



Department
for Education

Childcare free entitlement: delivery model

Government consultation

Launch date 03 April 2016

Respond by 08 June 2016

Contents

Introduction	4
We've done a lot to help families already ...	4
...and we intend to do more	5
A generous funding settlement	5
The Childcare Bill	6
Driving up the quality of childcare	7
Consultation and discussions	8
Early implementers	8
Who this is for	9
Issue date	9
Enquiries	9
Additional copies	9
About this consultation	10
Opportunities for reform	10
Making sure there are enough childcare places available	11
Increasing flexibility to meet parents' needs	12
Ensuring that disabled children and those with with additional needs are able to access the entitlement	13
Reforming the local authority role	13
Making sure that parents have access to information	14
Our commitment to two-year-olds	15
Chapter 1: Eligibility	16
Eligibility	16
Grace period	17
Proposal: the 'grace period'	18
The summer term	18
Exceptional circumstances: the 'grace period'	19
Questions on the 'grace period'	20
Chapter 2: Flexible Provision	21
Current Status	21

Proposed Change	22
Questions on Flexibility	24
Chapter 3: Supporting Special Educational Needs and Disability	26
Current Status	26
Proposed Change	28
Questions	31
Chapter 4: Reformed LA delivery model	32
Current status	32
Proposed change	32
Prompt payment	33
Model agreement	33
Number of providers	35
Questions	35
Chapter 5: Information to parents	36
Current Status	36
Proposed Change	37
Questions	37
Additional questions:	40

Introduction

This government is delivering on its commitment to double the amount of free childcare for working parents of three- and four-year-olds. Every child deserves the best possible start in life and that's why *all* three- and four-year-old children and the least advantaged two-year-olds can already access 15 hours a week of high-quality early education to prepare them for school and to improve their life chances.

But we know that the main reason families struggle to get out of poverty is a *lack of sufficient income from parental employment*. Our commitment to improved life chances and social justice means that we are giving working parents 30 hours per week of free childcare for their three- and four-year-olds. These childcare reforms will have a significant, positive impact on families, helping to give children the best start in life, and making childcare more affordable for parents so that they can take up work, or work more hours.

It is also important to ensure that parents are able to better combine work and caring responsibilities, so that they are able to work in jobs that match their skills and that those who want to work more can. This is particularly important for women's labour market participation as, while progress has been made, gender inequalities in employment remain. Much of this relates to childcare: according to the 2012-13 DfE childcare and early years survey of parents, over half (54%) of non-working mothers agreed that they would like to go to work if they could arrange good quality childcare that was convenient, reliable and affordable. There is potentially a huge economic prize from enabling women to play a fuller role in the economy. The Organisation for Economic Co-Operation and Development (OECD) have estimated that equalising the role of men and women in the labour market could increase GDP by 10% by 2030.

We've done a lot to help families already...

Good-quality childcare has been at the heart of the government's agenda since 2010. In that time we have already:

- extended the **universal three- and four-year-old** entitlement from 12 hours to 15 hours - with 96% of three- and four- year-olds now taking up a place;
- introduced the **two-year-old entitlement** – with survey findings suggesting that over 70% of eligible two-year-olds from disadvantaged backgrounds are now accessing their entitlement to 15 hours a week of quality early learning which we introduced in September 2013;
- invested over £50 million in the **Early Years Pupil Premium**, to further help disadvantaged children in the early years;
- legislated for **Tax-Free Childcare** under which up to 2 million working families will be able to benefit by up to £2,000 per child, per year from early 2017;

- increased the direct support for childcare costs from 70% under Working Tax Credits to **85% under Universal Credit** from April this year;
- supported parents to understand their child's development by publishing the ['What to expect when'](#) guide;
- introduced **shared parental leave (in April 2015) and committed to** extending it to grandparents;
- supported stay at home parents through the **marriage tax allowance** and through **changes to the pension system**;
- **increased quality** - last year 66% of children achieved a good level of development at the end of the early years foundation stage, an increase of 14% points since 2013;
- consulted on giving parents the **right to request wraparound care** for school-age children; and,
- created an **additional 230,000 childcare places**.

...and we intend to do more

Now we are going *even further* by doubling the entitlement to 30 hours of free childcare a week for working parents of three- and four-year-olds.

We are making good progress towards launching this offer nationwide from September 2017. We have enshrined the new entitlement in legislation in the [Childcare Act](#), carried out the first major review of childcare costs and committed to a significant increase in the hourly rate of funding; and announced the outcome of a competition to identify a small number of early implementer areas where parents will benefit from 30 hours free childcare a year early from September 2016. We are committed to making sure that the provisions in the Childcare Act 2016 work for parents, providers and Local Authorities.

The cross-government Ministerial Childcare Implementation Taskforce we have established is driving progress across the three major programmes which make up the government's childcare offer, including Tax-Free Childcare and Universal Credit as well as 30 hours free childcare for working parents of three- and four-year-olds.

By offering working parents an unprecedented 30 hours of free childcare, we will give mothers and fathers across the country real choice about how they balance raising their children with their working lives.

A generous funding settlement

Parents have repeatedly told us that childcare costs often outweigh the gains of returning to work after having a baby or increasing their hours; effectively making the costs of childcare a barrier for people who want to work. Yet evidence also suggests

that some childcare businesses also struggle to meet costs. Getting the funding right is essential for the successful delivery of the extended entitlement.

We have already announced plans to invest more to increase the number of hours available, and we are also increasing the hourly rate paid to providers delivering the free childcare entitlement for three- and four-year-olds, and for disadvantaged two-year-olds.

On 25 November 2015 the Chancellor announced that the government will invest an extra £1 billion per year by 2019-20 in the early education entitlements. This includes nearly £300 million per year from 2017-18 for a significant uplift to the national average rate paid to childcare providers for the two-, three- and four-year-old entitlements.

This is sufficient to increase the national average hourly rate for three- and four-year-olds from £4.56 to £4.88. The national average two-year-old rate will increase from £5.09 to £5.39. Decisions about future funding rates were informed by the Department's [Review of the Cost of Childcare](#). This is the most detailed review of its kind done at national level, and provides us with a strong evidence base on the drivers of costs for childcare providers.

The investment will take overall government investment in childcare, including through the Universal Credit and Tax-Free Childcare programmes, to £6 billion by the end of this Parliament - the highest ever investment in childcare.

Funding reform is essential to support flourishing local childcare markets across the country, in which providers can invest, grow, and create new childcare places for working parents. We have already announced plans for fairer schools funding, and will be consulting later this year on proposals for a fairer funding system in the early years, including on the funding rates to local areas.

We are committed to introduce an early years national funding formula to ensure that our increased investment is distributed on a fair and equitable basis between local authorities and between different providers. We have made clear our commitment to maximise the funding which reaches front line childcare providers, and will consult on proposals for achieving this as part of our consultation on early years funding reform later this year.

The Childcare Act

The Childcare Bill was introduced to the House of Lords on 1 June 2015 and successfully completed its final parliamentary stages on 2 February 2016.

Both Houses agreed on the text of the Bill which received Royal Assent on 16 March 2016.

Alongside the [Childcare Act](#) we published a [Policy Statement](#) setting out how the government intended to use the powers provided in the Bill. This set out the government's intention on issues such as who should be eligible for 30 hours free childcare.

