

Expansion of Early Learning and Childcare - Learning and Wellbeing Project

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Title of Policy	Expansion of Early Learning and Childcare – Learning and Wellbeing Project
Summary of aims and desired outcomes of policy	<p>The Scottish Government and local authorities have committed to almost doubling the funded entitlement to early learning and childcare (ELC) from 600 hours 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 all families.</p> <p>The expansion will deliver three main benefits for children and families:</p> <ol style="list-style-type: none"> 1. children's development improves and the poverty related attainment gap narrows. 2. more parents will have the opportunity to be in work, training or study; and, 3. increased family resilience through improved health and wellbeing of parents and children.
Directorate: Division: Team	Early Learning and Childcare Programme Directorate: Quality: Learning and Wellbeing

Executive Summary

- The Children and Young People Act (Scotland) 2014 (the 2014 Act) made 600 hours of funded early learning and childcare 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 authorities, the Scottish Government has committed to almost double the entitlement to 1140 hours per year from August 2020.
- Quality is already, and will continue to be, at the heart of the expansion of early learning and childcare to 1140 hours. It is widely acknowledged, including by the Organisation for Economic Cooperation and Development (OECD) that the provision of universally accessible and high quality early learning and childcare helps provide children with the skills and confidence to carry into school education, and is a corner-stone for closing the poverty related attainment gap between children from the most and least deprived communities.
- Evidence from both the UK and international evaluations and studies of early learning and childcare support the fact that all children, and especially those from disadvantaged backgrounds, can benefit from attending early learning and childcare. However, a key finding from research is that, if children are to benefit, early learning and childcare provision must be of high quality, with poor provision shown to have detrimental effects on children.
- The ELC Quality Action Plan¹ was developed in close consultation with a Reference Group, made up of expert stakeholders who best understand, not

¹ <https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-quality-action-plan/>

only what drives quality, but also how we can strengthen provision of high quality early learning and childcare in Scotland.

- The Quality Action Plan's actions are designed around the key aspects of quality that we expect to be reflected in all children's early learning and childcare experience. The action plan defines the essential characteristics of quality as:
 - A high quality workforce
 - Strong pedagogical leadership
 - Warm and supportive interactions with children
 - A holistic curriculum
 - A focus on play-based learning
 - Good access to outdoor play
 - Support for parents to engage in their children's learning
 - Transitions that are well managed
 - Professional collaboration
 - Provision that is accessible to all
 - High quality physical environments
 - Clear quality standards and robust self-evaluation and quality assurance regimes.
- 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 Standard² that all providers delivering funded 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.
- This Equalities Impact Assessment (EQIA) was undertaken to consider the potential impacts of the expansion of early learning and childcare on the outcomes of children with protected characteristics, and to identify potential opportunities to advance equality of opportunity for children with protected characteristics.
- The process identified that some quality groups, for example some ethnic minority groups and those with disabilities, are over-represented in the lower Scottish Index of Multiple Deprivation (SIMD) quintiles. Evidence also shows that some children living in areas of deprivation experience poorer outcomes than the general population.
- Several studies have shown that good quality ELC can have a positive effect on the educational, cognitive, behavioural and social outcomes for children in both the short and long term, including those who are most deprived in terms of household income.

² <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-principles-practice/>

- The Growing Up in Scotland Study³ found that children who attended providers with a high 'care and support' grade (as assessed by the Care Inspectorate) were more likely to show improvement in vocabulary skills by age five, irrespective of their social background and other pre-school characteristics. The study has concluded that high quality pre-school provision therefore has the potential to reduce socio-economic inequalities in cognitive development by the start of primary school.
- Some research has found that the benefits of ELC are even greater for children from more disadvantaged families. The expansion of high quality ELC should therefore be of particular benefit to children with protected characteristics, who are more likely to experience socio-economic disadvantage. High quality ELC may also reduce the risk of children with protected characteristics falling into poverty later in life.
- 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.
- The EQIA process did not identify any direct or indirect unlawful discrimination through the ELC expansion. In addition, the process identified a number of areas where the work of the learning and wellbeing project can help to enhance the outcomes of children with a protected characteristic, and promote good relations between those with and those without protected characteristics.
- 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 on child, parent and family outcomes. Regarding protected characteristics, the SSELC collects information related to: limiting long-term illness, based on the Scottish Government's recommended questions for identifying respondents who may have rights under the Equality Act 2010; gender of children and parents; and ethnicity of parents.
- We will remain engaged with local authorities and other stakeholders to ensure that equalities issues continue to be considered in relation to the development and implementation of the expansion.

³ <https://www.gov.scot/publications/tackling-inequalities-early-years-key-messages-10-years-growing-up-scotland-study/pages/5/>

Policy Background

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 ELC that is accessible and affordable for all families.

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

1. Children's development improves and the poverty related attainment gap narrows;
2. More parents will have the opportunity to be in work, training or study; and,
3. 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 if the expanded entitlement were available now and offered required flexibility.

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 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 were already accessing more than 600 hours of funded ELC⁷ as at September 2018.

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.

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/>

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

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 will have to meet – regardless of whether they are in the public, private or third sector, or childminders. 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 a high quality ELC experience for children.

Background – Learning and Wellbeing Project

The aim of the learning and wellbeing project is to ensure that the expansion of funded ELC entitlement is firmly focused on improving children's outcomes and closing the poverty-related attainment gap.

We know from a range of evidence, including from the OECD, that if ELC is to make a contribution to children's outcomes it must be of high quality. It is therefore important that, as we expand the infrastructure to deliver the near doubling of entitlement to funded ELC from 600 to 1140 hours, the quality of funded ELC provision is not compromised but instead is enhanced. The drivers of quality (as set out in the ELC Quality Action Plan) should be strengthened and further embedded within policy and practice so that all families have adequate access to high quality funded ELC settings that meet the developmental needs of children, and the quality criteria in the National Standard.

