

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT CHILDCARE (EARLY YEARS PROVISION
FREE OF CHARGE) (EXTENDED ENTITLEMENT)
REGULATIONS 2016

Monday 5 December 2016

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Friday 9 December 2016

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The Committee consisted of the following Members:

Chair: MRS CHERYL GILLAN

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|---|---|
| † Argar, Edward (<i>Charnwood</i>) (Con) | † Mercer, Johnny (<i>Plymouth, Moor View</i>) (Con) |
| † Cruddas, Jon (<i>Dagenham and Rainham</i>) (Lab) | Reed, Mr Jamie (<i>Copeland</i>) (Lab) |
| De Piero, Gloria (<i>Ashfield</i>) (Lab) | † Sharma, Mr Virendra (<i>Ealing, Southall</i>) (Lab) |
| † Dinenage, Caroline (<i>Parliamentary Under-Secretary of State for Women and Equalities</i>) | † Siddiq, Tulip (<i>Hampstead and Kilburn</i>) (Lab) |
| † Evennett, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Swayne, Sir Desmond (<i>New Forest West</i>) (Con) |
| † Green, Chris (<i>Bolton West</i>) (Con) | † Trevelyan, Mrs Anne-Marie (<i>Berwick-upon-Tweed</i>) (Con) |
| † Hall, Luke (<i>Thornbury and Yate</i>) (Con) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Haselhurst, Sir Alan (<i>Saffron Walden</i>) (Con) | Glenn McKee, <i>Committee Clerk</i> |
| † Mackinlay, Craig (<i>South Thanet</i>) (Con) | † attended the Committee |

Second Delegated Legislation Committee

Monday 5 December 2016

[MRS CHERYL GILLAN *in the Chair*]

Draft Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016

4.30 pm

The Parliamentary Under-Secretary of State for Education (Caroline Dinenage): I beg to move,

That the Committee has considered the draft Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016.

It is a pleasure to serve under your chairmanship, Mrs Gillan. The Childcare Act 2016 delegates powers to Ministers to create regulations that provide for an additional 15 hours of childcare for children of working parents in order to create what is known as the 30 hours free childcare entitlement. The Government are committed to doubling the amount of free childcare for working parents of three and four-year-olds from September 2017. We know that the cost of childcare poses a barrier to work for families with small children, and this policy provides significant support, worth about £5,000 a year, to working parents.

All three and four-year-olds are already entitled to 15 hours a week of free early learning. Take-up is high, at about 95%, and the quality of provision continues to improve, with 86% of children taking up their place in a good or outstanding setting. On top of that, the most disadvantaged two-year-olds can receive 15 hours a week of free early learning, because we know that when they arrive at school less advantaged children can be behind their better-off peers.

Let me make it clear that we will retain the same stringent quality standards as we apply to the existing entitlements, so providers delivering any part of the 30 hours entitlement will need to follow the requirements of the early years foundation stage and must be registered as an Ofsted early years provider. We debated the eligibility criteria and the detail of the 30-hours policy extensively during the passage of the Childcare Bill last year. The regulations provide more detail and clarity on the design and delivery of the additional 15 hours, including all the eligibility criteria.

My Department continues to undertake extensive informal consultation and engagement with key stakeholders, including childcare providers, local authorities and national childcare provider organisations. That has helped tremendously in ensuring that those who will deliver the 30 hours have contributed to the development of the policy and how it is delivered to parents. I appreciate the fact that all those involved have worked so constructively with me and my team.

It is important to view our 30 hours offer as one part of a much bigger Government commitment to childcare support. All three and four-year-olds already receive 15 hours a week of early learning, as do the most

disadvantaged two-year-olds, and the early years pupil premium provides additional support for the most disadvantaged three and four-year-olds. Our new special educational needs inclusion fund and disability access fund, worth £615 per child per year, offer targeted support for children with special educational needs and disabilities. The Government will introduce tax-free childcare early next year, and our flagship welfare reform programme, universal credit, allows low-income working parents to claim up to 85% of their childcare costs, even if they work only a few hours a week. Together, those childcare support offers amount to funding worth £6 billion a year by 2019-20. That is a major package of support for working families. I hope that the Committee will support the regulations.

4.33 pm

Tulip Siddiq (Hampstead and Kilburn) (Lab): It is a pleasure to face the Minister again under your chairmanship, Mrs Gillan. It will come as no surprise to anyone listening that the Labour party welcomes any initiative to extend free childcare, but examining the regulations and the explanatory memorandum provides another opportunity to touch on several important concerns about the policy that have been expressed by Labour Members and sector leaders since it was first announced. None the less, the Opposition do not intend to divide the Committee on the regulations, as above all else we want swift progress ahead of the national roll-out of the entitlement.

