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**Y Gweinidog Plant, Pobl Hŷn a Gofal Cymdeithasol**  
**Minister for Children, Older People and Social Care**

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Chair  
Children, Young People and Education Committee  
National Assembly for Wales  
Ty Hywel  
Cardiff CF99 1NA



Llywodraeth Cymru  
Welsh Government

17 September 2018

Dear Lynne,

### **Childcare Funding (Wales) Bill**

Thank you for the committee's consideration of the Childcare Funding (Wales) Bill during Stage 1. I am pleased the committee, with the exception of one Member, has agreed the general principles of the Bill.

In light of the time you have taken to consider the content of the Bill and some of the wider aspects of the childcare offer, I wanted to write to you ahead of the general principles debate on 18 September, setting out our detailed response to the committee's recommendations. In doing so, some of the points raised rest within the portfolios of the Cabinet Secretary for Education and the Minister for Welsh Language and Lifelong Learning, both of whom are copied into this letter.

I have divided my detailed response, which accompanies this letter, between those recommendations which deal with the Bill and those which address the wider offer and issues relating to the childcare sector.

I will deal first with the recommendations that relate specifically to the Bill. The Finance and Constitutional and Legislative Affairs committees also considered the Bill at Stage 1 and they made a number of recommendations about its content and the balance of provisions between primary and secondary legislation. I have tried to strike a balance between all three committee reports, but there have inevitably been occasions when I have had to fall on one side rather than the other.

Consequently, it has not been possible for me to accept all of the Children, Young People and Education Committee's recommendations in these areas in full, however, I have carried the principles and underpinning reasoning through as far as possible.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

In respect of the larger set of recommendations about the wider childcare offer and the childcare sector, I value the evidence the committee gathered during the inquiry and thank the committee for its diligent and detailed work.

However, at the current time, it is important that I draw a distinction between those recommendations which require immediate action and legislation and those which are less time sensitive. I would welcome the opportunity to work with the committee as the childcare offer develops to ensure we are able to maximise its benefits, within the terms of the commitment we have given to the Welsh public.

In particular, with your permission, I would relish the opportunity to return to the committee in the spring, with a draft administrative scheme and to discuss some of the operational details it will cover. I would welcome the committee's views on ways we could simplify the early years system for parents, childcare providers and children so all families can easily identify the programmes they will benefit from. This could, for example, include consideration of where we go next, once the offer is in place.

The final report of the independent evaluation of the first year of early implementation of the childcare offer is not scheduled for publication until the end of November and will not be finalised until shortly before that date. Officials are working with the independent evaluators and the committee clerk to establish what can be shared ahead of this date.

I would also like to make you aware of a change in delivery arrangements for the second year of early implementation. In the first year, each local authority undertook the full process themselves, including the assessment of applications and processing of payments to childcare providers.

For the remaining period of early implementation until the national roll out in 2020, we are asking local authorities to work in partnership with one authority accepting and processing applications on behalf of others and making relevant payments. This is intended to minimise the sunk costs in an approach we are not taking forward in perpetuity and to maximise efficiencies for taxpayers.

This approach will be added to the Bill's Regulatory Impact Assessment as a fifth option. The data will be shared as soon as it becomes available, although it is not expected to make a significant difference to the balance of costs between our preferred option of using HMRC and the other options.

I look forward to the general principles debate.

I am copying this letter to the Cabinet Secretary for Education, the Minister for Welsh Language and Lifelong Learning and to the chairs of the Finance and Constitutional and Legislative Affairs committees.

Yours sincerely



**Huw Irranca-Davies AC/AM**

Y Gweinidog Plant, Pobl Hŷn a Gofal Cymdeithasol  
Minister for Children, Older People and Social Care

## **Childcare Funding (Wales) Bill – Stage 1**

### **Children, Young People and Education Committee Report Recommendations**

#### **Recommendations relating to the Bill**

##### **Recommendation 1**

That the Welsh Government, as a matter of course, share all information detailing the grounds on which UK Government consent is provided to a Bill with Assembly committees. This information should be shared on the Bill's introduction (or as soon as it becomes available if consents are not gained in advance of introduction) to enable full and appropriate scrutiny of a Bill's provisions.

I **accept the principle** of this recommendation.

Our approach to sharing information about consents is set out in our Legislation Handbook, which is available at:

<https://gov.wales/docs/legislation/170830-legislation-handbook-en.pdf>.

The handbook states: "When the Bill is sent to the Llywydd for her determination (see Chapter 14), the covering letter from the First Minister should identify where consents are required and provide copies where available. It would only be in exceptional circumstances, outside the Welsh Government's control, that it might not be possible to signify all consents at this stage."

The First Minister's letter of 16 March, which sought the Llywydd's determination about whether the Bill was within the competence of the National Assembly set out that the consent of the Chief Secretary to the Treasury to the provision in section 8 of the Bill relating to the amendment to section 18 of the Commissioners for Revenue and Customs Act 2005 and to the relevant provisions relating to data sharing and onward transmission of data had been secured. A copy of the consent was subsequently shared as part of the determination process.

