

The Early Years Lottery

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About Reform Scotland

Reform Scotland, a charity registered in Scotland, is a public policy institute which works to promote increased economic prosperity and more effective public services based on the principles of limited government, diversity and personal responsibility.

Reform Scotland is independent of political parties and any other organisations. It is funded by donations from private individuals, charitable trusts and corporate organisations. Its Director is Geoff Mawdsley and Alison Payne is the Research Director. Both work closely with the Advisory Board, chaired by Alan McFarlane, which meets regularly to review the research and policy programme.

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i. Executive summary

Objective

This report aims to bring together all the work Reform Scotland has done on nursery and pre-school provision in Scotland, and to respond to the Scottish Government's consultation "A blueprint for 2020: The Expansion of Early Learning and Childcare in Scotland".

Findings

Figures published by the Care Inspectorate have shown that 31% of four-year-olds and 45% of three-year-olds are not getting government-funded provision.

The statistics also indicated that while 90% of private nurseries could provide care for 2 year old children, only 20.4% of local authority nurseries could. Only 6.2% of playgroups and 6.8% of local authority nurseries operate during school holidays, while 93.1% of childminders and 82.6% of private nurseries do.

There is a wide variation in entitlement to early learning and childcare provision in Scotland due to birthday discrimination. Unlike primary school, where there is a single start date and all children have a basic right to seven years of provision, entitlement to early years education begins the term after a child turns three. This means that while some children receive two years of government-funded provision, others may end up receiving only a year.

Under the current situation the amount of early years provision a child is entitled to¹ can vary by up to 400 hours up to £1,400 in contribution towards a partnership provider.

While the increase in early years provision is to be welcomed, this also increases the scale of the birthday discrimination, as illustrated in Table 1. A child born in January and starting school aged four would have a legal entitlement to 760 hours LESS than someone born in May. 760 hours is more than children currently get across a full year a present. This is creating a massive gulf in provision and meaning younger children start school with a massive disadvantage. This would also widen the financial difference in entitlement to £2,660.²

The current funding model used for delivering children's entitlement makes it unclear who is responsible for delivering the policy, and who is to blame if parents are unable to access their child's entitlement. While on the one hand the Scottish Government has told parents that all three and four-year-olds are

¹ Not including children who are deferred

² Not including children who are deferred

entitled to 600 hours of provision, it is up to local authorities to deliver it. The Scottish Government has not given any rights to the child for that entitlement; rather it has passed money to local authorities to deliver it. So it is one sphere of government setting policy and making a promise to parents, but it is the responsibility of another sphere of government to deliver it. As a result, depending on how different local authorities view commissioning provision from partnership providers, the ability to access that provision can vary significantly between local authorities.

A Freedom of Information response from the Scottish Government has confirmed that it does not know how many children are currently eligible and entitled to pre-school provision but are unable to access it or are on a waiting list. Further, it is not aware of the average number of total hours a child spends in a state pre-school or nursery before starting school. Given the huge expansion being planned, Reform Scotland believes that the Scottish Government should know this information. It is clear that problems exist in terms of current provision, however, if the Scottish Government is unaware of the scale of these problems, how can expansion be properly implemented.

Policy Recommendations

Starting School

Reform Scotland believes that the Scottish Government should look at the use of the deferrals system. Currently we talk of “holding someone back” which implies a sense of there being something wrong with the child and that it is a negative if they are not ready for school. Even when deferral is supposed to be automatic for children born in January and February, their parents may still have to fill in forms to justify their decision.

The Scottish Government’s research Growing Up in Scotland, looked at delayed entry to school in 2012. Reform Scotland believes that this is an area to which the Scottish Government needs to return and into which it should carry out further research. For example, is there a difference in the exam results of children who are four when they start school and those who are five? Is there a difference in outcome between those who are deferred and those who are not? What difference would encouraging a more neutral attitude to delaying the start of primary school for four year olds bring about?

Currently only children born in January and February have an automatic right to defer their child’s entry to school as well as a guarantee of an additional year of pre-school funding. Reform Scotland thinks that this right should be extended to all children who are due to start school at the age of four. It is unlikely that this will cause any large change in school starts as many four-year-olds are

more than capable and ready to start school. However, it is about sending out the message to those who may benefit from an additional year of pre-school that this can be in the child's best interest.

The Scottish Government's consultation highlights that *"by age 5, children in more advantaged circumstances are between 11 and 18 months ahead in their vocabulary skills and between 6 and 13 months ahead in their problem solving"*. Allowing additional time in nursery may be a way of helping to address that gap. What we are suggesting is not a massive change to the way the system operates at present, but more a cultural shift. This is, at least, worth investigating.

