Department
for Education

Early years funding – extension of the entitlements

Government consultation

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Respond by 8 September 2023

Contents

Ministerial foreword 3

Introduction 5

Who this is for 7

Issue date 7

Enquiries 7

Additional copies 7

The response 7

About this consultation 8

Respond online 8

Other ways to respond 8

Deadline 9

Section 1: National funding distribution for the entitlements for 2-year-olds and under 10

1.1 Changes to the entitlements and key principles for funding 10

1.2 New national funding formula 10

1.3 Other funding streams 15

Section 2: Impact of proposals 17

Section 3: Local authority funding formulae for childcare entitlements 18

3.1 Current rules for local authority funding formulae 18

3.2 The Universal Base Rate 19

3.3 The pass through rate 19

3.4 Disapplication from the pass through rate 20

3.5 Supplements 21

3.6 Special Educational Needs Inclusion Fund (SENIF) 22

3.7 Local consultation on early years budgets 22

3.8 Monitoring compliance 23

Section 4: Equalities Impact Assessment 24

Ministerial foreword

This Government is committed to supporting families in accessing high quality, flexible and affordable childcare. This helps children learn in those crucial early years and supports the economy by enabling parents to work and have the freedom, support and choice to look after their children in the way that works best for them.

That is why, in the Government's 2023 Spring Budget, the Chancellor announced genuinely radical reforms to childcare. With this announcement we are taking action to close the gap between parental leave ending and the current childcare offer for working parents, by extending our 30 hours free childcare offer from the point their child is 9 months old continuously through their early years to the start of school – removing the barriers to work.

We know that 30 hours childcare per week for parents of children aged 3 and 4, which we introduced in 2017, has a strong impact on supporting families and mothers to work and has already benefited hundreds of thousands of children. Building on the current 30 hours offer, this expansion will help even more working parents with the cost of childcare and make a real difference to the lives of those families.

From April 2024, working parents of 2-year-olds will be able to access 15 hours of free childcare per week for 38 weeks of the year from the term after their child's 2^{nd} birthday, benefiting parents of up to 285,000 children. This will be extended to working parents of 9 month to 3-year-olds from September 2024, benefiting parents of up to a further 355,000 children. And from September 2025, all working parents of children aged 9 months up to 3 years will be able to access 30 hours of free childcare per week.

The investment we are making in the expanded entitlements follows on from the significant additional funding we announced for the existing childcare entitlements offers and other early years funding streams for current financial year from September 2023, and for 2024-25. For 2023-24, £204m of supplementary funding will be paid to local authorities to enable them to increase the amount of funding their early years providers receive for the period September 2023 to March 2024. A further £288m will be allocated to local authorities through the Dedicated Schools Grant in 2024-25.

In total, by 2027-28, this Government expects to be spending in excess of £8bn every year on free hours and early education, helping working families with their childcare costs. This represents the single biggest investment in childcare in England ever.

With this significant increase in government spending, it is vital that the funding is directed to where it is most needed and can do most good, and this consultation sets out our proposals for distributing this investment fairly and efficiently across England.

We have also set out our proposals for the local funding framework within which authorities will be expected to pass the money on to providers. This is intended to give authorities the support and flexibility they need to support delivery of the childcare offers whilst ensuring funding reaches providers in a fair and transparent way.

We look forward to receiving your responses to this consultation.

Claire Coutinho MP

Minister for Children, Families and Wellbeing

Introduction

The Department for Education has spent over £3.5 billion in each of the past three years on our early education entitlements.

Already, around 348,000 children aged 3 and 4 are registered for a 30 hours place, which can save eligible working parents up to £6,000 per child per year.

All children can access 15 hours of free early education for 38 weeks of the year, from the term after they turn 3 until they start school. We also provide a 15 hours free early education offer for the most disadvantaged 2-year-olds. These entitlements can also help to reduce the costs of childcare for parents, although their primary purpose is to support children's development and help prepare them for school.

We understand that parents value high-quality, affordable childcare and recognise that cost of living pressures are affecting families across England. We want to ensure that families can access the support they need to save money on their childcare bills and enable parents the flexibility to work, return to work or work more hours if they want to. The key objective of this announcement is therefore to support parental participation in the labour market, which is why this new offer is conditional on work. Parents working the equivalent of 16 hours a week (earning the National Minimum Wage or Living Wage) will be able to benefit from this offer.