The Welsh Government will work with the Assembly Commission to review working arrangements for sharing consents.

##### **Recommendation 2**

That the Welsh Government, in advance of the Stage 1 debate, outline its understanding of the "separate agreements" that would be required between itself and HMRC should the current proposed childcare offer change.

I **accept** this recommendation.

HMRC will act as our agent in relation to the determination of eligibility for our childcare offer (the offer). The various powers and rights established by the Bill will be vested in the Welsh Ministers, who will appoint HMRC to undertake certain tasks on our behalf. Consequently, we will need certain arrangements in place to enable them to take this work forward as follows:

- A Memorandum of Understanding with HMRC covering the work required to incorporate our offer within their digital and non-digital platforms;
- An agreement under Section 83 of the Government of Wales Act 2006 enabling HMRC to undertake the functions of the Welsh Ministers; and
- A further Memorandum of Understanding covering ongoing administration of the digital platform and non-digital services.

Both Memoranda of Understanding will set out the service delivery arrangements and the terms and conditions of the working arrangements between Welsh Government and HMRC, along with any notice requirements should we want to make changes to our offer. The reference to separate agreements in the letter from the Chief Secretary to the Treasury is to the potential need for a new or amended Memorandum of Understanding, or revised arrangement under the Government of Wales Act 2006, should such changes occur.

### **Recommendation 3**

That the National Assembly agree the general principles of the Childcare Funding (Wales) Bill. Llyr Gruffydd AM does not support this recommendation on the grounds outlined in paragraph 57 of this report.

I **note** this recommendation.

I am grateful for the consideration given to the Bill by the three committees which contributed to its scrutiny, and am pleased that, with the exception of one Member, the Children, Young People and Education Committee has been able to recommend the general principles of the Bill are agreed by the National Assembly for Wales.

### **Recommendation 6**

That the Bill be amended to require the Welsh Ministers to make the administrative scheme by subordinate legislation, to ensure that it is placed on a statutory footing

I **do not accept** this recommendation.

The administrative scheme will set out the operational details of the offer. These details are not suited to appearing in either the Bill or in regulations as they could be subject to change as the offer develops.

I am committed to transparency and I would value the committee's views as the scheme develops. I will aim to share an initial framework scheme with the committee ahead of stage 3, although there will be some aspects of the operational delivery model, which will not be fully developed and agreed with stakeholders by the end of October. I would welcome the opportunity to return to the committee to discuss the scheme in more detail in the spring.

### **Recommendation 7**

That the Bill be amended to extend its provisions beyond working parents, to include parents who are seeking work by undertaking education and training linked to securing employment, to be defined in regulations.

I **do not accept** this recommendation.

The offer is aimed at supporting working parents. We have other support programmes in place designed specifically for parents in training and education or for those who require support to return to work.

Welsh Ministers already have the necessary powers to bring forward additional programmes of support as required, subject to relevant funding being available.

I do, however, appreciate that it may be confusing for people to understand what support is available and will commission a piece of internal work to examine this further and look at options to reduce any confusion and complexity. I would welcome the opportunity to bring this work to the committee at a future date and would also welcome the committee's support and input into how best to draw the various schemes together, outside of the parameters of this Bill.

### **Recommendation 8**

That the Bill be amended to provide the Welsh Ministers with a regulation-making power to extend its provisions to other categories of parent in the future. Any such regulations should be subject to the super-affirmative procedure.

**I do not accept** this recommendation.

The offer is aimed at supporting working parents. The Bill has been introduced to put in place the necessary legislative framework to access and assess information necessary to determine eligibility for this offer.

A range of other programmes are in place to provide support to other categories of parent, such as PaCE and Flying Start. Welsh Ministers also have the necessary powers, under Section 60 of the Government of Wales Act 2006, to bring forward additional programmes of support as required.

### **Recommendation 9**

That the Bill be amended to require the Welsh Ministers to fund childcare for qualifying children of working parents for, or for a period equivalent to, 30 hours in each of 48 weeks in any year (to include the early years education already funded through local authorities). The Bill should also include provision enabling the amount of childcare to be amended in the future by regulations subject to the super-affirmative procedure.

There is a strong correlation between this recommendation and the recommendation four made by the Constitutional and Legislative Affairs Committee, which called for the Bill to include a commitment to provide the offer.

I am **continuing to explore the options** available to me to meet these recommendations and the principles which sit underneath them.

I will write to the committee to update it as proposals develop further.

### **Recommendation 10**

That the Welsh Government keep under review the age of the "qualifying children" to whom the Bill's provisions should apply. This is with a view to ensuring that either:

- the Bill can be amended at a later stage to include the details of the age of a "qualifying child", if the evidence received from the evaluation of the pilot is unequivocal; or

- the eligibility regulations reflect the lessons learned in the specified age of the “qualifying child”, if the results of the evaluation are ambiguous in this regard.

I **accept** this recommendation.