The aim of the project is also to see ELC fully integrated with wider policy on improving attainment and closing the gap. To help us realise the ambition of closing the poverty-related outcome gap and the Scottish Government's commitment to the GIRFEC approach, ELC must be responsive to the individual needs and varying

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

circumstances of children. The project should therefore ensure that the children who need it the most benefit from an enhanced ELC offer.

The Scottish Government's National Outcomes reflect the values and aspirations of the people of Scotland, are aligned with the UN sustainable development goals and help to track progress in reducing inequality. This policy contributes to the following National Outcomes:

- We grow up loved, safe and respected so that we realise our full potential
- We are well educated, skilled and able to contribute to society
- We tackle poverty by sharing opportunities, wealth and power more equally
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy
- We have thriving and innovative businesses, with quality jobs and fair work for everyone

A number of actions are underway to ensure that this policy promotes the duties of the Equality Act and to ensure that children's outcomes are improved through this policy, including:

Equity and Excellence Leads – We have created 435 new posts in ELC settings, which will be either a teacher or early years graduate with or working towards a relevant qualification, for example, the BA in Childhood Practice. The role is primarily focused on leading support for children facing disadvantage to close the attainment gap. They are not part of the setting's adult child ratios like other staff and are an extra resource that can be used in a flexible way to respond to the needs of the children and the setting. We know that the Equity and Excellence Leads are already providing support to children with a wide range of additional support needs.

Family Learning - Family learning is an early intervention and prevention approach aimed at encouraging family members to learn together, with a focus on intergenerational learning. It can also be designed to enable parents to learn how to support their children's learning. There has been substantial investment in family learning in ELC. The Scottish Government held a national family learning summit in May 2018. Peep, which is an ELC family-based learning programme, has trained 1132 practitioners in Scotland to deliver the programme. And, we have committed to further increasing support for evidence-based family learning programmes to embed this in the early learning offer for families facing disadvantage.

Inclusion Fund - The ELC Inclusion Fund is a £2 million fund, set up in 2018 to run over 4 years. The fund provides funding to ELC settings to support children with additional support needs to fully access their ELC entitlement. This can include money for specialist equipment, training or adaptations. A total of £521,145.60 was awarded from the fund to 455 applicants in 2018/2019.

National Programme of Continuous Professional Learning – We have committed to creating and delivering an online national programme of continuous professional learning that will be available to all early learning and childcare providers. The programme will be freely available to all ELC providers and will help to drive up quality of provision across the sector. The modules in the programme will focus on

areas where practice and/ or existing opportunities for CPL need to be strengthened and each module will promote equality of outcomes.

Universal Free Meals in ELC – ELC provides an important opportunity for maximising healthy eating and establishing healthy eating habits in the earliest years. All children in receipt of their funded entitlement will be entitled to a free meal within the ELC setting. The National Standard makes it clear that ELC settings will ensure that individual cultural and dietary needs are met through this provision.

Scope of this EQIA

This EQIA considered the potential impacts of the ELC expansion policy on the outcomes of children with protected characteristics in ELC, to identify possible opportunities to advance equalities of outcomes for children with protected characteristics and to identify potential opportunities to promote good relations.

A number of further EQIAs have been published alongside this one to explore other elements of the funded ELC expansion programme, including:

- Uptake, Eligibility and Engagement: considering the impacts on families of increasing the statutory entitlement to 1140 hours of funded ELC and modifying the current minimum and maximum session's lengths. This EQIA also explores any impacts the introduction of funding follows the child, underpinned by a provider neutral national standard, will have on families with a protected characteristic;
- Workforce Capacity: considering the barriers to taking up employment in the ELC sector and diversifying the workforce; and,
- Two year old eligibility: considering how proposed changes to the income threshold impacts the eligible population.

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

Methodology

Key Data Sources

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

- Scottish Government ELC census⁹ 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.

⁹ <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

- Research Exploring parents' views and use of Early Learning and Childcare in Scotland¹⁰. 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.
- The Child Health 27 – 30 Month Review Statistics¹¹. The child health programme is offered to all children in Scotland. The programme includes screening for specific medical problems, provision of routine childhood immunisations, and a series of child health reviews. Health Visitors usually provide reviews for preschool children which involve an assessment of children's growth and development as well as the provision of advice and support for children and their families. The review for children aged 27-30 months was introduced in Scotland in April 2013.
- The Growing up in Scotland Study¹² which is a longitudinal research study, tracking the lives of thousands of children & their families from the early years, through childhood and into adulthood.
- Scottish Government statistics on Equality characteristics of people in poverty in Scotland, 2015/16¹³, published in June 2017 to support the Child Poverty (Scotland) Act 2017 and measure progress towards targets to reduce the number of children experiencing the effects of poverty by 2030.
- A wide range of academic and external research was also considered. Research from Scotland was used where possible, but supplemented with relevant evidence from elsewhere where appropriate. In addition to considering consultation responses throughout the policy development process, an internal Scottish Government workshop was held with a wide range of connected policy teams, and discussions were held with representatives from a number of equalities organisations.

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. Those relevant to this EQIA are:

- **1140 Hours Expansion – Programme of trials** [2016]¹⁴. This consultation gathered views on the Scottish Government's programme of trials to test a variety

¹⁰ <https://www.gov.scot/publications/exploring-parents-views-use-early-learning-childcare-scotland/>

¹¹ <https://www.isdscotland.org/Health-Topics/Child-Health/Publications/2018-04-24/2018-04-24-Child-Health-27m-review-Report.pdf>

¹² <https://growingupinscotland.org.uk/publications>

¹³ <https://www2.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty/CoreAnalysis/povertyanalysis>

¹⁴ <https://www.gov.scot/publications/early-learning-childcare-programme-trials-analysis-responses-scottish-government-discussion/pages/1/>

of models for delivering the expanded ELC commitment. This consultation received 73 responses.