During the passage of the Bill the government committed to consult in the spring on drafts of the regulations and statutory guidance, which will set out further technical detail on how we intend to implement the policy. A key purpose of this consultation is to seek views from external experts and practitioners on the draft statutory guidance, which is contained in the annexes. In addition, draft, indicative regulations are also annexed to this document.

Driving up the quality of childcare

We know that the first few years of a child's life are critical to shaping their future development. Evidence shows that early education in general has lasting positive effects on later child outcomes:

- The effect of attending any pre-school (compared to not attending) is equivalent to achieving an additional 7 grades at GCSE (i.e. 7Bs instead of 7Cs) and is especially beneficial for the most disadvantaged children and for those with low qualified parents.
- The impact is higher if a child attends for more months or if the pre-school is high-quality.

Ensuring that all children access high-quality provision remains a key priority. The Childcare Act 2006 introduced the Early Years Foundation Stage statutory framework which sets the standards for all childcare for children aged 0 to 5. The Early Years Foundation Stage ensures all children can benefit from high quality early years provision, whether or not funded by government under the free entitlement.

The quality of childcare in this country continues to rise, with higher numbers of young children achieving a Good Level of Development than ever before, and 85% of providers currently rated at 'good' or 'outstanding' by Ofsted. The quality and qualifications of early years staff has also continuously improved - in June 2015, the National Day Nurseries Association (NDNA) reported that 88% of settings it surveyed employed a graduate, up from 80% in 2014, and the early years and childcare provider survey 2013 reported that 87% of staff have a level 3 (A-level equivalent) qualification. The extension of the free entitlement to 30 hours for hard working families will build upon this, ensuring the provision of high-quality provision to all young children. We will continue to ensure that all early years providers maintain a clear focus on the experience of children and the quality of their provision.

Consultation and discussions

We have already undertaken a lengthy and detailed informal consultation process, reflecting the importance of the 30-hour entitlement to so many people.

19,300 members of the public responded to our online survey over the summer and we met 160 working parents and their employers at a series of events hosted at large employers like Rolls Royce, John Lewis and BT. These have helped us to understand what parents and their employers want and need from the 30 hours entitlement.

We have engaged extensively with childcare providers and local authorities as we have developed the policy for the extended entitlement.

Parents have praised the impact that the additional hours will have, saying they would “improve children’s stability and ability to form close friendships” and would “allow [them] to find more consistent arrangements”. One common theme was the desire for a simpler, more flexible childcare system in the future, which could include more hours at the start or end of the day or during school holidays.

Early implementers

The government has made clear its intention to roll out the extended free childcare entitlement for some families in certain areas from September 2016 in advance of full implementation from September 2017.

The Department for Education invited local authorities and providers to register their interest in implementing the extended free childcare a year early. We announced the eight successful areas on 2 February 2016 and we are delighted that some parents in York, Northumberland, Newham, Hertfordshire, Portsmouth, Swindon, Staffordshire and Wigan will benefit from the extended entitlement from September 2016.

These early implementer areas will:

- test provider capacity to deliver the entitlement in a way that suits working parents’ employment patterns and helps more parents to return to work or work more hours;
- test market innovation around sufficiency and flexibility of provision, and partnership working; and
- provide the government and local authorities with early intelligence on how it can refine the system in preparation for full implementation from 2017.

The government is also providing £4m to 25 additional local authorities so that they can develop innovative approaches to issues that currently create barriers to parents accessing free childcare in a way that works for them. These early innovator areas will

develop and share their approaches so that the system is ready to work for parents and providers from day 1 of full roll-out in September 2017.

Who this is for

- Local authorities
- Parents/carers
- Nurseries and other pre-school settings
- Childminders
- Health professionals
- Teachers/practitioners
- Academics
- Employers

Issue date

The consultation was issued on 03 April 2016.

Enquiries

If your enquiry is related to the policy content of the consultation you can email: 30Hours.CONULTATION@education.gsi.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: Coordinator.CONULTATIONS@education.gsi.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.

About this consultation

Opportunities for reform

We want our offer of 30 hours of free childcare to have a real impact on the lives of families, supporting parents who wish to earn more by reducing their childcare costs. This will involve more than simply legislation to double the number of hours for working parents.

To make a real difference, we must ensure that the right infrastructure is in place and that the market is able to respond to demand, so that all eligible children can access a place when they need it. The new extended entitlement provides government with an opportunity to work with local authorities to reform the delivery model to enable local authorities to deliver the entitlement more efficiently, in a way that meets parents' needs.

The delivery model for the existing 15 hours of free childcare for all three- and four-year-olds sees local authorities working with their local childcare market to ensure that there are sufficient free childcare places in their area. Currently 94% of three-year-olds and 99% of four-year-olds are accessing the offer of 15 hours of free early learning. Doubling the entitlement to 30 hours for working parents provides an opportunity to introduce reforms to the system so that it better meets the needs of parents, providers and local authorities, and supports local authorities in delivering the entitlement more efficiently.

We will need the market to grow and expand further to ensure there are sufficient places to meet local demand for our offer of 30 hours free childcare. We also want to take the opportunity to drive further improvements on issues such as the flexibility of childcare provision to match non-standard working patterns. That is why the Ministerial Childcare Implementation Taskforce has agreed the following principles for reform:

- simple for parents and providers to use, securing improvement to existing model;
- interact successfully and work with existing entitlement and government childcare schemes;
- create capacity cost-effectively and without driving up the cost of childcare;
- efficient for providers to administer and not add to their costs;
- at least as cost effective to administer as current delivery model and better value for money for government;
- not undermine the successful delivery of the first 15 hours for 3- and 4-year-olds;
- ensure that as many existing formal childcare providers as possible are able to take part in delivery of the 30 hours.

This consultation covers some of the aspects of implementation of the 30 hour free entitlement offer, particularly how this will be delivered by local authorities and how the offer will meet the needs of working parents. We are seeking opinions on the practical delivery of many of the items outlined above.

Alongside this document, we are also publishing draft, indicative regulations setting out details on eligibility, the role of local authorities, reviews of, and appeals against, unfavourable eligibility decisions by HMRC, information sharing and associated offences, financial penalties and publication of information for parents. We are also publishing draft statutory guidance, which set out the requirements on local authorities in relation to the two-, three- and four-year-old entitlements.

Making sure there are enough childcare places available

It is important that there are enough, high quality places available for parents who want them. Local authorities are required to secure sufficient childcare, as far as is reasonably practicable, for working parents or parents who are studying or training for employment, for children aged 0 to 14 (or up to 18 for disabled children) and will play a key role in ensuring that supply in local areas meets demand from parents. Introducing the new entitlement to 30 hours of free childcare for working parents of 3- and 4-year-olds will require the childcare market to respond to increased demand, which the government is confident can be achieved. We know that the majority of working families with three- and four-year-olds already use more than 15 hours of childcare. This means that many children will already be in a place and will not require a new one. However, it will be necessary to create some additional places, and we also need to ensure that capacity is in the right location to meet demand, and available at the times that working parents will need it.

The childcare sector is healthy, vibrant and expanding, and is now almost one-third larger than it was a decade ago. During the last Parliament it demonstrated its ability to respond to the extension of the free entitlement to disadvantaged two-year-olds, and we are confident it will do so again. The market has also continued to successfully deliver the three- and four-year-old funded entitlement. From 2011 to 2015, the number of providers delivering the 3- and 4-year-old entitlement has increased by over 7,000, reaching 43,800 in 2015. In total, the sector delivered an additional 230,000 childcare places in the last Parliament. Our extra £1 billion investment per year by the end of this Parliament will encourage more providers to create and deliver new childcare places.

