

Equality Impact Assessment

**Expansion of early learning
and childcare**

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Scottish Government
Riaghaltas na h-Alba
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Equality Impact Assessment

Title of Policy	Expansion of early learning and childcare
Summary of aims and desired outcomes of Policy	<p>The Scottish Government and local authorities have committed to almost double the funded entitlement to early learning and childcare (ELC) from 600 to 1140 hours from August 2020 for all 3 and 4 year olds and eligible 2 year olds. This will be high quality, flexible early learning and childcare that is accessible and affordable for families.</p> <p>The expansion will deliver three main benefits for children and families:</p> <ul style="list-style-type: none"> • children’s development improves and the poverty related attainment gap narrows; • more parents will have the opportunity to be in work, training or study; and • increased family resilience through improved health and wellbeing of parents and children.
Directorate: Division: team	Early Learning and Childcare Programme: Parents and Providers: Uptake, Eligibility, and Engagement

Executive Summary

- The Children and Young People Act (Scotland) 2014 (the 2014 Act) made 600 hours of funded ELC per year available for all 3 and 4 year olds (from the relevant start date), and extended the entitlement to eligible 2 year olds. In a joint agreement with local government, the Scottish Government has committed to almost double the entitlement to 1140 hours per year from August 2020.
- A 'provider neutral' Funding Follows the Child approach will be introduced alongside the national roll-out of the expanded entitlement in 2020. Funding Follows the Child is underpinned by a National Standard¹ that all providers delivering the expanded hours – regardless of whether they are in the public, private or third sector, or childminders – will have to meet. This will provide reassurance to parents and carers that any provider offering the funded hours will be able to offer their child a high quality ELC experience.
- As well as offering greater choice of high quality providers, the expansion to 1140 hours will also enable parents to access different patterns of provision. Secondary legislation has been laid in the Scottish Parliament to increase the maximum session length for funded ELC from 8 hours to 10 hours and to remove the minimum session length time from August 2019². Once passed, this will enable families to access their child’s funded ELC entitlement over longer sessions over a smaller number of days if this best meets their family needs and is available locally. This change is based on feedback from a number of consultation events on the National Standard, and from our research on Parents’ Views and Use of ELC in Scotland³ where there was wide support to provide more flexibility with session lengths.
- This Equality Impact Assessment (EQIA) was undertaken to consider the impacts on families with a protected characteristic of increasing the statutory entitlement to 1140 hours of funded ELC and of modifying the current minimum and maximum session lengths. The process also

¹ <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-principles-practice/>

² The Children and Young People (Scotland) Act 2014 (Modification) (No.1) Order 2019

³ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

sought to explore any impacts the introduction of Funding Follows the Child, underpinned by the National Standard, will have on families with a protected characteristic.

- This EQIA process did not identify any direct or indirect unlawful discrimination through the ELC expansion and introduction of Funding Follows the Child. In addition, this process identified a number of areas where the expansion in the funded entitlement and introduction of Funding Follows the Child can help to advance equality of opportunity for families with a protected characteristic and promote good relations between those with and those without a protected characteristic. The expansion programme is supported by a benefits realisation strategy and the Scottish Study of Early Learning and Childcare (SSELC) which will evaluate its long term impact.
- Current data collection systems do not allow us to assess whether uptake and accessibility to funded ELC in Scotland is different for families with a protected characteristic. However, we are making improvements to the ELC census which will address these evidence gaps and advance our understanding of the characteristics of the small percentage of families who do not take up their child's ELC entitlement. We will continue to engage closely with local authorities and other stakeholders to ensure that equalities issues continue to be considered in relation to development and implementation of the expansion.

Background

The Scottish Government and local authorities have committed to almost double the funded entitlement to early learning and childcare (ELC) from 600 to 1,140 hours from August 2020 for all 3 and 4 year olds and eligible 2 year olds. This will be high quality, flexible ELC that is accessible and affordable for families.

The expansion will deliver three main benefits for children and families:

- children's development improves and the poverty related attainment gap narrows;
- more parents will have the opportunity to be in work, training or study; and
- increased family resilience through improved health and wellbeing of parents and children.

The Scottish Government has worked in partnership with the Convention Of Scottish Local Authorities (COSLA) and a variety of stakeholders across the ELC sector throughout the development of the 1140 expansion policy and has consulted widely on the expansion of funded ELC.

There is currently very high uptake of funded ELC in Scotland. Our latest ELC census data⁴ shows near universal uptake of funded ELC by 3 and 4 year olds. Approximately 10% of 2 year olds are registered for funded ELC (compared to the roughly 25% that are eligible), and this has increased gradually over the last few years. In addition, our Research on Parents' Views and Use of ELC in Scotland⁵ showed that of the parents surveyed, 90% would use some or all of their child's expanded hours.

Local authorities are 'phasing in' the expanded offer between now and August 2020. This allows local authorities and nurseries to test the practicalities of the expanded offer, and to get feedback from parents. Our expansion planning guidance⁶ which was issued to local authorities in March 2017 made clear that plans for phasing should reflect the Scottish Index of Multiple Deprivation to

⁴ <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

⁵ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

⁶ from <https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-etc-expansion-planning/>

ensure that families and communities who stand to benefit most from the expansion also benefit first. As a result of 'phasing in' of the entitlement, over 11,000 2 to 5 year olds are already accessing more than 600 hours of funded ELC⁷.

Background - Expansion of Funded ELC to 1140 Hours

The driving force behind the expansion of funded ELC is to secure improved outcomes for all children in Scotland. The provision of high quality ELC is a key contributor to our ambition to close the poverty-related attainment gap.

The expansion to 1140 hours intends to maximise this opportunity to ensure that all children in Scotland get the best possible start in life. The expansion will also bring economic benefits. In the short term, the increased investment in the ELC sector will promote sector growth and create new Fair Work jobs, with the multi-year funding package enabling payment of the real Living Wage to all workers delivering the funded ELC entitlement. The increase in funded, flexible ELC will help increase parents' opportunities to access work, training or further study. In the longer term, the increased investment in children's outcomes during the early years is anticipated to reduce interventionist public spending later in life, and have a positive impact on long term health, wellbeing and productivity.

Background - Funding Follows the Child and The National Standard

Funding Follows the Child will be introduced alongside the national roll-out of the expanded entitlement in 2020. This 'provider neutral' approach is underpinned by a National Standard⁸ that all providers delivering the funded hours – regardless of whether they are in the public, private or third sector, or childminders – will have to meet. The National Standard focuses on what children and their families can expect from their ELC experience, regardless of where they access their funded entitlement.

At the heart of the National Standard is a clear and consistent set of quality criteria, recognising that the ELC expansion is fundamentally about improving the early years experience of our youngest children and reflecting international research and evidence of what drives quality experiences and outcomes for children. It will ensure that all settings that are offering the funded entitlement are delivering the highest quality ELC experience for children.

Background - Changes to the ELC Session Length

Under the current legislation, the ELC funded entitlement can only be used for sessions that last 8 hours or less and there is a minimum session length of 2.5 hours. Families that wish to use a 10 hour session have to pay for an additional two hours of ELC, which is referred to as 'wraparound care'. Based on feedback from a number of consultation events on the National Standard, and from our research on Parents' Views and Use of ELC in Scotland⁹ - there was wide support to provide more flexibility with session lengths.

Published research measuring outcomes for children in ELC does not gauge the impact of a specific number of hours per day that is the most beneficial for children nor the point at which the length of a session starts to disadvantage children. This means we cannot currently state that a certain number of hours per day is more beneficial or detrimental than another. All credible

⁷ <https://www.gov.scot/publications/early-learning-and-childcare-delivery-progress-report/>

⁸ <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-principles-practice/>

⁹ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

research which we have reviewed¹⁰ agrees that the most consistent indicator and greatest contributor to improved outcomes for children is high quality.