- **A Blueprint for 2020: The Expansion in Early Learning and Childcare [2016-2017]**¹⁵. 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]**¹⁶. 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.

Key findings

The increase in the number of funded hours of early learning and childcare for all 3 and 4 year olds and eligible 2 year olds has the potential to support outcomes for children with protected characteristics. This EQIA process identified that some equalities groups, for example some ethnic minority groups and those with disabilities, are over represented in the lower SIMD quintiles. These groups are part of the wider group targeted with an enhanced ELC offer to ensure that children's outcomes are enhanced.

Characteristic - Age

Under the Equality Act 2010, age as a protected characteristic does not include children eligible for funded ELC. Guidance¹⁷ states 'In relation to services and in the exercise of public functions, [including ELC], the ban on age discrimination and harassment related to age only protects people who are aged 18 or above.' Age is therefore out of scope of this EQIA.

Age will be a relevant protected characteristic in terms of parents' engagement in their children's learning and as we advance our work in this area we will either adapt our existing relevant EQIAs or develop a new one to support this.

¹⁵ <https://www.gov.scot/publications/blueprint-2020-expansion-early-learning-childcare-scotland-consultation-analysis-report/>

¹⁶ <https://www.gov.scot/publications/early-learning-childcare-service-model-2020-analysis-public-consultation/>

¹⁷

https://www.equalityhumanrights.com/sites/default/files/technical_guidance_on_age_discrimination_in_services_public_functions_and_associations.pdf

Characteristic - Disability

Evidence

Not all children who meet the definition of disability will have additional support needs. For example, those with severe asthma, arthritis or diabetes may not have additional support needs in relation to their learning, 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 in terms of their learning, 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 of this definition. The needs of these children would be met under the Education (Additional Support for Learning) (Scotland) Act 2004.

There can be overlap between the Equality Act 2010 and the Education (Additional Support for Learning) (Scotland) Act 2004, and as such both will be considered throughout this section.

In relation to disability, the Scottish Government collects data on children in early learning and childcare through the annual ELC census. The ELC census currently collects data on whether a child is recorded as disabled and whether a child has an additional support need (ASN). Although the number of registrations for funded ELC for children assessed or declared disabled has gone down slightly between 2017 and 2018 (from 1130 to 1050), the percentage of children declared as disabled has remained broadly stable; it was 1.2% for 2017 and 1.1% for 2018. Data prior to 2017 is not available.

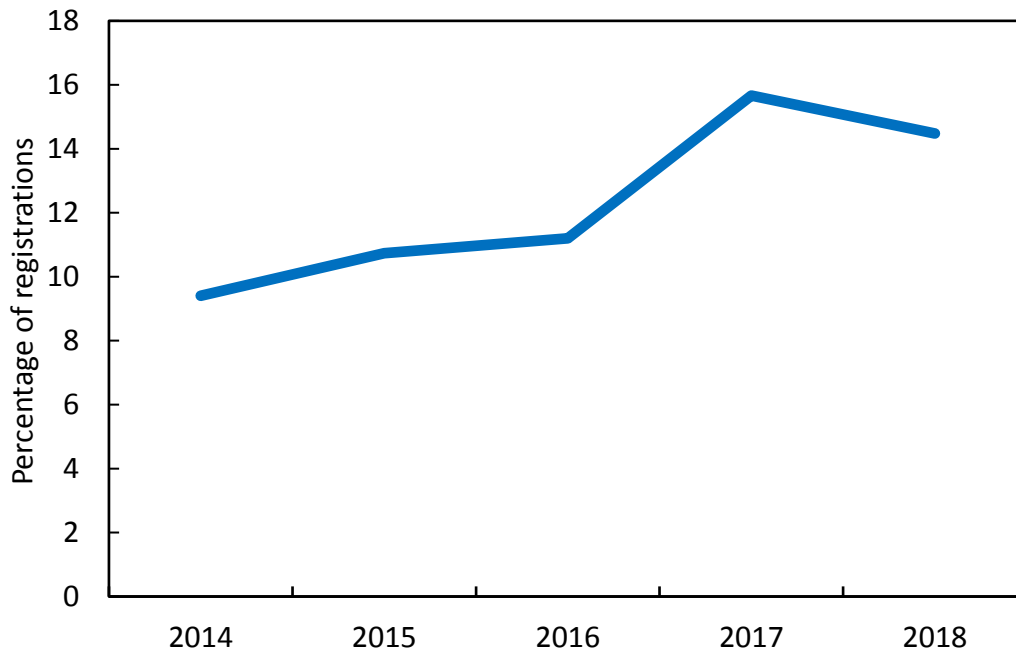
To improve the quality of the data collected in the ELC census we have established a transformation project. The census currently collects registrations data. This means that there can be double counting as children may be registered in more than one service. By 2022 the ELC census will be based on an individual child-level collection.

The ELC census also collects information on ASN. Prior to 2017, ASN for ELC was categorised into 4 categories¹⁸ but from 2017 onwards, 10 categories¹⁹ have been used. These 10 categories capture information about the same children but provides a more detailed breakdown of the reasons that children require additional support. The data (see Figure 1) shows that there has been an overall increase, since 2014, in the proportion of children registered for ELC who have an additional support need, from 9% in 2014 to 14% in 2018.

¹⁸ 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.

¹⁹Autistic 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).

