

<b>Title:</b> <b>Consultation on a revised Code of Practice for Local Authorities on Delivery of Free Early Education Provision for 3 &amp; 4 year olds</b>  <b>Lead department or agency:</b> Department for Education <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>	
	<b>IA No:</b>	
	<b>Date:</b> 1/8/2011	
	<b>Stage:</b> Development/Options	
	<b>Source of intervention:</b> Domestic	
	<b>Type of measure:</b> Other	
<b>Contact for enquiries:</b> Chris Armstrong-Stacey chris.armstrong-stacey@education.gsi.gov.uk		

## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

Evidence shows that high quality early education is beneficial for children's cognitive and social development. However 30% of children can only access their free place in a setting rated "satisfactory" by Ofsted. 5% of eligible children (often the most disadvantaged) do not take up a free place and of those that do 14% take up less than 13 hours a week. Statutory guidance is overly long and prescriptive. It suggests a single "one-size" fits all method for local authorities to assess and raise quality that limits their freedom to drive up quality in an appropriate way for their area. Guidance also sets out a framework for delivery which can constrain some parents' ability to take up their child's full entitlement

### What are the policy objectives and the intended effects?

- To reduce the burdens on local authorities and providers of assessing the quality of provision by using a range of transparent quality improvement / assessment measures to ensure that more children can take up their free place at a high quality setting,
- To make the free entitlement more flexible to maximise take-up of the full free early education entitlement.
- To give local authorities the discretion to secure free early education places in a way that best meets the needs of children and families in their area and the capacity of providers to deliver high quality free places

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following principle options have been considered:

- 1: Do nothing – retain current statutory guidance
  - 2: Remove guidance giving local authorities complete discretion over how they secure free early education places
  - 3: Amend guidance to strip out all unnecessary national prescription and use guidance to focus on key aims of raising quality in all settings and maximising take-up of and participation in free early education.
- The Government judges that option 2 would best ensure value for money of the free entitlement by realising benefits for children's development and life chances while reducing burdens on local authorities and providers.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 09/2014


**What is the basis for this review?** PIR. **If applicable, set sunset clause date:** Month/Year

<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	Yes
--	-----

**SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

 Date: 8/11/11

# Summary: Analysis and Evidence

## Policy Option 1

Description:

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £55	High: £157	Best Estimate: £140

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0.16	£20.1	£173
High	£0.16	£21.1	£182
Best Estimate	£0.16	£20.3	£175

### Description and scale of key monetised costs by 'main affected groups'

- Administrative costs to local authorities and providers in meeting new quality improvement criteria
- Additional costs to government for additional hours taken up due to increased flexibility

### Other key non-monetised costs by 'main affected groups'

- None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0	£27.5	£237
High	£0	£38.3	£330
Best Estimate	£0	£36.6	£315

### Description and scale of key monetised benefits by 'main affected groups'

- Reduction in administrative costs for local authorities and providers due to simplification of guidance
- Benefits to parents of increased take up of free entitlement due to increase in flexibility of provision of early education

### Other key non-monetised benefits by 'main affected groups'

- Benefits to children of increased take up of free entitlement due to increase in flexibility of provision of early education
- Benefits to children of improvement in quality of provision due to simpler application of quality controls

### Key assumptions/sensitivities/risks

Discount rate (%)

- Reduction in local authority and provider administrative costs arising from simplification of guidance exceed the estimated administrative costs incurred by providers in meeting quality improvement criteria.
- This is based on the assumption that most providers (80%) already undertake similar quality improvement activities, so the administrative costs would not be additional
- If this assumption is too high then the additional costs to providers would be higher. If none were already engaged in similar activity then the overall net savings of the policy would remain positive, but there could be a small average net cost to providers of around £200

Direct impact on business (Equivalent Annual) (£m):			In scope of OIOO?	Measure qualifies as
Costs: £1m	Benefits: £1.3m	Net: £0.3m	Yes	OUT

