

## **Cabinet – 18 March 2020**

### **Proposed Early Years Funding Formula for two, three & four years olds - 2020/21**

**Portfolio:** Councillor Towe, Education and Skills

**Related portfolios:** Councillor Bird, Leader of the Council

**Service:** Children's Services: Education

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1. Aim**

- 1.1 The Early Years funding formula is the local process that is utilised (informed by national early years funding guidance) to allocate the Early Years block of the Dedicated Schools Grant (DSG) funding that the Council receives to the early years providers in Walsall.

#### **2. Summary**

- 2.1 Central Government, in line with the commitment set out in its manifesto document, introduced an Early Years National Funding Formula (EYNFF) in April 2017 which was to deliver affordable, flexible and high quality childcare for all parents and children via a funding system which is fair for providers and local authorities.
- 2.2 Early Years Block of the Dedicated Schools Grant (DSG) is paid over to local authorities, who have a statutory duty to ensure sufficient early years places are available to meet the requirements in their area, and this funding is then paid by the local authority to providers based on the actual number of hours of funded childcare that is delivered.
- 2.3 In England all children aged 3 and 4 are currently entitled to 570 hours of funded childcare per year (normally provided as 15 hours per week over the 38 week school year). Additionally the 2017 funding reforms expanded provision for 3 and 4 year old to include a 30 hour entitlement for working parents.
- 2.4 A further element of the EYNFF is funding of free entitlement for disadvantaged 2 years olds. Unlike funding for 3 and 4 year olds, which must be allocated via a local early years funding formula, local authorities are encouraged to fund providers on the basis of a flat hourly rate.

- 2.5 Early Years Funding operational guidance sets out the funding factors permitted within the local funding formula for early years and the requirement of a 95% pass-through of funding to early years providers, thereby limiting the amount of funding that can be retained by the local authority to fund central early years services to a maximum of 5%.
- 2.6 As the early years local funding formula will result in the Local Authority allocating funds to individual schools, and those schools utilising this for expenditure which will be significant (greater than £250,000), the approval of the formula is a key decision

### **3. Recommendations**

Subject to outcome of the discussion of Walsall's Schools Forum at their meeting on 11 March 2020:

- 3.1 That Cabinet approves the Early Years Funding Formula (**Appendix A**) recommended by Walsall's Schools Forum at their meeting on 11 March 2020

### **4. Report detail - know**

#### **Context**

- 4.1 For 2020/21 local authorities are be required to set a local Early Years Funding Formula for mainstream schools, nursery schools and private/voluntary early years providers.
- 4.2 The agreed Early Years Funding Formula rates will be used to determine a budget share for all early years providers for 2020/21.

#### **Proposed Early Years Funding Formula**

- 4.3 Operation guidance sets out the funding factors that are permitted within the early years local funding formula, these include a universal hourly base rate, a mandatory deprivation factor, discretionary supplements and additional funding in respect of maintained nursery schools.
- 4.4 Table 1 therefore sets out the proposed areas of the Early Years Funding Formula, highlighting the estimated cost of each area to be funded from the allocation of £21.564m of Early Years Block Funding of the DSG that will be received in 2020/21, with a narrative describing each area set out below the table.

<b>Table 1 – Proposed Early Years Expenditure</b>	
<b>Provision</b>	<b>Estimated cost against Early Years Block of DSG for 2020/21 (£m)</b>
Universal and additional hours for 3 and 4 year olds	15.384
Deprivation Supplement	0.207
Entitlement hours for 2 year olds	3.789
Maintained Nursery Schools Supplement	1.330
Early Years Pupil Premium	0.271
Disability Access Fund	0.083
Central expenditure on early years entitlement	0.500
<b>Total</b>	<b>21.564</b>

### **Universal and additional hours for 3 and 4 year olds**

- 4.5 The operational guidance includes a requirement to pay a universal hourly base rate to all early years providers for provision hours for 3 & 4 year olds. The universal hourly base rate must, in all cases, be multiplied by the hours of attendance of children at each setting – up to a maximum of 570 hours of funded childcare per year (or a maximum of 1140 hours for those children eligible for the additional offer for working parents).

