS frameworks set out the “indoor space requirements” with specific measurements per child by age group as follows:

The premises and equipment must be organised in a way that meets the needs of children. Providers must meet the following indoor space requirements where indoor activity in a building(s) forms the main part of (or is integral) to the provision:*

- *Children under two years: 3.5 m² per child*
- *Two year olds: 2.5 m² per child*
- *Children aged three to five years: 2.3 m² per child*

Footnote 52 of the group and school-based provider EYFS: *These judgements should be based on useable areas of the rooms used by the children, not including storage areas, thoroughfares, dedicated staff areas, cloakrooms, utility rooms, kitchens and toilets.*

Paragraph 3.66 of the childminder EYFS: *These judgements should be based on useable areas of the rooms used by the children, not including storage areas, thoroughfares, dedicated staff areas, cloakrooms, utility rooms, and toilets. Childminders should consider what areas within their kitchens are safely usable.*

The options we are seeking your views on are whether to:

1. Include free-flow outdoor space in the EYFS space requirements (without a cap)
2. include free-flow outdoor space in the EYFS space requirements (but with a cap on numbers to prevent overcrowding).

Currently, outdoor areas cannot be included in the EYFS indoor space measurements where indoor activity in a building forms the main part of, or is integral to, the early years provision. As such, it is important to note that the proposals in this consultation do not relate to forest schools. As set out in the [EYFS statutory framework for group and school-based providers](#), “Forest and other exclusively (or almost exclusively) outdoor provision is not required to meet the space standards above as long as children’s needs can be met.”

The options covered in this consultation would enable early years providers to increase the number of childcare places they can offer without increasing the size of their building and would support the early years market to meet additional demand for places following the government’s expanded entitlements offer. However, early years providers would still be required to meet the minimum staff-to-child ratios in the EYFS statutory frameworks, and it would be for individual providers to determine whether the benefits of including free flow outdoor space outweighs any additional costs (such as employing more staff to care for additional children).

The government is consulting because providers expressed a desire for these rules to be updated. If any changes are made, it is critical to maintain a safe environment for children. That is why we want to hear from as many people as possible to inform a decision on what to do next.

Who is this for

The potential options in this consultation relate to all early years providers in England who are required by section 40(2) of the Childcare Act 2006 to comply with the EYFS. This includes providers required to comply with the childminder EYFS framework or the group and school-based EYFS framework.

The consultation is for those working in the early years and childcare sector. This includes:

- Childminders (with and without domestic premises)
- Providers of childcare on domestic premises
- Providers of childcare on non-domestic premises
- Schools with a reception cohort
- Early years and childcare educators
- Early years settings, including nurseries and preschools
- Parents and carers, and organisations representing them
- Charities
- Childminder agencies (CMAs)
- Ofsted
- Organisations that represent early years providers
- Local authorities
- Landlords and any relevant representative bodies
- Colleges, universities and suppliers of qualifications

Issue date

The consultation was issued on Monday 12 May 2025.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team by email at: EYFSSpace.CONULTATION@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the department's response are expected to be published on [GOV.UK](#) in autumn 2025.

About this consultation

This consultation seeks views on the specifics of our policy options to help us reach well-informed and fair decisions.

The potential options in this consultation relate to early years providers in England only who are legally required to comply with either the childminder EYFS framework or the group and school-based EYFS framework.

One of the barriers to expanding childcare provision to meet additional demand identified by providers in the November 2023 Provider Pulse Survey was physical space, and specifically the indoor floor space requirements set out in the EYFS. The potential options in this consultation relate to making it possible for all types of early years providers to have more flexibility regarding floor space and remove burdens within the EYFS, while maintaining quality and safety standards. As the government funded childcare expands to 30 hours for eligible parents (over 38 weeks a year) from the term following their child turning 9 months, it is our priority to maintain the high quality of education and care given to children and ensure that they are kept as safe as possible.

It asks questions in relation to:

- Whether respondents would support any of the potential options in this consultation.
- The potential benefits and risks for each potential option, including how we might mitigate against any risks to safety and quality standards.
- Whether respondents have an alternative option.
- Whether we should leave the current space requirements as they are.
- Understanding what is meant by free-flow outdoor space.
- Whether wording used adequately describes free-flow access and takes into account the health, safety and wellbeing of all children.

