

Funding Follows the Child and the National Standard for Early Learning and Childcare Providers: Operating Guidance

December 2023

Contents

	Page
Introduction	p3
Section 1: Funding Follows the Child	p5
Section 2: The National Standard for all Early Learning and Childcare Providers	p10
Section 3: Role for Local Authorities in Delivering the Funding Follows the Child Approach	p44
Section 4: New Providers	p51
Section 5: Frequently Asked Questions	p52

Introduction

We recognise that the earliest years of life are crucial to a child's development and have a lasting impact on outcomes in health, education and employment opportunities later in life. It is widely acknowledged that the provision of universally accessible and high quality early learning and childcare (ELC) can play a vital role in helping to close the poverty-related outcomes gap.

The universal funded entitlement to high quality, nurturing ELC for all 3 to 5 year old and eligible 2 year old children in Scotland increased to 1,140 hours across Scotland in August 2021. High quality funded ELC helps every child to develop socially, emotionally, physically and cognitively, supporting them to have the best start in life.

In order to ensure that the funded entitlement is delivered in high quality ELC settings, a Funding Follows the Child approach was introduced alongside the statutory roll-out of the expanded entitlement.

Funding Follows the Child ensures the delivery of high quality funded ELC. The approach is 'provider neutral' and is underpinned by a National Standard that all settings – regardless of whether they are in the public, private or third sector, including childminders – have to meet in order to be able to deliver funded ELC.

For families this means that they will be able to access high quality funded ELC with the provider of their choice – in the public, private, or third sector, including childminders – if that provider meets the criteria set out in the National Standard, wishes to deliver the funded entitlement, has a space available, is able to offer the funded hours in-line with their local authority's ELC delivery plan (subject to the capacity of the setting), and has or is willing to enter into a contract with their local authority to deliver the funded hours.

The criteria of the National Standard focus on what children and their families should expect from their ELC experience, regardless of where they access their funded entitlement.

At the heart of the National Standard is a clear and consistent set of quality criteria, recognising that ELC is fundamentally about improving the early years' experience of our youngest children. We will continue to ensure that the funded ELC entitlement is delivered in high quality settings across Scotland.

This Funding Follows the Child approach was developed through the Scottish Government, COSLA and local authorities working in partnership, through a Service Models Working Group. It was informed by a joint Scottish Government and COSLA consultation, and through extensive engagement with providers and key stakeholders to ensure that it works for everyone in the sector and helps to improve the early learning and childcare experience for our young children.

Overview of this Document and Supporting Material

This document sets out how the Funding Follows the Child approach operates, in particular how settings meet the National Standard criteria and the role of local authorities in delivering the approach. It also includes clarification on some of the details underpinning the approach. This guidance is based on previous versions of Operating Guidance.

Section 1: Funding Follows the Child

The Funding Follows the Child approach places choice in parents' and carers' hands allowing them to access their child's funded entitlement from any setting – in the public, private or third sector, including from a childminder – who meets the National Standard, has a place available, and has or is willing to enter into a contract with their local authority.

The National Standard, which underpins the approach, provides parents and carers with the certainty that those settings delivering funded hours are offering high quality ELC provision.

The key aspects of the Funding Follows the Child approach are:

- [Getting It Right for Every Child](#) is at the centre of our approach to improving the experience of our children in their early years;
- It is 'provider neutral' and is underpinned by a National Standard, which all providers who wish to deliver the funded entitlement will have to meet;
- 'Provider neutral' means that families will be able to access high quality funded ELC with the provider of their choice if that provider meets the criteria set out in the National Standard, wishes to deliver the funded entitlement, has a space available, is able to offer the funded hours in-line with local ELC delivery plans (subject to the setting's overall capacity) and has or is willing to enter into a contract with the local authority;
- The choice of setting available to families is not restricted to their own local authority boundary;
- Information for parents and carers will be clear and accessible to make them aware of the options available to them, in particular the different types of settings that can be chosen, when accessing their funded entitlement;
- Settings must ensure that the funded hours are free at the point of access and parents and carers are not required to purchase additional hours beyond the funded entitlement in order to access the child's funded entitlement at a setting;
- Local authorities have the statutory responsibility for ensuring that the funded entitlement is available to all eligible children in their area, and will be the primary guarantors of quality and key enablers of flexibility and choice – ensuring that there is a range of options for families in their area;
- Local authorities and providers should work together meaningfully and in genuine partnership in delivering flexible ELC provision, while continuing to ensure that a high quality experience for children is maintained and accessible to all;
- Funding to deliver the funded entitlement will continue to be channelled through local authorities;
- Local authorities will set a rate locally that is paid to funded providers in the private and third sectors, including childminders, to deliver the funded entitlement, which is sustainable and reflects national policy priorities, including

funding to enable payment of the real Living Wage to all childcare workers delivering the funded entitlement;

- Funded providers who agree to deliver the funded ELC entitlement will commit to paying the real Living Wage to all childcare workers delivering the funded entitlement and commit to operating Fair Work Practices;
- Every child receiving a funded ELC session will receive a free meal; and
- A commitment to simplifying the process for, and reducing the burden on, providers to deliver the funded entitlement. All providers will be expected to meet the same National Standard for becoming, and continuing to be, a funded provider.

Quality is at the heart of the delivery of funded Early Learning and Childcare (ELC) entitlement.

We will continue to ensure that the funded ELC entitlement is delivered in high quality settings across Scotland.

A key focus of the quality criteria are scrutiny evaluations, including those which are awarded through Care Inspectorate inspections. This will strengthen the use of externally assessed measures of quality in the assessment decisions made by local authorities and ensure that these evaluations are used in a consistent way.

The National Standard reflects the current scrutiny and inspection frameworks of the Care Inspectorate and Education Scotland. The Care Inspectorate and Education Scotland are currently developing a shared inspection framework which will strengthen an integrated approach to inspection, enabling the Care Inspectorate and the education inspectorate to work in partnership. When this new framework is implemented, criteria relating to quality evaluations will be updated to reflect this.

A Financially Sustainable Sector

Many parts of the childcare sector in Scotland operate under a mixed economy model, including a range of providers from the public, private and third sectors. Some of those services delivering funded ELC will receive income from both public and private sources.

Under a 'provider neutral' approach, it is essential that provision is financially sustainable in order to ensure that providers across all sectors are willing and able to deliver the funded entitlement.

It is at the discretion of providers as to how they operate the non-funded hours aspects of their business, which will reflect their business model, cost structures and local market conditions.

It is not for local authorities or the Scottish Government to seek to comment on or intervene in the aspects of a funded provider's business that are outwith the funded entitlement.

In order to determine sustainable rates, it is important to have a shared understanding, built on a robust evidence base, of the cost of delivering the funded entitlement. This will support local authorities to establish an affordable and sustainable rate for delivery of funded hours across all settings.

A Commitment to Paying the Real Living Wage

Guided by the evidence, the Scottish Government believes that employers whose staff are treated fairly, who are well-rewarded, well-motivated, well-led, have access to appropriate opportunities for professional learning and skills development, and

who are a diverse workforce are likely to deliver a higher quality of service. This can be supported by the adoption of fair work practices across the sector, which includes ensuring that staff are fairly remunerated.

The Scottish Government's aspiration is for all workers in settings delivering early learning and childcare to be paid the real Living Wage as a minimum.

To support this, funded providers receive sustainable funding rates that are set at a level that enables them to pay the real Living Wage to childcare workers delivering the funded entitlement.

Meaningful and Genuine Partnership Working

It is expected that local authorities and funded providers work together meaningfully and in genuine partnership to deliver flexible ELC provision. This will be done while ensuring a high quality ELC experience is maintained and accessible to all children.

The National Standard sets out the requirements for all funded providers, regardless of whether they are in the public, private or third sectors, including childminders. However, whilst there is, rightly, a high expectation on providers delivering the funded entitlement, settings should also have high expectations of the support that they can expect to receive as part of their agreement with the local authority.

Under a 'provider neutral' approach there should be a clear and consistent level of support that funded providers across all settings can expect from local authorities. The approach is built on partnership, and by entering into agreements with providers to deliver the funded entitlement, local authorities will be accepting the expectations on them to support providers through – in particular, but not limited to:

- a sustainable funding rate that reflects the cost of delivery and allows for delivery of national priorities including payment of the real Living Wage to all workers delivering the funded entitlement;
- additional funding to providers to ensure every child attending a funded ELC session is provided with a free meal;
- giving appropriate consideration to the potential impacts of their policy and investment decisions on the competitiveness and business sustainability of providers;
- fair and transparent payment practices for both parents and carers and funded providers;
- working closely with, and supporting, funded providers to make reasonable changes to the care and learning environment in order to meet any additional support needs that a child may have (in accordance with duties under the Education (Additional Support for Learning) (Scotland) Act 2004 and the Equality Act 2010);
- providing clarity on the overall support available to funded providers and how this support is reflected in the rate, including support for staff;

- supporting parents and carers to make informed choices; and
- monitoring compliance of all funded providers against the National Standard.

Equally, under a 'provider neutral' approach, there should also be a clear and consistent level of service delivery that all funded providers should be expected to maintain, including continuing to meet the criteria set out in the National Standard. This will not only ensure the proper use of public funds, but will also guarantee consistency of high quality provision across all provider types.

By entering into an agreement with local authorities to deliver the funded entitlement, funded providers will be accepting the expectations on them to comply with certain requirements. The detailed requirements will be agreed with the local authority when entering into the agreement and should include:

- a guaranteed standard of high quality ELC for children, including continued compliance with the National Standard criteria;
- ensuring that all funded hours are free at the point of access;
- a commitment to pay the real Living Wage to staff delivering the funded entitlement;
- a commitment to work within the parameters of the local authority's model of delivery;
- attending local authority development and consultation sessions or equivalent;
- a commitment to ongoing and constructive communication with the local authority, including compliance with local authority quality monitoring arrangements; and
- open and regular communication with parents and carers.

Section 2: The National Standard for all Early Learning and Childcare Providers

This section includes guidance to assist settings in interpreting and demonstrating the National Standard criteria and highlights key supporting documents to aid with delivery.

The criteria focus on what children and their families should expect from their ELC experience, regardless of where they access their funded entitlement. This will ensure that, as part of the 'provider neutral' Funding Follows the Child approach, there is consistency of high quality provision across all funded provider types. It is also underpinned by the [Public Services Reform \(Scotland\) Act 2010](#) which applies to all care services across Scotland, including daycare of children¹ and childminding settings.

Criterion 1 - Staffing, leadership and management

The single most important driver of the quality of a child's ELC experience is a high quality workforce. The 2017 NHS Health Scotland evidence review on [Childcare Quality and Children's Outcomes](#) found that higher qualified professionals, strong leadership and an experienced, competent and confident workforce provide a better quality environment for children. We also know from the [Growing Up in Scotland Study](#) that Care Inspectorate evaluations on quality of staffing are linked to children's outcomes.

Criteria for All Settings (Excluding Childminders):

- **Sub-criteria 1.1 - Care Inspectorate quality evaluations are 'good' or better on key questions that relate to quality of staff teams, and leadership (key questions 3 and 4)**

How do settings meet this criteria?

Settings are evaluated under the Care Inspectorate Quality Framework – [A quality framework for daycare of children, childminding and school-aged childcare](#).

Key question 3 reads across to the previous Quality of management and leadership quality theme; whilst key question 4 reads across to the previous Quality of staffing theme.

- How good is our leadership? (key question 3); and
- How good is our staff team? (key question 4).

What support is available to help settings meet this criteria?

¹ Daycare of children is care provided for infants and toddlers, pre-schoolers and school-aged children in a centre-based facility, such as a nursery, playgroup or afterschool club

Service improvement periods allow local authorities to give providers whose Care Inspectorate evaluations fall below the level required in the National Standard time to access improvement support, undertake improvement activity and achieve sustained improvement. Service improvement periods apply to local authority, private and third sector providers.

Service improvement periods should be provided where the local authority, taking account of any information available from the Care Inspectorate and evidence from the provider, is comfortable that the service:

- is fit to continue;
- is engaging or willing to engage in work that leads to improvement;
- with support, has the ability to improve and sustain improvement by the next Care Inspectorate quality evaluation; and
- meets all other aspects of the National Standard as set out in this Guidance.

Where a setting is on a service improvement period, and meets all of the above criteria, and does not receive evaluations of 'good' or better at their next Care Inspectorate quality evaluation but is demonstrating capacity for continuing sustained improvement, the local authority may agree to extend the service improvement period until the following Care Inspectorate quality evaluation. This should apply equally to providers in the public, private and third sectors.

If a local authority wishes to continue to work with any service to deliver funded ELC and that service has not received evaluations of 'good' or better after a service improvement period and an extension of a service improvement period, this should be notified to the Scottish Government as part of the Improvement Service regular data return, which will collate details of which settings are on service improvement periods, how long each setting has been on a service improvement period and the service's inspection history.

Any settings on a service improvement period are expected to be drawing on support from the local authority and, where appropriate, the Care Inspectorate's [ELC improvement programme](#) that has been made available for local authority, private and third sector settings which do not currently meet the quality evaluations. Where a setting chooses not to engage with the programme, they are expected to demonstrate what actions they are taking to make the necessary improvements.

Criteria for All Settings (Excluding Childminders):

- **Sub-criteria 1.2 - All support workers, practitioners and lead practitioners/managers working in the setting and included in the adult: child ratios must have either obtained the benchmark qualification for their role or, if they are still within their first period of registration with the SSSC, have started to work towards this.**

How do settings meet this criteria?