### **Deprivation Supplement**

- 4.6 Deprivation is a mandatory supplement local authorities must use in their Early Years Funding Formula to recognise deprivation in their area. Operational guidance does not set out how funding for deprivation is to be allocated and this is determined locally.
- 4.7 Following a review of the Walsall EYSFF in 2017, undertaken by a working group of Schools forum, it was agreed that the deprivation supplement would be allocated on the basis of the proportion of children, recorded on January census and headcount, whose postcode falls within band A of the Income Deprivation Affecting Children Index (IDACI). The calculated proportion is applied to each terms estimated pupil number to arrive at a notional number of disadvantaged part time equivalent pupils for each provider.

### **Entitlement hours for 2 year olds**

- 4.8 As set out in 3.4, the funding for disadvantaged 2 year olds is paid on the basis of a flat hourly base rate and equates to the amount per hour funded through the Early Years Block of the DSG.
- 4.9 Unlike the 3 and 4 year olds funding requirements, there is no regulatory pass through rate in respect of early years block funding for 2 year olds and similarly there are no requirements in respect of mandatory or discretionary supplements.

### **Maintained Nursery Supplement**

- 4.10 This represents an element of additional funding for maintained nursery schools, known as the Maintained Nursery Schools Supplement (MNSS). The funding is allocated within the Early Years block of the DSG to be paid as a variable lump sum, based on capacity, to maintained nursery schools to provide some protection to nursery schools following the introduction of the universal hourly base rate, which had the effect of reducing the hourly rate of funding nursery schools previously attracted.
- 4.11 Currently the MNSS is a transitional supplement which was expected to be withdrawn at the end of the 2019-20 academic year, however Early Years Operational Guidance confirms that the MNS supplement has been extended to March 2021.

### **Early Years Pupil Premium (EYPP)**

- 4.12 The Early Years Pupil Premium (EYPP) gives early year providers additional funding to support disadvantaged 3 and 4 year old pupils who are in receipt of the universal 15 hours entitlement and are in receipt of any one of the benefits criteria detailed in Early Years Operational Guidance.
- 4.13 Early years providers are responsible for identifying eligible children and, once eligibility has been checked by the authority, funding to providers is allocated using an hourly rate prescribed by the DfE.

### **Disability Access Fund (DAF)**

- 4.14 The Disability Access Funds (DAF) was introduced to support disabled 3 and 4 year old children accessing their early years free entitlement. DAF funds can be used, for example, to support providers in making reasonable adjustments to their settings.
- 4.15 Early years providers are responsible for identifying eligible children and are encouraged to use the DfE's parent declaration template. Once eligibility is verified by the authority funding is allocated at an annual rate prescribed by the DfE.

### **Central Expenditure on Early Years Entitlement**

- 4.16 As set out in 3.5, the maximum amount of funding that can be retained for centrally is 5% of the early years block. The £500k retained budget was approved by Schools Forum at their meeting on 15 January 2020 and reflects the cost of

providing central services in support of the early years entitlement for 2, 3 and 4 year olds.

### **Special Education Needs Inclusion Fund**

- 4.17 In addition to the funding areas shown in table 1, there is a requirement for local authorities to operate a Special Educational Needs Inclusion Fund (SENIF) for all 3 and 4 year olds with SEN who are taking up free entitlement.
- 4.18 SENIF for 2 year olds is not a funding requirement, however local authorities can choose to establish a fund as part of their provision should they wish to do so and an agreement to fund SENIF for eligible 2 year olds as part of Walsall's early years provision is in place.
- 4.19 SENIF is to be used to target children with lower or emerging SEN. Children with more complex needs and those in receipt of an education, health and care plan will continue to be funded via the high needs block of the DSG.
- 4.20 Funding of SENIF can be from either the Early Years or High Needs block of the DSG. In order to ensure the proposed early years funding formula is affordable from funds available it is proposed to fund SENIF from the High Needs block in 2020/21 at an estimated cost of circa £100k.