We are consulting on whether to make changes to the space requirements and would like your views on our two potential options.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit [DfE consultations on GOV.UK](#) to submit your response

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request and complete a word document version of the form.

By e-mail

EYFSSpace.CONSULTATION@education.gov.uk

By post

EYFS space requirements consultation

Families Group

Department for Education

Sanctuary Buildings

20 Great Smith Street

London

SW1P 3BT

Deadline

The consultation closes at 23:59 on Friday 11 July 2025.

Background

The [EYFS statutory framework for group and school-based providers](#) is for all school-based early years providers¹ (including maintained schools; non-maintained schools; independent schools; free schools; and academies) and all group-based early years providers in England who are registered with Ofsted on its Early Years Register or with an early years childminder agency (CMA).

The [EYFS statutory framework for childminders](#) is for all childminders (with or without domestic premises) in England who are registered with Ofsted on the Early Years Register or with an early years childminder agency (CMA).

The frameworks set the standards that early years providers must meet to ensure that children learn and develop well and are kept healthy and safe.

This consultation seeks views on whether to change the indoor space requirements in the EYFS, and, if so, how. This would give childcare providers more flexibility and autonomy to exercise professional judgement in the way in which they create additional places to meet demand in their setting, according to the needs of their children, and in doing so help as many families as possible to benefit from affordable, flexible, quality childcare.

As we continue with the planned rollout of 30 funded hours per week from 9 months old from September 2025, creating places to meet demand is a key factor as to why we are exploring this amendment.

We know access to early years education supports early child development, and has a huge impact across both children's longer-term development and for other areas of education and care². Children behind in language and maths development at age 5 are less than half as likely to achieve English and Maths GCSEs. We know that learning does not start at school, but it is important that children are ready for school and to continue learning, so that teachers and others can help build on the strong foundations provided during the early years of a child's life.

As the early years and childcare system expands, it is our priority to ensure that the quality of the education and care given to children remains high and that they are kept as safe as possible. For example, to help ensure quality provision remains a priority, we have extended the Early Years Stronger Practice Hubs programme for FY25-26 and have introduced additional resources for early years educators to support children with special educational needs.

The indoor space requirements within the EYFS are in place because children need sufficient space to play, learn and develop safely. We want to make sure that any

¹ School-based early years providers that meet the requirements of section 34(2) Childcare Act 2006 are exempt from the requirement to register with Ofsted or a Childminder Agency.

² For more information, see [Best start in life part 1: setting the scene - GOV.UK](#).

changes to the indoor space requirements do not compromise the safety or quality of the provision.

Local authorities and providers have worked tirelessly to deliver the rollout of 15 hours of government funded hours to eligible working parents of children from 9 months old. Around 12,100 places were created between August 2023 and August 2024 to support the first stages of the rollout. Over 500,000 parents have secured a place to date.

We have conducted surveys to understand the challenges providers face in creating additional capacity to meet demand. To meet demand forecasts for expanded entitlements, we estimate that around an additional 60,000 new places are required between September 2024 and September 2025, to support the third stage of rollout (approximately 5% increase in registered places).

In the November 2023 pulse survey, providers identified several barriers to expanding their childcare provision, including physical space, and specifically the indoor floor space requirements set out in the EYFS as follows, listed in priority order: **1)** future funding uncertainty; **2)** workforce; **3)** insufficient capital funds; **4)** lack of available space; **5)** regulatory constraints. We are already developing and implementing a package of measures to address these barriers. With regards to:

Funding: On 10 December 2024 we published the early years entitlements funding rates for local authorities for 2025-26. We expect to provide over £8 billion for the early years entitlements, an over 30% increase compared to 2024-25, as we continue to deliver the expansion to eligible working parents of children aged from nine months. On top of this, we are providing an additional £75 million revenue grant for 2025-26 to support the sector in this pivotal year to grow the places and the workforce needed to deliver the final phase of expanded childcare entitlements from September 2025. For 2025-26, we have also increased the minimum pass-through requirement for local authorities from 95% to 96% as part of a phased approach to a 97% pass-through in the future.

