



## BRIEFING PAPER

Number 8051, 10 January 2018

# Childcare: "30 hours" of free childcare – eligibility, access codes and charges (England)

By Tim Jarrett

## Summary

This House of Commons Library briefing paper provides details of the Government's "30 hours of free childcare" policy (known as the "extended entitlement"); this note is aimed primarily at constituents' enquiries.

The term "30 hours of free childcare" refers to provision over 38 weeks of the year; the extended entitlement amounts to a total of 1140 hours of free childcare a year, which is commonly taken as 30 hours over 38 weeks, but may be "stretched" with fewer weekly hours over more weeks.

The extended entitlement provides an additional 15 hours of free childcare on top of the existing 15 hours (both over 38 weeks) which is universally available to all 3 and 4 year olds (and some 2 year olds). However, the extended entitlement is only available to those eligible 3 and 4 years (excluding most looked after children, including local authority fostered children) of qualifying parents or carers; a means-test determines eligibility based on a minimum and maximum income level although certain other two-parent households can also be eligible.

In order to take advantage of the extended entitlement, a parent or carer has to obtain a code from the Government's "Childcare Service", which they pass on to their childcare provider and is then validated. There were issues for some parents trying to obtain a code during 2017, although the Government stated in November 2017 that "significant improvements" had been made to the system.

There are rules on what childcare providers can and cannot charge for, although any additional hours beyond the free entitlement is a private matter between a provider and a parent or carer.

The Government has said that it will change the rules to allow local authority fostered children to be eligible for the extended entitlement, and that it expects this change to take effect from September 2018.

This note applies to England only.

# 1. Government funded childcare hours

## 1.1 The universal free "15 hours" childcare provision

All three and four years are entitled to 570 hours a year of Government-funded childcare – usually taken as 15 hours over 38 weeks (and often referred to as "15 hours of free childcare").

This entitlement is "universal", and applies irrespective of the income of the parents or other conditions including immigration status. It is not mandatory to take up the entitlement, although the Government has noted that take-up of the universal 15 hours of free childcare is "consistently more than 95%".<sup>1</sup>

Under the Coalition Government, similar provision was introduced for two year olds if certain conditions were met, including that their parents or carers were eligible for certain means tested-benefits, or if the child was, or had been, looked after by a local authority.<sup>2</sup>

## 1.2 What is the "extended entitlement"?

On top of the universal "15 hours of free childcare", the extended entitlement provides a further 570 hours of funded childcare to eligible children of qualifying parents. This, together with the universal 570 hours, is commonly taken as 30 hours over 38 weeks (and often referred to as the "30 hours of free childcare").

## 1.3 Is it "30 hours" of childcare?

While the extended entitlement is often referred to as "30 hours" of childcare,<sup>3</sup> this suggests that it is provided every week of the year. In fact, if a parent or carer chooses to take their entitlement as 30 hours a week, they would only receive funding for this for 38 weeks of the year.

The legislation states that "the Secretary of State must secure that childcare is available free of charge for qualifying children of working parents for, or for a period equivalent to, 30 hours in each of 38 weeks in any year".<sup>4</sup> This is the equivalent of 570 hours of childcare in any year on top of the universal 570 hours of childcare available to all 3 and 4 year olds (i.e. 1,140 hours in total).

It was reported in December 2017 that, after the Advertising Standards Authority had "flagged concerns", the DfE amended the online information it provided to parents through the [childcarechoices.gov.uk](http://childcarechoices.gov.uk) website to make it clear that the 30 hours was only available for 38 weeks of the year.<sup>5</sup>

## 1.4 Flexibility in how the extended entitlement can be taken

As the legislation suggests, parents and carers can be flexible in how they use the extended entitlement; the entitlement can be "stretched" over more than 38 weeks: for example, the Department for Education (DfE) noted that a provider in Telford allowed the

---

<sup>1</sup> [HL Deb 16 June 2015 c1082](#)