In its report, the Constitutional and Legislative Affairs Committee has asked that I include more detail about a “qualifying child” on the face of the Bill. I have asked officials to look at options to meet this recommendation – and to bring forward government amendments – but have made clear we must retain the flexibility to amend the age of a “qualifying child” should a future Welsh Government wish to do so.

I believe that this would have been possible within the Bill as introduced and I am keen this is not lost.

### **Recommendation 11**

That the Bill be amended to require regulations made under it to make provision for a temporary exemption period (also referred to as a “TEP” or “grace period”).

I **do not accept** this recommendation.

I remain of the belief that details such as this are operational in nature, and better accommodated within an administrative scheme. The Bill is concerned with the framework and data-sharing necessary to determine a person’s eligibility for the childcare offer.

The application of a temporary exemption period would happen after a person had been found to be eligible for the offer, and at such time as a change in circumstances resulted in them falling out of eligibility.

I will aim to provide the committee with an initial framework administrative scheme ahead of stage 3 and I would welcome the opportunity to return to the committee in the Spring to discuss the scheme in more detail.

### **Recommendation 12**

That the Bill be amended to provide that:

- regulations made under section 1 should be subject to a super-affirmative procedure rather than the affirmative procedure; and
- any revisions to regulations made under section 1 should be made using the super-affirmative procedure.

I **do not accept** this recommendation.

The Constitutional and Legislative Affairs Committee recommended that more detail regarding a “qualifying child” and a “working parent” be placed on the face of the Bill, and that only if this were not done should the regulations under section 1 be subject to the super-affirmative procedure.

I have asked my officials to prepare government amendments in line with the Constitutional and Legislative Affairs Committee recommendation.

### **Recommendation 20**

That the Welsh Government ensure that any new obligations imposed on local authorities in relation to this Bill are accompanied by the necessary amount of funding to deliver them.

I **accept** this recommendation.

The Welsh Government has previously committed to meet the costs of new burdens on local government.

### **Wider recommendations**

#### **Recommendation 4**

That the Welsh Government make available, before the start of Stage 3, the results of the evaluation of the childcare offer.

I **accept the principle** of this recommendation.

We are working with the independent evaluators to confirm what information could be made available to the committee before the start of Stage 3, including whether a confidential technical briefing could be arranged ahead of the publication of the final report. Officials will liaise with the committee clerk about these arrangements.

The evaluation of the first year of early implementation is not scheduled for completion until late October, with the findings scheduled for publication in November. The committee will note that this timescale does not fit with their recommendation.

At this early stage it will not be possible to evidence whether or not the offer is achieving its intended outcomes in full. The evaluation will cover only one year of early implementation in seven local authorities. Further evaluation work is planned for the remainder of the early implementation programme and into the national roll out, which will provide more conclusive evidence.

I will provide further details about the longer-term evaluation when the contract specifications are completed.

#### **Recommendation 5**

That the Welsh Government does not finalise the detail of the regulations that will be made under this Bill until the findings of the evaluation of the childcare offer pilots have been fully analysed and published.

I **accept** this recommendation.

Subject to the Bill receiving Royal Assent, my intention is to bring forward two sets of regulations in spring 2019.

The first set will set out who would be a qualifying child of working parents, along with the information required to support an application.

The second set will cover the sharing of information between Welsh Ministers and third parties, along with the onward disclosure of that information. This second set of regulations will be subject to the consent of an “appropriate Minister” on behalf of a UK Government department or Minister of the Crown.

Draft regulations will not be available before the publication of the findings from the independent evaluation in November.

### **Recommendation 13**

That the Welsh Government work with HMRC to outline, before the Stage 1 debate, what arrangements will be in place to ensure that HMRC is able to deliver a fully-bilingual application and eligibility checking system (both online and on the telephone) under the provisions of this Bill.

I **accept** this recommendation

HMRC has committed to providing a fully bilingual service in respect of the offer. Officials have met HMRC on several occasions and detailed discussions regarding our expectations and the Welsh Language Standards requirements are ongoing. Officials have also met the Welsh Language Commissioner's office to discuss this and a number of other matters relating to the offer.

We are working alongside HMRC and its delivery partner National Savings and Investments, to develop the bilingual service. This will include the digital aspects of the application process and the provision of Welsh-speaking telephone operators to support the elements of the offer delivered by HMRC.

### **Recommendation 14**

That the Welsh Government produce a revised Regulatory Impact Assessment should the eligibility criteria for access to funding of childcare change from those outlined on the face of the Bill and in the Explanatory Memorandum. This work should be undertaken and published in time to inform Members' consideration of the Bill at later stages or, if decisions are not made on eligibility until the Bill has completed its passage through the Assembly, in time to inform the scrutiny of the relevant regulations.

I **accept** this recommendation.

At this point, there is no intention to change the eligibility criteria in relation to the offer. However, it has always been the intention to review and amend the Regulatory Impact Assessment as any new information becomes available or should anything change.