### **Detailed Funding Factor Values**

- 4.21 Appendix A below confirms the proposed funding factors and their values for the 2020/21 Early Years Funding Formula.
- 4.22 It should be noted that the early years guidance also permits a number of additional discretionary supplements including rurality; quality; flexibility and English as a second language, however none of these permitted discretionary supplements feature in the proposed Early Years Funding Formula.

### ***Council Corporate Plan priorities***

- 4.23 The early years funding formula is seen as equitable and is transparent to those who have been consulted with when setting the formula. The early years funding formula will not impact on the total amount of funding given to Walsall council within its Early Years block of the Dedicated Schools Grant.

### ***Risk management***

- 4.24 Individual Special schools may see movements in the actual funds that are paid to them where the numbers of pupils taking up entitlement, have changed. Schools would need to manage these changes within their overall early years delegated budget.

### ***Financial implications***

- 4.25 The exact financial impact on individual providers cannot be predicted at this time as this will be dependent on actual hours of funded childcare that are delivered during 2020/21.

- 4.26 However current financial modelling indicates that the proposed financial arrangements set out in table 1 would be affordable within the Early Years Block funding provided within the Dedicated Schools Grant for 2020/21.
- 4.27 A universal base hourly rate of £4.43 per hour for 3 / 4 year olds would equate to an increase 8 pence per hour to 2019/20 rates, similarly the flat base rate for disadvantaged 2 year olds of £5.32 per hour is an increase of 8 pence per hour from 2019/20.

### ***Legal implications***

- 4.28 The DfE has prescribed the way in which early years providers should be financed for the 2020/21 financial year. These guidelines are set out in the Early Years Entitlement 2020 to 2021 operational guide, and can be found at the following link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/853644/Early\\_years\\_operational\\_guide\\_2020\\_to\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853644/Early_years_operational_guide_2020_to_2021.pdf)

The purpose of these arrangements is to help secure greater consistency in the way in which funding is distributed to early years providers. The Council must follow the rules issued by DfE within The School and Early Years Funding (England) Regulations 2020, and the proposed Walsall local early years funding formula sets out how funding will be allocated to early years providers in Walsall within the prescribed arrangements

### ***Procurement Implications/Social Value***

- 4.29 Schools are required to comply with the Council's procurement rules and policies in conducting their business.

### ***Property implications***

- 4.30 Unless any schools in Walsall were to close, there will be no property implications associated with this report.

### ***Health and wellbeing implications***

- 4.31 The content of this report has taken into account the Marmot objectives and it is confirmed that the proposals have been tested against the relevant considerations in this respect. As such there has been no indication that the proposed school funding formula would have any adverse impact on the health and wellbeing of staff and pupils based at Walsall schools.

### ***Staffing implications***

- 4.32 If individual providers see movement in the actual funding paid to them, due to movements in pupil numbers or changes in need, there is a risk that staff posts may also need to be reduced.

### ***Reducing Inequalities***

- 4.33 As part of the consultation on the implementation of an early years national funding formula the government undertook a full equality impact assessment, taking into account the relevant protected characteristics identified in the Equality Act 2010. A copy of the equality impact assessment is attached to this report.

### ***Consultation***

- 4.34 Head teachers of all schools and academies are represented on the Schools Forum have been consulted.

## **5. Decide**

- 5.1 That Cabinet approves the Early Years Funding Formula that was recommended by Walsall's Schools Forum at their meeting on 11 March 2020.

## **6. Respond**

- 6.1 Budget shares for all early years providers for 2020/21 will be distributed according to the approved early years funding formula.

## **7. Review**

- 7.1 Schools will be expected to monitor and stay within their delegated budget. The local authority will continue to provide support to schools to ensure that robust financial monitoring is carried out. Walsall's Schools Forum will continue to receive financial performance reports to monitor usage of school's budgets
- 7.2 For private and voluntary providers regular support from the Early Years Team ensures continuity of provision.