We will continue to support growth and the creation of new places to deliver the 30 hours funded entitlement through investing at least £50m of capital investment to support the creation of additional early years places. This is in addition to our commitment to capital funding to create nursery provision as part of new Free Schools which we estimate will create at least 4,000 places.

It is important to recognise that it may not be the case that providers should provide more of the same, and in the same way. Already providers work together in partnership to deliver seamless offers of care for parents across the full day. For example, sessional providers like schools, working with childminders to provide wraparound care. We are facilitating partnerships between providers by making it simpler and easier for schools and childcare providers to work together to increase the amount of childcare available on school sites. Providers only need to register once to open in multiple locations and childminders can now spend up to half of their time working on non-domestic premises. We have also introduced childminder agencies, which will make it easier for childminders to work with other local providers, as well as providing support on setting up and running a small businesses and providing regular training to childminders. Childminders are increasingly important providers with just over 11,000 three- and four-year-olds now accessing funded hours through childminders - 83% of childminders are rated good or outstanding.

Increasing flexibility to meet parents' needs

The current regulations made under section 7 of the Childcare Act require local authorities to secure 570 hours a year of funded early education over no fewer than 38 weeks of the year.

Statutory guidance states that sessions should be no longer than 10 hours or shorter than 2.5 hours and should be delivered between 7am and 7pm. The guidance also establishes that parents can access their child's full early learning place in different patterns. For example, they could access it in sessions of 5 hours per day for 3 days a week or for 3 hours per day for 5 days a week.

Within these limits, there is already scope to allow a good deal of flexibility; for example, the entitlement can be offered at weekends and it is also possible to stretch by taking fewer hours over more weeks of the year, enabling parents to access the entitlement during term-time and the school holidays.

However, we know that that these patterns may not be suitable for all parents, and similarly that not all providers will be able to deliver all patterns of early learning places. Our own discussions with parents highlighted several areas where flexibility might be increased. These include:

- the availability of childcare in early mornings or late evenings to cover work patterns;
- different types of provision for children with special educational needs and disability;
- flexibility to access childcare over a specific number of days.

There is also an opportunity to increase flexibility for providers, for example, by giving them more discretion over the minimum session length over which funded hours should be delivered to support partnership between schools and childcare providers.

Ensuring that disabled children and those with additional needs are able to access the entitlement

The legal framework is very clear that all children should be able to access the current universal free entitlement and in the future all eligible children should be able to access the extended entitlement. No child should be unable to access a place because of their additional needs. All early years providers are required to have arrangements in place to identify and support children with special educational needs (SEN) and disabilities, and to promote equality of opportunity for children in their care. These requirements are set out in the Early Years Foundation Stage (EYFS) Framework 2014, alongside the [SEND Code of Practice: 0-25 years](#) which provides guidance for early years providers on how children with SEN or disabilities are to be supported.

In September 2014, the Children and Families Act introduced the biggest reform to the SEND system for 30 years. The Act introduced a new 0 to 25 years age range and in doing so placed a key focus on 'early identification', and putting in place effective provision. New duties were introduced for local authorities, health care providers and early years providers to work together and jointly commission services to ensure that the focus of reforms were delivered for parents and children. However we are aware that parent carers still encounter difficulties accessing childcare and these barriers need to be addressed.

We recognise funding is an issue and SEN funding in early years will be considered as part of our consultation on early years funding reforms later this year.

This consultation considers the role of local authorities in ensuring children with special educational needs or disabilities can access the free entitlement.

Reforming the local authority role

In addition to the S6 duty to secure sufficient childcare for working parents described above, English local authorities also have a number of other statutory duties under the Childcare Act 2006. These include:

- the duty to secure early years provision free of charge;
- the duty to provide information, advice and assistance to parents and prospective parents, and
- the duty to provide information, advice and training to childcare providers.

We have attached draft, indicative regulations and updated draft statutory guidance and, through this consultation, we are seeking views on how we set out the core responsibilities of local authorities in the 30 hour entitlement and what these responsibilities should be.

We also want to consult on how to improve the delivery model, to ensure that the 30 hour entitlement is delivered efficiently, and supports local authorities to commission innovative provider models that deliver affordable places to meet the needs of parents.

We know that many local authorities enter into multiple individual agreements with providers, creating a burden for both the local authority and the providers. We have already limited the conditions that local authorities can place on providers through regulations, and want to build on this by exploring whether a standardised model agreement can make provider agreements more consistent and straightforward for providers and local authorities.

We also want to set out a standard process for prompt and regular payments, since we know that claiming payments can be complex and difficult, particularly for smaller providers such as childminders.

Making sure that parents have access to information

The government recognises that it is crucial that parents are able to easily access information about childcare and other services in their area, which is why, through the Childcare Act 2016, the government will now require local authorities to publish information which will support parents to make informed choices about childcare (Section 5 of the Childcare Act 2016 amends section 12 of the Childcare Act 2006). Local authorities are already under a duty to collect a good deal of information on childcare, and government's intention is to strengthen the current position, meaning that local authorities will not only have to provide this information but must publish the information as well. To ensure ease of access, we think that an online service is the most useful means by which to publish this information, though local authorities will still need to make provision for those who may have difficulty accessing the internet.

We also believe that it would be in the interest of local authorities to adopt more uniform practices for publishing information, as consistency across authorities would give them better business information, help provide parents living on local authority boundaries with childcare solutions and aid local authorities' own sufficiency reporting.

This section of the consultation will seek parents' and local authorities' views on the content, format and frequency of publication, in order to draw a balance between meeting the need for standardised, usable data without placing undue new burdens on local authorities.

Our commitment to two-year-olds

Early education for two-year-olds was extended in September 2014 to working parents in receipt of working tax credits and incomes of up to £16,190 and parents with children who have special educational needs (SEN) or an education, health and care plan (EHCP). The programme has been a major success. We have worked collaboratively with local authorities and across government to provide support, understand the barriers to achieving increased take-up and develop solutions.

Around 182,000 two year-olds are already benefiting from a funded early education place and this figure continues to rise. This represents significant progress for an entitlement already focused on those least likely to access formal early education.

We want to continue to support the two-year-old programme and to ensure that it continues to benefit children from lower income families.

Chapter 1: Eligibility

Eligibility

The extended entitlement is intended to support working parents with the cost of childcare and enable them, where they wish, to return to work or to work additional hours. This is *in addition* to the universal 15 hour early education entitlement which all three- and four-year-olds and the most disadvantaged two-year-olds will continue to access.

The government has already set out details of who will be eligible for 30 hours free childcare in the [Policy Statement](#) published alongside the [Childcare Act](#). As the Policy Statement explains, the additional hours will be available to families where:

- both parents are working (or the sole parent is working in a lone parent family);
- each parent has a weekly minimum income equivalent to 16 hours at national minimum wage or living wage; and
- neither parent has an income of more than £100,000 per year.

Working parents are busy people – that’s why the government has set out its intention to develop a single, seamless online childcare application system for parents wishing to apply for both Tax-Free Childcare and 30 hours of free childcare. This will allow working parents to apply for both schemes at the same time, creating a smooth customer journey and avoiding the need for them to provide the same information twice to government.