Figure 1: Registrations for children with ASN as a percentage of total funded ELC registrations



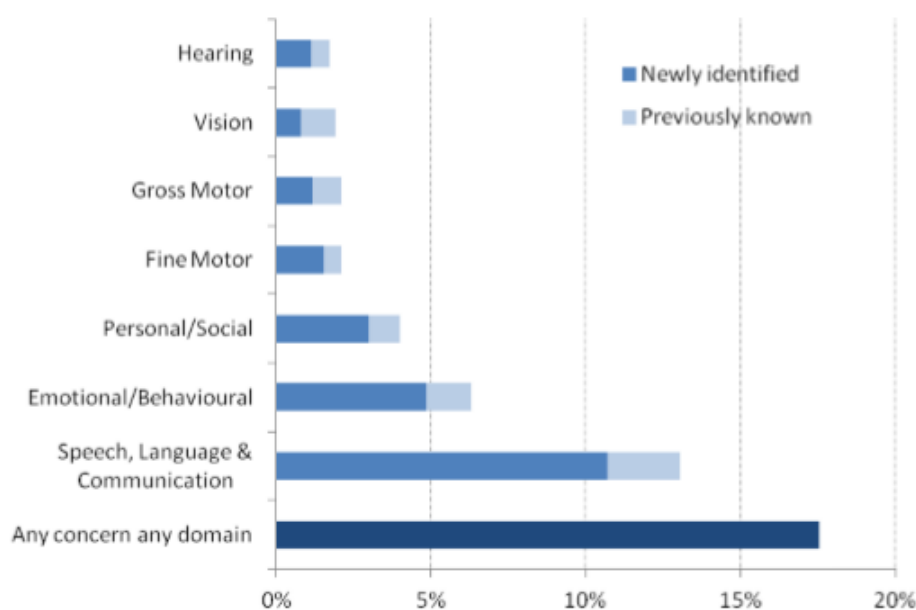
Source: <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

The proportion of registrations in ELC for children with ASN, is lower than the proportion of primary school pupils recorded on the pupil census with ASN (25% in 2018)²⁰. 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 currently spend less time overall in an ELC setting than at school, and so at the time of census in September may not yet have been attending an ELC setting for long enough for any needs to have been identified and diagnosed.

²⁰ <https://www2.gov.scot/Topics/Statistics/Browse/School-Education/dspupcensus>

Data from the Health Visitor 27 – 30 month review report (2018) shows that 17.6% of children in Scotland had at least one developmental concern recorded at their 27-30 month review (See figure 2 below). Concerns for this age group are mostly recorded in the categories of speech, language and communication, personal and social and emotional/behavioural. It is therefore important that ELC settings are equipped to help support children with these developmental concerns.

Figure 2 Percentage of children with specified developmental concern recorded at 27-30 month review, Scotland, 2016/17



Source: <https://www.isdscotland.org/Health-Topics/Child-Health/Publications/2018-04-24/2018-04-24-Child-Health-27m-review-Report.pdf>

In addition to analysing the statistics on disability in ELC, this EQIA process also reviewed relevant sources of literature and research.

Scottish local authorities are required to provide funded early learning and childcare provision to all eligible children. Some research suggests there is scope for improvement in ensuring there is sufficient easily accessible ELC provision for children with a disability. Coram Family and Childcare publish an annual survey of childcare costs and sufficiency in the UK²¹. Of the Scottish local authorities responding in 2018, 23% stated that they had sufficient childcare for disabled children in all areas. However, we do not know how local authorities interpreted this question. It might be that respondents interpreted ‘in all areas’ as meaning ‘can every child access a place in their local nursery/cluster?’ As such this is unlikely to provide a measure of uptake of funded early learning and childcare provision.

²¹ <https://www.familyandchildcaretrust.org/childcare-survey-2019>

Findings from the Scottish Government's 'Exploring parents' views and use of ELC in Scotland, 2018' provides further evidence on access to suitable ELC for children with a disability. The research included a question about access for children with ASN and so it is important to note that the definition is much broader than children with a disability. The research found most parents of children with ASN (57%) were satisfied with access to ELC that meets their child's needs, with 18% dissatisfied with their access to suitable provision. 48% of parents of children with ASN mentioned having experienced one or more difficulties accessing suitable provision. Feedback from these parents indicated that difficulties were most commonly related to a lack of information on how providers support children with ASN, and concern that staff do not have the time required to meet their child's needs. Parents also mentioned concerns that staff may lack the required qualifications, skills and experience to support their child's needs. Staff were typically seen as the key factor in parents' choice of provider. Parents of a child with ASN were also more likely than others to mention staff skills and experience as a factor in their choice of current provider.

Parents also highlighted the importance of stability in ELC provision for children with ASN. Parents noted difficulties when required to use multiple providers, and where handovers between multiple providers have a negative impact on their child's needs.

In their response to the consultation on the National Standard, 'Children in Scotland' provided similar feedback on access to ELC for children with ASN. Through their role in managing Enquire, the Scottish advice service for additional support for learning, they are aware of barriers that children with additional support needs face due to a lack of capacity or resources to support them. The main issues raised by callers to the service about early learning and childcare were: the level of support for their child, transitions to primary school, school (or nursery) placement options, identification and assessment of additional support needs and relationship difficulties with school, nursery or education authority. They have examples that illustrate that children with additional support needs are being offered less flexibility and choice of provision and that some families are struggling to find an ELC placement that will meet their child's needs. They called for more staff knowledge and training to support all children and reinforcement of the laws and duties already in place.

The National Deaf Children's Society also responded to the consultation on the National Standard and called for national guidance to inform standards of ELC provision following the diagnosis of deafness.