We recognise that staff qualifications are not the only factor that will affect the quality of staffing. Experience, motivation and the ability to build positive, loving and trusting relationships will also have an important impact alongside key skills in engaging, interacting and enriching children's ELC experiences. The [NHS Health Scotland evidence review](#) on quality of ELC and child outcomes found that highly trained staff are better equipped through training and professional development to deliver the necessary care, nurturing, love and support required for children's holistic developmental needs.

The registration of the ELC workforce is regulated by the Scottish Social Services Council (SSSC). Since 2011, all registered ELC managers/lead practitioners must either hold the SCQF level 9 benchmark qualification or agree that their registration is subject to a condition that they secure this within their first period of registration. For practitioner grade, the benchmark qualification is SCQF level 7, and for support workers, the benchmark qualification is SCQF Level 6. The full list of qualifications that will be accepted for each role can be found on the SSSC website.

Those working with children in daycare or children settings are required to register with SSSC and maintain their registration in line with SSSC guidance. Staff must achieve their qualification within the SSSC specified timeframe or before. It is therefore possible for someone to be employed for several years before they secure the relevant qualification. The introduction of this sub-criteria ensures that all support workers, practitioners and lead practitioners working in settings delivering the funded entitlement have at least started to work towards their qualification.

The criteria does **not** apply to support workers or to practitioners who are not included in the adult:child ratios, who may wish to gain some experience of working in the sector before committing to undertaking a professional qualification. It also does not apply to volunteers who work within the setting carrying out non-routine activities on an occasional basis.

If any practitioners or lead practitioners are unable to obtain a place on a qualification course and are, therefore, unable to start working towards their benchmark qualification, they must provide evidence of application and response from the training provider.

What support will be available to help settings meet this criteria?

Information about the SSSC recognised qualifications for each level is available on the [SSSC website](#). We have worked with the SSSC and the Scottish Credit and Qualifications Framework Partnership (SCQFP) to develop tools to recognise prior learning (RPL), and experiences or qualifications - formal or informal, life or work

based - to help prepare for progression or obtain advance programme entry level for an ELC qualification.

Criteria for All Settings (Excluding Childminders):

- **Sub-criteria 1.3 - Sustainable staffing structures are in place which meet the recommended adult: child ratios.**

How do settings meet this criteria?

[The Health and Social Care Standards](#), which set out what families should expect when using any service within the health or social care sector, including ELC, make it clear that children's needs should be met by the right number of people and that staff working in the setting should have time to support, care for and to speak with children and their families.

Settings will be expected to plan their staffing structures to meet these ratios:

- For two year olds this is 1:5; and
- For those aged 3 and over it is 1:8 where children attend for more than 4 hours per day, and 1:10 if they attend for less than 4 hours per day.

It should be noted that the Care Inspectorate will be able to vary the ratios where, for example, there are a number of children with additional support needs or the layout of premises means that extra staff are required to ensure children are adequately supervised.

Staff included in the ratios need not have secured their benchmark qualification but they must be registered with the SSSC as either a support worker, lead practitioner or practitioner grade and, as sub-criteria 1.2 makes clear, should have started to work towards the qualification.

What support will be available to help settings meet this criteria?

[Guidance on the number of children](#) that a setting can accommodate per member of staff is available on the Care Inspectorate website.

Criteria for All Settings (Excluding Childminders)

- **Sub-criteria 1.4 - All SSSC registered staff in the setting are achieving the Continuous Professional Learning requirements as set by the SSSC.**

How do settings meet this criteria?

Quality of staffing is not determined solely by the proportion of qualified practitioners working in a setting. Continuous Professional Learning (CPL) can be just as, if not more, important than a formal qualification especially where the benchmark qualification was achieved many years ago.

This applies to support workers, practitioners and managers/lead practitioners. We would expect to see this suitably spread over each year of the registration period so that CPL is routinely embedded in practice.

Time that staff spend working towards their benchmark qualification can be counted towards the CPL requirement but this will not preclude them from undertaking other learning and development opportunities.

Teachers working in ELC will be subject to their registration conditions with the General Teaching Council of Scotland and will be expected to undertake a minimum of 35 hours a year of CPL, in line with their requirements.

What support will be available to help settings meet this criteria?

There is a wide range of CPL available to the ELC sector. To help staff identify and access this, we have developed an online [directory](#) that allows ELC professionals to search for opportunities and filter results to meet individual needs. We have also developed a national programme of [online CPL modules](#) that are fully accessible and free of charge. These resources are hosted by the SSSC and will soon be collated onto a single portal for professional learning on their website.

Sector bodies who deliver professional learning should consider how best to maximise the accessibility of their professional learning offer by working with providers across the sector to inform this and by, for example, considering flexible timings and methods of delivery.

Criteria for All Settings (Excluding Childminders)

- **Sub-criteria 1.5 - Staff new to delivering funded ELC within the last year are familiar with the content of the most up-to-date version of the national induction resource.**

How do settings meet this criteria?

The ELC workforce has grown significantly to deliver the expansion to 1,140 hours. This includes managers/lead practitioners, practitioners and support workers and it is vital that they are all properly inducted into their new roles and supported in their practice. To ensure that children continue to experience high quality care and

support, the induction of newly recruited staff will need to be carefully planned and resourced.

The [National Induction Resource](#) has been created for all staff who are new to delivering ELC to ensure that they are well supported in developing the skills and understanding they need in their role. New staff working in ELC must ensure they are familiar with this resource to meet this criteria.

The [SSSC Codes of Practice for Employers](#) already requires employers to give their staff clear information about their roles and responsibilities, relevant legislation and the policies and procedures they must follow in their work. Many employers will therefore already have a local induction programme for new staff.

What support will be available to help settings meet this criteria?

The National Induction Resource is available on the [Scottish Government website](#) and linked to through [Learning Zone](#) on the SSSC website. It provides consistent information to new staff about, for example, codes of practice, standards and qualifications and also makes them aware of the range of existing and new support available. In addition, it offers some reflective questions that new staff could explore with their mentor during their first few months in post.

To support mentors, the SSSC has developed a [mentoring app](#) and other useful resources including [Step Into Leadership](#) which provides a range of mentoring tools to the wider social services sector, and the guidance [SSSC Mentoring: Supporting and promoting Professional Learning and Development](#).

There is also a [23 Things ELC Leadership](#) resource available on the SSSC Learning Zone.

Criteria for Childminding Settings:

- **Sub-criteria 1.1- Care Inspectorate quality evaluations are ‘good’ or better on key questions that relate to quality of staff teams, and leadership (key questions 3 and 4)**

How do childminders meet this criteria?

Settings are evaluated under the Care Inspectorate Quality Framework – [A quality framework for daycare of children, childminding and school-aged childcare](#). Key question 3 reads across to the previous Quality of management and leadership quality theme; whilst key question 4 reads across to the previous Quality of staffing theme.

- How good is our leadership? (key question 3); and
- How good is our staff team? (key question 4).

What support is available to help settings meet this criteria?

Service improvement periods allow local authorities to give providers whose Care Inspectorate evaluations fall below the level required in the National Standard time to access improvement support, undertake improvement activity and achieve sustained improvement. Any settings on a service improvement period are expected to be drawing on support from the local authority.

Service improvement periods should be provided where the local authority, taking account of any information available from the Care Inspectorate and evidence from the provider, is comfortable that the service:

- is fit to continue;
- is engaging or willing to engage in work that leads to improvement;
- with support, has the ability to improve and sustain improvement by the next Care Inspectorate quality evaluation; and
- meets all other aspects of the National Standard as set out in this Guidance.

Where a setting is on a service improvement period, and meets all of the above criteria, and does not receive evaluations of 'good' or better at their next Care Inspectorate quality evaluation but is demonstrating capacity for continuing sustained improvement, the local authority may agree to extend the service improvement period until the following Care Inspectorate quality evaluation. This should apply equally to providers in the public, private and third sectors.

If a local authority wishes to continue to work with any service to deliver funded ELC and that service has not received evaluations of 'good' or better after a service improvement period and an extension of a service improvement period, this should be notified to the Scottish Government as part of the Improvement Service regular data return, which will collate details of which settings are on service improvement periods, how long each setting has been on a service improvement period and the service's inspection history.

Criteria for Childminding Settings:

- **Sub-criteria 1.2 - Childminders delivering the funded entitlement must have either obtained the benchmark qualification for ELC practitioners or, if they are still within their first 5 years of delivering the funded hours, be working towards achieving this qualification.**

How do childminders meet this criteria?

The introduction of a minimum qualification requirement for childminders delivering the funded entitlement provides reassurance, in respect of quality of provision, for parents and carers when they are making their choice of ELC provider.

This means that childminders delivering the funded entitlement are required to hold, or be working towards, the same qualification level (SCQF Level 7 with at least 68

credits) as a practitioner working in an ELC setting. This will help ensure that, as part of the 'provider neutral' approach, there is consistency in quality across all provider types.

If a childminder is unable to obtain a place on a qualification course and is, therefore, unable to start working towards their benchmark qualification, they must provide evidence of application and response from the training provider.

The qualification requirement will **not** apply to childminding assistants.

Childminders will continue to register as settings with the Care Inspectorate.

What support will be available to help childminders meet this criteria?

Information about the SSSC recognised qualifications for each level is available on the [SSSC website](#). We have worked with the SSSC and the Scottish Credit and Qualifications Framework Partnership (SCQFP) to develop tools to recognise prior learning (RPL), and experiences or qualifications - formal or informal, life or work based - to help prepare for progression or obtain advance programme entry level for an ELC qualifications.

For childminders already in practice and wishing to undertake a work-based qualification that builds on their experience and prior learning, the [SVQ Social Services \(Children and Young People\)](#) is likely to be an attractive route.

There is also the Care Inspectorate's [Your Childminding Journey](#), a learning and development resource for childminders. This helps childminders gather evidence of prior learning, understand what evidence might be relevant to present to colleges and training providers and identify any gaps in their knowledge and areas for further study before deciding on a route to qualification.

The [Scottish Childminding Association](#) (SCMA) have also developed a workplace award that offers 12 credits at SCQF level 7. This qualification has been mapped by the SQA (Scottish Qualifications Authority) to the SVQ (Scottish Vocational Qualifications) practitioner level qualification which means that childminders who complete units, or the whole workplace award, will generate evidence that can be used as recognition of prior learning and give them some credits towards the full benchmark qualification.

We will also work with SVQ training providers to ensure that adequate infrastructure is in place that allows childminders to access training in a flexible way that does not require them to take time away from delivering their services to children. The SVQ Social Services (Children and Young People) is already offered by several colleges in a flexible way that meets the needs of childminders.

Provided the applicant's individual income does not exceed £25,000 per annum, fee grants for part time courses are available from the [Student Awards Agency Scotland](#)

(SAAS). Another source of part-funding is the Skills Development Scotland [Individual Training Account](#).

Criteria for Childminding Settings:

- **Sub-criteria 1.3 - The staffing structure in the setting is adequate to meet the recommended adult: child ratios.**

How do childminders meet this criteria?

When working on their own, the maximum number of children a childminder can be registered to care for is six under 12 years with no more than three not attending primary school and no more than one being under one year old. These numbers are inclusive of the childminders own children whether they are present or not.

Childminders who have their own children between the age of 12 years to under 16 years may want to apply to increase their numbers to eight, but this circumstance is assessed on a case by case basis.

Childminders will be expected to plan their service to meet these ratios.

What support will be available to help childminders meet this criteria?

[Guidance](#) on the number of children that a childminding setting can accommodate per member of staff is available on the Care Inspectorate website.

Criteria for Childminding Settings:

- **Sub-criteria 1.4 - All childminders delivering the funded entitlement are achieving a minimum of 12 hours per year of Continuous Professional Learning.**

How do childminders meet this criteria?

Since 2021 childminders who are delivering the funded hours are required to achieve the same Continuous Professional Learning (CPL) requirement as the wider early years workforce as set by the SSSC.

This creates parity in expectation of professional learning across all funded providers and ensures that, as part of the 'provider neutral' approach, there is consistency in quality across all provider types.

What support will be available to help childminders meet this criteria?

SCMA, The Care and Learning Alliance, and Early Years Scotland as well as a range of other organisations provide a range of flexible CPL for childminders.

Local authorities delivering CPL to funded providers will be expected to make their other professional learning accessible (as many already do) to childminders delivering funded hours in their area.

There is a wide range of CPL available to the ELC sector. To help staff identify and access this, we have developed a [national directory of CPL](#) that allows ELC professionals to search for opportunities by topic and local authority area. We have also developed a [national programme of online CPL modules](#) that are online, fully accessible and free of charge. These resources will soon be collated onto a single platform for professional learning, hosted by the SSSC.

Criteria for Childminding Settings:

- **Sub-criteria 1.5 - All childminders newly registered to deliver ELC within the last year have undertaken appropriate induction.**

How do childminders meet this criteria?

Childminders should be able to evidence that they have undertaken an appropriate induction whether through their local authority, through a national organisation or other channels.

What support will be available to help childminders meet this criteria?

In addition to the above mentioned, there is a range of induction support specifically available to childminders. The Care Inspectorate's ['Your Childminding Journey'](#) not only supports established childminders to identify professional development needs, but also provides induction guidance for new childminders. It sets out clear quality statements that childminders should aim to meet at application, registration and post-registration stages and also provides links to useful resources. The resource is free and accessible to all childminders.