<sup>2</sup> For more details, see GOV.UK, [Help paying for childcare – 3. Free education and childcare for 2-year-olds if you get benefits](#), webpage [accessed on 9 January 2018]

<sup>3</sup> Department for Education, [Childcare Bill: policy statement](#), December 2015, p3

<sup>4</sup> *Childcare Act 2016*, section 1(1)

<sup>5</sup> ["Government amends 'misleading' claims for 30 hours free childcare scheme"](#), *The Observer*, 3 December 2017

extended entitlement to be taken as 22.3 hours over 51 weeks.<sup>6</sup> However, while the extended entitlement can be “stretched”, it cannot be condensed: the provision has to be taken for at least 38 weeks of the year.<sup>7</sup>

There are constraints on how the funded childcare can be taken, including no session to be longer than 10 hours (although there is no minimum session length), and delivered between 6.00am and 8.00pm.<sup>8</sup>

## 1.5 No requirement on childcare providers to offer the extended entitlement

While funding for the extended entitlement comes from central government via local authorities, many providers are privately owned. There is no obligation on them, or indeed any other provider such as maintained nursery schools or voluntary providers, to offer the extended entitlement as confirmed in December 2017 by the then Children and Families Minister, Robert Goodwill.<sup>9</sup>

---

<sup>6</sup> Department for Education, [Early years entitlements: operational guidance – For local authorities and providers](#), July 2017, p34

<sup>7</sup> Department for Education, [Early education and childcare – Statutory guidance for local authorities](#), March 2017, p8, para A1.6

<sup>8</sup> Department for Education, [Early years entitlements: operational guidance – For local authorities and providers](#), July 2017, p20

<sup>9</sup> [PQ 118064 15 December 2017](#)

## 2. Eligibility for the extended entitlement

### 2.1 Children

Three and four year olds qualify for the extended entitlement, except any looked after children (see section 2.2) and those four-year olds who are attending a school reception class.<sup>10</sup>

A child does not become eligible as soon as they turn three – rather, they have to wait until the start of the term following their third birthday. The dates that a child becomes eligible are:

- Children born in the period 1st January to 31st March: the start of term beginning on or following 1st April after the child's third birthday;
- Children born in the period 1st April to 31st August: the start of term beginning on or following 1st September after the child's third birthday;
- Children born in the period 1st September to 31st December: the start of term beginning on or following 1st January after the child's third birthday.<sup>11</sup>

### 2.2 Looked after children

A child is not eligible for the extended entitlement if they are a "looked after child", as specified in the *Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016*.<sup>12</sup>

For England, a child is "looked after" if they are either:

- subject to a care order (including an interim care order) made by a court and therefore in local authority care; and/or
- in local authority accommodation for a continuous period of more than 24 hours.

The extended entitlement regulations set out a number of exceptions to the rule – for England, a child is not looked after by a local authority for the purposes of this regulation:

- "during any period which is in the nature of a short-term break or is one of a series of such breaks for the purposes of providing respite for the person with whom the child normally lives";
- "during any period when the child is placed with or continues to live with a person under section 22C(2) of the Children Act 1989" i.e. a child in local authority care is placed with (a) their parent(s), or (b) someone with parental responsibility for them, or (c) a person named in a child arrangements order stating with whom the child was to live and the order was in force immediately before the care order was made.

### Planned changes to the looked after rule

In February 2016, the then Minister for Children and Families, Edward Timpson, told the House that "since [local authority] foster carers are separately funded for the care of foster children, they will not be able to access the extended entitlement for their foster children. This is in line with the treatment of foster carers under Tax-Free Childcare, tax credits and Universal Credit".<sup>13</sup>

<sup>10</sup> Department for Education, [Childcare Bill: Policy statement](#), December 2015, p17

<sup>11</sup> Department for Education, [Early education and childcare – Statutory guidance for local authorities](#), March 2017, p10, para A1.12

<sup>12</sup> SI 2016/1257, regulation 3(1)

<sup>13</sup> [PQ 25895 9 February 2016](#)

During the consideration of the draft extended entitlement regulations by the House of Lords in December 2016, the Government position had changed: “we will consider whether the blanket exclusion of all children in [local authority] foster care from the 30-hours policy is the right way to balance this and will clarify our eligibility criteria in relation to this group in advance of September next year” [i.e. September 2017].<sup>14</sup> However, when the extended entitlement was introduced in September 2017, the exemption for looked after children, including those living with local authority foster parents, continued to apply.

