



Consultation on Early Learning and Childcare Statutory Guidance

3 March 2020

About Children in Scotland

Giving all children in Scotland an equal chance to flourish is at the heart of everything we do.

By bringing together a network of people working with and for children, alongside children and young people themselves, we offer a broad, balanced and independent voice. We create solutions, provide support and develop positive change across all areas affecting children in Scotland.

We do this by listening, gathering evidence, and applying and sharing our learning, while always working to uphold children's rights. Our range of knowledge and expertise means we can provide trusted support on issues as diverse as the people we work with and the varied lives of children and families in Scotland.

Our Response to the Consultation

Children in Scotland is pleased to be able to respond to this consultation. Children in Scotland's membership encompasses a range of organisations and professionals impacted by the early learning and childcare expansion including local authorities and early years practitioners across a range of sectors.

Our interest in this topic fits with several of our organisation's strategic priorities including;

- working to ensure that support for children, young people and their families is appropriate, available and accessible
- challenging inequalities
- leading and developing the children's sector workforce.

Our response is informed by feedback from our members and brings together learning from our own project work including the CHANGE (Childcare and Nurture Glasgow East) and Open Kindergarten projects.

Children in Scotland also administers the Early Learning and Childcare Inclusion Fund on behalf of Scottish Government. Our response incorporates learning from a 2019 review of the Fund which involved visits to ELC settings, interviews with early years practitioners and an online survey.

The Statutory Guidance has significant implications for children with additional support needs. In recognition of this, Enquire (the Scottish advice service for additional support for learning), which is managed by Children in Scotland has submitted a separate response to the consultation.

We support the Scottish Government's vision of high-quality, flexible, affordable early learning and childcare provision accessible to families, but have concerns regarding the logistical delivery of the extended hours and the impact for staff, clarity of information for families and, most importantly, the quality of the ELC experience for children. We hope the updated Statutory Guidance will support education authorities to ensure that information about national policy and local delivery is clear and that approaches are adopted to ensure the best outcomes for children following full roll-out of the ELC expansion in August 2020.

1.(a) Does the Guidance help your understanding of the legislation relating to education authorities' functions in the delivery of early learning and childcare?

We believe this guidance will be helpful in supporting education authorities to understand and deliver their functions relating to early learning and childcare.

In particular, we are pleased to see a clear focus on child wellbeing and the child being placed at the centre of decisions. This runs throughout the Guidance, from decisions about deferred school entry and the provision of an additional year of ELC, to advising on the pattern of attendance that is likely to be in the best interest of the child. This helps to ensure that all decisions are made in line with the individual needs of the child.

We also welcome the strong focus on the necessity for education authorities to work in partnership with families. This requirement is highlighted in various parts of the Statutory Guidance.

(b) Are there any specific aspects of the early learning and childcare legislative framework that remain unclear after reading the Guidance?

We would like to highlight several sections where we feel the guidance requires clarity or the language could be strengthened further. We have also identified areas where we feel the Guidance has made some positive progress.

Section 47: Duty to secure provision of early learning and childcare for eligible children

Paragraph 37 relates to the provision for eligible two-year-olds:

37. As uptake of the funded early learning and childcare entitlement is not compulsory, and depends upon parents or carers taking up a place for their child, education authorities and all agencies and services working with families have a crucial role in identifying eligible families and promoting the entitlement.

An Audit Scotland report¹ in February 2018 highlighted the low uptake of eligible two-year-old funded places. It is our understanding that this uptake remains

¹ https://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180215_early_learning.pdf

relatively low and we look forward to the follow-up report from Audit Scotland which is due shortly and will provide an update on this situation. Additional clarity is required about how education authorities and services working with families should be communicating and promoting the eligible two-year-old entitlement, to address this issue of low uptake.

Paragraph 51 states:

"51. Education authorities should consider how they ensure local policies and procedures are accessible for all parents and carers, and can be easily understood, so that parents and carers clearly understand how to request that their education authority provides discretionary funded early learning and childcare to their child using their powers under section 1(1C) of the 1980 Act."

At a recent Children in Scotland event with early years practitioners and service providers we heard how differing policies across local authority areas can be confusing for parents and carers. We agree that good quality local communication with parents and carers is essential for helping them to understand their ELC entitlement and delivering the best outcomes for children.

Paragraph 51 continues:

"...Education authorities may also wish to consider how they can involve parents and carers from the beginning of key decision-making processes, ensuring that when a final decision is reached they provide parents and carers with a clear explanation of how and why the decision was taken."

We believe that parents and carers must be included at the beginning of key decision-making processes. Parents and carers have an important role to play in protecting and upholding the rights of their children and ensuring that their best interests are always taken into account. We recommend that the above wording should be amended to reflect this.

Section 50: Duty to consult and plan on delivery of early learning and childcare

Children in Scotland welcomes the Section 50 guidance about undertaking consultation with parents and carers so that they can share their views about different models, flexibility and choice to support future development of early learning and childcare in their locality and to ensure that provision meets a range of needs.

We were pleased to see the requirement that consultation processes should include a wide range of parents and carers and that the document links to the National Standards for Community Engagement, highlighting best practice in relation to community consultation.

Paragraphs 77-81 reference some of the key groups that local authorities should engage with, including parents and carers who live in communities where provision is limited. We recognise the importance of engaging with people with protected characteristics under the Equality Act 2010, and it is also positive to see wider consultation promoted with families affected by poverty and disadvantage, families seeking Gaelic Medium Education and parents and carers who live in communities where provision is limited. While we understand that **paragraph 77** does not present an exhaustive list, we believe that lone parents/carers should be included as an additional bullet point.