Secondary legislation has been laid in the Scottish Parliament to increase the maximum session length for funded ELC from 8 hours to 10 hours and to remove the minimum session length from August 2019¹¹. Subject to parliamentary approval, this will allow families to access their child's ELC entitlement over longer sessions over a smaller number of days if this best meets the needs of their child.

The minimum session length is being removed as it is considered superfluous in the context of the expanded entitlement. 'Daycare of children' services are required to be registered with the Care Inspectorate where the service meets the minimum service duration of more than two hours in any day. While there is currently no legislative requirement that all funded ELC should be registered with the Care Inspectorate, in practice the Scottish Government and local authorities require it to be so. The National Standard for becoming a funded provider requires settings to achieve minimum Care Inspectorate inspection grades and so assumes that services are registered and therefore regulated with the Care Inspectorate and meet the minimum service duration and a defined quality standard.

Our long-term evaluation of the expansion programme, the Scottish Study of Early Learning and Childcare, will include exploration of the number of hours a child attends a setting per day and the number of days per week. From this we will be able to ascertain whether there are any correlations between session length/frequency and developmental outcomes. If, at any point, evidence comes out of the evaluation process to support a different course of action, we will respond to this in further legislative change.

The Scope of the EQIA

This Equality Impact Assessment (EQIA) was undertaken to consider the impacts on families with a protected characteristic of increasing the statutory entitlement to 1140 hours of funded ELC and of modifying the current minimum and maximum session lengths (the 'minimum delivery framework'). The process also sought to explore any impacts the introduction of Funding Follows the Child, underpinned by a provider neutral National Standard, will have on families with a protected characteristic.

A number of further EQIAs will be published to explore other elements of the funded ELC expansion programme, including:

- Workforce capacity: considering the barriers to taking up employment in the ELC sector and diversifying the workforce;
- Two year old eligibility: considering how proposed changes to the income threshold impacts the eligible population; and
- Learning and wellbeing: considering how ELC policy impacts on children's outcomes.

In addition, we are undertaking a Fairer Scotland Duty impact assessment. This will assess the impact of the increase in the entitlement to funded ELC on families facing socio-economic disadvantage.

¹⁰ [Rapid evidence review: Childcare quality & children's outcomes](#)

¹¹ The Children and Young People (Scotland) Act 2014 (Modification) (No.1) Order 2019

Methodology

Methodology - Key Data Sources

A number of data sources were used in this EQIA process, including:

- Scottish Government ELC census¹² which provides information on funded ELC. This includes data on the number of registrations for funded ELC, with information available on numbers by age, disability and additional support needs. Additionally, data on teachers, graduates and staff working towards graduate level qualifications working in funded ELC is provided.
- Scottish Social Services Council, Reports on Workforce Data¹³ which provides information on all staff working in the social service sector in Scotland. This includes data on those working in the daycare of children sector and provides a breakdown for several equalities characteristics.
- Research into Drivers and Barriers to Uptake of ELC Among 2 year olds¹⁴. This was commissioned by the Scottish Government in 2017 and comprised in-depth interviews with 30 parents of eligible 2 year olds and 13 in-depth interviews with local authority stakeholders and key delivery partners across six different local authorities in Scotland. The research aimed to understand practical issues that influence ELC uptake rates in eligible 2 year olds.
- Research Exploring parents' views and use of Early Learning and Childcare in Scotland¹⁵. This was commissioned by the Scottish Government in 2017 and involved a nationally representative survey and follow up discussions with parents and carers of children under the age of six about their use, views and experience of ELC. A total of 10,526 valid survey responses were submitted by parents. The research explored views and experiences across different parent groups.

We also looked at a wide range of academic and external research. We used research from Scotland where possible, but supplemented this with relevant research from elsewhere in the UK. In addition to considering consultation responses throughout the policy development process, we held an internal Scottish Government workshop, and held discussions with representatives from Engender, BEMIS, the Coalition for Racial Equality and Rights, the Multicultural Family Base, and Children in Scotland to inform this EQIA.

Methodology - Consultation

The Scottish Government has consulted widely on the expansion of funded ELC and findings from these consultations have shaped the development of the policy:

- **1140 Hours Expansion – Programme of trials** [2016]¹⁶. This consultation gathered views on the Scottish Government's programme of trials to test a variety of models for delivering the expanded ELC commitment. This consultation received 73 responses.

¹² <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

¹³ <https://data.sssc.uk.com/data-publications/22-workforce-data-report>

¹⁴ <https://www.gov.scot/publications/drivers-barriers-uptake-early-learning-childcare-amongst-2-year-olds/>

¹⁵ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

¹⁶ <https://www.gov.scot/publications/early-learning-childcare-programme-trials-analysis-responses-scottish-government-discussion/pages/1/>

- **A Blueprint for 2020: The Expansion in Early Learning and Childcare [2016-2017]**¹⁷. This consultation gathered views on the Scottish Government's vision and high-level principles for the expansion as well as the key policy choices that had to be made. It included questions on ensuring equality of access. This consultation received 336 written responses. In addition, a series of consultative events were held across Scotland to raise awareness of the consultation and to seek views of parents directly.
- **Early Learning and Childcare Service Models consultation [2018]**¹⁸. This consultation gathered views on the proposed range of criteria that would form the National Standard underpinning the new 'Funding Follows the Child' approach to early learning and childcare (ELC) service provision. This consultation was run jointly with COSLA. This consultation received 219 written responses. In addition to the online consultation, the Scottish Government held a total of eight consultation events in different locations. Most attendees at the events were ELC providers.
- **Parent Focus Groups [2018-2019]**. We held nine focus groups with parents and carers of children in early learning and childcare to seek feedback on our parental communication strategy. These events were attended by 86 parents and carers in total. Special consideration was taken to ensure the views of different parent groups were heard; this included ensuring there was a wide geographical spread of sessions, purposefully taking into account those communities which have a high proportion of minority ethnic families and families which live in rural communities. To inform the parent focus group discussions, a number of discussions and a co-design workshop were held with organisations including Stepping Stones for Families, Save the Children, Children in Scotland, Parent Network Scotland, Families Outside, Early Years Scotland, the Multicultural Family Base, South Lanarkshire Council, Moray Council, and a Young Scot young parent group.

Key findings

Key Findings – Monitoring and Evaluation

Scottish Government ELC census

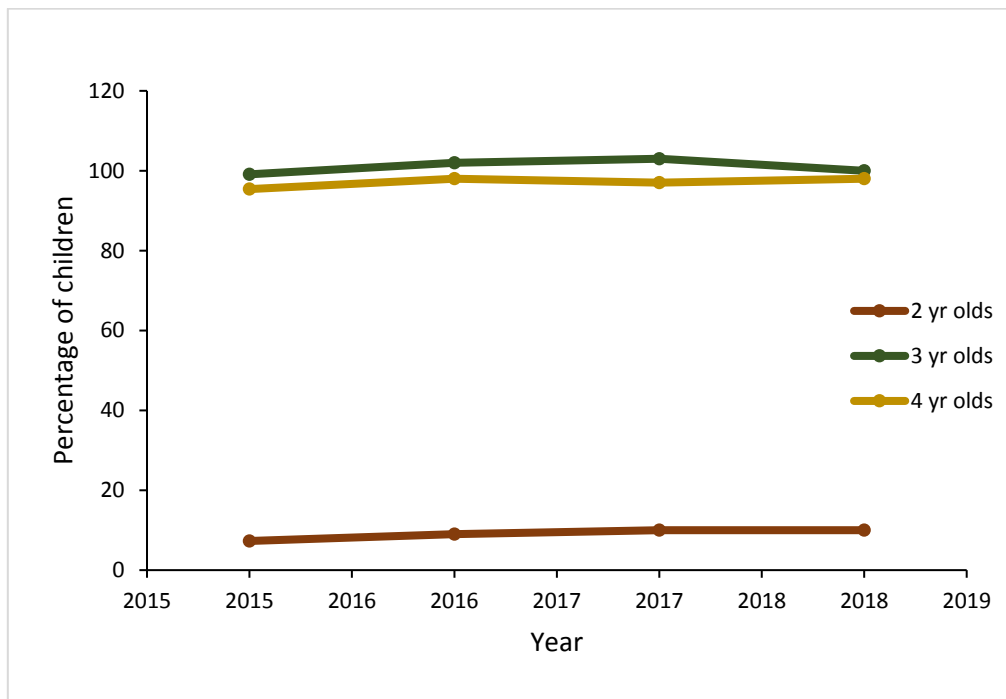
Our latest ELC census data¹⁹ shows near universal uptake of funded ELC by 3 and 4 year olds. Approximately 10% of 2 year olds are registered for funded ELC (only around 25% are eligible). This has increased gradually over the last few years.