In a Westminster Hall debate in December 2017, the then Minister confirmed that the exclusion from the extended entitlement in respect of children in a local authority foster placements would be removed (but not for looked after children in other settings). Mr Goodwill said:

Since the current exclusion from the 30-hours policy for children in [local authority] foster care was brought to my attention, I have been looking at it carefully. I have instructed my officials to work up plans to allow children in foster care to take up the additional hours when it is right for the child to do so. We will work with local authorities, fostering service providers and others in the sector to ensure we implement this change in a way that promotes the best interests of the child. I will set out more detail about how we will deliver that shortly.<sup>15</sup>

In terms of the phrase “when it is right for the child to do”, the Minister explained that “some children are deeply damaged ... We also need to look very carefully at the role of social workers, because in some instances it may not be appropriate for the child to go to a nursery or a child minder”. It should be noted that children in local authority foster care – indeed all looked after children – can already access the universal “15 hours” of free childcare for 3 and 4 year olds; further, looked after children are one of the few groups able to access this provision when they are 2 years old.<sup>16</sup> Additionally, neither the universal “15 hours” nor the “30 hours” extended entitlement is mandatory; parents and carers can choose whether to take up their entitlement. The Minister’s stance on the extended entitlement appeared to contradict the existing policy stance for the “15 hours” of free childcare, although he added that he was “certainly not talking about rationing access to the 30 hours in any way”.<sup>17</sup>

In terms of when the change would be implemented to allow children in local authority foster placements to access the extended entitlement, the Minister told the House: “if there are no glitches along the way, I would like to think that we will have this in place by September [2018]”.<sup>18</sup>

However, the most recent Government response on this matter, given on 8 January 2018, appeared to strike a different tone: in reply to the question “for what reasons tax-free childcare is not available for fostered children”, the Chief Secretary to the Treasury, Elizabeth Truss, told the House simply that “[local authority] foster carers already receive funding for the care of their foster child from local authorities”, thereby echoing Mr Timson’s remarks made in February 2016.<sup>19</sup>

---

<sup>14</sup> [HL Deb 12 December 2016 c37](#)

<sup>15</sup> [HC Deb 19 December 2017 c363WH](#)

<sup>16</sup> GOV.UK, [Help paying for childcare – 3. Free education and childcare for 2-year-olds if you get benefits](#), webpage [accessed on 9 January 2018]

<sup>17</sup> [HC Deb 19 December 2017 c364WH](#)

<sup>18</sup> [HC Deb 19 December 2017 c364WH](#)

<sup>19</sup> [PQ 120802 8 January 2018](#)

## 2.3 Parents and carers

The Department for Education's (DfE) *Early education and childcare – Statutory guidance for local authorities* states that:<sup>20</sup>

A child is entitled to free early years provision if the child has attained the age of three, is under compulsory school age and the child's parent(s) meets the eligibility criteria set out below.

1. the parent of the child (and their partner where applicable) should be seeking the free childcare to enable them to work;
2. the parent of the child (and their partner where applicable) should also be in qualifying paid work. The definition of qualifying paid work is set out at regulation 5. Each parent or the single parent in a lone parent household will need to expect to earn the equivalent of 16 hours at the national living wage or their national minimum wage rate over the forthcoming quarter;
3. where one or both parents are in receipt of benefits in connection with sickness or parenting, they are treated as though they are in paid work;
4. where one parent (in a couple household) is in receipt or could be entitled to be in receipt of specific benefits related to caring, incapacity for work or limited capability for work that they are treated as though they are in paid work;
5. where a parent is in a 'start-up period' (i.e. they are newly self-employed) they do not need to demonstrate that they meet the income criteria for 12 months in order to qualify for the extended entitlement.
6. if either or both parents' income exceeds £100,000 they will not be eligible for the extended entitlement.<sup>21</sup>

See section 2.6 below regarding cases where one parent is subject to immigration control.

