
Childcare free entitlement: delivery model

1. Introduction to PACEY

PACEY is the Professional Association for Childcare and Early Years. Our aim is for all children to experience high quality childcare and early learning. We support early years practitioners, including our 30,000 members, to provide high quality provision through training, resources, advice and peer support and we champion the vital role they play in helping prepare children for a bright future.

We welcome in principle the doubling of free childcare for eligible families from 15 to 30 hours per week for 38 weeks a year. It is essential that this extended entitlement fully supports a high quality, diverse and flexible childcare offer for all eligible families that is also sustainable for providers.

Underrepresentation of childminders

Whilst overall take-up of the current entitlement is very high, it is primarily delivered through group settings such as nurseries and pre-schools. Only 3% of 2-year-olds and 1% of 3- and 4- year-olds who are taking up a free place do so with a childminder.¹ This is despite the fact that childminders offer around a fifth of all early years places in England.² Given childminders provide a unique form of highly flexible, home-based care, PACEY welcomes the Government's renewed focus on ensuring childminders play a significant role in the successful delivery of the new extended entitlement. For this to be realised, a number of barriers will need to be removed, many of which we address below.

Two-tier funding system

The primary barrier to providing the current entitlement for all providers is the low hourly rate. One of the key reasons many childminders in particular do not find it financially viable to deliver the entitlement is the two-tier funding system, with one rate for 2-year-olds and another, lower rate for 3- and 4-year-olds. This system was clearly designed with non-domestic (group) settings in mind, where ratio requirements for 2-year-olds are half that of those for 3- and 4-year-olds (1:4 vs 1:8). Childminders, on the other hand, operate a 1:3 staff to child ratio requirements for *all* children under five. For this reason, childminders generally charge a flat rate for all of the children in their care under 5, and certainly do not distinguish between 2-, 3- and 4-year-olds. The Department for Education clearly acknowledged this key difference in its *Review of childcare costs*:

Primary research by Deloitte indicated that childminders often operate at the statutory 1:3 ratio. Note that, because the ratio applies across all pre-school age children, we assume no underlying cost variation between children aged two, and children aged three and four. This is one notable difference to the modelling for group-based provision.³

Contributing analysis from NLH Partnership highlighted that on average, providers receive a surplus in funding of £0.22 for delivering the entitlement to 3- and 4-year-olds and a shortfall in funding of

¹ Department for Education (2015), [Provision for children under five years of age in England: January 2015, Statistical First Release](#) (London: Department for Education).

² Ofsted (2014), [Registered childcare providers and places in England August 2014](#) (Manchester: Ofsted).

³ Department for Education (2015), [Review of childcare costs](#) (London: Department for Education).

£0.43 for 2-year-olds.⁴ However, for childminders, the situation is reversed. Across the country, childminders report that hourly rates for 2-year-olds are much more likely to be in line with their own rates than those for 3- and 4-year-olds. These views are reinforced in independent research. The SEED report on childminders noted that 2-year-old funding levels were similar or higher than childminder's hourly rates and were 'generally felt to be adequate'.⁵ Likewise, the funding levels for 3- and four-year-olds were 'less satisfactory with levels often lower than the levels they charged privately'. Local authorities may find that more childminders deliver the entitlement if they pay them a single rate which more accurately reflects their costs.

The ban on providing the entitlement to related children

One of the single biggest motivations for becoming a childminder is the ability to work whilst simultaneously staying at home and caring for one's own children. However, childminders are not permitted to claim the free entitlement for their own children or blood relatives, whom they may already be looking after. Among early years providers the ban on related children is unique to childminders; individuals working in or owning a nursery or pre-school setting, however small, can deliver funded places to children related to them. It is already a major barrier to engaging more childminders in the delivery of the free entitlement, but it will become a more significant obstacle when the entitlement is doubled. The number of children childminders are registered to care for is affected by the existence and age of their own children, regardless of whether they are present. If a childminder has a 3- or 4-year-old eligible for the extended entitlement, not only would they have to send them elsewhere to receive it for 30 hours per week, but one out three of their prime places would be taken up by their own (mostly absent) child.