Virtual Voucher

Reform Scotland has long argued for a form of 'virtual voucher' whereby parents are able to access their child's government-funded entitlement in any pre-school environment that meets the standards set by both Education Scotland and the Care Inspectorate. This will enable parents to find suitable provision that not only provides the high quality care that they want, but also the hours and location that suit their family life, whether that is to fit round work, other commitments, or indeed other siblings.

Reform Scotland was delighted that our suggested funding model was one of the models (option two) set out in the Scottish Government's consultation. We very much welcome this and hope that the Scottish Government adopts this model. However, options three and four also give greater opportunity for parental choice as they would also give the child a right to the funding, and so would be an improvement on the current situation.

Birthday Discrimination

Unlike primary school, where there is a single start date and all children are legally entitled to the same basic provision of seven years, there is wide variation in entitlement to pre-school education because the entitlement begins the term after a child turns three. This means that currently children can be entitled to up to 400 hours less provision, or up to £1,400 less towards a partnership provider.

While the increase in early years provision is to be welcomed, this also increases the scale of the birthday discrimination. A child born in January and starting school aged four would have a legal entitlement to 760 hours LESS than someone born in May, yet starting school at the same time. This is creating a massive gulf in provision and means younger children start school with an even greater disadvantage.

Similarly, the gap in financial contribution towards a partnership provider would widen to £2,660.

However, there is a simple solution. There should be a single start date for early-years provision, just as there is for primary school. This would ensure that every child had access to the same basic provision before starting school and would contribute towards the Scottish Government's aim of equality by ensuring equity in entitlement.

We accept that such a policy decision would increase the number of children entitled to provision and place a demand on early years providers. However, the Scottish Government is seeking to expand provision and is consulting on how to manage this expansion. Reform Scotland believes that correcting this anomaly has to be the place to begin. This discrimination has to end so that we ensure that, as far as government-funded provision goes, all children have the same basic entitlement.

1. Introduction

Reform Scotland first examined the issue of nursery provision in our report ‘An Equal Start: Fair Access to Nursery Provision’, published in January 2013.

In the intervening four years, we have done a great deal of additional work highlighting the problems a number of parents currently have in accessing their child’s government-funded entitlement to early years’ provision.

We have highlighted issues, such as the fact that many children start school at a major disadvantage since they have been entitled to less nursery provision than children born earlier in the year; as well as problems working parents have in accessing flexible nursery places because of the barriers in some council areas to partnership places.

We have also offered solutions: We believe all children should be entitled to a basic 2 years of early years provision, as opposed to the birthday lottery that exists at present; and we believe that parents should be able to take up their child’s place in any childcare setting which meets the standards set by both Education Scotland and the Care Inspectorate.

During this period, early years’ education has climbed up the political agenda and children’s entitlement has increased. When we published our report in 2013, three and four-year-olds were entitled to 475 hours of government-funded nursery provision per year. The Scottish Government’s recent consultation will expand that 2013 figure to 1,140 hours by 2020 – an increase of 140%.

Reform Scotland has exerted an influence over the debate; amendments were lodged during the passage of the Children and Young People Act to ensure that all children received an equal basic entitlement to nursery provision regardless of when their birthday fell. The amendments drew support from the Conservatives, Labour and the Lib Dems, but were defeated by the SNP majority at the time.

Reform Scotland’s views on giving parents greater rights with regard to where they are able to access their government-funded provision has found support from both the Conservatives and the SNP. Reform Scotland’s Research Director, Alison Payne, wrote a chapter advocating our virtual voucher policy for the Scottish Conservatives’ education pamphlet, ‘First Class’, published in 2014. The pamphlet covered a number of different education areas, with each chapter written by an outside contributor. The Scottish Conservative Party has since adopted this as its policy. The SNP is now considering this idea of demand-led funding systems in its consultation.

However, while expansion and recognition of the importance of the early years' sector is to be welcomed, many of the problems we first highlighted four years ago remain.

2. Background

2.1 Importance of Early Years

A positive early years (0-5) experience gives children the best start in life.

The Scottish Government's early years consultation, A Blueprint for 2020, highlights the value of good early years provision and how it can help close the attainment gap:

“estimates suggest that by age 5, children in more advantaged circumstances are between 11-18 months ahead in their vocabulary skills and between 6-13 months ahead in their problem solving ability.

“We are determined to close this attainment gap, and to open the doors of opportunity to all our young people no matter their family background”.

In other words, unless action is taken to address the attainment and opportunity gap in early years, that gap will continue to widen as children move through school.

