



Department
for Education

Childcare Bill: policy statement

December 2015

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Status

The Childcare Bill is delivering the government's election manifesto commitment to giving families where parents are working an entitlement to 30 hours of free childcare for their three- and four-year olds. The Childcare Bill was introduced to the House of Lords on 1 June 2015. This statement is made available on 3 December to both Houses of Parliament, but does not seek to provide detailed information on all aspects of childcare policy. It is to aid Members in their scrutiny of the Childcare Bill.

It will be placed on the Department for Education's website, which is available at: GOV.UK.

Introduction

The extended free childcare entitlement for working parents of three- and four-year-olds will provide eligible parents with a total of 30 hours of free childcare per week, over 38 weeks or the equivalent number of hours across more weeks per year.

Aims

Additional free childcare will help families by reducing the cost of childcare and will support parents into work or to work more hours, should they wish to do so. This is in addition to the existing 15 hours of free early education, which is available to all three- and four-year-olds and eligible two-year-olds.

As set out in the government's productivity plan *'Fixing the Foundations: Creating a more prosperous nation'*, there are still too many people for whom there are unfair or distorting barriers to work, including women whose high levels of skill are too often underused. The government has set out stretching ambitions to increase employment and doubling the free entitlement to childcare to 30 hours a week for working parents of three- and four-year-olds is a significant contribution to this. There is potentially a huge economic prize from enabling parents to play a fuller role in the economy, should they want to.

Progress

The government is making good progress towards full implementation of the new entitlement from September 2017 and early implementation in some areas in September 2016. We have had an overwhelming response to the invitation we issued on 26th August for expressions of interest in being involved with early implementation, with over 1,800 local authorities and providers registering their interest, including nurseries, schools and childminders.

We introduced the **Childcare Bill** into Parliament and this policy statement is made available in advance of Committee stage in the House of Commons.

The government has conducted a 6 month long **Review on the Cost of Providing Childcare**. The findings of the review – the first of its kind by government – have formed the evidence base for our decisions at the Autumn 2015 Spending Review. As part of the review we have consulted extensively with stakeholders including through a call for evidence, which received over 2,000 responses.

The **consultation with parents, providers and employers** has completed. We heard from working parents, employers, representatives from the childcare sector, unions, and nearly 20,000 responses to our public survey.

The cross-government **Childcare Implementation Taskforce** is continuing to drive delivery of the government's childcare schemes, supporting effective joint working across government to deliver: the doubling of free childcare for working parents of three- and four-year-olds; Universal Credit and Tax-Free Childcare to support parents to work if they choose to; and further improvements in the supply of childcare.

Early years funding

What we have done

Government spending on childcare support was £5 billion a year by the end of the last Parliament. This includes extending the three- and four-year-old entitlement to 15 hours per week, the extension of free places to 40% of two year olds, and the new early years pupil premium (EYPP).

Getting the funding right is essential for the successful delivery of the extended entitlement.

On 25th November 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 for the two-, three- and four- year-old entitlements. The national average rates for both two-year-olds and three- and four-year-olds will increase by at least 30p per hour. For three and four year olds the national average rate will increase from £4.56 to £4.88, including the Early Years Pupil Premium. For two year olds it will increase from £5.09 to £5.39.

Decisions about future funding rates were informed by the Department's Review of the Cost of Providing Childcare. This is the most detailed review of its sort done at national level, and provides us with a strong evidence base on the drivers of cost for childcare providers – as well as real opportunities for the market to become more efficient. Early years providers of all types have engaged positively and constructively with the review. Our call for evidence, which ran from 10 June to 10 August, received over 2,000 responses. The government also conducted a series of roundtable events, which have engaged with a range of providers, academics and provider groups. The final review is available at: www.gov.uk/government/publications/review-of-childcare-costs.

The government is providing more support than any other. Alongside the investment in the free entitlement, tax free childcare will be rolled out from 2017 and more support will be provided for families on universal credit. And the extended entitlement means that working families will be receiving an unprecedented increase in childcare support, with savings of over £5,000 per child per year for working families.

Early Years National Funding Formula

The rates announced for the free entitlement for two, three and four year olds are national average rates. In terms of how the funding is actually distributed to local authorities we are aware that there are historical inconsistencies and inefficiencies with the current funding system for three- and four-year-olds and we want to make adjustments to the rate to reflect local circumstances.

On 25th November the Chancellor announced that the government will introduce a national funding formula for early years in 2017-18. This is to ensure that funding is transparently and fairly distributed between different types of providers and different parts of the country. We want councils to be able to afford to pay providers a sustainable rate and ensure that as much funding as possible reaches the front line. We have committed to consulting widely in the New Year on these issues, including on the transitional arrangements for the local authorities who will be most affected.