¹⁷ <https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-consultation-analysis-report/>

¹⁸ <https://www.gov.scot/publications/early-learning-childcare-service-model-2020-analysis-public-consultation/>

¹⁹ <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

Table 1: Uptake of funded ELC by age (based on registrations)



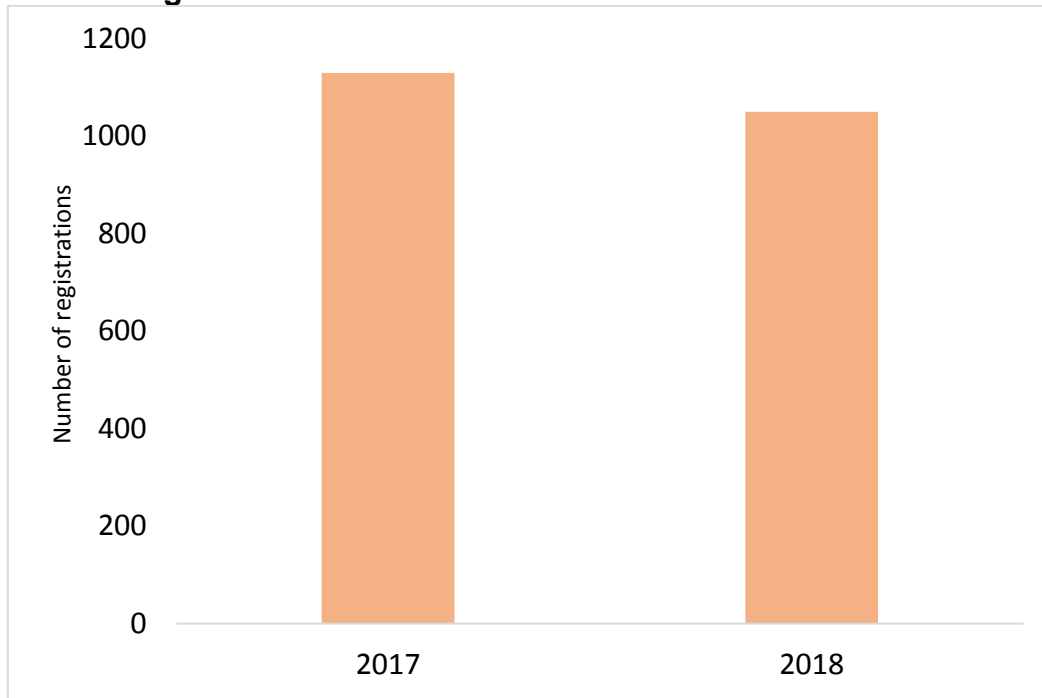
Source: <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

We have established a transformation project to improve the quality of the data collected by the ELC census. The census currently collects registration data. This means there can be double counting as children may be registered at more than one ELC setting if they access their funded entitlement from more than one service. The only relevant data currently collected on children with protected characteristics is whether a child is recorded as disabled, whether the child has an Additional Support Need (ASN), and whether the child’s home language is not English. These data are presented in Tables 2, 3, and 4.

We recognise that not being able to measure uptake against other protected characteristics constrains our ability to assess whether and how families with a protected characteristic access their child’s entitlement.

By 2022, the ELC census will be based on an individual child-level collection, and will collect characteristics data on children accessing funded ELC, including: sex, ethnicity, disability status, whether the child has any additional support needs, and the home postcode of the child (to enable analysis by the Scottish Index of Multiple Deprivation). This should allow for more substantive analysis on how different families use funded ELC and help to identify where new or different policy interventions are required to improve awareness and uptake of the statutory entitlement.

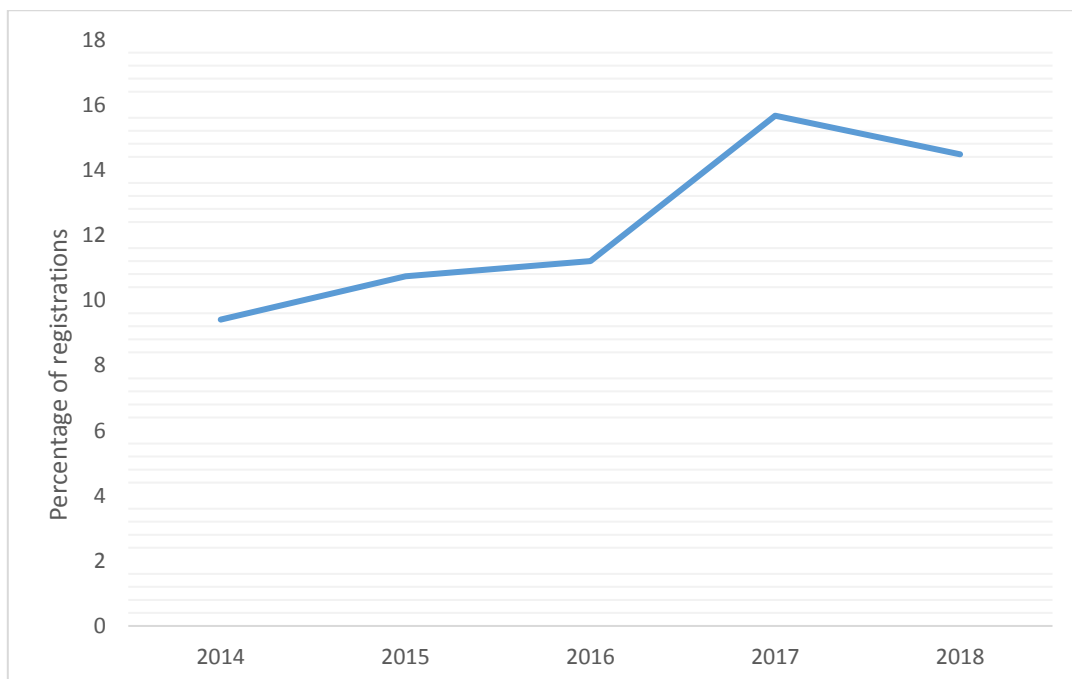
Table 2: Number of registrations for children assessed or declared disabled in ELC



Source: <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

Although the number of registrations for funded ELC for children assessed or declared disabled has gone down between 2017 and 2018, the percentage has remained stable; it was 1.2% for 2017 and 1.1% for 2018. Data prior to 2017 is not available.

