

## **Funding Follows the Child and the National Standard for early learning and childcare providers**

Interim guidance on requirements on early learning and childcare settings and local authorities from August 2020

30 July 2020

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## 1. Introduction

### Delivery of high quality funded early learning and childcare

Quality is at the heart of the delivery of funded Early Learning and Childcare (ELC) entitlement.

There is a continuing strong and shared commitment to deliver the expansion of early learning childcare by the Scottish Government and local government. The universal funded entitlement to high quality, nurturing early learning and childcare for all 3 to 5 year old and eligible 2 year old children in Scotland will remain. Building on learning at home this helps every child to develop socially, emotionally, physically and cognitively, supporting them to have the best start in life.

To ensure that the funded ELC entitlement is delivered in high quality settings, the sector was working towards the introduction of Funding Follows the Child. This was to have been introduced alongside the statutory roll-out of 1140 hours of funded ELC entitlement in August 2020.

Funding Follows the Child is 'provider neutral' and is underpinned by a National Standard that to be a funded provider – regardless of whether they are in the public, private or third sector, or childminders – settings will have to meet.

The criteria of the National Standard focuses on what children and their families should expect from their ELC experience, regardless of where they access their funded entitlement.

### Impact of COVID-19

The impact of COVID-19 on all our lives has led to a delay of the statutory roll out of 1140 hours from August 2020.

In line with public health guidance all childcare providers were able to reopen from 15 July if they wished to. Providers must operate in line with current scientific and public health advice, and that guidance will continue to be reviewed and updated when new evidence is available.

[Scotland's routemap through and out of the crisis](#), sets out a phased approach for moving out of lockdown. Alongside that routemap we have published a [Strategic Framework](#) which sets out the high level plans for the reopening of schools, early learning and childcare settings and also wider childcare settings including school aged childcare and childminding.

With regards to Funding Follows the Child, the impact of COVID-19 may make it more challenging for providers to meet all aspects of the National Standard from August 2020.

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For example, the Care Inspectorate suspended routine inspections as a result of COVID-19 in March 2020, and no timetable has yet been set for resuming an inspection plan. This will mean that some settings who were working towards improving their Care Inspectorate quality evaluations ahead of the introduction of the National Standard in August 2020 will not have an opportunity to complete this work in time or for an inspection to be undertaken.

Access to some professional learning and qualifications may have been affected by the pandemic. Where this is the case this could leave some settings at a disadvantage in relation to the staffing, leadership and management criteria.

The closure and furloughing of staff will also have impacted on settings' ability to demonstrate improvement and workforce development.

The impact of COVID-19 has also resulted in concerns for many providers regarding their financial sustainability, which could make it more challenging for some providers to meet aspects of the National Standard (for example, the Business Sustainability criteria). Upon reopening it is expected that these concerns will remain as:

- providers are expected to face increased costs of delivery in order to meet the public health guidance requirements
- income from private sources is below business as usual levels (due to potential restrictions on capacity as a result of the public health guidance, and expected lower levels of parental demand)
- current financial and business support schemes start to be reduced and removed (in particular the Coronavirus Job Retention Scheme)

To support this 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, local authorities should consider the impact of the continuation of contracted, or expected, revenue streams to funded providers to support a provider neutral approach to ELC provision which promotes short and long term sustainability. For example, many funded providers in the private and third sector will have restructured their business models, and invested in their settings, in the anticipation of delivering an expanded ELC entitlement from August 2020. Lower volumes of payments for the funded hours than had been expected will have implications for the sustainability of these settings.

To support sustainability, local authorities are encouraged to work with funded providers to commission provision beyond the 600 hours statutory minimum where possible, and provided this is within current budgets.

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In light of these factors it is recognised that it is no longer feasible to set a national requirement for all funded ELC providers to meet the National Standard from August 2020.

It is also recognised 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 all of 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.

### **Implementation of Funding Follows the Child and the National Standard for ELC providers**

Funding Follows the Child remains the long-term policy framework that will support the delivery of funded ELC, and has been agreed by both Scottish Government and COSLA.

It is expected that local authorities will continue to use the principles and criteria of Funding Follows the Child and the National Standard as a framework to shape local funded ELC delivery.