We are now taking action to embed a smoother system which helps families by removing the barriers to work and ensuring that parents have an earlier opportunity to benefit from government support. In addition to the current 30 hours offer, expanding this entitlement to around 640,000 younger children across England will help even more working parents with the costs of childcare and make a real difference to the lives of those families.

We are expanding the free childcare offer so that eligible working parents in England will be able to access 30 hours of free childcare per week for 38 weeks per year from the term after their child turns 9 months to when they start school.

- From April 2024, working parents of 2-year-olds will be able to access 15 hours of free childcare per week (38 weeks a year),
- From September 2024 this will be extended to parents of 9 month to 3-year-olds, and
- From September 2025 working parents of 9 month to 3-year-olds will be able to access 30 free hours per week (38 weeks a year).

To deliver these expanded offers, we expect to provide over £4.1 billion a year by 2026-27. This new offer will empower parents, allowing them to progress their careers and support their families.

Local authorities will continue to receive this funding, which they will distribute to providers offering the entitlements, and HMRC will continue to determine eligibility via the Childcare Service.

The process for parents claiming the entitlements will be the same as under the current system, with eligibility checks processed through HMRC. Parents will remain able to check what childcare support they are entitled to via the Childcare Choices website.

Approach to funding local authorities for the new entitlements

With the introduction of the new entitlements, and the significant increase in government spending on childcare, it is vital that we are distributing this funding fairly and efficiently across England. We are proposing to introduce a new funding formula to distribute entitlements funding to 2-year-olds and under from April 2024. We are also proposing to extend eligibility for the early years pupil premium (EYPP) and the disability access fund (DAF) to all children accessing the entitlements from April 2024.

New local funding rules

We also need to consider the rules which local authorities must follow when setting their own local funding formulae. The primary purpose of local funding rules is to ensure that the funding given to LAs for the entitlements is distributed fairly and transparently. The existing local funding rules relate mainly to the 3- and 4-year-old entitlements. With the expansion of the entitlements, we are proposing to extend all current rules to the existing offer for disadvantaged 2-year-olds and to the new offers for working parents of children aged 2-years-old and under.

Scope of the consultation

Some elements of early years funding remain out of scope for this consultation. This consultation focuses on the way funding for the entitlements for 2-year-olds and under will be distributed from the Department to local authorities from 2024-25, in light of the introduction of the new entitlements. We are also making proposals regarding the way in which local authorities, in turn, distribute this funding to their providers. As there are no changes to the entitlements for 3-and-4-year-olds, we will not be making any changes to the existing 3-and-4-year-old formula, aside from the regular updates to the underlying data. We are also not consulting on changes to the way in which maintained nursery school (MNS) supplementary funding is calculated and distributed. We would consider these matters to be out of scope for this consultation, but we have included a final question which provides an opportunity for more general comments. We will confirm final funding arrangements for these funding streams for 2024-25 in the autumn in the usual manner.

We expect the funding allocation methodology and the timetable to remain the same, on the basis of using the 2024 and 2025 spring term censuses. However, we recognise the new entitlement for 2-year-olds does not start until April 2024, and consequently this cohort of children will not be captured in the 2024 spring term census. We will review this and provide further information in the Autumn.

Our priority is to ensure that the funding system will enable local authorities and providers to successfully deliver the new childcare entitlements from April 2024. We will, of course, keep the system under review as we learn more from the rollout of the new entitlements.

Who this is for

- Local authorities
- Early years providers
- Sector representative bodies

Issue date

The consultation was issued on 21 July 2023.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team on:

EarlyYearsEntitlementsExpansion.CONSULTATION@education.gov.uk

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

Additional copies

Additional copies are available electronically and can be downloaded from GOV.UK DfE consultations.

The response

The results of the consultation and the Department's response will be published on GOV.UK in Autumn 2023.

About this consultation

This consultation document makes a number of proposals regarding our approach to funding for the early years entitlements for 2-year-olds and under from 2024-25.

Section 1 focuses on the national funding formula that we will be using to distribute entitlements funding to local authorities for 2-year-olds and under from 2024-25. It also includes proposals to extend eligibility for early years pupil premium (EYPP) and the disability access fund (DAF).

Section 2 sets out the overall illustrative impact that these proposals will have on funding rates for local authorities in 2024-25. Alongside this consultation document we have also published illustrative modelling which sets this out in more detail, accompanied by a technical note.

Section 3 then sets out our proposals regarding the framework of rules for the distribution of all entitlements funding by local authorities.