Workforce recruitment and retention: We recognise that workforce recruitment and retention is a key challenge facing providers. We are supporting the sector to attract talented staff and childminders by creating conditions for improved recruitment, alongside programmes to better utilise the skills of the existing workforce and make early years careers as accessible and rewarding as possible. Key initiatives include a national recruitment campaign 'Do something BIG'. Work with small children'; a financial incentives pilot in 20 LAs of up to £1,000 after tax to eligible joiners and returners shortly after they take up post, as well as Skills Bootcamps to create a pathway to accelerated Level 3 Early Years Apprenticeships.

Given retaining and maximising the staff already in the workforce is also of vital importance, we recently announced an experience-based route to approved status for early years staff. This is an opportunity for staff who are experienced and skilled, but who for whatever reason do not hold a full and relevant level 3 qualification, to

work in the staff: child ratios at level 3. DfE intends to work with Awarding Organisations to develop Assessment-Only qualifications so that in future, holders of EBR status can gain a full and relevant level 3 qualification.

Capital funding: In October 2024, the Secretary of State announced the first steps in delivering our plans for more nursery places using surplus space in primary schools. Primary schools were able to apply for a share of £15m capital funding to create or expand up to 300 on-site nurseries in this first phase of the programme. We will learn from this phase and will continue to work closely with the sector to inform future development of the programme. Government also allocated £100m in capital funding to local authorities in 2023-24 to support the expansion of childcare places for eligible working parents and to increase the supply of wraparound care for primary school-aged pupils. It is for local authorities to determine how best to use this funding to meet local priorities.

Space availability and regulatory constraints: Providers said physical space, and specifically the indoor space requirements set out in the EYFS statutory framework were a barrier to expanding childcare provision to meet additional demand for delivery of the expanded entitlements. This consultation is seeking your views on whether to make changes to the space requirements and we are seeking views on two potential options:

1. Include free-flow outdoor space in the EYFS space requirements (without a cap)
2. include free-flow outdoor space in the EYFS space requirements (but with a cap on numbers to prevent overcrowding).

We are also interested in any other ways to change the space requirements to help increase capacity.

Including outdoor free-flow space in the indoor space requirements (with or without a cap) would improve flexibility for providers. For example, in settings where full capacity has been reached and there is demand for additional places in their local area. This potential option would apply to only those settings where the physical structure allows for implementation of free-flow outdoor space, offering them more flexibility and autonomy to exercise professional judgement in the way in which they create additional places to meet demand in their setting. However, as set out above, early years providers would still be required to comply with the minimum staff-to-child ratios in the EYFS statutory frameworks.

In addition to the two potential options we are consulting on, we also asked providers to consider three other options tested in the November 2023 pulse survey, which we are not proposing in this consultation:

- **Removing the specific space measurements per child by age group but retaining the requirement that premises, including overall floor space and outdoor spaces, are fit for purpose.** This option could offer providers flexibility to use their space in the most efficient way to meet the individual needs of all

children, including those with SEND and could improve financial stability for early years settings as expanding to care for more children will increase revenue. However, this option is not proposed in this consultation for a number of reasons. **Firstly**, it was the least favoured option in the pulse survey. **Secondly**, it risks creating a two-tier system where parents who can afford to pay more will be able to choose childcare settings that offer more space for their children. Given that research concludes that disadvantaged³ children benefit from more space, there is a risk that the most disadvantaged will be disproportionately negatively affected by a two-tier system. **Thirdly**, providers may find it hard to decide what amount of space is required to meet the individual needs of their children. This could result in children's health, wellbeing, and learning and development being negatively impacted.

- **Aligning under 2s in line with 2-year-old measurements.** We discounted this option on the basis that the youngest children need more space. Our rationale for the youngest children being afforded the most generous space requirements is around their need to have adequate space to develop their gross motor skills safely when learning how to crawl and walk. This is especially true for children who may have limited space in their homes.
- **Aligning 2-year-old measurements in line with 3–4-year-old measurements.** We also discounted this option on the basis that it may not produce a significant number of extra places. Considering that we are expecting more places to be required for children in the under 2-year old age range, this option would not have a high impact in comparison to the two proposals in terms of creating the number of additional places needed to deliver the expanded funded entitlements from September 2025.