We are promoting outdoor learning and play as a defining feature of ELC in Scotland and so we also considered whether there was any evidence about how this could support children with additional support needs. We found that outdoor learning and play has a fundamental role in a child's development²², and has proven benefits in engaging children with additional support needs. Education Scotland's 2014 paper on outdoor learning reported that learners with additional support needs were more likely to interact and work in a group session in the outdoors, and would become more imaginative and willing to collaborate with other learners²³. Further to this

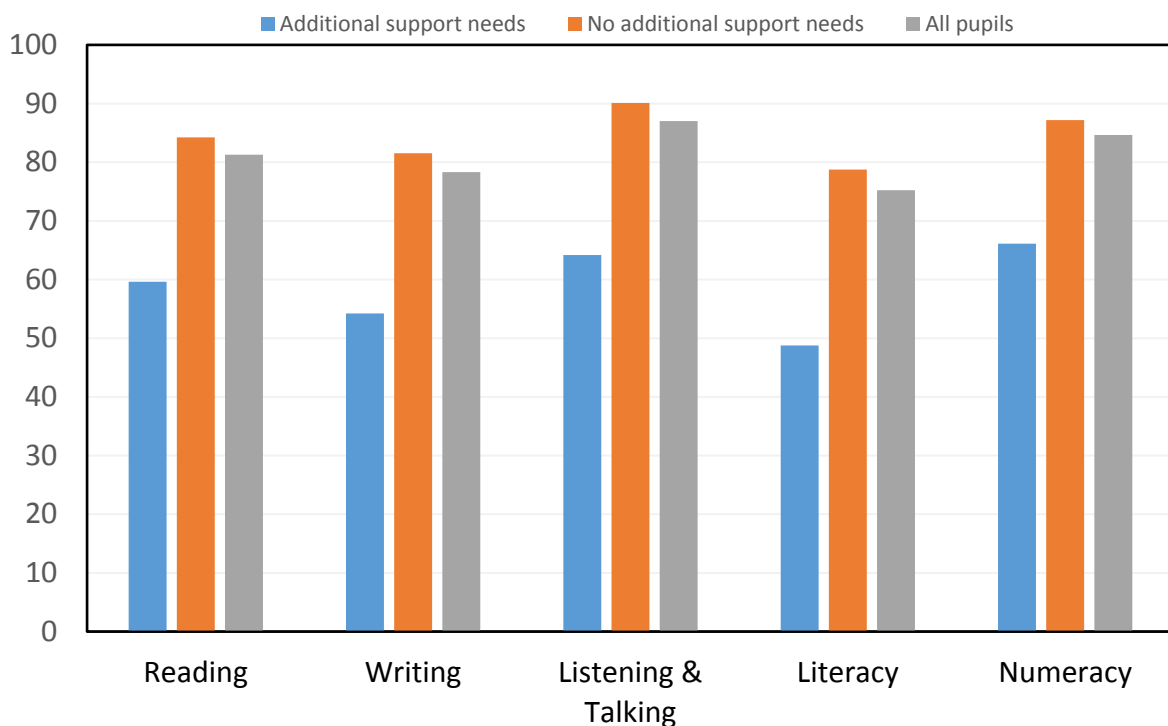
²² <https://www.eyalliance.org.uk/how-outdoor-play-can-be-beneficial-children-special-educational-needs>

²³ <https://education.gov.scot/improvement/practice-exemplars/Conversations%20about%20learning%20for%20sustainability>

international research from the University of Minnesota found that learning and playing in nature can improve cognitive function and self-regulation which can enhance the process of learning²⁴. Similarly, a study published in 2004²⁵ found that the parents of children with ADHD reported that their children showed fewer symptoms after spending time in nature. They were reported to be better focused on unappealing tasks, completing tasks, listening and following directions, and resisting distractions.

We also expect that the earlier ELC offer for eligible two year olds and the extra hours of funded ELC for them and for children aged 3 and 4, will help with earlier identification of and support for ASN. Evidence from an assessment of the 2 year old offer in England²⁶ states that early assessment of ASN within pre-school provision can support children’s outcomes at the early stage, and therefore throughout their school education. This is particularly important because evidence from the Scottish Government’s pupil census (figure 3) shows that children with additional support needs in primary school perform significantly poorer than those without additional support needs.

Figure 3 - Percentage of primary pupils achieving expected CfE levels by Additional Support Need (ASN) Status, 2017/18



Source: <https://www2.gov.scot/Publications/2018/12/6014/downloads>

²⁴ <https://twin-cities.umn.edu/news-events/talking-environments-impact-youth-development-umn>

²⁵ Kuo, F., Faber-Taylor, A. 'Nature Helps Fight ADHD, 2004

²⁶ <https://www.eif.org.uk/files/pdf/initial-assessment-of-the-2-year-old-free-childcare-offer-entitlement.pdf>

Data within the Every Child, Every Chance: Tackling Child Poverty Delivery Plan²⁷, and the Scottish Government's data collection on poverty²⁸ shows that poverty rates within households with a disabled adult are higher than those without. This suggests that children with this protected characteristic are at greater risk of poverty as they move into adulthood. We also know that there is a significant attainment gap between children from the most and least affluent backgrounds. The provision of high quality ELC could therefore support the closure of the attainment gap for children with a disability or additional support need and subsequently protect children with this protected characteristic from poverty in later life.

Policy Implications and Actions to Advance Equality of Opportunity
(text in bold indicates policy implication)

- **This EQIA process has highlighted that a sizable proportion of children in receipt of funded ELC report to either have a disability or additional support needs. It is therefore essential that the funded ELC offer meets the needs of all children with this protected characteristic. Information collected within the ELC census and the 27 – 30 month review also tells us the nature of the support that children require. This information helps the Scottish Government to plan how to support the sector in relation to duties to support disabled children and children with ASN.**
- The operating guidance for Funding Follows the Child and the National Standard for Early Learning and Childcare²⁹ emphasise the expectation that local authorities and funded providers will work together meaningfully and in genuine partnership to deliver ELC provision. This includes working closely with, and supporting, funded providers to make reasonable adjustment 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 Needs)(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 Standard for Early Learning and Childcare also recommends training and development for staff on the features of the duties under the Equality Act 2010 to further understand how they can meet this duty. The Scottish Government is currently developing an online programme of continuous professional learning for the ELC sector. This includes a module on building confidence in identifying and supporting additional support needs. The development of this module is being led by The Open University and supported by a steering group of experts to ensure the quality of the content. We will include the National Deaf Society in the development of this module to address the

²⁷ <https://www.gov.scot/publications/tackling-child-poverty-delivery-plan-2018-22-annex-4-childrens/pages/2/>

²⁸ <https://www2.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty/CoreAnalysis/povertyanalysis>

²⁹ <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-operating-guidance/>

training gap that was highlighted in the society's response to the Blueprint for 2020 consultation.