We would like to hear your views on our proposals.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

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

By email

EarlyYearsEntitlementsExpansion.CONSULTATION@education.gov.uk

By post

Funding Policy Unit
Department for Education
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

Deadline

The consultation closes on 8 September 2023.

Section 1: National funding distribution for the entitlements for 2-year-olds and under

In this section we set out proposals in relation to the national funding formula that we will use to distribute funding to local authorities for 2-year-olds and under from April 2024 in light of the new entitlements. We also set out proposals to extend eligibility for the disability access fund (DAF) and early years pupil premium (EYPP).

1.1 Changes to the entitlements and key principles for funding

This section focuses on the way in which the Department provides local authorities with core funding for the new entitlements, which are being introduced in phases:

- from April 2024, all eligible working parents of 2-year-olds can access 15 hours per week for 38 weeks of the year
- from September 2024, all eligible working parents of children aged 9 months up to 3-years-old can access 15 hours per week for 38 weeks of the year
- from September 2025, all eligible working parents of children aged 9 months up to 3-years-old can access 30 hours free childcare per week for 38 weeks of the year

1.2 New national funding formula

In the current funding system, we have two national early years funding formulae – one to determine local authority hourly rates for the universal and additional hours entitlements for 3- and 4-year-olds, and one to determine local authority rates for the disadvantaged 2-year-old entitlement. With the introduction of the new entitlements for children aged 9 months up to 2 years being phased in from April 2024, we need to introduce a new national funding formula for 2024-25. We do not believe that the current 2-year-old formula would be suitable to use for the new working parent entitlement for 2-year-olds, as it was designed for the existing 2-year-old entitlement which is for only disadvantaged families.

We intend to introduce a new formula to calculate funding rates for children aged 9 months up to (and including) 2 years, regardless of which entitlement they are accessing (the existing 2-year-old disadvantaged entitlement, or the new entitlements). The rates themselves will vary by age, with higher rates for the younger age group reflecting the difference in costs, particularly due to differences in staffing ratio requirements. However, we propose that the structure of the formula that we will use to calculate these rates should be the same.

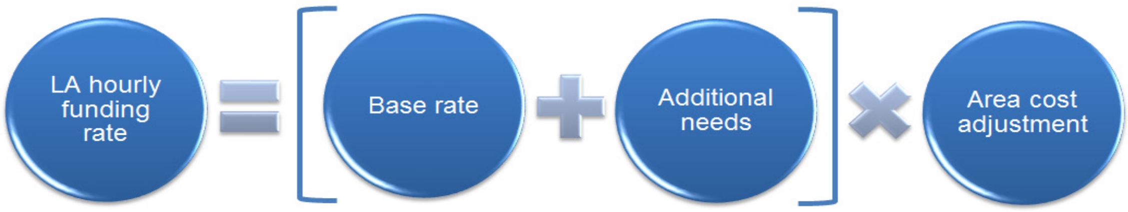
In all we will be providing each local authority with separate hourly funding rates as follows:

- An hourly funding rate for 3-and-4-year-olds for the universal and additional hours entitlements – no change from existing approach
- An hourly funding rate for 2-year-olds which will be for both the disadvantaged and the working parent entitlements
- An hourly funding rate for 9-month-olds up to, but not including, 2-year-olds for the new working parent entitlement for that age group, which from here onwards will be referred to as under 2s.

As this is an expansion of an existing system, we are building on what is already in place. The new formula will follow the shape of the existing 3-and-4-year-old formula, which was introduced in 2017 and designed to allocate funding to reflect the relative costs of providing childcare that meets the needs of children in a local area. We have taken this existing formula as the starting point, and then considered the extent to which we can apply the same approach for the younger age groups and new entitlements, or whether amendments are needed.

Like the 3-and-4-year-old formula, the new formula will feature:

- a universal base rate of funding for each child (89.5% of funding)
- additional needs factor (10.5% of funding)
- an area cost adjustment to reflect variations in costs across England



Base rate

The purpose of the base rate is to fund the core costs of childcare provision. 89.5% of the total funding for three- and four-year olds is channelled through this base rate. This approach was informed by the Cost of Childcare Review[1], and we believe that this continues to be appropriate to ensure sufficient basic funding for each child, while also ensuring adequate levels of funding are channelled towards areas with more children with additional needs. We therefore intend to continue to use 89.5% as the weighting for the base rate in the new formula.

