

30 hour free childcare entitlement

Consultation response

About the Family and Childcare Trust

The Family and Childcare Trust is the leading national charity in the field of policy, research and advocacy on childcare and family issues, working closely with local and national government, businesses and charities to achieve positive and long lasting change for families across the UK. Our vision is a society where all families are well-supported and have genuine choices about their lives.

Key recommendations

The Family and Childcare Trust recommends that the Department for Education should:

- Use a simple termly system, aligned with the existing free offer, to manage the 'grace period' for the 30 hour offer.
- Require local authorities to set out a 'minimum offer' for free offer so that families understand what they can expect in terms of access and flexibility.
- Update guidance and tools for local authorities on assessing and managing childcare sufficiency in the light of the 30 hour offer.
- Use learning from the early implementer programme to allocate funding to support local authorities to develop sufficient flexible provision to deliver the 30 hour offer.
- Ensure that in future local funding allocations to early years providers are based on a well-evidenced analysis of provider costs.
- Use the proposed model funding agreement and the Local Offer to set out clear arrangements for supporting early years providers to meet the needs of children with SEND, supported by a strengthened strategic role for local authorities.
- Set out a clear and accessible route of redress for parents to improve the enforcement of parents' statutory rights to free childcare.
- Ensure that early years teams and Family Information Services are sufficiently resourced to meet the additional burdens of the extended entitlement.
- Update the 2008 guidance for local authorities on the provision of information, advice and assistance, incorporating learning from the roll out of the two-year-old offer.

Eligibility

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

We welcome the decision to put in place a 'grace period' for families whose circumstances change but believe that the Department should only use a termly system to manage this. Whilst we understand the need for local authorities to retain some flexibility so that administration of the extended entitlement can be integrated into existing processes, we are concerned that the use of quarters could generate unnecessary confusion for parents and disruption for children.

Although some local authorities have moved to quarterly funding periods for free childcare, we understand that this largely simply has 'back office' implications for providers. Children are eligible for the existing free offer in line with a termly structure. We would strongly recommend that a termly structure is used to manage the grace period, and that where it is necessary for parents to reduce the hours that their children attend childcare or make alternative arrangements, that this be done either at the beginning or the end of a term. This approach will offer stable arrangements for parents and providers and will ensure stable care patterns and properly managed transitions into and from a setting.

Recommendation: The Department should use a simple termly system, aligned with the existing free offer, to manage the 'grace period' for the 30 hour offer.

Flexible provision

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

- Other

There is no simple answer to prioritising investment in flexible childcare to support parents. In 2012, the Department for Work and Pensions found that amongst families where one or both parents are not already working full-time, 49 per cent expressed a wish to find work or increase their working hours, rising to 62 per cent among those earning less than £13,000 a year.¹ The most commonly reported reasons for not working more were difficulty finding suitable hours (57 per cent) and not being able to afford formal childcare (33 per cent). Fifty two per cent of families have one or more parent working atypical hours, most commonly after 6pm (30 per cent) and before 8am (28 per cent) at least three days a week.² The 30 hour offer will help address affordability problems, so long as places are available to parents within normal working hours. The central challenge in rolling out the offer is therefore delivering 30 hours of care each week (or around 24 hours if the offer is stretched) within a traditional 'daycare' structure regardless of the principle setting where a child attends care.

Parents who work outside of usual office hours will often rely on informal childcare in order to remain in employment. These parents will typically fall into three groups; those in professional or managerial occupations who work more than 45 hours per week, shift

¹ Borg, I. and A. Stocks (2013) *A Survey of Childcare and Work Decisions Among Families with Children. Working Paper No. 114*. London: Department for Work and Pensions

² Department for Education (2016) *Childcare and early years survey of parents 2014-15*

workers and people in temporary or irregular employment who may find it difficult to predict their hours of work. Around half of families do not have access to regular informal care and it is likely that their work decisions are constrained by difficulties accessing childcare.

There is no single model or set of priorities which is right for every area: local authorities must understand the strengths and weaknesses of local provision and prioritise action and investment. The key to this process is an effective approach to assessing the sufficiency of local provision. The Family and Childcare Trust remains concerned that there is no shared understanding of what the sufficiency assessment and planning process should look like, nor the tools and guidance available to local authorities to ensure that their approach is robust and effective.

Recommendation: The Department should update guidance for local authorities on assessing and managing childcare sufficiency in the light of the 30 hour offer.