The survey showed these changes to indoor measurements were less favoured by providers than including outdoor space. Of the two options we are consulting on, our preference is for option 2, which goes further than option 1 by introducing a percentage cap on how much providers can use free-flow outdoor space to increase their capacity, based on the maximum number of registered places per provider. This option was not included in the November 2023 Provider Pulse Survey. We have chosen to add this option as it allows for the benefits of additional outdoor space, but with additional safeguards to help mitigate against overcrowding. Nonetheless, we have not reached any decisions about how to proceed and respondents to this consultation can give their views on any of these options (or any others) at question 28 which asks about alternative ideas on how we might change the indoor space requirements.

³ [Making Connections with Their World](#)

We want to work in partnership with those inside and outside of government to test new approaches and drive progress towards a common goal of giving every child the best start in life. Through our plans to use primary school classrooms, recruit more staff through a re-energised recruitment campaign and deliver improved early language and maths support, we aim to build a system that ensures the best start for every child.

Earlier this year, we ran a pulse survey, which asked providers for their views on how likely they would be to include free-flow outdoor space in practice (and what barriers, if any, might prevent them from using this flexibility) and how many additional places they would be able to offer if they were able to include free-flow outdoor space. We plan to publish the results from the survey in the summer.

We would welcome your views on the two potential options in this consultation, as well as any alternative options, or whether we should leave the current space requirements as they are.

About you

The following introductory questions will help us understand more about you and, where relevant, the nature of your business or organisation and the main ways in which you currently interact with the childcare system in England.

PLEASE NOTE THAT THIS CONSULTATION APPLIES TO EARLY YEARS EDUCATION AND CARE PROVISION IN ENGLAND ONLY.

Questions about you

1. What is your name?
2. What is your email address?
3. **Are you happy to be contacted directly about your response?** Please note: We may wish to contact you directly about your responses to help our understanding of the issues. If we do, we will use the email address you have given above.
 - YES / NO
4. In processing your data and meeting legal duties, the government may be expected to share information about your consultation response. **In line with the Confidentiality and Privacy Notice below, would you like your responses to be kept confidential?**
 - YES / NO

If yes, please explain why you consider it to be confidential

Confidentiality

Confidentiality information provided in response to this consultation, including personal data, may be subject to publication or disclosure under the Freedom of Information Act 2000, the Data Protection Act 2018, or the Environmental Information Regulations 2004. If you want all, or any part, of a response to be treated as confidential please explain why you consider it to be confidential. If a request for disclosure of the information you have provided is received, your explanation about why you consider it confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, in and of itself, be regarded as binding on the Department for Education.

Privacy Notice

The personal data (name and address and any other identifying material) that you provide in response to this consultation is processed by the Department for Education as a data controller in accordance with the UK GDPR and Data Protection Act 2018, and your personal information will only be used for the purposes of this consultation. The Department for Education relies upon the lawful basis of article 6(1)(e) of the UK GDPR to process this personal data as part of its

public task, which allows us to process personal data when this is necessary for conducting consultations as part of our function. Your information will not be shared with third parties unless the law allows or requires it. The personal information will be retained for a period of 12 months following the closure of the consultation period, after which it will be securely destroyed. You can read more about what the Department for Education does when we ask for and hold your personal information in our personal information charter, which can be found here: [Personal information charter - Department for Education - GOV.UK](#)

5. How old are you?

- 25 or below
- 26-35
- 36-45
- 46-55
- 56+
- Prefer not to say

6. What is your sex?

- Female
- Male
- I identify in another way
- Prefer not to say

7. What is your ethnic group?

- Asian, Asian British
- Black, Black British, Caribbean or African
- Mixed or Multiple ethnic groups
- White
- Other ethnic group (please specify)
- Don't know
- Prefer not to say

8. Which region in England are you based in?

- North East
- North West
- Yorkshire and The Humber
- East Midlands
- West Midlands
- East of England
- London
- South East
- South West
- If you are based outside England, please specify which part of the United Kingdom and region/s

9. Are you responding as an individual or on behalf of an organisation? If you are responding as an individual, we will consider the views within your response to this consultation to be your personal views. If you are responding on behalf of an organisation, we will consider the views within your response to

this consultation to be those of your organisation and not necessarily your personal views.