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England			
From what date will the policy be implemented?			01/09/2012			
Which organisation(s) will enforce the policy?			Local Authorities			
What is the annual change in enforcement cost (£m)?			£0			
Does enforcement comply with Hampton principles?			Yes			
Does implementation go beyond minimum EU requirements?			Yes			
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: n/a		Non-traded: n/a	
Does the proposal have an impact on competition?			Yes			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs:		Benefits:	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)		Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?		No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	15
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	15
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	15
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	No	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	DCSF (2009) 'Extended Flexible Entitlement for Three- and Four Year Olds: Pathfinder Evaluation', ( <a href="http://www.education.gov.uk/publications/eOrderingDownload/DCSF_RR080">http://www.education.gov.uk/publications/eOrderingDownload/DCSF_RR080</a> ).
2	Department for Education (2011) 'Statistical First Release: Provision for Children under Five Years of Age in England: January 2011', ( <a href="http://www.education.gov.uk/rsgateway/DB/SFR/s001009/index.shtml">http://www.education.gov.uk/rsgateway/DB/SFR/s001009/index.shtml</a> ).
3	DCSF (2008) 'Childcare and Early Years Survey of Parents 2008', ( <a href="http://www.education.gov.uk/publications/eOrderingDownload/DCSF-RP136">http://www.education.gov.uk/publications/eOrderingDownload/DCSF-RP136</a> ).
4	Singer, R. (2011) 'Open all hours? Flexible childcare in the 24/7 era': published on behalf of Daycare Trust ( <a href="http://www.daycaretrust.org.uk/data/files/atypical_hours_report_final_march_11.pdf">http://www.daycaretrust.org.uk/data/files/atypical_hours_report_final_march_11.pdf</a> ).
5	Daycare Trust (2011) 'Childcare Costs Survey 2011', ( <a href="http://www.daycaretrust.org.uk/publications.php?action=publication&amp;id=38">http://www.daycaretrust.org.uk/publications.php?action=publication&amp;id=38</a> ).
6	Ofsted (2010) 'The Annual Report of Her Majesty's Chief Inspector of Education, Children's Services and Skills', ( <a href="http://www.ofsted.gov.uk/resources/annual-report-of-her-majestys-chief-inspector-of-education-childrens-services-and-skills-200910">http://www.ofsted.gov.uk/resources/annual-report-of-her-majestys-chief-inspector-of-education-childrens-services-and-skills-200910</a> ).
7	Ofsted (2010-11) Registered childcare providers and places in England
8	Childcare Act (2006) ( <a href="http://www.legislation.gov.uk/ukpga/2006/21/contents">http://www.legislation.gov.uk/ukpga/2006/21/contents</a> ).
9	Department for Education (2010) 'Childcare and Early Years Survey of Providers 2009', ( <a href="https://www.education.gov.uk/publications/RSG/AllPublications/Page1/DFE-RR054">https://www.education.gov.uk/publications/RSG/AllPublications/Page1/DFE-RR054</a> ).
10	Department for Education (2010a) 'EYSFF Pathfinder Formula Analysis – August 2010', ( <a href="http://www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/funding/a0064843/early-years-single-funding-formula-analysis">http://www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/funding/a0064843/early-years-single-funding-formula-analysis</a> )
11	DfES (2004) 'Effective Provision of Pre-School Education (EPPE) Project- Final Report', ( <a href="http://www.education.gov.uk/rsgateway/DB/RRP/u013144/index.shtml">http://www.education.gov.uk/rsgateway/DB/RRP/u013144/index.shtml</a> ).

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										

<b>Annual recurring benefits</b>										
<b>Total annual benefits</b>										

\* For non-monetised benefits please see summary pages and main evidence base section



## **Evidence Base (for summary sheets)**

### ***Background and problem under consideration;***

1. All three and four year olds are entitled to 15 hours per week of free early education over 38 weeks of the year. This entitlement increased from 12.5 to 15 hours per week from September 2010. The entitlement provides every child with two years of free provision before they reach compulsory school age.
2. The free entitlement has legal foundation; Section 7 of the Childcare Act (2006) places a duty on local authorities to secure a certain amount of free early education provision (defined in Regulations) and to have regard to a statutory guidance when meeting this duty.