In addition, the Scottish Childminding Association (SCMA) offer [induction training](#) which includes guidance on setting up and running a business as well as on how to deliver the best outcomes for children.

Other organisations and some local authorities also have induction programmes which childminders may be able to access including [Care and Learning Alliance's \(CALA\) childminding team](#) who deliver inductions.

Criterion 2 - Development of children's cognitive skills, health and wellbeing

We know that the poverty-related outcomes gap in children's outcomes opens up well before children start primary school. Narrowing this gap in the years before school must be part of our strategy to promote equity and excellence for all.

Development of children's cognitive skills, health and wellbeing should underpin all aspects of practice in ELC and this criteria sets out how settings can demonstrate how they are supporting outcomes for children in relation to these aspects of their development.

Criteria for All Settings

• **Sub-criteria 2.1 - Care Inspectorate quality evaluations are 'good' or better on the key question relating to quality of care, play and learning (key question 1).**

How do settings meet this criteria?

Settings are evaluated under the Care Inspectorate Quality Framework – [A quality framework for daycare of children, childminding and school-aged childcare](#). Key question 1 reads across to the previous Quality of care and support quality theme.

- How good is our care, play and learning? (key question 1)

What support is available to help settings meet this criteria?

Service improvement periods allow local authorities to give providers whose Care Inspectorate evaluations fall below the level required in the National Standard time to access improvement support, undertake improvement activity and achieve sustained improvement. Service improvement periods apply to local authority, private and third sector providers.

Service improvement periods should be provided where the local authority, taking account of any information available from the Care Inspectorate and evidence from the provider, is comfortable that the service:

- is fit to continue;
- is engaging or willing to engage in work that leads to improvement;
- with support, has the ability to improve and sustain improvement by the next Care Inspectorate quality evaluation; and
- meets all other aspects of the National Standard as set out in this Guidance.

Where a setting is on a service improvement period, and meets all of the above criteria, and does not receive evaluations of 'good' or better at their next Care Inspectorate quality evaluation but is demonstrating capacity for continuing sustained improvement, the local authority may agree to extend the service improvement period until the following Care Inspectorate quality evaluation. This should apply equally to providers in the public, private and third sectors.

If a local authority wishes to continue to work with any service to deliver funded ELC and that service has not received evaluations of 'good' or better after a service improvement period and an extension of a service improvement period, this should be notified to the Scottish Government as part of the Improvement Service regular data return, which will collate details of which settings are on service improvement periods, how long each setting has been on a service improvement period and the service's inspection history.

Any settings on a service improvement period are expected to be drawing on support from the local authority and, where appropriate, the Care Inspectorate's [ELC improvement programme](#) that has been made available for local authority, private and third sector providers which do not currently meet the quality evaluations. Where a setting chooses not to engage with the programme, they are expected to demonstrate what actions they are taking to make the necessary improvements.

• Sub-criteria 2.2 - The setting must have a framework to support children's learning that is informed by national guidance and is appropriate to support individual children's development and learning through child-centred play pedagogy.

How do settings meet this criteria?

Each setting's framework for learning, or curriculum, will be unique to that setting, taking account of local needs and circumstances and based on agreed shared values. It is within this framework that settings provide experiences and opportunities to support individual children's learning and development.

The setting's framework to support children's learning should:

- be informed by national guidance and pay close attention to achieving challenge and enjoyment, breadth, progression, depth, personalisation and choice, coherence and relevance;
- have a clear purpose which is understood by practitioners;
- promote equitable outcomes for all;
- secure children's wellbeing and rights and reflect children as capable and competent learners; and
- reflect the changing and unique needs of children, families and communities.

The experiences and opportunities that settings offer to children should:

- be based firmly in play and supported through child-centred play pedagogy;
- be well matched to the stages of development of children attending, and build on their previous experiences;
- actively promote and develop the essential aspects for early learning: wellbeing, communication, curiosity, inquiry and creativity;

- support children to develop early literacy and numeracy skills and health and wellbeing;
- be carefully planned to ensure all children experience continuity and progression in their learning;
- take full account of individual children's needs, personalities, interests and stage of development ;
- be flexible, responsive and provide opportunities for children to take forward their own ideas and interests;
- be enriched by contributions from partnerships with parents, carers and the wider community; and
- provide opportunities for children to experience high quality play both indoors and outdoors.

What support will be available to help settings meet this criteria?

Settings will find support for self-evaluation for self-improvement in this area in Quality Indicator 2.2: Curriculum of [How Good is Our Early Learning and Childcare?.](#) Professional learning resources and case studies to support practice are also available on the [National Improvement Hub](#).

The Education Scotland national practice guidance [Realising the Ambition: Being Me](#) includes advice on supporting children's learning and development and curriculum.

The [Scotland's Curriculum](#) website provides straightforward information on Curriculum for Excellence for those working with children from age three.

The Care Inspectorate have also produced [Our Creative Journey](#) which showcases good practice examples of promoting creativity in ELC as well as other children's services. It is based on the Getting it Right for Every Child wellbeing indicators and is aimed at promoting good practice in all types of ELC settings, to help all services aspire to be the best they can be and have the greatest impact on children's lives.

Education Scotland's [professional learning website](#) includes a module on understanding curriculum rationale for the ELC sector.

Criterion 3 – Physical Environment

As we work to realise the benefits of expanded ELC provision, it is important that we have the right learning environment, both indoors and outdoors, to improve outcomes for children. This includes the space but also appropriate and stimulating care and learning environments for all children in ELC.

Outdoor play is already an integral, everyday part of ELC in Scotland. It is our vision that children in Scotland's ELC sector will spend as much time outdoors as they do indoors and time outdoors will happen every day, in every setting. We know the benefits of outdoor learning, exercise and play for children. Playing, learning and having fun outdoors helps to improve wellbeing and resilience, improve health through physical activity, provides children with the opportunity to develop a life-long appreciation of the natural world and has a positive impact on educational outcomes.

Criteria for All Settings

- **Sub-criteria 3.1 - Care Inspectorate quality evaluations are 'good' or better on the key question relating to quality of the setting (key question 2).**

How do settings meet this criteria?

Settings are evaluated under the Care Inspectorate Quality Framework – [A quality framework for daycare of children, childminding and school-aged childcare](#). Key question 2 reads across to the previous Quality of environment quality theme.

- How good is our setting? (key question 2)

What support is available to help settings meet this criteria?

The [Space to Grow](#) design guidance for early learning and childcare and out of school care services aims to maximise positive experiences for children and improve the quality of care and learning by helping ELC services to think innovatively about the design of their settings. Although the guidance provides many insights into what constitutes good design, illustrated through case studies from Scotland and further afield, it acknowledges that all environments are unique. The focus throughout remains on the positive impact a well-designed indoor and outdoor environment has on improving outcomes and experiences for children.

The national practice guidance [Realising the Ambition: Being Me](#) offers a concept of the environment. It supports ELC settings to consider different learning environments in terms of interactions, experiences and spaces both outside and in, to support children's learning.

Service improvement periods allow local authorities to give providers whose Care Inspectorate evaluations fall below the level required in the National Standard time to

access improvement support, undertake improvement activity and achieve sustained improvement. Service improvement periods apply to local authority, private and third sector providers.

Service improvement periods should be provided where the local authority, taking account of any information available from the Care Inspectorate and evidence from the provider, is comfortable that the service:

- is fit to continue;
- is engaging or willing to engage in work that leads to improvement;
- with support, has the ability to improve and sustain improvement by the next Care Inspectorate quality evaluation; and
- meets all other aspects of the National Standard as set out in this Guidance.

Where a setting is on a service improvement period, and meets all of the above criteria, and does not receive evaluations of 'good' or better at their next Care Inspectorate quality evaluation but is demonstrating capacity for continuing sustained improvement, the local authority may agree to extend the service improvement period until the following Care Inspectorate quality evaluation. This should apply equally to providers in the public, private and third sectors.

If a local authority wishes to continue to work with any service to deliver funded ELC and that service has not received evaluations of 'good' or better after a service improvement period and an extension of a service improvement period, this should be notified to the Scottish Government as part of the Improvement Service regular data return, which will collate details of which settings are on service improvement periods, how long each setting has been on a service improvement period and the service's inspection history.

Any settings on a service improvement period are expected to be drawing on support from the local authority and, where appropriate, the Care Inspectorate's [ELC improvement programme](#) that has been made available for local authority, private and third sector providers which do not currently meet the quality evaluations. Where a setting chooses not to engage with the programme, they are expected to demonstrate what actions they are taking to make the necessary improvements.

Criteria for All Settings

- **Sub-criteria 3.2 – Children have daily access to outdoor play and they regularly experience outdoor play in a natural environment as part of their funded ELC offer.**

How do settings meet this criteria?

It is vitally important that outdoor play is offered daily in line with the [Health and Social Care Standards](#) which state that '*as a child I play outdoors every day and regularly explore a natural environment*'.

Outdoor play is an essential part of developing children’s holistic wellbeing and offers a wide range of learning opportunities. When children are attending settings for full days, at least part of that day should be spent outdoors. Indeed, it is our vision that children in Scotland’s ELC sector will spend as much time outdoors as they do indoors. Wherever practical this should include the freedom of choice to move between indoor and outdoor spaces. The Care Inspectorate defines an outdoor play area as:

“any area out of doors, that is available to the children attending the service. The area may be shared with others or available to the wider community”

As part of their funded entitlement, children should also have the opportunity and be encouraged to spend time outdoors within a natural environment. We would define the natural environment as ‘green space’, which could include but not be limited to, wild landscapes such as woodlands, forests, beaches, hillsides but also public parks, gardens, and open green areas.

What support will be available to help settings meet this criteria?

The [‘Out to Play’](#) guidance provides practical advice on how to create safe, nurturing and inspiring outdoor learning experiences for children. The latest chapter, [‘Caring for our Outdoor Spaces’](#), sets out sustainable ways to explore, look after and care for outdoor spaces. There are also sections on outdoor play in the guidance on [Childminding Settings](#), [Out of School Care Providers](#), and [Practitioners supporting children with additional support needs](#).

In [My World Outdoors](#), the Care Inspectorate highlights the importance of outdoor play, provides guidance for practitioners and shares best practice (including case studies) from across Scotland. This guidance sets out the Care Inspectorate’s position on the risks to children from playing outdoors and addresses some of the myths that have built up regarding regulation.

In addition, the Care Inspectorate resource, [My Active World](#), provides practical, case studies to inspire practitioners to build on the good work already present by making small changes that promote children’s rights to be healthy, have fun and be physically active throughout the whole day.

There are a wide range of resources and case studies available on the [National Improvement Hub](#) to provide support for professional development in outdoor learning across the 3-18 curriculum. These resources identify the links and themes in national guidance to assist practitioners to take a holistic approach to learning and play. There are toolkits, self reflections and good practice examples of putting the curriculum into practice.

Criterion 4 – Self-evaluation and Improvement

Self-evaluation (or self-assessment) has been a feature of ELC improvement for many years. The Care Inspectorate and Education Scotland national self-evaluation frameworks are designed to promote effective self-evaluation as the first important stage in the process of achieving self-improvement. Effective, collaborative self-evaluation, as part of a wider quality assurance approach, requires a cycle of activity based around answering three questions:

- How are we doing?
- How do we know?
- What are we going to do now?

Using this framework will help provide an effective structure that will support ELC settings to undertake on-going self-evaluation and to identify and set out actions to secure further improvement.

Criteria for All Settings

• **Sub-criteria 4.1 – The setting uses relevant national self-evaluation frameworks to self-evaluate and systematically identify strengths and areas for improvement.**

How do settings meet this criteria?

Settings should use relevant self-evaluation frameworks and national best practice guidance to reflect on and evaluate their current provision. This should be completed in collaboration with children, parents, carers and staff. Systematic and responsive self-evaluation is an important part of developing the service.

Robust and transparent quality assurance systems should be used to create a culture of continuous improvement. There should be clear evidence of how decisions about change have been made and what the service plans to do to achieve this change. Any improvements identified should be focussed on improving outcomes for children and families in line with the [National Improvement Framework](#), alongside local and setting specific priorities.

What support will be available to help settings meet this criteria?

“[How Good is Our Early Learning and Childcare?](#)” has been developed by Education Scotland to support settings to self-evaluate and identify strengths and areas for improvement.

The Care Inspectorate has developed guidance on [self-evaluation and supporting continuous improvement](#) for settings in line with the [Health and Social Care Standards](#).

Criteria for All Settings

- **Sub-criteria 4.2 – The setting has a clear plan, developed in line with self-evaluation evidence, evidence from Education Scotland and Care Inspectorate scrutiny activities, research and national practice guidance, to continuously improve the quality of provision and outcomes for children and families.**

How do settings meet this criteria?

Children and families should benefit from a service which is well-led and managed. Settings should proactively recognise areas for improvement and plan effectively to make changes which will positively impact on children’s ELC experience.

Developing a manageable, measurable improvement plan with a small number of well-considered priorities will support settings to continuously improve. Staff should be motivated and engaged in taking forward improvements in the setting and should be able to show how the changes they have made have improved outcomes for children and families. By planning improvements systematically and sharing this plan with everyone in the setting, the service will support the success of any improvements and minimise the risk of continuity in ELC being jeopardised.

The plan should be a working document which is regularly reviewed to help ensure progress towards achieving the identified outcomes and improvements. For settings who operate more than one type of service, for example, where a nursery is linked to a primary school, it could be developed as part of the wider improvement plan or as a stand-alone plan for the ELC setting.