### **Background papers**

Schools forum Report 11 March 2020 – Proposed Early Years Funding Formula for two, three and four year olds 2020/21

ESFA – Early years entitlements: local authority funding of providers operational guide 2020/21

Cabinet 8 February 2017 – Early Years Funding Formula

Schools Forum report 5 December 2017 – Update on Early Years Funding Rates for 2018/19 and Progress of Special Schools Working Group

## Author

Dawn Morris  
Schools and Early Years Finance Manager  
☎ 654586  
✉ dawn.morri@walsall.gov.uk



Sally Rowe  
Executive Director



Councillor Towe  
Portfolio holder



## Appendix A

### Proposed Early Years Funding Formula 2020/21

Funding Factor	Unit / descriptor	2020/21 Rate/Value	2019/20 Rate/Value
Early Years Entitlement for Disadvantaged 2 year olds	per hour	£5.32	£5.24
3 & 4 year olds - Universal Hourly Base rate	per hour	£4.43	£4.35
Deprivation Supplement – mandatory	Fixed annual sum per notional disadvantaged p.t.e. child – derived from numbers recorded in January 2020 IDACI mapped by postcode to band A.	£570 pa p/p	£570 pa p/p
Maintained Nursery Schools Supplement for 3 & 4 YO provision (transitional factor)	Variable lump sum per nursery school based on published capacity of nursery school. 60 place - £140,000 80 place - £152,500 96 place - £162,500 100 place - £165,000 120 place - £177,500	Range: £140k to £177.5k	Range: £140k to £177.5k

### Other Early Years Funding

Funding	Descriptor	2020/21 Prescribed rate	2019/20 Prescribed rate
Early Years Pupil Premium (EYPP)	Additional funding to support disadvantaged 3 & 4 year-old children who meet the prescribed criteria	0.53 per hour of universal free entitlement	0.53 per hour of universal free entitlement
Disability Access Fund (DAF)	For children in receipt of disability living allowance – support access to free entitlement for 3 & 4 year-olds.	£615 pa lump sum	£615 pa lump sum

**Special Education Needs Inclusion Fund (funded from the High Needs Block of DSG)**

<b>Funding</b>	<b>Descriptor</b>	<b>2020/21 rate</b>	<b>2019/20 rate</b>
Special Education Needs Inclusion Fund (SENIF) for 3 and 4 year olds - mandatory	SENIF is targeted funding for children with lower or emerging SEN needs who are attracting 3 and 4 year olds entitlement	£640 per term	£640 per term
Special Education Needs Inclusion Fund (SENIF) for 2 year olds – optional local factor	SENIF is targeted funding for children with lower or emerging SEN needs who are attracting 2 year olds entitlement	£640 per term	£640 per term



Department  
for Education

# **Equality assessment**

**Government Response: Early Years  
National Funding Formula and changes  
to the way the three-and four-year old  
entitlements to childcare are funded**

**December 2016**

# Contents

The Public Sector Equality Duty	2
Early years funding reform	3
Consideration of the protected characteristics identified in the Equality Act 2010	5
Age	6
Disability	7
Disabled children	7
Special educational needs (SEN)	8
Gender reassignment, pregnancy and sexual orientation	9
Race (including ethnicity)	10
National funding formula: English as an additional language and free school meals	10
Local funding formulas: deprivation supplement	11
Religion	11
Sex	11

## The Public Sector Equality Duty

1. The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:
  - Age
  - Disability
  - Gender Reassignment
  - Pregnancy and Maternity
  - Race (including ethnicity)
  - Religion or belief
  - Sex
  - Sexual orientation

2. Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
    - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
    - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
    - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
    - tackle prejudice, and
    - promote understanding.

## Early years funding reform

3. This Government is committed to giving children from all backgrounds the best start in life. We are expanding our free childcare programme and we will be investing over £1 billion more per year in childcare by 2019-20. The Manifesto commitment to expand the free entitlement, from 15 to 30 hours a week for working parents, will reduce the cost of childcare for working families and break down the barriers to work so that parents who want to return to work, or work more hours, can do so.
4. To deliver the extended entitlement, and ensure that all children can continue to benefit from high quality early learning, we need to get the funding right. We have committed to increasing the average hourly rate paid to providers for delivering the entitlements; £300 million per year is included in the £1 billion extra annual funding for a significant uplift to funding rates.
5. But more funding, even if it is at record levels, is only part of the answer. This consultation turns to *how* that funding will be distributed. We must ensure that funding is allocated transparently across the country, in a way that channels funding to local areas with the children of the greatest needs and providers with the greatest costs. Once local authorities have received this funding, we must ensure that the great majority of it then reaches providers and that it is allocated between providers

on a fair basis so they have a sustainable footing on which to meet the requirements of parents in their community and the needs of children in their care.