Eligibility for the extended free childcare entitlement

The current entitlement

All 3 and 4 year olds will continue to be eligible for 15 hours per week of free early education. This is a universal entitlement for all children. The new entitlement is an extension of the current entitlement and provides an additional 15 hours of free childcare for children that are eligible.

Definition of qualifying children for the new entitlement

The new entitlement to 30 hours free childcare 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.

The additional 15 hours will be available to families where both parents are working (or the sole parent is working in a lone parent family), and each parent earns, on average, a weekly minimum equivalent to 16 hours at national minimum wage (NMW) or national living wage (NLW), and less than £100,000 per year¹. Working will include employed and self-employed persons. Parents do not necessarily need to actually work 16 hours a week, but rather their earnings must reflect at least 16 hours of work at NMW or NLW, which is £107 a week at the current NMW rate. This includes those parents on zero contract hours who meet the criteria.

The Spending Review announced the largest ever investment in free childcare so that working families get the help they need. To make this affordable we have introduced an income cap so that, when at least one parent in a household has income of £100,000 or more, that family will not be eligible to take up the extra free hours.

Families where one parent does not work (or neither parent works) will usually not be eligible for these additional hours. However, the government intends to make provision to support families where one parent is in receipt of benefits relating to caring responsibilities or a disability and the other parent is working. Full details will be set out in regulations, but the government intends that the additional entitlement should be available 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;

¹ The minimum amount will always be judged against the lowest hourly rate that a person of the parent's age could legally be paid.

- 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 is temporarily away from the workplace on statutory sick pay;
- one parent is employed and one parent has substantial caring responsibilities based on specific benefits received for caring; or
- one parent is employed and one parent is disabled or incapacitated based on receipt of specific benefits.

The government believes that 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.

The government believes that including parents who are temporarily away from the workplace 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 1-2 weeks) and disruption to their business.

These eligibility criteria mean that around 390,000 three and four year olds will be eligible for 30 hours of free childcare. This includes all

Checking eligibility

The Secretary of State confirmed at Second Reading in the House of Commons that parents will be able to apply for both Tax-Free Childcare and the 30 hour entitlement through a joint application system being developed by Her Majesty's Revenue and Customs (HMRC). A joint online application system will provide a simple and straightforward way for working parents to access the schemes and will avoid the need to provide the same information twice. The government amendment tabled will place a function on HMRC to provide an eligibility checking service for the Department.

Support for working parents

For the free entitlement to be most effective it must be restricted to childcare arrangements that enable parents to take up paid work, to continue in paid work or to increase paid work. To ensure that it is focussed on work and to align with Tax-Free Childcare, the government intends to introduce a 'main reason test' through regulations. This will seek to ensure that parents take up the additional hours of free childcare for

the purposes of supporting their employment. This 'main reason' could, for example, include commuting time or paying for childcare in blocks of time or sessions that puts parents in a position to work.

Grace period

The government believes it is right to ensure that there will be a short grace period for families whose circumstances change. This will give parents the opportunity to regain employment and will also give providers certainty that if they offer a place under the new entitlement they will not have to fill that place immediately if a parent's circumstances change.

Training and education

The new entitlement is to support parents to take up work or increase their working hours. Parents who are studying will not qualify for the new entitlement, unless they meet the criteria outlined above. Parents who are under the age of 20 and are studying a publicly funded course are eligible for the Care to Learn Scheme, which provides vital financial support for childcare costs of up to £175 per child per week. For parents over the age of 20, Discretionary Learner Support and Childcare Grants may also be available depending on the nature of the education and training that parents participate in.

Delivering 30 hours free childcare for working parents of three- and four-year-olds

Listening to the views of parents and providers

The government has consulted parents and providers to gather their views and experiences of the childcare system, as well as what the 30 hour entitlement would do for them. This included engaging representatives of all types of early years providers in an initial dialogue on quality, capacity, flexibility and specific challenges around the 30 hours offer.

We heard from 750 representatives from the early years sector; 160 working parents through 13 'open policy' employer-events; and over 19,300 members of general public through an online questionnaire. We also held a series of stakeholder meetings.