- **Evidence suggests that early assessment of ASN is important to support children to attain their full potential.** The online module on building confidence in identifying and supporting additional support needs will help the sector to do this.
- **The data contained in the report on the 27 – 30 month health visitor reviews highlights that the second most common developmental concern at this stage is speech and communication.** The online programme of continuous professional learning will also include a module on speech and language development. This module will support the ELC sector to develop an understanding of how early language and literacy are linked to other aspects of child development, and practices to support this early development, including planning learning to support children's progression towards relevant milestones.
- Within the online programme of continuous professional learning there is a module 'Tracking and monitoring of children's learning to ensure continuity and progression, including during key transition stages' will support ELC practitioners to engage with and share information with health visitors and other professionals to ensure that additional support needs are identified as early as possible.
- **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 ELC Inclusion Fund was launched in 2018 and provides funding to ELC settings to support children with additional support needs access their funded ELC entitlement. Funding can be awarded to pay for staff 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 to 455 applicants in 2018/19. We have recently invited Children in Scotland who administer the fund on behalf of the Scottish Government to undertake a review of year 1 of the fund to help us understand the impact that it has had to date. This review will take place during summer 2019 and will inform the application criteria of the Inclusion Fund going forward to ensure that funding is targeted appropriately to support children to access their funded ELC entitlement.
- **Data contained with the Tackling Poverty Action Plan indicates that children with a disability are at greater risk of poverty as they move into adulthood. The Scottish Government is committed to closing the poverty related attainment gap, and one of the main aims of the ELC expansion programme is linked to this national aim.**

- To support our work in closing the attainment gap we have created 435 new additional graduate level posts in settings throughout Scotland called 'Equity and Excellence Leads.' These will be filled either by a teacher or early years graduate with or working towards, for example, the BA in Childhood Practice. We recognise that providing access to support from an additional graduate level practitioner for children attending nurseries serving the most disadvantaged areas is a key part of our Early Learning and Childcare strategy for achieving greater equity in child outcomes. We know that the Equity and Excellence leads are already working with children with ASN.
- **We know the benefits of outdoor learning, exercise and play for children. Playing, learning and having fun outdoors helps to improve well-being and resilience as well as physical and mental health and also provides children with the opportunity to develop a life-long appreciation of the natural world. Evidence shows that good access to outdoor learning and play is crucial for cognitive and physical development for all children, and specifically children with disabilities or additional support needs.** The operational guidance for Funding Follows the Child and the National Standard for Early Learning and Childcare ensures that all children accessing their funded ELC have daily access to outdoor play and regularly experience outdoor play in a natural environment. To support this the Out to Play³⁰ resource provides guidance to all early learning and childcare providers on how to access local outdoor space and how to set up an outdoor nursery experience, and the Space to Grow³¹ design guide includes examples of how to utilise outdoor space effectively.
- The Scottish Government has also provided £860,000 of funding to Inspiring Scotland to work with eight local authorities to increase and improve their outdoor learning, which will include the establishment of two outdoor nurseries. The Inspiring Scotland partnership will allow us to explore delivering ELC in a different and more cost effective way, support a range of child outcomes (including raising attainment) and provide increased choice for parents and families. Actions they will take include:
 - Working with 8 local authorities to deliver outdoor learning opportunities
 - Producing the Out to Play³² guide for practitioners, with practical advice on how to access outdoor spaces
 - Driving partnership working between councils, third sector and private companies in promoting outdoor learning
 - Helping organisations review the impact of outdoor learning when delivering the expansion to 1140 hours of funded childcare

³⁰ <https://www.gov.scot/publications/out-play-practical-guidance-creating-outdoor-play-experiences-children/>

³¹ <https://www.gov.scot/publications/space-grow-design-guidance-early-learning-childcare-out-school-care/>

³² <https://www.gov.scot/publications/out-play-practical-guidance-creating-outdoor-play-experiences-children/>

- Inspiring Scotland are working with the Scottish Government to produce some focused guidance on the use of outdoor learning and play for children with disabilities and ASN.
- **We know that parents of children with ASN need clear information about what provision is available for their children, as well as their rights under the Education (Additional Support for Learning)(Scotland) Act 2004 and the Equalities Act 2010.** The Parent Club website³³ now contains information specifically for parents of children with additional support needs. Further to this the Scottish Government funds Enquire³⁴, which is the national helpline for ASN which any parent can access for support in understanding their rights. The Enquire webpage also has a variety of helpful factsheets to support parents in making decisions for their children.

Data Gaps and Actions

- The current ELC census collects registration data at an aggregate level. The EQIA process highlighted that individual level data would be preferable. An individual level census is being developed which will allow reporting of the number of children assessed/declared as disabled and with ASN. This data collection is expected to be fully established by 2022.
- 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. However, we do not have any data on how local authorities interpret their duties under this legislation. Children in Scotland are undertaking a review of the ELC Inclusion Fund, and as part of this will interview a number of local authorities to determine how this legislation is interpreted. This review will be undertaken in summer 2019, and will help us to understand if/where there are any gaps in provision for children with ASN.

Characteristic – Sex

Throughout this section both gender and sex have been referred to. Sex is the protected characteristic. However, where data is currently recorded on gender this is referred to.