This means placing choice in parents' and carers' hands, allowing them to access their child's funded ELC entitlement from any setting – in the public, private or third sector, including a childminder – who meets the National Standard, has a place available and is willing to enter into a contract with their local authority.

Important progress has already been made and the principles of Funding Follows the Child have been embedded in many local authorities' approaches to funded ELC 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 practices.

The National Standard will ensure that families can be reassured that, regardless of where they access their funded entitlement, a high quality service will be delivered.

Many local authorities are already using the National Standard criteria in their funded ELC contracts with providers. It is expected that the National Standard, with appropriate flexibilities in line with this guidance, will continue to form the basis of contracting arrangements with providers.

However, in the period from August 2020 until the full national roll out of 1140 hours there will be some flexibility around when providers are expected to meet certain aspects of the National Standard.

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It is also vital that local authorities 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 the provider neutral approach to ELC delivery and to promote short and long term sustainability.

This guidance has been designed to support local authorities and providers to work in partnership to enable the delivery of as much of the National Standard criteria as possible, but to highlight where flexibility may be required. It is intended to complement the detailed [Operating Guidance, and supporting technical guidance](#), produced for the sector to support implementation of Funding Follows the Child and the National Standard for ELC providers.

Enquiries in relation to this document should be sent to:  
[ELCPartnershipForum@gov.scot](mailto:ELCPartnershipForum@gov.scot)

## 2. Funding Follows the Child - requirements from August 2020

This section sets out the elements of Funding Follows the Child, with guidance regarding the expectations of the deliverability of each element. The majority of the Funding Follows the Child framework should still be deliverable from August 2020 and will continue to underpin the delivery of funded ELC.

Elements of Funding Follows the Child		Deliverability from August 2020
A	<a href="#">Getting It Right for Every Child</a> is at the centre of our approach to improving the experience of our children in their early years.	<ul style="list-style-type: none"> <li>Getting It Right for Every Child will continue to be reflected throughout Funding Follows the Child and the National Standard to ensure the focus on improving outcomes for children and young people is maintained</li> </ul>
B	It is 'provider neutral' and is underpinned by a National Standard, which all providers who wish to deliver the funded entitlement will have to meet from the full statutory roll-out of 1140 hours of funded ELC entitlement.	<ul style="list-style-type: none"> <li>Some flexibility is likely to be required on some aspects of the National Standard (as described in Section 3)</li> <li>The application must remain provider neutral with any flexibilities applying to all providers</li> </ul>
C	Families will be able to access high quality funded ELC with the provider of their choice if that provider meets the criteria set out in the National Standard, wishes to deliver the funded entitlement, has a space available, is able to offer the funded hours in-line with local ELC delivery plans (subject to the setting's overall capacity) and is willing to enter into a contract with the local authority.	<ul style="list-style-type: none"> <li>Flexibility may be required on some aspects of the National Standard, but the application must be provider neutral</li> <li>Parents should still be able to apply to the setting of their choice, but access to ELC at that setting will remain dependent on a space being available</li> </ul>
D	The choice of setting available to families is not restricted to their own local authority boundary.	Choice must not be restricted by local authority boundaries, however the overall level of choice available in each local authority may vary depending on local capacity and prevailing public health guidance

E	Information for parents and carers will be clear and accessible to make them aware of the options available to them, in particular the different types of settings that can be chosen, when accessing their funded entitlement.	<ul style="list-style-type: none"> <li>• It will be vital to ensure that parents and carers remain well informed, through clear and concise communications, particularly given the pace at which information can change</li> <li>• Communications with parents and carers should include information about the potential implications public health guidance may have on the options available to them</li> </ul>
F	Settings must ensure that the funded hours are free at the point of access and parents and carers are not required to purchase additional hours beyond the funded entitlement in order to access their child's funded hours at a setting.	<ul style="list-style-type: none"> <li>• This is a long-standing legal requirement. As set out under section 33(1) of the Standards in Scotland's Schools Act 2000, the entitlement to funded early learning and childcare must be provided without the payment of fees, including where this is delivered through a third party (i.e. providers in the private and third sectors, including childminders), under a section 35 arrangement</li> </ul>
G	Local authorities will retain the statutory responsibility for ensuring that the funded entitlement is available to all eligible children in their area, and will be the primary guarantors of quality and key enablers of flexibility and choice – ensuring that there is a range of options for families in their area.	<ul style="list-style-type: none"> <li>• These roles and responsibilities will continue, although local authorities may, depending on the wider public health guidance, be restricted in their ability to visit funded providers as part of their role as guarantors of quality</li> </ul>
H	Local authorities and providers should work together meaningfully and in genuine partnership in delivering flexible ELC provision, while continuing to ensure that a high quality experience for children is maintained and accessible to all.	<ul style="list-style-type: none"> <li>• Meaningful and genuine partnership working between local authorities and funded providers is vital to ensuring the delivery of a high quality ELC experience to all children</li> <li>• There are many good examples of partnership working, and it will be important to build on the recent progress across the sector in this area</li> </ul>
I	Local authorities will set a rate locally that is paid to funded providers in the private and third sectors, including childminders, to deliver the funded entitlement, which is sustainable and reflects national policy priorities, including funding to enable payment of the real Living Wage to all childcare workers delivering the funded entitlement.	<ul style="list-style-type: none"> <li>• The payment of sustainable rates to funded providers will be vital to supporting financial sustainability. However, the process for setting these rates will have to account for a wider range of factors than under business as usual and support the commitment, as set out in</li> </ul>