[1] Review of Childcare Costs: https://www.gov.uk/government/publications/review-of-childcare-costs

Additional needs factor

We want to ensure local authorities are able to fund childcare providers for the additional costs of providing quality early education for children with additional needs. This is why the current 3-and-4-year-old formula includes an additional needs factor to channel funding towards local authorities with a higher proportion of children with additional needs, reflecting the extra costs of supporting such children to achieve good early learning and development outcomes. In line with this, we intend to include an additional needs factor in the new national funding formula for 2-year-olds and under.

As with the base rate, we propose to use the same weighting for the additional needs factor in the new national funding formula as in the current 3-and-4-year-old formula, meaning that it will account for 10.5% of funding.

As we are introducing a new formula, we have used this as an opportunity to review the proxies that we use for additional needs to consider whether there are alternative measures that we think would be more appropriate.

Deprivation

We recommend taking a slightly different approach to deprivation in the new funding formula compared to the 3-and-4-year-old formula. With a mixture of disadvantaged and working parent families, we believe that the additional needs factor should take account of general levels of deprivation more broadly within each local authority.

In the current 3-and-4-year-old formula, we use free school meals (FSM) data as a proxy for deprivation. As there is currently no comprehensive FSM data available for children across all early years settings, we use a proxy indicator based on children who are known to be eligible for free school meals in nursery and primary schools. We use this to estimate an assumed number of 3-and 4-year-olds who would be eligible for free school meals (FSM) in each local authority, which then determines the funding the local authority attracts through this element of the additional needs factor. We propose to use this same methodology for the new formula for the younger age groups. Further details of this are set out in the accompanying technical note.

However, we believe that this measure alone may be less suitable for this cohort which is made up of both working parent families and, for 2-year-olds, disadvantaged families. This is a subset of the overall population, and so will not have the same levels of eligibility for FSM seen across a full age cohort. We are therefore proposing to introduce another proxy for deprivation, alongside FSM, based on the Income Deprivation Affecting Children Index (IDACI), which is an area-based measure.

Using IDACI means that we would be picking up a wider range of deprivation. IDACI looks at the population of Lower Layer Super Output Areas (LSOAs) which are smaller than local authority areas. These areas are then ranked based on the proportion of children living in income deprived families. We would then group these areas into bands (as is done in the schools and high needs NFFs) and then determine how much additional needs factor funding to target towards the different bands, with the most deprived receiving the most funding. Further details are set out in the accompanying technical note. IDACI tends to target more funding towards more densely deprived areas (because those areas have LSOAs that are in the bands that receive most money). This means that areas with generally low levels of deprivation will still receive deprivation funding if they have "pockets" of deprivation. Whilst we consider FSM to be a good measure of deprivation generally, it doesn't necessarily pick up these pockets. Using IDACI would also mean that we would be picking up those further up the income scale in ordinary working families, who may just not meet the FSM eligibility criteria. This is particularly relevant for the new formula which is predominantly for working parent entitlements.

One of the reasons that we use a deprivation measure is because we know that the incidence of deprivation is correlated with low-level special educational needs. There is evidence to suggest that using a combination of FSM and IDACI is a better predictor of low-level SEN than just using one of the measures[2].

We therefore propose to use a combination of IDACI and FSM to reflect deprivation. This is similar to the approach taken in the schools and high needs NFFs. We believe that this 'basket of measures' approach will mean we are reflecting a broader range of deprivation, and more accurately reflecting relative differences between local authority areas.

Although we are not proposing to make any changes to the 3-and-4-year-old formula at this stage, we will review the additional needs factor in that formula in due course, and at that point we will consider whether to also introduce IDACI there.

Other proxies

We believe that the other proxy measures used in the additional needs factor for the 3-and-4-year-old formula, which use data on children with English as an additional language and children who are entitled to Disability Living Allowance, will also be appropriate for the new formula. We believe that using these proxies will continue to meet our aim of ensuring that more money reaches local authorities where the incidence of children with additional needs is greater, reflecting the extra costs associated with narrowing the gap in outcomes and supporting children's early education.

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[2] The Isos report "Research on funding for young people with special educational needs" published in July 2015: https://consult.education.gov.uk/funding-policy-unit/high-needs-funding-reform/supporting_documents/Research_on_Funding_for_young_people_with_special_educational_needs.pdf

This therefore means that we propose that the additional needs factor in the new formula will be made up of:

- Free school meals (FSM) eligibility for nursery and primary school children and Income Deprivation Affecting Children Index (IDACI), as proxy measures for deprivation or low-level special educational needs (the incidence of the latter is correlated with deprivation): each weighted 4%

- English as an additional language (EAL), as a proxy measure for the costs of additional support for children who do not have English as a first language: weighted 1.5%

- Disability Living Allowance (DLA), as a proxy measure for children with more complex special educational needs and disabilities (SEND): weighted 1%

Further details of the calculation methodology for these proxies are set out in the accompanying technical note.