Where settings have been inspected by the Care Inspectorate and/or Education Scotland, they should ensure that any areas for improvement which are identified through this process are included as a part of the improvement agenda for the setting. Clear links to these evaluations should be made within the improvement plan and key actions to address any areas for improvement included. If the service falls below ‘good’ in any of the areas evaluated by Education Scotland or the Care Inspectorate, the local authority, as the primary guarantors of quality should support the setting to improve. Where necessary, the Care Inspectorate and Education Scotland may also provide follow-up support to a setting to help them address any areas for development identified through their scrutiny activity.

What support will be available to help settings meet this criteria?

Education Scotland have developed [improvement planning guidance](#) aligning with the advice created on improvement planning for the National Improvement Framework.

Criterion 5 – Parent and carer engagement and involvement in the life of the setting

High quality ELC should support parents and carers in their role as the primary influence on children's outcomes. Promoting parent and carer engagement in their children's learning is a key factor in helping children to achieve. Parental involvement in a child's ELC setting provides an important opportunity to make parents and carers feel valued, instil them with confidence in their role and demonstrate that settings involved in their child's life are accessible and approachable.

Families should feel accepted, valued and respected by the service as this is an essential part of promoting relationships that impact positively on the consistency and continuity of care and learning for children in ELC. By having these close relationships, families will feel secure and valued, promoting a collaborative culture where everyone can be involved in the life of the setting, including identifying and taking forward developments.

Criteria for All Settings

• Sub-criteria 5.1 – There is open and regular communication with parents and carers about the work of the setting and families are meaningfully involved in influencing change.

How do settings meet this criteria?

In terms of communication and collaboration, settings should:

- create a welcoming, loving and supportive culture where everyone is accepted, valued and treated with respect and dignity;
- develop information and advice related to the setting in consultation with parents and carers, ensuring this is accessible in a format or language that is right for them;
- develop a range of simple and effective ways to communicate and collaborate with parents and carers which is in line with their needs and circumstances, including the use of social media or other forms of electronic communication;
- ask parents and carers what would work for them;
- facilitate opportunities for parents and carers to be involved in self-evaluation and planning improvements in the service, directly impacting on change and quality, for example, through Parent Forums or regular consultation strategies; and
- nurture a mutually supportive link between the home, the setting and any other organisations involved in the child's early years.

Parents and carers should understand the role they can play and feel empowered to contribute to decisions.

What support will be available to help settings meet this criteria?

The Care Inspectorate published guidance to support the development of [personal plans](#) in ELC. This ensures settings are clear on their legislative requirements and supports them to develop plans which improve children's outcomes in consultation with parents and carers.

In addition, a module on [supporting parents and carers to further engage](#) in their children's development is included in the national online programme of CPL developed for the ELC sector.

Education Scotland has a range of professional learning resources including the ['Engaging Parents and Families Toolkit'](#).

Criteria for All Settings

• Sub-criteria 5.2 – Parents and carers are supported to engage in their child's learning and development.

How do settings meet this criteria?

Parents and carers should be actively involved in determining and planning for the holistic wellbeing needs of their child. Being a part of creating and reviewing their child's personal plan will allow them to be involved in ensuring their child's holistic wellbeing is well supported. It is important that they, and their child, are recognised as experts in their own experiences and settings need to work closely with them to best meet the needs of the children in their care. Positive and trusting relationships between staff and families is essential to the success of this approach.

In addition, research suggests that parents and carers' engagement in their child's learning is a key indicator in improving outcomes for children. Settings should support parents and carers to regularly and meaningfully engage in their child's learning at home and within their setting, where possible.

Communication with parents and carers should include a focus on how they can meet the learning needs of the family as a whole as well as the child. This promotes lifelong learning in the setting. This should be planned in a way which helps families to learn and develop as a whole and focussed on ensuring children have the best start in life.

This could mean: discussing with parents and carers what is happening with their children's learning at home and in the setting; encouraging parents and carers to share skills and knowledge to enrich the curriculum; providing them with information, advice and guidance on child development generally; supporting them to engage in their children's learning at home; providing or sign-posting to opportunities for families to learn together; and offering targeted support to families to help them to engage in a variety of learning opportunities which meet their individual needs.

What support will be available to help settings meet this criteria?

The Care Inspectorate published guidance to support the development of [personal plans](#) in ELC. This ensures settings are clear on the legislative requirements and supports them to develop plans which improve children's outcomes in consultation with parents and carers.

In addition, a module on [supporting parents and carers to further engage](#) in their children's development is included in the national online programme of CPL developed for the ELC sector.

Education Scotland has a range of professional learning resources including the ['Engaging Parents and Families Toolkit'](#) .

Criterion 6 – Inclusion

As the Funding Follows the Child approach offers more flexibility and increased choice for parents and carers, it is vital to ensure that provision remains accessible for all children. An inclusive approach, with an appreciation of diversity and an ambition for all to achieve to their full potential, is essential to getting it right for every child and raising attainment for all. Inclusion is the cornerstone to help us achieve equity and excellence in education for all of our children and young people.

ELC provision must therefore be delivered in a way that ensures equality of access for, and accounts for the varying needs of, all children. Children should be able to learn free from discrimination and in settings which actively tackle health and social inequalities. Additional support may be required, over the short or the long term, to overcome needs arising from the care and learning environment, family circumstances, health needs or disability or social and emotional factors. Those that may require additional support may include, for example, children with disabilities, children with English as an additional language, Gypsy/Travellers, highly able children, asylum seeking / refugee children and children from Armed Forces families.

The [Early Learning and Childcare Statutory Guidance](#) makes it clear that additional support for learning is required to help a child or young person to overcome a barrier to their learning. The support need not be provided in an educational establishment, and is directed to learning in its broadest sense. It also outlines the importance of joint partnership planning and working – for example between NHS Boards and other local authorities – to deliver additional support for learning where required.

While not every setting will be able to meet the needs of every child, settings will be expected to adhere to the following:

Criteria for All Settings

- **Sub-criteria 6.1 – The setting must comply with the duties under the Equality Act 2010.**

How do settings meet this criteria?

The setting should ensure that the practice, policies and procedures in their setting are in line with the [Equality Act 2010](#). The setting should be able to show how they are meeting the [Health and Social Care Standards](#) related to this criteria such as:

“I am accepted and valued whatever my needs, ability, gender, age faith, mental health status, race, background or sexual orientation.”

Training and development for staff on the main features of the Equality Act 2010 may be beneficial and staff should be able to understand how their practice ensures excellence and equity for all.

What support will be available to help settings meet this criteria?

The Equality Act 2010 protects children from discrimination, harassment and victimisation based on ‘protected characteristics’. The Act makes it unlawful for a setting to discriminate against a child in relation to: admissions; the provision of education; access to any benefit, facility or service;² exclusions; and any other detriment.

The Equality and Human Rights Commission published [updated technical guidance on the Equality Act 2010](#) in November 2022 in relation to the provision of education, which also covers that provided in ELC settings.

In addition, the Care Inspectorate has launched a support resource with Zero Tolerance on [Gender Equal Play](#) in early learning and childcare which may support settings in this aspect of the Equality Act 2010.

Criteria for All Settings

• **Sub-criteria 6.2 – The setting will be willing to provide appropriate support, including making any reasonable changes to the care and learning environment, in order to meet the individual needs of the child. This will ensure that children’s additional support needs do not provide a barrier to them accessing a full range of experiences.**

How do settings meet this criteria?

Although the setting must be willing to provide appropriate support, including making any reasonable changes required to the setting, it will not necessarily be expected to meet the costs associated with this.

Education authorities have a duty under the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(as amended\)](#) to identify, provide for and review the additional support needs of their children. The Act also applies to ‘eligible pre-school children’ which was extended, as a result of part 6 of the [Children and Young People’s Act 2014 \(the 2014 Act\)](#), to include eligible children aged two. This applies regardless of whether the child is accessing the funded hours in a public, private or third sector setting, including childminders.

The duties under section 6 of the Education (Additional Support for Learning) (Scotland) Act 2004 are explained in the [Statutory Guidance to the Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#). Additional support falls into three overlapping, broad headings: approaches to learning and teaching; support from personnel; and, provision of resources (which could include making changes to the setting). This makes clear that decisions regarding what can be considered adequate and efficient provision can only be judged in the light of each child’s circumstances.

² The protected characteristics of age, marriage and civil partnership do not apply here.

It also makes clear that cost should not be the primary consideration in determining what provision is to be made but that decisions have to be taken in light of the local authority's duties to secure best value and service improvement. Expenditure may therefore be unreasonable where the cost incurred would be completely out of scale with the benefits to the child or young person or where suitable alternative provision is available at a significantly lower cost. It may also be considered unreasonable where substantial expenditure on new facilities would be completely out of scale to the benefits to the wider community. For example, the local authority will wish to consider whether the expenditure in providing for a particular child may be of benefit to others in the future.

In the interest of openness and transparency, the local authority must inform the person who made the request for additional support of their decision and explain their reasons for their conclusions. They must also notify the person making the request about mediation services (in the case of parents and young people) and dispute resolution procedures.

It must be noted however that local authority settings, grant-aided schools and independent schools (including any ELC provision within these) also have duties under the [Equality Act 2010 Act](#) to make reasonable adjustments for disabled children.

The Equality and Human Rights Commission have published technical guidance on the Equality Act 2010 in relation to the provision of education, which also covers that provided in ELC settings. Chapter 6 covers the duty to make reasonable adjustments and page 85 sets out factors to be taken into account when making decisions. However, funded providers in the private and third sectors, including childminders, are instead covered by the separate [EHRC Statutory Code of Practice on Services, Public Functions and Associations](#). Chapter 7 explains the duties with regard to making reasonable adjustments.

What support will be available to help settings meet this criteria?

A specific learning module on [building confidence in identifying and responding to additional support needs](#) is included in the national online programme of CPL developed for the ELC sector.

In addition, Education Scotland have developed a free [online inclusion resource](#) aimed at practitioners and local authorities and provides an introduction to inclusion and equality within the Scottish educational context.

[Enquire](#), the national advice and information service on additional support for learning funded by the Scottish Government, provides advice and information to young people, families and professionals, including information about children's rights during their early years education and how they can be supported at early learning and childcare settings and during their transition to primary school

Criterion 7 – Business Sustainability

A financially sustainable setting is important for the child, particularly in ensuring consistency and continuity of care.

Consistency in setting and staff is key to a child's development. When young children come into a setting, they need a happy, secure environment, rich in opportunities which promote learning and physical activity which at the same time are calm, comforting and responsive.

Providing stability and continuity in provision will allow practitioners to build up strong relationships with children through consistent care, in a familiar and safe environment.

Criteria for All Settings

- **Settings wishing to deliver the funded entitlement must be able to demonstrate that they are financially viable providers.**

How do settings meet this criteria?

The [Business Sustainability guidance](#) sets out the specific information that settings have to provide to local authorities to demonstrate that they meet this criteria.

In summary:

- **Existing settings** delivering the funded entitlement must ensure that they are able to demonstrate – when required – that their business model continues to be financially viable through the provision of appropriate financial information, for example, accounts and business forecasts/projections. A Business Continuity Plan must also be in place.
- **Newly registered settings** wishing to deliver the funded entitlement will have had a financial viability check completed by the Care Inspectorate upon registration and this can be used as evidence of business sustainability in the funded provider probationary status period. When the probationary funded status is under review, the criteria for existing settings will apply.
- **Childminding settings** wishing to deliver the funded entitlement will be expected to have a contingency plan in place, detailing arrangements for the children in their care should they stop providing the service e.g. if the service was temporarily unavailable due to illness or the service was closed permanently.

What support will be available to help settings meet this criteria?

When registering a daycare of children service, the Care Inspectorate carry out an assessment of the financial sustainability of the proposed provider. This process ensures that the setting will be able to operate in their first year and ascertains the business model for the setting moving forward.

In addition, there is general business support available to providers through a range of routes. The Scottish Government has been working with delivery partners, in particular [Business Gateway](#), to identify the parts of the childcare sector where there is a need for targeted support offers, and to raise awareness of existing support.

The Scottish Government is committed to supporting this diversity of provision and to ensuring a sustainable and thriving childcare sector. This includes continuing to collect evidence in order to monitor the impacts of wider economic conditions on the sector, including through our [Financial Sustainability Health Check of the Childcare Sector in Scotland](#) reports.

There have been a number of developments since 2020, which have impacted the sector including the global COVID-19 pandemic, the costs crisis, and wider workforce pressures. Many funded providers will have restructured their business models, and invested in their settings, in order to support delivery of the expanded ELC offer.

Alongside this, demographic changes will also have an impact on overall demand within the sector, and the recruitment and retention of staff remains a key challenge for the sector.

As the [Financial Sustainability Health Check](#), published in July 2023, has highlighted these factors may continue to present challenges for some providers delivering funded ELC. This may present continued challenges for some funded services to provide the required evidence on Business Sustainability. Application of the Business Sustainability guidance by local authorities should take account of these wider economic impacts on settings.

Local authorities have a vital role in managing risk regarding the delivery of funded ELC. In order to help them manage risk, and to support settings, local authorities may wish to request or review information relating to the financial viability of settings on a more regular basis (particularly if the level of risk in the setting is assessed to be higher).

If increased public health measures were required again, which impacted on the capacity of services (including partial or full temporary closures), local authorities should consider the impact of the continuation of contracted, or expected, revenue streams to funded providers to promote short and long term sustainability.

Criterion 8 – Fair Work Practices, including payment of the Real Living Wage

The most important driver of the quality of a child's ELC experience is a high quality workforce. The promotion of fair work practices is a key way of supporting a high quality workforce.