As part of the eligibility checking process, parents will need to declare that they expect to earn the equivalent of 16 hours national minimum or living wage on average each week over the next quarter. This quarterly declaration period has been designed to help those on fluctuating incomes, including those on zero hours contracts, to meet the criteria. Self-employed parents will be able to assess their expected income either over the next declaration period, or for the current tax year. Parents can be in receipt of any other form of childcare support and still access the extended entitlement.

Once children have had their eligibility confirmed, their parents will be able to access 30 hours free childcare at any participating provider with a free place at the right times. A local authority will then verify the eligibility of the children it is funding with each provider as part of their role to make sure that taxpayers’ money is appropriately used. We will be adapting the Department for Education’s existing Eligibility Checking System for the two-year-old entitlement and Free School Meals to support this new verification process.

Families where one parent does not work (or neither parent works) will usually not be eligible for these additional hours. However, we have included parents in some

circumstances who are temporarily away from the workplace. This will help families to maintain their childcare arrangements, supporting the transition back to work at the end of their parental leave or period of ill health and avoiding disruption to the child. It also avoids placing disproportionate administrative burdens on small providers of checking and identifying periods of leave (which can be as short as 1 to 2 weeks) and disruption to their business. Parents will therefore be eligible in the following circumstances:

- Both parents are employed but one or both parents is temporarily away from the workplace on parental, maternity or paternity leave;
- Both parents are employed but one or both parents is temporarily away from the workplace on adoption leave;
- Both parents are employed but one or both parents are temporarily away from the workplace on statutory sick pay.

In addition, parents will be eligible where one parent is in receipt of benefits relating to caring responsibilities or a disability and the other parent is working. This will help these households to maintain one parent in employment or enable them to increase their hours of work whilst supporting the other parent with their own needs. This will apply in the following circumstances:

- One parent is employed and one parent has substantial caring responsibilities based on specific benefits received for caring;
- One parent is employed and one parent is disabled or incapacitated based on receipt of specific benefits.

Parents will only be able to apply for the additional hours if they are resident in the UK, as is the case for Tax-Free Childcare.

Grace period

During the passage of the Childcare Bill, Ministers made clear that the extended entitlement is a work incentive but committed to putting in a place a 'grace period' for families whose circumstances change. The 'grace period' is intended to enable parents to retain their childcare place for a short period if they have become ineligible for the extended entitlement. This will:

- provide continuity for the **child**;
- give **parents** the opportunity to regain employment; and;
- give **providers** certainty that if they offer a place under the extended entitlement, they will not risk having an empty place immediately following those changes in circumstances.

This section sets out how the grace period could work in practice. We recognise that this is the first time that local authorities will be managing a 'grace period' in relation to

childcare. We want to minimise burdens where possible and avoid disruption for children, parents, local authorities and childcare providers. We are keen to understand what challenges there are in making the grace period work on the ground and hear any alternative proposals.

Local authorities and childcare providers will need to make clear to parents what their grace period arrangements are. It is important that parents are clear that they will **not lose their childcare place immediately** (i.e. as soon as they receive a decision from HMRC that they are no longer eligible).

DfE, working with HMRC at the national level, will ensure that parents understand that just because they become ineligible for the extended entitlement they will not lose their childcare place immediately.

Proposal: the ‘grace period’

Local authorities manage their markets, plan their places and fund providers in different ways. Many use a termly system; others have moved to quarterly funding periods. In any event, we know that local authorities and childcare providers will need to plan ahead and we expect that local authorities will need to check which children are eligible for a place at key points – e.g. at the start, mid-way through and at the end of the term or quarter. We are working to ensure that local authorities will be able to do this quickly and efficiently through changes to the Department for Education’s existing Eligibility Checking System.

When the local authority accesses the (adapted) Eligibility Checking System, there will be many children whose parents continue to be eligible and will therefore stay in their childcare place. The grace period will kick in for those children who are no longer eligible for the extended entitlement.

Local authorities should be guided by the point at which the child is no longer eligible. Put simply, a child who falls out of eligibility in the first half of the term / quarter will retain their childcare until the end of term / quarter. A child who falls out of eligibility in the latter half of the term / quarter will retain their childcare until mid-way through the following term / quarter.

The summer term

For those local authorities operating on a termly basis, we would expect the arrangements to be slightly different for the summer term. Where a child is shown as ineligible half-way through the term, the child should retain their place until the end of the term. Where they are shown as ineligible in the latter half of the term, we would expect the child to retain their place until the start of the following term in September.

The following examples illustrate how the 'grace period' might work in particular scenarios. These examples use a termly approach but local authorities could also use quarterly periods in the same way.

Scenario 1 – First Half of Term (Autumn and Spring terms)

Child A becomes ineligible during the first half of a term (up to the first day of the half-term holiday). They retain their childcare place until the end of that term.

Scenario 2 – Latter Half of Term (Autumn and Spring terms)

Child B becomes ineligible in the latter half of term (up to the first day of the Christmas or Easter holiday). They retain their childcare place until the end of the following half-term.

Scenarios 3 – Summer Term

Child C becomes ineligible in the first half of the summer term (up to the first day of the half term holiday). They retain their childcare place until the end of the term.

Child D becomes ineligible in the latter half of the summer term (up to the first day of the summer holiday). They retain their childcare place until the start of the following term in September.

Exceptional circumstances: the 'grace period'

We recognise that there may be circumstances where the grace period should be longer, e.g. where a parent/child is going through a review or appeals process to challenge a decision by HMRC that the child is ineligible, local authorities should plan on the basis that the child retains their childcare place until a final decision has been made.

We also recognise that there are extreme circumstances in which it is beneficial for the child's wellbeing to remain in childcare for a longer period than a term. For example, where a parent is living in a refuge as a result of domestic violence and who has had to leave paid employment in order to escape their situation. In such circumstances, we think it is right that local authorities should have the discretion to extend the grace period for a short time.

Questions on the 'grace period'

Q1 Does the use of terms or quarters to manage the 'grace period' achieve the government's objective to minimise disruption to children, parents, local authorities and providers?

- Yes
- No
- If no, please set out any alternative approaches that you think would be more workable.

Q2 Are there particular issues around 'summer-term' children that local authorities and childcare provides will need to manage more carefully?

- Yes
- No
- If yes, please explain/ set out any alternative approaches that you think would be more workable.

Chapter 2: Flexible Provision

The government is committed to ensuring that flexible and high-quality provision of childcare is made available to support hard-working parents. We know that parents' working patterns vary significantly, and we want to ensure that the existing and extended entitlements deliver childcare to meet their needs, as well as preparing children for school and improving their life chances. We carried out an extensive survey of 19,300 parents and 750 representatives from the early years sector in the summer of 2015 which helped to build a picture of the types of parental demand for funded childcare hours. We know from this survey that the most useful type of flexibility for parents would be a 'stretched' offer in which parents 'stretch' their 15 or 30 hours a week over more than the 38 weeks of the school year, enabling them to access childcare during the school holidays. A large number of respondents also indicated that they would like to be able to access their childcare over a specific number of days, for example over 3 days per week (as they can already do for the existing 15 hours), and a significant proportion would like to be able to access childcare in the early morning or later in the evening to cover shift patterns.