Question 1: Do you agree that we should introduce IDACI as a new proxy, and use it alongside FSM as a basket of measures for deprivation in the additional needs factor in the new national funding formula for 9-month-olds to 2-year-olds?

Question 2: Do you agree that we should continue to use EAL and DLA as proxies in the additional needs factor in the new funding formula?

Area cost adjustment

As with the existing early years national funding formulae, we will be including an area cost adjustment (ACA) in the new formula. The ACA takes account of the relative difference in costs in different areas of the country. It accounts for variations in both staff and premises costs and acts as a multiplier to each authority's hourly rate as calculated through their base rate and additional needs factor. We recommend taking the same approach to the ACA in the new funding formula. We believe that this remains the most appropriate method for distributing funding fairly, and aligning with the existing formulae will keep the funding system straightforward and coherent, which will help ensure the successful delivery of the new entitlements from April 2024. The ACA in the 3-and-4-year-old formula and the current disadvantaged 2-year-old formula are broadly the same, and we propose to follow this same approach with the new formula.

This means that the ACA is expected to be made up of the following components:

- General labour market (GLM) measure to reflect staff costs: weighted 80%

- Nursery and infant primary rates cost adjustment (NIPRCA) to reflect premises costs: weighted 10%

- The remaining 10% of costs are assumed not to vary from authority to authority

Nursery and infant primary rates cost adjustment (NIPRCA) weightings

The main difference between the ACA in the different formulae will be the way in which we weight the schools and private nurseries rateable values data in the NIPRCA, which is based on the relative use of the different provider types. Currently the NIPRCA is weighted by the proportion of 3- and 4- year-old entitlement hours (for the 3- and 4-year-old formula) and 2-year-old offer hours (for the current disadvantaged 2-year-old formula) taken up in each setting type. For the new formula we intend to follow this same principle. This means that when calculating the new 2-year-old area cost adjustment, the NIPRCA will be weighted by the proportion of 2-year-old offer hours taken up in each setting type.

As we do not have data on take-up of the new entitlement, we will use take-up of the existing 2-year-old offer for the time being. Similarly, for under 2s rates, we do not yet have any data on take-up between the different provider types. We therefore propose to use the current 2-year-old entitlement weightings initially, as we believe it is reasonable to assume that the take-up pattern is likely to be more closely aligned with 2-year-old places than 3-and-4-year-old places (at least in the early stages).

We will keep this under review once the new entitlements have been fully rolled out, with a view to updating this to more accurately reflect how take-up of the entitlements is shared between school-based nurseries and private providers.

The area cost adjustment will continue to be applied as a multiplier to both the universal base rate and the additional needs factor, to ensure that both the universal and the additional costs of provision in a local area are increased where staffing and/or premises costs are relatively higher than elsewhere. Further details are set out in the accompanying technical note.

Question 3: Do you agree with our proposed approach to the area cost adjustment in the new national funding formula?

Question 4: Overall, do you agree with our proposed approach of following the same structure and weightings for the new national funding formula as in the existing 3-and-4-year-old formula?

1.3 Other funding streams

Disability Access Fund (DAF)

The DAF is intended to aid access to the entitlements for disabled children, and can be used to support providers in making reasonable adjustments to their settings and/or helping with building capacity. Currently, children are eligible if they are in receipt of the Disability Living Allowance (DLA), and the universal 15 hours entitlement, meaning only 3 and 4-year-olds are eligible. We are proposing to extend DAF eligibility so that, from

2024-25, children accessing any of the entitlements (i.e. aged 9 months up to 4 years old) will be eligible for this funding if they are in receipt of DLA.

Question 5: Do you agree that we should extend DAF eligibility to all children accessing the entitlements from April 2024?

Early Years Pupil Premium (EYPP)

The EYPP gives providers additional funding to support disadvantaged children. Currently only 3 and 4-year-olds are eligible for EYPP. We are proposing to extend eligibility to all children accessing the entitlements from April 2024. For those accessing the entitlements for 2-year-olds and under there will be some families who would be eligible for EYPP, particularly within the 2-year-old cohort where there will be a mix of entitlements including an offer for disadvantaged families. It is therefore important that we provide additional funding, on top of the core hourly funding rate, to support those children from more disadvantaged backgrounds. We are not proposing to make any changes to any of the other eligibility criteria, aside from the age of the child.