The Scottish Government believes that employers whose staff are diverse, treated fairly, well-rewarded, well-motivated, well-led, and have access to appropriate opportunities for career development, are likely to deliver a higher quality of service. This can be supported by the adoption of fair work practices across the sector in each of the dimensions of Fair Work defined in the [Fair Work Convention's Framework](#) (Security, Respect, Opportunity, Fulfilment and Effective Voice).

Through our Fair Work First approach, the Scottish Government is committed to ensuring that Fair Work principles should extend to as many funding streams, business support grants and public contracts as possible.

Fair Work asks employers to commit to:

- appropriate channels for effective voice, such as trade union recognition;
- investment in workforce development;
- no inappropriate use of zero hours contracts;
- action to tackle the gender pay gap and create a more diverse and inclusive workplace;
- providing fair pay to workers (for example, [payment of the real Living Wage](#))
- offer flexible and family friendly working practices for all workers from day one of their employment; and
- oppose the use of fire and rehire practice.

Ensuring that staff are fairly remunerated – through, for example, supporting payment of at least the real Living Wage – is a key aspect of demonstrating commitment to fair work practices.

Relatively low levels of pay can present a barrier to some people entering the sector, resulting in recruitment challenges, and can also result in higher levels of staff turnover. This could have potential implications for continuity of care.

Prior to the expansion to 1140 funded hours, the Scottish Government published a [Financial Review of the ELC Sector](#), and [Cost of ELC Provision in Partner Provider Settings](#) (the latter produced by Ipsos MORI) in September 2016. Analysis in these reports highlighted that levels of pay for staff working in partner settings in the private and third sector was low. In 2016, around 80% of practitioners and 50% of supervisors in private and third sector settings delivering the funded entitlement were paid an hourly rate below the real Living Wage.

The Scottish Government's aspiration is for all workers in the childcare sector to be paid the real Living Wage as a minimum. To support this for the delivery of the funded ELC entitlement, the sustainable hourly rates set and paid by local authorities for the delivery of funded ELC will continue to be set at a level that enables the payment of the real Living Wage to childcare workers delivering the funded entitlement. This commitment will be delivered in line with the supporting guidance on transition options.

The Scottish Government can only provide funding for payment of the real Living Wage in relation to the hours spent delivering the funded entitlement. A contract will be agreed by the provider and the local authority for the delivery of these funded hours. If funding were provided for non-funded hours then this could be interpreted as a subsidy and therefore could be in breach of the Subsidy Control Act 2022. It is therefore a business decision for funded providers as to whether they provide the additional resource to uplift the salaries for all workers in their settings, including those not engaged in delivery of the funded entitlement, to at least the real Living Wage. However, providers are encouraged to adopt fair work practices, including fair pay, to ensure fair and equal pay across all relevant staff within their setting.

Criteria for All Settings (Excluding Childminders Who Do Not Employ Staff):

Settings, including childminders where workers are regularly employed to provide direct care to children, who agree to deliver the funded entitlement will pay at least the real Living Wage to all childcare workers delivering the funded entitlement and commit to adopting and demonstrating Fair Work practices in their setting.

In committing to Fair Work practices, settings must take into account:

- a fair and equal pay policy across their setting, (including a commitment to paying at least the real Living Wage);
- support for progressive workforce engagement, including trade union recognition or alternative arrangements to give staff an effective voice, for example, through regular staff meetings, surveys, employee forums and line management relationships.
- ELC managers/lead practitioners/employers (in the case of childminders who employ staff) have clear managerial responsibilities to nurture talent and help individuals fulfil their potential;
- providing appropriate channels for effective worker voice, such as trade union recognition
- promoting equality of opportunity and developing an inclusive and diverse workforce;
- security of employment and hours of work, avoiding exploitative employment practices such as inappropriate zero hours contracts, or pregnancy and maternity discrimination; and

- consideration of patterns of working (including for example part-time working and/or term-time working) and support for family friendly working and wider work life balance.

How do settings meet this criteria?

Providers should make use of the following resources to assist in adopting fair work practices:

- [Fair Work First Guidance](#)
- [Fair Work Employer Support Tool](#)
- [Fair Work Convention self-assessment tool](#)
- [Fair Work Convention Framework](#)
- [The CIPD Fair Work Resources](#)

Settings of different size/nature will offer Fair Work practices that are relevant to their organisational structure and focus. Whilst effective voice and fair pay (including payment of at least the real Living Wage) are a primary driver for a high quality workforce this must not be at the cost of other aspects of the [Fair Work Framework](#) which must also be recognised through a proportionate and balanced approach (in particular when applying to the criteria to childminding settings).

ELC Real Living Wage Commitment

Key points to note on implementing the real Living Wage commitment:

- The real Living Wage should not be confused with the National Minimum Wage (including the “national Living Wage” for those aged 23 and over) which is the legal minimum an employer must pay an employee and is set by the UK Government.
- The real Living Wage is a voluntary wage rate of pay which is estimated at a level which is sufficient to ensure that the recipient may enjoy an acceptable standard of living. These figures are calculated annually and are generally announced in November each year.
- Employers who pay the real Living Wage can, if they wish, seek to become Living Wage accredited through Living Wage Scotland. Some providers who deliver ELC in Scotland are Living Wage accredited employers, however, it is important to note that whilst the Scottish Government encourages more providers to become [Living Wage accredited](#), it is not a requirement for becoming a funded provider.
- The commitment covers all ELC staff providing direct care to children who are receiving funded hours, regardless of age and qualification and of the setting in which they are employed.
- In line with the requirements for Scottish Living Wage accreditation, apprentices do not have to receive the real Living Wage – this is in recognition that, particularly in the earlier stages, apprentices may spend more time

training than working. However, it is good practice to ensure pay rises over the course of the apprenticeship.

- In line with the Fair Work criteria above, employers must demonstrate a fair and equal pay policy.

What support will be available to help settings meet this criteria?

The Scottish Government is committed to providing local authorities with the funding to allow them to set sustainable rates for providers in the private and third sectors that enables them to pay all childcare workers delivering the funded entitlement the real Living Wage.

Criterion 9 – Payment Processes

As set out in legislation, the funded hours must be provided free of charge regardless of which setting the hours are being delivered in. This is a long-standing legal requirement set out under section 33(1) of the [Standards in Scotland's Schools etc. Act 2000](#). This duty applies to local authorities and is extended to funded providers in the private, third and childminding sectors when they enter into a contract to deliver the funded hours. Further information is set out in the [Early Learning and Childcare: Statutory Guidance](#).

This ensures that parental choice regarding the setting where the funded hours are to be used will not be restricted by upfront payments or top-up fees in relation to the funded hours, or any requirements to purchase additional hours beyond the funded hours in order to access their child's funded entitlement at a setting. Where parents and carers are accessing a mixture of funded and non-funded hours from a setting, it is expected that any charges are presented clearly and transparently to parents and carers.

Payment for the delivery of the funded hours is provided by local authorities to funded providers in the private, third and childminding sectors. In order to support the sustainability of funded providers, and to ensure that funded provider's cash flows are healthy, it is vital that they are paid promptly and efficiently for delivering the funded entitlement.

Criteria for All Settings

Settings delivering the funded entitlement must ensure that access to the funded hours are free at the point of access to the child and that parents and carers are not subject to any fees in relation to the funded hours. The setting must ensure that:

- parents and carers are not asked to make any upfront payment, including a deposit or any other payment, in respect of the funded early learning and childcare entitlement;
- no top-up fees are charged to parents and carers relating to the funded early learning and childcare entitlement;
- parents are not required to purchase additional hours beyond the funded early learning and childcare entitlement in order to access their child's funded early learning and childcare entitlement;
- additional charges to parents and carers relating to the funded hours must be optional, and limited to, for example, snacks (excluding snacks provided through the Scottish Milk and Healthy Snack Scheme), costs of outings or extracurricular activities. These optional charges include where a setting offers an additional optional service such as the provision of localised cover arrangements required by parents and carers (for example acting as the

- emergency contact for a child, cover for shift patterns, holiday cover, etc.) which requires the setting to retain a place in order to meet this demand during the hours that the child is receiving part of their funded early learning and childcare entitlement at another setting as part of a split placement; and,
- where parents and carers choose to purchase further hours in addition to the funded hours, the associated fees and hours must be transparent and clearly set out in any parental communication and invoices.

How do settings meet this criteria?

It is important to note that the criteria listed above relates only to the delivery of the funded hours.

Any fees or charges not associated with the funded hours will continue to be at the discretion of individual settings. It is expected that these fees and charges will be set with reference to local market conditions, and reflect individual business models and underlying cost structures.

It is not for local authorities or the Scottish Government to seek to comment on or intervene in fees charged outwith the funded entitlement.

Some settings may offer optional extras which are in addition to the funded hours. It is expected that settings make it clear that these are optional charges and that if the parent chooses not to purchase these optional extras then this will not prevent them from accessing their child's funded early learning and childcare entitlement at the setting.

It is expected that such charges, where required, are charged for at a rate that reflects the cost of delivery.

It is also expected that settings are considerate of any financial challenges that households may experience as a result of wider economic or health related impacts (for example, during a period of relatively high inflation, or a pandemic).

It is important that local authorities and funded providers, as part of the partnership working approach that is central to Funding Follows the Child, work closely together to manage the take-up of places across settings within the local authority area.

What support will be available to help settings meet this criteria?

Further information on the delivery of funded ELC without the payment of fees, and on optional charges, is set out in the [Early Learning and Childcare Statutory Guidance](#).

Criterion 10 – Food

ELC experiences provide children with an important opportunity outwith the home for maximising nutrition and establishing healthy eating habits in the earliest years. The early years is identified as a crucial time to reduce health inequalities. Providing healthy and nutritionally balanced meals and snacks in ELC settings is important, particularly for families who need it the most.

Criteria for All Settings

- **Settings must have a clear and comprehensive policy for the provision of healthy meals and snacks for children. This should be consistent with [Setting the Table](#) and should ensure that individual cultural and dietary needs are met. There should be consultation with parents and carers about how other dietary preferences might be accommodated.**

How do settings meet this criteria?

Meals can be provided as a breakfast, lunch or dinner. They can be prepared by the funded provider, delivered by the local authority or purchased from an external provider (directly by the funded provider).

The meal does not need to be hot but all meals and snacks must meet the most up-to-date nutritional guidance provided for ELC ([Setting the Table](#)). For up-to-date advice on choking in young children settings should refer to Care Inspectorate's [Good practice guidance: prevention and management of choking episodes in babies and children](#).

All providers are required to follow proper food safety and hygiene practices. ELC providers involved in the provision of food must adhere to the [Food \(Scotland\) Act 2015](#). Settings must check with their [Local Authority's Environmental Health Department](#) for food safety guidance.

Childminders who are providing a meal are also required to register as a [food business operator](#). Advice and guidance is available from the Food Standards Agency, in particular through [Safer food, better business for childminders](#).

What support will be available to help settings meet this criteria?

In December 2018, the Care Inspectorate published good practice guidance on food in ELC titled [Food Matters: Nurturing happy, healthy children](#) and in November 2022, the Care Inspectorate published a [Mealtime Practice Note](#). These are resources that highlight examples of good practice from across the ELC sector. They have worked alongside the sector to enable all ELC settings, practitioners and families to tell their own stories of how they are supporting children to eat well and enjoy good food every day.

The expansion of funded ELC to 1,140 hours means many of our youngest children are spending more time in ELC settings and as part of this, ELC settings can also register with their local authority, to provide a drink of milk or non-dairy alternative and a healthy snack through the [Scottish Milk and Healthy Snack Scheme](#). The Scheme offers a serving of milk or specified non-dairy alternatives and a portion of fruit or vegetables to all preschool children, each day they attend a registered setting for 2 hours or more per day. Whilst it is not a requirement of the National Standard for settings to register for the scheme, in doing so, settings can access funding to help cover the costs of providing milk, specified non-dairy alternatives and a healthy snack and have the flexibility to use funding in a way that best suits local needs and circumstances.

Section 3: Role for Local Authorities in Delivering the Funding Follows the Child Approach

Local authorities have a number of roles which are key to delivering the Funding Follows the Child approach.

They have the statutory duty to ensure that there is a funded place available for all eligible children in their area. Local authorities are also responsible for the provision of ELC through the medium of Gaelic for those parents who wish it for their children and for ensuring staff have adequate support in delivering a high quality experience through the medium of Gaelic.

With the exception of inspection evaluations from the Care Inspectorate and Education Scotland, local authorities are responsible for assessing and monitoring compliance with the National Standard in all funded providers, including local authority settings, as part of their contract management arrangements and in their role as guarantors of quality.

Whilst it is for local authorities to decide how to fulfil this responsibility it is important that the process is transparent and proportionate, and that local authorities – as part of the commitment to simplify the process for, and reduce the burden on, providers to deliver the funded entitlement – share practice in order to encourage consistency of approach.

Local authorities should also work with funded providers to support meaningful and genuine partnership working. This requires clear and consistent support that providers across all settings can expect from local authorities (as set out in Section 1 of this document).

This section sets out the expectations of the role of the local authority in upholding the Funding Follows the Child approach.

Monitoring compliance against the National Standard

Local authorities have the responsibility of monitoring the compliance of all funded providers against the National Standard, whether they are local authority, private or third sector providers, including childminders.