		<p>the Strategic Framework, for a model which is financially sustainable for local authority and private, and third sector providers</p> <ul style="list-style-type: none"> <li>• The pandemic has impacted on the financial position of settings. It is expected that settings will continue to face financial challenges upon reopening due to expected increases in the costs of delivery in order to meet the public health guidance requirements; reduced levels of private income; and the removal of some financial and business support schemes</li> <li>• A <a href="#">Transitional Support Fund</a> will provide support to providers to help them to meet the extra costs incurred to comply with public health guidance in response to COVID-19</li> <li>• Local authorities should also consider the impact that the continuation of contracted revenue streams to funded providers will have on promoting short and long term sustainability</li> <li>• <a href="#">Annex</a> sets out updated interim guidance on the setting of sustainable rates in the context of additional cost pressures on settings as a result of COVID-19</li> </ul>
J	<p>Funded providers who agree to deliver the funded entitlement will commit to paying the real Living Wage to all childcare workers delivering the funded entitlement and commit to operating Fair Work Practices.</p>	<ul style="list-style-type: none"> <li>• The promotion of Fair Work practices remains a vital way of supporting a high quality workforce, and it is expected that providers retain their commitment to these practices</li> <li>• Providers will receive sustainable rates that are set at a level which enables all childcare workers delivering the funded entitlement to be paid at least the real Living Wage</li> <li>• It remains the position that it is not for the Scottish Government and local authorities to provide the funding to cover the hours that staff spend delivering non-funded hours in their setting</li> <li>• It is therefore a business decision for funded providers as to whether they provide the additional resource to uplift the salaries of all</li> </ul>



		<p>workers in their settings, including those not engaged in delivery of the funded entitlement, to the real Living Wage</p> <ul style="list-style-type: none"> <li>• However, it is expected that, given the financial pressures on many providers, local authorities and funded providers make a commitment to work together in order to determine how best providers can work towards the delivery of this commitment</li> </ul>
K	Every child receiving a funded ELC session will receive a free meal.	<ul style="list-style-type: none"> <li>• Local authorities and providers should continue to work towards delivering this commitment, however, dependent on the public health guidance, there may be restrictions as to what meals can be provided (for example, there may be challenges in providing hot meals)</li> <li>• It is important to ensure that there is clear communication to families as to what meals will be available</li> </ul>
L	A commitment to simplifying the process for, and reducing the burden on, providers to deliver the funded entitlement. All providers will face the same National Standard for becoming, and continuing to be, a funded provider.	<ul style="list-style-type: none"> <li>• Local authorities have already made considerable progress in this area, drawing on the <a href="#">Transition Options Guidance on Contracting</a> and the supporting template Terms and Conditions and tender documentation produced by Scotland Excel</li> <li>• Local authorities should continue to progress this commitment, but it is important to recognise that processes have been disrupted and interim arrangements may be required in some authorities (e.g. when the COVID-19 response commenced in March 2020, not all local authorities had completed their contracting arrangements for August 2020)</li> </ul>

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### 3. The National Standard for ELC Providers - Requirements from August 2020

The criteria in the National Standard focus on what children and their families should expect from their ELC experience, regardless of whether they access their funded entitlement in local authority, private, or third sector settings, or through a childminder. This is to ensure that, as part of Funding Follows the Child, which is 'provider neutral', there is consistency of high quality provision across all funded provider types. It is also underpinned by the regulations in the [Public Services Reform \(Scotland\) Act 2010](#) which applies to all care services across Scotland, including daycare of children and childminding settings.

