

## ASSOCIATION OF TEACHERS AND LECTURERS

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**Extending the free early education entitlement:  
discussion document on a new code of practice**  
*Response from the Association of Teachers and Lecturers*  
**8 January 2010**

ATL, as a leading education union, recognises the link between education policy and our members' conditions of employment. Our evidence-based policy making enables us to campaign and negotiate from a position of strength. We champion good practice and achieve better working lives for our members.

We help our members, as their careers develop, through first-rate research, advice, information and legal support. Our 160,000 members – teachers, lecturers, headteachers and support staff – are empowered to get active locally and nationally. We are affiliated to the TUC, and work with government and employers by lobbying and through social partnership.

### **ATL policy**

ATL believes that teachers as professionals must be recognised for their knowledge, expertise and judgement, at the level of the individual pupil and in articulating the role of education in increasing social justice. Within national parameters, development of the education system should take place at a local level: the curriculum should be developed in partnership with local stakeholders; assessment should be carried out through local professional networks. Schools are increasingly encouraged to work collaboratively with each other and with other providers of education and care, to offer excellent teaching and learning, and to support pupils' well-being, across a local area. Accountability mechanisms should be developed so that there is a proper balance of accountability to national government and the local community, which supports collaboration rather than competition.

### **ATL response**

Children are entitled to the best quality early years provision, regardless of the setting in which they access their education and care. ATL believes that:

- ♦ Children are entitled to high quality provision where their needs and interests should take precedence.
- ♦ A well-qualified, highly skilled (and properly paid) workforce with access to a well-resourced system of continuing professional development is central to the provision of high quality early education and childcare.

- ♦ Quality of provision must be consistent across providers, with support available as needed, and accountability at the highest reasonable level.

We believe that the extension of the free entitlement must be managed so that it offers real benefits to children's learning and development, as well as being manageable for providers. To this end, we would expect the DCSF to conduct a full and comprehensive impact assessment of the proposals to extend the free early education entitlement on children's learning and development.

Schools are most likely to encounter particular issues as they put the extended free entitlement into practice, and feedback from the pilots tells us that teachers and support staff are concerned about possible contractual implications as well as the likely impact on workload, curriculum planning, relationships with children, and partnerships with parents and other providers. ATL would therefore expect an impact assessment to include considerations of the effects of the new entitlement on different types of provision as well as on education staff.

We continue to have specific concerns with the implementation of the flexible entitlement as set out in our previous response.

### **Clarity**

ATL does not believe that the Code of Practice is as clear as it could be. We do not have the capacity to identify the range of paragraphs where clarity could be improved, but our members have identified paragraph 3.3 as a particular example.

The lack of clarity of paragraph 3.3 leaves room for interpretation by local authorities. This could mean that LAs, for example, might expect some providers to offer sessions at the outer limits as a matter of course, or to expect all providers to offer sessions at the outer limits in extreme circumstances. It would be clearer for the Code to state that, 'local authorities are not expected to require providers to offer sessions at the outer limits'.

In general, although we understand that the Code can only use the word 'must' when it is a legal requirement, continuing use of 'should' is open to wide misinterpretation. We are concerned for example that this does not give sufficient clarity for Local Authorities to raise quality where providers are not in agreement with their judgements. We also highlight below members' concerns about the lack of clarity around provider agreements and parental contracts.

### **Flexibility**

ATL still does not believe that the national parameters set out in the Code are entirely right to meet the requirements and needs of children and their parents or carers. Although we recognise that parents/carers who work outside the home are likely to need safe spaces for their children for longer sessions per day (and potentially across different shift patterns), the entitlement offered is in fact to free early *education*. Studies on the Effective Provision of Pre-school Education (EPPE) carried out by the University of London Institute of Education concluded that full-time attendance at pre-school settings led to no better gains for children than part-time provision.

ATL believes that it is not possible for children to access high quality education consistently across 10 hours in a day. On the contrary, in our view, children who access consistent and shorter hours are likely to spend more time in playful, interactive and independent learning. We are concerned, therefore, that setting the parameters in the proposed way will devalue the concept of children's learning or will place added pressure on providers to ensure productive outcomes from all 10 hours. We also believe that parents/carers must be provided with good information, in order to ensure that they understand the difference between high quality early learning and high quality childcare, and that they can appreciate the compromises they may need to make in accessing their entitlement to support their working patterns.

ATL is equally unconvinced about the new models proposed in the Code (9+3+3 hours or 6+6+3 hours across 3 days). For schools in particular, these models give rise to difficulties in providing consistent staffing, curriculum planning for equal access, and provision of food and rest/sleep for young children. However, it is possible that these models could work if developed in partnership between schools and other providers. We do not see the need for specified models at all, and would suggest that the DCSF develops case studies of effective ways in which LAs have designed flexible provision, particularly based around partnerships of providers.

We agree that most settings, and schools in particular, will not be able to offer full flexibility of provision so that parents/carers can access provision whenever they need it across a week. We also believe that this would not be desirable for children's learning: young children need to spend time with familiar adults and with predictable groups of peers if they are to develop supportive and consistent relationships and learn how to make friends.