- Individual
- Organisation

INDIVIDUALS

10. Please select one description of your current role:

- Child or young person up to age 16
- Registered early years childminder (with or without domestic premises)
- Childminding assistant
- Provider registered as early years “childcare on domestic premises” - Manager
- Provider registered as early years “childcare on domestic premises” – Practitioner
- Provider registered as early years “childcare on non-domestic premises” – Manager
- Provider registered as early years “childcare on non-domestic premises” – Practitioner
- Maintained Nursery School – Headteacher
- Maintained Nursery School – Teacher/practitioner
- Primary school with early years provision – Headteacher
- Primary school with early years provision – Teacher/practitioner
- Other early years professional
- Provider registered as a later years provider only
- Ofsted associate
- Childminder agency (CMA) associate
- Local authority associate
- Parent/carers of young child(ren) from birth to age 5
- Landlord/property developer
- Other – If other, please describe your role

11. Please select one or more descriptions of your other relevant or previous experience:

- Child or young person up to age 16
- Registered early years childminder (with or without domestic premises)
- Childminding assistant
- Provider registered as early years “childcare on domestic premises” - Manager
- Provider registered as early years “childcare on domestic premises” – Practitioner
- Provider registered as early years “childcare on non-domestic premises” – Manager
- Provider registered as early years “childcare on non-domestic premises” – Practitioner
- Maintained Nursery School – Headteacher
- Maintained Nursery School – Teacher/practitioner

- Primary school with early years provision – Headteacher
- Primary school with early years provision – Teacher/practitioner
- Other early years professional
- Provider registered as a later years provider only
- Ofsted associate
- Childminder agency (CMA) associate
- Local authority associate
- Parent/carers of young child(ren) from birth to age 5
- Landlord/property developer
- Other – If other, please describe your role

ORGANISATIONS

12. Which type of organisation do you represent? Please only select that you are responding on behalf of an organisation if you are submitting the cleared and approved official response from the organisation. Individual responses should be submitted in the previous section.

- Childminder
- Childcare on domestic premises provider
- Childcare on non-domestic premises provider
- Maintained Nursery School
- Primary school
- Other early years provider
- Local authority
- Local government association
- Membership organisation/sector representative body
- Landlord association/landlord representative bodies
- Healthcare body/trade union
- Other – If other, please describe your organisation

13. What is the name of your organisation?

14. How many people are employed by your organisation? [SELECT ONE]

- 1 to 24
- 25 to 499
- 500 or more

15. How many children does your organisation care for? [SELECT ONE]

- 1 to 6
- 7 to 20
- 21 to 50
- 51 to 100
- 101 or more

Technical detail of our two potential options

We are consulting on potential options for amending the:

- Early Years Foundation Stage statutory framework for group and school-based providers, and
- Early Years Foundation Stage statutory framework for childminders.

This consultation consists of 3 sections that cover the potential options to amend the EYFS indoor space requirements, other questions and equality impacts.

Updating regulation in the Early Years Foundation Stage framework

Background

The EYFS sets the standards and requirements that early years providers must follow to ensure all children have the best start in life and are prepared for school. It has been in place since 2008.

The EYFS was last updated in November 2024, primarily to facilitate the introduction of a new category of childcare called “childminder without domestic premises”, which was introduced on 1 November 2024 by the Levelling-Up and Regeneration Act 2023. The EYFS was also changed prior to this in January 2024. The aims of those changes were to provide more flexibility and remove burdens within the EYFS, while maintaining quality and safety standards. The framework was also made easier for all practitioners to use by the creation of streamlined childminder and group/school-based provider versions of the framework.

This consultation is on potential changes to the indoor space requirements at section 3 — the safeguarding and welfare requirements — in both the childminder and group/school-based provider versions of the EYFS, to offer providers more flexibility and autonomy to exercise professional judgement in the way in which they create additional places to meet demand in their settings, according to the needs of their children, and in doing so help as many families as possible benefit from affordable, flexible, quality childcare.

Evidence also tells us that high-quality early childhood education and care has a positive impact on outcomes in both the short and long term, particularly for the most disadvantaged children.⁴ That is why we want to ensure all children who are entitled to funded childcare can access high quality and safe early education and childcare provision.