The main questions and messages we heard were:

- Of respondents to the questionnaire, 49% said either they and/or their partner had to change their working pattern to cover childcare, while 27% had chosen to change it so they could spend more time with children;
- The factors that influenced parents' choice of childcare included: convenience (either location or opening hours); the quality of staff and provider (high staff qualifications, Ofsted rating or reputation); and the opportunity for their child to socialise;
- around 89% of respondents would take up the additional hours now if they were available;
- respondents expected to use around 14 hours of the additional entitlement;
- the most useful factor would be an offer than can be a stretched offer;
- Concerns around funding and sustainability;
- How the new offer will fit with the existing two, three and four year old offers;
- Eligibility – who and how this will be assessed;
- Quality – the impact of increasing the offer to 30 hours and ensuring children remain safe and their development is supported; and
- How to create additional places if they are needed.

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 theme was the desire for a simpler, more flexible childcare system in the future.

Delivery principles

The government is clear that any delivery system must make available 30 hours of free childcare to eligible parents of three- and four-year-olds in England. This childcare must be safe and of high quality. This must also be deliverable for early implementation in September 2016 and full roll-out from September 2017.

The delivery system must support and promote increased parental employment enabling parents to work or to work extra hours, supporting an improvement in the standard of living for parents and children. It must be affordable and provide value for money for government at a sustainable rate for the sector.

The government aims to deliver a high quality, free childcare entitlement according to the following design principles. These principles were agreed by the Childcare Implementation Task Force. The delivery mechanism will:

- be simple and flexible for parents to use;
- interact successfully and work with the existing entitlement and other government childcare schemes;
- create capacity cost-effectively and without driving up the cost of childcare;
- be efficient for providers to administer and not add to their costs;
- be at least as cost-effective to administer as the model for delivering the current entitlement and better value for money for government;
- promote the successful delivery of the first 15 hours for all three- and four-year-olds;
- be secure and possible to audit;
- ensure that as many existing childcare providers as possible are able to take part in delivery of the 30 hours; and encourage new providers
- support innovation.

Delivering quality childcare for all children

The current entitlement ensures that three- and four-year-olds can access 15 hours a week² of quality early education, free of charge, to prepare them for school and improve their life chances.

It is the quality of provision that really makes the difference – cognitive benefits of childcare disappear by age ten if a setting is low quality³, while children attending high quality provision for two or three years before school have a seven to eight month developmental advantage in literacy compared to their peers. Evidence tells us that

² 570 hours per year usually taken by families as around 15 hrs a week over 38 weeks

³ EPPSE: *Influences on Children's Attainment and Progress in Key Stage 2: Cognitive Outcomes in Year 5 Summary Report* (2007:15)

around five sessions or around 15 hours a week of quality early education are needed for children to gain these benefits.

This government policy is working, and the early years sector is delivering high quality early education for children and families. For example:

- 94% of three- and 99% of four-year-olds are taking up the current free entitlement;
- the qualifications of early years staff have continuously improved - in June 2015, NDNA reported that 88% of settings it surveyed employed a graduate, up from 80% in 2015⁴, and 87% of staff have a level 3 (A-level equivalent) qualification⁵;
- 85% of providers delivering the entitlement are rated 'Good' or 'Outstanding' by Ofsted⁶; and
- the Early Years Foundation Stage Profile (EYFSP) results for 2015 showed a 14.6 percentage point increase in the proportion of children reaching a good level of development by the age of five in the last two years, and that the gap between disadvantaged children and others has narrowed⁷.

The government is clear that these additional hours of childcare need to be high quality and delivered flexibly. All childcare must be delivered in a way that makes a contribution to a child's physical, cognitive, social and emotional development, without placing inappropriate strain on young children who might be spending a significant part of their day in childcare. We know that parents want their children to learn, but also to play and have fun, and to be able to relax and rest when they need to. This is what good childcare providers deliver: supporting children to learn, socialise and develop through their play, and being attentive to their welfare. That is why we are committed to **retaining the same adult:child ratios** as already set out in the Early Years Foundation Stage to ensure children will continue to benefit from the same high ratios and be cared for by staff with the right skills and knowledge. To capitalise on this we are also committed to retaining the indoor space requirements as now for all 30 hours.

The government believes that the extended entitlement needs to supplement and complement the current early education entitlement. We want all children to continue to benefit from 15 hours of high quality early education.

The extended entitlement will keep children safe and well. It will need to provide positive and stimulating experiences for children, and staff will need to have the right skills and knowledge to deliver this care. We are clear that the extended entitlement

⁴ NDNA Workforce Survey 2015

⁵ Early Years and Childcare Provider Survey 2013

⁶ Ofsted Official Statistics – Childcare Providers and Inspections as at 31st August 2015 Key Findings

⁷ SFR: Early Years Foundation Stage Profile results in England, 2014/15

hours must be safe and secure, and must never be a detrimental experience for children.

The current regulatory system sets out welfare and safeguarding requirements that are designed to ensure a wide range of childcare providers deliver quality provision, and delivery is regulated and inspected by Ofsted.