Parental decisions are influenced not only by the reality of provision but by perceptions of the flexibility and quality of childcare. To meet a primary aim of the policy of supporting parents to work, greater certainty must be provided to parents about what the 30 hour offer will mean in practice. We suggest that this could be achieved through a 'minimum offer' setting out what parents should expect. For example, this means communicating to parents that through the offer they can expect either access to a traditional daycare setting or a sessional setting supported by a linked provider. The offer could also set out the additional ad hoc services that provide flexibility around this core offer. In the short-term, it may not be possible to guarantee a minimum offer, but the Department and local authorities should be working towards this aim.

Recommendation: The Department should require local authorities to set out a 'minimum offer' for the 30 hour offer so that families understand what they can expect in terms of access and flexibility.

Q4. What are the barriers to flexible provision?

- Other

The Family and Childcare Trust has argued that additional capital investment should be made to support the roll-out of the 30 hour offer.³ The early years sector will require significant additional investment in order to be able to provide more widespread flexible provision and accommodate parental demand. At the moment, the 30 hour offer stands to act primarily as an income subsidy to parents who are already using more than 15 hours of formal childcare each week. To maximise the potential benefit of the offer to support parents with young children to work, the Department must develop a strategy to increase access to daycare and flexible provision in areas where parents have not in the past enjoyed wide access to these services.

Currently, 58 per cent of three and four year olds receive their free early education entitlement in maintained settings, usually through sessional provision in nursery schools and reception classes.⁴ There are significant structural barriers which may prevent schools

³ Family and Childcare Trust (2016) *Investing in Flexible Childcare*

⁴ Department for Education: First statistical release, Education provision: children under 5 years of age, January 2015

from expanding their nurseries or increasing the amount of childcare hours they offer to parents. Many settings will need additional investment to expand their premises, for example in order to create rest areas or outdoor and activity spaces. Where expansion is not possible, schools will face a choice of offering fewer places for an increased number of hours or maintain their current capacity and decline to offer the extended entitlement. As the proportion of children in maintained settings is higher in more disadvantaged areas, these issues are likely to have a disproportionate impact on low-income families' access to flexible childcare.

Private, voluntary and independent providers are also likely to face delivery barriers. In particular, the planned funding rates for the 30 hour entitlement may prove to be a significant barrier to the provision of flexible childcare in non-maintained settings (and therefore also undermine the potential of blended care to address gaps in provision). At present, providers are able to subsidise the hourly rate they receive for funded places through charges for any additional hours that parents wish to purchase. If the extended entitlement removes a significant proportion of this revenue, many providers may decline to offer it.

We support the Pre-school Learning Alliance's recommendation of a statutory duty on local authorities to collect data on early years provider costs. Whilst there are no easy answers to addressing funding challenges, local early years allocations should be based on a properly evidenced analysis of delivery costs. Developing a robust and transparent process to determine funding allocations, incorporating data on local provider costs, would not only ensure provision is sustainable but would support the best use of resources and begin to build greater trust between early years providers and local and national government.

Recommendation: In future, local funding allocations to early years providers should be based on a well-evidenced analysis of provider costs.

As the Department has highlighted, childminders can play an important part in the delivery of the 30 hour offer, particularly in areas where the majority of provision is sessional. We welcome steps to encourage blended care, where childminders work with centre-based settings, but are concerned that this model could prove to be unpredictable for parents if capacity fluctuates. Efforts to develop blended care to date seem to have been hampered by practicalities for childminders, who are not always supported by centre-based settings and may prefer to care for children full-time in order to ensure their business is sustainable. We will be interested to hear about the experience of early implementers in testing blended care models and hope the Department will draw on this learning in future.

The number of childminders has been declining steadily over the past 15 years and we are concerned that in some areas there may insufficient practitioners available to meet extra demand. As reported in the Family and Childcare Trust *Childcare Survey 2016*, there is significant regional variation in the number of registered childminders, from four per 1,000 children in Hull to 24 per 1,000 children in Bromley. There is a risk that there will be a limited response through new childminders or existing childminders participating in the offer to additional parental demand. We would encourage the Department to take a proactive approach to increasing the number of childminders participating in the offer by investing in well-funded childminder networks and ensuring that early years funding rates take sufficient account of the lower and more variable income childminders often experience.

Recommendation: The Department should use learning from the early implementer programme to allocate funding specifically to support local authorities to develop sufficient flexible provision to deliver the 30 hour offer.