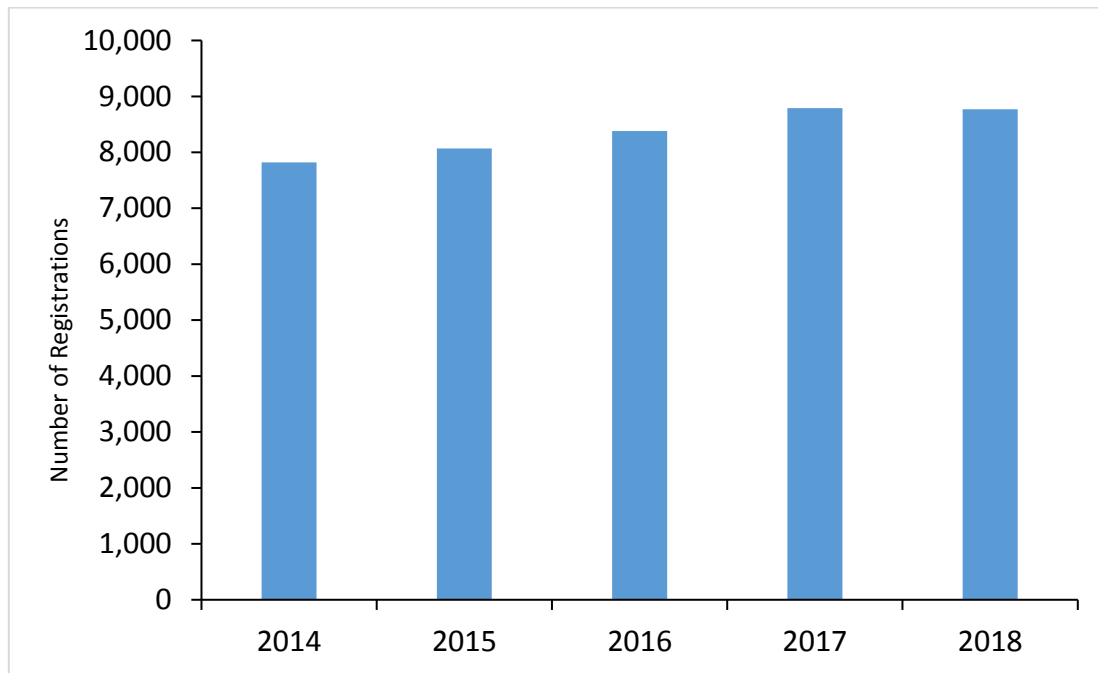
Table 3: Registrations for children with ASN as a percentage of total funded ELC registrations



Source: <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

The ELC census also collects information on ASN. Prior to 2017, ASN for ELC was categorised into 4 categories²⁰ but from 2017 onwards, 10 categories²¹ have been used. The 2018 results reported that 14% of registrations are for children with ASN, which is lower than the proportion of primary school pupils recorded on the pupil census with ASN (25% in 2018)²². Although there appears to be a higher proportion of school pupils with additional support needs recorded compared to children in ELC, there are several possible explanations for this. Some needs cannot be identified at an early age (e.g. dyslexia) or do not apply in early years (e.g. risk of exclusion). Children spend less time overall in an ELC setting than at school, and so at the time of census may not yet have been attending an ELC setting for long enough for any needs to be identified and diagnosed.

Table 4: Number of registrations for funded ELC for children whose home language is not English



Source: <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

The number of children whose home language is not English has increased slightly between 2014 and 2018, but in recent years the percentage of registrations for funded ELC remained stable at 9%. The pupil census shows that the same proportion of school-age children have a main home language other than English. We do not consider that information on whether a child’s home language is not English is sufficient to assess uptake of ELC based on the protected characteristic of race. The future ELC census will therefore collect information on a child’s ethnicity.

Scottish Study of Early Learning and Childcare (SSELC)

The Scottish Study of Early Learning and Childcare (SSELC) is a cross-sectional and longitudinal study that will evaluate the expansion of the funded entitlement to 1140 hours. Baseline data is being collected from children and their parents accessing 600 hours of funded ELC. In 2022-23, data will be collected from those accessing 1140 hours. Measuring before and after the expansion

²⁰ Children with language, speech, and communication needs; Children with social, emotional and behavioural difficulties; Children with a visual or hearing impairment, or who are deafblind; Children with a learning disability.
²¹ Autistic spectrum disorder; English as an additional language; Family issues; Language, speech and communication issues; Learning difficulties and dyslexia; Looked After; Physical or motor impairment, or physical or mental health problem; Social, emotional and behavioural difficulties; Visual or hearing impairment, or who are deafblind; Other (which includes support for risk of exclusion, substance misuse, more able pupil, and interrupted learning).
²² <https://www2.gov.scot/Topics/Statistics/Browse/School-Education/dspupcensus>

allows for an assessment of the extent to which the expansion's long-term benefits have been achieved. These benefits are: improved child development and narrowing attainment gap; increased family resilience and improved child and parent health and wellbeing; and more parents in work, training, or study.

There are a number of areas in which the SSELCC will support the identification of any inequalities of outcome for children with some protected characteristics. The SSELCC collects information related to gender, ethnicity and limiting long-term illness, based on the Scottish Government's recommended questions for identifying respondents who may have rights under the Equality Act 2010. The SSELCC also collects information on household income and parental economic activity. Postcode information will allow for analysis of any variability in child and parent outcomes related to the Scottish Index of Multiple Deprivation (SIMD) and rurality.

Scottish Household Survey

In order to further improve the data available on use of ELC use, we have also added questions to the Scottish Household Survey (SHS). The SHS is a continuous survey of the households and people of Scotland, based on a sample of the general population in private residences. The analysis of the SHS will be published in September 2019. The new ELC questions relate to the use of ELC (both funded and non-funded), information on spend on childcare, and information on why funded ELC is not used in some cases. The SHS collects information on some protected characteristics such as ethnicity, age, sex, religion, and disability. Dependent on the characteristics of the sampled respondents, this data may provide us with more information about ELC use in families with a protected characteristic.

Key Findings - Potential Impacts of Poverty

The Scottish Government's 'Tackling Child Poverty Delivery Plan'²³, identifies 'priority families' at high risk of poverty. Some families which are identified in this plan as 'priority families' at high risk of poverty also have a protected characteristic. The priority families are: lone parents (the large majority of which are headed by women); families which include a disabled adult or child; larger families; minority ethnic families; families with a child under one year old; and families where the mother is under 25 years of age. The potential impact of the increase in the funded entitlement to ELC on those at high risk of poverty will be considered further as part of our Fairer Scotland Duty Assessment, but it is evident that the consideration of socioeconomic disadvantage is particularly relevant to the protected characteristics of disability; race; and age (young mothers).

We have designed a range of measures to reduce potential barriers to accessing the expanded ELC entitlement as a result of socio-economic disadvantage:

- All 3 and 4 year olds and eligible 2 year olds are entitled to 1140 hours of ELC from August 2020, from their relevant start date. This increase in publicly funded hours will reduce the amount families need to spend on ELC; the full 1140 hours entitlement is estimated to save families on average over £350 per child per month (£4,500 a year)²⁴.
- The long-standing legal position is that funded ELC must be free at the point of access regardless of which setting the hours are being delivered in. As highlighted in the Funding Follows the Child and National Standard for Early Learning and Childcare Providers Operating

²³ <https://www.gov.scot/publications/child-chance-tackling-child-poverty-delivery-plan-2018-22/>

²⁴ <https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-2017-18-action/pages/2/>

Guidance²⁵ this ensures that parental choice regarding the setting where the funded hours are to be used will not be restricted by upfront payments or top-up fees in relation to the funded hours, or any requirements to purchase additional hours in order to access their child's funded entitlement at a setting.

- Under the current legislation, families using their child's ELC entitlement would have to pay for the additional two hours if they wished to use a 10 hour session. Increasing the maximum ELC session length time from 8 hours to 10 hours from August 2019²⁶ will allow families to access their child's ELC entitlement through longer sessions without having to pay for any additional hours.
- We have put a range of measures in place to ensure that children who stand to benefit most from access to ELC benefit from an enhanced offer that meets their family's needs. These include an earlier offer for eligible two-year-old children, increasing access to evidence based family learning programmes, and support from an additional graduate-level practitioner for children attending settings serving the most disadvantaged areas.
- Our expansion planning guidance issued to local authorities in March 2017²⁷ made clear that plans for 'phasing in' the expanded offer in the period to August 2020 should reflect the Scottish Index of Multiple Deprivation to ensure that families and communities who stand to benefit most from the expansion also benefit first.