The proposals in this chapter are focused on supporting delivery of these types of provision although we recognise that there is no 'one size fits all' approach, and that the type of demand for childcare will vary from area to area and from parent to parent. The government will therefore be encouraging local authorities and providers to assess the types of demand for childcare in their area, and work in partnership to ensure that the market can respond to this demand.

Current status

There is already considerable scope for the existing entitlement to be offered flexibly. For example, the regulations and statutory guidance for the existing entitlement enable providers to stretch their entitlement by allowing parents to access fewer hours over more weeks of the year, and a number of them already do this. The government took the decision in 2012 to change statutory guidance to extend the period over which parents can access funded hours from 8am to 6pm to 7am to 7pm so that parents could drop off children earlier in the day or collect them later. The existing entitlement can also be offered in varying patterns across the week. For example, funded hours can be offered at weekends, and, at a minimum, the statutory guidance sets out that local authorities should enable parents to take the entitlement over 3 days for 5 hours per day or over 5 days for 3 hours per day. We know that a number of local authorities and providers are offering flexible provision, for example:

- Brighton and Hove City Council, where 82% of year-round nurseries offer a stretched entitlement;

- Swindon Council, which started offering weekend early education sessions in January 2016; and,
- Blackpool Council, where nurseries and childminders work in partnership to offer out-of-hours provision including weekends and evenings.

Although a number of providers do offer flexible provision, we know that there is considerable variation in this. In some parts of the country, for example, the North East where there are a large proportion of sessional providers, it is more challenging for them to offer flexible provision, such as beyond 9am to 5pm, alone and close partnerships with wraparound providers such as childminders will be important. In other cases, however, we know that providers choose to restrict the patterns in which they allow parents to access childcare to ensure that parents pay for some hours of childcare each day, in addition to their free government funded hours. To address this, we propose to clarify in statutory guidance that local authorities should not allow providers to artificially restrict the times during which the existing or extended entitlement can be taken in order to charge parents for additional less standard hours.

Proposed change

We have been engaging closely with local authorities, the Local Government Association and providers through our Local Authority Working Group and a number of stakeholder events to identify and address barriers to flexible provision. We are consulting on a number of possible changes to statutory guidance to enable the entitlements to be delivered flexibly to meet the needs of working parents, while maintaining high-quality provision to support children's developmental needs.

Supporting childminders or before and after school clubs to work in partnership with schools and Private, Voluntary and Independent settings (PVI) will be key to delivering flexible provision, particularly in areas where the majority of providers offer sessions rather than full-day childcare. The statutory guidance sets out a minimum session length of 2.5 hours that providers must deliver in order to be funded as part of the existing entitlement. We propose to remove this minimum session length outside the period of 9am to 3.30pm to enable providers to be funded for short-term 'wraparound' provision. This will build on the well-established notion of wraparound care for older pupils who are in school during the day. Keeping a minimum session length between 9am and 3.30pm would support providers' business models, since they would be guaranteed a period of continuous attendance, and it would also support children's learning outcomes. The existing minimum session length of 2.5 hours was devised for the existing entitlement when its duration was 12.5 hours, and we think that this should be increased to 3 hours between 9am to 3.30pm to reflect the fact that working parents will now be able to access 30 hours of childcare per week.

We know that a large number of parents need access to childcare in the early morning or later into the evening to cover shift patterns. That is why we changed the statutory guidance in 2012 to extend the hours over which funded provision can be taken to 7am to 7pm. We are proposing to extend this further to allow local authorities to fund provision from 6am to 8pm to further support parents who work in shift patterns. We will keep the maximum funded session length of 10 hours per day to protect the wellbeing of the child and to support a positive early education experience for them.

We know from the survey we carried out in the summer of 2015 that the most useful type of flexible provision for parents would be to stretch their entitlement over the year, including term-time and school holidays. We want to ensure that parents are able to access 30 hours of free childcare across the full year, and therefore propose to make it clear in regulations and statutory guidance that the extended entitlement should be offered over at least 38 weeks, and that it can be stretched across the full year, aligning it with the existing entitlement. We would, however, be interested in any examples of interest from local authorities, providers or parents in being able to compress their funded hours over fewer than 38 weeks, and any practical barriers to offering this type of provision.

As well as removing barriers in statutory guidance, the government is committed to identifying and removing practical barriers to local authorities delivering high-quality provision that is flexible for parents. In order to deliver flexible provision, we need to encourage more flexible types of providers to offer the free entitlement or increase the number of hours they deliver. Childminders, in particular, can offer flexible hours in a way that many sessional providers cannot, for example, through working with schools or PVI's to deliver wraparound provision, or by offering provision outside of term-time. We know that childminders also deliver high quality childcare, with 84% offering 'good' or 'outstanding' provision according to Ofsted.

Since currently 13.3% of the 45,041 childminders registered on the Early Years Register offer the existing entitlement, there is considerable scope to increase the number of childminders who offer funded hours. The government has removed many of the restrictions that were in place for childminders, such as requiring them to be part of a childcare network, and the requirement to be qualified to Level 3 or working towards being qualified at Level 3 in order to offer the entitlement. This has led to a significant increase in the number of childminders offering the existing entitlement, which we expect to continue. We have introduced further de-regulation from January 2016 by enabling childminders to spend half of their time operating from non-domestic premises, which will support childminders who want to work in partnership with schools or PVI's. In summer 2016, our School Partnership Project will produce practical help and examples for schools, childminders and PVI's who want to work successfully in partnership.

As set out in Chapter 4 on the Reformed Delivery Model, we recognise that prompt payment is a particular issue for small providers since they offer fewer places and

therefore have less cash flow which makes it more difficult to manage a limited balance sheet. We are therefore proposing changes to statutory guidance and the prompt payment code to encourage local authorities to pay providers on a monthly basis to support childminders and other providers to deliver the free entitlement. To increase the visibility of childminders, we will also set out in statutory guidance that local authorities should use their Family Information Service, as well as local Childminder Agencies (CMAs) if they are available, to publicise childminders and other flexible provision in their areas and help to match childminders with parents. We are continuing to support the development of CMAs who can support new and existing childminders to enter the market and to provide the flexible care that parents need.

There is an excellent opportunity to further explore and address barriers to flexible provision through early implementation, since 4 of the 8 early implementer areas and a number of the early innovators will focus on how to encourage flexibility in the extended entitlement. Early implementers and early innovators will also test innovative models of delivery and the ability of local markets to deliver particular types of flexible provision. Each of the early implementers have indicated that they intend to test partnership working between schools and childminders, for example, and we will be working with the early implementers and early innovators to understand which types of flexible provision might be saleable, and how the government can encourage growth of flexible provision.

Questions on Flexibility

Q3 What type of flexible provision would be most valuable for parents?

- Early morning or later into the evening
- Weekend
- Overnight
- Outside term time
- Other

Q4 What are the barriers to flexible provision?

- Restrictions on when the entitlement can be offered in regulations or statutory guidance
- Lack of clarity on when funded hours can be provided
- Planning restrictions
- Lack of willingness of providers to develop partnerships
- Perceived lack of parental demand

Q5 Do you agree that the proposed requirement on local authorities (to secure that the extended entitlement is provided over no fewer than 38 weeks) and

statutory guidance (to remove the 2.5 hour minimum session length outside the hours of 9am and 3.30pm, to increase the minimum session length to 3 hours between 9am and 3.30pm and to extend the hours when funded sessions can be delivered from 7am to 7pm to 6am to 8pm) will remove barriers to flexible provision? If not why not?