The quality of the early years workforce

We know that the quality of early years provision is central to ensuring benefits to children, and that good quality childcare can be found across all types of settings. The main driver of quality in a setting is its workforce. Alongside convenience, the quality of staff in the setting is a key factor that informs parents' choices about childcare. That is why we are committed to ensuring that the same staff qualification requirements will apply to the additional 15 hours as apply currently.

By improving the quality of those entering the workforce, parents can have confidence in the people supporting the learning of our youngest children. In recent years, pay across the sector has risen reflecting the rise in qualification levels among the early years workforce. We expect qualification levels to continue to increase following introduction of Early Years Educator qualification criteria and early years initial teacher training.

The government will encourage the sector to attract highly qualified staff with a strong aptitude for working with young children and the right mix of knowledge and skills to deliver good quality childcare. We have recently taken steps to improve the process for those training to become Early Years Educators and Early Years Teachers, and these have been widely welcomed. In 2016, the government will review progression routes within the sector to determine what more can be done to enable good quality staff to maximise their potential and forge a successful career within early years. This will build on existing investments in staff training and development through the current Voluntary and Community Sector grants programme and the Teaching Schools grant, which has brought high performing schools and PVI providers together to share good practice and improve transition into school for young children.

The government is introducing measures to significantly increase the number of staff with paediatric first aid training. We are consulting on a new requirement that newly qualified level 2 and level 3 staff must hold a paediatric first aid certificate in order to count in the Early Years Foundation Stage (EYFS) ratios. We will also be launching a new voluntary quality assurance mark to recognise those nurseries who have trained all their staff in first aid.

Inspection and regulation

Ofsted has started to inspect against a new Common Inspection Framework, which is bringing more consistency to its inspection approach across early years providers and schools, and increases the focus on children's outcomes and the quality of teaching and learning in the early years. While it is too early to assess how much this will decrease the bureaucratic burden on providers, initial responses have been positive, with the changes being welcomed by the sector for providing clarity and improving consistency of inspections. The new handbooks are shorter and more user friendly and, if they prove less onerous to the workforce, should allow providers to spend more time with the children in their care.

The government is keen to ensure that childcare providers are able to spend their time doing the things that matter most to ensure that children are well cared for. Early Years practitioners should not need to spend time away from interacting with children doing excessive paperwork. This expectation is already set out in the EYFS statutory framework. However, the government continues to seek views from the early years sector to try to understand what burdens exist in the current system and what else can be done to limit unnecessary regulations and requirements.

Local authority-led delivery model

The current entitlement to free early education for all three- and four-year-olds and two-year-olds who meet the eligibility criteria, is delivered by a delivery model in which providers are funded directly by government. Local authorities are under a legal duty to make the provision available and to work with a wide range of providers in their area to ensure that there are sufficient places available to meet parental demand.

This model is extremely successful with 94% of three year olds and 99% of four year olds taking up a place⁸. Around 157,000 two-year-olds from the 40% more disadvantaged families are also taking up a place. Local authorities have led these programmes, 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 Secretary of State for Education will discharge her duty to secure 30 hours of free childcare for working parents by working through all local authorities in England.

The new extended entitlement provides an opportunity to work with local authorities to look at how improvements can be made to how the extended free entitlement is

⁸ <https://www.gov.uk/government/statistics/provision-for-children-under-5-years-of-age-january-2015>

delivered. Considering the design principles set out above, we want to ensure that the system: is simple and flexible for parents to use and is responsive to parents' working patterns; welcomes and incentivises a range of high quality providers to deliver the entitlement efficiently; responds to the needs of children with special educational needs and disabilities; and offers value for money. The government wishes to encourage new providers into the childcare market and the local authority-led delivery model should support local authorities to commission innovative provider models that deliver affordable places to meet the needs of parents.

We will look at how we can support local authorities in drawing up agreements between themselves and childcare providers, perhaps by publishing a national model agreement. This would help increase consistency in local agreements, and simplify the process for providers which operate in more than one local authority area. We also want ease the burden of regulation on both businesses and local authorities, including through initiatives like Primary Authority (www.gov.uk/government/publications/primary-authority-overview). This enables businesses to form a statutory partnership with one local authority through which they can be provided with robust and reliable advice for other local regulators to take into account when carrying out inspections or addressing non-compliance. For childcare providers, this means that they can enter into an agreement with a local authority about food safety and hygiene standards, and use this to support setting up in another local authority – saving precious time and resource for local authorities and providers.

In addition, we are considering what can be done to smooth out issues around payment arrangements between local authorities and providers. This will be informed by our ongoing discussions with local authorities and providers, informing the draft regulations and statutory guidance which will be consulted on in due course.

