

Expansion of Early Learning and Childcare – Reinstatement of 1140 statutory duty

Island Communities Impact Assessment (ICIA)

January 2021

Title of Impact Assessment	Island Communities Impact Assessment
Title of Policy	Expansion of early learning and childcare – The Children and Young People (Scotland) Act 2014 (Modification) Order 2021 - Reinstatement of 1140 statutory duty
Summary of aims and desired outcomes of Policy	<p>The Scottish Government and local authorities have committed to almost double the funded entitlement to early learning and childcare (ELC) from 600 to 1140 hours from August 2021 for all 3 and 4 year olds and eligible 2 year olds. This will be high quality, flexible early learning and childcare that is accessible and affordable for families.</p> <p>The expansion will deliver three main benefits for children and families:</p> <ul style="list-style-type: none"> • children’s development improves and the poverty related attainment gap narrows; • more parents will have the opportunity to be in work, training or study; and • increased family resilience through improved health and wellbeing of parents and children.
Directorate: Division: team	Early Learning and Childcare Programme Directorate: Strategy and Delivery Unit

Executive Summary

- On 29 April 2020, the duty on education authorities to provide 1140 hours of ELC to eligible children from 1 August 2020 was revoked due to the ongoing pressures of the COVID-19 pandemic. The Scottish Government has now reinstated this duty to come into force from 1 August 2021.
- Throughout the period of the COVID-19 pandemic, the Scottish Government has supported local authorities to continue to deliver, and work towards the delivery of 1140 hours of funded ELC where they are not already doing so. The Scottish Government has worked closely with local authorities to understand the impact that the pandemic has had on delivery plans, and to consider any risks to delivery. Based on this engagement the 1140 Joint Delivery Board, co-chaired by the Minister for Children and Young People and the COSLA spokesperson for children and young people recommended a new delivery date of August 2021.
- A 'provider neutral' Funding Follows the Child approach will still be introduced alongside the national roll-out of the expanded entitlement in 2021. Funding Follows the Child is underpinned by a National Standard¹ that all providers delivering the expanded hours – regardless of whether they are in the public, private or third sector, or childminders – will have to meet. This will provide

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

reassurance to parents and carers that any provider offering the funded hours will be able to offer their child a high quality ELC experience.

- It is recognised that the impact of the COVID-19 pandemic may make it more challenging for providers to meet all aspects of the National Standard. The Care Inspectorate suspended routine inspections as a result of COVID-19 in March 2020 but have since reinstated scrutiny of ELC, including childminders and school aged childcare. Current scrutiny is undertaken on a risk and intelligence based assessment and includes self-evaluation, virtual inspections and on-site inspections. This may 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 and/or may not have been re-inspected. To support the ELC sector to work towards the implementation of the National Standard during the pandemic Interim Guidance² was published in July 2020.
- This Island Communities Impact Assessment (ICIA) has been undertaken to consider whether the reintroduction of the statutory duty to deliver 1140 hours to all eligible children from 1 August 2021 is likely to have effects on island communities that are significantly different from their effects on other communities (including other island communities) in Scotland.
- This ICIA found that the reintroduction of the statutory duty was unlikely to have significantly different effects on island communities when compared to other communities in Scotland. However, it did find that some issues around implementation of the duty are likely to be more acute for island communities, and mitigations for these issues are set out below.

Background

The Children and Young People Act (Scotland) 2014 (the 2014 Act) made 600 hours of funded ELC per year available for all 3 and 4 year olds, and extended the entitlement to eligible 2 year olds. In a joint agreement with local government, the Scottish Government committed to almost double the entitlement to 1140 hours per year from August 2020. The Children and Young People (Scotland) Act 2014 (Modification) (No.2) Order 2019 put this on a statutory footing.