- Yes
- No

Q6 Which of the options below will have the most impact in encouraging providers to offer the extended entitlement?

- Encouraging monthly payment for providers
- Make it easier for providers to expand premises e.g. by reducing planning restrictions
- Opportunity to work in partnership (e.g. with schools or PVIs)
- Other (please state)

Chapter 3: Supporting Special Educational Needs and Disability

All children should be able to access their entitlement to 15 hours free early education for three- and four-year-olds, and, where eligible, 15 hours of free early education at age two and additional needs should not present any barrier to doing so. With the introduction of the extended entitlement we are committed to ensuring that all families have access to high quality, flexible and affordable childcare and the new entitlement should be available to all three- and four-year-olds of working parents. No child should have access to their entitlements restricted or denied because of a disability or special educational need. We want the 30 hour free entitlement to have a real impact on the lives of all working families and parents with disabled children should have the same opportunities as other parents.

We recognise that where parents are caring for a disabled child accessing work can be more difficult and that is why in the case of couple families where one parent is in receipt of benefits relating to caring responsibilities, the three- or four-year-old in that family will be entitled to the extended free entitlement.

Current status

Every child deserves the best possible start in life and the support that enables them to fulfil their potential. In September 2014 the Children and Families Act introduced the biggest reform to the SEND system for 30 years. The Act introduced a new 0 to 25 years age range and in doing so placed a key focus on early identification', and putting in place effective provision. New duties were introduced for local authorities, health care providers and early years providers to work together and jointly commission services to ensure that the focus of reforms were delivered for parents and children.

The role of early years settings is also set out in legislation.

The **Children and Families Act 2014** requires that all early years providers offering funded places must:

- have regard to the SEN and Disability Code of Practice (Code). This means that they must take it into account whenever they take action for children with SEN, for example, by putting SEN Support in place,
- co-operate with the local authority when making special educational provision for a child in meeting its duties to children with SEN,
- in the case of maintained nursery schools, appoint a suitably qualified Special Educational Needs Co-ordinator (SENCO). (Under the Statutory Framework for the Early Years Foundation Stage other early years providers (in group provision) are expected to identify a SENCO).

The **Equality Act 2010** is clear that early years settings:

- must not discriminate against, harass or victimise disabled children;
- must not discriminate directly, indirectly, or for a reason arising in consequence of a disability; and,
- must make reasonable adjustments for disabled children. This duty is anticipatory: settings must look ahead and anticipate what disabled children might need and what adjustments might need to be made to prevent any disadvantage.

The Special Educational Needs and Disability Code of Practice¹ is vital in underpinning these major reforms and provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014. The Code of Practice alongside the Early Years Foundation Stage should support children with special educational needs and disability to achieve good outcomes. To ensure that the Code of Practice is accessible to early years providers, the Department for Education has published an 'Early Years Guide to the Code'².

While the new approach is being embedded across the country we know that there is more to do to ensure that the early years plays a key role. High quality childcare in the early years has a significant impact on outcomes for children and these experiences are even more important for children with SEN or disabilities in their earliest years, where early identification and early intervention can have a positive impact on life chances and outcomes. However we understand that too often parents of disabled children face barriers and challenges to accessing early years provision; the Parliamentary Inquiry into Childcare for Disabled Children³ published in July 2014 presented the challenges some parent carers face in accessing childcare and data from the January 2015 early years census shows that only 43% of three- and four-year-olds with SEND received between 13 and 15 hours of funded early education compared to 60% for all other children in this age group. While the legal framework is clear that children with special educational needs and disabilities should be able to access early education and should not be disadvantaged, it is clear that there are still barriers to access, which need to be addressed.

1

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf

2

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350685/Early_Years_Guide_to_SEND_Code_of_Practice_-_02Sept14.pdf.

³<http://www.familyandchildcaretrust.org/sites/default/files/files/Parliamentary%20Inquiry%20into%20childcare%20for%20disabled%20children%20report.pdf>

We know that different local authorities have very different arrangements to channel additional funding to children with special educational needs and disabilities. We recognise that where funding is not well targeted, it can be a barrier to children with special educational needs and disabilities accessing their free entitlement, therefore we have committed to consider early years funding for children with SEND as part of a separate consultation on the early years national funding formula and associated funding reforms.

However the government is clear that funding is not the only issue. We also know that in some areas there is confusion about the role of local authorities and the role of providers in enabling access and in how to deliver childcare for children with special educational needs and disabilities.

Proposed change

Local authorities have very clear responsibilities to secure a free entitlement place for children in their area and clear duties under the Children and Families Act specifically regarding children with special educational needs and disabilities. For example under section 25 of the Children and Families Act 2014, local authorities have a duty to ensure integration between educational provision and training provision, and health and social care provision where this would promote wellbeing and improve the quality of provision for disabled children and young people and those with SEN. This requires close co-operation with education, health and social care partners to research, plan, commission and review services. This puts local authorities in the best place to have a strategic role in ensuring that children with special educational needs and disabilities are able to access early years provision and achieve positive outcomes from doing so.

The introduction of the new special educational needs and disability system has brought renewed commitment to this area which we intend to build on with the introduction of the extended free entitlement. We recognise the positive impact local authorities have had in ensuring children in their area are identified early and get the support they need by working strategically across services to plan and commission.

To ensure children with special educational needs and disabilities have the same opportunities as children without additional needs, we need to build on and share best practice. This was also demonstrated in the research report⁴ by Natalie Parish and Ben Bryant from Isos Partnership where examples of effective practice in planning,

⁴ [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445519/DFE-RR470 - Funding for young people with special educational needs.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445519/DFE-RR470_-_Funding_for_young_people_with_special_educational_needs.pdf)

identifying and supporting children with SEND were shown in case studies they developed with York, West Sussex and Newcastle-Upon-Tyne local authorities:

Early years inclusion funding (EYIF) – City of York

To respond to growing demand for support for children with special educational needs and in pre-school settings, the City of York undertook research and presented the evidence of the need for a new approach to the schools forum. School leaders agreed to invest funding from the schools block to support an increase to the early years inclusion fund to support children with special educational needs, who did not need an EHCP or statement of special educational needs, in pre-school settings (including maintained nurseries).

This fund was established in July 2011 and the increase agreed by the Schools Forum took effect from April 2015. The research carried out by City of York showed that by the end of 2013, almost 80 children with special educational needs in over 40 settings had been supported. An evaluation reported that the early year's inclusion fund had led to better identification of need, pupils making better progress, and better transition-planning with schools. Staff in pre-school settings reported that the support available had improved their confidence and skills in supporting children with special educational needs. This in turn has meant that all pre-school settings are fully inclusive, improving parental confidence, and reducing demand for places in the city's enhanced resource nursery.

Early years planning and review meetings – West Sussex

In each term a series of multi-agency early years planning and review meetings take place focusing on the needs of pre-school children with SEN.

These meetings receive referrals from community paediatricians, pre-school settings and other professionals.

The meetings focus on children's identified needs, the support that should be put in place, and what the next steps need to be, for example a consultation with an educational psychologist.

They also play a key role in gathering information that can be shared with the school when the child reaches school age, to enable better transition-planning and school-based support.

