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**Decision Maker:** Schools Forum

**Date:** 14<sup>th</sup> September 2023

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** DFE EARLY YEARS CONSULTATION

**Contact Officer:** Caren Boiling, Interim Head of Service Early Years, School Standards and Adult Education  
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**Chief Officer:** Jared Nehra, Director of Education

**Ward:** All

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1. Reason for decision/report and options

- 1.1 This report provides Schools Forum with an update on the DfE Early Years consultation on the extension of the free entitlements.

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2. **RECOMMENDATION(S)**

Schools Forum is recommended to note the update and consultation response provided to the DfE.

#### Impact on Vulnerable Adults and Children

1. Summary of Impact: The outcomes of the DfE's consultation will ultimately determine the level of funding and methodology for vulnerable children aged up to 5 in Bromley.
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#### Transformation Policy

1. Policy Status: Not Applicable
  2. Making Bromley Even Better Priority (*delete as appropriate*):  
(1) For children and young people to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
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#### Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: N/A
  4. Total current budget for this head: £ N/A
  5. Source of funding: N/A
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#### Personnel

1. Number of staff (*current and additional*): N/A
  2. If from existing staff resources, number of staff hours: N/A
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#### Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Applicable:
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#### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 In March 23 The Chancellor of the Exchequer announced the government's plans to extend Early Years Education funding to children aged nine months and over, for working parents. The government plan to expand the funding in a staged approach over an eighteen month period starting in April 24.
- 3.2 DFE is currently consulting with all Local Authorities on the way that the funding formula is calculated. This consultation opened on 21 July 2023, and closed on 8 September 2023.
- 3.3 DFE will use the agreed formula to allocate an hourly rate to each Local Authority across all of the new funding streams.
- 3.4 DFE is also consulting on how local Authorities will distribute the new funding streams for children under the age of two.
- 3.5 DFE are proposing to use the following data markers in the Hourly rate calculations, which would be similar to the funding formula for children aged three and four:
- A universal base rate.
  - FSM data.
  - EAL data.
  - DLA data.
  - An area cost adjustment.
  - IDACI data, this will be a new measure used in the funding formula for DFE as the FSM data is not reliable on its own.
- 3.6 DFE is also consulting on the idea to extend the current supplements paid to three and four year old, to be applied to all funding streams, this will mean that children as young as nine months old could be entitlement to EYPP funding or even DAF.
- 3.7 DFE is consulting on the pass through rate for Local Authorities, currently in Bromley the two year funding stream is overpaid to providers, and Bromley are able to retain up to 5% of Universal funding, DFE are consulting on Local Authorities being able to retain up to 5% across all funding streams, during the expansion, however this may reduce to 3% once the expansion to Early Years funding is under way.
- 3.8 This consultation is also seeking comments on an expansion of SEND funding, and if an inclusion fund needs to be established for children from nine months of age, DFE are also seeking comments from Local Authorities if additional guidance on the use of SENIF funding would be the way to ensure younger children with needs are supported in this expansion of funding. DFE are looking to reduce the bureaucracy and streamline SENIF funding processes.
- 3.9 Officers liaised with London Heads of Early Years to inform the Bromley response and sent the consultation out to local Early Years providers.
- 3.10 A copy of Bromley's response to the consultation is provided at Appendix A. Due to the time constraints of the DfE's consultation over the summer period, this response had to be sent by the deadline of 8 September 2023.

## **Early Years funding – extension of the entitlements consultation questions**

### **Section 1: National funding distribution for entitlements for children aged 2-years-old and under**

#### **Introduction:**

These questions relate to proposals regarding the national funding formula that will be used to distribute funding to local authorities for 2-year-olds and under from April 2024 in light of the new entitlements. There are also questions in this section relating to proposals to extend eligibility for the disability access fund (DAF) and early years pupil premium (EYPP) to all children accessing the entitlements from April 2024.

**Q1:** Do you agree that we should introduce IDACI as a new proxy, and use it alongside FSM as a basket of measures for deprivation in the additional needs factor in the new national funding formula for 9-month-olds to 2-year-olds?

Yes, we agree in principle by adding IDACI figures it will give another measure alongside free school meal data.