When the COVID-19 pandemic struck in March 2020, the Deputy First Minister announced that all local authority schools and childcare settings in Scotland, including childminders, would close from the end of Friday 20 March 2020. Childcare providers in the private and third sector were advised they should also close. As a result, Scottish Ministers took the decision to delay the full statutory implementation of the expansion of funded ELC to 1140 hours from August 2020. This was necessary to allow local authorities to deal with the urgent necessities of the pandemic, including the delivery of critical childcare for vulnerable children and the children of key workers. It was also apparent that the national lockdown would have implications on the ability to deliver on key infrastructure projects and recruit the

² [ELC++Covid-19++Funding+Follows+the+Child+and+the+National+Standard+-+interim+guidance++UPDATE++21+August.pdf \(www.gov.scot\)](https://www.gov.scot/publications/interim-guidance-21-august/pdf/pages/default.aspx)

necessary workforce required to deliver the ELC expansion in full. The duty to provide 1140 hours of ELC to eligible children was therefore revoked via the Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Revocation Order 2020. This meant that the mandatory amount of early learning and childcare remained 600 hours in August 2020.

The Children and Young People (Scotland) Act 2014 (Modification) Order 2021 will reinstate the 1140 expansion by modifying section 48(1)(a) of the 2014 Act to increase the mandatory amount of early learning and childcare from 600 to 1140 from 1 August 2021.

Between March and December 2020 the Scottish Government has continued to work closely with CoSLA, local authorities and key stakeholders to assess when it would be feasible to reinstate the statutory duty to deliver the funded ELC expansion. The joint recommendation of the all members of the Joint Delivery Board was that August 2021 is the earliest feasible date for the implementation of the full 1140 expansion. The board concluded that it would be challenging to deliver the 1140 expansion earlier than August 2021 and there was no evidence to support a later implementation date. This date was announced on 14 December 2020 and the Children and Young People (Scotland) Act 2014 (Modification) Order 2021 was laid in Parliament on 22 January 2021 to reinstate the statutory duty.

Expansion of Funded ELC to 1140 hours

The Scottish Government and local authorities have now committed to the delivery of 1140 hours of funded ELC from August 2021. This will be high quality, flexible ELC that is accessible and affordable for families.

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

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

The Scottish Government has worked in partnership with the COSLA and a variety of stakeholders across the ELC sector throughout the development of the 1140 expansion policy and consulted widely on the expansion of funded ELC prior to the original implementation of the statutory duty.

Scope of this ICIA

The ELC expansion policy was fully impact assessed in 2019 through an Equalities Impact Assessment,³ a Children Rights and Wellbeing Impact Assessment,⁴ a Business and Regulatory Impact Assessment⁵ and a Fairer Scotland Duty

³ [Early learning and childcare expansion: EQIA - gov.scot \(www.gov.scot\)](#)

⁴ [Early learning and childcare expansion: CRWIA - gov.scot \(www.gov.scot\)](#)

⁵ [Early learning and childcare expansion: BRIA - gov.scot \(www.gov.scot\)](#)

Assessment.⁶ These impact assessments and their recent updates remain relevant and valid for the whole of Scotland, including island communities.

The duty to carry out a specific Island Communities Impact Assessment came into force on 23 December 2020, and this impact assessment will therefore consider the impact of the implementation of the ELC expansion policy from August 2021 on island communities in particular.

Methodology

This assessment sought to understand the impact of the policy to reinstate the legislative requirement for all local authorities to deliver 1140 hours of funded ELC from August 2021 on island communities, and whether those impacts significantly differ from the impact in other communities (including other island communities).

Data sources utilised in this process in this process included:

- Care Inspectorate – Early Learning and Childcare Statistics 2018⁷
- Scottish Government ELC census⁸ 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.

Consultation

The legislative duty to provide 1140 hours of funded ELC sits with local authorities, who must make this minimum amount of ELC available for all eligible children from 1 August 2021.