A full economic impact assessment and new burdens assessment will be carried out in due course.

Demand

The actual number of new childcare places that will be needed depends on a number of important factors, including:

1. how many eligible parents take up the new entitlement;
2. the extent to which eligible parents already pay for additional hours of childcare over and above the existing 15 funded hours;
3. how quickly eligible parents choose to make use of all of the additional 15 hours to which they would be entitled; and
4. the level of spare capacity in the system.

Where a four-year-old is attending a school reception class, they will not access the entitlement to 30 hours free childcare in addition. We are gathering more evidence of how many eligible parents are likely to take up the new entitlement, and how many hours they are likely to take up, through the national conversation that is underway with parents, providers and employers.

Capacity in the system

We recognise that while there is natural growth in the childcare system we can, and should, encourage new providers to enter the childcare market or existing providers to expand. Collaborative arrangements across different types of providers and increased flexibility for providers are important elements of this. That is why, for example, under the Small Business, Enterprise and Employment Act childminders will be able to provide childcare on non-domestic premises. Following the Spending Review outcome the Government is also allocating £50 million of the Department's capital allocation to support the creation of early years places.

We believe there is some existing capacity in the system to help deliver the new entitlement, and we are continuing to talk to local authorities to increase our understanding and evidence of where there is capacity in the system. We are also considering whether the capacity is in the right location to meet demand and whether it's available at the times working parents will need it.

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. Rather, the new extended entitlement will pay for the additional hours parents are already purchasing from an early years setting, helping working families with the cost of childcare.

Early implementation

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

On 26 August, the Department for Education invited local authorities and providers to register their interest in implementing the extended free childcare entitlement from September 2016.

The purpose of early implementation is to: 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, use of funding rates and partnership working; and provide the government with early intelligence on how it can refine the system in preparation for full implementation from 2017.

The deadline to apply to become an early implementer was 20 November and we are currently sifting applications. We will announce the successful areas in the New Year.

Rural areas

The government has already made changes that help meet the needs of parents in rural areas where childcare options may be more limited. It has encouraged more early years provision in schools, provided significant support for childcare through tax credits, and given entitlements to free early education for the most disadvantaged two-year-olds and for three- and four-year-olds.

Special educational needs and disability

The government is committed to ensuring that all families have access to high quality, flexible and affordable childcare. Parents with disabled children should have the same opportunities as other parents via increased choice and access to high quality childcare. While the legal framework is clear that all eligible children must be able to take up a place under the existing and new entitlement, in practice we are hearing that the system does not always deliver for all children.

What we have done so far:

The reforms introduced in September 2014 by the Children and Families Act 2014 build on best practice and represent the biggest change to special educational needs and disability (SEND) support for 30 years. These reforms are making a real difference for families. A key part of these reforms was introducing a system from 0-25 years old that recognises the importance of early identification and the importance of integration between education, health and social care for children across the age range. Local authorities must now offer joined up help at the earliest possible point, without false distinctions between education, health and care whilst making it very clear what help is available to children with SEND through the 'Local Offer'.

The Government has invested £30 million in Independent Supporters to help families applying for an Education Health and Care plan and £5.3 million to sector organisations under the VCS grants in 2015-16, £3.99 million of which was on Early Years projects which supported SEND reform implementation.

What we intend to do:

We want to go further, and that is why, as part of early implementation of 30 hours from September 2016, we are encouraging innovative approaches to providing flexible childcare for working parents whose children are disabled.

We are pleased to say we have had overwhelming interest to participate. Final selection will seek to secure a mix of LAs to provide a spread that represents the different types of local authorities and localities and demonstrate how they will support SEND, homeless working families, low income families, BME and rural communities.

The Department also welcomes Isos Partnership's research report and we are looking to implement their early years proposals as a minimum:

- Local authorities should ensure there are clear expectations about core funding, and the circumstances in which additional advice, training or resources will be provided.
- DfE will issue a practical reminder of the ways in which local authorities can fund

SEN provision in pre-school settings - through existing published resources or webinars.

We recognise the importance of childcare to parents with children with special educational needs and/or a disability. That is why due consideration will be given to SEND funding for early years as part of wider consultation on allocation and a fairer funding system in 2016.

Conclusion

This government recognises that childcare is the issue facing many working parents. We want to support parents and their children at every stage of their life. The Childcare Bill will have a significant, positive impact on the choices for families to take up work or to increase their hours at work. Having the right childcare in place will mean more parents can have a genuine choice, security, and peace of mind when it comes to being able to support their family.



Department
for Education

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