Supporting Special Educational Needs and Disability

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

We agree that providers and local authorities should do more to offer clear accessible information on SEND support for early years services. Both providers and local authorities have legal and statutory duties under the Equality Act 2010; the Childcare Act 2006 and the Children and Families Act 2014 to support inclusion in the early years. We are concerned that inclusion nevertheless continues to be seen in many cases as optional for settings and a matter of discretion for local authorities. Some of the reasons for these problems include a lack of understanding of families' rights and the legal responsibilities on providers; ambiguity about the nature and scope of local authority responsibilities to support families and providers; and the absence of sufficient and clearly identified funding to support inclusion in the early years. The starting point for SEND support must be a clear signal from central Government that legal duties and statutory responsibilities must be met fully.

We agree that it would be helpful to encourage providers to offer more information about their capability and success in caring for children with SEND, which would help to promote positive attitudes among staff and parents. It is important, however, that a schism does not develop between 'inclusive' settings and the rest. Parents should be able to expect that all settings will include children with SEND within the current legal framework. Encouraging particular settings to be identified as inclusive may compound the clustering of children with additional needs in particular settings and the perception that inclusive practice is not the responsibility of every provider. Equally, no signal should be sent to local authorities that it is acceptable for parents with disabled children to offer less choice in arranging childcare than their peers.

Currently, it appears that very few local authorities provide clear information in their Local Offer for childcare providers. One reason for this is ambiguity about the practical and financial support local authorities are expected to provide settings to include children with SEND, particularly for childcare purchased outside of the free offer. To improve the provision of information and support, the Department should both make clear that local authorities should include information for providers in the Local Offer and clarify the nature and scope of the support local authorities should provide.

At a minimum we would suggest that the information for providers in the Local Offer should include:

- Guidance for childcare providers setting out their responsibilities and the support available in providing care for children with SEND.
- Information on accessing support from a qualified early years special educational needs advisor for non-maintained settings.
- Information on financial support for providers.

- Information on SEND training for early years staff.
- Signposting to sources of further advice within the local authority and externally.

The Family and Childcare Trust, funded by the Sobell Foundation, is currently beginning a project to audit the quality and scope of information provided for parents about childcare in each local authority's Local Offer, building on recent work by SENDirect. As part of this project, we will seek to identify good practice. We would welcome the opportunity to discuss this work further with the Department.

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

- Yes

Local authorities can only meet their statutory duties to promote good outcomes for children by exercising a strategic role in supporting children with SEND to access childcare. These responsibilities relate not only to ensuring that children can access free childcare, but that this care is of a sufficient quality to improve outcomes and sufficiently flexible to support parents to participate in work (or move closer to work through education and training).

The Family and Childcare Trust is currently undertaking research into the role of local authorities in supporting quality in early years provision. We hope to publish this research in the near future: our initial findings suggest wide variation in the extent of local authority support for inclusion. There are good reasons for some of this variation, such as varying local patterns of provision and quality support arrangements. However, much of the variation appears to reflect uncertainty about the scope and nature of statutory duties.

We support the Department's proposals to set clear expectations of the information local authorities and providers should make available and the introduction of concrete 'prompt points' through the model funding agreement and Local Offer. The Department should also reiterate the importance of, and strengthen, the strategic support that local authorities should provide to early years providers. This includes:

- The capacity to deliver specialist advice and training in the early years through qualified early years special educational needs coordinators (SENCOs).
- Clear, simple and timely arrangements for providing funding to support inclusion, supported by consistent and coherent eligibility criteria.
- A widely accessible training offer for local staff designed to build the capability and confidence of non-specialist early years professionals in identifying and supporting children with additional needs and their families.
- A effective approach to assessing sufficiency in order to understand how well the local childcare market is delivering access to children with additional needs and identify local priorities for action.

Reformed LA delivery model

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

- Yes

Do you think anything else should be included, or that anything should not be included? If so why?

We welcome the Department's proposals to include equalities duties within the model funding agreement. We would encourage the Department to use the agreement to draw attention to the support available to providers meeting these duties. For example, the agreement could include a clause stating that a provider agrees to consult the local authority where the setting SEND coordinator deems it appropriate or a parent requests an SEND assessment. In turn, the agreement should set out the responsibilities of a local authority to respond within a reasonable timeframe.

More generally, we would encourage the Department to ensure that the model agreement not only seeks to reduce inconsistencies across local authority areas in funding arrangements for providers, but supports more effective and consistent enforcement of key principles underpinning the delivery of the free offer. Whilst the proposed model agreement is a welcome step forward in discouraging unfair practices, it is unlikely to be a document that is accessible to parents, nor necessarily have teeth if things go wrong.

Parents continue to be turned away from providers because they do not wish to purchase additional hours, are unwilling to pay top up fees or have a child with additional needs. The Family and Childcare Trust has received queries from parents who have been advised that they should complain about issues such as top-up fees to Ofsted. It appears to be rare for local authorities to draw parents' attention to their rights regarding access to, and delivery of, free childcare and the steps they should take if they are unhappy. The Department could support delivery of free childcare consistent with the policies it has set out in statutory guidance by introducing a clear process of redress for parents.