6. The current system does not do this very effectively. It features unjustified variation in the funding rates paid to different local areas and, even within the same area, to different providers. We now have a unique opportunity to change this.
7. An early years national funding formula, combined with reforms at the local level, will deliver a funding system which is fair for children, parents, providers and local authorities. The reforms will incentivise providers to deliver 30 hours of free childcare and enable them to thrive and expand. They will support parents who want to return to work or work more hours if they wish. And they will enable all children, whatever their background and individual needs, to access the high quality early learning and childcare they deserve.
8. As fairness and sufficient funding is at the heart of our reforms, children of all characteristics will attract hourly funding that covers the cost of the childcare they need. Adults (staff, volunteers and business owners) likewise will be funded fairly in a system that is transparent, straightforward and accountable.
9. We believe our reforms will bring about a necessary balance and levelling across areas that have been significantly underfunded or overfunded historically. While the former stand to receive significant increases in funding; the latter will face reductions in their hourly funding rates. These will however be mitigated by a funding floor that limits any reductions in local authority hourly funding rates to 5% in the first year and 10% overall. We will also introduce a minimum hourly funding rate of £4.30 to support those local authorities whose new funding rates would otherwise be below that level.
10. This assessment has considered whether the changes brought about as a result of our reforms will have an impact on protected characteristics, by reference to the public sector quality duty.
11. In summary, our approach to early years funding reform is:

#### **Early years funding reform:**

- To reform the funding system to deliver affordable, flexible and high quality childcare for all parents and children – including those with disabilities and with special educational needs.
- To have a fairer funding system for both the existing universal three- and four-year-old entitlement (for all parents) and the extension to 30 hours (for working parents).
- To introduce a national funding formula for the early years from 2017-18 (how money is allocated from Government to local authorities).

- To use factors in the national formula including the incidence of children with additional needs and relative costs of delivery.
- To reform the existing approach of local early years funding formulas (how money is allocated from local authorities to childcare providers) and maximise the amount of money to providers and therefore the children in their care.

## Consideration of the protected characteristics identified in the Equality Act 2010

12. The Equality Act 2010 identifies eight protected characteristics, as set out in Paragraph 1. Our consultation document included a question of whether respondents foresaw the proposed reforms having any negative impact on:

- eliminating unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act;
- advancing equality of opportunity between people who share a protected characteristic and people who do not share it; or
- fostering good relations between people who share a protected characteristic and people who do not share it.

13. We asked respondents to provide any representations and/or evidence on the impact of our proposals for the purposes of the Public Sector Equality Duty (Equality Act 2010). We reminded respondents that the protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race (including ethnicity); religion or belief; sex and sexual orientation. 550 respondents chose to answer this question, of which 424 provided a response relevant to the question.

14. Not all of those 424 contributions were representations relevant to the protected characteristics of the Equality Duty. Relevant concerns raised were:

Protected characteristic	Proportion of respondents to this question
<b>Age</b> If levels of funding are not sufficiently high, childcare providers could be forced to employ younger staff.	10%

<b>Disability</b> Feedback that, despite the measures of the Disability Access Fund and the SEN inclusion fund, there may not be equality of opportunity for children with SEND. There were other comments during the consultation which voiced concern around access to funding for children not yet eligible for the Disability Living Allowance (an eligibility criteria in our proposals) because they are in the process of assessment or diagnosis.	12%
<b>Pregnancy / Maternity</b> If there were an efficiency supplement, it must consider maternity leave and its impact on staffing/costs.	1%

<b>Race</b> If levels of funding are not sufficiently high, there could be a detrimental impact on BME, EAL children in high level deprivation areas.	9%
<b>Sex</b> If levels of funding are not sufficiently high, the proposals could “undermine the early years profession” predominantly staffed by women.	2%
<b>Other</b> <ul style="list-style-type: none"> <li>No problems identified through equality assessment</li> <li>Do not understand the question / not sure</li> </ul>	4% 4%

15. This Equality Assessment has been updated to incorporate these relevant representations. We have included representations which refer to the *amount* of early years funding available (opposed to the distribution of that funding) in recognition of this being a key theme of free text consultation responses, despite this not being a question asked.