PACEY believes there are already strong safeguards in place to ensure government would not be 'paying parents to parent' if it allowed childminders to deliver funded places to relatives, notably the Ofsted registration and inspection process which require that the same standards are required of all childminders, whether they care for a related or an unrelated child. For an additional reassurance, however, government could limit the number of related children for which a childminder could claim the free entitlement, for example to one or two children, and require that the childminder also be caring for other non-related children at the same time. It is notable that parents on working tax credit are able to receive significant support with childcare costs if they use a registered childminder related to them as long as they do not live at the same address and are caring for other children to whom they are not related.

Childminder agencies

PACEY is concerned that the Government is placing a significant reliance on the untested model of childminder agencies as its solution to engaging more childminders in the entitlement. Indeed nearly every early implementer local authority includes one of the eight childminder agencies registered with Ofsted. However, two years after becoming a legal form of registered childcare – and despite ongoing efforts to promote the model – childminder agencies command limited interest. One of the key reasons is that the agency business model is proving to be unsustainable without significant external funding. Even if childminder agencies do eventually become an established feature of the childcare market, there will not be enough of them by 2017 to support the large number of childminders needed to ensure the growth in places the extended entitlement requires.

⁴ NLH Partnership (2015), [Cost of delivering the early education entitlement](#) (London: Department for Education).

⁵ M. Callanan (2014), [Study of Early Education and Development \(SEED\): views and experiences of childminders](#) (London: Department for Education).

Capacity building

We would like to see more being done by government, through the early implementation/innovation pilots, and via other sources of advice and support, to help all early years settings, including childminders, explore how they can expand their businesses to offer more places and/or work in partnership with others to do so. PACEY and other organisations are already doing this, but capacity is limited. The opportunity to support settings explore how they can grow their capacity sustainably through the delivery of extended entitlement must be a central focus for government and the pilots. It is the most effective way of ensuring sufficient places for families wanting to take up this offer.

This must start with local authorities paying a fair fee for delivery of a funded place, but also includes support to help settings consider what they are and are not permitted to charge for as additional costs to families using the free entitlement, as well as the brokering of partnerships between group settings and childminders so they can share delivery. This is especially critical for pre-schools and other group settings that simply do not have the capacity to grow the places they can offer families due to constraints related to issues like premises and staffing. Alongside this, there must be a local assessment of the likely demand for the additional 30 hours so settings understand the size of the market they will collectively have the opportunity to support. Consideration will also need to be given to how Ofsted inspects shared delivery by two or more providers, as the ability of settings to demonstrate how they have improved children's outcomes will be considerably more complex when there is shared care.

Finally, at a national level, government should do more to recognise the additional costs many settings now incur as they expand and grow, including business rates, the new living wage and pension requirements. There are real opportunities to expand many childcare businesses, but some providers need expert advice and support from local authorities and their professional body in order to accurately assess what is viable for their setting.

Workforce strategy

The significant public investment being made by government in early years provision provides a substantial opportunity to leave a lasting legacy on the quality of early education and care for young children in England. However, this will only happen if it is accompanied by a commitment to work with the sector to ensure the sustainability and development of the workforce.

PACEY is receiving a growing number of reports that nurseries and pre-schools are struggling to recruit the qualified staff they need to meet demand. There is also evidence from FE colleges and awarding bodies that there is likely to be a significant downturn in the number of early years practitioners entering the workforce in the future. There is a real danger that settings soon will not have the capacity they need to deliver the current 15-hour entitlement, let alone extend it to 30 hours. Specific barriers to entry to the profession, including GCSEs in English and Maths, lack of career progression and persistent low pay (yet high responsibility) need to be urgently addressed.