The impacts of the ELC programme on families facing socio-economic deprivation will be explored in more detail through our Fairer Scotland Duty Impact Assessment.

Key Findings - Potential Impacts on the 'Needs' of the Public Sector Equality Duty

The protected characteristics under the Public Sector Equality Duty that the Scottish Government has a duty to consider are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The protected characteristic of marriage and civil partnership was not considered to be in scope of this Equality Impact Assessment.

For each of these protected 8 characteristics, this EQIA process assessed how the Scottish Government is giving due regard to the 'needs' of the public sector equality duty. The 'needs' are to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations. The assessment of these three 'needs' is presented in the next three sections of the 'Key Findings'.

Potential Impacts on Eliminating Discrimination

For each of the protected characteristics, this EQIA process assessed how the Scottish Government is giving due regard to the need to eliminate discrimination, harassment and victimisation. This process found that there are overall actions being taken to eliminate discrimination:

- The expanded entitlement will have a statutory basis. We are bringing forward legislation to amend the 2014 Act to change the 'mandatory amount' of ELC to 1140 hours a year from August 2020. This means that local authorities will have a statutory duty to secure 1140 hours

²⁵ <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-operating-guidance/>

²⁶ The Children and Young People (Scotland) Act 2014 (Modification) (No.1) Order 2019

²⁷ <https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-elc-expansion-planning/>

per year of funded ELC for each eligible young child belonging to (i.e. residing in) its area. Local authorities have developed detailed expansion plans to ensure that they will be able to meet their statutory duties. For 3 and 4 year olds this offer is universal and 2 year old eligibility targets children facing disadvantage.

- The National Standard underlines our commitment to ensuring that the expanded ELC entitlement is fully inclusive. Local authorities and ELC providers have a wide range of duties that they must already meet under existing legislation to eliminate discrimination, harassment and victimisation within ELC: Education (Additional Support for Learning) (Scotland) Act 2004²⁸; Public Services Reform (Scotland) Act 2010²⁹; Equality Act 2010³⁰; Children and Young People (Scotland) Act 2014³¹; and Standards in Scotland's Schools etc. Act 2000³². This means that ELC provision must be delivered in a way that ensures equality of access for, and accounts for the varying needs of, all children. Children should be able to learn free from discrimination and in settings which actively tackle health and social inequalities. Additional support therefore must be provided, over the short or the long term, to overcome needs arising from the care and learning environment, family circumstances, health needs or disability or social and emotional factors.
- Sub-criteria 6.1 of the National Standard emphasises that settings which provide funded ELC must comply with the duties under the Equality Act 2010; and sub-criteria 6.2 emphasises that the setting will be willing to provide appropriate support, including making any reasonable changes to the care and learning environment, to ensure that children's additional support needs do not provide a barrier to them accessing a full range of experiences and that their ELC offer meets their individual needs.
- ELC settings should already be able to show how they meet these criteria, and, through Care Inspectorate scrutiny activities, must be able to show how they meet the Health and Social Care Standards related to inclusion such as "*I am accepted and valued whatever my needs, ability, gender, age, faith, mental health status, race, background or sexual orientation.*" If a funded provider fails to meet the Care Inspectorate quality evaluation criteria, they will be subject to a 'service improvement period'. The local authority will need to be clear about which criteria are not being met and how the funded provider can improve the quality of provision to ensure children receive high quality ELC.
- Quality is already, and will continue to be, at the heart of ELC expansion, and we recognise that one of the most important drivers of quality is the quality of the workforce. Sub-criteria 1.2 of the National Standard requires all support workers, practitioners and lead practitioners/managers working in ELC settings, and included in the adult: child ratios, to have either obtained the benchmark qualification³³ for their role or, if they are still within their first 5 years of registering with the SSSC, to have started to work towards this. Training on aspects of equality and inclusion is part of the core training which all staff delivering the funded hours will have to carry out when obtaining their benchmark qualifications. Through this training, all practitioners delivering the funded hours will be able to ensure their own actions promote equity and inclusion and do not discriminate and that they are able to take appropriate steps when the actions of others are discriminatory.

²⁸ <https://www.legislation.gov.uk/asp/2004/4/contents>

²⁹ <https://www.legislation.gov.uk/asp/2010/8/contents>

³⁰ <https://www.legislation.gov.uk/ukpga/2010/15>

³¹ <http://www.legislation.gov.uk/asp/2014/8/contents/enacted>

³² <https://www.legislation.gov.uk/asp/2000/6/contents>

³³ All registered ELC managers/lead practitioners must either hold the SCQF level 9 benchmark qualification or agree that their registration is subject to a condition that they secure this within their first period of registration. For practitioner grade, the benchmark qualification is SCQF level 7, and for support workers, the benchmark qualification is SCQF Level 6.

- The operating guidance for the National Standard³⁴ recommends training and development for staff on the features of the duties under the Equality Act 2010 to further understand how they meet this duty. It also signposts the Equality and Human Rights Commission technical guidance in relation to the provision of education³⁵ and the Care Inspectorate's support resource on gender equal play³⁶ in ELC. In addition, a module on building confidence in identifying and responding to additional support needs will be included in the national online programme of continued professional learning which we are developing for the ELC sector, as committed to in our Quality Action Plan. Education Scotland has also developed free online inclusion resources aimed at practitioners and local authorities which provide an introduction to inclusion and equality within the Scottish educational context³⁷.

Potential Impacts on Advancing Equality of Opportunity

Looking at the protected characteristics in turn, this EQIA process has assessed how the ELC expansion programme is working to advance equality of opportunity for families with a protected characteristic.

Characteristic: Race

- As the current ELC census does not measure uptake based on a child's race, this EQIA process sought to identify any sources of literature which indicate whether families face barriers to uptake of ELC based on the protected characteristic of race. The future ELC census process will collect information based on a child's ethnicity which will help us to assess whether there is variation in uptake of ELC based on the protected characteristic of race. As we continue through the policy implementation, we will continue to engage with stakeholders and local authorities to ensure that race issues are properly considered.
- The EQIA process did not allow us to make any firm conclusions for Scotland. Through analysis of relevant research and literature from around the UK, we have identified some potential barriers to uptake by families of different ethnicities and considered how we can mitigate these potential impacts in Scotland. These potential barriers and mitigating actions are explained below.
- There is some evidence that some minority ethnic parents are more comfortable using ELC where there is a mix of cultures and ethnic backgrounds in the ELC setting³⁸. It is therefore important to look at ELC workforce demographic data in comparison to national demographic data. In Scotland, at least 91% of staff in day care of children and at least 98% of childminding staff are recorded as white; at least 1% of staff working in day care of children are recorded as Asian (a figure which has remained stable across previous four years), and less than 1% of staff are recorded as black or mixed race ethnicity³⁹ staff. For staff working in the day care of children sector, ethnicity 'unknown' is around 7% meaning that these figures represent a minimum percentage for each ethnic group. Table 5 shows a breakdown of ethnicity for Scotland from the 2011 Census. When compared to the ELC workforce demographic data, it indicates that a number of minority ethnic groups are under-represented in the ELC workforce. The significant proportion of staff identifying as 'unknown' ethnicity however means that the

³⁴<https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-operating-guidance/pages/3/>

³⁵<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance#h5>

³⁶<http://www.careinspectorate.com/images/documents/4704/Gender%20equal%20play%20in%20early%20learning%20and%20childcare.pdf>

³⁷<https://education.gov.scot/improvement/practice-exemplars/a-summary-of-elc-resources>

³⁸[https://www.valeofglamorgan.gov.uk/Documents/Living/Social%20Care/Ensuring-Equality-in-childcare-for-black-and-minority-ethnic-families-a-summary\[1\].pdf](https://www.valeofglamorgan.gov.uk/Documents/Living/Social%20Care/Ensuring-Equality-in-childcare-for-black-and-minority-ethnic-families-a-summary[1].pdf)

³⁹<https://data.sssc.uk.com/data-publications/22-workforce-data-report>

ELC workforce data is not directly comparable to the national population data. A separate EQIA considering the workforce impacts of the ELC expansion is being developed and will explore these effects further.