### ***Rationale for intervention and policy objectives***

3. This statutory guidance is currently 50 pages long and, in addition to the core guidance on clarifying how statutory duties are to be carried out, includes policy ambitions, information on good practice and information for local authorities on support they can access. This not only means that the guidance is too long, it also presents a prescriptive national model for administering the free entitlement which discourages local authorities from innovating or making judgements on the appropriate way to carry out their duties to meet local needs. It also confuses areas where local authorities have discretion from core requirements.
4. The current level and nature of central Government intervention is overly prescriptive. We know that different local authorities face different local challenges to securing high quality provision – for example the challenges in low-cost rural areas are very different to those in high-cost suburban areas. An example of the prescriptive approach can be seen in the current guidance specifying the content and format of local authorities' agreements with providers rather than allowing them to tailor agreements to address local challenges. Reducing the level of central Government intervention in this area would allow local authorities to better oversee the local early education and childcare market to meet local circumstances. It should also allow them to assess quality more easily and in a more transparent way and therefore drive improvements
5. There are also two specific elements of provision where current arrangements are not producing the required outcomes – parents' take-up of their child's entitlement is too low and the quality of provision is not consistently high enough to realise maximum benefit.
6. Only 95% of three year and four year olds currently take up some of their free hours each week, meaning that 5% of children receive no benefit from free early education. 14% of those children accessing the entitlement do not take up their full 15 hours, again meaning that they do not receive the full benefits of the free early education available to them (Department for Education, 2011).
7. One of the barriers to parents taking-up their child's full entitlement is the restrictions that are placed on providers' flexibility in the current guidance. Pathfinder studies of previous measures to increase providers' flexibility in how they offer the entitlement suggested that increased flexibility may lead to increased take-up (DCSF, 2009). Research by the Daycare Trust earlier this year found that there is parental demand for an extra hour's provision at the end of the day (Singer, R, 2011). We expect these increased flexibilities to have a greater effect for three year olds who are more likely to be accessing their place in a private or voluntary provider.
8. As highlighted in Annex 3, the evidence of the benefits of high quality early education to children's development is clear. High quality education has a stronger impact on attainment in later schooling than lower quality provision. However, not all children receiving their entitlement to early education are benefiting from high quality provision. Ofsted statistics (Ofsted 2010 – see Annex 4) on the findings from inspections of early education and childcare providers show that there are fewer providers offering outstanding and good-rated provision than there are free entitlement providers (and not all of those good and outstanding providers will provide funded provision).
9. The proposed changes do not constitute additional Government intervention; they reduce the level of existing intervention and make existing intervention more transparent and consistent. Similarly, changing the Code of Practice does not constitute direct intervention in provision of services – the Code outlines local authorities' duties and the nature of their intervention in the market of provision in their area

will not necessarily change, depending on existing local practice.

10. The reformed Government intervention seeks to improve the effective functioning of the early education market and achieve the following policy objectives:

- a. To reduce the burdens on local authorities of assessing the quality of provision using a range of transparent quality improvement / assessment measures to ensure that more children can take up their free place at a high quality settings.
- b. To make the free entitlement more flexible to maximise take-up of the full free early education entitlement.
- c. To give local authorities the discretion to secure free early education places in a way that best meets the needs of children and families in their area and the capacity of providers to deliver high quality free places.

11. The Department has considered a range of options for addressing the identified problem; including withdrawing all statutory guidance and giving local authorities complete discretion over delivery of the free entitlement. Having considered the impact of other options, the Department believes the recommended option below is the only viable way to achieve the objectives.

### ***Options considered (including do nothing) – including cost and benefits:***

#### **Option 1 – Maintain current arrangements (do nothing)**

The Department takes no action, leaving the current version of the Code of Practice in force. This would mean that the way local authorities deliver the free entitlement and the quality criteria they use to assess eligibility of providers and the flexibility framework would remain unchanged. The ambiguity and misunderstanding of certain aspects of the Code for local authorities and providers would continue.

The current policy position means that, in practice, local authorities should only fund providers who have at least a satisfactory Ofsted rating although this is not explicit in the current code. The Code does say that local authorities should support providers to improve their quality. Under this system local authorities offer improvement support in many different ways meaning that providers are subject to different quality eligibility criteria across sectors and local authorities. This position is ambiguous, confusing and lacks a clear nationally supported mechanism for local authorities to support providers on a progression to high quality provision. Ofsted statistics suggest a slow rate of improvement in quality under this system. The proportion of PVI providers rated Good or Outstanding by Ofsted increased by 3 percentage points between 2008/09 and 2009/10, meaning around 36,700 children moved from a satisfactory to a good setting.

Making no changes to the Code mean this improvement rate is likely to remain low, or even stagnate as resource pressures on local authorities lead to a reduced focus on quality improvement.

#### Costs - none

This option represents the current baseline and therefore would have **no additional costs** to providers, local authorities, parents or children.

#### Benefits - none

This option represents the current baseline and therefore would have **no additional benefits** to providers, local authorities, parents or children.