2.2 History

Nursery Vouchers

In 1995, the then Conservative Government proposed the introduction of a nursery voucher scheme with the intention of ensuring that all four year olds were able to access a year of nursery provision, rather than be subject to the lottery of provision which then existed. Parents would receive a physical voucher for £1,100 a year which they could use to purchase nursery education. The voucher could be used to buy services from their local authority or from the private or third sector. Pilot schemes were undertaken in 1996/7 in parts of North Ayrshire, East Renfrewshire, Argyll & Bute and Highland local authority areas.³ Critics of the scheme complained of the bureaucracy of the system and, following the 1997/8 school session, the new Labour Government scrapped the vouchers.⁴ A study was carried out by Stirling University into the scheme and Sally Brown, then Stirling's Deputy Principal, told the TES:

"Parents are largely indifferent to the vouchers and some think they are an extra bureaucratic task. They are delighted with the provision that is free, provides them with guaranteed places and in some areas provides them with some choice."

³ Local Government Chronicle, “£3m Scots Nursery Vouchers Pilot Scheme Announced”, 4/3/1996

⁴ Hansard, 17/6/1997

This suggested that the idea of increased provision and some element of choice were popular, though the method by which it was delivered was seen as bureaucratic.

Standards in Scotland's Schools Etc Act 2000

It was not until the enactment of The Standards in Scotland's Schools Etc Act 2000 that a duty was placed on local authorities to provide pre-school education to all three and four-year olds and set a minimum entitlement of the number of hours of pre-school education per year a child should be able to receive, if their parents wanted it. Section 35 of the act also gave authorities express power to secure provision through suppliers other than themselves.

It gave an entitlement to every three and four-year-old in Scotland of a minimum of 475 hours per year of government-funded nursery provision. The entitlement could be taken up at a local authority nursery or play group or through the private/third sector as the 2000 Act allowed local authorities to commission care from partnership providers. However, it was up to each local authority who it commissioned care from and, therefore, not all privately-run nurseries or childminders will necessarily be partnership providers.

In many ways, the act re-introduced the nursery voucher scheme and choice of provision that the Conservatives implemented in the nineties, but modernised it for the 21st Century by dealing with some of its faults.

Children and Young People (Scotland) Act 2014

The 2014 Act built on the 2000 Act and increased the amount of government-funded nursery provision to which children were entitled to 600 hours.

The Act also expanded provision to vulnerable 2 year olds, introducing government-funded childcare before the age of three for the first time.

2.3 Statistics

When Reform Scotland was working on its 2013 report, we submitted Freedom of Information requests to the Scottish Government asking about the capacity of nursery providers. Although this was a matter for local authorities, because the Scottish Government was planning legislation to expand provision, we felt it should have such information. However, we were told that the Scottish Government did *“not hold information on capacity/places of pre-school education centres”*.

Ahead of this report and further Scottish Government early years expansion we submitted Freedom of Information requests again, this time asking:

- “a) What is the current capacity of state run pre-school education centres or nurseries,
- b) How many children are currently eligible and entitled to pre-school provision but are unable to access it or are on a waiting list
- c) What is the average number of total hours a child spends in a state pre-school/ nursery before starting school?”

We received the following response on 19 December:

“1.Capacity in state run (local authority and health boards) pre-school education centres or nurseries at 31 December 2015 was 69,607. Capacity is defined as maximum attendance in a service at any one time, measured by number of registered places. (Source: Care Inspectorate).

“2. We do not hold this information.

“3. We do not hold this information”

The response confirms that the Scottish Government does not know how many children are currently eligible and entitled to pre-school provision but are unable to access it or are on a waiting list. Further, it is not aware of the average number of total hours a child spends in a state pre-school or nursery before starting school. Given the huge expansion being planned, Reform Scotland believes that the Scottish Government should know this information. It is clear that problems exist in terms of current provision, however, if it is unaware of the scale of these problems, how can expansion be properly implemented.

In November 2016 the Care Inspectorate published ‘Early Learning and Childcare Statistics 2015’. The following are some of the report’s findings:

- 40,410⁵ four-years-olds were receiving funded early learning and child care, out of a population of 58,246 four-year-olds. This means that 31% of four-year-olds in Scotland were not getting funded provision.
- 33,520⁶ three-years-olds were receiving funded early learning and child care, out of a population of 61,007 three-year-olds. This means that 45% of three-year-olds in Scotland were not getting funded provision.
- There were 9,726 early learning and childcare services in Scotland, providing 196,440 places. Of these 3,772 were daycare of children

⁵ http://www.careinspectorate.com/images/documents/3591/ELC_Statistics_2015_-_Supporting_tables.xlsx

⁶ http://www.careinspectorate.com/images/documents/3591/ELC_Statistics_2015_-_Supporting_tables.xlsx

services, providing 162,220 places and 5,954 were childminders providing 34,220 places.