## Age

16. All age groups are distributed evenly across the country (including that of three- and four-year olds) and the childcare service for which providers are funded must meet exactly the same requirements as the service they provide for any other age of child and regardless of whether the child attracts Government funding.
17. We are not aware of any evidence that our means of distributing early years funding could impact upon children or adults (employees or business owners) of particular ages disproportionately. There were several representations made that the *amount* of funding distributed by our proposed means could, if not sufficient, encourage childcare providers to employ cheaper staff, who are generally younger in age and



less qualified – therefore disrupting the equality of opportunity between different ages.

18. We are investing record levels of funding in childcare and the level of investment was informed by a rich source of evidence – the ‘Review of Childcare Costs’<sup>1</sup>, described as “thorough and wide-ranging” by the National Audit Office. The Review looked at both the current costs of childcare provision and the implications of future cost pressures facing the sector, including the potential pressures of the national living wage. We are providing additional funding for the system through the minimum hourly funding rate of £4.30 to support those local authorities whose new funding rates would otherwise be below that level and this should mitigate any potential impact on higher paid workers, promoting equality of opportunity.
19. Regarding children who are younger than three, working parents who want to access early education and childcare will be eligible to apply for Tax-Free Childcare, which will save up to 2 million families up to £2,000 per child on their annual childcare bill. Some lower income families can access the 15 hour entitlement when their child is two, as well as other forms of support with childcare costs when their children are younger, such as the childcare element of working tax credit (to be replaced by the childcare element of Universal Credit).

## Disability

20. Our reforms support our strong view that no child should have access to their free childcare entitlements restricted or denied because of a disability or special educational need (SEN). The childcare service for which providers are funded must meet exactly the same general requirements as the service they provide for any other age of child, regardless of additional needs.
21. In practice, we know there is much work to be done in terms of access. In 2014 the Parliamentary Inquiry into childcare for disabled children<sup>2</sup> found that 41% of parents who responded to the inquiry said their children did not access the full 15 hours of the free entitlement for early education for three and four year olds. We believe that the revised early years funding system will lead to better access to, and better outcomes from, the early years entitlements for children with disabilities or SEN.

## Disabled children

22. Local authorities should continue to support settings to provide childcare to disabled children through use of the high needs block within the Dedicated Schools Grant.

---

<sup>1</sup> Review of Childcare Costs (2015)

<https://www.gov.uk/government/publications/review-of-childcare-costs>

<sup>2</sup> Parliamentary Inquiry into childcare for disabled children (2014)

<http://councilfordisabledchildren.org.uk/sites/default/files/field/attachemnt/parliamentary-inquiry-intochildcare-web.pdf>

The Government is clear that the high needs block is for children and young people aged 0 -25 years.

23. While this approach should continue, we believe that the introduction of additional targeted Disability Access Funding will, in principle, provide greater recognition to the youngest children with disabilities and, in practice, support providers to make initial reasonable adjustments and build the capacity of the setting to support disabled children.
24. In the consultation, we sought views on the best means of this funding reaching providers and the eligibility of children who will qualify for the funding. We want to support providers to use the funding more strategically to increase the capacity of their setting to care for disabled children and the large majority of respondents agreed that there should be a Disability Access Fund to support disabled children to access their free entitlement (89% of 3121 respondents).
25. Respondents did voice concern regarding eligibility; that the eligibility criteria of being in receipt of Disability Living Allowance would not cover all relevant children because some have not yet been diagnosed; are still going through assessment processes; parents may not have accepted that such young children require additional support; or parents may be unaware that support is available. However, the Disability Living Allowance is the Government's assessment process for eligibility to disability support and no better alternatives were proposed and a new process would create additional costs, taking funding away from providers.
26. Providers will still be required to support all children within their setting as per their duties under the Equality Act 2010 and work with their local authority when additional support is required for complex needs that go beyond that which they are expected to provide for.