ATL agrees that parent contracts could be used to ensure that parents/carers and providers share the responsibility for ensuring that children benefit from early education, and that parents and providers know what to expect from each other. We are pleased that the Code acknowledges that flexibility could be developed by providers working in partnerships, and that there should be agreements between those providers. We believe this should also include the development of contracts between parents/carers and both providers jointly rather than between parents/carers and individual providers. This ensures that providers understand their responsibility to each other for the children's learning, and helps to develop good quality.

However, ATL is concerned that there appears to be very little clarity about what providers, parents/carers or the local authority can do if any party does not fulfil their part of the contract. We are already hearing from members about parents/carers who are unable to start or end their days at the times agreed because of the need to leave and collect older children. This is disruptive to individual children and to the rest of the group and also often has an impact on staff who may have to be available after hours, but has no easy answer. Contracts without sanctions appear useless; but it is not obvious that sanctions would be correct in this example, what those sanctions might be nor who would apply sanctions even were they to be correct.

We agree that there should be a limit on the number of providers for each individual child, in order to minimise the disruption to children and to support continuity of provision. It is not clear over what period the limit applies. We continue to argue that, although a maximum of 2 providers appears sensible in the short term, over the course of a year this may need to change to reflect the changing needs of children, particularly as the 'stretched' offer is developed. For example a child might take up their free education in a school nursery class and with a childminder during term time, but with a different 'holiday' provider as well as the same childminder during school holidays. What is important is that the LA supports these providers to work in partnership to the benefit of the child without placing undue burdens on staff.

### ***Local Authority Role***

It is right that Local Authorities ensure that the entitlement is offered across an area, perhaps working with the Children's Trust. Local Authorities also have a key role to play in brokering and supporting partnerships between providers, and we believe that the guidance should reflect this more strongly. ATL believes that clearer statements must be made about the benefits of providing the flexible entitlement in partnerships, and would recommend a much stronger statement that providers are not expected to offer the full flexible entitlement by themselves.

We agree with the principle of Provider Agreements, and in particular that those Agreements must cover issues of quality as well as availability. However, the guidance is not clear how those Agreements will be enforced, how binding they are and what sanctions are available. This is particularly problematic where quality is at issue. Local Authorities face a huge struggle currently to close down premises where quality is consistently low, and sometimes face even bigger struggles to raise quality from satisfactory to good where providers are content to remain satisfactory. Although funding may be withdrawn, this can only be the case in LAs with enough good quality provision to maintain the early years entitlement. It is not clear what power the LA has if large numbers of parents/carers opt to place their children with a lower quality provider, for one reason or another, and we have some concerns about the lack of clarity about whose judgement is paramount where a particular minority group states that a provider meets their needs even though the LA believes that quality is poor.

### ***Quality***

ATL fully agrees that the free education provision should be of the highest quality. We believe that high quality early education depends on four factors:

- ♦ well-qualified, knowledgeable and skilled staff who have access to continuing professional development
- ♦ well-resourced learning environments which are stimulating, exciting and safe, which promote children's imagination and curiosity and which acknowledge the importance of play
- ♦ routines and procedures which are centred around the child
- ♦ parents and carers who are valued as partners with a crucial role to play in their children's education and care.

While it is important that individual settings offer a high quality education, it is also vital that the system as a whole is of high quality. The LA has a pivotal role in supporting partnerships between providers (including maintained and independent schools), developing joint professional development and supporting smooth transition between settings on a daily/weekly basis and at key points such as starting school.

It would appear to be the right approach to put an expectation in the Code of Practice that LAs deliver the free entitlement through providers who are leading the way in terms of quality and continuous improvement, but we are still not convinced about the quality measures to be used. Although we hear good reports of EYQISP from those who use it, most of our members in schools do not use it nor is it widely known. It is not clear from the guidance how much of an expectation there is that LAs and providers will use EYQISP. Nor is it clear how, nationally, quality can be assured if there is not a consistent, statutory, measure of quality which all providers will use. Those of our members who have used EYQISP raise questions about how conflicting judgements from Ofsted and EYQISP will be reconciled. We hope that DCSF will carry out further work with providers and other early years experts to develop a shared and universal concept of quality.

## **Conclusion**

ATL continues to be concerned about the impact of flexible provision on children and on our members in maintained and independent schools and nursery schools. We set out a range of these concerns in our response to the previous consultation and we hope that Government will take them seriously and resolve them through Social Partnership where appropriate.

We believe that the entitlement to free early education must ensure children the best chances to learn and develop.

ATL calls on the government to evaluate the impact of different provision, partnerships and take-up on children's experiences and learning, parents and staff.

We believe that the Code of Practice must be clearer about the importance of partnership between providers in offering the flexible, extended entitlement. This must point to the role of Local Authorities in brokering and supporting, so that teachers, support staff and school leaders do not bear the brunt of setting up and administering those partnerships. It must also be clearer about the implementation and enforcement of provider agreements and parent contracts. The Code will also need to give consideration to the different issues which partnership working will raise in rural and urban areas. We would expect to see a rural impact assessment of the policy of local flexibility.