Recommendation: The Department should help enforce parents' rights by setting out a clear process of redress for parents in statutory guidance.

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

- Yes

We agree that it makes sense to set a maximum number of three funded providers at one time for the free entitlement. Our reading of the statutory guidance is that the proposed limit would apply to the number of providers that may be used at one time rather than consecutively during a year. We would encourage the Department to ensure that there is sufficient flexibility in regulations to account for exceptional circumstances, such as when a family moves (which might mean they need to use different providers within the same or local authority area or a different area), if parents are unhappy with a provider or a provider closes.

Information to parents

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

- Other

Information about childcare should be updated as often as is practicable in order to ensure that it is useful for parents. Local authorities have a central role to play in supplying information, advice and assistance about childcare and other local services of benefit to parents and children, typically through their Family Information Service. Upcoming changes to childcare policy, including the roll out of tax-free childcare and the increase in direct support for childcare costs under Universal Credit, mean that most parents will be making significant adjustments to the way in which they access and pay for childcare services. Family Information Services will be crucial in getting information and advice to parents.

The Family and Childcare Trust recently conducted a survey of Family Information Services in England.⁵ The responses we received suggest that services face ongoing financial challenges as a result of changes to funding mechanisms and general budgetary pressures on local authorities. The average number of full-time equivalent staff employed at Family Information Services is 3.2, down from 4.6 in 2014 and 4.8 in 2011.⁶ In addition, 66 per cent of respondents indicated that their budget had been reduced in the past two years and 46 per cent are expecting changes within their local authority in the next financial year that will affect them.

The extent to which the Government succeeds in its aim of supporting parents, and mothers in particular, to take up work or work more hours will depend on ensuring that people can understand and access the childcare options available to them. Research has shown that a lack of up to date information is a source of frustration for many parents using online directories.⁷ It is therefore essential that local authorities are supported to carry out regular updates to maintain the accuracy of the information they provide, as perceptions of what is available are likely to have a direct impact on parents' work decisions

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

- Yes

We believe that an online resource is the most easily accessible format for the majority of parents but, as above, would encourage local authorities to ensure that the information they publish is useful and up to date. Our survey of Family Information Services suggests that many local authorities already publish information electronically by default; 104 out of the 110 who responded to the question stated that they have a Family Services Directory that is fully searchable online. Of these, 23 per cent update their directory at least once a month and a further 42 per cent do so as information is acquired. However, though a number of local authorities are providing a comprehensive and high quality service, there is too much variation in the detail and quality of the information provided online.

It is important to recognise those who do not have regular access to the internet or who find it difficult to retrieve information in this way. Although 77 per cent of adults in the UK are recognised as having basic digital skills, those without are more likely to be of a lower socioeconomic status and almost 30 per cent of the unemployed are not digitally skilled.⁸

⁵ In January 2016 a survey was sent out to all Family Information Services in England from which 115 responses were received.

⁶ Rutter, J. (2014) *The work of Family Information Services in England 2013/14*

⁷ Department for Education (2015) *Childcare information for parents*

⁸ Ipsos MORI (2015) *Basic Digital Skills: UK report 2015*

Local authorities should be aware of groups who are more likely to be digitally excluded or need additional support in order to access the entitlement. In particular, we would encourage local authorities to develop locally tailored services such as translated guidance for parents and signposting to advice for those whose first language is not English. It is also vital that the Department continue to support local authorities to provide a brokerage service for parents who need further support to find childcare suitable to their needs. Fourteen per cent of Family Information Services who responded to our survey did not provide brokerage despite it remaining a statutory requirement.

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

Parents have reported being frustrated by a lack of accurate information on whether settings listed in online directories have vacancies.⁹ It would be helpful if local authorities could flag up settings with immediate vacancies and encourage providers to update this information as regularly as possible, as a number of Family Information Services currently do. Local authorities should also provide details on the flexibility of childcare available in a setting as standard, specifically their opening hours and term dates and whether there is the potential to stretch the entitlement across more than 38 weeks.

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

- Yes

The statutory guidance refers to 2008 guidance for local authorities on providing information, advice and assistance (page 26). We are concerned that local authorities have gained a significant amount of learning and experience since this guidance was prepared, particularly through rolling out the two-year-old offer. We would encourage the Department to update the 2008 guidance to reflect learning and recent changes in childcare policy. In particular, we would like to see the guidance incorporate up to date examples of good practice in outreach to hard to reach groups of parents.