Table 5: Ethnic classifications of Scotland based on the 2011 population census

Ethnicity	Number of people	Percentage of population
White	5,084,407	96.0%
Mixed or multiple ethnic groups	19,815	0.4%
Asian	140,678	2.7%
African	29,638	0.6%
Caribbean or Black	6,540	0.1%
Other	14,325	0.3%
Unknown	-	0.0%
Total	5,295,403	

Source: <https://www.scotlandscensus.gov.uk/ods-analyser/jsf/tableView/tableView.xhtml>

- The ELC expansion will require an estimated up to 11,000 additional workers. We recognise the importance of the ELC workforce reflecting the diversity of Scotland’s population. In addition to our ongoing national recruitment campaign, we are actively promoting the diversification of the ELC workforce by funding the Council for Ethnic Minority Voluntary Organisations (CEMVO) to promote career opportunities with minority ethnic communities.
- For some minority ethnic families and perhaps more so for new migrant families settling in Scotland, ELC might not be an option that is readily considered⁴⁰⁴¹ as it may not be something of which they are aware. National and local government both have a role to play in making sure parents or carers are aware of their child’s funded ELC entitlement. The Scottish Government has been working closely with parent organisations and parents to make sure we understand what information parents need about ELC, and when they need it. We are working towards channelling communication through health visitors or other services/organisations which families are already accessing to ensure that families who may not know about the ELC expansion programme are aware of their ELC entitlement and are able to make an informed choice for their child. We have engaged with parents and organisations who asked us to ensure that our literature and parental communication included minority ethnic children. We are also developing a leaflet that includes a range of languages for families where the parents do not speak/read English. These will contain an outline of the ELC offer in 6 languages: Mandarin, Cantonese, Urdu, Gaelic, Polish, and Arabic.
- The working pattern of families can also be a barrier for some in taking up their ELC offer, for example, minority ethnic parents can often work atypical hours e.g. be on zero hour contracts or have short notice periods for work⁴², therefore flexible ELC is important for these families. As part of the expansion to 1140 hours, the Scottish Government expects to see further increases in the flexibility offered to families with regards to how they access their child’s funded ELC entitlement. Funding Follows the Child will empower parents to choose the ELC setting that best meets the needs of their child, subject to that setting meeting the National Standard, having a place available and being willing to enter a contract with the local authority. In addition, the secondary legislation which has been laid in the Scottish Parliament to increase

⁴⁰ http://www.barnardos.org.uk/15920_pp_briefing_no17.pdf

⁴¹ [https://www.valeofglamorgan.gov.uk/Documents/Living/Social%20Care/Ensuring-Equality-in-childcare-for-black-and-minority-ethnic-families-a-summary\[1\].pdf](https://www.valeofglamorgan.gov.uk/Documents/Living/Social%20Care/Ensuring-Equality-in-childcare-for-black-and-minority-ethnic-families-a-summary[1].pdf)

⁴² http://www.barnardos.org.uk/15920_pp_briefing_no17.pdf

the maximum ELC session length time from 8 hours to 10 hours from August 2019⁴³ will allow families to access their ELC entitlement over longer sessions over a smaller number of days if they would prefer.

Characteristic: Disability

- In relation to the protected characteristic of disability, the current ELC census collects data on whether a child is recorded as disabled and whether the child has an additional support need (ASN).
- Not all children who meet the definition of disabled will have additional support needs. For example, those with severe asthma, arthritis or diabetes may not have additional support needs but may have rights under the Equality Act 2010 if their impairment has a substantial and adverse long-term effect on their ability to carry out normal day-to-day activities. Similarly, not all children with additional support needs will meet the definition of disability under the Equality Act 2010. In particular some children whose emotional and behavioural difficulties have their origins in social or domestic circumstances may fall outside the definition. The needs of these children would be met under the Education (Additional Support for Learning) (Scotland) Act 2004.
- As there can be an overlap between the Equality Act 2010 and the Education (Additional Support for Learning) (Scotland) Act 2004, e.g. a child may have a disability and may also have additional support needs, both are considered throughout this section.
- The current ELC census data shows that around 1% of registrations for funded ELC are for children assessed or declared disabled. The percentage of registrations for disabled children has remained similar in the two years of data available. Data prior to 2017 is not available. The current ELC census data shows that around 14% of registrations are for children with ASN.
- As both data for children assessed or declared disabled, and the data based on the current questions for ASN are only available for the last 2 years, this EQIA process sought to identify any sources of literature which indicate whether families face potential barriers to uptake of ELC based on the protected characteristic of disability.
- This process did not allow us to make any firm conclusions for Scotland. We have, however, reviewed research and literature about access to ELC from around the UK and identified a number of potential barriers that may also be relevant in Scotland. These are explained below along with the mitigating actions that we are taking through the expansion programme to advance equality of opportunity.
- Research on Parents' Views and Use of ELC⁴⁴ in Scotland found that, of the families surveyed which had a child with an additional support need (ASN), almost half of parents of children with ASN mentioned difficulties accessing suitable provision. These barriers were due to parents' concerns around staff not having the time required to meet their child's needs or that staff didn't have the appropriate qualifications or skills to support their child.
- In addition, the National Standard consultation response from Children in Scotland (who manage the Scottish advice service for additional support for learning) expressed that for some families of children with additional support needs, offers of flexibility and choice of provision are not being realised as these families find it more difficult to find ELC provision that will meet their child's needs. Flexibility can be further reduced if the ELC setting which can meet the needs of

⁴³ The Children and Young People (Scotland) Act 2014 (Modification) (No.1) Order 2019

⁴⁴ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

a child with an additional support need is not geographically accessible. The Study of Early Education and Development⁴⁵ (SEED) in England found that for parents of children with “special educational needs” and/or disabilities, proximity to a suitable provider was important for uptake.

- Local authorities are required to have regard to the Education (Additional Support for Learning) (Scotland) Act 2004 in relation to any child entitled to funded ELC who has additional support needs. In addition, responsible bodies also have a duty under the Equality Act 2010 to make reasonable adjustments for disabled young children and provide auxiliary aids and services to avoid substantial disadvantage.
- The operating guidance for the Funding Follows the Child approach and the National Standard⁴⁶ emphasise the expectation that local authorities and funded providers will work together meaningfully and in genuine partnership to deliver flexible ELC provision. This includes working closely with, and supporting, funded providers to make reasonable changes to the care and learning environment in order to meet any additional support needs that a child may have (in accordance with duties under the Education (Additional Support for Learning) (Scotland) Act 2004 and the Equality Act 2010). This will be done while ensuring a high quality ELC experience is maintained and accessible to all children.
- The operating guidance for Funding Follows the Child and the National Standard⁴⁷ also recommends training and development for staff on the features of the duties under the Equality Act 2010 to further understand how they can ensure the setting meets this duty. A module on building confidence in identifying and responding to additional support needs will also be included in the national online programme of continued professional learning which we are developing for the ELC sector.
- In addition, the ELC Inclusion Fund was launched in 2018 and provides funding to ELC settings to support children with additional support needs (ASN) in Scotland access their funded ELC entitlement. It funds staff working in ELC settings to receive appropriate training and funds resources, equipment and adaptations. The £2 million fund invites bids from settings delivering funded ELC. A total of £521,145.60 was awarded from the fund to 455 applicants in 2018/19.
- The Scottish Government also realises the importance of reassuring parents and carers of children with an additional support need in relation to how their child will be supported in accessing a high quality ELC experience. As part of our parental communication plans we are working to ensure that parents/carers of children with an additional support need are aware of how funded ELC will support their children, including case studies of families with a child with an additional support need who are already accessing high quality ELC. These will be available for parents and carers on the Parent Club⁴⁸ website and through social media channels. For parents who are unlikely to access digital channels, the parental communication channels will also include leaflets and posters in local communities, as well as informing local professionals who engage directly with parents and families.