This option would pass up the opportunity to provide benefits by clarifying the duties of local authorities in relation to the delivery of free early education and allowing them greater discretion to meet local circumstance, and the reduction in administrative burdens associated with these changes.

In addition, making no changes to the Code of Practice would continue to reduce scope for improvements in the number of children accessing closer to their full free entitlement. Currently 22% of three year olds do not access their full entitlement to 15 hours of free early education per week

(Department for Education, 2011). Research conducted by the Daycare Trust suggested that the Code of Practice may prevent some parents from accessing the full 15 hours (Singer, R, 2011).

### Assumptions and risks

- There will be no change in the take-up rate of the free entitlement as there is no action being taken which we expect to impact upon take-up.
- The proportion of providers rated Good or Outstanding by Ofsted will continue to show small improvements each year (the number of PVI providers rated Good or Outstanding by Ofsted increased by 3 percentage points between 2008/09 and 2009/10). However, this assumption may be optimistic as local authorities are facing increasing pressure on resources which may reduce their focus on quality improvement.
- As the proportion of providers rated Good or Outstanding changes, the proportion of children accessing entitlement in Good or Outstanding providers will change proportionally. So a 3 percentage points increase in the number of providers rated Good or Outstanding would result in a 3 percentage points increase in the number of children accessing entitlement in a Good or Outstanding setting.

### **Option 2: Amend statutory guidance (preferred option)**

Amend statutory guidance to remove much of the central prescription, best practice material and policy messages. This would result in streamlined statutory guidance that concisely and coherently explains local authorities' duty to secure free early education places and how they should do this. The fundamentals of the Code would be mostly unchanged to minimise the disruption on local authorities and providers.

However, we would also relax the flexibility framework to incentivise greater take-up. We would amend the current framework in the guidance to allow free hours to be taken between 7am and 7pm rather than 8am and 6pm (whilst maintaining a limit of 10 hours in any one day – important for child development.). We would also allow all the free hours to be taken over 2 days rather than the current minimum of 3.

The guidance would set out a new framework of quality criteria for providers to deliver the free places. This would replace the current guidance on local authorities making assessments of provider quality. Provider would be required to meet the same basic standard as currently (Early Years Foundation Stage minimum workforce requirements and an Ofsted rating of Satisfactory). They would then also need to meet one or more of a 'basket' of measures of quality or quality improvement. Local Authorities would define each measure, judge whether they were met and would be able to require that providers in their area needed to meet more than the nationally set minimum number of measures from the basket.

### Costs - £20.1m - £21.1m (best estimate £20.3m)

The costs of amending guidance have been estimated based on the following drivers:

- Administrative costs to local authorities and providers in meeting quality improvement criteria
- Additional costs to government for additional hours taken up due to increased flexibility

#### *Costs of meeting quality improvement criteria*

There would be small additional administrative costs for local authorities and providers in meeting some of the quality improvement criteria. These cannot be confirmed until the indicators are finalised but the estimated costs of the likely indicators are:

#### *Local Authority Quality Assessment Scheme*

- A system where local authorities make assessments of provider quality through a combination of observations, reviewing evidence of practice and externally verified data.
- Local authority - 1 FTE at £48,000 cost per local authority.
- Provider - 12 hours of manager's time per year – £127.20 cost per provider.
- Total cost: £9.8m.



#### *Peer to Peer Support*

- A structured forum, often facilitated by the local authority or a voluntary sector organisation, for providers to share experiences and good practice,
- Provider - 2 hours a month of manager's time – £254.40 annual cost per provider.
- Total cost: £5.1m

#### *Sector Led Quality Improvement Programme*

- A programme run by a sector body (often a provider representative organisation) to provide training on one or more areas of practice that contribute to high quality provision.
- Provider - participation fee: £100 (participation fee for National Day Nurseries Association quality improvement programmes is £95)
- Provider - 2 hours a week of manager's time for 3 months to complete the scheme: £275.60 per provider
- Total cost: £7.5m

However, it is likely that many providers already participate in at least one these sorts of schemes as best practice, so these gross costs would not all be additional. If we assume that 80% of providers already engage in one of these schemes, then the additional costs for the remaining 20% would be between £1m and £2m. This assumption has been supported by informal consultation with some local authorities.