In relation to communities where ELC provision is limited, learning from Children in Scotland's CHANGE project² in Glasgow East has identified the significant challenges many families face in accessing early learning and childcare, with some families identifying local areas as 'childcare deserts'. Parents and carers are often forced to access childcare services two bus journeys away, resulting in long and expensive travel time.

The CHANGE project aims to develop and implement a sustainable approach to the delivery of services focusing on family and the local area and working in partnership with the local community. Based on building relationships with families and services, CHANGE seeks to improve family wellbeing, increase access to and uptake of childcare places, and enhance opportunities for families.

The CHANGE project works across a number of geographic areas including Calton and Bridgeton, Tollcross and West Shettleston, Parkhead and Dalrnarnock. It also includes small parts of the Springboig and Barlanark neighbourhood, Mount Vernon and East Shettleston. We believe the CHANGE project is an example of true community engagement and we hope that learning from the project can support and inform future consultation work in these regions as well as providing a positive model for elsewhere in Scotland.

We are pleased to see that education authorities must consult with parents and carers who have children currently using provision, parents and carers with younger children who will use provision over the next few years and parents and carers whose children received the funded early learning and childcare entitlement but are now at early school age (**paragraph 79**). This helps to identify future needs and it offers potential for reflection from parents and carers who have recently accessed their funded entitlement.

Education authorities should also explore how children's voices and their direct experiences of ELC are captured in relation to ELC consultation processes and the development of local service delivery plans. Under the UNCRC, all children have a right to have their voices heard about decisions that affect them in line with their understanding and stage of development. Consultation processes with children currently accessing ELC would need to be carefully considered however, a large number of children will be able to reflect on their experience of ELC given the opportunity.

Paragraph 88 identifies the need for ongoing engagement with the early years workforce to inform planning processes and service design. We believe this is crucial in the development of early learning and childcare services, and we feel that this could be more strongly emphasised in the document. Our experience of working on the Open Kindergarten project and on the 2019 ELC Inclusion Fund review has highlighted some of the challenges for the early years workforce in delivering the extended hours including managing longer sessions for children, challenges around workforce recruitment, developing staff skills to work closely with parents and carers, and challenges around suitability of buildings.

We agree with **paragraph 89** that education authorities should consider how they make their early learning and childcare delivery plans accessible for parents and

² <http://change-childcare.org/>

carers in their local area. As recognised in the consultation, good quality communication is essential to building strong relationships with parents and carers and delivering the best outcomes for children. Further guidance could be issued to education authorities to help them ensure they are effectively communicating their local plans.

Paragraph 91 highlights the importance of awareness-raising at a local and national level to ensure that clear information about the funded early learning and childcare entitlement is available to all parents and carers. This includes information about the range of provision and how to access it. Again, we would like to raise of concerns from practitioners in the sector highlighting the confusion amongst parents and carers about their child's entitlement and the choices they have about ELC in their local authority. In the main, this confusion appears to stem from differing approaches and provision options across local authorities.

Additional Support Needs

Children in Scotland welcomes the section on Additional Support Needs however, our colleagues delivering the Enquire service have concerns that the 2004 Additional Support for Learning Act's duties are not fully embedded in the Guidance. As specialists in this area, we would like to refer to Enquire's consultation response. We hope that their response will inform further development of this section of the Guidance.

Delivery of funded early learning and childcare through a range of providers

Paragraphs 140 and 141 identify the importance of quality improvement and continuing professional development (CPD). Through our engagement with the early years workforce we have heard that CPD can be difficult to access, particularly for the private sector, the third sector and for childminders. The wording of paragraph 140 could be strengthened to place an emphasis on education authorities to ensure that CPD is available and accessible to all providers. It may be useful to refer to the Scottish Government's new online CPD modules in this section to ensure that these resources are promoted to ELC settings by education authorities.

2.(a) Do you find the Guidance clear and readable?

Although the document is aimed at education authorities and is relatively technical, we do feel that in general the Guidance is clear and readable. The numerous external references do make the document more challenging to navigate however we acknowledge that this is unavoidable.

The inclusion of a range examples helps to clarify complicated points in the Guidance document.

Whilst we understand that they are not the primary focus of this document, parents, carers and some ELC practitioners may find the Guidance difficult to follow.

(b) Are there any specific areas of the Guidance where we could improve readability?

Section 50, **paragraph 90** includes a repeated phrase:

"...Many of the actions within the plan focus on ensuring parents and carers get the support and information they need in appropriate formats and at the right times. The main focus of the plan is on ensuring parents and carers get the support and information they need in appropriate formats and at the right times to support, and be fully involved and engaged with, their children's learning."

3. Do you have any other comments on the Early Learning and Childcare Statutory Guidance for education authorities?

Children in Scotland believes that the new Best Start Early Learning and School Age payments should be referenced in the Guidance, placing a requirement on education authorities to promote these grants to eligible families. These grants can provide significant additional support to parents and carers on low incomes. Information provided to families should be clear and accessible, clarifying the application process.

Summary

Overall, Children in Scotland welcomes the updated Statutory Guidance and we feel it provides clarity for education authorities.

We welcome the overall aims of the Guidance and the focus on placing the child's individual needs and wellbeing at the centre of decision-making processes.

We recognise the importance of the relationship between ELC settings and parents and carers and we are pleased to see a commitment to education authorities providing clear, accessible information and a focus on professionals working in partnership with children's families.

As highlighted above, we feel the Guidance could be strengthened to reflect a more rights-based approach to the future development of early learning and childcare.

For more information please contact;

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