PACEY is pleased that the Government has made a formal commitment to publish an early years workforce strategy in partnership with the sector, but we are concerned by the fact that this is taking a long time to evolve. There are some immediate changes the Government could make to ease the recruitment crisis in early years and support settings to feel more confident about building capacity with the qualified staff they need. This action is needed in the next couple of months to support the next cohort of students entering the profession who will qualify in 2018. In particular, it is urgent that the Government:

- Reinstates current Functional Skills qualifications in English and Maths as equivalent qualifications to GCSEs in English and Maths for Level 3 Early Years Educators (EYEs)
- Develops reformed Functional Skills vocational qualifications for Level 3 EYEs in English and Maths, in line with the Government's requirements (to be available to study from September 2018, i.e. after two years' development)
- Allows existing Level 3 EYEs continue to count in the ratios if they have qualified with previously accepted qualifications
- Considers how training providers are more robustly regulated and inspected to ensure the quality of practitioners entering the profession

In addition, PACEY has developed a series of practical longer-term recommendations, many of which do not require substantial funding, which seek to support the sector to retain and make the most of the 400,000 talented people already working in it.⁶ Our recommendations revolve around three key aims: increasing qualification levels; incentivising CPD; and improving career pathways and progression routes. We advocate that government consider regulatory changes which incentivise settings that invest in the training and development of their staff. For example, Ofsted could adopt a 'right-touch'⁷ approach to inspection that is less burdensome for settings that are graded 'good and 'outstanding'. Similarly, the free entitlement could be linked to Ofsted grade or qualification levels.⁸

2. Eligibility and grace period

PACEY welcomes the fact that parents will be able to apply for both the extended entitlement and Tax-Free Childcare using the same online system. However, we are concerned by the fact that eligibility must be confirmed by both HMRC *and* the local authority, and by the latter at multiple points throughout the year. This seems excessive and there is a real risk that this will in reality mean the burden is passed on to providers or does not happen at all. Many small providers such as childminders already find local authority administration of the universal 15 hours entitlement burdensome (see below). We would welcome clarification on why, through effective information sharing, duplication of HMRC and the local authority's role could be avoided and what the provider's role in the eligibility checking process is likely to be.

We are supportive of the idea of the grace period in principle, but we believe that the current proposal gives too much discretion to local authorities. It would be more straightforward for providers if all local authorities across the country adopted a quarterly funding period in line with the quarterly parental declaration period. As the consultation document notes, Department for Education research has revealed that a very large number of parents want to see the entitlement stretched across the full year. Moving to a quarterly, rather than a school-based termly system, would go some way to ensuring a transformation in the way the extended entitlement is conceived and administered by local authorities.

⁶ S. Kalitowski (2016), [Towards an Early Years Workforce Development Strategy for England](#) (Bromley: PACEY).

⁷ Professional Standards Authority for Health and Social Care (2015), [Right-touch regulation](#) (London: Professional Standards Authority for Health and Social Care).

⁸ For example, group settings could be required to have a certain percentage of staff with Level 3 qualifications and be graduate-led. Childminders could be required to be working towards a Level 3, and have regular contact with a graduate leader, for example through partnerships with schools, children's centres and group early years settings.

PACEY agrees that local authorities should be given discretion to extend the grace period in exceptional circumstances, but more detailed guidance will be needed to ensure the policy is applied as consistently as possible across different authorities.

3. Flexible provision

PACEY strongly supports efforts to make the extended entitlement as flexible as possible and agrees with the Government that childminders are particularly well placed to offer flexible provision. We back the Government's efforts to incentivise more childminders to deliver the entitlement by introducing a prompt payment code and better information for parents (see below). We also agree that effective partnership working between two or sometimes three providers will be essential to the delivery of the new entitlement.

Extending the hours in which the entitlement can be accessed (from 6am to 8pm), and providing it on weekends, raises some complex issues. What impact will this have on children's outcomes? How will this sit with many parents' ongoing efforts to provide a better balance between their work and family commitments? A child's needs in the early morning can be substantially different to those in the evening, particularly after 6pm. Any extended day offer will have to recognise this in its implementation and Ofsted must be mindful of this when it is inspecting settings.