#### *Costs of increased take up of free entitlement due to increase in flexibility*

The changes to the flexibility framework would allow providers to offer the free hours at times, and in patterns, that they cannot currently take advantage of parental demand at these times. As a result around 36,700 more children would benefit from accessing their full free entitlement. This would incur additional costs to Government of around £19.1m.

#### Benefits – £36.6m

The benefits of amending guidance have been estimated based on the following driver:

- Reduction in administrative costs due to simplification of guidance
- Improvement in quality of provision due to simpler application of quality controls (non-monetisable)
- Increased take up of free entitlement due to increase in flexibility

*Reduction in administrative costs - £8.6m (£1.3m reduction for providers and £7.3m for local authorities)*

Amending the existing guidance would bring clarity over the national requirements for delivery of the free places and where there is room for local discretion. In addition there will be less good practice material in the Code of Practice for local authorities against may be regarded as requirements. The fall in administration is estimated to save 1 FTE (at £48,000) per local authority, and 2 hours of manager time per provider per term in liaising with the local authority (saving £63.60 a year per provider). This would result in total administrative savings of **£8.6m** per year.

#### *Improvement in quality of provision – non-monetisable*

There would also be significant benefits for children of any increases in provider quality. Providers who do not meet the quality thresholds may exit the market and they could be replaced by higher quality providers. At present over 100,000 new places are registered with Ofsted each year which presents opportunities for high quality places to be created in the system (Ofsted, 2010-11). The rate at which this takes place would be influenced by how local authorities made use of the measures in their area. Therefore we have not made any assumptions about the level of quality improvement that may result from these changes

#### *Increased take up of free entitlement – £28m*

The changes to the flexibility framework are expected to result in around 36,700 more children benefiting from accessing their full free entitlement (an additional 4,885,615 hours per year), and thus maximising

the benefits of their early development and life chances. Unfortunately, there is no robust evidence on the effects of small changes in the amount of early education – existing evidence relates to overall usage of early education and does not provide any estimates of the impact of additional hours. However, whilst the research evidence does not quantify the additional benefit to a child's development of a couple of, for example 3.5 extra hours per week, it is likely that the additional learning opportunities for children would provide some benefits.

As well as the benefits of additional hours of early education for children, there would also be significant benefits for parents, in the form of additional hours of time (where the increase in take up of free entitlement is a actual increase in use of provision), and reductions in costs (where parents substitute hours that they previously paid for with free hours). It is difficult to estimate what proportion of the additional 4,885,615 free entitlement hours would be additional provision, and what proportion would replace privately funded provision, but it is expected that the additional use of provision could be quite small. Assuming that 15% of the additional free entitlement hours replace privately funded provision, then there would be a transfer of cost from parents to government of 732,850 hours of childcare per year. At an hourly rate of £3.87 (Daycare Trust, 2011), this would be a reduction in cost to parents of £2.8m per year. The remaining 85% of additional free entitlement (4,152,775 hours) would be additional use of provision, resulting in additional hours of spare time for parents that could be used for work or leisure. We estimate the monetary value of this time using an hourly wage rate (minimum wage) as a proxy for the value of a person's time. This suggests a benefit of additional parental time valued at around £25.2m per year.

#### One-in, One-out

The assessment of the direct impact on business included in the summary sheet represents the elements of the administrative costs and benefits of the preferred option that will fall to providers. Using the assumptions and methodology set out above, we estimate that there will be a reduction of £1.3m of administrative burdens on providers and an additional administrative cost of £1m. This means that there will be a net annual reduction in burden on providers of £300k.

#### Assumptions and risks

- Costs of quality measures
  - Setting Manager costs £10.60 per hour (Department for Education, 2010)
  - Local Authority staff member costs £48,000 including on-costs
  - 152 local authorities and 20,000 providers (Department for Education, 2011)
  - Assume 80% of providers already undertake similar quality improvement activity so only 20% of gross costs are additional. Although this leads to a net administrative saving on average, in practice there would be a net cost to any provider not already engaged in improvement activities. If the actual number already doing improvement activity falls below 75% there would be an average net cost to providers.
- Central estimate of cost of quality measure (included on analysis and evidence summary sheet) based on assumption that 10% of providers will participate in the Local Authority Quality Assessment Scheme (the most expensive option); 70% of providers will participate in the Peer to Peer support Scheme (the least expensive option); the remaining 20% would participate in the Sector Led Quality Improvement Programme.
- That increased flexibility will lead to an increase in the number of children accessing their full entitlement, with associated costs and benefits:
  - A similar increase in flexibility in September 2010 saw a 3 percentage point increase in the proportion of those using free entitlement taking up the full allowance. Assuming a similar impact (a further 3 percentage point increase) suggests around 36,700 more children (3% of the 1,224,465 children accessing free entitlement to early education) would take up the full entitlement
  - The change in flexibility is likely to produce marginal impacts, so we assume that the 36,700 children taking up full entitlement will come from the 80,000 children currently receiving 10.5-12.5 hours of free entitlement, and will receive an additional 3.5 hours per week (moving from the mid point of 10.5-12.5 hours to 15 hours) over 38 weeks – a total increase of 133 hours per year
  - Current take up of 3 and 4 year old free entitlement of 1,224,465 (Department for Education, 2011).

