

## PE1630D

Minister for Childcare and Early Years submission of 16 March 2017

Thank you for your letter of 3 February 2017, inviting the Scottish Government to respond to Petition PE1630 in the name of Fiona Webb, *calling on the Scottish Parliament to urge the Scottish Government to revise their criteria for children becoming eligible for part-time funded nursery places following a child's third birthday*. This letter clarifies the following points for the Committee:

- Whether the existing criteria are arbitrary and the consequences random in terms of individual children accessing their full entitlement?
- How... the existing criteria relate to the age requirements for entering primary school?
- How... the existing criteria fit into the Scottish Government's broader proposals to be much more flexible in the provision of - and access to - early years child care?

Section 48 of the Children and Young People (Scotland) Act 2014 ("the 2014 Act") defines the mandatory amount of funded early learning and childcare as 600 hours in each year for which a child is an eligible pre-school child, and a pro-rata amount for each part of a year for which a child is an eligible pre-school child. In this context, a year means a school year and begins in August. Funded early learning and childcare is delivered over three terms from August to the following August. For those children who would stand to receive less than 600 hours of early learning and childcare because of their birth dates, there is the option to defer starting school.

Section 47(2) of the 2014 Act defines "eligible pre-school child" for the entitlement to the mandatory amount of early learning and childcare as those who are under school age; have not commenced attendance at a primary school (other than a nursery class) and are either those specified further under an order made by the Scottish Ministers or those aged 2 or over who are (or have been at any point since turning 2) either looked after by a local authority, the subject of a kinship care order or a child with a parent-appointed guardian under section 7 of the Children (Scotland) Act 1995.

"School age" is defined in section 97(3) of the 2014 Act by reference to section 135(1) of the Education (Scotland) Act 1980 ("the 1980 Act"); it means, subject to section 32(3) of the 1980 Act, a person who has attained the age of 5 but is not 16. Section 32(3) provides that a child who has not attained the age of 5 on a school commencement date (defined in section 32(1) but generally a date fixed in August each year), is deemed for the purposes of section 31 of the 1980 Act not to have attained the age of 5 until the school commencement date (i.e. during August) following his or her 5th birthday. The following tables explain how the existing criteria relate to the age requirements for entering primary school.

The arrangements for starting and stopping funded early learning and childcare are set out under the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014. This describes the starting points for funded early learning and childcare provision as:

<b>Where a child's birthday falls on or between the following dates:</b>	<b>The Child will become eligible from the school terms set out below:</b>
1 March – 31 August	August (autumn term) occurring in that year
1 September – 31 December	January (spring term) following their birthday
1 January – last day in February	March / April (summer term) following their birthday

Curriculum for Excellence is a continuous curriculum from the age of 3 through to 18. The funded entitlement to early learning and childcare is therefore the early level of Curriculum for Excellence. The stopping dates for funded early learning and childcare relate to starting school and can be summarised as:

<b>Where a child's 5<sup>th</sup> birthday falls on or between the following dates</b>	<b>The child will cease to be eligible for Early Learning and Childcare from:</b>	<b>Starting school and stopping early learning and childcare</b>
1 March – 31 August	August (autumn term) occurring in the year of their 5 <sup>th</sup> birthday	Children will start school in the same year they turn 5, August (autumn term)
1 September – 31 December	August (autumn term) occurring in the year of their 5 <sup>th</sup> birthday	Children can start school in the same year they turn 5, August (autumn term) or defer entry to school to the August (autumn term) of the following year, but will not be entitled to an additional year of funded early learning and childcare
1 January – last day in February	August (autumn term) occurring in the year of their 5 <sup>th</sup> birthday	Children can start school the August (autumn term) preceding their birthday, but their entitlement to funded early learning and childcare continues to the August (autumn term) occurring in the same year of their birthday

The statutory responsibility for allocating funded early learning and childcare places rests with individual authorities. Local authorities have powers to start children closer to their third birthday, if they have capacity to do so. However, that is a matter for local authorities to fund and manage.

Under the Children and Young People (Scotland) Act 2014 provision of early learning and childcare was extended to over a quarter of 2 year olds whose parents are in receipt of certain benefits. These benefits are defined in the Provision of Early Learning and Childcare (Specified Children Order) (Scotland) 2015. This provision ensures that children who will benefit the most from funded early learning and childcare are in the system from aged 2.

As you are aware, the Scottish Government has committed to extending the number of funded hours of early learning and childcare from 600 to 1140 hours for all eligible children by 2020. This expansion is our most important strategic investment of the next few years and will require substantial increases in the workforce and investment in infrastructure, as well as new, innovative and flexible models of delivery.

On 15 October 2016 we published a consultation document, A Blueprint for 2020, which set out our vision for transforming early learning and childcare, underpinned by the four principles of quality, flexibility, accessibility and affordability. The consultation closed on 9 January with a significant number of responses representing a diverse range of views, which we published on 6 February. We will set out our response in due course.

As described above there is flexibility in the current system for local authorities to start children closer to their 3<sup>rd</sup> birthday, and there is flexibility for parents with regard to when they start their child at school, which can result in additional terms of early learning and childcare. While we accept that the starting points for funded early learning and childcare create differences in the amount of free provision a child may access, we do not accept that this disadvantages children. In fact, the criteria were carefully designed to ensure the system is affordable, sustainable and manageable; and focuses on those children who stand to benefit most in the first instance. Having 3 start dates across the year enables smaller groups of children to start at phased points; and, contributes to keeping the system manageable and sustainable.

Our aim is to have a consistent high quality experience for all young children, where transitions into early learning and childcare, throughout early learning and childcare and then into school are managed positively and individually for children.