Although it may work for a few providers, particularly some childminders, to deliver funded places in the early mornings, evenings or on weekends, the reality is that this will be challenging for the majority, particularly when atypical hours can incur additional costs (for example related to staffing, food, electricity, etc.), yet do not command a higher hourly rate.

There is also a need for much greater clarity in the statutory guidance about what flexible provision means in reality, and particularly how much choice providers have over how and when they provide funded places to ensure there is consistency across different authorities – and that childminders in particular do not lose out.

For example, the consultation document states that local authorities 'should not allow providers to *artificially* restrict the times during which the existing or extended entitlement can be taken in order to charge parents for additional less standard hours' (our emphasis). It is not at all clear how a local authority would determine whether this is the case or even what this means in reality. Section A2 of the draft guidance on flexibility states:

A2.6 Ensure that parents and providers are aware that, subject to the standards set out in A2.4, there is no requirement that funded places must be taken on or delivered on particular days of the week or at particular times of the day.

The wording of this paragraph seems to imply that providers are *not* permitted to restrict access to the entitlement to set times on set days of the week.

However, the guidance then goes on to say:

A2.7 As a minimum, ensure that parents are able to access their child's funded place in the following patterns:

- *5 hours per day over 3 days of the week*
- *3 hours per day over 5 days of the week*

This would imply that providers *do* have a certain amount of discretion over how and when they deliver the entitlement, for example they could require it to be delivered over 5 days of the week in

6-hour blocks; over 4 days in 7.5-hour blocks; or over 3 days in 10-hour blocks. Within this, however, it is not clear if the provider would be permitted to restrict the time and days the entitlement was available, for example between 8am and 2pm Monday-Friday for the 6-hour block, or between 8am and 3.30pm Tuesday-Friday for the 7.5-hour block. Parents who needed provision before or after those times, or on additional days, would therefore be required to pay the provider's private rate. Greater clarity is needed to ensure the flexibility requirements do not become a further source of burden and red tape that disincentivise providers from delivering the entitlement.

The Government must also recognise that there will always be a significant business cost to flexibility. The Department for Education's own review of the cost of childcare recommended that providers operate to the statutory staff to child ratios in order to be sustainable and keep costs down.⁹ Is it any surprise that those providers who offer the least flexibility – maintained nursery schools and primary schools – are the most successful at doing this? Providers are significantly more likely to offer the extended entitlement if they retain discretion over how and when (including which days and times) they will deliver it, enabling them to ensure they are filling all available places.

4. Supporting special educational needs and disability (SEND)

PACEY is deeply concerned by the low-take-up of the current entitlement by disabled children and are concerned that they may be further excluded from accessing the extended entitlement. There is undoubtedly a need for both providers and local authorities to be clearer about what SEND support is available in settings and across the local authorities, and for the local offer in particular, to be communicated more clearly.

However, information in itself will not solve the problem. PACEY is a supporter of the Levelling the Playing Field Campaign run by four leading organisations working with disabled children and their families: Contact a Family, the Council for Disabled Children, Mencap, and the Special Education Consortium. We agree with the Campaign that sufficient funding must be available – and structural reforms made – to ensure that the extended entitlement does not exclude children with SEN and/or disabilities.

The key barriers identified in the Parliamentary Inquiry into Childcare for Disabled Children are the higher cost of provision for disabled children and the experience and skills of the early years workforce. It is therefore crucial that the national early years funding formula provides sufficient funding for places for disabled children. It must recognise that many disabled children need higher adult-to-child ratios legally required and that this is more expensive. We would like to see a mandatory supplement for children with additional needs such as a disability. In addition, the workforce strategy must consider how all early years practitioners gain access to the training and support they need to provide high quality care and early education for disabled children.

5. Reformed local authority delivery model

PACEY would like to see the local authority delivery model substantially transformed. In our view, providers should be *required* to pay providers on a monthly basis and use a national, standardised model agreement. These elements should not be voluntary.

