

London Councils consultation response to: *An early years national funding formula*

Summary

London Councils welcomes the announcement by DfE of new funding to be allocated to the early years sector to support the introduction of the new 30 hour entitlement for 3 and 4 year olds. We are also pleased to see that the DfE is planning on using the General Labour Market costs as the basis for the Area Cost Adjustment (ACA). We have been calling for this measure to be used for the ACA in the National Funding Formula (NFF) for the schools and high needs blocks as this provides a fairer reflection of real staffing costs to the sector. It is important that the same ACA is applied to the NFF for schools and high needs and we expect to see this reflected in the second consultation on that in due course.

Many local authorities in London will have uplifts in their hourly rate as a result of the additional funding and new ACA. However, a number of authorities in London will see considerable reductions in funding, which will have a detrimental effect on the early years offer available in those authorities.

In line with our response to the schools and high needs NFF consultation, London Councils is calling on government to ensure that no local area experiences a drop in their hourly funding rate per child as a result of the introduction of the NFF for early years. We believe that the maximum amount of funding a local authority loses should be made less severe without disadvantaging those local authorities set to gain funding. Whilst this will require additional funding to protect the allocations of local authorities that lose funding, it could be applied very efficiently because only a minority of local authorities face losses.

We are opposed to the proposal to require local authorities to give the same universal hourly base rate to all providers. Providers across London have significantly varying costs, particularly local authority maintained nurseries which tend to be more costly. London Councils is concerned that this proposal could have a considerably adverse impact on maintained nursery provision in London. Given that currently over 140,000 children have places in maintained nurseries, and many of these are located in areas of deprivation with little alternative childcare provision, a reduction in funding to these nurseries could create significant turbulence in the system. The proposed flat rate will act as a further disincentive to schools to expand their current offer.

London Councils has serious concerns about the proposed central cap on spending. This will reduce the flexibility boroughs currently have to provide training and support to providers, in line with their statutory duties, and to help drive up quality. It is unlikely that all providers, particularly those that are struggling financially, will want to access these services through a buy-back model as is proposed.

Consultation response

• Should there be an early years national funding formula (to distribute money from central government to each local authority)?

London Councils supports the idea of introducing a new national funding formula for early years as long as it is applied in a fair and transparent way. The majority of London boroughs benefit in an uplift in funding as a result of the new funding in the system and the proposals set out in the consultation document, however, the formula proposed will result in a reduction in funding in 9 London boroughs. Given that the government sets out in the consultation document that financial incentives will be the principal means to create new childcare places, it is unclear how these 9 authorities will be able to sustain its current levels of childcare places with a reduced funding allocation. As such, London Councils believes strongly that no authority should see a drop in funding and is calling on government to protect the allocations of local authorities that lose funding.

The proposed reduction is on top the early years per pupil funding flat rate that has been in place since 2013-14, which has resulted in a 4.5 per cent cut in real terms as identified by the National Audit Office.

For those London boroughs that will see an increase in their hourly rates, there is limited evidence provided within the consultation or any of the accompanying documents to suggest these new hourly rates will be sufficient to meet the costs of delivering and administering the entitlement or new offer. In many places, the affordability of the current free entitlement depends on goodwill and additional payments by parents.

• To what extent do you agree with the proposed funding floor limit, so that no local authority would face a reduction in its hourly funding rate of greater than 10%?

London Councils supports the proposals for a permanent funding floor limit for the hourly rate. Without this floor, some London boroughs would face further reductions in funding. However, 10% is still a very significant saving for those local authorities affected, especially over the short transitional period proposed.

We believe that the maximum amount of funding a local authority loses should be made less severe without disadvantaging those local authorities set to gain funding. Whilst this will necessarily require additional funding to protect the allocations of local authorities that lose funding, stronger protection could be applied very efficiently because only a small number of local authorities face losses. This additional funding would help to secure childcare places across the whole sector, ensuring that no area faces severe reductions in funding.

• Should a universal base rate be included in the early years national funding formula?

• Is 89.5% of overall funding the right amount to channel through this factor?

Provider costs for delivering the early years entitlement as well as the additional 15 hours for working parents will vary due to factors such as economies of scale, overheads, occupancy levels and staffing. The universal base rate of 89.5 per cent suggests that, irrespective of

provider type or cost drivers, all providers share similar costs. However the *DfE Review of childcare costs: the analytical report* identifies that maintained provision costs more on average than private and voluntary provision and borough experience of costs suggests that even within private and voluntary sector providers there is significant variation.