The term "parent" for the purposes of the extended entitlement is defined as being anyone with parental responsibility for the child (as defined in the *Children Act 1989* as amended),<sup>22</sup> or who has care of the child.<sup>23</sup>

## 2.4 Means-test

This section provides further information about the means-test for eligibility.

### Minimum income

The minimum income to qualify for the extended entitlement is the equivalent of 16 hours per week working at either the National Living Wage (NLW) for those aged 25 or over, or the National Minimum Wage (NMW) for those aged 24 or under. In a two-parent household, both parents have to meet the minimum income threshold unless an exception applies (see section 2.3).

The DfE's *Childcare Bill: Policy Statement* explained that:

Parents do not necessarily need to actually work 16 hours a week, but rather their earnings must reflect at least 16 hours of work at NMW or NLW ... This includes those parents on zero contract hours who meet the criteria.<sup>24</sup>

---

<sup>20</sup> The statutory guidance is underpinned by the *Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016* (SI 2016/1257).

<sup>21</sup> Department for Education, [Early education and childcare – Statutory guidance for local authorities](#), March 2017, p38

<sup>22</sup> For more information, see the Library briefing paper, [Children: parental responsibility - what is it and how is it gained and lost \(England and Wales\)](#).

<sup>23</sup> *Childcare Act 2016*, section 1(9)

<sup>24</sup> Department for Education, [Childcare Bill: policy statement](#), December 2015, p8

The DfE has stated that “parents will need to declare that they expect to earn the equivalent of 16 hours national minimum or living wage on average each week over the next quarter”, while “self-employed parents will be able to assess their expected income either over the next declaration period, or for the current tax year”.<sup>25</sup>

Originally, the Government had based eligibility at eight hours at the NMW,<sup>26</sup> but in his Autumn Statement made in November 2015, the then Chancellor of the Exchequer, George Osborne, announced the change in the eligibility criteria in this respect.<sup>27</sup>

### Maximum income

The maximum income per parent to be eligible for the extended entitlement is £100,000 per annum. “Income” for these purposes is defined as “adjusted net income”.<sup>28</sup>

The *Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016* as amended state that in order to qualify “the parent does not expect their adjusted net income to exceed £100,000 in the relevant tax year” where “the relevant tax year” means “the tax year in which the declaration by the parent or the parent’s partner is made”.<sup>29</sup>

The upper limit was also announced by Mr Osborne in his 2015 Autumn Statement; previously, the policy had not included an upper limit.<sup>30</sup> The then Education Secretary, Nicky Morgan, explained that the upper limit had been introduced given the Government’s “belief that it is right for those with the broadest shoulders to bear the greatest burden”.<sup>31</sup>

## 2.5 The “grace period” when a parent no longer meets the eligibility criteria

If a parent becomes ineligible for the extended entitlement, then their child continues to be funded for the extended entitlement by a local authority for the “grace period”. The length of the grace period depends on when the household became ineligible: if ineligibility occurs during the first half of the term, then funding is provided to the end of that term; if ineligibility happens during the second half of the term, then the grace period runs until the end of the following term.

For example, if a parent loses their eligibility on 28 February (i.e. in the second half of the 1 January to 31 March term), then their child will continue to be funded for the extended entitlement until the end of the following term, which is 31 August.