The registration and payment systems local authorities currently use to administer the free entitlement vary significantly and frequently serve to deter potential providers, particularly childminders and smaller group settings. Common complaints include:

⁹ Department for Education (2015), [Review of childcare costs](#) (London: Department for Education).

- Infrequent, delayed or missed payments
- Complicated local area agreements and registration processes
- Excessive paperwork (e.g. eligibility verification, parental declaration forms, headcount reporting)
- Administrative errors (paperwork 'lost in the post')
- Inconsistent or arbitrary requirements (e.g. concerning training or insurance)
- major lack of clarity and guidance from the local authority

Each local authority has its own payment system, with most dispensing free entitlement payments in arrears on a termly basis in line with school administration systems. However, small providers are accustomed to weekly or monthly payments from parents. On top of this, there are frequent reports of delayed, missed or incorrect payments, as well as payment dates changed with little notice. There can also be problems with sharing free entitlement payments between two providers, for example a childminder and a nursery. The result is serious cash flow problems, particularly for small businesses operating on very low or no profit margins. In fact, PACEY research has found that the payment system is the second biggest disincentive to providing funding places, after the low hourly rate.

Local authorities need to radically improve their interactions with early years settings and recognise that in many cases they are dealing with small businesses that need processes streamlined and simplified in order to incentivise them to deliver funded places. In particular they need to review their administrative systems to ensure that registering to provide the entitlement is as easy as possible and that their payment processes are robust and supportive of small business needs. Where possible, local authorities should look to automate the processes they use, making the most of growing technology that can reduce both paperwork and errors. The planned capital investment government is offering to settings via local authorities could be used to invest in one of a growing range of online accounting and learning journals that all settings, including childminders, are increasingly using. This would improve payment and record keeping, as well as support more effective tracking of children's progress, especially when there is shared care by two or more settings. The early implementation/innovation pilots provide an ideal opportunity to develop and share good practice.

PACEY also calls on the Government to review, simplify and harmonise the so-called 'basket of measures' providers must meet locally to qualify to deliver the entitlement. Whilst streamlined a few years ago, some local authorities are continuing to require providers to jump through unnecessary and burdensome hoops in order to provide funded places. For some authorities, an Ofsted registration and inspection grade is not enough and additional requirements are placed on providers, for example related to insurance or training. Whilst there has to be a balance between minimising the burden placed on providers and ensuring quality for children and families, there are easier ways of achieving this, for example by restricting delivery of the entitlement to providers who have achieved a 'good' or 'outstanding' grade from Ofsted. Providers could also be required to evidence any mandatory training rather than be required to attend local authority-approved training courses. There should be an assumption that if a setting has been quality-assured by Ofsted, this should be good enough for the local authority. The proposed national model agreement should address this.

6. Information to parents

PACEY supports the local authority's strengthened duty to provide information for parents. In our view, this should be updated on a quarterly basis, or more frequently if the provider wishes, ideally through a user-friendly online provider profile. The information should be published online, as well

as available over the telephone. The website and telephone line should be signposted at key points within local communities (e.g. children's centres, health visitors, libraries, GPs, schools, etc.).

There is an urgent need to provide clear, accurate information to parents about which providers can deliver the entitlement in their area, and the main features and benefits of different types of early years settings. A key barrier childminders in particular face in providing the entitlement is a perceived lack of demand for funded places.¹⁰ Many childminders have reported that parents looking for funded places are being directed to group-based rather than home-based-settings by local authorities, children's centres and health visitors. Those childminders who do look after funded children tend to have cared for them from a young age, before they were eligible for a free place. Local authorities need to ensure that the information they provide is signposting parents and others to a range of providers, and makes it clear that the entitlement can be used in more than one setting.

¹⁰ In a 2014 unpublished survey of primarily childminders, PACEY found that just over half of providers (56%) reported that no parents had asked them about providing a funded place. A large majority (85%) had never tried to claim EYE funding.