⁴⁵ <https://www.gov.uk/government/collections/study-of-early-education-and-development-seed>

⁴⁶ <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-operating-guidance/pages/3/>

⁴⁷ <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-operating-guidance/pages/3/>

⁴⁸ <https://www.parentclub.scot/articles/how-etc-gives-your-kids-extra-tlc>

Characteristic: Age

- Under the Equality Act 2010, age as a protected characteristic does not include the age of children eligible to funded ELC. However, this EQIA has assessed this protected characteristic for parents and carers of children eligible for ELC.
- The Scottish Government does not collect information on the age of parents or carers of children eligible for ELC but this process sought to identify whether families could face potential barriers to uptake of ELC based on the protected characteristic of age.
- This process did not allow us to make any firm conclusions for Scotland. We have, however, reviewed research and literature about access to ELC from around the UK and identified a number of potential barriers that may also be relevant in Scotland. These are explained below along with the mitigating actions that we are taking through the funded ELC expansion programme to advance equality of opportunity.
- Some evidence suggests that younger and more socio-economically disadvantaged mothers may use informal care more frequently (if they have the support network to offer this)⁴⁹ as informal care might not only be more affordable, but also offer greater flexibility.
- As part of the expansion to 1140 hours, the Scottish Government expects to see further increases in the flexibility offered to families with regards to how they access their child's funded ELC entitlement. Funding Follows the Child will empower parents to choose the ELC setting that best meets the needs of their child, subject to that setting meeting the National Standard, having a place available and being willing to enter a contract with the local authority. In addition, the secondary legislation which has been laid in the Scottish Parliament to increase the maximum ELC session length time from 8 hours to 10 hours from August 2019⁵⁰ will allow families to access their ELC entitlement over longer sessions over a smaller number of days if they would prefer.
- The research on Parents' Views and Use of ELC⁵¹ showed that household income and parent age showed the closest correlation with parents' awareness of the planned ELC expansion in Scotland. Lower income households and parents aged under 35 were less likely to be aware.
- National and local government both have a role to play in making sure parents/carers are aware of their child's funded ELC entitlement. The Scottish Government has been working closely with parent organisations and parents to make sure we understand what information parents need and when about ELC. We are already working towards channelling communication through Family Nurse Partnerships who work very closely with young parents, as well as health visitors or other services/organisations which families are already accessing to ensure that families, which may not know about the ELC expansion programme, are aware of the offer and are supported where necessary to apply for their child's funded entitlement. Young parents have been involved in our parent focus groups and they are particularly supportive of our social media strategy. We are also providing additional advice on other sources of childcare funding for young parents who wish to attend further or higher education.

⁴⁹<http://www.healthscotland.scot/media/1786/provision-of-early-learning-and-childcare-and-parents-outcomes-an-evidence-brief.pdf>

⁵⁰ The Children and Young People (Scotland) Act 2014 (Modification) (No.1) Order 2019

⁵¹ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

Characteristic: Religion/Belief

- The ELC census does not measure uptake based on a child's religion or belief. In order to reduce the burden of the ELC census on ELC settings and local authorities who collect and process the data, we seek to limit the amount of data we collect from families and keep it similar to the data which the settings will already hold. Although information on other protected characteristics such as religion/belief would be useful, asking questions around some protected characteristics can be deemed sensitive and parents might not be willing to provide this data. We have no plans for the ELC census to collect data on this protected characteristic.
- This process did not allow us to make any firm conclusions for Scotland. We have, however, reviewed research and literature about access to ELC from around the UK and identified a number of potential barriers that may also be relevant in Scotland. These are explained below along with the mitigating actions that we are taking through the funded ELC expansion programme to advance equality of opportunity.
- Some evidence suggests that Pakistani and Bangladeshi mothers (who make up 75% of British Muslim women) are less likely than Indian, white, or black mothers to be in employment before having a baby or during their child's early years⁵². Among these mothers, there was a strong preference to take time out of work to care for their children rather than use formal ELC. This report recommends that increasing awareness among British Muslim women of the benefits of ELC for their children could improve their engagement with it.
- The Scottish Government's work on parental communication has had a particular focus on families that are not already using funded ELC. The Scottish Government have been working closely with parent organisations and parents and carers to make sure we understand what information they need and when about funded ELC. Our work with marketing professionals has also included insights gathering message testing, with a particular focus on parents who are eligible for 2 year old funding, as we know this is where uptake is lowest. Our main marketing campaign will be timed to reach those who are going to be applying for their funded entitlement to start in August 2020. This will include the use of traditional media and social media to raise awareness and also emphasise the benefits for children, reassuring those who do not need the 'childcare' that it is still beneficial for them. We are also developing a toolkit for a range of stakeholders including third sector partners and the 'trusted professionals' that families might go to for advice.
- Some families of Pakistani and Somali background in England reported the importance of religious values (in this case Islam) within ELC. Others reported fears of racism and Islamophobia as factors that reduced their likelihood of accessing mainstream ELC⁵³, ⁵⁴.
- National Standard sub-criteria 5.1 requires providers of funded ELC to have open and regular communication with parents and carers about the work of the setting, ensuring that families are meaningfully involved in influencing change. Providers of funded ELC will work closely with families to best meet individual needs of the children in their care including any specific religious or belief needs. This can include facilitating opportunities for parents and carers to be involved in self-evaluation and planning improvements in the service, directly impacting on change and quality, for example, through Parent Forums or regular consultation strategies.

⁵²<https://youngfoundation.org/wp-content/uploads/2013/01/Valuing-Family-Valuing-Work-British-Muslim-Women-and-the-Labour-Market-October-2008.pdf>

⁵³ Khan, O., Ahmet, A. and Watkins, J. (2014a) Caring and earning among low –income Caribbean, Pakistani and Somali people. York: JRF

⁵⁴ Khan, O., Ahmet, A., Victor, C. 2014. 'Poverty and ethnicity: balancing caring and earning for British Caribbean, Pakistani and Somali people'. *Joseph Rowntree Foundation*.

This offers families which practice particular religions or beliefs the opportunity to be involved in the life of the setting, including identifying and taking forward developments.

Characteristic: Sex

- No information is currently available on the sex of children accessing ELC. An individual child level census is being developed for ELC which will collect information on the sex of the children accessing funded ELC. We are planning for this data collection to be fully established by 2022.
- Our latest ELC census data⁵⁵ shows near universal uptake of funded ELC by 3 and 4 year olds and that uptake of the 2 year old offer has gradually increased over the last few years. Given that uptake for 3 and 4 years is near universal, we do not have any basis to conclude that uptake between children of different sexes is systematically or significantly different.
- Through this EQIA process we are also considering the protected characteristic of sex in relation to the workforce involved in delivering the expanded ELC entitlement. ELC workforce data from the SSSC shows that 2% of the ELC workforce are male; and 98% are female. Females are therefore significantly over-represented in the ELC workforce compared to the overall population of Scotland (where 49% of the population are male and 51% are female). A similar pattern is also seen in the teaching workforce, where 6% of the workforce are male; and 94% are female.
- This process did not allow us to make any firm conclusions for Scotland about the protected characteristic of sex in relation to children. A separate EQIA considering the workforce impacts of the ELC expansion is being developed to explore these effects further. Based on literature from around the UK, we identified the following potential barriers and actions that we are taking through the expansion programme to advance equality of opportunity.
- Research, including studies from Scotland⁵⁶, recognise the negative impacts that gender stereotyping can have on children, and the importance of gender-equal play. The guidance on the National Standard signposts readers to the Care Inspectorate and Zero Tolerance resource⁵⁷ to promote gender equal play in ELC. By promoting play in ELC which is gender equal, there will be lasting positive impacts on equality between different sexes.
- In addition, we are preparing national induction materials for new ELC professionals, which will prompt them to consider the importance of gender neutral practice. Gender equality will also be a theme in the new STEM career long professional learning for ELC practitioners, as part of our wider programme to support the expansion of quality experiences for children. The training will be available online by the end of 2019 and will be made available to anyone working in the ELC sector.
- Our Research on Parents' Views and Use of ELC in Scotland⁵⁸ found that of the parents surveyed, two thirds (66%) of parents using ELC for a 3 or 4-year-old mentioned working or looking for work. The expansion of funded ELC to 1140 hours is expected to remove a potential barrier for parents wishing to access work, training or study opportunities, especially those who need help with finding sustainable employment. Women are still more likely to be the primary carers in the family therefore there is opportunity to enable more women to work, train or study, and help to close the gender related pay gap. The Scottish Government's 'A