Evidence

No data is currently collected on the sex of children accessing ELC. However, our latest ELC census³⁵ data shows near universal uptake of funded ELC by 3 and 4 year olds, and that uptake for 2 year olds has gradually increased over the last few years. Given that uptake for 3 and 4 year olds is near universal, we do not have any basis to conclude that uptake of children of different sexes is systematically or significantly different.

³³ <https://www.parentclub.scot/articles/when-your-child-needs-some-additional-support>

³⁴ <https://enquire.org.uk/>

³⁵ <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation/ELCAdditionalTables2018>

A recent literature review by Education Scotland³⁶ on gender balance in ELC found that there are no inherent differences between genders which should limit a young person's interests, capabilities or ambitions. It also found that gender stereotypes and unconscious bias have an impact on children's outcomes in ELC. Practitioners may have differing expectations of boys and girls, and it can be either boys or girls who can be disadvantaged by this. Identifying and addressing gender stereotyping in ELC settings can help reduce a range of gender imbalances, and the guidance document Gender Equal Play in Early Learning and Childcare³⁷ supports practitioners to recognise and address this.

Policy Implications and Actions to Advance Equality of Opportunity

(text in bold indicates policy implication)

- **It is essential that practitioners do not discriminate or differentiate between boys and girls.**
- 'Gender Equal Play in Early Learning and Childcare' supports the sector to challenge gender stereotyping and to increase awareness of the positive benefits of encouraging and supporting gender equality from an early age.
- The National Induction Resource³⁸ for all new ELC practitioners includes a reflective question which focus on the promotion of gender neutral approaches to supporting children's learning through play.
- Within the national programme of continuous professional learning there will be a module on STEM which will focus on gender equality in the delivery of STEM in ELC.

Data Gap and Action

- No information is currently collected on sex in the ELC census. An individual level census is being developed which will allow reporting on the sex of children accessing their ELC entitlement. This data collection is expected to be fully established by 2022.

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.

³⁶ <https://education.gov.scot/improvement/Documents/sci38-IGB-a-literature-review.pdf>

³⁷ <https://hub.careinspectorate.com/how-we-support-improvement/care-inspectorate-programmes-and-publications/gender-equal-play-in-early-learning-and-childcare/>

³⁸ <http://learningzone.workforcesolutions.sssc.uk.com/course/view.php?id=98>

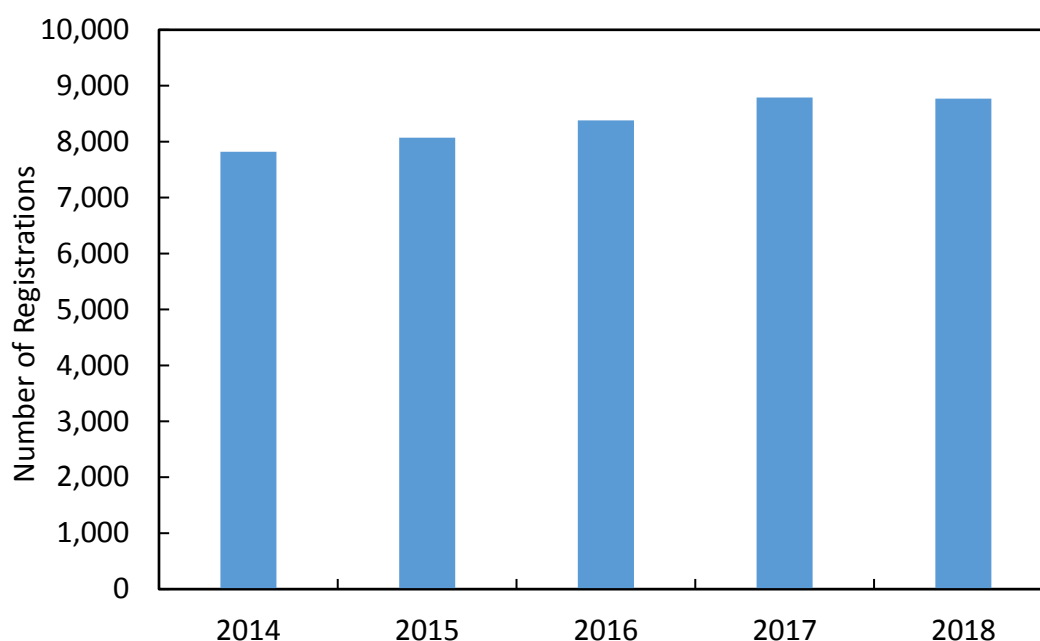
Characteristic – Race

The protected characteristic for this equalities group is race. However, where ethnicity is referred to in evidence this is recorded here.

Evidence

No data is currently collected on the race of children accessing their funded ELC entitlement. The only proxy measure of race at present is the percentage of children whose home language is not English (figure 4). The number of children whose home language is not English has increased slightly between 2014 and 2018, but in recent years, as a percentage of registrations for funded ELC, this group has 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.

Figure 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>

There is no evidence to suggest that race is a factor in the outcomes children develop through ELC. However, the Race Equality Framework for Scotland³⁹ suggests that not all children from a minority ethnic background have a positive overall educational experience. The framework aims to create an inclusive approach

³⁹ <https://bemis.org.uk/PDF/race-equality-framework-for-scotland-2016-2030.pdf>

to education which takes account of the individual needs of pupils from all ethnic groups, and commits to working with the National Parent Forum of Scotland (NPFS) to support the ELC sector to fully involve parents from minority ethnic communities in their child's ELC setting and learning.

Evidence from Every Child, Every Chance: Tackling Child Poverty Action Plan⁴⁰ and the Scottish Government Poverty and income inequality in Scotland data publication⁴¹ shows that minority ethnic families are at higher risk of poverty, with 37% living in poverty in 2018. The plan focuses its poverty tackling actions on high risk families, and aims to drastically cut the overall number of children and families living in poverty by 2030.