Question 6: Do you agree that we should extend EYPP eligibility to all children accessing a free childcare entitlement from April 2024?

Section 2: Impact of proposals

Alongside this consultation document we have published modelling which provides illustrative 2024-25 funding rates and allocations for the entitlements for 2-year-olds and under. This gives an early indication of the funding rates that local authorities can expect to receive, but it is important to note that these are illustrative only. We will confirm final 2024-25 funding rates in autumn 2023, following this consultation and using the most up to date data available at that point.

2-year-old rates

The illustrative modelling suggests a national average funding rate for 2-year-olds of £8.17. Rates range from £6.89 to £11.86.

9-month to 2-year-old rates

The illustrative modelling suggests a national average funding rate for the 9-month-old up to 2-year-old entitlement of £11.06. Rates for this age group range from £9.33 to £16.17.

Approach for 2024-25 rates and protections going forward

We propose to give each local authority rates in 2024-25 for the 2-year-old and 9-month-old up to 2-year-old entitlements calculated using the formula set out above. These funding rates are for a new working parent entitlement for under 2s, and for a new mixed cohort of the disadvantaged 2-year-old entitlement and the new working parent entitlement for 2-year-olds, and they will be calculated using a new funding formula. This means that there is no baseline against which they should be compared.

Year-to-year protections for these funding rates may be desirable in future years. We will keep this under review and consider whether any protections are appropriate when we are setting rates for 2025-26.

As set out above, this consultation does not cover 3-and-4-year-old funding. We will confirm 3-and-4-year-old hourly funding rates, including protections, in the autumn in the usual manner.

Question 7: Do you agree with this approach?

Section 3: Local authority funding formulae for childcare entitlements

3.1 Current rules for local authority funding formulae

Under the early years entitlements funding system, the Department distributes funding to local authorities (LAs) who in turn distribute this funding to their providers using their own local funding formulae. In setting their local formulae, LAs must adhere to regulations and should comply with guidance set by the Department stipulating how government funding for the entitlements should be spent.

The existing framework relates mainly to the current 3-and-4-year-old entitlements and is set out in secondary legislation and operational guidance. The key features of this framework are summarised below:

- **Universal base rate** – LAs must set a universal base rate of funding for all providers, regardless of type, to create a level playing field.

- **Pass through rate** – Requires LAs to pass through at least 95% of their 3-and 4-year-old entitlement funding to providers. The remaining 5% can be retained centrally to be spent on activities such as central SEND support and eligibility checking.

- **Supplements** – In recognition that certain providers face greater costs than others, LAs can use a restricted number of supplements to channel additional funding to providers meeting criteria set by the LA.

- **SEN inclusion fund** – LAs are required to establish a SEN Inclusion Fund to support children who are taking up the free entitlements, targeted at children with lower level and emerging SEN.

- **Contingency funding** – LAs can set aside contingency funding as part of their local budgetary process to help manage fluctuations in take-up. Any underspend from an LA's early years budget must remain within the education budget.

These rules do not currently apply to the funding for the disadvantaged 2-year-old offer. This is because of the differences in the cohort eligible for this offer and previous high compliance with our intended policy. However, with the introduction of the new entitlement for working parents of 2-year-olds and the associated significant expansion in funding levels, we think the same framework of rules should now be extended to the funding stream for 2-year-olds, as well as to the new entitlement for working parents of children aged 2 and under. This will help to ensure the majority of new funding reaches providers whilst giving local authorities sufficient resource and flexibility to deliver the asks of them and respond to local circumstances.

3.2 The Universal Base Rate

We will maintain the requirement for a Universal Base Rate (UBR). The UBR reflects the ‘provider blind’ principle which will continue to underpin the early years funding system and we are not therefore consulting on this.

3.3 The pass through rate

Local authorities are currently required to pass through at least 95% of their 3-and-4-year-old entitlement funding to providers. The remaining 5% can be retained centrally to be spent on activities such as central SEND support, administrative tasks such as eligibility checking and on transfers between entitlements. In practice, LAs pass on, on average, 97% of their funding.

From 2024-25, local authorities will require additional central spend in order to carry out these tasks for the new entitlements. We propose to set a pass through rate on each individual early years dedicated schools grant (DSG) funding stream, that is:

- the 3-and-4-year-old universal and 30 hours offer;
- the 2-year-old disadvantaged and working parent offers; and
- the 9 months to 2-year-old offer.