Recommendation: The Department should update the 2008 guidance for local authorities on the provision of information, advice and assistance, incorporating learning from the roll out of the two-year-old offer.

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?

- Yes

Local authorities have a duty under section 12(6) of the Childcare Act to facilitate access to their information service by persons in the local authority's area who may benefit from it, including, in particular, those who might otherwise have difficulty in taking advantage of the service. We are concerned that the guidance as formulated does not sufficiently emphasise this duty. Provision of information alone is often not enough to prompt parents to take up

⁹ Department for Education (2015) *Childcare information for parents*

childcare and inattention to outreach strategies has the potential to undermine key childcare policies.

Thirty two per cent of families still believe that there is too little information about childcare available indicating that, despite the existing requirements on local authorities, parents still have unmet information needs.¹⁰ As the Government has identified, awareness of the universal entitlement varies and can be a particular barrier for Bangladeshi, Somali and Polish communities.¹¹ Take up of free early education is lower in more disadvantaged areas and amongst families eligible for the two year old entitlement. To ensure this pattern is not replicated for the 30 hour offer, the Department should encourage local authorities to act at an early stage to develop strategies to communicate the availability of the offer to these groups.

In the Family and Childcare Trust's recent survey of Family Information Services, over two thirds (69 per cent) of respondents indicated that they do not target specific groups and 14 per cent stated that they did not undertake any outreach activities. Local authorities need to be aware of groups who are less likely to access their services and draw up outreach strategies to address this risk.

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

We agree that the Local Offer is the right place for information for information about childcare for children with SEND. However, it is important that the information provided by a Family Information Service and the information provided within the Local Offer is joined up as different groups of staff within a local authority will often be managing these two services. It is particularly important that childcare directories, which are usually managed by a FIS team, are managed with children with SEND in mind, and that a parent landing on either the Local Offer or the FIS service page are signposted to the full range of information about local childcare.

Additional questions

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?

The Family and Childcare Trust is concerned that there is a strong emphasis in statutory guidance on parents' entitlements to free provision, but limited emphasis on the process and means for local authorities of delivering these entitlements. As the free offer expands, the delivery challenge for local authorities is growing. This is particularly the case for the 30 hour

¹⁰ Department for Education (2016) *Childcare and early years survey of parents 2014-15*

¹¹ NAO (2016) *Entitlement to free early education and childcare*

offer, which extends beyond the 'core' sessional offer many early years services have traditionally provided.

Whilst we recognise the Government's policy of devolving freedoms and responsibilities to local authorities, this need not be a barrier to providing support, advice and guidance. In particular, we would encourage the Department to do more to develop tools and resources to assist local authorities in understanding the sufficiency challenge and developing new and more flexible places in their area.

Much of the delivery challenge for local authorities continues to rest on adequate funding not only for providers but for local authorities to address strategic early years sufficiency challenges.

Recommendation: As the early years funding review proceeds, the Family and Childcare Trust would encourage the Department to develop a funding structure for free childcare that supports local authorities in their strategic delivery role.

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

One area of uncertainty we wish to highlight is the lack of clarity about what delivery of the 30 hour offer should look like. The offer will raise parental expectations but, unless there is a change in current service patterns, many parents will find that the flexibility of the offer is limited and they are not, for example, able to take up the offer over 48 weeks of the year or during their preferred hours throughout the week. Whilst it will take some time to develop flexible patterns of availability, local authorities should be encouraged to communicate what a minimum reasonable offer looks like to parents. Communicating what the 30 hour offer will mean in practice for parents would be valuable in promoting take-up of the offer and helping parents to plan, but would also ensure local authorities have a strategic approach to place development and receive clear feedback on where there are gaps in the provision needed to deliver the offer flexibly to parents.

Finally, we are conscious of the new administrative burdens the 30 hour offer will place on local authorities through the extended information and advice duties, the eligibility checking process and increased demands in managing local sufficiency. Early years teams have come under increasing pressure in recent years to minimise the amount of funding which is retained centrally. Coming alongside a general reduction in local authority budgets, this has resulted in significant cutbacks to many early years teams and has limited their capacity for administration and management. To achieve the Department's objective of minimising the disruption caused to families by changes in circumstances, local authorities will need to make clear to parents and providers what their grace period arrangements are and ensure that all parties are notified when funding for the additional entitlement is coming to an end. The online account system will help to manage the entitlement efficiently, but it seems likely that individual advice and support will be required in many cases.

Recommendation: The Department should ensure that early years and Family Information Services within local authorities are sufficiently resourced to meet the additional burdens of the extended entitlement.