Early Education Additional Support Team (EEAST) – Newcastle-upon-Tyne

Early Education Additional Support Team (EEAST) – Newcastle-upon-Tyne
In Newcastle, the local authority has recognised the importance of effective planning, identification and early support for pre-school children with SEN. They have established EEAST which works as part of a wider multi-disciplinary team and has two principal functions. The first function is planning: EEAST work closely with local health services and other professionals to identify needs and plan provision. The second function is support: in addition to a high-needs panel, through which settings can access early years additional needs funding, EEAST are also able to provide advice, support, and equipment to settings. This combination enables them to provide swift support to pre-school settings so that they can meet the needs of pre-school children with SEN more effectively.

We are confident that where local authorities deliver provision for children with special educational needs and disabilities well, they have considered the duties under childcare legislation and SEND legislation carefully and put strategic and specified systems in place. These are systems that have been carefully considered to ensure that the role of the local authority in supporting early years settings in their area is clear and well understood. How support is provided varies in each local area and it is important that flexibility within the system to allow this tailored approach to continue.

We do not think that it is for central government to prescribe the support that local authorities should provide to early years settings in their area. However, we do believe that further clarity on local arrangements would lead to improvements in the system and relationships between local authorities and early years settings, leading to better support in place for children with special educational needs and disabilities.

We think that local authorities, using tools such as the Local Offer, should set out more clearly what support is available to early years settings. For example this support could include:

- **Providing additional funding to providers on a case by case basis** to increase providers' capacity to care for children with special educational needs and disabilities, for example to buy specific equipment or programmes.
- **Taking a strategic role in increasing parental confidence** in accessing the childcare market if their child has special educational needs and disabilities and ensuring that parents have the information they need to access childcare, for example through the Local Offer and where needed actively being involved in securing a place for the child with special educational needs and disabilities.

- **Specialist training and services:** this may include the offer of specialist training to increase providers' capacity or carrying out 'in setting' observations to support providers to identify children's needs and put in place appropriate support.
- **Supporting parents and settings at key transition points:** Such as when a child with special educational needs and disabilities first accesses a group setting and in preparing to transition into school.

We also believe that it is important that at a local level there is greater clarity on what level of support all early years settings who are funded to deliver free entitlement places are expected to provide as a minimum in all circumstances and what legal requirements apply to them, for example making reasonable adjustments and complying with the SEN and Disability Code of Practice.

Questions

Q7 Do you agree it would help if providers and local authorities were clearer in what SEND support was available in a setting or across the LA?

- Yes
- No
- If you would like to say why or more about where this should be set out, please comment in the box below:

Q8 Do you agree LAs should continue to have a strategic role in ensuring children with SEND can access childcare?

- Yes
- No

Q9 What types of support are you currently receiving from your LA specifically around SEND / what support are you providing (if an LA)? How are you currently funding this?

Q10 Is there any support you are not currently receiving / providing which you think would make a positive impact on children with SEND accessing childcare in your area?

Chapter 4: Reformed LA delivery model

Current status

The existing entitlement to free early education for all three- and four-year-olds and two-year-olds who meet the eligibility criteria is funded directly by government but delivered via local authorities. Local authorities are under a legal duty to make sufficient provision in their areas by working with local providers. Statutory guidance is clear that children should be able to take up the entitlements in a quality setting and that provision be flexible.

This model is extremely successful with 94% of three-year-olds and 99% of four-year-olds taking up a place. Around 182,000 two-year-olds from the 40% more disadvantaged families are also taking up a place. Local authorities have led these programmes effectively, ensuring that parents know about the entitlements, providing assistance to providers looking to set up or expand their provision, and to improve their quality.

The government will build on this success with the extended free entitlement for working parents. The new extended entitlement provides government with an opportunity to work with local authorities in reforming the delivery model to enable local authorities to deliver the entitlement more efficiently and reduce burdens for local authorities and providers.

Proposed change

Regulations made under the Childcare Act will place some additional duties on local authorities in respect of the delivery of the extended entitlement. In addition, local authorities will have to verify the eligibility of parents seeking to access the additional hours for three- and four-year-olds. We are carrying out a local authority New Burdens Assessment to set out how we will be reducing bureaucracy and burdens for local authorities in delivering the extended entitlement. We are committed to funding any new burdens.

Local authorities will be responsible for verifying that a parent has had their eligibility for the extended entitlement confirmed by HMRC. As set out in Chapter 1 on Eligibility, local authorities will be able to easily access data to do this through the Department for Education's existing Eligibility Checking System which we will be adapting for this purpose. Local authorities will also have a duty to publish information about childcare services in their local area in order to improve the breadth and quality of information to parents on childcare provision and support them in making decisions about which provider best suits their needs.

Prompt payment

We know from engagement with local authorities and providers that where local authorities do not have a regular and prompt payment system in place, this is a real issue. Especially for small providers, and particularly childminders. This is because they offer fewer places and therefore have less cash flow making it more difficult to manage a limited balance sheet. We want to support smaller providers such as childminders to enable them to offer the extended entitlement.

A large number of local authorities already have a prompt payment system in place which works well. To extend this across all local authorities, we propose to revise statutory guidance to make clear the expectation that local authorities should pay providers regularly, for example on a monthly basis, to promote the use of prompt payment. We also will make reference to the Prompt Payment Code within the statutory guidance to encourage local authorities to sign up to the Code.

174 councils already sign up to the Prompt Payment Code which encourages and promotes best practice between organisations and their suppliers. The aim of the code is to show providers that an organisation is an exemplar of prompt payment, committed to paying invoices on time. Signatories to the Code commit to paying their providers within the set deadline.

We want to use statutory guidance to clearly communicate expectations to local authorities and providers on prompt and regular payment. We will also work with local authorities to support them in developing IT systems to enable prompt payment.

Model agreement

The government has already made changes to the local authority role in delivering the existing entitlements to make it easier for new providers to enter the market and for existing providers to expand. For example, our reforms have ensured that if providers are delivering high-quality provision then they are guaranteed government funding to deliver early education places without having to meet additional local authority quality requirements. Additionally, we have limited the conditions that local authorities may place on providers which deliver early education places.

There is an opportunity to go further in the extended entitlement to encourage efficient delivery. Each local authority currently develops its own agreement with childcare providers in its area, and arrangements vary depending on local circumstances and provider characteristics. In some local areas, agreements can create administrative burdens for providers, particularly for those that work across more than one local authority area. Some chains, for example, work across more than 80 local authorities.

We would like to see local authorities working in closer partnership with providers to achieve the flexible, high-quality provision that is responsive to children's needs, including those with disabilities or special educational needs. We want to ensure that the system is simpler, can accommodate parents' working patterns and offers value for money. Additionally, we want to enable and support sustainability amongst existing providers as well as attracting new providers into the market. A more standardised and transparent approach is likely to make the local authority-provider relationship more effective.

We have engaged with a range of local authorities and providers who have indicated broad support for some sort of national, standardised agreement as this could help increase consistency of information and advice across authorities. A model agreement was particularly welcomed by those providers who work across several local authority areas, who felt that it could reduce administrative burdens.

We propose to include such a model agreement in statutory guidance, setting out the themes to include in agreements between local authorities and providers and making it clear that local authorities should not set additional conditions on providers.