The regulations are largely practical in providing a statutory framework for the policy, but the context presents a challenge to their feasibility. Childcare providers and local authorities will be keen to know whether they can truly expect to meet the demands being placed on them. Before I ask about the pressures faced by providers and authorities, I will say that the Government's response to the early years funding formula consultation, which has somewhat changed the terms of the guidance we are discussing, offered some much-needed changes, which I welcome wholeheartedly.

Maintained nursery schools offer an excellent education to some of the most disadvantaged young children, so the guarantee of their supplement throughout this Parliament is welcome. It removes at least one unnecessary challenge for local authorities in fulfilling the measures outlined in part 4 of the regulations. Furthermore, the Opposition welcome the recognition in paragraph 9.8 of the draft explanatory memorandum of

"issues with the way the funding system currently works to support children with SEND".

The extra funding offered for disabled children is certainly a welcome change in step, but the response from providers and sector leaders still shows the latest offer from the Government to be insufficient to achieve the requirements set out in the regulations and the policy more broadly. The difference between the cost of delivering free entitlement places, per the regulations, and the funding received from Government remains significant. Sector leaders at the National Day Nurseries Association and the Pre-school Learning Alliance have been clear that unless the gap is closed entirely, it will be difficult to secure free childcare, per part 2 of the instrument. Does the Minister believe that the concerns over the latest funding announcement are well founded? Can she say with certainty that the current offer is sufficient to implement the regulations?

Given the duties on local authorities outlined in part 4, Committee members may wish to note that the chair of the Local Government Association's children and young people board said:

"Both councils and childcare providers are under severe financial pressures",

and that councils

"remain very concerned that the increase in funding will not be sufficient".

That is important because the main difference between the 2014 regulations and the draft 2016 regulations is a 20-page definition of a working parent. The decision to restrict the additional entitlement to working parents will therefore produce significant bureaucracy for local authorities and may ultimately confuse parents about whether they actually qualify. I would appreciate the Minister's reflections on whether local authorities are equipped to handle the regulations. Specifically, it would be good to hear whether her Department has considered the extra bureaucracy being generated and whether it has a plan in place to deal with that.

I welcome the analysis in paragraph 9 of the explanatory memorandum—on the Government's consultation—regarding the delivery of the extended entitlement, but I was surprised by some significant omissions. I am worried that there is no mention of the fact that almost two thirds of the early years providers responding to the same consultation said that they were concerned about funding. I am surprised that a memorandum covering guidance to support parents into work makes no mention of the fact that of the 25% of providers who thought there would be an impact on disadvantaged families, just 4% thought that impact would be positive. I hope the Minister will comment on some of those omissions, which constitute some of the most important findings of that consultation. The guidance seems to be missing a long-established trend in the early years acknowledged in Sir Michael Wilshaw's annual report: that the increase in early years places has not kept pace with the increase in the early years population. How confident are the Government that there is sufficient capacity to meet demand for the extended entitlement?

The instrument before us has several laudable aims: to impose a duty on local authorities to secure early years provision; to have high quality within that provision; and to provide proper framework of eligibility. However, the positive aims, which I welcome, must be backed up with adequate resources and, most importantly, proper funding to guarantee the long-term viability of the scheme. Members of Parliament from both sides of the House and across the country have been campaigning relentlessly on behalf of early years providers and families in their constituencies to get the needed support. In particular, I thank my right hon. Friend the Member for Birmingham, Edgbaston (Ms Stuart) and my hon. Friends the Members for Manchester Central (Lucy Powell), for Kingston upon Hull East, for Ashfield, for Dagenham and Rainham, and for Ealing, Southall for all the work they have done.

The idea of 30 hours of free childcare is absolutely welcome but it must be fully funded. My fears are that it is not, so I would appreciate reassurance from the Minister this afternoon.

4.39 pm

Caroline Dinenage: I thank the Opposition spokeswoman, the hon. Member for Hampstead and Kilburn, for her welcome for some parts of the policy. I am grateful for her constructive approach and will be happy to respond to some of her questions.

I start by reiterating my opening comments—that we want the 30 hours free childcare entitlement to have a real impact on the lives of working families by making childcare more affordable. That will ensure that parents have real choices about work and are not constrained by the cost of childcare. As I mentioned, we have undertaken extensive consultation with key stakeholders, including childcare providers and local authorities, to ensure that those who will be delivering the 30 hours of free childcare have contributed to the development of the policy. I know that their commitment will be key to making the policy a success, and I have been encouraged by their enthusiasm and determination to meet the needs of parents and children.