## **Special educational needs (SEN)**

27. High quality childcare in the early years has a significant impact on outcomes for children and these experiences are even more important for children with SEN in their earliest years. Early identification and early intervention can have a positive impact on life chances and outcomes.
28. We have drawn on evidence from the Cost of Childcare Review<sup>3</sup> to identify the key drivers of cost. At the national level (the early years national funding formula) the 'additional needs' factor will reflect the extra costs of supporting children with additional needs to achieve good early learning and development outcomes. There were representations from respondents that these additional costs require a higher amounts of hourly funding than announced in indicative funding allocations and that

---

<sup>3</sup> Review of Childcare Costs (2015)

<https://www.gov.uk/government/publications/review-of-childcare-costs>

higher rates of funding should apply to broader eligibility criteria to support those children in need of early intervention.

29. Funding channelled through the additional needs factor of the national funding formula will reflect the proportion of children in the local area who receive free school meals, receive disability allowance and/or speak English as an additional language.
30. On the former, some consultation respondents suggested alternatives to using free school meals as one proxy measure of SEN, for example to use the same eligibility criteria as for the free childcare entitlement for two-year olds. On the face of it, this is a sensible suggestion. However, such eligibility criteria alone are not enough: instead we would have to use data on *take-up* of the two-year old programme. Such data varies between local authorities, and from year-to-year, and is therefore insufficiently robust or stable to use for funding purposes.
31. It was also suggested that using the Disability Living Allowance (DLA) is not a close enough proxy for special educational needs and disabilities. The government recognises that while there may not be a perfect correlation between DLA and SEND in an area, this is a consistent, national level dataset which is up-to-date, inherently linked to children's needs, and more comprehensive than any alternative.
32. We therefore continue to believe, in light of the consultation responses, that free school meals and DLA are our best proxies for SEN in an area.
33. At the local level, we seek to build on the best practice of local areas and providers who deliver effective support for children with SEN. We will require all local authorities to set up an 'Inclusion Fund' in their local funding systems.
34. We believe that the principle of this fund will help focus local authorities on their strategic role to increase the capacity of their childcare market to appropriately support and develop children with SEN. We believe that the practical structure of the system will support local authorities to work with individual providers to resource support for the needs of individual children with SEN. We will use guidance to encourage local authorities to develop the fund in consultation with providers, SEN specialists and parents in the local area.

## **Gender reassignment, pregnancy and sexual orientation**

35. We do not consider these characteristics relevant to the distribution of hourly rates of funding to provide free childcare for children and we are not aware that funding levels would differentially affect adults (employees or business owners) with these protected characteristics. We therefore do not believe there to be any direct impact from our reforms.

## Race (including ethnicity)

36. Rather than including a funding stream in the early years national funding formula that is linked to the broad characteristic of ethnicity, we are using pupil characteristics that evidence suggests provide the strongest correlation to lower attainment. This approach will directly identify local authorities with young children most likely to need additional support to reach their full potential. Some of these factors, in turn, correlate to ethnicity.