Local authority maintained nurseries are generally more costly to run than private or voluntary provision for a number of reasons. Council provision and any commissioned providers are required to pay the London Living Wage; private providers will only be required to pay the national minimum wage. Maintained nurseries tend to employ more highly qualified, and therefore costly teaching staff, and pension contributions, although increased for everyone, are significantly higher for settings which employ teachers.

In London 140,500 3 and 4 year olds benefit from early education offered in maintained nurseries and state run primary schools, more than anywhere else in England. Funding reductions to these settings could make them unviable and therefore put at risk these places.

Therefore London Councils argues strongly for flexibility in the funding formula to be able to accommodate differing costs of local providers.

Should an additional needs factor be included in the early years national funding formula?

Yes

•Do we propose the correct basket of metrics?

We support the inclusion of all three measures. Changes to FSM take-up rates as a result of welfare reforms should be considered to ensure allocations correspond with actual levels of deprivation.

• Do we propose the correct weightings for each metric?

We believe that there should be a stronger evidence base to support the weightings proposed, including the appropriate balance between universal funding and additional needs. For example, it is not clear whether a 1.5% weighting on EAL is sufficient to make a significant contribution to the attainment gap, or whether a 1% DLA weighting would effectively capture the costs of low-level SEN.

• Should the early years national funding formula include an area cost adjustment?

Yes, we believe an area cost adjustment is essential to reflect higher costs in London. There is a strong body of evidence to support the inclusion of an area cost adjustment for revenue funding streams. DfE's own research highlights that staffing costs are the significant contributor to cost variations, so it should be accounted for in a funding formula.

• Should that adjustment be based on staff costs (based on the General Labour Market measure) and on nursery premises costs (based on rateable values)?

London Councils strongly welcomes the inclusion of a General Labour Market measure, in line with our response to the first stage of the schools and high needs NFF consultation. We believe that this should be implemented consistently across all education funding streams,

including the two-year old early years funding, early years pupil premium, schools block and high needs block.

We believe that there should be full transparency over the nursery premises cost adjustment methodology and that the full data source behind the premises cost calculation should be made available in order that local authorities can understand how their funding allocations were made.

• Should we retain the current two-year-old funding formula?

The ability to pool funding between 3-4 year olds and 2 year olds should be maintained, allowing local authorities to set the appropriate funding balance between the two age groups based on their knowledge of the local market. If restrictions on local formula are introduced, such as the cap on supplements, this should only be applied after this process. It is essential that this ability is maintained to prevent disruption and distortions in the 2 year old market as a result of the financial changes proposed.

In-year growth disproportionately affects London. The early years census “snapshot” may not correspond fully with actual pupil numbers across the whole year, leading to unfunded growth. In line with the 3-4 year old system, we believe that local authorities should also be able to top-slice 2 year old funding to create a contingency fund for in-year growth.

• Should we use the additional funding secured at the spending review to uplift local authorities’ allocations based upon this? Considering the Dedicated Schools Grant...

The additional money secured at the spending review is welcomed by local authorities as it will provide a much needed uplift to allocations to support the delivery of childcare places. London Councils would urge DfE to allocate this funding as soon as possible.

• Should the free entitlement be capped at 30 hours for children of eligible working parents and 15 hours for all other children?

Local authorities are currently permitted to use the Dedicated Schools Grant to fund early years provision beyond the statutory 15 hour entitlement. Many boroughs currently take advantage of this freedom to provide additional free childcare to some of their most disadvantaged children. This is often a legacy of the provision offered by local authorities before the early years block and 15 hour offer were introduced. This reflects local priorities and parental expectations at the time, such as improving early years outcomes for the most deprived pupils.

Capping the amount of hours that can be funded through DSG at the statutory level would therefore have unintended consequences for those pupils in the system who will cease to be eligible from April 2017 under the proposals. Adjusting 2017/18 indicative allocations in line with the capping arrangements would imply that transitional arrangements will not be applied. This is particularly concerning for nursery schools because they would potentially be unable to receive funding for pupils already in the system from April 2017, leaving a full term unfunded. At the very minimum, we believe appropriate transitional arrangements should be confirmed urgently for these pupils.