It is recognised that it is no longer feasible to set a national requirement for all funded ELC providers to meet the National Standard from August 2020. However, it is expected that whilst the majority of the National Standard should still be deliverable, some flexibility will be required regarding some criteria and sub-criteria.

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.

This section sets out for each of the criteria, and sub-criteria where applicable, the expectations regarding deliverability from August 2020. For some aspects of the National Standard there are variations for childminders to reflect the different nature of these providers.

More detailed information as to how to meet the National Standard criteria and sub-criteria is available is set out in Section 2 of [Funding Follows the Child and the National Standard for Early Learning and Childcare Providers - Operating Guidance](#).

Criteria		Sub-criteria	Requirements from August 2020
1	Staffing, leadership and management	1.1: Care Inspectorate quality evaluations are good or better on themes that relate to quality of staffing, management and leadership. <b>[All settings]</b>	<ul style="list-style-type: none"><li>• Expect the majority of funded providers to already be meeting this sub-criteria</li><li>• Deliverability for a small number of providers may be affected by suspension of Care Inspectorate routine inspections as a result of COVID-19 in March 2020, in particular if they were on a service improvement period</li></ul>

			<ul style="list-style-type: none"> <li>• Where local authorities and the Care Inspectorate are content with the ability to improve and sustain improvement, and no quality evaluation grades for the setting are below adequate, settings should have service improvement periods extended to align with recommencement of Care Inspectorate quality evaluations</li> <li>• Any settings on a service improvement period are expected to be drawing on the additional Care Inspectorate improvement support programme that has been made available for funded provider settings who do not currently meet the quality evaluations</li> </ul>
		<p>1.2: All support workers, practitioners and lead practitioners/managers working in the setting and included in the adult: child ratios must have either obtained the benchmark qualification for their role or, if they are still within their first 5 years of registering with the SSSC, have started to work towards this. <b>[All settings excluding childminders]</b></p> <p>1.2: From the implementation of the full roll-out of 1140 hours, childminders delivering the funded entitlement must have either obtained the benchmark qualification for ELC practitioners or, if they are still within their first 5 years of delivering the funded hours, be working towards achieving this qualification. <b>[childminders]</b></p>	<ul style="list-style-type: none"> <li>• Access to professional learning and qualifications has been affected since March 2020. This may have prevented some new staff members, or childminders, from commencing the benchmark qualification requirements</li> <li>• It is expected that where new staff in settings, or childminders, have been unable to commence their benchmark qualification due to difficulties in accessing courses as a result of the pandemic, that extra flexibility is provided for this criteria. However, any practitioners or childminders affected by this should be able to provide details of any courses applied for, or that they intend to apply for (if requested by the local authority)</li> </ul>
		<p>1.3: Sustainable staffing structures are in place which meet the recommended adult: child ratios. <b>[All settings excluding childminders]</b></p>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> </ul>

		<p>1.3: The staffing structure in the setting is adequate to meet the recommended adult: child ratios. <b>[childminders]</b></p>	<ul style="list-style-type: none"> <li>• Settings should consider whether staffing contingency plans should be updated</li> <li>• It is recognised that more adults may be required in settings as a result of any amendments to public health measures and advice</li> </ul>
		<p>1.4: All SSSC registered staff in the setting are achieving a minimum of 12 hours per year of Continuous Professional Learning. <b>[All settings excluding childminders]</b></p> <p>1.4: All childminders delivering the funded entitlement are achieving a minimum of 12 hours per year of Continuous Professional Learning. <b>[childminders]</b></p>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• The 12 hours a year of Continuous Professional Learning (CPL) is the minimum requirement, and where staff need or would like to undertake more hours of CPL then it is expected that funded providers will support this as far as possible, given the business needs of the setting</li> <li>• Many CPL materials are easily accessible and should not be impacted by the pandemic</li> </ul>
		<p>1.5: Staff new to delivering funded ELC within the last year are familiar with the content of the most up-to-date version of the national induction resource. <b>[All settings excluding childminders]</b></p> <p>1.5: All childminders newly registered to deliver ELC within the last year have undertaken appropriate induction. <b>[childminders]</b></p>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• Induction materials are easily accessible and should not be impacted by the pandemic</li> <li>• Inductions for new staff should include guidance on the setting's approach to ensuring physical distancing by adults as well as routines to ensure good infection prevention and control</li> <li>• There is a range of induction support for childminders including: <ul style="list-style-type: none"> <li>○ Scottish Childminding Association (SCMA) offer induction training (see <a href="http://childminding.org/learn-with-scma">childminding.org/learn-with-scma</a>)</li> </ul> </li> </ul>