As I set out in my covering letter, I will be adding a fifth option to the Regulatory Impact Assessment to reflect the revised delivery model for early implementation. Essentially this is a refinement of our baseline option, which sees some local authorities working in partnership to deliver the offer. As this approach has only just started, we need some time to gather the relevant data but we do not expect it to impact on our preferred approach of working with HMRC (which remains the least expensive approach).

I will share the data when it is available – and no later than the point at which Standing Orders require a revised Explanatory Memorandum, including a revised Regulatory Impact Assessment, to be laid before the Assembly ahead of Stage 3.

### **Recommendation 15**

That the Welsh Government make more explicit its commitment to ensuring that the risks of digital exclusion are addressed, managed and monitored as part of any agreement with any delivery agent for the administration of the application and eligibility checking system created by this Bill.

I **accept** this recommendation.

I am very aware of the challenges of digital exclusion across Wales. While it is right and appropriate to prioritise the use of digital systems for the offer, ensuring there are alternative routes for accessing the offer is important to the Welsh Government and to HMRC.

The platform HMRC will be using to manage applications for the offer is already accepting and processing applications for the HM Treasury-led Tax Free Childcare programme and the DfE-led English childcare offer. People who cannot access the digital system can make an application by telephone and can request that they are contacted by telephone or by post according to their preferences. HMRC has agreed to implement the same service for the Welsh childcare offer.

Communication will be central to ensuring parents are aware of the options available to them to make an application. HMRC is working with stakeholders across the UK to raise awareness of their childcare offer among those who could potentially be digitally excluded. It has produced a leaflet, aimed at digitally-excluded customers, which is available from childcare providers, citizen advice bureaux and others. I expect a similar approach to be taken in relation to our childcare offer.

### **Recommendation 16**

That the Welsh Government work with HMRC and local authorities to outline, before the Stage 1 debate, what arrangements will be put in place to ensure that HMRC is able to signpost clearly parents to the other support they may be eligible to access. This should include an assessment of the feasibility (in terms of timescales, costs and clarity of information) of updating HMRC's Childcare Choices website to include details of the Welsh offer.

I **accept** this recommendation.

Communication is key to the success of the childcare offer. We know there is confusion among parents about the services and support available to them nationally and locally, and within the childcare sector, about how the various funding streams work.

This is why we are working with HMRC to design the journey for parents as they apply for the offer. This includes considering how to signpost parents to the tools they need to find out about other support they can access.

HMRC is already updating Childcare Choices to make it more accessible for users in the devolved nations – this is not work it would charge the Welsh Government for. However, Childcare Choices was designed to have a limited lifespan and cannot be guaranteed beyond March 2020. Consequently, we are looking at other options, including changes to the Childcare Calculator currently available on the gov.uk website, which parents can use to quickly gauge which scheme is best for them financially. HMRC is currently scoping costs.

We will undertake a Wales-wide communications campaign ahead of the national roll-out of the offer in 2020, setting out the details of the offer and how to apply. Work to scope that campaign, which will be subject to a tender exercise under our procurement processes, is underway. We envisage messages being distributed across a range of media, as well as working with the Family Information Service, and I would be happy to share details of our proposals with the committee in the Spring when they are more developed.

### **Recommendation 17**

That the Welsh Government make available, before the start of Stage 3, a revised Child Rights Impact Assessment (CRIA). This CRIA should consider the Bill's impact on *all* children, not just those eligible under its provisions for the childcare offer. This is particularly important in light of the Children's Commissioner's concerns that an unintended consequence of the Bill's focus on qualifying children of working parents could be an increase in the child development, school readiness and educational attainment gap between our most advantaged and disadvantaged children.

I **accept the principle** of this recommendation.

I understand the committee believe this is important, particularly in light of the Children's Commissioner's concerns that an unintended consequence of the Bill's focus on qualifying children of working parents could be an increase in the child development, school readiness and educational attainment gap between our most advantaged and disadvantaged children.

The Children's Rights Impact Assessment published alongside the Bill focuses on the provisions of the Bill itself and therefore relates to those children eligible for the childcare offer.

Impact assessments are being carried out for the childcare offer, and in line with best practice are being regularly updated. We are in the process of drawing these together into an integrated impact assessment. I would be happy to share this with the committee when complete, but this will be on the basis the impact assessment is a live document and that further changes will be made as the evaluation of our programme of early implementation continues.

### **Recommendation 18**

That the Welsh Government ensure that, as part of the evaluation of the childcare offer pilot's roll-out, information to assess the impact of its arrangements on summer-born children is gathered, analysed, and used to inform the shape of the childcare offer that is eventually rolled out nationally.

I **accept** this recommendation.

Measuring child development is complex, not least because there is a myriad of influences which may have a bearing on development. It is for this reason that the impacts of the offer on child development were not included in the specification for the evaluation of the first year of early implementation, let alone the impacts on summer-born children as a specific cohort. Consequently it will not be possible to include this within the report relating to the evaluation of the first year of early implementation as we cannot retrospectively collect the data with confidence.