As part of this impact assessment, the Scottish Government consulted with Early Years teams in each of the 6 Scottish island authorities, namely Argyll and Bute, Comhairle nan Eilean Siar, Highland, North Ayrshire, Orkney and Shetland, to gather responses to the following questions:

1. Will island communities face any particular island specific challenges as a result of the reinstatement of the duty to provide 1140 hours of funded ELC by August 2021?
2. Will island communities face particular challenges in recruiting staff for ELC settings?
3. Is there anything else the Scottish Government should be aware of in relation to the reinstatement of the 1140 duty in relation to island communities?

The Scottish Government also consulted with the 1140 expansion policy delivery assurance leads for each island authority, who have an extensive background in

⁶ [Early learning and childcare expansion: Fairer Scotland Duty - gov.scot \(www.gov.scot\)](http://www.gov.scot)

⁷ [Early learning and childcare statistics 2018.pdf \(careinspectorate.com\)](http://www.careinspectorate.com)

⁸ [Schools in Scotland: summary statistics - 2020 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

working with the individual local authorities on their implementation of the 1140 expansion.

Key Findings

The Scottish Government has reviewed the documents set out in the methodology section above as well as all consultation responses from island authorities to consider whether there is any impact that the implementation of the legislative requirement to deliver 1140 hours of funded ELC from August 2021 will have on island communities that is significantly different to the impact it will have on other communities (including other island communities).

All local authorities have been working to gradually roll out the ELC expansion from 600 hours of funded ELC for all eligible children to 1140 hours since 2017, with 3 island authorities delivering it in full by December 2020 (Shetland, Argyll and Bute and Comhairle nan Eilean Siar). Consultees have stated that as a result of this, the reinstatement of the duty to come into force on 1 August 2021 has not had a significantly different impact on island communities when compared to the impact it has had on other communities.

However, island authorities did highlight the following as particularly challenging implementation issues for island communities:

- Recruitment of staff
- Infrastructure projects
- Supply and demand

Recruitment of staff

In response to the consultation, some island authorities reported particular challenges in recruiting staff to ELC positions in order to fulfil the requirements of the 1140 expansion by August 2021, though it should be noted that other island authorities reported no issues with recruitment. A number of reasons were given for difficulties with recruitment arising in some, but not all, island communities, including localised issues such as:

- Some island communities have a more limited pool of potential candidates, restricted by the physical boundaries of the communities
- A perceived lack of development opportunities for ELC staff in island communities, leading to lower numbers of applications for positions
- A lack of affordable housing within some island communities where ELC job opportunities arise, impacted by the popularity of second homes and buy-to-let properties in island communities
- There is a lack of employment opportunities for partners of ELC employees
- A reluctance of young people to move to/return back to island communities after studying elsewhere
- Commuting options (usually by boat) are often uneconomic and the infrequency of transport means very long working days

- Sustainability issues that arise as a result of staff absences when settings are working to the limit of their adult-to-child ratios

To mitigate this, the Scottish Government has been working with those island communities who have faced challenges in recruiting staff to ELC posts to support the ELC expansion programme. The ELC Delivery Assurance Team have ongoing relationships with individual island authorities and have initiated focussed support on workforce issues. These meetings provide specific focus on workforce planning, staffing and recruitment issues and provide additional support to island communities to address issues and consider mitigation and contingency.

In addition, the Scottish Government has delivered a national recruitment campaign to promote careers in the ELC sector, utilising channels which reached across all of Scotland, including the island communities, via TV, Radio and Digital. Alongside campaign advertising, a series of resources were developed for use by local authorities and partners in local recruitment, including a social media toolkit, posters and leaflets carrying the campaign messaging. These resources can be readily adapted for use at a local level, including by island communities.