			<ul style="list-style-type: none"> <li>○ Care and Learning Alliance's (CALA) childminding team deliver inductions (see <a href="http://calaelearning.co.uk/">calaelearning.co.uk/</a>)</li> <li>○ the Care Inspectorate has also developed a free and accessible guide, My Childminding Journey (see <a href="http://childmindingjourney.scot/">childmindingjourney.scot/</a>)</li> </ul>
2	Development of children's cognitive skills, health and wellbeing	<p>2.1: Care Inspectorate quality evaluations are good or better on the theme relating to quality of care and support. <b>[All settings]</b></p> <p>2.2: The setting must have a framework to support children's learning that is informed by national guidance and is appropriate to support individual children's development and learning focussed on active learning through play. <b>[All settings]</b></p>	<ul style="list-style-type: none"> <li>● Expect the majority of funded providers to already be meeting this sub-criteria</li> <li>● Deliverability for a small number of providers may be affected by suspension of Care Inspectorate routine inspections as a result of COVID-19 in March 2020, in particular if they were on a service improvement period</li> <li>● Where local authorities and the Care Inspectorate are content with the providers ability to make and sustain improvement, and no quality evaluation grades for the setting are below adequate, settings should have service improvement periods extended to align with recommencement of Care Inspectorate quality evaluations</li> <li>● Any settings on a service improvement period are expected to be drawing on the additional Care Inspectorate improvement support programme that has been made available for funded provider settings who do not currently meet the quality evaluations</li> </ul>
			<ul style="list-style-type: none"> <li>● All settings are expected to meet this sub-criteria</li> <li>● Settings should ensure that the health and wellbeing needs of the children, resulting from the COVID-19 pandemic, are included in this framework</li> </ul>

			<ul style="list-style-type: none"> <li>Settings should also look to identify what additional support may be required by children who may have suffered the greatest disadvantage during the lockdown period</li> </ul>
3	Physical environment	<p>3.1: Care Inspectorate quality evaluations of good or better on the theme relating to quality of environment. <b>[All settings]</b></p>	<ul style="list-style-type: none"> <li>Expect the majority of funded providers to already be meeting this sub-criteria</li> <li>Deliverability for a small number of providers may be affected by suspension of Care Inspectorate routine inspections as a result of COVID-19 in March 2020, in particular if they were on a service improvement period</li> <li>Where local authorities and the Care Inspectorate are content with the ability to make and sustain improvement, and no quality evaluation grades for the setting are below adequate, settings should have service improvement periods extended to align with recommencement of Care Inspectorate quality evaluations</li> <li>Any settings on a service improvement period are expected to be drawing on the Care Inspectorate's additional improvement support programme that has been made available for funded provider settings who do not currently meet the quality evaluations</li> </ul>
		<p>3.2: Children have daily access to outdoor play and they regularly experience outdoor play in a natural environment as part of their funded ELC offer. <b>[All settings]</b></p>	<ul style="list-style-type: none"> <li>All settings are expected to meet this sub-criteria</li> <li>Children's right to play outdoors every day has been enshrined in the national Health and Social Care Standards – As a child, I play outdoors every day and regularly explore a natural environment (HSCS 1.32)</li> </ul>