Increasing the current 15 hours universal entitlement has the potential to support more parents into work and also enable children, particularly some of the most disadvantaged, to

access high quality early education for a longer period of time. However, many providers have finite capacity and building sufficient places to deliver the universal 15 hour offer will require both capital and revenue funding above what the government has currently made available for London. For instance, while the DfE has allocated £50million for capital investment to secure sufficient childcare places, London Councils' analysis conducted earlier this year suggested this was not sufficient. Analysis of the capital requirements of 3 London boroughs alone had shown they required a combined total of £10million to incentivise existing and new providers to create 30 hour places.

Therefore, London Councils disagrees with the idea of this cap. Local authorities and providers should have the flexibility to extend the offer if they have the resources to do so.

Should Government set the proportion of early years funding that must be passed on to providers?

Childcare markets in each local authority have different strengths and areas for development so local authorities retain funding for a wide range of functions, such as improving quality and support for SEND children, monitoring and driving up quality in the PVI sector, providing training, maximising take-up rates, and maintaining a contingency fund for in-year growth. Variation in the proportion of funding retained would therefore be expected according to the nature of the local childcare market and factors such as the size of the local authority.

We are particularly concerned that capping retained spend could limit the levers and resources available to local authorities for driving up quality across the sector. The consultation does not provide evidence of how an equally or more effective improvement system could be provided under a "buy-back" system. A "buy-back" system would involve significant cultural and technical changes for both providers and local authorities. For the new system to operate effectively without impacting on quality, a mature "self-improving" system would need to develop within the PVI sector, including amongst providers in need of improvement.

London Councils believes that there should continue to be flexibility and discretion over the amount of funding local authorities are able to use to support local markets to improve and ensure local communities access the best possible childcare. The ability to top-slice funding for a contingency is particularly important in London because of its high pupil growth rates.

The most effective mechanism to ensure an adequate supply of places would be a sufficient early years capital funding pot based on evidence of the actual costs of providing new places.

Do you think that 95% is the correct minimum proportion of the money that should be passed from local authorities to providers?

According to the National Audit Office, nationally, local authorities kept on average 10% of early years funding centrally in 2014/15 with significant variations between local authorities. With that in mind, a proposed pass on rate of 95% would mean local authorities could retain a maximum of 5% for administering the free entitlement and central services. This would mean that most local authorities would have to significantly reduce the support they offer the sector at a time when providers most need additional support in order to deliver the new entitlement. It is unclear how the government has come to this figure, particularly when

independent analysis by the National Audit Office found that, despite the *DfE Review of childcare costs: the analytical report*, the DfE has not assessed how much it costs to administer the funding or provide central services. We believe a much stronger evidence base is needed to justify a cap below the current national average of central spend and significantly below the spend of some local authorities.

Local authorities have a statutory duty under the Childcare Act 2006 to provide information, advice and support to early years providers, which support strategic duties under the same act to improve outcomes for children in their areas. Limiting the funding that local authorities are able to retain to support early years providers will make it difficult for local authorities to be able to fulfil these statutory duties and will add significant risk into the system.

Should local authorities be required to give the same universal hourly base rate to all childcare providers in their area?

This proposal is based on a mistaken assumption that, irrespective of provider type, private, voluntary, independent as well as maintained settings share similar costs.

London Councils is very concerned about the impact potential funding reductions will have on maintained nurseries, particularly as these provide quality early education for a higher proportion of disadvantaged pupils than the PVI sector.¹ Research by the Nuffield Foundation has shown that, on average, pupils in more deprived areas receive lower quality early years provision than more affluent pupils in the PVI sector. The quality gap is robust across a range of different measures but is especially significant using measures of communication, language and literacy. In contrast, there is no difference in the quality of maintained nurseries between more and less affluent areas.² As OFSTED recognised:

*"The only early education provision that is at least as strong, or even stronger, in deprived areas compared with wealthier areas is nursery schools"*³

Research shows that maintained nurseries are more effective than other provider types at closing the socio-economic attainment gap⁴. They are also highly effective and experienced at providing quality SEN provision.

Whilst boroughs will continue to engage with maintained nurseries and central government to improve the financial efficiency of the sector, funding all providers at the same rate is likely to risk the long-term sustainability of many maintained nurseries. This would disproportionately affect disadvantaged pupils most likely to benefit from quality early years provision. In addition, any potential reductions in funding will make it harder for maintained nurseries to extend their current offer.

We welcome the commitment to a separate consultation on the future of maintained schools.