We have been very pleased with the early implementers, which is why we went live with the 30 hours offer in eight local authorities in September. The programme is going extremely well, with more than 3,700 children already accessing a 30 hours place. I had the opportunity to visit Swindon last week, to see at first hand how the offer is working for those involved. The early implementers have trialled focuses on different challenges of the policy: Northumberland focused on rurality and Staffordshire and Portsmouth on low-income families, which the hon. Lady mentioned. Swindon is championing flexibility; it has a nursery that is co-located at a hospital site, where staff work some obviously quite challenging shifts. Newham is supporting children with special educational needs and disabilities; I hope to visit them in the next week or so. Wigan and Hertfordshire are also exploring partnership working and focusing on low-income families. We are capturing the learning from those areas throughout the year and sharing it with every area, to make sure that the full roll-out benefits from learning from their successes and experiences.

With regard to the funding, the hon. Lady is absolutely right: we need to get the funding right and ensure that early years providers are funded on a fair and sustainable basis. That is why we are delivering our promise by spending an additional £1 billion a year by the end of this Parliament on free childcare. That will provide more than £300 million a year to increase the funding rate and it will be allocated on a much more fair and transparent basis. In the Government response to the consultation on the funding formula, which was published last Thursday, as the hon. Lady mentioned, we announced that the new national average funding rate paid to local authorities would be £4.94 per hour per child. We have also introduced a minimum funding rate of £4.30 an hour, which will reassure some of the areas that are at the lower end of the scale.

Equally important is ensuring that that funding reaches providers, so that they can deliver all of the free entitlements on a sustainable basis. The new funding rate will give local authorities the scope to pay providers, but we are also maximising funding to the frontline by requiring local authorities to pass 95% of the funding through to providers, and we are making sure that there is fairness in local formulae by moving towards the universal base rate for all providers in a local area. We are also creating

[*Caroline Dinenage*]

a better deal for children with disabilities, as the hon. Lady mentioned, by introducing a new £12.5 million disability access fund, which is worth £615 per child per year, and we are legislating for every area to set up a local inclusion fund for children with special educational needs.

The hon. Lady is rightly concerned about the burden on local authorities. We have committed to undertake a new burdens assessment for the extended entitlement, and we will respond to the findings. We are committed to ensuring that we do not add unnecessarily to the workload of local authorities, which is one of the reasons that the guidelines for the way that this is calculated is done in partnership with tax-free childcare. The aim is not to impose an additional administrative burden on families or add to their confusion.

The hon. Lady mentioned sufficiency. We do not expect that the 30 hours free childcare offer will double the demand for childcare places, as we know that many parents of three and four-year-olds are already accessing more than the 15 hours of free childcare per week and paying for the additional hours themselves. We expect that the market will need to adapt and respond to meet the need of additional demand for places. It has shown that it can do that through the successful rollout of the 15 hours of free childcare for disadvantaged two-year-olds that was introduced in the last Parliament.

As well as learning from the eight early implementer local authority areas, which I already mentioned, we are supporting localised sufficiency needs by providing £50 million of capital investment to support the creation of additional places. We have also appointed a new delivery contractor, Childcare Works, which will be a conduit between the Department for Education and local authorities and work with local authorities to ensure that there will be sufficient 30-hours places from September 2017.

I am grateful to the hon. Lady for her comments on maintained nursery schools. We very much recognise the work that they have done to help the most disadvantaged children to achieve their potential, and we also know

that they bear costs over and above other providers. It is important that they have certainty to be able to plan for the future. I am also grateful for her comments on provision for children with special educational needs and disabilities, which I think I have covered. The local authorities' inclusion fund in their local funding systems for children with SEN will be helpful in that.

I am pleased that the regulations are broadly supported. We all agree with the underlying policy that we must do more to support parents with childcare.

Craig Mackinlay (South Thanet) (Con): There is a small, technical point that the Minister might be able to help me with. It relates to the calculation of income for the self-employed in regulation 6(3). There are some concerns that the regulations are introducing a different method for calculating self-employed income from normal bases. We now have cash basis for smaller businesses, which allows items of a capital nature to be deducted in calculating the old D1 income under self-employment, but regulation 6(4) says clearly that

“receipts and expenses of a capital nature are to be disregarded.”

It therefore seems that we will be going back to the normal basis that we are all used to in calculating someone's income under self-employment, but I am rather concerned that we will have two bases with one for tax purposes and another for calculating what is deemed income under the regulations. That is a fairly technical point and I wonder whether my hon. Friend can offer some assurance.

Caroline Dinenage: My hon. Friend makes an important point. We have sought as far as possible to co-ordinate everything we have done with other Departments to avoid any misunderstanding of that kind or extra bureaucracy or burdens, but to be on the safe side, I will double-check and write to him with the answer to his question.

Question put and agreed to.

4.48 pm

Committee rose.