It is, however, something we will ask the evaluators to consider for the second year of early implementation, the report we would expect in November 2019.

In addition to this, we are starting to scope out the detail of the evaluation of the offer in the longer term, following national roll out in 2020. We are working with the Secure Anonymised Information Linkage (SAIL)<sup>1</sup> databank to access a secure infrastructure for data linking. This should enable us to analyse information on children befitting from the offer against other data about them. Assuming the data is available, we should be able to consider whether the term in which a child is born is statistically likely to have an influence on their outcomes.

It will take time to put in place the data systems and requirements, and for the intended outcomes from the offer to be realised. We may not have conclusive evidence by the time of the full national roll out but this is something we can return to as the offer becomes more widely available.

### **Recommendation 19**

That the Welsh Government set out in advance of the Stage 1 debate:

- how the number of children that would be eligible in terms of their parents working was calculated to be 40,000, as stated in the Explanatory Memorandum; and
- whether an attempt was made to estimate the number of children who would be eligible in the term after their third birthday, or whether only the total number of three year olds (plus four year olds) was used.

I **accept** this recommendation.

Gartner, the independent consultancy we used to provide the costings within the RIA, has estimated we will receive around 40,000 applications – this includes applications for eligible children and ineligible applications, which will be rejected. This figure has been applied consistently across all the costed options in the Regulatory Impact Assessment so reliable comparisons can be made between scenarios.

We have drawn on a number of datasets as follows:

- To understand the number of children aged three and four, we used the most recent official statistics of population estimates for Wales (2016) as published by the Office of National Statistics (68,000).
- To estimate the number of parents likely to be eligible we considered data from the Annual Population Survey, which provided the employment rate and earnings of parents of three and four-year olds (approximately 60%).

The figure of 40,000 was reached by considering the population of three and four-year-olds in Wales at any time and the number of those children whose parents are likely to be eligible.

We have also accounted for the month in which children are born (again based on ONS data), and modelled the number of weeks they could be eligible for the offer based on the term they turn three and the way Foundation Phase Nursery Provision is provided in their local authority area (as the offer is up to 30 hours, and varies depending on the early education entitlement provided locally).

### **Recommendation 21**

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<sup>1</sup> <https://saildatabank.com/>

That the Welsh Government set aside a proportion of its budget for the childcare offer to provide additional support between now and the offer's roll-out to facilitate an increase in the co-location of childcare and early years education provision. This should include incentives for the non-maintained sector to increase its provision of early years education.

I **accept** this recommendation.

We have undertaken extensive engagement work with parents and childcare providers in relation to the offer. One of the issues regularly raised by parents is the challenges they face in transporting children from their early education entitlement to their childcare provider, where they are not available in the same setting. This is also a concern for childcare providers, which are often keen to deliver both the education and childcare aspects of the offer.

I am committed to ensuring the offer is as clear and easy as possible for people to access – a key part of this is ensuring it operates seamlessly.

In July 2018, I announced a £60m capital grant programme, which will be spread over three years (2018-21). The primary purpose is to facilitate and support the co-location of the early education and childcare provision wherever possible. This is in line with our *Prosperity for All* commitment to “introduce a new model of community learning centres, providing extended services with childcare, parenting support, family learning and community access to facilities built around the school day”.

I expect to make announcements about funding allocations later this year and would welcome the opportunity to return to committee with more detail at that point. I would also be happy to facilitate a visit by the committee to settings funded through other Welsh Government capital programmes, such as Flying Start, so they can see the model we hope to replicate.

## **Recommendation 22**

That the Welsh Government undertake a review of the cost/rates of payment across maintained and non-maintained settings for childcare, early years education, and the childcare element of Flying Start. Particular attention should be given to increasing the consistency between the hourly rate paid for early years education and childcare.

I **do not accept** this recommendation.

I am not proposing a review to harmonise the rates of pay for the delivery of Flying Start childcare services in Wales, but I will continue to monitor the situation.

Of the three programmes mentioned, only the rate paid in respect of the childcare element of the offer is directly set by the Welsh Government. The hourly rates paid to non-maintained settings delivering Flying Start and early education are negotiated by individual local authorities and, as such, can vary significantly across Wales. Local authorities delivering Flying Start childcare services in maintained settings pay staff salaries, rather than hourly rates, and therefore are often unable to attribute an hourly rate of pay. This is similar to the position for local authorities delivering early education through maintained settings, where the funding forms part of the overall school budget.

Comparing the rates of pay paid to Flying Start childcare providers with other providers of early years education and childcare can be problematic for the following reasons:

- The increased staffing ratios required for the delivery of Flying Start childcare services for children aged two to three.
- Flying Start services are expected to be higher in quality than generic provision and are delivered on a part time basis of 2.5 hours a day.

Additional work to inform the offer rate is planned. Care Inspectorate Wales (CIW) has previously collected data from providers on how much parents or guardians are charged for childcare for under-fives and future requirements for cost/rate information across settings is being considered by the Welsh Government in partnership with CIW.