- The overall number of daycare of children services has increased for the first time in recent years to 3,772 services (2,449 nurseries). There were fewer local authority nurseries and playgroups and more children and family centres, private nurseries and out-of-school care. The overall increase was mainly due to the increase in the number of private nurseries and out-of-school care.
- More than 80% of private nurseries could provide care for 1 year old children and more than 90% could provide care for 2 year old children. In comparison only 20.4% of local authority nurseries could cater for 2 year old children.
- Only 6.2% of playgroups and 6.8% of local authority nurseries operate during school holidays, while 93.1% of childminders and 82.6% of private nurseries do.

2.4 State and Partnership Provision

Reform Scotland has argued that the current system makes it unclear who is responsible for delivering the policy and who is to blame if parents are unable to access their child's entitlement.

Reform Scotland believes that greater powers should be devolved to local authorities, and that variations between local authorities in the provision of services are acceptable as long as these differences are explained to the electorate, who then have the opportunity to express their views through the ballot box.

However, the way in which the early learning and childcare system has developed has created confusion. While on the one hand the Scottish Government has told parents that all three and four-years-olds are entitled to 600 hours of provision, it is up to local authorities to deliver it. The Scottish Government has not given any rights to the child for that entitlement; rather it has passed money to local authorities to deliver it. One sphere of government sets policy, making a promise to parents, but it is the responsibility of another sphere of government to deliver. As a result, depending on how different local authorities view commissioning provision from partnership providers, the ability to access that provision can vary significantly between local authorities.

Operation of the system varies from council to council. It is up to each local authority who it commissions care from and, therefore, not all privately-run nurseries will necessarily be partnership providers. The ease of gaining partnership status will vary from council to council with some local authorities granting partnership status to a nursery, while others will only fund a certain

number of places at a partnership nursery. The Family and Childcare Trust has highlighted wide variation in availability and cost of childcare in Scotland and reported that only 15% of local authorities had enough provision to meet the needs of working parents in 2015.⁷

A report from the Fair Funding For Our Kids campaign,⁸ based on responses to Freedom of Information requests, highlighted that in 2015/16:

- 73% of all free childcare places for 3-5 year olds in Scotland were offered in council-run nurseries.
- 89% of all council nursery places for 3-5 year olds were half days only
- 65% of all nursery places in Scotland were half days only
- Local authorities in Scotland are underfunding places in private nurseries by up to £492 per child per year
- 25 of Scotland's 32 local authorities were offering an hourly rate below the national average cost of a nursery place

In other words, there seemed to be a problem in some areas for working parents, in particular, to access government-funded provision for their child.

The Fair Funding For Our Kids campaign have explained the situation facing many working parents:

“Most local authority nurseries offer places that are half-day sessions rather than full days and are only available during school term times.

“In order to access these places, working parents must make alternative arrangements for drop off, pick up and care for the rest of the working day and during holidays. Those with children in school may have two or more drop off / pick up locations. This patchwork of childcare is impossible for many families to manage.

“In these circumstances a private nursery is a necessity, not a parental choice.

“In the absence of a council nursery place, private nurseries can provide a solution for parents who need to work. However, in a number of local authorities places are only purchased in partnership nurseries if they think there are not enough sessions available in council nurseries.

“This has led to a shortage of funded places in the partnership nurseries which are providing parents with the service they need to enable them to work.”

Further, there seems to be a misunderstanding amongst some politicians that parents are actively choosing private sector provision over the public sector and

⁷ http://www.familyandchildcaretrust.org/sites/default/files/files/Childcare%20GE%20factsheets_Scotland%20FINAL.pdf

⁸ <https://fairfundingforourkids.files.wordpress.com/2016/08/fair-funding-for-our-kids-report-2015-16.pdf>

taking what they see as council money and giving it to the private sector. As a result, some councils have restricted the number of places that they fund in partnership settings. This attitude also ignores the fact that, in reality, the public and private sector are offering very different provision, as highlighted by the statistics outlined in section 2.3. The majority of state nurseries, though this will vary from council to council, offer around 3 hours a day for 5 days a week during the school year – which makes up the 600 hours funded by the Scottish Government. Some councils may allow hours to be bundled so that more than one session is taken in one day, others will not. Some may allow only part of this provision to be taken up, others will not. And these policies may change over time. There are no catchment areas for council nurseries, including nurseries attached to schools, so there is no guarantee of a place in a nursery at a convenient location (especially important if parents are also organising the drop-off and pick-up of other children at school or nursery.)