- Average hourly price of provision faced by parents - £3.87 (Daycare Trust, 2011) This figure relates to costs of children under two in nursery care – costs for 3 and 4 year old children may be lower so estimated cost reduction to parents may be overstated.
- Average hourly cost of provision to government - £3.91. Based on analysis of early years single finding formula (EYSFF) pathfinders (Department for Education, 2010a).
- 15% of additional free entitlement hours replace privately funded provision; 85% are additional provision. This assumption is not evidence based and therefore subject to a high degree of uncertainty. However, even if no hours were additional provision, the reduced cost to parents would still offset the additional funding requirements on government so there would be no net cost to increased take up of free entitlement
- Additional hour of time valued at £6.08 (21+ minimum wage from October 2011). This is likely to be an underestimate, particularly for a marginal hour, so estimated benefits are conservative.
- Low NPV (included on analysis and evidence summary sheet) based on maximum cost estimate and no increase in free entitlement hours being additional provision; high estimate based on minimum cost estimate and 100% of increase in free entitlement being additional provision.

- **Summary and preferred option with description of implementation plan.**

In summary, the Government judges that option 3 would best ensure value for money of the free entitlement by realising real benefits for children's development and life chances while reducing burdens on local authorities and providers.

We plan to streamline the Code of Practice making changes to the flexibility framework and strengthening the quality criteria. To reduce burdens on local authorities further we will merge the Code with streamlined guidance on how local authorities should assess childcare sufficiency, and operate the new entitlement to free early education for disadvantaged two year olds. This single piece of statutory guidance will be shorter, more concise and coherent reducing ambiguity. Consequently, local authorities will be able to spend less time resolving disputes and more time improving access to high quality early education places.

We anticipate minimal transition costs from this option. Local authorities will, at least initially, continue to operate the free entitlement in a similar way to now. There will some staff time required for familiarisation with the new code and working how to apply the new quality measures locally. We estimate that this may take approximately 5 days of staff time for each local authority – a total cost of £1,036 per authority, £157k nationally.

#### Implementation plan

- Publish a streamlined Code of Practice for consultation - October 2011.
- Final version of the new Code of Practice published – Easter 2012.
- Code of Practice for three and four year olds comes into force – September 2012.
- Aspects of the Code of Practice related to two year olds come into force – September 2013.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>The statutory guidance - referred to as the Code of Practice - will be reviewed 2 years after it comes into force in September 2012. This will be with the view to producing a revised Code, if necessary, in September 2015 (3 years after the previous version of the Code).</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The review be a proportionate examination of the impact of the changes to the statutory guidance on the stated policy objectives.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>Review progress of indicators - have the changes had desired effects on take-up and quality of provision?</p> <p>Consult with sector on perceptions - have outcome changes also resulted in perception changes</p> <p>Review whether further incremental change would achieve further benefits</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>Current take-up - 14% taking up less than their full entitlement</p> <p>Current inspection outcomes - 30% of settings rated satisfactory or worse</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>The following criteria would indicate that the approach taken in the statutory guidance had been successful:</p> <p>Increase in quality of provision above current trend</p> <p>Increase in take-up of 15 hours of free entitlement</p> <p>Perceived reduction in administrative burden (as measured by consultation with stakeholders)</p> <p>If one or more of these criteria is not met, then alternative ways of meeting the objective with the next version of the statutory guidance will be explored.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p> <p>There are several regular research and data collection avenues which provide data that would suggest the policy was meeting the success criteria:</p> <ul style="list-style-type: none"> <li>• Ofsted statistics on rating of settings</li> <li>• Census data on take-up (through the School Census and the Early Years Census)</li> <li>• Surveys of parents and early years providers</li> <li>• Research from Voluntary and Community Sector organisations funded by the Department to improve quality and increase take-up</li> </ul>



## **Annex 2: specific impact assessments**

The Department has not carried out full specific impact assessment on the revised Code of Practice for the purposes of assessing the impact on equalities, competition or small businesses. The rationale for this decision not to conduct these assessments is set out below.