## National funding formula: English as an additional language and free school meals

37. We know that there is a significant overlap between children eligible for **free school meals** (FSM) and black and minority ethnic groups. This means that the protected characteristic of race (including ethnicity) needs to be considered. As there is no FSM data for children in the early years, we are using data for Key Stage 1 and 2 as the best proxy.
38. 89.5% of the national funding formula will be channelled through a universal base rate. The remaining funding will be allocated to reflect the additional needs of children in the area and, of that, 8% will be directed according to the FSM metric. This is distinct from the Early Years Pupil Premium which remains a separate funding stream outside the funding formula.
39. There is a significant difference in attainment in the early years foundation stage profile between children with **English as an additional language** (EAL) and those with English as a first language. Again, there is a significant overlap between children with EAL and the protected characteristic of race (including ethnicity). For 2015, the early years foundation stage profile results showed that children with English as a first language are more likely than pupils with EAL to get at least the expected levels in all their early learning goals (67% and 56% respectively).
40. Representations were made to explain concerns that, if levels of funding are not sufficiently high, there could be a detrimental impact on EAL children in high level deprivation areas. In recognition that supporting children with EAL amounts to additional costs for childcare providers, the early years national funding formula will target additional resource to the local areas in which those children live to help them achieve good outcomes. 1.5% of total early years funding will be directed according to this metric.
41. We have listened to concerns and to further advance equality of opportunity we will permit a discretionary funding supplement designed to channel money from local authorities to providers supporting children with EAL.
42. It is essential to allocate funding to all childcare providers, and so the children in their care, on a fair basis. The children of inner city local authorities are also likely to benefit from the additional needs factor of the national funding formula (the high weighted free school meals metric and the EAL metric). These children will therefore

continue to attract higher levels of funding than average (and additional funding will continue to reach individual children via the Early Years Pupil Premium).

## Local funding formulas: deprivation supplement

43. As mentioned above, and referred to in representations made by respondents, there is a significant overlap between deprivation and the protected characteristic of race (including ethnicity). At the local level, we will continue to require local authorities to channel funding to providers that **serve areas of deprivation**. Evidence<sup>4</sup> confirms that costs are genuinely higher for these providers and this funding will ensure a greater equality of access to the free entitlements for children in the most deprived areas and those in less deprived areas.
44. At present, local authorities are required to include a deprivation supplement in their three- and four-year old funding formulae and they use a variety of metrics to allocate this funding. The majority use the 'income deprivation affecting children index' dataset (IDACI), others use rates of Free School Meals, the Index of Multiple Deprivation, ACORN or a combination. This deprivation factor will continue to be mandatory in local formulae and local authorities will continue to use their own choice of metric for allocating this funding in accordance with local circumstances.
45. Local authorities will continue to retain an amount of discretion over the amount of funding they direct through this supplement (up to a certain overall limit on the proportion of money channelled through supplements). Allowing this discretion reduces local fluctuations and turbulence thus giving providers more funding stability to meet the needs of the children in their care.

## Religion

46. We have no evidence to show, and no representations have been made to suggest, that the introduction of a national funding formula would impact disproportionately on parents choosing a nursery or pre-school run by a faith organisation. Our reforms will bring about greater equality of funding per child regardless of their childcare provider or geographical location and this principle of fairness will extend to faith-led childcare providers.

## Sex

47. We are not aware of any evidence that our revised means of distributing funding will disproportionately benefit children of a particular sex – gender is distributed evenly across the country and our reforms are designed to bring about fairness across the country.

---

<sup>4</sup> Review of Childcare Costs (2015)

<https://www.gov.uk/government/publications/review-of-childcare-costs>

48. We acknowledge that females make up the largest percentage of the workforce (and business ownership). The vast majority of providers in the sector stand to see higher funding rates as a result of the funding uplift and reform to maximise funding to providers. In the main, the remaining providers do not lose significantly as a result of redistributive reform. However, a small number of representations have been made to suggest that if the *amount* of funding is not sufficiently high, risks to business sustainability could affect the early years profession which, as a whole, is predominantly staffed by women. As mentioned earlier, our new £4.30 minimum funding rate floor will increase the amount of funding in many local authorities.
49. We believe that our reforms will advance the equality of opportunity between female parents, who wish to return to work or work more hours, and those who do not have maternal caring responsibilities.



Department  
for Education

© Crown copyright 2016

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit [www.nationalarchives.gov.uk/doc/open-government-licence/version/3](http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3) email  
[psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication: enquiries [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus) download  
[www.gov.uk/government/publications](http://www.gov.uk/government/publications)

Reference: DFE-00186-2016



Follow us on Twitter:  
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:  
[facebook.com/educationgovuk](https://facebook.com/educationgovuk)