As guarantors of quality for the National Standard, the local authority plays a key role in ensuring each child is receiving a high quality ELC experience during their funded hours. While the Care Inspectorate quality evaluations give an insight into compliance with those criteria in the National Standard, other criteria are not directly linked to the evaluations the Care Inspectorate makes about the quality of provision in a funded provider.

It is important for local authorities to ensure that other criteria are also being met and to gather information systematically as well as responsively when information about

a funded provider is made available to them. Consideration should be given as to how to avoid duplication of reporting or monitoring work for providers, where possible aligning documentation or language in evaluation to minimise outputs.

Education Scotland inspections are a valuable source of evidence in understanding the quality of ELC provision in a setting. Local authorities should explore the findings from any Education Scotland inspection to ascertain compliance against the National Standard. If this information highlights that a service is not meeting one or more of the criteria, the local authority should use this information to begin relevant procedures to improve the quality of the service.

When settings fail to meet Care Inspectorate criteria or any other criteria, the funded provider would be subject to a 'service improvement period' and may need enhanced improvement support. The local authority needs to be clear about the criteria which are not being met and how the service can improve this to ensure children receive high quality ELC.

Other information such as soft information from parents, media announcements or evidence from quality support visits can also be used responsively to explore a funded provider's compliance to the National Standard. The local authority will need to gather information about the evidence and make an objective decision about whether a setting is not meeting the National Standard.

Setting of sustainable rates

Local authorities set hourly rates locally that are paid to funded providers in the private and third sectors, and to childminders, to deliver the funded entitlement. These rates should be sustainable and meet the following:

- The rate will support delivery of a high quality ELC experience for all children;
- It will be a rate that reflects the cost of delivery, including the delivery of national policy objectives;
- The rate will allow for investment in the setting – staff, resources and physical environment; and
- It will enable payment of the real Living Wage for those childcare workers delivering the funded entitlement.

Local authorities are also expected to clearly set out the support that they are providing to funded providers in the private and third sectors, including childminders, in addition to the sustainable rate as part of the agreement. More information on how this can be achieved is included under 'Support for Providers and Staff'.

Local authorities are expected to draw on the Funding Follows the Child and the National Standard guidance for setting sustainable rates [separate guidance](#).

The principles in the guidance highlight the importance of the rate setting process being underpinned by an evidence-based approach; transparency; and partnership

working between local authorities and funded providers in the private, third and childminding sectors.

Supporting the delivery of the free meal commitment

Every child attending a funded ELC session – which is any session that includes funded hours, regardless of whether they are mixed with ‘paid for’ hours – will be provided with a free meal. Local authorities provide settings with the funding to deliver the free meals, unless, in cases where a setting does not have onsite catering facilities, there may be an agreement that the local authority will provide the meals to the setting. Local authorities are expected to work in partnership with funded providers to support them in identifying solutions to deliver the free meals commitment, particularly where funded providers do not have onsite catering facilities.

Any funding provided to deliver this commitment will be additional to the sustainable rate for funded providers in the private and third sectors, and to childminders. Local authorities must ensure that there is transparency for funded providers as to the rate being provided for the free meal commitment.

As is the case for free school lunches, the up-take of the free meal will be optional. Parents and carers who prefer to provide their child with a packed lunch would be free to do so. As set out in the requirements of Criteria 5 – Parent and carer engagement and involvement in the life of the setting, funded providers should ensure parents and carers have access to information on healthy eating habits.

Where the child’s ELC entitlement is being delivered using a blended model, involving more than one provider across the day, it will be for the individual funded providers to agree with the family and the local authority who will provide the meal.

Ensuring financial sustainability

Local authorities must ensure that local authority funded providers delivering the funded entitlement are able to demonstrate – when required – that they are delivering their services in a manner that improves affordability for parents and carers and makes the most effective use of public funds, within the Best Value requirement of the Local Government in Scotland Act 2003. Further information on local authorities duty on Best Value is provided in the [Scottish Public Finance Manual](#).

Sustainability of funded providers is about more than just the funding rate that they receive. The competitiveness and business sustainability of funded providers may be impacted by policy and investment decisions taken by local authorities. The recruitment activity of local authorities can also impact on the sustainability of funded

providers. It is important that local authorities give appropriate consideration to these potential impacts in exercising their statutory duties and in undertaking recruitment activity.

Fair and transparent payment processes

In order to ensure fair and transparent payment processes for parents and carers and for funded providers in the private and third sectors, local authorities will:

- comply with the legislation which prevents local authorities from charging parents and carers for ELC which they provide under the statutory duty;
- extend this legal obligation to funded providers in the private, third and childminding sectors through agreements, to ensure funded hours are free at point of access to the child; and
- continue to ensure that funded providers in the private and third sectors, including childminders, receive payments for the funded hours in a prompt and efficient manner.

No Charges for Funded Hours

The [Early Learning and Childcare Statutory Guidance](#) sets out:

“Under section 33(1) of the 2000 Act, the entitlement to funded early learning and childcare must be provided without the payment of fees, including where this is delivered through a third party (i.e. providers in the private, third or childminding sectors), under a section 35 arrangement.”

Local authorities are expected to ensure that this requirement is reflected in contracts that are set with each funded provider in the private and third sectors, including childminders. For more information, local authorities should refer to the Scottish Government’s Funded Early Learning and Childcare [statutory guidance](#).

Prompt and Efficient Payment to Funded Providers

It is vital that funded providers are paid promptly and efficiently to ensure that their cash flows are healthy.

As a minimum it is expected that local authorities should look to pay a funded provider within 30 days of the start of term and preferably much sooner.

The timing of payment should be stipulated in the agreement between the local authority and the funded provider or in the general conditions governing terms of business.

Inclusion

Local Authorities have a duty under the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) to identify, provide for and review the additional support needs of their pupils. The Act also applies to ‘eligible pre-school children’

which was extended, as a result of part 6 of the Children and Young People's Act 2014 (the 2014 Act), to include eligible children aged two. This applies regardless of whether the child is accessing the funded entitlement in a local authority, private or third sector funded provider, including a childminder.

The duties under section 6 of the Education (Additional Support for Learning) (Scotland) Act 2004 are explained in the [Statutory Guidance to the Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#).

Additional support falls into three overlapping, broad headings: approaches to learning and teaching, support from personnel, and provision of resources, and could include making changes to the setting. This makes clear that decisions regarding what can be considered adequate and efficient provision can only be judged in the light of each child's circumstances.

In the interest of openness and transparency, the local authority must inform the person who made the request for additional support of their decision and explain their reasons. They must also notify the person making the request about mediation services (in the case of parents and young people) and dispute resolution procedures.

Support for providers and staff

Along with the funded rate, local authorities provide a range of benefits to settings who become funded providers. Additional benefits, over and above the funded rate should be clearly outlined at the time of application to become a funded provider.

It is for local authorities to decide the best package to ensure high quality ELC provision is offered to children and families, based on their own local circumstances. However, local authorities should ensure that settings have a clear and consistent understanding of the level of support they can expect. Communicating this throughout the application and assessment process would contribute positively to meaningful and genuine partnership working across the local authority.

The type of support provided by local authorities to funded providers could include (but is not limited to):

- training programme resources;
- support for workforce planning;
- marketing and recruitment support;
- funding for staff to undertake relevant qualifications;
- grant funding for specific resources;
- buildings support; and
- regular contact through local authority ELC meetings.

Funded providers will have their own ideas about how they wish to be supported and it would be beneficial for local authorities to engage with funded providers regarding the type of support that would help to improve the quality of ELC in their settings.

Improvement support is also available through the [Care Inspectorate's ELC improvement programme](#) and a setting's membership arrangements with Care and Learning Alliance (CALA), Early Years Scotland (EYS), the Scottish Childminding Association, National Day Nursery Association (NDNA) as well as other national organisations.

There may be circumstances in which enhanced improvement support is required. This will include circumstances in which the withdrawal of a setting's funded provider status would have a significant impact on children's ability to access their funded entitlement within their local area. In these circumstances, a bespoke package of enhanced improvement support would be provided. Enhanced forms of support will be tailored to the requirements of the setting but may include:

- facilitation of support from other professionals who work with children (such as social workers)
- facilitation of good practice visits to other settings;
- support visits focussing on aspects of practice which require improvement, including specialists from Regional Improvement Collaboratives, teacher support teams and other settings;
- increased improvement support visits from local authority representatives;
- mentoring and coaching opportunities for practitioners and/or managers; and
- access to further, relevant professional learning and development opportunities, such as workshops based on areas for improvement.

In the spirit of partnership working, the funded provider has a responsibility to implement improvement support strategies which are offered by the local authority. It is ultimately the provider's responsibility to secure progress against given improvement priorities in relation to the National Standard criteria.

It is expected that transparency and equity is applied across all funded providers, both local authority and those in the private, third and childminding sectors, when offering improvement support.

Work is currently in progress with COSLA and the Association of Directors of Education in Scotland (ADES) to consider the findings emerging from the recent consultation on inspection of early learning and childcare and school age childcare services to identify what improvements can be made to the current monitoring and assurance activities by local authorities. Further updates will be provided in due course.

Supporting parents and carers to make informed choices

Local authorities should provide clear and accessible information, making use of national resources where relevant, to help parents and carers to make informed choices about the best ELC setting for their child.

Local authorities will retain the duty set out under [section 50](#) of the Children and Young People (Scotland) Act 2014 to consult representative populations of parents and carers on how the statutory entitlement to ELC should be made available. As a result of these consultations, local authorities should then publish plans on how they will make their services available. These delivery plans should be clear and accessible, and should explain what action is being taken in response to the local consultations.

This will build upon the information that is provided at a national level, which will include information about the different types of ELC provision and how the Funding Follows the Child approach works.

Local authorities should also have clear information about what the local delivery plan means for parents and carers. This will include information about how funded hours can be allocated (e.g. with different types of providers, with different patterns of attendance, or in blended models). This will also require local authorities, as part of the partnership working approach that is a key aspect of Funding Follows the Child, to engage regularly with funded providers and to ensure that they have access to communication resources.

Section 4: New Providers

Existing settings who are not currently offering the funded hours but wish to start offering them, will be eligible to apply only if they meet the National Standard.

Newly established settings will receive a full inspection from the Care Inspectorate within 12 months of being registered. The Care Inspectorate's advice is that, provided they have been approved through the Care Inspectorate registration process as fit to deliver a daycare of children service, settings need not wait for their first inspection before being able to apply to become a funded provider. The rigour of the registration process should provide reassurance that the setting is able to deliver the funded hours **on a probationary basis**, pending the outcome of their first inspection, provided the local authority is assured that they have the potential to meet all other criteria in the National Standard.

Allowing new settings to deliver the funded hours **on a probationary basis**, will be important for improving accessibility of funded provision. In some areas, especially in remote and rural areas, newly registered settings may not be financially viable without being able to offer funded entitlement from the outset. This exception will also be important in encouraging new innovative provision, including outdoor nurseries and provision developed by community enterprises.

All settings wishing to become a funded provider in Scotland will be assessed against the same National Standard criteria and no additional criteria will be applied in specific areas of the country.

If you are a provider and would like more information, please email ELCPartnershipForum@gov.scot to register your interest.

Section 5: Frequently Asked Questions

Funding Follows the Child

1. How many funded hours are children entitled to?

All 3 and 4 year olds and eligible 2 year olds are entitled to up to 1140 hours of early learning and childcare, from the relevant start date. These funded hours are free to parents at the point of access and their child's entitlement can be used in any funded provider who meets the National Standard, has a space available and is willing to enter into a contract with the local authority. Legislation states when children are eligible for their funded entitlement based on their birth dates. More information about start dates and admissions can be sought from local authorities.

2. What choice do parents have over where their child can access their funded hours within a local authority?

Local authorities will be able to tell parents and carers about the range of options available in each local area. There should be a range of delivery models available to children across a local authority area although this needs to be within a defined framework. In order to ensure that the Funding Follows the Child approach is sustainable, realistic and in line with local ELC delivery plans, different session times and models will be available in different settings.

If a parent or carer wants their child to access their funded entitlement in their chosen setting, they should find out from the setting whether they are a funded provider. If they are, then the child should be able to access their funded hours with them, if they have a space available, can meet their child's needs and the setting is willing to enter into a contract with the local authority. It may be that the specific pattern of attendance the parent or carer wants is not available and we would ask that they work with the funded provider and the local authority to identify the best place for their child and to meet their family's needs.

3. Can a parent choose a blended model using more than one setting for their child's statutory entitlement?

Yes. There are a number of models available for children, and some parents and carers may choose, for example, to access a nursery for some of their child's entitlement and use a childminder for the rest. The local authority will be able to tell parents and carers what options for blended models are currently available and how this can be managed. It is important to be aware that, in order to ensure that the Funding Follows the Child approach is sustainable and realistic, it may be that particular session times and models are in place in some settings but not in others. If a parent or carer wishes to use a blended model of funded hours, communication between the local authority, funded providers and families is key in ensuring the child's ELC experience is of a high quality.

4. Does a child have to access all of the funded hours they are entitled to?

No. Parents and carers may choose to only take some of their child's funded hours. There is no requirement for children to take any or all of their funded entitlement and we would encourage parents and carers to explore the options available to their child.

5. What are the minimum and maximum number of hours my child can take in a session?

At the heart of our ambitions is a high quality ELC experience for children. The [Children and Young People \(Scotland\) Act 2014](#) sets out that education authorities must ensure that funded early learning and childcare sessions are 10 hours or less.

