POLICY NOTE

THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014 (MODIFICATION) (No. 2) ORDER 2019

SSI 2019/207

The above instrument was made in exercise of the powers conferred by section 48(2) of the Children and Young People (Scotland) Act 2014. The instrument is subject to affirmative procedure.

The purpose of the instrument is to modify the 'mandatory amount' of funded early learning and childcare (ELC) to be secured by education authorities for eligible children from 600 hours to 1140 hours in each year for which a child is eligible and a pro-rata amount for each part of a year.

Policy Objectives

1. The Scottish Government's ambition is for every single one of Scotland's children to grow up in a country where they feel loved, safe and respected, and able to reach their full potential. It is this ambition that is at the heart of the Scottish Government's commitment to expanding the funded early learning and childcare (ELC) entitlement. This is a transformative policy which will help secure positive outcomes for children across Scotland and grow Scotland's economy.

2. The Children and Young People (Scotland) Act 2014 increased the statutory entitlement to funded ELC provision for all 3 and 4 year olds, and eligible 2 year olds, from 475 hours a year to 600 hours. The Children and Young People (Scotland) Act 2014 (no. 2) Order 2019 will modify the 'mandatory amount' of funded ELC to be secured by education authorities for eligible children from 600 hours to 1140 hours in each year for which a child is eligible and a pro-rata amount for each part of a year from August 2020.

Background

3. Research shows that access to high quality ELC that is free at the point of access can enrich children with skills and confidence and contribute to closing the poverty-related attainment gap between our most and least disadvantaged children. Evidence from both UK and international evaluations and studies of ELC programmes shows that all children, especially those from disadvantaged backgrounds, can benefit in terms of social, emotional and educational outcomes from attending ELC.

4. The Scottish Government and local authorities have committed to almost double the funded entitlement to early learning and childcare (ELC) from 600 to 1140 hours

from August 2020 for all 3 and 4 year olds and eligible 2 year olds. This will be high quality, flexible ELC that is accessible and affordable for families.

5. In order to ensure that the funded entitlement is delivered in high quality ELC settings, Funding Follows the Child will be introduced in August 2020 alongside the statutory roll-out of 1140 hours. This approach is 'provider neutral' and is underpinned by a National Standard that all settings (e.g. nursery, childminder) that wish to deliver the funded entitlement will have to meet. Details of how Funding Follows the Child will operate were published on 18 December 2018, including operating guidance for local authorities and providers[1].

6. The expansion of funded ELC will deliver three main benefits for children and families:
    - children's development improves and the poverty related attainment gap narrows;
    - more parents will have the opportunity to be in work, training or study; and
    - increased family resilience through improved health and wellbeing of parents and children.

7. The Scottish Government has worked in partnership with COSLA and a variety of stakeholders across the ELC sector throughout the development of the 1140 expansion policy and has consulted widely on the expansion of funded ELC. A multi-year funding package was agreed by Scottish Government and local government in March 2018 to fully fund the expansion and local authorities are currently phasing in the expanded entitlement and trialling different models of delivery. A Joint Delivery Board, co-chaired by the Minister for Children and Young People and the COSLA Spokesperson for Children and Young People, has been established to provide joint governance and monitor progress.

Consultation

8. The Scottish Government has consulted widely on the programme to expand ELC to 1140 hours. Feedback from these consultations has shaped the development of the policy and the support put in place for local authorities and providers.

    - **1140 Hours Expansion – Programme of trials** [2016] [2]. This consultation gathered views on the Scottish Government's programme of trials to test a variety of models for delivering the expanded ELC commitment. It received 73 responses.

    - **A Blueprint for 2020: The Expansion in Early Learning and Childcare** [2016-2017] [3]. This consultation gathered views on the Scottish Government's

1 https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-principles-practice/
2 https://www.gov.scot/publications/early-learning-childcare-programme-trials-analysis-responses-scottish-government-discussion/pages/1/
3 https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-consultation-analysis-report/

vision and high-level principles for the expansion as well as the key policy choices that had to be made. It included questions on ensuring equality of access. This consultation received 336 written responses. In addition, a series of consultative events were held across Scotland to raise awareness of the consultation and to seek the views of parents directly.

- **Early Learning and Childcare Service Models consultation** [2018] [4]. This consultation gathered views on a draft version of the National Standard, which would underpin the Funding Follows the Child approach to ELC service provision. This consultation was run jointly with COSLA and received 219 written responses. In addition to the online consultation, the Scottish Government held eight consultation events in different locations. Most attendees at the events were ELC providers.

9. In 2017 the Scottish Government commissioned social researchers Craigforth to explore parents' views and use of ELC in Scotland[5]. To take this forward they undertook a nationally representative survey and follow up discussions with parents of children under the age of six. This provided information on parents' and carers' current use , views and experiences of ELC. A total of 10,526 valid survey responses were submitted by parents to inform this research. In particular, this research gathered views from parents and carers on the flexibility they would like in using their child's entitlement to funded ELC.

Impact Assessments

10. An Equalities Impact Assessment (EQIA), a Children's Rights and Wellbeing Impact Assessment (CRWIA) and a Fairer Scotland Duty Assessment (FSDA) have been conducted for the programme to expand Early Learning and Childcare entitlement to 1140 hours.

11. The EQIA did not identify any direct or indirect unlawful discrimination by increasing the funded entitlement to ELC. The process also identified a number of areas where the increase in funded entitlement to ELC can help to advance equality of opportunity for families with a protected characteristic and promote good relations between those with and those without a protected characteristic. The expansion programme is supported by a benefits realisiation strategy and the Scottish Study of Early Learning and Childcare, a new longitudinal study which will evaluate the long term impact of the expansion.

12. The CRWIA found that increasing the funded entitlement to ELC will not have a negative impact on children's rights or wellbeing and will support postive social, emotional, and cognitive outcomes for children. The process also found that expanded ELC will give better or further effect to the requirements of the UN Convention on

4 https://www.gov.scot/publications/early-learning-childcare-service-model-2020-analysis-public-consultation/
5 https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/

the Rights of the Child (UNCRC) in Scotland. The CRWIA considered the existing evidence about the impact of expanded ELC, and the role the Scottish Study of Early Learning and Childcare will have in evaluating the long term impacts of the expansion.

13. We do not consider there to be any impacts on privacy or the environment as a result of the order.

Financial Effects

14. There is a financial cost associated with increasing the 'mandatory amount' of funded ELC to 1140 hours. The Scottish Government has agreed a multi-year funding agreement with COSLA to fully fund the expansion to 1140 hours.

15. A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The BRIA identified benefits to children, families, providers and the wider economy as a result of the increase in the funded entitlement. It identified an additional recurring revenue cost of £567 million per annum from 2021-22 and an additional £476 million capital cost for the four financial years from 2017-18 to 2020-21 inclusive.

Scottish Government

Early Learning and Childcare Programme Directorate

May 2019