¹ [http://www.nuffieldfoundation.org/sites/default/files/files/Quality_inequality_childcare_mathers_29_05_14\(1\).pdf](http://www.nuffieldfoundation.org/sites/default/files/files/Quality_inequality_childcare_mathers_29_05_14(1).pdf)

² [http://www.nuffieldfoundation.org/sites/default/files/files/Quality_inequality_childcare_mathers_29_05_14\(1\).pdf](http://www.nuffieldfoundation.org/sites/default/files/files/Quality_inequality_childcare_mathers_29_05_14(1).pdf)

³ <https://www.early-education.org.uk/sites/default/files/Nursery%20Schools%20State%20of%20Play%20Report%20final%20print.pdf>

⁴ <https://www.early-education.org.uk/sites/default/files/Nursery%20Schools%20State%20of%20Play%20Report%20final%20print.pdf>

Should local authorities be able to use funding supplements?

We agree that there should be the flexibility to use funding supplements to offer confidence to providers that meeting local priorities and wider children's outcomes will be financially rewarded. The effectiveness of supplements is demonstrated by the government's proposal that a funding supplement should also include providers that deliver the additional 15 hours for working parents.

Should there be a cap on the proportion of funding that is channelled through supplements?

Under the current system boroughs have put in place limits, a cap would be supported if it was supported by a strong evidence base. However, London Councils is concerned by the relatively low amount of funding that will be permitted through supplements under the proposals and would urge the DfE to work with London boroughs to develop a better understanding of the scale and effectiveness of existing caps.

If you agree that there should be cap on the proportion of funding that is channelled through supplements, should the cap be set at 10%?

A 10% cap limits the ability of local authorities to target funding at additional needs, so it could cause significant turbulence to providers within boroughs that currently distribute more than 10% of funding through supplements. Any cap should be based on a more solid evidence base.

• Should the following supplements be permitted? Deprivation, sparsity / rural areas, flexibility, efficiency, additional 15 hours

Deprivation

London Councils agrees with the retention of deprivation as a mandatory factor and local flexibility over which deprivation measure is used locally.

Sparsity / rural areas

The sparsity factor should not just be based on distance of travel. Small settings exist within inner cities which serve a particular local community and they play a key role in supporting families to engage with early childhood services. They have neither the space nor the funding to expand. The cost of childcare review recognised the difference that size made to provider costs.

Flexibility

London Councils agrees that it would be helpful to have the option to use a flexibility supplement to incentivise provider to deliver a flexible 15 and 30 hour offer. However, it is unclear how data on extended hours would be collected as it is no longer part of the census collection; this would need to be addressed ahead of implementation.

Efficiency

Based on current proposals, London Councils has concerns about an efficiency supplement. When the DfE conducted its review of childcare costs, it made a number of assumptions as

part of its modelling about efficiencies that could be realised. However, without robust data on the current efficiency levels of providers and an effective way to measure improvements amongst providers, it would be difficult to use an efficiency supplement in practice.

Additionally, many good and outstanding providers will already operate efficient childcare business models and therefore are unlikely to benefit from this supplement. Instead, it is likely to be perceived as rewarding those who have operated an inefficient childcare model in the past, since only these providers can be rewarded for improving.

Additional 15 hours

Yes

• When using funding supplements, should local authorities have discretion over the metrics they use and the amount of money channelled through each one?

Yes

• If you agree that efficiency / additional 15 hours should be included in the set of supplements, do you have a suggestion of how should it be designed?

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• If you think any additional supplements should be permitted which are not mentioned here, please set out what they are and why you believe they should be included.

London Councils is disappointed that a quality supplement is no longer included in the menu of supplement options, especially as a cap on centrally retained spend could also limit the improvement options available to boroughs.

While central and local government aspire for all childcare providers to be good or outstanding, this is not currently the case. In London X per cent are judged good and outstanding by Ofsted, below the national average, so more settings need to improve their quality in London than many other parts of the country.

Under the Childcare Act 2006, local authorities have strategic duties to improve outcomes for children in their areas. Accessing high quality childcare offers one of the main mechanisms to deliver such outcomes and, as a result, almost half of local authorities in the country use a quality supplement in their local early years funding formula. London Councils believes that a quality supplement should continue to be available to use at a local level.

Additionally, under the current supplement proposals, it would not be possible to fund providers for exceptional circumstances such as looked after children.

• Should there be a Disability Access Fund to support disabled children to access their free entitlement?

London Councils agrees with the introduction of a DAF to support disabled children to access their free entitlement.