While flexibility for families is a welcome element of the expansion of hours, the key purpose of the approach is to ensure children have the best start in life. Therefore, the Scottish Government will reserve the right to amend this in legislation again if we are concerned that evidence is showing a detrimental impact on children's wellbeing and outcomes.

6. A parent wants to access their funded hours outwith the local authority. How will this arrangement be managed?

One of the key principles of the Funding Follows the Child approach is to allow parents and carers to make their own choices about where their child accesses their funded hours. The operating guidance states that "the choice of setting available to families is not restricted to their own local authority boundary" and it is expected that local authorities and funded providers do their best to grant this request if there are spaces available. If a setting is already a funded provider with another local authority then this should constitute enough evidence to fund the child in their chosen funded provider. Local authorities should work together to share information about funded providers and provide clarity and reassurance that funding can be given to this provider. It is unlikely that the setting would need to apply to become a funded provider in more than one local authority area. Good practice would be for local authorities to keep details of these arrangements and evidence of checks for suitability to be a funded provider centrally alongside evidence of funded providers in their own area. This will ensure a clear audit trail of compliance and funding outputs for children resident in the area.

7. How will local authorities set the affordable and sustainable funding rate for funded providers in the private, third and childminding sectors?

In April 2019, [guidance was published to support local authorities to set sustainable rates](#) for funded providers in the private and third sectors, including childminders, from August 2020. This was produced based on feedback gathered from across the sector, and sets out the principles that should underpin any approach to setting sustainable rates; and options for taking forward the process.

The guidance highlights that the rate paid to funded providers should be sustainable and should meet the following:

- the rate will support delivery of a high quality ELC experience for all children;
- it will be a rate that reflects the cost of delivery, including the delivery of national policy objectives;
- the rate will allow for investment in the setting – staff, resources and physical environment;
- it will enable payment of the real Living Wage for those childcare workers delivering the funded entitlement.

The guidance also highlights that from a local authority perspective the rate must be sustainable for authorities in terms of the budgets available, and that the following points are also important to consider when setting a sustainable rate:

- the rate does not have a detrimental effect on the local authority's ability to continue to pay for the service in the long-term;
- the wider package of 'in-kind benefits', which are separate to the sustainable rate, available to the funded provider as part of their contract with the local authority;
- the rate does not need to be cross-subsidised by parents and carers through charges for non-funded hours.

[Updated guidance was published in May 2022](#) to act as a complement to the Sustainable Rates Guidance published in April 2019 to focus on the key considerations for setting rates in light of the programme of actions, set out in the [Financial Sustainability Health Check](#) in August 2021, to strengthen the process for setting sustainable rates and the current economy wide cost pressures.

The Scottish Government and COSLA have undertaken a joint review of the approach to setting sustainable rates for providers of funded ELC in 2022-23, which will be published shortly. The objective of this review was to learn lessons from the implementation of policy in 2022-23, to identify where the process can be improved further, and to ensure that sustainable rates are set in-line with the guidance. This includes reflecting the costs of delivering funded ELC and payment of the real Living Wage to staff.

8. Can local authorities add their own additional criteria to complement the National Standard?

No. All settings wishing to become a funded provider in Scotland will be assessed against the same National Standard criteria and no additional criteria will be applied.

With the exception of scrutiny quality evaluations from the Care Inspectorate and Education Scotland, local authorities are responsible for assessing and monitoring compliance with the National Standard in all funded providers, including local authority settings, as part of their contract management arrangements and in their role as guarantors of quality.

9. What is meant by the phrase 'in-line with local ELC delivery plans'?

Local parental demand is the primary driver of local flexibility, but within a system which safeguards high quality provision. The Children and Young People (Scotland) Act 2014 places a duty on local authorities under Section 50 to consult and plan on delivery of ELC. Statutory guidance states that this consultation should include models, flexibility and systems of choice so that parents can inform options on offer and local authorities can develop systems to allocate options. The aim is to develop a high quality system of ELC that meets a range of needs.

This local demand should be reflected in local ELC delivery plans. Delivery plans set out the comprehensive strategic direction for the delivery of ELC in a local area, respond to local need and reflect the diversity of the communities that local authorities cover. All funded providers are expected to deliver ELC in line with the programme set out in the delivery plans.

The National Standard for Early Learning and Childcare Providers

1. Who does the National Standard apply to?

The National Standard applies to all settings offering the funded early learning and childcare entitlement. This covers settings in the public, private and third sectors, including childminders.

2. Does the National Standard apply to ELC paid for directly by parents as well as to the funded hours?

The National Standard applies to the setting offering the funded entitlement. For example, the Care Inspectorate looks at the registered service as a whole, including children who are not receiving the funded entitlement. Therefore, if the setting has been accepted as a funded provider, the quality of ELC in the whole service will need to meet the required quality standard. This should provide some reassurance that the non-funded element of the setting is also of a high quality.

The real Living Wage commitment applies to childcare workers in the setting delivering the funded entitlement. Whilst it is our ambition for all childcare workers to be paid at least the real Living Wage, it is not for the Scottish Government or local authorities to provide funding to cover the hours that staff spend delivering non-funded hours in these settings. It is therefore a business decision for funded providers as to whether they provide the additional resource to uplift the salaries for all workers in their settings, including those not engaged in delivery of the funded entitlement, to the real Living Wage.

3. Does the National Standard apply to funded providers who deliver the funded entitlement in an outdoor setting or through Gaelic medium?

Yes. The National Standard criteria apply regardless of setting characteristics such as whether the provision is being delivered through English or Gaelic medium, in a faith-based or non-denominational setting or through indoor or outdoor provision.

4. How will local authorities assess whether funded providers are meeting the National Standard?

At the heart of the National Standard is a clear and consistent set of quality criteria, to ensure that all settings which are offering the funded entitlement are delivering the highest quality ELC experience. The criteria in the National Standard focus on what children and their families should expect from their ELC experience, regardless of where they access their child's funded hours.

The Funding Follows the Child policy framework outlines the role of local authorities as the primary guarantors of quality, responsible for ensuring that funded ELC providers meet the requirements set out in their contracts with local authorities, including meeting the criteria within the National Standard.

Local authorities are responsible for assessing and monitoring compliance with the National Standard for all funded providers, including those provided by local authorities. Local authorities adopt various practices to fulfil this role including, in some cases, initiating their own quality assurance visits.

5. Why does the National Standard quality criteria only reflect Care Inspectorate quality evaluations?

The expertise within each inspection body for ELC means that they bring a different perspective to their evaluations of settings and both bring their own strengths to supporting improvement. Education Scotland inspections are a valuable source of evidence in understanding the quality of ELC provision in a setting. However, it would not be appropriate to require funded providers to meet the same criteria in respect of Education Scotland quality evaluations. Firstly, only a small proportion of settings are selected for evaluation by Education Scotland. It would therefore be unfair to expect settings to meet a criteria that is not universally applied. Secondly, Education Scotland do not inspect settings sufficiently frequently to allow us to stipulate that quality evaluations must be returned to good or better within a specific 'service improvement period'.

It is, however, important that Education Scotland evaluations are taken into account in assessing the quality of funded ELC provision. Sub-criteria 4.2 of the National Standard states that if one of the quality evaluations covered by the inspection is less than good, this must be addressed within the setting's improvement plan. In addition, the findings from any Education Scotland inspection will be scrutinised by the local authority as part of their procedures for monitoring compliance against the National Standard. Should the findings of the Education Scotland inspection suggest other criteria are not being met, a 'service improvement period' will begin.

The Care Inspectorate and Education Scotland are currently developing a shared inspection framework for ELC settings. Criteria relating to quality evaluations will be updated to reflect this and ensure consistency between the scrutiny work of the Care Inspectorate and Education Scotland.

6. What if a funded provider receives a quality evaluation below 'good' in any of the Care Inspectorate themes following scrutiny activities?

As guarantors of quality for the National Standard, the local authority will play a key role in ensuring each child receives a high quality experience during their funded hours. If a funded provider fails to meet the Care Inspectorate quality evaluation criteria, they will be subject to a 'service improvement period'. The local authority will need to be clear about which criteria are not being met and how the funded provider can improve the quality of provision to ensure children receive high quality ELC. It is expected that communication between the local authority and the Care Inspectorate is clear under these circumstances to ensure that any 'enhanced improvement support' is consistent between the two organisations.

The local authority will be expected to offer 'enhanced improvement support' to improve the quality of provision in order to promote consistency and continuity of care for children and their families, where possible. This may include nominating the setting for targeted support via the Care Inspectorate [ELC improvement programme](#)

7. What if a funded provider falls below a quality evaluation of 'good' in any of the quality indicators evaluated by Education Scotland?

The local authority as the primary guarantors of quality should support the funded provider to improve by agreeing a clear improvement plan that identifies any areas for development through the scrutiny activity. Local authorities should also explore the findings from Education Scotland inspections to ascertain compliance with the National Standard. If this information highlights that a funded provider is not meeting one or more of the criteria, the local authority should use this information to begin relevant procedures to improve the quality of the service by instigating a 'service improvement period'.

Where necessary, Education Scotland may be able to provide follow up support to funded providers where inspectors evaluate the quality of learning and education provision to be less than good. This will ensure that identified areas for improvement are addressed within the setting's improvement plan and the funded provider is supported to implement the actions required to improve children's ELC experience.

8. What is a 'service improvement period' and how long is this?

A 'service improvement period' will apply when a provider is not meeting one or more of the National Standard criteria. This may be in relation to the quality evaluations from Care Inspectorate scrutiny activities or based on other intelligence such as Education Scotland inspections findings or feedback from parents and carers.

The 'service improvement period' allows local authorities to give providers in the public, private and third sectors whose Care Inspectorate evaluations fall below the level required in the National Standard time to access improvement support, undertake improvement activity and achieve sustained improvement in the quality of their provision. The local authority can instigate a 'service improvement period' when one or more of the National Standard criteria are not being met.

If this is in relation to Care Inspectorate scrutiny activities, the 'service improvement period' will begin upon publication of the inspection or scrutiny report.

If the local authority has other evidence of non-compliance against the National Standard criteria, the 'service improvement period' will begin when communication is sent from the local authority to the provider detailing the National Standard criteria which are not being met.

In both circumstances, the local authority must detail to the provider:

- which National Standard criteria and sub-criteria are not being met;
- what evidence they have that the criteria is not being met;
- how the service can improve their practice to meet the criteria;
- what enhanced improvement support will be available to ensure the quality of provision improves; and
- the specific review dates for monitoring during and at the end of the 'service improvement period'.

The length of the 'service improvement period' will be determined by the local authority, recognising their role as primary guarantors of quality or, if the criteria not met are related to Care Inspectorate quality evaluations, the 'service improvement period' will end upon publication of the next inspection report. At this time, the local authority will make a decision about whether the setting will remain a funded provider, based on the evidence of progress over the 'service improvement period.'

Where a setting is on a service improvement period and does not receive evaluations of 'good' or better at their next Care Inspectorate quality evaluation but is demonstrating capacity for continuing sustained improvement, the local authority may agree to extend the service improvement period until the following Care Inspectorate quality evaluation.

9. What happens if the service does not meet the National Standard criteria within the 'service improvement period'?

The priority when making this decision is to ensure that the continuity and consistency of care for children is well managed and that the impact on families is reduced, where possible.

A service improvement period should be provided where the local authority, taking account of any information available from the Care Inspectorate and evidence from the provider, is comfortable that the service:

- is fit to continue;
- is engaging or willing to engage in work that leads to improvement;
- with support, has the ability to improve and sustain improvement by the next Care Inspectorate quality evaluation; and
- meets other aspects of the National Standard as set out in this Guidance.

If the local authority finds that the funded provider is not meeting the National Standard criteria after a 'service improvement period' or an extension to a 'service improvement period', and they are not content that the service meets the criteria above, they will communicate with the funded provider the reasons for their decision

and detail the criteria which are not being met. At this time, a transition phase to remove funded provider status will begin. We would expect that, in order to ensure a smooth transition for children and their families, that this transition phase would last around 3 months. A confirmed date for the removal of funded provider status will be given by the local authority when confirming their decision. Communication with parents and carers about the process for removing funded provider status will be essential from both the local authority and the setting. Parents and carers must understand the various options available to them, including other funded providers who may be able to offer their child their funded hours or options to remain in the setting on a non-funded basis. They should also be told the date when their funded entitlement in the setting will be withdrawn.

10. How will the National Standard take account of any changes to the inspection frameworks of the Care Inspectorate and Education Scotland?

The National Standard reflects the current scrutiny and inspection frameworks of the Care Inspectorate and Education Scotland. The Care Inspectorate and Education Scotland are currently developing a shared inspection framework for ELC settings. Criteria relating to quality evaluations will be updated to reflect this and ensure consistency between the scrutiny work of the Care Inspectorate and Education Scotland.

11. Why is further information being requested from local authorities about service improvement periods?

The Improvement Service's regular data return will collate details of which settings are on service improvement periods, how long each setting has been on a service improvement period and the service's inspection history so that we can, working with COSLA and the Association of Directors of Education in Scotland (ADES), consider the information that is provided and develop an understanding at national level of issues and challenges and where the national improvement agencies may be able to target their support.

12. Is a service improvement period the same as a Care Inspectorate enforcement action?

No. Service improvement periods are separate from any enforcement actions including Improvement Notices undertaken by the Care Inspectorate.

13. If a funded provider has been asked to provide funded hours for a child with additional support needs, what can local authorities do to support the setting and the child best through this process?