Therefore, for many working parents it is almost impossible to take up a place at a council nursery under those circumstances, unless they are able to put in place some sort of wrap-around system in place through family, friends, child minder or another nursery. Therefore, in many cases, the only option is to use an alternative provider.

In some council areas the use of partnership providers is embraced and works well. For example, in Edinburgh there is more or less a virtual voucher system in place. The council sends the parent a letter with a code for their child. That code is passed to the nursery, which then deducts money off the fees due. This means that parents are able to access early years provision which they believe is suitable for their child, but is also flexible enough to fit round other demands.

To summarise, there is currently a postcode lottery for parents seeking to access the entitlement promised to them by the Scottish Government for funded nursery provision.

Reform Scotland believes that this situation could be fixed by giving each the child a right to early years provision with the money following the child. Parents could then send their child to any childcare provider which meets the requirements set out by the Care Inspectorate and Education Scotland with the money following the child. This is not a radical idea as it already happens in some parts of Scotland. However, by making the money follow the child, it would ensure that all children had a right to government-funded provision, as opposed to the current postcode lottery.

2.5 Employer-related Childcare Vouchers & Tax Free Childcare

Since 2005, the UK Government has allowed Income Tax and National Insurance exemptions for participating employees in employer-related childcare voucher schemes, which work as salary sacrifice. Part of an employee's salary is exchanged for tax-free and NI-free childcare vouchers, saving around £1,000 per year.⁹ One or both parents can sign up to a scheme through their employer and the vouchers can be used to pay a wide range of childcare providers including: nurseries; childminders; extra-curricular activities and breakfast and after-school clubs. However, receiving the childcare vouchers can reduce eligibility for tax credits.

The current scheme will close to new entrants from 2018. The UK Government is launching Tax-Free Childcare from 2017, starting with the youngest children. All eligible parents should be able to join the scheme from the end of 2017.

Instead of being run through employers, like the current system, parents will be able to open a childcare account and for every 80p paid in, up to £10,000 pa, the government will top this up by an extra 20p. This means the equivalent of up to £2,000 support per child per year (or up to £4,000 for disabled children).¹⁰ The scheme will be open for children up to the age of 12 and to qualify parents have to be in work earning at least £115 per week and not more than £100,000 each per year. Parents will have some flexibility over how much they pay in each month.

Parents who are currently receiving employer-related childcare can continue to do so, or can switch to the new scheme.

Although income tax was devolved to Scotland, National Insurance is not, so the employer-related scheme has to be delivered by the UK Government in Scotland. Interestingly, because the new scheme does not use the tax system, but is simply an account which is topped up, it is an example of the UK Government providing funding directly to Scottish parents for something which is fully devolved, and is, therefore, an instance of the two governments working together in a devolved service.

⁹ <http://www.moneysavingexpert.com/family/childcare-vouchers>

¹⁰ <https://www.gov.uk/government/news/tax-free-childcare-10-things-parents-should-know>

2.6 Scottish Government's Proposals

The SNP's manifesto ahead of the 2016 Scottish Parliament elections gave a commitment to vastly increase the amount of nursery entitlement over the 5 year parliamentary term:

“By 2021, we will almost double the number of hours of free early years education and childcare to 30 hours a week for vulnerable 2 year olds and all 3 and 4 year olds.”

This commitment led to the publication of a consultation on expanding childcare, ‘A Blueprint for 2020: The expansion of early learning and childcare in Scotland’. The consultation was published on 15th October 2016 and runs until 9 January 2017.

The consultation sets out the aim that *“by 2020 all three and four year olds, and eligible two year olds, will be entitled to 1,140 hours of free ELC (early learning & childcare) provision – almost double current levels of entitlement.”*

The consultation then goes on to look at how this can, and should, be delivered and phased in over the coming years. The hope is that, as well as increasing provision of an important service, increasing the state's contribution will cut the costs to those in work trying to pay for childcare as well as encouraging others back to work.

Currently most state nurseries have two streams of pupils, half in the morning and half in the afternoon. Doubling the number of hours means that existing state nurseries can only deal with half the number of children that they currently do. As a result the consultation examines how the policy can be phased in, as well as looking at providers.

Reform Scotland welcomes the significance the Scottish Government has placed on early years provision, and is also delighted that the Scottish Government has consulted on more demand-led systems of financing childcare, something we have been calling for since 2013.

However, we are disappointed that the Scottish Government is still refusing to address the issue of birthday discrimination, where children end up receiving far less nursery provision simply on account of when their birthday falls.

Birthday Discrimination

At present, all children are legally entitled to the same amount of primary or secondary school education. However, a child's legal entitlement to government-funded nursery provision depends on when a child's birthday falls, as the entitlement begins the term after a child turns three.