One of the barriers identified by providers to expanding their childcare provision is physical space. A majority of respondents to the November 2023 Early Years

⁴ Source: [Study of early education and development \(SEED\) - GOV.UK; RR354 - Students educational and developmental outcomes at age 16.pdf \(publishing.service.gov.uk\)](#); and [Effective pre-school, primary and secondary education project \(EPPSE 3-16+\) \(publishing.service.gov.uk\)](#)

Provider Pulse Survey (69% group based, 65% school-based and 71% childminders) indicated that they would use flexibilities in space requirements to look after greater numbers of children.

This consultation is seeking views on two potential changes to the current space requirements in the EYFS to give all types of early years providers more flexibility regarding floor space so they can accommodate more children to meet demand, in ways that are appropriate and safe.

To help make sure that growth never comes at the cost of quality, the government has announced a series of proposed changes to the Early Years Foundation Stage safeguarding requirements. Those updates are expected to be implemented from September 2025, helping to improve children's safety and align with current best practice in early years settings. For further information, see [Changes to Early Years Foundation Stage \(EYFS\) safeguarding requirements: September 2025 - Foundation Years](#).

Section 1 - Options for consultation

Relevant to: all early years providers in England only who are legally required to comply with either the childminder EYFS framework or the group and school-based EYFS framework.

Intention: To give providers the flexibility to increase capacity in settings where there is demand for additional places and where the physical structure allows.

The current indoor space requirements at section 3 of the EYFS for group and school-based providers are as follows:

The premises and equipment must be organised in a way that meets the needs of children. Providers must meet the following indoor space requirements where indoor activity in a building(s) forms the main part of (or is integral) to the provision:*

- *Children under two years: 3.5 m² per child*
- *Two year olds: 2.5 m² per child*
- *Children aged three to five years: 2.3 m² per child*

** These judgements should be based on useable areas of the rooms used by the children, not including storage areas, thoroughfares, dedicated staff areas, cloakrooms, utility rooms, kitchens and toilets.*

The current indoor space requirements at section 3 of the EYFS for childminders is as follows:

The premises and equipment must be organised in a way that meets the needs of children. Providers must meet the following indoor space requirements where indoor activity in a building(s) forms the main part of (or is integral to) the provision:

- *Children under two years: 3.5m² per child.*
- *Two-year-olds: 2.5m² per child.*
- *Children aged three to five years: 2.3m² per child.*

**These judgements should be based on useable areas of the rooms used by the children, not including storage areas, thoroughfares, dedicated staff areas, cloakrooms, utility rooms, and toilets. Childminders should consider what areas within their kitchens are safely usable.*

We are asking for your views on two proposed options:

This section includes questions regarding the 2 potential options:

1. Include free-flow outdoor space in the EYFS space requirements (without a cap)
2. Include free-flow outdoor space in the EYFS space requirements (but with a cap on how much providers can use this to increase their capacity to try to mitigate against any overcrowding). This is our preferred option.

Before you respond to questions 16-27, which relate to options 1 and 2, we would like you to understand what we mean by free-flow. It is important that you take the proposed definition of free-flow into consideration when answering questions in relation to the first and second options.

Our proposed definition of free-flow outdoor space

"Free-flow outdoor areas may also be included in these measurements for children aged 2 years and above. For an area to be defined as 'free-flow', doors to the outdoor area must be open and the outdoor area accessible to children at all times. Children must have safe access in all weathers including having adequate shelter and shade. The area must be suitably equipped to meet the health, safety, wellbeing, learning and development needs of all children."

Option 1: Include free-flow outdoor space in the space requirements (without a cap).

In the November 2023 Early Years Provider Pulse Survey, including free flow outdoor space in requirements was the most popular option across all provider types. The survey showed that 69% group based, 65% school-based and 71% childminders would use flexibilities in space requirements to look after greater numbers of children. This option could allow those providers who have the physical structure to meet the definition of 'free flow' outdoor space to increase the number of children in their setting. It would involve including the following change (wording) in the EYFS:

Proposed new wording:

- *"Free-flow outdoor areas may also be included in these measurements for children aged 2 years and above. For an area to be defined as 'free-flow', doors to the outdoor area must be open and the outdoor area accessible to children at all times. Children must have safe access in all weathers including having adequate shelter and shade. The area must be suitably equipped to meet the health, safety, wellbeing, learning and development needs of all children".*

Option 2 (preferred option): Include free-flow outdoor space in the space requirements (but with a cap on how much providers can use this to increase their capacity to prevent overcrowding, for example).