We know that some authorities rely on the full 5% of central spend allowable from the 3-and-4-year-old funding stream in order to meet their early years responsibilities. And we recognise that as the new entitlements are rolled out there will be some uncertainty around eligibility and take-up levels at local level, and therefore uncertainty regarding local levels of funding for these new offers. In order to provide some certainty, and ensure that vital central services such as SEND services and eligibility checking continue, we propose to maintain the pass through rate for each funding stream at 95% from 2024-25.

However, as the quantum of funding in the early years block increases with the roll out of the new entitlements, the proportion of overall funding LAs will require to hold back for central spend will fall (whilst still allowing for a higher cash value to be retained, reflecting the increased central activity). We will therefore increase the pass through rate to 97% once the roll-out of the new entitlements is sufficiently progressed to allow this. We will keep the timing of this under review and provide further details ahead of making any changes.

The methodology for calculating each authority’s pass through rate is set out in the Early years entitlements: local authority funding operational guide 2023 to 2024 – GOV.UK (www.gov.uk) and will remain the same for all dedicated schools grant (DSG) funding streams. Spending on the following will be counted as having been passed through to providers:

- Universal Base rate funding;
- Supplements;
- Special Educational Needs Inclusion Fund paid as top-ups to providers;
- Contingency funds;
- MNS lump sums where relevant.

Money withheld from pass through should be used for the same activities as now and is not intended to be used for initial set-up costs for the new entitlements. We are exploring alternative funded support for LAs for these purposes.

Question 8: Do you agree a pass through rate of 95% should be applied to each funding stream in 2024-25: the 3-and-4-year-old universal and 30 hours offer; the 2-year-old disadvantaged and working parent offers; and the 9 month to two year-old offer?

3.4 Disapplication from the pass through rate

Since the introduction of funding for the 30 hours offer, it has been the Department's policy that the Department will only consider a disapplication request from an LA to lower their pass through rate in exceptional circumstances, if they meet one of three conditions:

a) To avoid significant reduction in additional hours provided for children who do not ordinarily meet the 30 hour eligibility criteria;

b) To avoid a significant reduction in centralised specialist SEND services for providers;

c) To meet their statutory early years duties e.g. to increase the rate of 2-year-old disadvantage offer to ensure sufficiency.

We intend to continue our policy of only considering requests from LAs to disapply the pass through rate for any of entitlements in exceptional circumstances that meet the current criteria b) or c), but not criterion a). Criterion a), to avoid a reduction in hours for children who had been receiving additional hours prior to the introduction of the 30 hours offer and were no longer eligible, was a transitional provision and is no longer applicable. No authority has sought to use this criterion since 2019-20.

3.5 Supplements

LAs are currently permitted to use a restricted number of supplements to top-up the 3-and-4-year-old base rate for certain providers – up to a cap of 12% of planned formula funding to providers for that entitlement. Supplements provide LAs with additional flexibility to allow the targeting of funding according to locally determined need. LAs can use supplements to recognise higher costs faced by certain providers across a range of criteria. The allowable supplements are:

- Deprivation (mandatory): Local authorities must use this supplement to recognise deprivation in their areas and support children in those areas in taking up the early years entitlements;

- Flexibility: to support providers offering flexible provision for parents – e.g. out of hours / wraparound;

- Rurality / Sparsity: to enable local authorities to support providers serving rural areas less likely to benefit from economies of scale;

- Quality: to support workforce qualifications or system leadership;

- English as an additional language: to recognise differences in attainment in the Early Years Foundation Stage between children whose first language is English, and those who have English as an additional language (EAL).

Providers offering the new entitlements are expected to face similar issues and costs as those delivering the current entitlements. We propose that LAs should be allowed to use their discretion to apply the same supplements to the hourly rates for the new entitlements and existing entitlement for disadvantaged 2-year-olds. The deprivation supplement is intended to support providers with the additional costs of delivering the entitlements in areas of disadvantage, and is therefore an important means of ensuring all eligible children are able to access the offers wherever they live. We therefore propose that this supplement remains mandatory for all funding streams. As now, LAs will determine the size and eligibility for supplements, in line with locally determined criteria, and supplements will be capped at 12%in 2024-25 of planned funding for providers for each entitlement.

Question 9: Do you agree that the same list of allowable supplements should be applied to every entitlement funding stream, capped at a maximum 12 percent of planned funding for that entitlement?

Question 10: Do you agree that the deprivation supplement should be mandatory for every entitlement funding stream?