This means that children born between March and the end of August start nursery in August, at the start of the new school year; children born between September and the end of December start in January, at the start of the spring term; and children born in January and February start after Easter, at the start of the summer term.

As a result, the actual amount of government-funded nursery provision a child is entitled to can vary considerably.

For children already receiving nursery education through partnership providers, it means that their parents do not receive as much money towards the costs of their nursery provision as others. However, children attending local authority nurseries who are born between August and February and who will start school when they are four will receive less nursery education. Indeed, some children can end up only receiving one year's provision as many local authority nurseries, especially those linked to schools, fill-up with the August intake and there are no places available for subsequent intakes.

Data from the National Records of Scotland indicates that since 1990 between 49-51% of annual births each year are registered between March and August.¹¹ That means that only about 50% of all children are guaranteed to receive two years of government-funded nursery provision, while many receive substantially less. As all children start school at the same time of year, it means older children have a double advantage of being older to begin with, but also having access to more early years' provision.

This also means that the Scottish Government's policy of trying to offer greater early years provision to vulnerable two-year-olds is limited by their birthday. For example, due to the difficulty in taking up local authority provision in April, in reality a vulnerable 2-year old born in January and starting school at the age of 4 years is unlikely to actually receive any more provision than a non-vulnerable child whose birthday is in March.

¹¹ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/weekly-and-monthly-data-on-births-and-deaths/monthly-data-on-deaths-registered-in-scotland>

This discrimination is highlighted in Table 1 below, while Table 2 outlines the situation for vulnerable children where the entitlement begins at age 2.

Table 1: Basic entitlement to government-funded early years provision.

Child's birthday	Entitlement to government-funded early years provision begins	Approximate total entitlement in hours under current 600 hours per year scheme ¹²	Approximate financial entitlement for partnership provider under 600 hours per year ¹³	Approximate total entitlement in hours under current 1,140 hours per year scheme ¹⁴	Approximate financial entitlement for partnership provider under 1,140 hours per year ¹⁵
1 Mar – 31 Aug	August/ Autumn Term	1,200 hours	£4,200	2,280 hours	£7,980
1 Sept – 31 Dec	January/ Spring Term	1,000 hours	£3,500	1,900 hours	£6,650
1 Jan – 29 Feb (Starts school age 4)	April/ Summer Term	800 hours	£2,800	1,520 hours	£5,320
1 Jan – 29 Feb (Starts school age 5)	April/ Summer Term	1,400 hours	£4,900	2,660 hours	£9,310

Table 2: Vulnerable children's entitlement to government-funded early years provision

Child's birthday	Entitlement to government-funded early years provision begins	Approximate total entitlement in hours under current 600 hours per year scheme ¹⁶	Approximate total entitlement in hours under current 1,140 hours per year scheme ¹⁷
1 Mar – 31 Aug	August/ Autumn Term	1,800 hours	3,420 hours
1 Sept – 31 Dec	January/ Spring Term	1,600 hours	3,040 hours
1 Jan – 29 Feb (Starts school age 4)	April/ Summer Term	1,400 hours	2,660 hours
1 Jan – 29 Feb (Starts school age 5)	April/ Summer Term	2,100 hours	3,800 hours

¹² We have approximated the hours based on an each of the three terms being equal, therefore 200 hours per term

¹³ Based on Edinburgh City Council funding 2015/16 which funded partnership children at £2,100 per year, or £3.50 per hour

¹⁴ We have approximated the hours based on an each of the three terms being equal, therefore 200 hours per term

¹⁵ Based on Edinburgh City Council funding 2015/16 which funded partnership children at £2,100 per year, or £3.50 per hour

¹⁶ We have approximated the hours based on an each of the three terms being equal, therefore 200 hours per term

¹⁷ We have approximated the hours based on an each of the three terms being equal, therefore 200 hours per term

Although parents of children born between September and February, who are due to start school at the age of 4, can choose to defer, only those born in January and February are legally entitled to receive an additional year's funding for early years provision.¹⁸ The Scottish Government's 'Growing up in Scotland' research suggests about half of children born in January and February are deferred. Using the data for 2015 from the National Records of Scotland for births by month of registration¹⁹, this would mean about 40% of children would receive less than two years' provision.

Under the current situation the amount of early years provision a child is entitled to²⁰ can vary by up to 400 hours or by up to £1,400 in contribution towards a partnership provider.