Option 2 was not tested in the November 2023 provider pulse survey. It introduces a safety net around including free flow outdoor space in space requirements and mitigating some of the potential risks around overcrowding set out below. It could

allow those providers who have the physical structure to meet the definition of 'free flow' outdoor space to increase the number of children in their setting.

For example, with a 10% cap, a setting with a maximum capacity of 80 children (based on existing indoor space requirements and the age of the children in the setting at a specific time) could take 8 additional children (provided that the additional useable free-flow space is large enough to meet the required space measurements for the additional number of children).

Proposed new wording:

- *“Free-flow outdoor areas may also be included in these measurements for children aged 2 years and above. For an area to be defined as 'free-flow', doors to the outdoor area must be open and the outdoor area accessible to children at all times. Children must have safe access in all weathers including having adequate shelter and shade. The area must be suitably equipped to meet the health, safety, wellbeing, learning and development needs of all children.*
- *The additional number of children a setting using free flow outdoor space can cater for, must be no more than X% of the maximum capacity allowed based on existing indoor space requirements.*

Potential benefits to implementing options 1 and 2 include:

There are several potential benefits to including free flow outdoor space in the current space requirements. For example, it would allow for a greater number of additional children to be looked after where settings have the space to accommodate this and there is the demand for places. This helps support access to early years provision for families. There is also evidence that outdoor space is particularly beneficial to children's development, which if well used can be supported by these options. Caring For Our Children (2019)⁵ advises settings that as much fresh outdoor air as possible should be provided in the rooms, and Mustapa et. al (2014)'s⁶ review of evidence finds that playing in natural environments stimulates children's senses and helps further develop and improve cognitive skills.

Potential risks to implementing options 1 and 2 include:

There are also potential risks to including free flow outdoor space in the space requirements. Whilst research cited above indicates the benefits of outdoor space, it is important it is used appropriately. For example, were a provider to overcrowd their

⁵ American Academy of Paediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs. 4th ed. Itasca, IL: American Academy of Pediatrics; 2019

⁶

setting this would reduce available space, which we know has an important role in developing children's social and communication skills as well as physical skills⁷⁸⁹. Space is particularly important for children with SEND¹⁰ and from disadvantaged backgrounds¹¹. This risk can be mitigated by option 2 (introducing a cap on the number of places that can be offered).

Settings may also incur additional costs (such as higher heating bills or the cost of employing additional staff to care for more children) and it would be for providers to determine whether the benefits (such as additional revenue from delivering additional places) outweighs any associated costs. Providers should be aware that any non-compliance with the EYFS (including in relation to any free-flow requirements in the future) may affect their suitability to remain registered with Ofsted or their childminder agency.

⁷ [Motor competence and characteristics within the preschool environment - PMC \(nih.gov\)](#)

⁸ [Full article: The physical indoor environment in ECEC settings: children's well-being and physical activity \(tandfonline.com\)](#)

⁹ [Measuring the quality of movement and play in Early Years settings](#)

¹⁰ American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs. 4th ed. Itasca, IL: American Academy of Pediatrics; 2019

¹¹ [Making Connections with Their World](#)

Questions relating to option 1: Include free-flow outdoor space in the space requirements (without a cap).

16. Are you in favour of option 1 (to include free flow outdoor space without a cap)?

- YES / NO

17. What do you see as the benefits of introducing this change, if any?

Recommended response = not more than 300 words

18. What do you see as the risks of introducing this change, if any?

Recommended response = not more than 300 words

19. Are there any changes you want to suggest to maximise the benefits and/or mitigate the risks of introducing this change?

Recommended response = not more than 300 words

20. Do you think the wording below adequately describes free-flow access and takes into account the health, safety and wellbeing of all children?

"Free-flow outdoor areas may also be included in these measurements for children aged 2 years and above. For an area to be defined as 'free-flow', doors to the outdoor area must be open and the outdoor area accessible to children at all times. Children must have safe access in all weathers including having adequate shelter and shade. The area must be suitably equipped to meet the health, safety, wellbeing, learning and development needs of all children."