There are some concerns that there are flaws in the IDACI data, some post codes within London are affluent homes, but rented to families on benefits which would not be recognised through IDACI.

Could the IMD (Index of Multiple Deprivation) be used as a measure alongside IDACI data?

There are some concerns for London, with parents not needing to register for FSM, as meals are being funded by The Mayor for the 23/24 academic year. This may reduce the overall data for London for this whole academic year at least, as families will not need to register.

**Q2:** Do you agree that we should continue to use EAL and DLA as proxies in the additional needs factor in the new funding formula?

Yes

We are supportive of EAL and DAF as measures. The data should come to DfE from DWP directly with data of children eligible rather than LA level take up.

Will DfE consider using data from Health where children are notified from Health to SEN via a Health Early Notification form, as these children will be eligible but not yet claiming DAF? There needs to be an early indicator of eligibility for DAF for children from nine months of age if this is to be rolled out to all funding streams.

**Q3:** Do you agree with our proposed approach to the area cost adjustment in the new national funding formula?

Yes – in principle however it may be difficult to quantify this without any take up data.

10% for London premises costs are quite low for London.

**Q4:** Overall, do you agree with our proposed approach of following the same structure and weightings for the new national funding formula as in the existing 3-and-4-year-old formula?

Yes

There are no planned changes to 3 & 4 year olds formula as part of this consultation, the current rate is not a sustainable rate for providers due to increasing costs.

There is a concern by lowering the single rate for vulnerable two year olds from April it will impact negatively for providers in terms of long term sustainability.

There may also be an impact on the funding expansion if parents fall out of work these children will lose all funding at the end of the grace period.

We have a concern that the DfE may use the current two year old data to fund in the first year, which may not reflect actual take-up in year 1. We suggest there should be in year adjustments to take account of a fluctuating uptake.

**Q5:** Do you agree that we should extend DAF eligibility to all children accessing the entitlements from April 2024?

Yes - for eligible children.

Few children will have DLA under the age of three, clarification required whether the funding criteria will be the same.

Clarification required on children with emerging needs.

A child born with needs, should be able to access DAF before DLA is awarded, once a child had a known diagnosis, to be able to access early before DLA is awarded. (We suggest the DfE looks at the eligibility criteria for DAF under the funding expansion)

**Q6:** Do you agree that we should extend EYPP eligibility to all children accessing a free childcare entitlement from April 2024?

Yes, we agree. However, it is unclear how this will be managed during the year. The guidance needs to be clear regarding any in-year adjustments to take account of this spend.

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## **Section 2: Impact of proposals**

### **Introduction:**

Alongside the consultation document, we have published modelling which provides illustrative 2024-25 funding rates and allocations for the entitlements for 2-year-olds and under.

We propose to give each local authority rates in 2024-25 for the 2-year-old and 9-month-old up to 2-year-old entitlements calculated using the formula set out above. These funding rates are for a new working parent entitlement for under 2s, and for a new mixed cohort of the disadvantaged 2-year-old entitlement and the new working parent entitlement for 2-year-olds, and they will be calculated using a new funding formula. This means that there is no baseline against which they should be compared.

Year-to-year protections for these funding rates may be desirable in future years. We will keep this under review and consider whether any protections are appropriate when we are setting rates for 2025-26.

**Q7:** Do you agree with this approach?

Yes, however there is a concern that there is no review for the 3 and 4YO rates, following last year's consultation.

There still needs to be flexibilities for LA's on the passthrough rates.

We will need to encourage childminders to offer funded places, they are worried about the drop in the hourly rates payable between a two year old and a three year old.

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### **Section 3: Local authority funding formulae for childcare entitlements**

#### **Introduction:**

With the expansion of the entitlements, we are proposing to extend the current framework of rules for the distribution of entitlements funding by local authorities to the existing offer for disadvantaged 2-year-olds and to the new offers for working parents of children aged 2-years-old and under. The questions in this section focus on the key features of this framework as well as seek views on the current processes around SEND funding and options for change.

**Q8:** Do you agree a pass through rate of 95% should be applied to each funding stream in 2024-25: the 3-and-4-year-old universal and 30 hours offer; the two-year-old disadvantaged and working parent offers; and the 9 months to two-year-old offer?