We want to consult on the themes that should be included in every provider agreement, and propose the following:

- a. Local authorities' arrangements for prompt and regular payments;
- b. Expectations of providers in relation to providing access for children with Special Educational Needs and Disability;
- c. Local authorities and providers' approach to delivering flexible childcare to meet parents' needs;
- d. The procedure for providers to raise a complaint in relation to delivery of the extended entitlement;
- e. Local authorities' arrangements to ensure that providers are not constrained in the way they deliver the entitlement.

An example of how this could work in relation to theme (c) is that the model agreement would set out that local authorities and providers should work together to enable parents to be able to stretch their entitlement by taking fewer hours over more than 38 weeks of the year.

Following consultation we plan to convene an expert working group of local authorities and providers later this year to agree the content and design of the model agreement and how the agreement will best work in practice.

Number of providers

Evidence shows that most parents take the existing entitlement with one provider. However, with the extended entitlement to 30 hours, we anticipate that more parents will want to split their childcare provision; for example, parents may want to use one provider during term time and a different one during the school holidays during the school holidays; or to use wraparound providers such as childminders to drop off and collect their child from sessional providers.

We propose in our draft statutory guidance that local authorities should be able to fund a maximum of three providers per child for the existing and extended entitlement for the following reasons:

- to support the wellbeing of the child, since it could be detrimental for a child to have to move between more than 3 providers;
- to manage the burden for local authorities, which will have to split funding between providers delivering the entitlement;
- to support the sustainability of providers.

Questions

Q11 Do you agree with the proposal to encourage a monthly payment system?

- Yes
- No

Q12 Do you agree that a model agreement should include the principles set out in this consultation chapter?

- Yes
- No
- Do you think anything else should be included, or that anything should not be included? If so why?

Q13 Will a model agreement have a positive or negative impact on particular types of providers? If so which?

Q14 Should we limit local authorities to fund a maximum of three providers for the existing and extended entitlements?

- Yes
- No
- If you do not agree, please explain why

Chapter 5: Information to parents

To support the delivery of the 30 hour extended entitlement, it is crucial for parents to be able to easily access a wide range of information about childcare services in their area. We know from previous studies, including our most recent 2015 Review of Childcare Costs that a large proportion of parents feel there is too little information about childcare provision in their area.

We have already sought to improve the information available to parents through providing funding to childcare.co.uk, which has over 1 million users, to develop additional features and search options for its existing website and mobile app, to support parents' searches, particularly for funded entitlement offers. However, we believe that we could go further to ensure parents can find childcare that best fits their needs.

The proposals in this chapter set out our commitment to improving access to childcare information by strengthening the duty on local authorities, requiring them to not only provide information about childcare in their local area but publish that information as well.

Current status

Local authorities already have a duty to provide information to parents and prospective parents related to childcare provision and other services or facilities in their local area as set out in section 12 of the Childcare Act 2006. We know many local authorities provide this service via a Family Information Service, which also sets out information about Early Help and children's safeguarding arrangements.

We also know that several local authorities are already providing high quality online services on childcare information, for example:

- York Family Information Service with its open service directory and search function;
- Cornwall's Family Information Service, which allows parents to specifically search for two-, three- and four-year-old funded entitlement provision alongside other family support services.

Though there are many excellent examples of innovative services, the quality of online childcare information does vary considerably across local authorities. Some local authorities for example, only have a pdf file available or an online list of telephone numbers for local childcare providers.

Therefore, we want to ensure that all local authorities publish detailed information frequently and in a format that is most useful to parents.

Proposed change

In order to ensure that the duty improves the breadth and transparency of information available to parents, draft regulations set out that local authorities must publish the full range of information on childcare services set out at Schedule 1 to the Childcare Act 2006 (Provision of Information to Parents (England) Regulations 2007⁵. This information covers a range of data, for example, costs, time and duration of child care available, and Ofsted inspection outcomes. As this duty is specifically focussed on improving information about childcare available in the local area, we will continue to require that local authorities maintain a service that provides information about facilities and other services as listed at Schedule 2 of the 2007 Regulations.

Additionally, we know that local authorities receive frequent updates on some of this information, such as Ofsted registration status and inspection outcomes. Therefore, we believe local authorities should be updating this information as frequently as is reasonably practicable to make it as useful as possible for parents.

Usability and access is crucial to ensuring this duty improves the range and quality of childcare information available to parents. That is why we would like to prescribe that electronic publication should be the default method and encourage local authorities to publish this information in accordance with Open Data Standards in re-usable, transferable and machine-readable formats. Local authorities will still need to make arrangements to ensure parents that have difficulty accessing information online are provided with it. We also see that there are wider benefits to publishing in standardised, re-usable data formats for local authorities, who will be able to compare information across borders and more effectively assess their local childcare market.

We are therefore keen to collect local authority and parental views on the content, format and frequency of information that we will be asking local authorities to publish as part of this strengthened duty.

Questions

Q15 How often should information about childcare be updated and published for parents?

- Annually
- Every 6 months

⁵ <http://www.legislation.gov.uk/ukxi/2007/3490/contents/made>. Please note that while these are the most recent full set of published regulations, these regulations were amended by SI 2010/1172, SI 2014/1921 and SI 2015/1562.

- Termly (Autumn, Spring, Summer)
- Quarterly (e.g. Sept, Jan, April, July)
- Other

We want parents to have improved access to the information they need and recognise that having information in an accessible format is key.

Q16 We believe that electronic means, e.g. via a website is the most easily accessible format for parents. Do you agree?

- Yes
- No
- Not sure
- If you would like to say why or more about this, please comment below:

Schedule 1 of the current 2007 Regulations set out what type of information should be published (information of a prescribed description). This schedule can be viewed from this [link](#).

Q17 Is there other information directly related to childcare provision that could be helpful to parents that local authorities should consider collecting and publishing?

- Yes
- No
- If yes, please list the additional information that would be most useful to parents:

The draft statutory guidance gives more detail of how the government envisages this duty will be fulfilled.

Q18 Does the guidance clearly explain this new duty and how it will be fulfilled?

- Yes
- No
- If No, please say why:

Q19 Is there anything further which could usefully be included in the guidance, to help local authorities ensure all parents who need it have access to information about childcare? E.g. Guidance on a technical framework/technical schema which defines the format and structure of the data.

- Yes
- No
- If Yes, please say what this is:

Q20 Under the Children and Families Act 2014, an English Local Authority is required to publish sources of information, advice and support for children and young people with a disability, including information about childcare for children with a disability. This information is known as the 'local offer'. The Special Educational Needs and Disability Regulations 2014 set out the information which must be included in the local offer. We think the local offer is the right place for information and advice for parents on SEND provision in the early years. Do you agree?"

- Yes
- No
- If no, please say why:

Additional questions

Q21 Is there anything in these proposals which would prevent local authorities from meeting their duty to secure funded early education for two-, three- and four-year-olds?

Q22 Are there any particular groups of children and/or parents for which the impact of these regulations will be significant?

Q23 Are there any particular types of providers for which the impact of these regulations will be significant?

Q24 Is there any practical advice related to the regulations and their effect or implementation that you would like to see in the statutory guidance?

Q25 Is the guidance clear on what local authorities must do to discharge their statutory duties?



Department
for Education

© Crown copyright 2016

This document/publication (not included logos) is licensed under the terms of the Open government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/consultations



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk