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To
Directors of Education
ELC LA Leads

Copied to
Chief Executives
Directors of Finance
CERG
COSLA

8 July 2020

Dear Colleagues,

We appreciate that the last three months of closure, delivery of critical childcare and the planning for sector recovery has been extremely challenging for everyone involved in ELC. We recognise the huge amount of work that has gone into supporting children and families over this period, and are extremely grateful for your input into this.

Having taken the difficult decision to delay full roll-out of the duty to provide 1140 hours of ELC, we remain absolutely committed to the benefits of the expansion, and the return to 1140 as soon as it is reasonable to do so.

We are writing today to provide further clarity on what's next for the 1140 expansion programme.

Statutory Entitlement to ELC funded hours

The statutory entitlement to ELC from 11 August will remain 600 hours. The legal obligation to increase provision to 1140 hours from August 2020 has been suspended.

Local authorities' focus should be on delivering a model for funded ELC during the recovery period which reflects the principles of the [Strategic Framework for Reopening Schools, Early Learning and Childcare](#).

Local authorities must also have regard to public health guidance for ELC settings, and work with their providers to understand the practicalities of delivering ELC in the period following reopening.

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Quality of care and improving outcomes for children must remain central to delivery of the funded entitlement, with child development and wellbeing at the heart of our approach.

A revised date for full implementation of the expansion to 1140 hours will be jointly agreed by Scottish Government and Local Government, taking full consideration of the factors impacting on delivery, including the disruption to capital programmes. Agreement will be sought through the Joint Delivery Board, which will undertake a formal assessment of readiness to inform that decision. An initial assessment of readiness will be undertaken by the Joint Delivery Board by December 2020 in the light of the progress in recovery, as well as operational and financial implications.

To support local authorities in their planning, at least six months' notice of a new date will be given. Recognising the significant impact of the coronavirus and recovery, it will not be feasible to reinstate a universal 1140 duty in the academic year 20/21, or while the coronavirus public health measures, which significantly impact on ELC capacity, remain in place, if that is longer.

Local authorities will already have financial commitments with regard to 1140 - for example with regard to staffing and to partners. However, before considering further financial commitment in relation to 1140 delivery local authorities should consider how ELC funding can be used flexibly to support broader educational and childcare needs.

The principles of Funding Follows the Child are already embedded in many local authorities' approaches to funded early learning and childcare delivery – in particular the need to ensure high quality funded ELC experiences for children; the principle of provider neutrality; the need for effective partnership working; and the importance of Fair Work. Many local authorities are already using the National Standard criteria in their funded ELC contracts.

However, the Joint Delivery Board recognises that it is no longer feasible to set a national requirement for all funded ELC providers to meet the National Standard from August 2020; and that the public health measures which have to be implemented to respond to the Covid-19 pandemic may affect local authorities' ability to fully implement the Funding Follows the Child principles.

A new timetable for the full implementation of Funding Follows the Child and the underpinning National Standard for all ELC providers will be agreed by the Joint Delivery Board alongside the new timetable for 1140 implementation.

In the interim, the Joint Delivery Board strongly encourages all local authorities to use the principles and criteria of Funding Follows the Child and the National Standard as a framework to shape local funded ELC delivery. Important progress has been made already and all partners are determined to maintain and build on this.

The Joint Delivery Board has tasked the Scottish Government officials, COLSA officers, ADES, Directors of Finance, and working with other partners, to review the Funding Follows the Child principles and National Standard criteria. While recognising that individual circumstances will vary, this review will make an assessment of the aspects it considers to be deliverable at a national level, and guidance will be jointly agreed and shared with local

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authorities in the coming weeks. As contracting bodies, local authorities can adapt criteria where they cannot reasonably be met currently as a result of the pandemic, for example, allowing longer improvement or transition periods.