While the increase in early years provision is to be welcomed, this also increases the scale of the birthday discrimination, as illustrated in Table 1. A child born in January, and starting school aged four, would have a legal entitlement to 760 hours LESS than someone born in May. This is creating a massive gulf in provision and means younger children start school with a massive disadvantage. This would also widen the financial difference in entitlement to £2,660.²¹

Reform Scotland has been arguing for many years for a simple solution – that there should be a single start date for early years provision as there is for primary and secondary school. This would ensure that every child had access to the same basic provision before starting school, and would also ensure that vulnerable children actually receive an additional years' provision, which they only receive at present if their birthday falls in the right month.

We accept that this will increase the demand placed on early years providers. However, the Scottish Government is seeking to expand provision and ending this anomaly would appear to be a sensible place to begin. This discrimination has to end so that we ensure, as far as government-funded provision goes, all children have the same basic entitlement.

¹⁸ Scottish Government, Growing up in Scotland, 2012

¹⁹ <https://www.nrscotland.gov.uk/files/statistics/weekly-monthly-births-deaths-data/2016/table1-monthly-october-births-by-hb-area.xlsx>

²⁰ Not including children who are deferred

²¹ Not including children who are deferred

3. Starting School

The previous chapter highlighted the problem of birthday discrimination in the current government-funded early years' provision.

One excuse that has been used to defend this situation is that any child due to start school at the age of four, as opposed to five, can defer entry. However, that right is only automatic and an additional year's funding for early years provision guaranteed, if the child's birthday is in January or February.

There are campaign groups, such as Upstart Scotland, which believe that formal schooling should not begin until the age of seven and point to evidence from overseas.²² This is not an issue into which Reform Scotland has looked and nor is it covered in this report. However we do believe that the language around deferrals does not help improve this situation.

Currently we talk of "holding someone back" which implies a sense of there being something wrong with the child and that it is a negative if they are not ready for school. Even when deferral is supposed to be automatic for children born in January and February, their parents may still have to fill in forms to justify their decision.

The Scottish Government's research, *Growing Up in Scotland*, looked at delayed entry to school in 2012. Reform Scotland believes that this is an area to which the Scottish Government needs to return and into which it should carry out further research. For example, is there a difference in the exam results of children who are four when they start school and those who are five? Is there a difference in outcome between those who are deferred and those who are not? What difference would encouraging a more neutral attitude to delaying the start of primary school for four year olds make? One easy step that should be considered is to give parents of every child who is due to start school at the age of 4, not just those whose child is born in January or February, an automatic right to defer entry and a guarantee of an additional year's funding for nursery.

Obviously each child is different and many children are clearly capable and successful when starting school at the age of four. However, there may be merit in changing approaches or attitudes with regard to deferral. If attainment gaps are appearing before children even start school, as highlighted in the Scottish Government's consultation, is there merit in encouraging the younger of these children to delay starting? What we are

²² <http://www.upstart.scot/an-open-letter-to-john-swinney-from-upstart-scotland/>

suggesting is not a massive change to the way the system operates at present, but more a cultural shift.

4. Demand-led Provision

Section 2.4 outlined the problem parents can have accessing government-funded early years provision that is suitable for their needs.

Currently, funding for the entitlement is included in general revenue grant provided to local authorities and it is then up to the councils to decide how best to allocate this resource. The Scottish Government's consultation states that in 2014-15 local authorities were given with an additional £69 million to support the implementation of the 2014 Act that expanded early years provision. However, local authorities only increased their expenditure by £26.9 million.²³ The money is not ring-fenced when given to councils, so they are free to spend the money how, and where, they wish.

Councils are of course perfectly entitled to do so, as long as they are able to be held accountable for the decisions that they made. However, the problem with early learning and childcare is that the Scottish Government has told parents that three and four year olds will receive a certain amount of early years provision, but not given them the means of insisting on receiving their entitlement.

Reform Scotland believes that either local authorities are fully responsible for this policy or they are not. Parents need to know who to hold to account, and at present that is not clear.

However, Reform Scotland is delighted that the Scottish Government is also consulting on different funding models, specifically including demand-led options, where rights are given to the child. By changing the model so that the money follows the child, current problems in terms of fairness, transparency, choice and flexibility can be addressed.