### **Equalities Assessment**

Full equalities impact assessments are required where a new policy (or review of existing policy) could have a negative or positive effect on one or more of the dimensions of equality. The free entitlement to early education for three and four year olds is a universal entitlement with equal access for all sections of society. The Code of Practice is statutory guidance for local authorities on how they should ensure all children can access a free place. There is an equalities impact assessment for the free entitlement which has been published at

<http://media.education.gov.uk/assets/files/pdf/e/equia%20extending%20free%20early%20years%20provision.pdf>

We do not expect these changes to alter the equalities impact of the free entitlement from the position in the existing equalities impact assessment. If these measures were successful in increasing take-up, they may improve the position for disadvantaged groups set out in the current impact assessment.

### **Competition Assessment**

The changes proposed to the Code of Practice on free early education do not meet the criteria for a full competition assessment. We are aiming to clarify existing local authority powers in relation to funding free entitlement provision.

The changes to the Code of Practice will not alter the fundamental powers for local authorities to fund providers they deem as eligible to provide free early education (i.e. to restrict who is able to access the Government-funded sector of the market). The changes will make eligibility more transparent for providers (and parents) and help local authorities to exercise existing powers in a more effective way.

### **Small Firms Assessment**

The free early education sector is diverse with maintained, private, voluntary and independent providers including pre-schools, day nurseries, childminders, schools and children's centres. Around 40% of the market is made up of small businesses (e.g. pre-schools) and micro-business (e.g. childminders). The revised statutory guidance for local authorities is produced with this market in mind.

The current Code of Practice was drafted following over a year of detailed consultation with the sector – including strong representation from groups such as the Pre-school Learning Alliance (PLA), National Day Nurseries Association (NDNA) and National Childminding Association (NCMA). The proposed changes have been developed following consultation with a group of leading experts – the early education co-production group - and have been discussed with the representative bodies who were involved in the previous consultation. Before any changes to the Code of Practice are implemented there will be a further opportunity for small and micro business to contribute their views during a formal 12-week consultation.

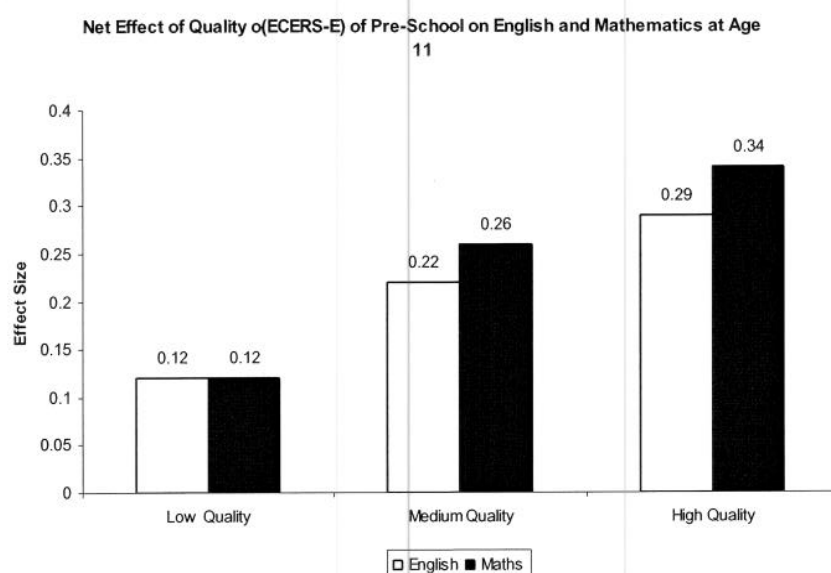
## Annex 3: Returns to Early Education

We have estimated the total economic benefit to early education by combining evidence from the EPPE study (DfES, 2004) with the evidence on the economic benefits of age 10 literacy from Machin and McNally (2008). The economic benefits are the total lifetime wage benefits for children benefiting from early education. They are expressed as a present value in 2010 prices.