Policy Implications and Actions to Advance Equality of Opportunity (text in bold indicates policy implication)

- **One of the main aims of the ELC expansion programme is to close the poverty related attainment gap. Evidence suggests that children from minority ethnic backgrounds may be more likely to grow up in poverty than others.** Access to high quality ELC will support these children to achieve their potential both throughout ELC and into school.
- While there is no evidence race impacts on children's ability to benefit from ELC, it is likely that language could be a barrier to accessing some of the benefits. **English as an additional language has been identified as a potential additional support need within the Act's Code of Practice⁴². It is the responsibility of individual local authorities to take their duties in relation to the Act into account, and allocate support as appropriate.**
- The SSELC collects information on the ethnicity of parents and asks which language is usually spoken at home (the options for this are "English only", "English and other language(s)", and "Other language(s) only"). Provided there are enough cases for meaningful sub-analysis, it may be possible to explore the relationship between home language and impact of ELC.
- As we develop our policy on parental engagement and update our suite of EQIAs accordingly, we will stay engaged with NPFS (as set out in the Race Equality Framework) and others, to explore if there is anything more we could be doing to ensure that there are no barriers to children's outcomes or to parents engaging in their children's learning and development in ELC.

Data Gaps and Action

- No data is currently collected on race in the ELC census. An individual level census is being developed which will allow reporting on the ethnicity of children accessing their ELC entitlement. This data could then be compared

⁴⁰ <https://www.gov.scot/publications/child-chance-tackling-child-poverty-delivery-plan-2018-22/>

⁴¹ <https://www.gov.scot/publications/poverty-income-inequality-scotland-2015-18/>

⁴² <https://www.gov.scot/publications/supporting-childrens-learning-statutory-guidance-education-additional-support-learning-scotland/>

to population data for this age group to help assess if ethnicity is a barrier to children's outcomes at this age. This data collection is expected to be fully established by 2022.

Characteristic – Religion or Belief

Evidence

No data is collected on the religion of children accessing ELC. There is also no evidence to suggest that a child's religion or belief presents any barriers to them benefitting fully from funded ELC.

Data from the Poverty and Income Equality publication⁴³ suggests that Muslim families are more likely to live in poverty with 41% of Muslim adults in 2013-18 reporting to be living in poverty, compared with 14% of families who stated their religion as Church of Scotland.

Policy Implications and Actions to Advance Equality of Opportunity (text in bold indicates policy implication)

- **ELC curriculum and delivery in Scotland is non-denominational.** Religious and moral education (non-denominational) is part of Curriculum for Excellence and involves exploring Beliefs, Values and Issues and Practices and Traditions through the context of Christianity, World Religions selected for study and belief groups independent of religion. It supports children in the development of their own beliefs and values.
- **One of the main aims of the ELC expansion programme is to close the poverty related attainment gap. Evidence suggests that children from Muslim families may be more likely to grow up in poverty than others.** Access to high quality ELC will support these children to achieve their potential both throughout ELC and into school.

Data Gaps and Action

- The ELC census does not collect data 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 that settings already hold. Although information on this protected characteristic would be useful, asking questions about some protected characteristics may be deemed as sensitive and parents may not be willing to share this information. We have no plans for the ELC census to collect data on religion or beliefs in future.
- Questions on ELC have been added to the Scottish Household Survey. If the sample size is large enough, this may provide us with more information about the use of ELC in families by religion.

⁴³ <https://www.gov.scot/publications/poverty-income-inequality-scotland-2015-18/>

Recommendations and Conclusion

This EQIA process did not identify any direct or indirect unlawful discrimination though the policy intention to increase the number of funded hours to 1140 per year for all 3 and 4 year olds and eligible 2 year olds. This process identified a number of areas where the policy can help to advance equality of outcomes for children with a protected characteristic. It is expected that the expanded hours of ELC will help to promote good relations between those with and without a protected characteristic. 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.

The expansion programme is supported by a benefits realisation strategy and the Scottish Survey of Early Learning and Childcare (SSELC) which is a cross sectional and longitudinal study that will evaluate the expansion of the funded entitlement to 1140 hours. There are a number of areas in which the SSELC will support the identification of any inequalities of outcome for children with some protected characteristics. The SSELC 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 SSELC also collects information on household income and parental economic activity. Postcode information will allow for analysis of any variation in child and parent outcomes related to the Scottish Index of Multiple Deprivation (SIMD) and rurality.

The forthcoming individual child-level ELC census will help to fill some of the data gaps identified through this EQIA process. We recognise that not having ELC census data on some protected characteristics, limits our ability to assess how ELC impacts on the outcomes of a wider range of children. As a result of the transformation project, we will collect a wider range of characteristics data on children accessing funded ELC, including: sex, ethnicity, disability status, whether a child has any additional support needs, and the home postcode of the child (to enable analysis by the SIMD).

Further to this the upcoming review of the ELC Inclusion Fund will help to explore if there are any ELC provision gaps for children with disabilities and/or additional support needs that the Scottish Government could help local delivery teams to address.

For the positive impacts on children's outcomes to be realised we need to ensure that the policy intention is delivered in partnership with local authorities and ELC settings across Scotland.

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. While national policy is intended to promote this, it is local authorities responsibility to design local service and so it is important that they also give due consideration to their duties under the Equalities Act 2010.

To support local impact assessments, we will host events across Scotland with local authorities to share good practice and lessons in meeting the duties of the Equalities 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 though for example, the Knowledge Hub, the Care Inspectorate and Education Scotland websites.

The Scottish Government will also continue to engage closely with stakeholders and local authorities to ensure that equalities issues in relation to children's outcomes are considered during any policy development and implementation.



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