The only exception to this rule is if the child reaches compulsory school age first, in which case the grace period ends at that point.<sup>32</sup>

---

<sup>25</sup> Department for Education, [Childcare free entitlement: delivery model – Government consultation](#), 3 April 2016, p16

<sup>26</sup> See the GOV.UK webpage [National Minimum Wage and National Living Wage rates](#) for the current rates

<sup>27</sup> HM Treasury, [Spending Review and Autumn Statement 2015](#), November 2015, Cm 9162, p44, para 1.160

<sup>28</sup> “Adjusted net income” is defined by HMRC as “total taxable income before any Personal Allowances and less certain tax reliefs, for example: trading losses; donations made to charities through Gift Aid; pension contributions paid gross (before tax relief); pension contributions where your pension provider has already given you tax relief at the basic rate” (GOV.UK, [Personal Allowances: adjusted net income](#), guidance [webpage accessed on 9 January 2018])

<sup>29</sup> SI 2016/1257, regulation 4

<sup>30</sup> HM Treasury, [Spending Review and Autumn Statement 2015](#), November 2015, Cm 9162, p44, para 1.160

<sup>31</sup> [HC Deb 25 November 2015 c1421](#)

<sup>32</sup> Department for Education, [Early education and childcare – Statutory guidance for local authorities](#), March 2017, pp10–12, paras A1.16–A1.19

## 8 Childcare: "30 hours" of free childcare – eligibility, access codes and charges (England)

A full table showing the relevant grace periods is reproduced below:<sup>33</sup>

<b>Date Parent receives ineligible decision on reconfirmation:</b>	<b>Grace Period End date:</b>
1 Jan – 10 Feb	31 March
11 Feb – 31 March	31 August
1 April – 26 May	31 August
27 May – 31 August	31 December
1 September – 21 October	31 December
22 October – 31 December	31 March

While the grace periods are prescribed in the statutory guidance, local authorities have a discretion to allow a longer grace period: the DfE states that "local authorities should consider extending the 'grace period' set out above for a short time in very exceptional circumstances if the parent has been forced to leave their home and paid employment, for example, where the parent is a victim of domestic abuse or other serious crime".<sup>34</sup>

### 2.6 Immigration status

As the NRPF Network explains,<sup>35</sup> "a parent who has leave to remain with the NRPF [no recourse to public funds] condition will not be eligible for this additional childcare [i.e. extended entitlement]". Those with no immigration permission similarly are ineligible.

The Network adds that "if they have a partner who is entitled to apply and who has recourse to public funds then they may make the application instead"<sup>36</sup> – this is set out in a DfE document:

We have parents where one is working and the other doesn't have recourse to public funds. Are they eligible for 30 hours?

If the parent applying has recourse to public funds and the remaining eligibility criteria are met then the household should be eligible.<sup>37</sup>

The NRPF Network notes that:

it appears that a parent who has a derivative right to reside under European law because they are the primary carer of a British child (Zambrano carer) will be able to apply for the extended childcare" because the *Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016* only exclude non-EEA [European Economic Area] national parents who are "subject to immigration control".<sup>38</sup>

The NRPF Network highlights that immigration status does not affect a parent or carer's eligibility for the universal "15 hours" of free childcare.<sup>39</sup>

<sup>33</sup> Department for Education, [Early education and childcare – Statutory guidance for local authorities](#), March 2017, p11, table A

<sup>34</sup> As above, pp11–12, para A1.18

<sup>35</sup> The NRPF Network is "a network of local authorities and partner organisations ... [and] operates under the auspices of the Association of Directors of Adult Social Services (ADASS) and the Association of Directors of Children's Services (ADCS) Asylum Taskforce" (NRPF Network, [About Us](#), [webpage accessed on 9 January 2018]).