			<ul style="list-style-type: none"> <li>• This sub-criteria is particularly important as the evidence suggests that outdoor environments can limit transmission of COVID-19, as well as more easily allowing for appropriate physical distancing between children</li> <li>• Settings will be encouraged to maximise their use of outdoor space including the use of outdoor public spaces such as parks and woodland where appropriate</li> </ul>
4	Self-evaluation and improvement	4.1: The setting uses relevant national self-evaluation frameworks to self-evaluate and systematically identify strengths and areas for improvement. <b>[All settings]</b>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> </ul>
		4.2: The setting has a clear plan, developed in line with self-evaluation evidence, evidence from Education Scotland and Care Inspectorate scrutiny activities, research and national practice guidance, to continuously improve the quality of provision and outcomes for children and families. <b>[All settings]</b>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• It is expected that settings may have to update plans to reflect latest public health guidance, and that ensuring children's health and wellbeing will be a central focus of any updates</li> <li>• The Care Inspectorate have developed a <a href="#">self-evaluation resource and tool</a> for childcare settings to evaluate how well they are supporting children and families during COVID-19</li> </ul>
5	Parent and carer engagement	5.1: There is open and regular communication with parents and carers about the work of the setting and families are meaningfully involved in influencing change. <b>[All settings]</b>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• It is expected that settings may have to adapt the nature of their communication with parents and carers in the period following reopening and following any further public health developments</li> <li>• In doing so settings will need to ensure that any new methods of communication and engagement are</li> </ul>

			compliant with GDPR requirements and that there is increased security measures when engaging with children in different, and mainly digital ways
		5.2: Parents and carers are supported to engage in their child's learning and development. <b>[All settings]</b>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• It is expected that settings may have to consider adapting their approach in the period following reopening, and that some practices may not be possible given the prevailing <a href="#">public health guidance</a></li> </ul>
6	Inclusion	6.1: The setting must comply with the duties under the Equality Act 2010. <b>[All settings]</b>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> </ul>
		6.2: 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 meets their individual needs. <b>[All settings]</b>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• It is possible that some settings may have to make adaptations in order to meet children's additional support needs and the requirements of public health guidance. It is expected that the setting will work closely with the local authority in considering any potential adaptations</li> </ul>
7	Business sustainability	Settings wishing to deliver the funded entitlement must be able to demonstrate that they are financially viable providers. <b>[All settings]</b>	<ul style="list-style-type: none"> <li>• Business sustainability is vital to assuring the local authority that the provider's setting can be sustained and offer continuity of care to children and families as part of their funded ELC entitlement</li> <li>• However, the pandemic has impacted on the financial position of settings. As a result some settings may not be able to demonstrate the same levels of financial viability as they were before the impacts of the pandemic took effect</li> <li>• It is expected that settings will continue to face financial challenges upon reopening due to expected</li> </ul>



			<p>increases in the costs of delivery in order to meet the public health guidance requirements; reduced levels of private income; and the removal of some financial and business support schemes</p> <ul style="list-style-type: none"> <li>• Local authorities should consider the impact of the continuation of contracted, or expected, revenue streams to funded providers to promote short and long term sustainability. For example, many funded providers will have restructured their business models, and invested in their settings, in the anticipation of delivering an expanded ELC entitlement from August 2020. Lower volumes of payments than had been expected will have implications for the financial sustainability of settings</li> <li>• To support sustainability local authorities are encouraged to work with funded providers to commission provision beyond the 600 hours statutory minimum where possible, and provided this is within current budgets</li> <li>• Local authorities are still expected to draw on the separate guidance on <a href="#">Business Sustainability</a> published in April 2019. However, there are some aspects of this guidance where more flexibility will be required. For example, it is expected that occupancy levels will be below normal levels for many settings (due to reductions in capacity to meet the public health guidance, and reduced demand from families)</li> <li>• Local authorities have a vital role in managing risk regarding the delivery of funded ELC. In order to help them manage risk, and to support settings, local</li> </ul>
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			<p>authorities may wish to request or review information relating to the financial viability of settings on a more regular basis (particularly if the level of risk in the setting is assessed to be higher)</p>
8	Fair work	<p>Settings, including childminders where workers are regularly employed to provide direct care to children, who agree to deliver the funded entitlement will, in accordance with the supporting guidance on Transition Options, pay the real Living Wage to all childcare workers delivering the funded entitlement and commit to adopting and demonstrating Fair Work practices in their setting. In committing to Fair Work practices, settings must take into account:</p> <ul style="list-style-type: none"> <li>• a fair and equal pay policy across their setting, (including a commitment to supporting the real Living Wage)</li> <li>• ELC managers/lead practitioners/employers (in the case of childminders who employ staff) have clear managerial responsibilities to nurture talent and help individuals fulfil their potential</li> <li>• promoting equality of opportunity and developing a workforce which reflects the population of Scotland in terms of characteristics such as age, gender, religion or belief, race, sexual orientation and disability</li> <li>• security of employment and hours of work, avoiding exploitative employment practices such as unfair zero hours contracts, or pregnancy and maternity discrimination</li> </ul>	<ul style="list-style-type: none"> <li>• The promotion of Fair Work practices remains a vital way of supporting a high quality workforce and high quality services, and it is expected that settings retain their commitment to these practices</li> <li>• All settings are therefore expected to commit to adopting and demonstrating Fair Work practices</li> <li>• Settings should receive sustainable rates that are set at a level which reflects the payment of the real Living Wage to all childcare workers delivering the funded entitlement</li> <li>• The Scottish Government and local authorities cannot provide the funding to cover the hours that staff spend delivering non-funded hours in their setting</li> <li>• It is therefore a business decision for funded providers as to whether they provide the additional resource to uplift the salaries of all workers in their settings, including those not engaged in delivery of the funded entitlement, to the real Living Wage. However, providers are encouraged to adopt fair work practices, including fair pay, to ensure fair and equal pay across all relevant staff within their setting</li> <li>• However, it is expected that, given the financial pressures on many providers, local authorities and funded providers are expected to commit to work</li> </ul>