- YES / NO

21. Are there any changes you would suggest to the wording of the proposed free-flow requirement that still aligns with the free-flow principle of children being able to safely use the outside area at all times?

Recommended response = not more than 300 words

Questions relating to option 2: Include free-flow outdoor space in the space requirements (but with a cap on how much providers can use this to increase their capacity, for example to prevent overcrowding).

22. Are you in favour of option 2 (to include free flow outdoor space but with a cap, for example to prevent overcrowding)?

- YES / NO

23. If you agree with introducing a cap, at what level should it be set?
[TICK ONE BOX ONLY]

- 5%
- 10%
- 15%
- Other – Insert percentage

24. What is the reason for your ideal cap?

Recommended response = not more than 300 words

25. What do you see as the benefits of introducing this change, if any?

Recommended response = not more than 300 words

26. What do you see as the risks of introducing this change, if any?

Recommended response = not more than 300 words

27. Are there any changes you want to suggest to maximise the benefits and/or mitigate the risks of introducing this change?

Recommended response = not more than 300 words

Section 2 – Other questions about the indoor space requirements

- We want providers to be able to increase their occupancy, but we do not want any changes to the EYFS statutory frameworks to compromise the safety and welfare of children. This is why we are also seeking views on alternative ideas on how we might change the indoor space requirements, and whether they should remain unchanged.

Other ways to change the space requirements

28. Please could you share any alternative ideas (which are alternative to options 1 and 2 above) on how we might change the indoor space requirements to give providers more flexibility to create additional places to meet demand in a way that meets the needs of the children, including any reasons for your ideas?

Recommended response = not more than 300 words

Maintaining the current space requirements

29. Do you think we should leave the current space requirements as they are?

- YES / NO

What are your reasons for this?

Recommended response = not more than 300 words

Section 3 - Equality impacts

This section asks for your help in identifying any potential impacts of our 2 options on people with particular protected characteristics (as defined by the Equality Act 2010). The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race (including ethnicity), religion or belief, sex, and sexual orientation.

Question on equality impacts

30. Please outline any comments you may have about the potential impact of these options (either positive and/or negative) on people with particular protected characteristics and any suggestions of how the department and/or settings could mitigate against negative potential impacts?

Recommended response = not more than 300 words

Annex: Glossary of terms

Consultation

The process of obtaining comments, views and responses from relevant sources for the purpose of reaching a well-informed and fair decision.

Childcare

Any form of care for a child, including education and any other supervised activity for a child as defined in section 18 of the Childcare Act 2006.

Childminder

A person registered with Ofsted in the Early Years Register or with an early years childminder agency (CMA) as an early years childminder with or without domestic premises. Childminders can work with up to three other childminders or assistants.

Childminder agency

Childminder agencies are organisations that register childminders and providers of childcare on domestic premises¹² as an alternative to Ofsted. In addition to the registration and quality assurance of childminders, childminder agencies also help childminders with training, business support, advice and finding parents. Parents can also use childminder agencies to find a childminder. Childminder agencies are inspected and regulated by Ofsted.

Early Years provision

Provision of childcare for a young child aged from birth up to the 1 September following the child's fifth birthday.

Group-based setting

A person registered with: Ofsted in the early years register to provide early years childcare on domestic premises or early years childcare on non-domestic premises; or an early years childminder agency (CMA) to provide early years childcare on domestic premises

School-based setting

Schools and independent educational institutions in England that provide early years provision for children aged 2 and over at the school or institution as part of the school or institution's activities, and in respect of which they are exempt from registration by section 34(2) of the Childcare Act 2006.

Maintained Nursery Schools

Local authority-maintained schools for 2-, 3- and 4-year-olds.

Provider Pulse survey

A short, online survey sent by DfE to a sample of group-based providers, school-based providers and childminders. Results are weighted to be nationally representative of these provider types in England.

¹² "Childcare on domestic premises" refers to provision by a group of four or more persons (or, for those who applied to register on or after 1 November 2024, a group of five or more persons) where some or all of that provision is on domestic premises but which is not childminding by virtue of sections 96(5) and (9) of the Childcare Act 2006.

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