⁵⁵ <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

⁵⁶ <https://www.iriss.org.uk/resources/videos/young-peoples-views-violence-against-women-nancy-lombard>

⁵⁷ <https://www.zerotolerance.org.uk/resources/Gender-equal-play-in-early-learning-and-childcare.pdf>

⁵⁸ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

Fairer Scotland for Women: Gender Pay Gap Action Plan⁵⁹ highlights that availability of high quality, affordable, and flexible childcare is key to enabling women to fully participate in the labour market.

The expanded ELC offer and the chance of more flexible provision will give more women the opportunity to return to training or work, if they choose to do so by: improving the opportunity for women to take up work⁶⁰; increasing the selection of jobs they can take up; and improving their chances of career progression⁶¹. Research has found that typically higher paid jobs and career progression come with less flexibility and may require someone to work full-time⁶², although the Scottish Government is working to promote fair and inclusive workplaces. Therefore, the expanded ELC offer and the greater offers of flexibility through Funding Follows the Child and the ELC session length changes can have the greatest impact on female participation in the labour market as typically, they take on the caring roles within the family which can restrict the type of work and working patterns they can take up⁶³.

Characteristic: Sexual Orientation, Gender Reassignment, and Pregnancy and Maternity

This EQIA process did not identify any positive or negative impacts relating to advancing equality of opportunity based on the protected characteristics sexual orientation, gender reassignment, and pregnancy and maternity within the expansion of ELC. However, as we continue through the policy development, this will be kept under review and any additional data as a result of these reviews will be published in future versions of this EQIA.

Potential Impacts on Promoting Good Relations

For each of the protected characteristics, this EQIA process assessed how the Scottish Government is giving due regard to promoting good relations between those with and those without a protected characteristic. This process found that there are overall actions the programme is taking to help promote good relations between those with and without a protected characteristic:

- Sub-criteria 5.1 of the National Standard requires providers of funded ELC to ensure there is open and regular communication with parents and carers about the work of the setting and that families are meaningfully involved in influencing change. Having open and regular communication with all parents and carers will help promote good relations between providers of funded ELC and all families which use their setting, including those with a protected characteristic.
- In addition, good relations are already promoted through the 2014 Act which places a duty on local authorities to consult with families in their area about how they should make ELC available. Education authorities must have regard to the views expressed in those consultations and prepare and publish plans on how they intend to make ELC available in response to those views. The 2014 Act statutory guidance encourages education authorities to use a range of consultative methods to engage a wide range of parents such as working

⁵⁹ <https://www.gov.scot/publications/fairer-scotland-women-gender-pay-gap-action-plan/>

⁶⁰ International Monetary Fund (2016) 'Individual choice or policies? Drivers of female employment in Europe', IMF Working Paper 16/49. Akgunduz, Y. and Plantenga, J. (2011) 'Child care prices and female labour force participation: A meta-analysis', Utrecht School of Economics Working Paper

⁶¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2019/03/fairer-scotland-women-gender-pay-gap-action-plan/documents/analytical-annex/analytical-annex/govscot%253Adocument/>

⁶² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221221/WP114.pdf

⁶³ <https://www.engender.org.uk/content/publications/Unblocking-the-Pipeline---Gender-and-Employability-in-Scotland.pdf>

parents, minority ethnic populations, hard to reach parents, parents of children with a disability or additional support needs; and parents with support needs.

- Funding Follows the Child will increase parental choice, supported by our parental communication strategy which is designed to raise awareness of the funded ELC entitlement, support take up, and help families make informed decisions about their child's ELC entitlement. By increasing awareness and uptake of funded ELC, we expect that more ELC settings will benefit from having a wider range of young children, including children with a protected characteristic. This means there is the opportunity for relationships between children with and without a protected characteristic to flourish at a young age.
- Through the Scottish Government's work to diversify the workforce there are several opportunities to foster good relations between those with and those without a protected characteristic. The EQIA on the expansion of the ELC workforce will consider these issues further. For example, we are funding the Scottish Funding Council to find innovative ways to encourage more males in to training for ELC. As women make up the majority of the ELC workforce, increasing the number of males in the ELC workforce will help create more opportunity for children accessing ELC to develop positive relations with male role models as well as female ones.
- We are also funding CEMVO to promote career opportunities with minority ethnic communities. Through this work to promote the diversification of the workforce there is the opportunity for children accessing ELC to develop positive relationships with ELC practitioners from different ethnic backgrounds and for parents and carers of children accessing ELC to build strong and positive relationships with ELC practitioners from different ethnic backgrounds.

Recommendations and Conclusion

This EQIA process did not identify any direct or indirect unlawful discrimination through the ELC expansion and introduction of Funding Follows the Child. In addition, this process identified a number of areas where the expansion in the funded entitlement and introduction of Funding Follows the Child can help to advance equality of opportunity for families with a protected characteristic and promote good relations between those with and those without a protected characteristic. The expansion programme is supported by a benefits realisation strategy and the SSELG which will evaluate the long term impact of the expansion.

For the positive impacts to be realised, we need to ensure that the policy is delivered successfully in partnership. Local authorities are playing a critical role in delivery of the increased entitlement to funded ELC. We recognise that there are challenges involved in implementing the expansion to 1140 hours. The Scottish Government and COSLA have developed robust joint governance arrangements to monitor progress and ensure that local authorities and providers are supported to put in place the required capacity and capability to provide 1140 hours of high quality ELC to all eligible children from August 2020.

The forthcoming individual child-level ELC census will help to fill some of the gaps in data identified through this process. It is expected that the future ELC census will allow for more substantive research on how different families use ELC in Scotland and help to identify if there are any particular groups where uptake is not as high and where the Scottish Government and local authorities may need to focus its attention on promoting uptake. Our SSELN will also allow for an assessment of the extent to which the expansion's long-term benefits have been achieved and the Scottish Household survey may provide more information around families' use of ELC.

How well the expansion of funded ELC helps to '*eliminate unlawful discrimination, advance equality of opportunity, and promote good relations for families with a protected characteristic*' will be particularly influenced by local implementation by local authorities. While national policy is intended to promote this, it is local authorities that will be designing the local service and so it is important that they also give due consideration to their duties under the Equality Act.

To support local impact assessments, in 2019/20 we will host a number of events across Scotland with local authorities to share good practice and lessons in meeting the duties of the Equality Act 2010 within the ELC expansion. These will offer the opportunity to work with Regional Improvement Collaborative areas to consider barriers and opportunities related to the ELC expansion. We will also use other platforms to share good practice on inclusion through for example the Knowledge Hub, the Care Inspectorate, and Education Scotland websites to ensure as wider reach as possible in the ELC sector on how in the delivery of the ELC expansion, national and local government can meet the duties of the Equality Act 2010.

As the data is not currently collected to allow us to assess whether uptake and accessibility to funded ELC in Scotland is different for families with a protected characteristic, the Scottish Government will continue to engage closely with stakeholders and local authorities to ensure that equalities issues are considered during any policy development and implementation.



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