To ensure sufficient volumes of skilled practitioners are in place to fulfil the expansion of ELC, the Scottish Government has created additional places on college and university courses across the period of expansion. Since 2017-18, the Scottish Government has worked with the Scottish Funding Council to offer over 3,500 additional HNC places on college courses, including across University of Highlands and Islands campuses. Similarly, the Scottish Government has increased the financial contributions for ELC related Modern Apprenticeships (MAs) which resulted in significant growth of MAs as a training route in to the sector. 2019/20, for example, saw 2,084 MA starts, which was an 18% increase on the previous year. Modern Apprenticeships can be accessed in all parts of Scotland including the island communities.

To further reduce risks around staff recruitment, island communities have been able to benefit from national support that has been provided, including peer support from ELC networks and national discussions on barriers to the delivery of 1140.

Infrastructure

Consultees raised that the delivery of the infrastructure projects required for the 1140 is challenging in some island communities. Specific challenges included:

- Difficulty in obtaining quotes and contacts that present value for money
- Higher material costs
- Higher labour costs as a result of expertise having to be brought in from elsewhere
- Longer timescales due to inclement weather and disruption to ferry services, which can impact on availability of materials, equipment and staff
- Inflated costs of maintenance and upkeep of premises

It was also noted that any potential pausing of construction work due to COVID-19 restrictions may have a further impact on the deliverability of infrastructure projects critical to the delivery of 1140 hours of funded ELC in some island communities.

The Scottish Government recognises that infrastructure projects can be a greater financial burden on island communities as a result of the challenges presented above. To mitigate this, the Scottish Government's ELC Planning Assumptions added a percentage adjustment to the capital cost metrics for those local authorities that were considered to be most likely exposed to higher capital costs due to their geographic location. This included applying the following adjustments to: Argyll & Bute +15%, Orkney +20%, Shetland +25% and Comhairle nan Eilean Siar +30%.

In addition, Scottish Futures Trust has been available to provide targeted support to all authorities, including island authorities, to help deliver their identified capital investment needs and support the delivery of the ELC infrastructure programme.

Supply and Demand

Some island authorities noted that supply and demand issues mean that services have to respond to fluctuations in demand for ELC, as is the case with other settings in those communities. This is a result of the variable profile and demographic of very small island communities, which can require services to increase very quickly proportionately, or reduce service to very low levels where there is no need.

We recognise that this issue is particularly challenging for small island communities, and limits on the ability to travel to access ELC settings elsewhere (i.e. off the island) may exacerbate this. However, whilst these limited transport options may create a difference in available provision, particularly for very small island communities, we do not assess this to constitute a significantly different impact of the expansion policy on those communities (for example, it is likely that other very remote parts of Scotland face similar supply and demand issues). It is also important to note that the expansion policy does not introduce a new duty on education authorities to provide funded ELC when they otherwise may not have, but expands the existing duty to provide 600 hours to 1140 hours.

Conclusions and recommendations

Our conclusion is that the impact on island communities of the reinstatement of the statutory duty for local authorities to deliver 1140 hours of funded ELC by August 2021 is not significantly different to the impact on other communities (including other island communities). The main impact of the policy – to universally entitle all 3 and 4 year old children and eligible 2 year old children to 1140 hours of funded ELC regardless of their geographic location – is the same for all communities across Scotland.

Nevertheless, we recognise that the implementation of the duty may cause issues that are more challenging for some island communities and these issues are likely to be more acute for smaller island communities when compared to larger island communities. Whilst challenging, we do not assess these issues to amount to a

significantly different impact of the 1140 expansion policy on island communities when compared to other communities across Scotland.

The mitigating actions set out in this ICIA, including provision of additional funding to island communities for infrastructure costs and national support with recruitment challenges, will continue to support island communities to overcome these challenges and work towards the delivery of the ELC expansion by August 2021.

Recommendations:

- The Scottish Government should continue to engage with island authorities to provide additional support for the implementation of the 1140 policy where needed.
- As part of the evaluation of the 1140 policy, the Scottish Government should update this ICIA to understand if the policy is having a significantly different effect on island communities when compared to other areas of Scotland (including other island communities).



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