Most settings will be well equipped to manage children's varying needs. If a setting has any concerns about being able to meet a child's additional support needs, then we expect all parties to be able to come together to have meaningful, respectful conversations to support good decision-making that has the child's best interests at the centre.

Taking a '[Getting it right for every child](#)' (GIRFEC) approach means that the local authority, funded provider and other services should work together to provide children and their families with the right support at the right time so that every child can reach their full potential. We would expect that the current approaches in local authorities to supporting children with additional support needs are used to ascertain the best place for each child to access their funded hours.

Where extra support needs to be planned, delivered and co-ordinated, multi-agency meetings can be used to discuss the variety of options available, gather the views of children and families and hear from the proposed funded provider on how they plan to meet the child's individual needs.

Decisions about where the child should access their funded hours should be made in line with the Education (Additional Support for Learning) (Scotland) Act 2004. This will ensure that there is clarity and consistency in the approaches to placing children with additional support needs in a local authority area. Key to the success of this will be the inclusion of the funded provider the parent has chosen in informing the decisions made.

If it is decided that reasonable changes to the care and learning environment can be made within the funded provider to ensure that children's additional support needs can be met, clear timescales should be set for the child starting in the service. The funded provider must agree to attend all multi-agency meetings for the child to promote consistency and continuity of care and ensure that their additional support needs do not provide a barrier to them accessing a full range of experiences.

Should a decision be taken that the child will not attend a particular setting, clear reasoning and evaluation of the case should be communicated to the funded provider by the local authority about why this decision has been taken and why it is felt that this will be of more benefit to the child's development.

Should a decision be taken against the wishes of the parent, clear reasoning and evaluation of the case should be communicated to the parent to help them understand why this decision has been taken and why it is felt that this will be of more benefit to their child's development.

14. Can settings seek financial support from Local Authorities to meet the costs of meeting the additional support needs of children?

Although the setting must be willing to provide appropriate support, including making any reasonable changes required to the setting, it will not necessarily be expected to meet the costs associated with this.

Education authorities have a duty under the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(as amended\)](#) to identify, provide for and review the additional support needs of their children. The Scottish Government provides funding to education authorities for additional support for learning as part of their block grant. It is for individual education authorities to manage their own budget and to allocate the total financial resources available to them, on the basis of local needs and priorities, having first fulfilled their statutory obligations and the jointly agreed set of national and local priorities. The responsibility for ensuring the provision of

appropriate additional support falls on education authorities and therefore the costs of providing such support should be discussed and agreed with the relevant local authority.

15. If a provider doesn't have a clear and comprehensive policy for the provision of healthy meals and snacks for children how can they be supported to develop this?

Under *Section 4: Putting Guidance into Practice* in [Setting the Table](#), nutritional guidance and food standards for early years, advice on creating a healthy eating policy for different types of settings is provided, along with sample food policy examples. It may be beneficial for local authorities to arrange professional learning and development opportunities for funded providers to support the development of these practices across their local area.

The Care Inspectorate has published good practice guidance: '[Food Matters: Nurturing happy, healthy children](#)' highlighting examples of good practice from across ELC; and '[Keeping children safe: supporting positive mealtime experiences in early learning and childcare \(ELC\)](#)' focusing on how to keep children safe and support wellbeing at mealtimes.

In addition, on 1 August 2021, the Scottish Milk and Healthy Snack Scheme launched, replacing the previous UK Nursery Milk Scheme for childcare settings in Scotland. The Scheme is administered by local authorities that provide upfront payments to eligible childcare settings registered to the Scheme. The Scheme offers a serving of milk or specified non-dairy alternatives and a portion of fruit or vegetables to all preschool children who attend a registered setting for 2 hours or more per day.

The Scheme reinforces the Scottish Government's ambition to improve health outcomes for children and young people by supporting improvement in children's health in the earliest years, which is crucial in tackling health inequalities and reducing obesity.

16. Do I need to provide a hot meal as part of the child's funded hours?

No. We understand that settings may want to operate different models for providing meals and snacks which best meet the needs of the children and families experiencing the service. Some settings may not have the facilities to offer hot meals and parents and carers may choose for their child to opt out of the free meal entitlement. As long as the child receives a meal which is healthy, nutritious and in line with best practice guidance, the setting will meet the criteria. The meal does not have to be a lunch and we would recommend talking to parents, carers and children about what would suit them best when planning the provision of meals. This will ensure that what is offered is meeting the needs of those using the setting.

Local authorities are expected to work in partnership with funded providers to support them in identifying solutions to deliver the free meals commitment, particularly where funded providers do not have onsite catering facilities.

17. If a child takes their funded hours using a blended model, who provides the child's meal?

Where the child's funded hours are being delivered using a blended model, involving more than one provider across the day, it will be for the individual funded providers to agree with parents and carers as well as the local authority who will provide the meal.

18. How will the local authority assess the business sustainability of funded providers in the private, third and childminding sectors?

[Guidance to support providers in the private, third and childminding sector to meet the criteria on Business Sustainability](#) in the National Standard (criteria 7), and for local authorities to assess the criteria, was published in April 2019.

19. I am a childminder who wants to become a funded provider but I don't have a qualification yet. Where can I get support to get my qualification in the next 5 years?

Childminders who want to become a funded provider should be able to demonstrate that they have applied and have been accepted onto a relevant qualification. We have worked with training providers and colleges to develop a [recognition of prior learning \(RPL\) tool](#) to demonstrate how relevant prior experience, training and qualifications can be recognised and accredited towards a mandatory qualification.

Many childminders choose to undertake a Scottish Vocational Qualification (SVQ) due to the flexibility it offers professionals progressing a qualification whilst working. The SSSC [website](#) offers advice on how to get started with an SVQ, and how to find a training provider. They also provide a [qualifications pathway tool](#) which sets out the full range of training options, supporting professionals throughout their career.

There are a range of funding sources available to support individuals looking to undertake a qualification. Currently, provided the applicant's individual income does not exceed £25,000 per annum, fee grants for part-time courses are available from the Student Awards Agency Scotland (SAAS). Another source of part-funding is the Skills Development Scotland Individual Training Account. We will explore whether other dedicated funding needs to be made available to help childminders to fund their qualifications.

Some local authorities are already offering funding to childminders to support them in gaining a qualification. This is based on certain criteria and is locally managed. Local authorities may wish to explore if this option would benefit their ability to offer the funded entitlement across their area.

In addition, childminders have been involved in the development of the ['My Childminding Journey'](#) resource to support experienced childminders who are providing good quality care as a way of enabling access to a qualification. 'Your Childminding Journey' was designed to help childminders reflect on their practice and we are currently developing the Childminding Route Planner to help support

them in this process. Evidence collated could be used for self-assessment, supporting the inspection process, quality assurance and quality improvement processes, providing recognition of prior learning towards qualifications and in assisting childminders to choose the best route towards qualification for their individual situation.

20. Do I need to register with the Scottish Social Services Council (SSSC) if I am a childminder?

No. There is no legal requirement for childminders to register with SSSC and they are already registered with the Care Inspectorate. The National Standard (sub-criteria 1.2 and 1.4) asks childminders to meet the requirements and Codes of Practice that SSSC require from registered practitioners and this is sufficient evidence to show they are meeting this aspect of the National Standard. It is recommended that childminders have a good understanding of the SSSC Codes of Practice as this will support them to understand the expectations of the workforce as a whole. It may also support them to show how they are meeting the National Standard in their application to become a funded provider.

21. I'm planning to open a new setting and I want to become a funded provider. What do I need to do?

Your first step is to complete the Care Inspectorates [registration process](#) for your service with them. Going through the process of registration should support new settings to understand the expectations of the sector and will support their development to meet the National Standard. Part of the process of registration requires each setting to collate evidence which may also be helpful when applying to become a funded provider with a probationary status. There will be other requirements the Care Inspectorate will expect in order for the setting to become a registered care service but, in order to become a funded provider, settings will also need to meet the criteria set out in the National Standard.

New settings may also want to discuss their aspirations with their local authority directly before making an application. The local authority will be able to communicate what can be expected when they apply and may be able to point new settings in the direction of funded providers who are currently high performing.

In addition, organisations such as Early Years Scotland, SCMA, Business Gateway, the Enterprise Networks, Just Enterprise and Social Investment Scotland may be able to support the new setting in developing aspects of their business model.

The Real Living Wage Commitment

1. What is the real Living Wage?

The [real Living Wage](#) is an independently calculated rate based on the cost of living and is paid voluntarily by employers. The rate is calculated annually by The Resolution Foundation on an analysis of the wage that employees need to earn in order to afford the basket of goods required for a decent standard of living. This basket of goods includes housing, childcare, transport and heating costs.

For further information on the calculation of the Living Wage see [The Resolution Foundation](#).

2. What is the difference between the real Living Wage and the National Living Wage?

The National Living Wage is an enhanced legal minimum wage for workers that are aged 23 and over.

The National Minimum Wage is the legal minimum wage for workers aged under 23 year olds. Lower rates apply for those aged 18-20; under 18; and for apprentices.

The National Minimum Wage rates are set by the UK Government. More information can be found on the [UK Government website](#).

3. Do providers have to become Living Wage accredited to become a funded provider?

No. Whilst the Scottish Government encourages more providers to become Living Wage accredited, it is not required to meet the criteria.

Further information on Living Wage accreditation can be found on the [Living Wage Scotland website](#).

4. Are any ELC providers Living Wage accredited?

There are already a number of Living Wage accredited private and third sector employers operating in the sector. More information on Living Wage accredited employers in the sector can be found in the [Living Wage Scotland Employer Directory](#).

5. Who is covered by the ELC real Living Wage commitment?

The commitment covers all directly employed childcare workers in a setting who are providing direct care to children receiving the funded entitlement regardless of age or qualification and of the setting in which they are employed. This includes staff who are regularly employed by childminders to provide direct care to children.

6. Are Modern Apprentices included in the commitment?

In line with the requirements for Living Wage accreditation, apprentices do not have to receive the real Living Wage - in recognition that particularly in the earlier stages apprentices may spend more time training than working. However, it is good practice to ensure pay rises over the course of the apprenticeship.

7. Is there a timescale for providers to demonstrate that they are paying the real Living Wage to staff delivering the funded entitlement?

Providers who agree to deliver the funded entitlement will pay the real Living Wage to all childcare workers delivering the funded entitlement and commit to adopting and demonstrating Fair Work practices in their setting.

8. In the Fair Work criteria what is meant by “in accordance with the supporting guidance on Transition Options” with regards to payment of the real Living Wage to all childcare workers delivering the funded entitlement?

[Transition Options Guidance on Contracting](#) was published in April 2019. This includes guidance for local authorities on how to reflect the real Living Wage and Fair Work commitments as part of their contracting with funded providers in the private, third and childminding sector.

9. What funding will settings receive to enable delivery of the real Living Wage commitment?

The sustainable rate that services receive to deliver funded Early Learning and Childcare will be set at a level that enables payment of the real Living Wage for those childcare workers delivering the funded entitlement.

10. Why is the Scottish Government/local authorities not providing the funding for all workers – regardless of whether they are delivering the funded entitlement – to receive the real Living Wage?

It is the Scottish Government's ambition that all staff in ELC settings are paid at least the real Living Wage.

However, the funding provided by the Scottish Government/local authorities is for the delivery of a service on behalf of the public sector. A contract will be agreed by the provider and the local authority for the delivery of these funded hours. If funding were provided for non-funded hours then this could be interpreted as a subsidy and therefore could be in breach of the Subsidy Control Act 2022.

To put this in context the [Financial Sustainability Health Check](#), published in July 2023, reports that for providers delivering funded ELC the income for delivering the funded hours accounted for, on average, 46% of total income for private sector services and 84% for third sector services.

It is also important to note that not all registered day care for children services are delivering the funded entitlement. For example, Schools in Scotland 2022 reports

that 985 private and third sector services were delivering funded ELC in September 2022. This accounted for around 56% of all registered private and third sector day care of children services.

It is at the discretion of providers as to how they operate the non-funded hours aspects of their business, reflecting their business model, cost structures and local market conditions.

It is not for local authorities or the Scottish Government to seek to comment on or intervene in the aspects of a funded providers business that are outwith of the funded entitlement.

11. Staff in my setting deliver a combination of funded and non-funded hours. Can I pay staff delivering non-funded hours less than the real Living Wage?

It is the Scottish Government's ambition that all staff in settings delivering funded ELC are paid at least the real Living Wage.

The funding provided only covers the hours spent delivering the funded hours, and does not cover the hours that staff spend delivering non-funded ELC in these settings, either as 'wraparound care' or to children who are not eligible for the funded entitlement.

However, in line with the wider Fair Work criteria in the National Standard, employers must demonstrate fair and equal pay policy within their settings.

Providers will receive a sustainable rate from their local authority to deliver funded ELC. The sustainable rate will be set at a level that enables payment of the real Living Wage for those childcare workers delivering the funded entitlement.

It is at the discretion of providers as to how they operate the non-funded hours aspects of their business, which will reflect their business model, cost structures and local market conditions.

It will therefore be a business decision for providers as to whether they provide the additional resource to uplift the salaries for all childcare workers, including those not engaged in delivery of the funded ELC provision, to the real Living Wage.

However, the purpose of this commitment is to recognise the contribution workers in ELC make to improving the quality of the experience for children. It is an opportunity to invest in ELC as a career of choice by helping to address one aspect of the recruitment and retention challenge in the sector.



© Crown copyright 2023



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-377-3 (web only)

Published by The Scottish Government, December 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1337682 (12/23)

W W W . g o v . s c o t