<sup>36</sup> NRPF Network, [Childcare changes will not benefit NRPF families](#), 23 May 2017

<sup>37</sup> Department for Education, [Early Years Free Entitlements – Frequently Asked Questions](#), 17 July 2017, p7

<sup>38</sup> NRPF Network, [Childcare changes will not benefit NRPF families](#), 23 May 2017

<sup>39</sup> As above



## 3. Proving eligibility – obtaining a code from the Childcare Service

### 3.1 How to obtain a code

The DfE explains that “a child will be entitled to the additional free hours from the term after both of the following conditions are satisfied: (1) the child has attained the age of three; (2) the child’s parent has a current positive determination of eligibility from HMRC [HM Revenue and Customs]”.<sup>40</sup>

Because the “30 hours” of free childcare is not universal, a child’s parent(s) or carer(s) need to prove their eligibility for it. This is achieved through the Government’s “Childcare Service” website,<sup>41</sup> or if someone is unable to obtain a code using the online application system they should use the HMRC form “FCC1” to apply. The Childcare Service team at HMRC is available on 0300 123 4097.

If an applicant is eligible, then a parent receives an eligibility code which they provide to their childcare provider (which is then validated).

### 3.2 Reported problems with the system

Prior to the launch of the extended entitlement in September 2017, there were reports of parents not being able to obtain their eligibility code<sup>42</sup> – this was the subject of an urgent parliamentary question on 18 July 2017 in which the then Minister, Mr Goodwill, said:

The childcare service is a complex IT system, which checks parents’ eligibility in real time by interfacing with other Government IT systems. The vast majority of parents will receive an instant eligibility response, but there will be a delay for some parents whose eligibility is not immediately clear—for example, for some self-employed people. The service has also experienced technical issues which have meant that it has been unavailable to parents on a small number of occasions. Her Majesty’s Revenue and Customs, which has developed the service, has been working hard to resolve those issues, and as a result the customer experience has improved.

Mr Goodwill added:

the vast majority of cases are processed fairly simply, but because we need to check that the person meets the eligibility criteria on income, sometimes there are complications. I have mentioned self-employed people and people who change jobs, so occasionally it is more complex. I reassure the hon. Lady on the point about people who cannot use the online system. We have an offline process for any parents who experience persistent technical difficulties. I encourage anyone who has those problems to take up the matter.<sup>43</sup>

Mr Goodwill added in a separate answer to a PQ that “it is not possible to provide a definitive number of applications not completed due to technical issues as the service allows parents to part complete their application, save it and return to it later”.<sup>44</sup>

---

<sup>40</sup> Department for Education, [Early education and childcare – Statutory guidance for local authorities](#), March 2017, p9

<sup>41</sup> See: <https://childcare-support.tax.service.gov.uk/>

<sup>42</sup> For example, see: “[Parents STILL locked out of government’s flagship Childcare Services website a month after going live](#)”, *Daily Mirror*, 24 May 2017; “[Parents frustrated as Tax-Free Childcare system hit with tech troubles](#)”, *Manchester Evening News*, 27 June 2017; “[Why tax-free childcare account website makes me want to bawl](#)”, *FT Money*, 13 July 2017.

<sup>43</sup> [HC Deb 18 July 2017 cc713–714](#)

<sup>44</sup> [PQ4504 17 July 2017](#)

## 10 Childcare: "30 hours" of free childcare – eligibility, access codes and charges (England)

The Chief Secretary to the Treasury<sup>45</sup> told the House that “parents who reported technical issues during the application process were provided with a 30 hours code manually. Those parents who are eligible, and applied before 31 August will be given a code that will allow them to access 30 hours free childcare for the September term”.<sup>46</sup>

In an update to the House given in late October 2017, Ms Truss said that “whilst the majority of parents have applied [for a code] with no issue, some parents have experienced difficulties. HMRC have apologised to those parents and are working with National Savings & Investments (and their supplier Atos) to make a range of improvements to the childcare service. HMRC have arrangements in place to ensure that no parents miss out financially as a result of these issues”.<sup>47</sup>

In a further update in November 2017, the Financial Secretary to the Treasury, Mel Stride, said that following the initial problems “HMRC and their delivery partners NS&I [National Savings and Investments] have now made significant improvements to the service”. He added that:

Over the coming months, we will gradually open the childcare service to parents of older children [in respect of Tax Free Childcare], whilst continuing to make further improvements to the system. This means we can manage the volume of applications going through the service, so parents continue to receive a better experience and prompt eligibility responses when they apply – almost all parents receive a response within five working days, and most get their decision instantly.<sup>48</sup>

---

<sup>45</sup> The Childcare Service is administered by HM Revenue and Customs (HMRC), which is a Treasury department.