The Scottish Government has set out the following four funding options:

- Option 1: Funding Dependent on Delivery – funding would continue to be routed through the local government block grant route. However, local authorities would have to submit detailed plans to secure all, or potentially a proportion of, the spend. Alternatively, money not spent could either be clawed back or removed from the baseline for the following financial year;
- Option 2: Funding Follows the Child – a more demand-led system where parents and carers choose the provider, who must meet

²³ Scottish Government, 'A Blueprint for 2020', October 2016

minimum agreed standards, and then the funding follows while still being administered by local authorities. This could be underpinned by the introduction of a funding formula which set rates for the provision which would apply to all providers, regardless of sector. These rates could vary according to the age of the child; any additional support needs; across different providers, e.g. childminders, playgroups and nurseries; and, across rural and urban provision (to reflect differences in the average costs of delivery);

- Option 3: Early Learning and Childcare Accounts – a demand-led system where parents and carers receive the funding – through, for example, a system similar to that proposed by the Commission for Childcare Reform – which they can then spend at a provider of their choice; and
- Option 4: A hybrid approach – a model with similar principles to the self-directing care approach, whereby parents and carers choose how their child receives their ELC support – e.g. this could be determined by the local authority; parents and carers could choose their provider and then the money follows; or parents receive the funding (this could also be in the form of an Early Learning and Childcare Account, similar to option 3, to ensure that it is spent on ELC).

Reform Scotland's preferred model would be option 2, which is the policy recommendation that we have set out in previous reports and briefings. It is a system which is largely in place in some local authority areas, so can easily be rolled out. Crucially, it gives parents the ability to select the nursery that best meets their family's needs and situation, as opposed to that choice being dictated by the council, regardless of how inflexible or unworkable it may be.

While options three and four would also meet our goal of creating a demand-led system where parents are in control, we would caution against option one which would still leave a number of the problems highlighted.

5. Policy Recommendations

Starting School

Reform Scotland believes that the Scottish Government should look at the use of the deferrals system. Currently we talk of “holding someone back” which implies a sense of there being something wrong with the child and that it is a negative if they are not ready for school. Even when deferral is supposed to be automatic for children born in January and February, their parents may still have to fill in forms to justify their decision.

The Scottish Government’s research Growing Up in Scotland, looked at delayed entry to school in 2012. Reform Scotland believes that this is an area to which the Scottish Government needs to return and into which it should carry out further research. For example, is there a difference in the exam results of children who are four when they start school and those who are five? Is there a difference in outcome between those who are deferred and those who are not? What difference would encouraging a more neutral attitude to delaying the start of primary school for four year olds bring about?

Currently only children born in January and February have an automatic right to defer their child’s entry to school as well as a guarantee of an additional year of pre-school funding. Reform Scotland thinks that this right should be extended to all children who are due to start school at the age of four. It is unlikely that this will cause any large change in school starts as many four-year-olds are more than capable and ready to start school. However, it is about sending out the message to those who may benefit from an additional year of pre-school that this can be in the child’s best interest.

The Scottish Government’s consultation highlights that *“by age 5, children in more advantaged circumstances are between 11 and 18 months ahead in their vocabulary skills and between 6 and 13 months ahead in their problem solving”*. Allowing additional time in nursery may be a way of helping to address that gap. What we are suggesting is not a massive change to the way the system operates at present, but more a cultural shift. This is, at least, worth investigating.

Virtual Voucher

Reform Scotland has long argued for a form of ‘virtual voucher’ whereby parents are able to access their child’s government-funded entitlement in any pre-school environment that meets the standards set by both Education Scotland and the Care Inspectorate. This will enable parents to find suitable provision

that not only provides the high quality care that they want, but also the hours and location that suit their family life, whether that is to fit round work, other commitments, or indeed other siblings.

Reform Scotland was delighted that our suggested funding model was one of the models (option two) set out in the Scottish Government's consultation. We very much welcome this and hope that the Scottish Government adopts this model. However, options three and four also give greater opportunity for parental choice as they would also give the child a right to the funding, and so would be an improvement on the current situation.

Birthday Discrimination

Unlike primary school, where there is a single start date and all children are legally entitled to the same basic provision of seven years, there is wide variation in entitlement to pre-school education because the entitlement begins the term after a child turns three. This means that currently children can be entitled to up to 400 hours less provision, or up to £1,400 less towards a partnership provider.

While the increase in early years provision is to be welcomed, this also increases the scale of the birthday discrimination. A child born in January and starting school aged four would have a legal entitlement to 760 hours LESS than someone born in May, yet starting school at the same time. This is creating a massive gulf in provision and means younger children start school with an even greater disadvantage.

Similarly, the gap in financial contribution towards a partnership provider would widen to £2,660.

However, there is a simple solution. There should be a single start date for early-years provision, just as there is for primary school. This would ensure that every child had access to the same basic provision before starting school and would contribute towards the Scottish Government's aim of equality by ensuring equity in entitlement.

We accept that such a policy decision would increase the number of children entitled to provision and place a demand on early years providers. However, the Scottish Government is seeking to expand provision and is consulting on how to manage this expansion. Reform Scotland believes that correcting this anomaly has to be the place to begin. This discrimination has to end so that we ensure that, as far as government-funded provision goes, all children have the same basic entitlement.

6. References

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