		<ul style="list-style-type: none"> <li>• consideration of patterns of working (including for example part-time working and/or term-time working) and support for family friendly working and wider work life balance</li> <li>• support progressive workforce engagement, including trade union membership or alternative arrangements to give staff an effective voice, for example, through regular staff meetings, where possible</li> </ul>	<p>together in order to determine how best providers can work towards the delivery of this commitment</p>
9	Payment processes	<p>Settings delivering funded hours must ensure that access to the funded hours are free at the point of access and that parents and carers are not subject to any fees in relation to funded hours. <b>[All settings]</b></p>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• This is a long-standing legal requirement. As set out under section 33(1) of the Standards in Scotland's Schools Act 2000, the entitlement to funded early learning and childcare must be provided without the payment of fees, including where this is delivered through a third party (i.e. providers in the private and third sectors, including childminders), under a section 35 arrangement</li> <li>• Any charges which are in addition to the funded early learning and childcare entitlement should be for optional extras, and limited to, for example, snacks, costs of outings or extracurricular activities. These optional charges include where a setting offers an additional optional service such as the provision of localised cover arrangements required by parents and carers (for example acting as the emergency contact for a child, cover for shift patterns, holiday cover, etc) which requires the setting to retain a place in order to meet this demand during the hours that the child is receiving part of their funded early learning and</li> </ul>

			<p>childcare entitlement at another setting as part of a split placement</p> <ul style="list-style-type: none"> <li>• It is also expected that settings are considerate of the financial challenges that households will be experiencing as a result of the pandemic, and that some families may not be able to afford additional costs</li> </ul>
10	Food	<p>Settings must have a clear and comprehensive policy for the provision of healthy meals and snacks for children. This should be consistent with <a href="#">Setting the Table</a> and the <a href="#">Eatwell Guide</a> and should ensure that individual cultural and dietary needs are met. There should be consultation with parents and carers about how other dietary preferences might be accommodated. <b>[All settings]</b></p>	<ul style="list-style-type: none"> <li>• All settings are expected to meet this sub-criteria</li> <li>• However, it is expected that, to deliver in line with the current public health guidance, there will be some changes from normal practice to reflect enhanced infection control and that there may be some restrictions on how meals and snacks can be delivered (for example, avoiding shared snacks, etc)</li> </ul>

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#### 4. Next steps

All local authorities are strongly encouraged 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.

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.

As at this point, we cannot reasonably assess when full delivery of 1140 of funded entitlement may be achievable, and we will not be able to do so until the full extent of the impacts of the pandemic become clearer. From August 2020 and for an indefinite interim period, the statutory entitlement to ELC from will remain at a minimum of 600 hours.

From August 2020, 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.

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. 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 and providers in their planning, at least six months' notice of a new date will be given as to when both full implementation of 1140 hours and Funding Follows the Child will commence.