We will also learn from cost case studies undertaken in England by the Department of Education, which are expected to report in Autumn 2018.

### **Recommendation 23**

That the Welsh Government issue revised guidance to local authorities defining the meaning of “sufficient nursery education”, to guard against any risk of less than the current amount of early years education being offered by each local authority once the childcare offer is in place.

I **accept** this recommendation.

Responsibility for the delivery of early education through the Foundation Phase Nursery provision is a matter for the Cabinet Secretary for Education.

The legislative basis for early education has not changed since the original guidance was issued; however, we accept that the policy context has changed significantly with the introduction of the offer. To reflect the changing policy context, the Cabinet Secretary for Education issued revised guidance under section 118(2)(b) of the School Standards and Framework Act 1998 on 14 September 2018.

<https://beta.gov.wales/foundation-phase>

The revised guidance clearly states that part-time education means a minimum of 10 hours a week during school terms.

No local authority is delivering less than the 10 hours minimum amount of hours of early education, as set out in the original guidance and many are delivering more.

### **Recommendation 24**

That the Welsh Government work with Care Inspectorate Wales and Estyn to reflect and implement the lessons learned from the evaluation of the joint-inspection framework, with a view to considering more streamlined arrangements.

I **accept** this recommendation.

Officials have met Estyn and CIW to discuss the pilot of the joint inspection system for non-maintained settings funded by local authorities to provide education for three and four-year-olds. Estyn and CIW report the pilot was successful with experiences largely positive for both providers and staff and this is supported by the evaluation undertaken by Arad Research and the Welsh Institute for Health and Social Care, University of South Wales.

CIW and Estyn will conduct a joint inspection of non-maintained providers once in a period of six years and will use a common joint inspection framework to enable greater alignment in inspection arrangements. The whole process from the inspection visit, feedback to providers, and quality assurance will be integrated and undertaken jointly by CIW and Estyn. The inspection outcomes will be published on both CIW and Estyn websites in a single report and will include judgements against each theme. This will streamline arrangements but not compromise the inspectorates' legislative duties and obligations. Roll-out is anticipated from January 2019.

### **Recommendation 25**

That the Welsh Government, in advance of the Stage 1 debate, accept the Equality, Local Government and Communities Committee's recommendations relating to the childcare offer in its report on its inquiry into pregnancy, maternity and work.

**I do not accept** this recommendation

The Welsh Government will be responding to the recommendations of the Equality, Local Government and Communities Committee, including to those recommendations relating specifically to childcare. The response be published in line with Standing Orders.

### **Recommendation 26**

That the Welsh Government remove the right for providers to apply additional charges

**I do not accept** this recommendation.

The childcare market across Wales is a diverse one, with a variety of providers offering a range of services based on local needs. At any one time around 50% of providers registered with CIW are childminders, but around 62% of childcare places for children under five are within day nurseries<sup>2</sup>. Providers offer different services, with variations dependent on their operating hours; the services available on their premises and the business model they use.

The provision of food and snacks is a good example of this. While a significant majority of day nurseries have the facilities in place to provide food and snacks on site, the same is not always true of sessional care settings, such as Cylch Meithrin, which may be operating from a church hall without fully-licensed and approved catering facilities. Some childminders may not want to register their domestic kitchens with the Food Standards Agency and so may also choose not to provide a catered service. This will be reflected in the rates they charge. The same is true of transport costs, which will vary depending on distances, fuel costs and methods of transport.

When we were considering the evidence on rates, it became apparent that we had three choices:

- Pay a rate in respect of the childcare, and allow providers to charge parents for additional services offered such as food and transport;
- Pay a rate which included food and transport to all providers, regardless of whether or not they offered that service; or
- Pay different rates to providers depending on the services they offered.

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<sup>2</sup> Based on CIW SASS 2016 data.

We discussed these options with the childcare sector and with local authorities. We also looked at the lessons emerging from England, where a variable rate is paid depending on the location of the setting, but parents are still charged additional sums for food and transport. Our conclusion was that a single rate was more transparent, and easier for the sector and parents to understand.

However, in allowing additional charges for food and transport, we were mindful that could leave parents facing significant costs and this is why we issued guidance setting a maximum rate for food. This is very different from England where there is no guidance in place and there has been anecdotal evidence of parents facing additional charges of more than £15 per day.

Removal of the right to charge additional fees for items such as food and transport would mean these charges would have to be factored into the rate paid to providers by the Welsh Government. Furthermore, a variable rate would be required to ensure what we pay reflects the service offered, bringing additional complexity at a point when we are also facing calls to standardise rates across a range of early years programmes.

I will keep the matter of additional charges under review, and will look at this again as part of the review of the rate ahead of the national roll out. However, I have no plans to remove them at this time.

#### **Recommendation 27**

That the Welsh Government assess, as a matter of priority, how many providers are applying additional charges within the existing Early Implementer Local Authorities (EILAs) and for what reason.

I **accept** this recommendation.