Yes – this will enable core staff costs and support to providers to fund support to check entitlements. DFE need to be clear how will LA's need to record the passthrough rates, as a total spend and 95% passthrough as a whole, or detailed return on each of the new funding streams. DFE should publish a clearer timeframe as early as possible to be able to go through the school's forum process and still be able to account for a 95% passthrough rate before March 24. No concerns overall and supportive of this, 95% needs to be maintained for a period of time to allow time to know what resources are needed to support the overall expansion of the new entitlements. Can DFE give some clarity on how long LA's can retain 95% once the funding expansions start to allow LA's to be able to judge the take up and the impact on local funding rates set.

**Q9:** Do you agree that the same list of allowable supplements should be applied to every entitlement funding stream, capped at a maximum 12 percent of planned funding for that entitlement?

No concerns but needs to remain flexible for LA's, in agreement locally via the school's forum process.

**Q10:** Do you agree that the deprivation supplement should be mandatory for every entitlement funding stream?

Yes, we have no concerns, this should be across all funding streams.

**Q11:** Do you agree with our proposal that local authorities should establish a special educational needs inclusion fund for children aged 9 months to 2-years-old who are taking up the entitlements?

Yes – the SEN needs of children to be supported may increase with the expansion of funded hours.

DFE need to be clear around the use of SENIF funding from the DSG Grant. Should it just give funding for the hours of funding, or for children to support hours that are not funded.

**Q12:** What more can be done to support local authorities and providers to reduce bureaucracy and streamline SENIF processes whilst also ensuring the system remains fair and financially sustainable?

Sentinel our funding system has made SENIF more available to providers, applications still need to be made to the SEN team for assessment and award for support. Very often ECHP funding is paid directly to providers monthly, but not for all children.

DFE should issue clear guidance to LA's as the SENIF funding is for low levels and emerging needs, higher SEND needs should be supported by the high needs block via ECHP funding, it would be useful to have clear guidance on the allocation of funding for SENIF, as the funding pot will need to increase with more children accessing funded hours.

**Q13:** Would local authorities and providers find it helpful for the Department to be more prescriptive about the operation of local SENIFs?

Yes – with some flexibilities, but more clarity is needed in the guidance. There are more children with emerging needs within Early Years.

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## **Section 4: Equalities Impact Assessment**

### **Introduction:**

The Public Sector Equality Duty requires public authorities to have due regard to the need to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

Public authorities include the Department for Education, local authorities, governing bodies.

The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual Orientation

**Q14:** Do you have any comments about the potential impact, both positive and negative, of our proposals on individuals on the basis of their protected characteristics? Where any negative impacts have been identified, do you know how these might be mitigated?

Positive impact - that the age range is being lowered for children to access funding, to support working families.

Negative impact - There will be a cohort of two year olds that will not be eligible for either stream of funding within this mixed cohort. This may lead to this cohort of children being at a disadvantage when they become eligible for universal funding. Mitigation may be to consider an element of universal two year funding for all children, in line with three and four year olds.

Negative impact – there may be a possibility that disadvantaged two year olds may be pushed out of a place for working families of two year olds. This may be due to working parents requiring more hours paid for outside of funded hours.

### **Any Other Comments**

**Q15:** Are there any other comments that you would like to make about our proposals set out in this consultation?

The base rates for three and four year olds are too low, and providers are struggling to afford to run a setting, they are losing staff as they can barely afford to pay minimum wage.

There needs to be clarity on the reduction of the pass through rate to 97% pass through rate and the timeframe. There also needs to be enough time given to the rollout of the funding expansions to be in and to be clear on the projections of take up to ensure that the local funding formulae are correct.

New burden funding is required to be allocated to LA's to support the expansion of the funding streams and to support the roll out locally.

Sufficient time needs to be given to publish the revised statutory guidance, to give enough time to develop funding systems to be able to process the funding. In Bromley we have a unique funding system, but it will need to be updated before the end of the spring term, to allow providers to make the checks for the first cohort of funded two year olds of working families in the Summer 2024.