

Local Government Association (LGA)
Childcare Bill
House of Lords, Committee Stage
Wednesday 1 July 2015



Key messages

- Free childcare should meet the needs of working parents and provide high quality places and the funding must reflect this. A review of funding rates is welcome and we support the amendments which would clearly set out the parameters of the review and who would be involved.
- The criteria by which parents' eligibility for the additional 15 hours a week free childcare is determined is unclear and the LGA supports amendments to clarify this. The LGA would be concerned if the costs of determining eligibility impacted on an already underfunded system.
- The Government should clarify how the free childcare will be delivered. A move to a dual system, which the Bill appears to introduce, where both local authorities and the Department for Education deliver free places, would add further complexity and cost to an already underfunded system.
- Amendment 31 would reverse what is widely understood to be a presumption against councils creating childcare places. Given the positive impact of high quality childcare on outcomes for children, public sector places should be part of the offer to parents.

Consultation and reviews (Amendments 1, 42)

The LGA welcomes the Government's announcement that it will formally review the funding rates paid to providers. We understand that the Call for Evidence published on 15 June 2015 is part of the evidence gathering process which will inform the review, due to report in the autumn. However, the Government has yet to publish any details of the terms of the review itself and how it is to be conducted.

We therefore support Amendment 1 which would set out the parameters of the review in the legislation and reflect the sector's call for a fundamental, in-depth review of the free entitlement funding system. Furthermore, these amendments would ensure the review considered the funding implications of creating an inclusive childcare offer for disabled children.

Funding sufficiency (Amendment 30)

Given that the current 15 hours childcare for 3 and 4 year olds is considered to be underfunded, the Government should ensure that the funding rate covers the cost of delivering 30 hours of free childcare to a standard likely to improve children's outcomes. Capital funding may also be required to expand provision where necessary to meet the commitment to 30 hours childcare. Amendment 30 would ensure sufficient funding was secured, for both the existing 15 hours free childcare and the additional 15 hours, prior to the legislation coming into force.

Briefing

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In addition, we support Amendment 12 which would ensure sufficient funding for childcare providers to meet the additional needs of disabled children.

Eligibility (Amendments 5, 9, 11, 26)

We support Amendments 5, 9, 11 and 26 which would define 'working parent' for the purposes of determining eligibility for the additional 15 hours free childcare. In its current form, the Bill lacks detail as to which parents would be entitled and, despite, the Minister's clarification at Second Reading, questions still remain as to whether parents with irregular working patterns would be eligible.

If councils are required to assess eligibility on the basis of different eligibility requirements, they will incur additional costs which would need to be fully funded. The LGA would be concerned if the costs of determining eligibility for the 30 free hours would impact on an already underfunded system.

Duty to secure childcare (Amendment 3)

Under the existing legislation, councils are required to secure 15 hours of free childcare for three and four year olds and disadvantaged two year olds in their area. The Bill places the duty on the Secretary of State to secure the 30 free hours for the children of working parents, including the existing 15 hours that councils are required to secure. We are concerned that this could create confusion and inefficiency.

Amendment 3 seeks to clarify the continuing role of local authorities in delivering free childcare. A move to a dual system, where both local authorities and the DfE are involved in the delivery of free places, would add further complexity and cost, to a system which is already considered to be underfunded, especially where there is differing eligibility between working and 'non working' parents.

The Bill also includes regulation-making powers to allow the Secretary of State to establish a body corporate and impose functions on it in order to fulfil her duties under the Bill. The Government needs to clarify why this provision is needed and how it intends to use it.

Public sector childcare provision (Amendment 31)

Explicit limits are placed on the role of councils in childcare provision by the Childcare Act 2006. Councils should not provide places directly, unless there are no other providers that are willing to do so. The growth in early years' education and childcare over the last ten years has been almost entirely in the Private, Voluntary and Independent (PVI) sector and there has been little expansion in public sector provision. There is also strong evidence that the overall quality of provision is lower among PVI providers than in the public sector, particularly in disadvantaged areas. Recent research sponsored by the Nuffield Foundation found that maintained schools offer better early years' provision than PVI settings in deprived areas and that children in those areas were missing out. There has been little incentive, or funding, for councils to increase public sector provision even in those areas where parents have found it difficult to pay market rates for private childcare provision over and above the free entitlement.

Amendment 31 would reverse what is widely understood to be a presumption against councils creating their own childcare places. The amendment would allow the creation of public sector places, allowing councils to work alongside the PVI sector to provide much-needed childcare places. Given the positive impact of high quality childcare on outcomes for children, consideration should be given to public sector places being a greater part of the offer to parents.

Criminal offences (Amendment 19)

We support Amendment 19 which removes the threat of parents who breach the legislation and its regulations committing a criminal offence. For example, a penalty of imprisonment, as set out in the Bill, would be disproportionate to the offence committed and would cause harm to the child concerned. The Childcare Payments Act 2014 contains no such penalty, with the maximum penalty in this legislation being a fine of £3000.