Information on additional charges is being collected as part of both the parent and provider surveys which are being undertaken for the evaluation of the first year of early implementation. We will be in a better position to assess whether or not additional charges are being applied, and the level of any charges, in the autumn. I will provide an update on this issue as the work on the offer develops, and as stated above, I will keep the matter of additional charges under review.

#### **Recommendation 28**

That the Welsh Government consider, based on learning from the EILAs about the extent to which additional charges are being applied by providers, raising the proposed hourly rate of £4.50 if necessary for providers' sustainability and to ensure they are reimbursed for the true cost of their provision

I **accept** this recommendation.

The rate set for early implementation of the offer was based on information about charging and rates in 2016. We will be reviewing this ahead of the national roll out of the offer in 2020, taking account of a host of factors, including the impact of the national living wage and wider market conditions. I will keep the matter of additional charges under review.

#### **Recommendation 29**

That the Welsh Government outline, in advance of the Stage 1 debate, the discussions it has held with HMRC about the likely costs and timescales associated with any change

to the income cap, and the basis on which the Minister has stated that such a change could be possible in future.

I **accept** this recommendation.

Officials have discussed the current upper earnings threshold of £100,000 with HMRC and the implications of a reduced upper earnings limit. In principle, HMRC has no issue with a different rate. However, there are practical considerations which must be taken into account.

Our intention in using HMRC as our agent for the processing of application for the offer is to use the existing digital and non-digital platforms it has in place for applications for both Tax Free Childcare and the English childcare offer. Both of those platforms are constructed around an upper earnings threshold of £100,000. At the time of our discussions, HMRC indicated that making the necessary changes to the digital and non-digital platforms would incur additional costs in the region of £1m. This would be an initial one-off cost. However, it was a very rough estimate, heavily caveated as requiring additional work to fully scope the extent of the changes required, which included increased compliance and telephone calls due to parent's confusion. We have not returned to HMRC for a more detailed analysis of the cost implications of applying a different cap in Wales.

More recently, HMRC has confirmed that such a change may also result in a delay of up to 12 to 18 months in the delivery of the digital and non-digital platforms to support the offer.

Parents accessing the offer in Wales will also be able to access Tax-Free Childcare at the same time. Aligning our eligibility criteria with those applying to the English childcare offer and Tax-Free Childcare reduces the risk of confusion among parents and providers on both sides of the border and creates a sense of parity and equality.

If there are lessons to be learned from the first year of early implementation or when we roll out our offer nationally, we will review the eligibility criteria and consider adjustments as appropriate.

### **Recommendation 30**

That the Welsh Government roll out the childcare pilot offer to a handful of the more affluent wards within existing EILAs, to test the extent to which the offer remains one that is taken up largely by those earning less than the median average salary.

I **accept** this recommendation.

The offer is now available in 13 local authorities across Wales, with delivery starting in, Ceredigion, Conwy, Neath Port Talbot, Newport, Torfaen and Wrexham in September 2018. Delivery in Cardiff will begin later this term. This includes some of the more affluent wards in Wales, using the Wales Index of Multiple Deprivation as a basis for that assessment. This will provide further evidence about the hourly rate which is currently applied to the offer.

Plans to start delivery in the remaining authorities are well advanced and I hope to make an announcement on timing later this month, subject to finalising those discussions.

### **Recommendation 31**

That the Welsh Government, based on the findings of the forthcoming evaluation (and, if accepted, any data emerging as a consequence of recommendation 30), review the income cap of £100,000 per parent.

I **accept** this recommendation

I have previously committed to keeping this matter under consideration. If we feel this needs to be revisited at any point, then I am happy to do so. This would require discussion with HMRC about both the cost and time involved in making changes to the digital and non-digital platforms for assessing eligibility, as outlined above.

### **Recommendation 32**

That the Welsh Government monitor closely the take up of the childcare offer pilot in EILAs and publish detail of the expenditure from March – August 2018 in advance of the Stage 1 debate in September.

I **accept the principle** of this recommendation

The Welsh Government is closely monitoring early implementation. However, financial claims from authorities for August will not be received until after the General Principles debate. I am happy to share data with the committee as it becomes available and will write again with the details of take up and expenditure for the first year of early implementation as soon as possible.

Analysis of the monitoring data will be published as part of the early implementation evaluation report in November 2018.

### **Recommendation 33**

That the Welsh Government, as a matter of urgency, reconsider the ability of schools to deliver the full childcare offer directly.

I **accept** this recommendation.

The restrictions around the registration of schools for the provision of childcare are set out in the Child Minding and Day Care Exceptions (Wales) Order 2010. I will be issuing a call for evidence in relation to this Order in the autumn and would expect more information regarding these concerns to come forward as a part of that review. I would welcome the opportunity to share the responses with the committee.

It is possible for schools to register to provide on-site childcare at present, subject to the identification of a responsible person.

### **Recommendation 34**

That the Welsh Government make public the findings of its review of the Child Minding and Day Care Exceptions (Wales) Order 2010 before the start of Stage 3, to inform Members' tabling and consideration of amendments.