It will also be vital to ensure that there is clear, concise and timely communication with parents and carers to ensure that they have clarity as to what children will be to access.

## Payment of sustainable rates for the delivery of funded early learning and childcare

### Overview

The payment of sustainable rates to funded providers is vital to supporting financial sustainability, and is a key aspect of Funding Follows the Child.

In April 2019 [guidance](#) was published to support local authorities to set sustainable rates for funded providers in the private and third sectors, including childminders, from August 2020. This was produced based on feedback gathered from across the sector, and sets out the principles that should underpin any approach to setting sustainable rates; and options for taking forward the process.

The guidance highlights that the rate paid to funded providers should be sustainable and should meet the following:

- the rate will support delivery of a high quality ELC experience for all children
- it will be a rate that reflects the cost of delivery, including the delivery of national policy objectives
- the rate will allow for investment in the setting – staff, resources and physical environment
- it will enable payment of the real Living Wage for those childcare workers delivering the funded entitlement

The guidance also highlights that from a local authority perspective the rate must be sustainable for authorities in terms of the budgets available, and that the following points are also important to consider when setting a sustainable rate:

- the rate does not have a detrimental effect on the local authority's ability to continue to pay for the service in the long-term
- the wider package of 'in-kind benefits', which are separate to the sustainable rate, available to the funded provider as part of their contract with the local authority
- the rate does not need to be cross-subsidised by parents and carers through charges for non-funded hours

**When setting sustainable rates local authorities are expected to continue to use [Funding follows the child and the national standard for early learning and childcare providers: guidance for setting sustainable rates from August 2020](#) as the main source of guidance for this.**

### Reflecting additional COVID-19 costs in the sustainable rate

The guidance sets out that the sustainable rate should reflect the costs of delivering early learning and childcare. However, ensuring a sustainable rate in the current economic climate is challenging. COVID-19, and the resulting public health guidance

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for the sector to allow for the safe reopening of settings, will have impacted on the costs of delivering funded ELC.

It is expected that, whilst the public health guidance remains in place, the costs of delivering funded ELC will be higher than under business as usual.

**Local authorities, in line with the principles for setting sustainable rates, will work with their funded providers to understand the extent to which the costs of delivering funded ELC have changed due to COVID-19.**

The impact of COVID-19 on delivery costs may not be uniform across different types of settings and may, for example, reflect differences in the layout of settings, size of settings, and access to outdoor space. Local authorities may wish to consider how best to reflect these differences.

Drawing on the information from providers, and ensuring that they capture all the elements of a sustainable rate as set out earlier in this guidance, local authorities will determine whether additional payments are required to settings for the period whilst the public health guidance still applies to ensure that rates are sustainable.

Where there are additional costs for settings as a result of COVID-19 related measures, there are a number of approaches that local authorities may wish to consider in order to ensure that these additional costs are reflected in payments to funded providers. For example, a temporary top-up could be applied to the sustainable rate, or one-off (or less frequent) payments could be made to cover the costs.

Regardless of the approach applied, local authorities should ensure that there is clear and transparent communication to settings.

Local authorities should also consider the impact that the continuation of contracted, or expected, revenue streams to funded providers will have on promoting supporting sustainability, and how these relate to the overall costs of delivering funded ELC in settings. In particular, it is important to note that many funded providers in the private and third sector will have restructured their business models, and invested in their settings, in the anticipation of delivering an expanded ELC entitlement from August 2020. Lower volumes of payments for the funded hours than had been expected will have implications for the sustainability of these settings.

Support will also be provided to childcare settings to help with adapting their settings to meet the public health guidance for the sector through the [Transitional Support Fund](#).

### **Payments for delivery of the free meal commitment**

As highlighted in [section 2](#) of this guidance document, local authorities and providers should continue to work towards delivering the commitment that every child receiving a funded ELC session will receive a free meal.

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Funding to deliver the free meal commitment will be additional to the sustainable rate for funded providers.

Local authorities must continue to ensure that they are transparent as to the funding being provided to private and third sector providers for the delivery of the free meal commitment.

To ease the administrative burden on providers, a local authority may decide to include these elements in the same payment as the sustainable rate or a local authority may account for it separately. The local authority must make sure, particularly where all elements are reflected in one payment, that there is transparency for providers regarding the separate elements of funding being received.