<sup>46</sup> [PQ8694 11 September 2017](#)

<sup>47</sup> [PQ107873 24 October 2017](#)

<sup>48</sup> [HCWS247 15 November 2017](#)

## 4. What can, and cannot, be charged for by childcare providers

### 4.1 What cannot be charged for?

Statutory guidance to local authorities states that they must:

Ensure that providers do not:

- charge parents “top-up” fees (the difference between a provider’s usual fee and the funding they receive from the local authority to deliver free places).
- require parents to pay a registration fee as a condition of taking up their child’s free place.

While childcare providers can take a deposit from parents and carers to secure a place, a local authority must “work with providers to ensure that ... the deposit is refunded in full to parents within a reasonable time scale”. Local authority must also:

Work with providers to ensure their invoices and receipts are clear, transparent and itemised allowing parents to see that they have received their child’s free entitlement completely free of charge and understand fees paid for additional hours or services. Invoices and receipts should include the provider’s full details so that they can be identified as coming from a specific provider.<sup>49</sup>

### 4.2 What can be charged for?

Guidance issued by the DfE expressly allows childcare providers to charge for “consumables” such as meals and nappies, as well for any extra hours beyond the free entitlement:

Government funding is intended to deliver 15 or 30 hours a week of free, high quality, flexible childcare. It is not intended to cover the costs of meals, other consumables, additional hours or additional activities. Parents can therefore expect to pay for any meals offered by the provider alongside their free entitlement. Parents can also expect to pay for other consumables or additional activities offered by the provider, such as nappies or trips. Where parents choose to purchase additional hours of provision, consumables or additional activities, this is a private matter between the provider and the parent.

The guidance adds that:

However, providers must offer alternative options for parents. This could include, for example, allowing a parent to bring in their own consumables or a packed lunch, where the meal offered is not suitable for children with specific dietary needs or the parent prefers a lower cost option.

Children should be able to take up their free hours as part of continuous provision and providers should avoid artificial breaks in the day wherever possible. For example, the lunch time hour/session should form part of the free provision where the child is attending a morning and afternoon session. Providers may wish to offer additional hours around the free provision hours, as set out in the model below.<sup>50</sup>

If a parent or carer requires additional childcare on top of their free entitlement, then they can enter into a private contract with an early years provider. As noted above, the DfE has

---

<sup>49</sup> Department for Education, [Early education and childcare – Statutory guidance for local authorities](#), March 2017, pp12–13, paras A1.24–A1.25 and A1.27

<sup>50</sup> Department for Education, [Early years entitlements: operational guidance – For local authorities and providers](#), July 2017, p32

## 12 Childcare: "30 hours" of free childcare – eligibility, access codes and charges (England)

stated that “where parents choose to purchase additional hours of provision, consumables or additional activities, this is a private matter between the provider and the parent”.<sup>51</sup>

DfE guidance to local authorities and provider explains that:

Providers should ensure that they are completely clear and transparent about which hours / sessions can be taken as free provision and this should be consistent for all parents taking up free hours. Providers should also ensure they have clear invoicing structures in place for parents.

[...]

To ensure that parents can make informed decisions on their choice of childcare, providers should publish a statement of how they deliver the free entitlement and any additional charges for optional activities outside of the entitlement. This should set out clearly the charges for meals, additional activities or additional hours. Providers may wish to have a separate agreement for any additional hours or activities, which clearly sets out for how long the parent has opted to pay the additional charges and the circumstances when the parent can opt out of paying the additional charges.<sup>52</sup>

It is not unusual for parents to be charged more for any hours they purchase compared to the amount that the local authority funds for the free childcare, as noted by the House of Lords Select Committee on Affordable Childcare, and the National Audit Office (NAO) for example.<sup>53</sup> this is known as “cross-subsidisation”.