3.6 Special Educational Needs Inclusion Fund (SENIF)

Local authorities currently should have a special educational needs inclusion fund (SENIF) for all 3-and-4-year-olds with special educational needs (SEN) who are taking up the free entitlements. These funds are intended to support local authorities to work with providers to address the needs of children with SEN and should be targeted at children with lower level or emerging SEN. Local authorities are not currently required to establish a special education needs inclusion fund for 2-year-olds but may do so as part of their provision for children with SEN.

It is vitally important that all eligible children, including those with special educational needs, can access and benefit from the childcare entitlements. We therefore propose that local authorities should also have a special education needs inclusion fund for children aged 9 months to 2-years-old who are taking up the free entitlements.

Question 11: Do you agree with our proposal that local authorities should establish a special educational needs inclusion fund for children aged 9 months to 2-years-old who are taking up the entitlements?

We recognise the challenges facing the early years sector in meeting the needs of children with SEN and have already committed to working with local authorities, early years providers and stakeholders to consider whether changes to the SENIF and other associated elements of the wider current early years funding system are needed as part of the Special Educational Needs and Disabilities and Alternative Provision Improvement Plan.

We are considering ways in which the Department can support local authorities to streamline the administrative processes around the SENIF, reduce bureaucracy and ensure funding is available in a timely way to support children with SEN. In order to inform this future work, we would welcome views on the current process of SEND funding and options for change.

Question 12: What more can be done to support local authorities and providers to reduce bureaucracy and streamline SENIF processes whilst also ensuring the system remains fair and financially sustainable?

Question 13: Would local authorities and providers find it helpful for the Department to be more prescriptive about the operation of local SENIFs?

3.7 Local consultation on early years budgets

As now, if a local authority proposes to make any changes to the funding formula it used the previous year that will affect early years providers, it will be required to consult with Schools Forums, maintained schools and early years providers. LAs will also therefore be required to consult with these bodies on their formulae for the new entitlements in

2024-25. The normal annual timetable for consultation and publication of planned budgets will apply.

Local authorities should ensure their early years providers are sufficiently represented at Schools Forums meetings where decisions on early years budgets are being taken. We are aware that some LAs have also put in place sub-boards made up of representatives from their local early years sector, to consider the issues in detail and feed into the main Schools Forum. This can be a helpful way to ensure the inclusion of sector views.

3.8 Monitoring compliance

The Department will continue to monitor local authorities' compliance with all local funding rules through annual s251 returns.

Section 4: Equalities Impact Assessment

The Public Sector Equality Duty requires public authorities to have due regard to the need to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Public authorities include the Department for Education, local authorities, governing bodies.

The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual Orientation

Our proposal to introduce a new funding formula to distribute funding to local authorities for 2-year-olds and under from 2024-25 means that we will be distributing this funding fairly across England, reflecting relative differences in levels of need between areas. This will have an overall positive impact on equalities, and we do not anticipate any significant negative impacts on any groups that share particular protected characteristics.

Including an additional needs factor in the new formula will have a positive impact, as it will ensure we are targeting funding towards areas with higher levels of additional need. We are proposing to use disability living allowance as a proxy measure, so this will have a positive impact on children with special educational needs and disabilities. There may also be a positive impact on certain ethnicities with greater proportions of children attracting funding through the additional needs factor. There is evidence that certain ethnic groups, (including Irish Traveller, Gypsy and Roma, and white and black Caribbean) are disproportionately represented in the number of children eligible for free school meals (FSM). We are proposing to use both FSM, IDACI and English as an additional language (EAL) as proxies in the additional needs factor.

Extending eligibility for the DAF to children aged 9 months to 2 years will also positively impact children with special educational needs and disability.

The proposed extension of the current rules to all local authority funding formulae for the free childcare entitlements will have a positive impact on children with protected characteristics. The requirement on all authorities to contribute funding from every Early Years entitlement funding stream to a SENIF will benefit children with low level special education needs and disabilities. The proposals to make a deprivation supplement mandatory for all funding streams will benefit children in deprived areas, benefiting children from certain ethnic minority groups who are often overrepresented in such areas. Allowing authorities to use a supplement that recognises the additional costs of providing care for children with English as an additional language will also benefit children from some ethnic minority groups where authorities choose to use this option.

Question 14: Do you have any comments about the potential impact, both positive and negative, of our proposals on individuals on the basis of their protected characteristics? Where any negative impacts have been identified, do you know how these might be mitigated?

Question 15: Are there any other comments that you would like to make about our proposals set out in this consultation?

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