### *Estimation of impact of early education on cognitive outcomes*

The impact of early education on later cognitive outcomes is taken from the EPPE final report on the primary phase.<sup>i</sup> Adjusting for background factors there are significant net effects on attainment in English and mathematics from attendance at pre-school compared to no pre-school. This is an effect that increases with the quality of pre-school attended.

**Figure 1: The impact of early education on Key Stage 2 English and maths**



The high quality of pre-school is especially beneficial for the most disadvantaged pupils (as measured by the Income Deprivation Affecting Children Index IDACI) and pupils of low qualified pupils. However the extra beneficial effects for disadvantaged pupils are only found for mathematics, not English, and so are noted as a possible additional benefit but are not included in our headline analysis as our link to age 30 earnings is expressed through improvements in literacy, not numeracy.

### *Estimation of economic benefits to early education*

As part of their analysis of the Literacy Hour Machin and McNally<sup>ii</sup> estimated the impact of reading scores (age 10) – expressed as effect sizes – on labour market earnings at age 30 from the 1970 British Cohort Study and convert these returns into presented discounted value of lifetime earnings.

Machin & McNally find a 0.083 increase in the standard deviation of reading scores corresponds to a present discounted value of lifetime earnings of £3924 (2001 prices)<sup>iii</sup>. We have calculated a 95% confidence interval around this estimate to provide us with a lower and upper bound of the likely true impact. Before using the Machin and McNally estimates for our analysis we make 2 further adjustments. First, we express the values in 2010 prices using the GDP deflator. We then, for convenience, express the lifetime benefits as per 1 standard deviation in reading scores (rather than per 0.083 standard deviations).

**Table 2: Economic Benefits**

<b>Converting Machin and McNally Estimates</b>		
Effect size		0.0834
Central LT earnings		3924
Upper LT earnings		4562
Lower LT earnings		3286
Central 2010 prices		5010
Upper 2010 prices		5824
Lower 2010 prices		4196
Central per SD	£	60,071
Upper per SD	£	69,830
Lower per SD	£	50,312

*Combining early education impact with economic benefits*

There are a number of steps outlined in Table 3 to estimate a range of lifetime earnings assumptions, associated with early education at Age 2. Starting with the impacts described above for a one Standard Deviation impact of improved English scores at KS2, we estimate the impact of a 0.12, 0.22 and 0.29 standard deviation improvement for low, medium and high quality early education settings respectively. Note that the estimated impact of a low quality setting (£6,037) conflates both the assumption of poorer effectiveness (0.12) and the low end of the 95% confidence interval. Similarly, the high quality setting assumes a higher impact and the higher bound of the confidence interval.

This provides a range of £6,037 to £20,251 associated with the impact of pre-school education associated with the quality of provision for 3 and 4 year olds.

**Table 3 Estimating the lifetime earnings impact of Early Education**

<b>Impact</b>	<b>Quality of setting</b>		
	<b>Low</b>	<b>Medium</b>	<b>High</b>
Lifetime earnings increase (1 St. Dev. improvement in KS2 English)	£50,312	£60,071	£69,830
Impact of age 3&4 provision on KS2 reading score	0.12	0.22	0.29
<b>Estimated impact of age 3&amp;4 provision on lifetime earnings</b>	<b>£6,037</b>	<b>£13,216</b>	<b>£20,251</b>

## Annex 4: Quality of Childcare and Early Education Settings

Trends in improvement of settings (Ofsted annual report 2009-2010):

Year	% Outstanding	% Good	% Satisfactory
09/10	10	58	29
08/09**	9	56	30
07/08	4	52	39
06/07	3	55	38
05/07	2	55	38

\*\* EYFS introduced in September 2008 which may account for rapid increase.

<sup>i</sup> Sylva, K., Melhuish, E., Sammons, P., Siraj-Blatchford, I., Taggart, B., (2008) *Effective Pre-school and Primary Education 3-11 Project (3-11): Final Report from the Primary Phase: Pre-School, School and Family Influences on Children's Development during Key Stage 2 (7-11)*. DCSF RR-061

<sup>ii</sup> Machin, S., and McNally, S. (2008) 'The Literacy Hour' *Journal of Public Economics* Vol. 92 pp.1441-1462

<sup>iii</sup> We use specification 2 of table 7 of Machin and McNally (2008) which includes basic controls (gender and region) and family background controls.