The consultancy LaingBuisson noted in their *Children’s Nurseries – UK Market Report* that “the level of funding paid by local authorities to provide early years placements for 3 and 4 year olds had been consistently criticised by most children’s nursery providers for being insufficient to cover costs of provision”.<sup>54</sup>

Some childcare providers therefore charge parents and carers a higher hourly rate (compared to that paid by the local authority) in order to compensate for the rates paid by local authorities for the free childcare. As the Lords Committee noted, “this means that parents are subsidising themselves, or other parents, in order to benefit from the Government’s flagship early education policy”.<sup>55</sup>

This practice appears to side-step the rule preventing providers from charging a top-up (i.e. the difference between a provider’s usual fee and the funding they receive from the local authority to deliver free places, see section 4.1 above) because the cross-subsidisation is funded by hours privately purchased by a parent or carer.

### 4.3 Evidence of charging in practice

It was reported by *Children and Young People Now* in August 2017 that “half of early years providers plan to increase or introduce extra charges to parents to recoup the cost of offering the government’s 30 hours of free childcare policy”. The article, published the day before the extended entitlement became available across England, said that:

---

<sup>51</sup> Department for Education, [Early years entitlements: operational guidance – For local authorities and providers](#), July 2017, p32

<sup>52</sup> As above, pp32–33

<sup>53</sup> House of Lords Select Committee on Affordable Childcare, [Affordable Childcare](#), 2014–15 HL 117, 24 February 2015, p11, paras 18–19; National Audit Office, [Entitlement to free early education and childcare](#), 2015–16 HC 853, 2 March 2016, p29, para 2.15

<sup>54</sup> LaingBuisson, *Children’s Nurseries – UK Market Report*, 13<sup>th</sup> edition, October 2014, p92

<sup>55</sup> Lords Select Committee on Affordable Childcare, [Affordable Childcare](#), 2014–15 HL 117, 24 February 2015, p11, paras 18–19

A poll of 1,394 nurseries, pre-schools and childminders by the Pre-School Learning Alliance found that 52 per cent intend to increase or introduce fees for goods and services including food, trips and nappies.<sup>56</sup>

Meanwhile, 49 per cent said they intend to charge parents more for non-funded childcare places to claw back losses from the 30 hours offer.

[...]

A total of 74 per cent of the providers who took part in the online survey said the money the government is providing to cover the cost of the free places is less than the cost of providing those places. On average, the providers reported a shortfall of 18 per cent between the funding of the policy and their costs.<sup>57</sup>

---

<sup>56</sup> Pre-School Learning Alliance, [74% of providers say 30 hours funding doesn't cover their costs](#), news story, 31 August 2017

<sup>57</sup> ["'Parents to face additional charges' for 30 hours childcare"](#), *Children and Young People Now*, 31 August 2017

## 5. Sources of information

Key DfE documents regarding the extended entitlement (which also cover the universal provision) of free childcare include:

- [\*Early education and childcare – Statutory guidance for local authorities\*](#), March 2017;
- [\*Early years entitlements: operational guidance – For local authorities and providers\*](#), July 2017.

If a parent or carer has a concern about the practices of a childcare provider in relation to the extended entitlement, or the universal entitlement, they should first seek to resolve the matter with the provider (using their complaints procedure) and, if unresolved, then raise the matter with their local authority.

If they have concerns about the quality of the childcare being provided, or a safeguarding concern, and the matter cannot be resolved by the provider or is of a particularly serious nature, a parent or carer should contact the regulator, Ofsted.

## Version control

1.0	9/1/18	Published
-----	--------	-----------

---

---

---

---

---

### About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publically available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email [hcinfo@parliament.uk](mailto:hcinfo@parliament.uk).

### Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).