ELC funding for Local Government

As set out in the letter to councils on 15 May, specific revenue & capital grant funding for ELC for the 2020-21 financial year will continue at the level agreed through the multi-year funding settlement.

We recognise that implementing the public health guidance for reopening ELC services will have an impact on Local Authority and other provider capacity, and could also lead to an increase in the cost of delivery of an hour of funded ELC.

Local authorities continue to be funded in full to deliver the 1140 expansion programme and so we expect local authorities to be able to deliver a funded ELC offer equivalent to at least 600 hours during the recovery period within existing funding allocations. The ELC Delivery Assurance Team will work with local authorities to support the development and delivery of sustainable models in line with guidance.

Through the ELC Finance Working Group, we will work to understand the financial impact for local authorities. It will be important that this understanding is informed by robust data on current and committed spend, and the Finance Working Group will oversee arrangements for collecting financial data from authorities in a proportionate way.

In managing the local childcare and ELC offer, authorities must take account of the priorities for access laid out in the Strategic Framework. The framework gives local discretion with a prioritised approach. Local authorities, having met their duties for provision, including the development of a sustainable model of funding with providers, should consider how ELC funding can be used flexibly to support broader educational and childcare needs. This may include existing commitments to extended ELC capacity, the provision of critical childcare, and supporting where appropriate the resource requirements of education recovery. Funding flexibility does not extend to use of the specific grant beyond the needs of education and ELC service provision and recovery.

It is recognised that local authorities and PVI providers have already expanded their ELC capacity in anticipation of the 1140 expansion to varying degrees, and that application of the guidance on safe reopening may affect the extent to which that capacity can be fully utilised in the immediate term. It is critical to the future full roll-out of 1140 hours that this expanded capacity is protected and maintained. The Joint Delivery Board recognises that the expanded capacity that has been created within ELC services and settings may need to be used in different ways in the short-term to meet the needs of the recovery phase – including implementing public health measures and creating new capacity for wider childcare needs.

Financial Sustainability for providers

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The commitment from Scottish Government and local authorities to continue payments for the statutory ELC hours for the duration of the closures has provided a vital source of support for many providers.

A financially sustainable model for local authorities and childcare providers is a key aspect of the approach agreed in the Strategic Framework, as well as Funding Follows the Child.

It is expected that local authorities will still implement key aspects of Funding Follows the Child in August 2020 based on the guidance which will be issued further to the aforementioned assessment, in particular the commitment to pay sustainable rates to funded providers in the private, third and childminding sectors.

Sustainable rates will reflect the costs of delivering high quality early learning and childcare, which puts children's wellbeing and development first. They also reflect the commitment to Fair Work, including payment of the real living wage to staff delivering funded ELC.

The average cost of delivering funded ELC is expected to increase upon reopening as a result of public health measures and potential impacts on capacity. Costs will increase for both local authority and private providers. We also recognise that the financial situation for each local authorities in relation to the specific revenue and capital grant funding for ELC depends on their progress with the expansion prior to the suspension of the duty and the resources that were required to be deployed in the provision of critical childcare during the pandemic response.

As part of the financially sustainable model, local authorities should ensure that funding paid to providers for delivery of funded ELC entitlement remains sustainable and reflect the current costs of delivery.

Local authorities will need to continue to work in partnership with funded providers to reach agreement on sustainable local funding models which recognise the interplay with national reliefs and support. In particular, on continuation of contracted revenue streams to funded providers to support a provider neutral approach to ELC provision which promotes short and long term sustainability.

Local authorities will have a range of ELC and childcare pressures to manage during reopening. It is important the local authorities and the PVI sector work together to provide a combined response to local childcare needs. This may include considering how LA and PVI providers with daycare of children capacity use all of that capacity to support ELC, out of school care, and critical childcare in one setting, in groups of settings, etc. in the best interests of children and families.

Once again, we thank you for the huge amount of work that has been undertaken to provide support for children and families during this period, and for your continued support for the safe reopening of the sector.

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