To effectively implement the new fund, the data source and resources required for the eligibility checking process need to be considered carefully. For the 2-year-old offer, pupils only have to be checked for eligibility once, which is also likely to be the most efficient process for the DAF.

- **Should eligibility for the Disability Access Fund be children aged 3 or 4 which are a) taking up their free entitlement and b) in receipt of Disability Living Allowance?**
- **When it comes to delivering the funding for the Disability Access Fund, is the most appropriate way the existing framework of the Early Years Pupil Premium?**
- **To what extent do you agree that a lack of clarity on how parents / childcare providers can access financial support results in children with special educational needs not receiving appropriate support? (We mean children who do not already have an Education, Health and Care Plan)**
- **Should local authorities be required to establish an inclusion fund?**

London Councils welcomes the focus on the challenges around access to early years SEN. However, funding pressure within the Dedicated Schools Grant means that a new fund is likely to require new funding in order to be effective. Most boroughs are currently experiencing an overspend in their high needs budgets, so there would be very limited room to transfer funding into a new inclusion fund from this source.

- **Would an inclusion fund help improve the supply of appropriate support children receive when in an early years setting?**
- **If you envisage any barriers, arising from existing practice or future proposals, to introducing a new requirement on local authorities to establish an inclusion fund, please tell us what they are and how they might be overcome.**

The creation of a new fund without new funding is unlikely to be successful given existing pressures on high needs and early years budget.

When it comes to the SEN inclusion fund, should local authorities be responsible for deciding...

- **The children for which the inclusion fund is used?**
- **The value of the fund? • The process of allocating the funding?**

Maximum flexibility for local authorities would be welcome given the existing pressure on education budgets.

- **Where specialist SEN or SEND services are delivered free at the point of use, should they be considered as funding passed directly to providers for the purposes of the 95% high pass-through?**
- **To what extent do you agree with the transition approach proposed for the Early Years National Funding Formula (money distributed from Government to local authorities)?**

A 5 per cent saving for two consecutive years would be a very rapid pace of transition, especially as the current minimum funding guarantee for schools is 1.5 per cent a year. As outlined in question 2, we believe it would be cost effective to implement a longer transition period without disadvantaging authorities that gain funding.

• To what extent do you agree with the transition approach proposed for the high pass-through of early years funding from local authorities to providers?

As outlined, we are concerned about the pace of change of the proposal, particularly the impact on quality if a “buy back” system is introduced as rapidly as proposed.

The proposed changes will have both direct and indirect consequences on the childcare market. Too fast a transition period will leave the sector exposed to unnecessarily high level of risk, with many of the assumptions that underpin government proposals untested – especially whether local authorities will have sufficient funding to fulfil their statutory duties as well as administer the early years entitlement based on a 5 per cent retention figure.

To what extent do you agree that our proposals on the high pass-through of funding from local authorities to childcare providers makes the existing Minimum Funding Guarantee for the early years unnecessary?

A flexible, local minimum funding guarantee might help local authorities to manage any turbulence in the data underpinning the national funding formula.

The consultation does not confirm how regularly data behind each component of the funding formula will be updated, but periodic updates in the data will be necessary to ensure the formula adapts to changing patterns of need over time.

When new 2015 IDACI data was published, it showed a fall in deprivation of almost a quarter in London since 2010, with high volatility between and within boroughs – causing substantial disruption to local schools formulas. It is important that local authorities have the tools to manage any similar turbulence in the early years block in future.

• To what extent do you agree with the transition approach proposed for introducing the universal base rate for all providers in a local authority area?

We welcome the inclusion of additional funding for maintained nurseries and the decision not to implement the universal base rate immediately. The methodology behind the additional maintained nursery funding does not appear to capture current levels of funding accurately for all local authorities. The calculation is based only on the difference in per hour rates between providers in local formulas, without taking into account any funding distributed through specific, separate nursery supplements. This appears to lead to significant and arbitrary under-allocations for those boroughs that rely on the supplement option to provide higher funding to maintained nurseries. We believe the full calculations behind this transitional funding should be published for boroughs to verify.

As outlined earlier, London Councils is strongly concerned about the transitional approach and long-term viability of maintained nurseries as a result of the proposed changes.

• Please provide any representations / evidence on the impact of our proposals for the purposes of the Public Sector Equality Duty (Equality Act 2010). The protected

characteristics are: age; disability; gender reassignment; pregnancy and maternity; race (including ethnicity); religion or belief; sex and sexual orientation.