I **do not accept** this recommendation.

I will be issuing a call for evidence in relation to the Child Minding and Day Care Exceptions (Wales) Order 2010 in the autumn. I would welcome the opportunity to

share the responses with the committee. However, I do not expect the call for evidence to be completed ahead of Stage 3.

### **Recommendation 35**

That the Welsh Government ensure an appropriate balance is struck between capital support for both the maintained and non-maintained sectors.

I **accept** this recommendation.

Local authorities have been asked to co-ordinate bids for capital funding in respect of the offer, working with both the maintained and non-maintained sectors. While the capital programme will meet 100% of the costs, priority will be given to funding childcare settings which form part of a much larger project (where appropriate) which use other sources of funding such as 21st Century Schools and Education Programme or Welsh language funding.

Where a new setting is to be developed (even within existing school grounds) this should be done in consultation with the childcare sector and should only be a local authority maintained setting where there is no other viable option. Funding will not be available for provision which would be in direct competition with the non-maintained sector and private providers will only be funded where there are robust processes in place to ensure the security of the investment.

### **Recommendation 36**

That the Welsh Government respond in detail to Social Care Wales's calculations of the workforce deficit as detailed in paragraph 324 of this report. This response should be provided before the Stage 1 debate, to inform Members' consideration of the extent to which the Bill's stated purpose of encouraging more people back to work will be affected if the sector does not have the capacity to deliver childcare to all eligible families.

I **accept** this recommendation.

In December 2017, the Welsh Government published its 10-year *Childcare, Play and Early Years* workforce plan. It aims to professionalise the childcare sector to become one which society recognises as offering high-quality, flexible and affordable childcare and recognises the sector's workforce as highly skilled.

It is widely acknowledged that the sector is often seen as low skilled and low paid and that parents place a value on which they are prepared to pay for their childcare. In recognition of the need to encourage a culture change across the sector and in recognition of the vital role the sector plays as an economic enabler – ensuring parents and carers can access and remain in work – the plan provides a commitment to prioritise investment support to encourage the sector to build its capacity and capability and grow more sustainably.

In the first three years of its implementation, the workforce plan will therefore develop a targeted approach to business support and skills assistance. This approach is underway and a few examples of the work currently being considered are:

- The Welsh Government's apprenticeship programme will retain access to level 2 as a progression route to higher-level qualifications, supporting both employers and employees to train and develop in the skills appropriate for the sector;

- A new suite of childcare qualifications is being developed ready for introduction in September 2019 across levels 2 to 5 and the apprenticeship programme will support new and existing workforce to access these qualifications;

To support the skills required for the sector, the Progress for Success (PfS) programme (supported by the European Social Fund), was developed to help increase the capacity and capability within the childcare, play and early years sector by providing support for existing practitioners to up-skill across levels 2 and 3. Building on this achievement, my officials are exploring the best use of the European Social Fund to ensure the programme complements and enhances the provision already available via apprenticeships and other skills programmes and continues to support existing practitioners in raising and broadening their skills levels.

We have also been working on new ways to encourage diversity across the workforce and have, in partnership with the National Day Nurseries Association (NDNA) run the Childcare Works project. Childcare Works targets those who are currently economically inactive but who have the right skills and personal attributes to work with our young children. The project has produced a number of successful outcomes and consideration is being given to a second phase.

The sector is a mixed economy made up of private and third sector organisations as well as some in the public sector. It is ultimately for private and third-sector organisations to determine how best to create jobs within their businesses and recruit and train their workforce.

However, job creation within the sector is dependent on a number of factors and Welsh Government fully recognises the financial challenges the sector currently faces in this economic climate. That is why the 10-year workforce plan provides a commitment to prioritise investment in the sector this Assembly term.

I am working with my Cabinet colleagues on the levers Welsh Government has to support business growth within the sector -, for example, I am discussing with the Cabinet Secretary for Finance about further Small Business Rate Relief support for the childcare sector and the Cabinet Secretary for Economy and Transport has offered £100,000 grant funding to support new business start ups and existing nurseries to expand.

We will continue to monitor how these plans can be improved to best support the sector to be able to take full advantage of the childcare offer commitment.

### **Recommendation 37**

That the Welsh Government, in accordance with the Welsh Language Commissioner's recommendations, work to integrate the childcare offer with the Cymraeg 2050 strategy, use Welsh in Education Strategic Plans (WESPs) to specify targets in relation to Welsh language childcare provision, and reform the way childcare data is collected and shared to ensure that all planning is based on reliable information.

**I accept the principle** of this recommendation.

Matters relating to language planning are the responsibility of the Minister for Welsh Language and Lifelong Learning. The Welsh in Education Strategic Plan Advisory Board has started to consider how to strengthen the links between planning of Welsh-medium childcare provision and statutory education. This runs across a number

of programmes and initiatives and is broader than the offer in isolation. Access to better data will be key to taking this work forward and we have been discussing this with a number of stakeholders including the Welsh Language Commissioner and CIW.