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

Guidance for setting sustainable rates for the delivery of funded early learning and childcare (ELC) in 2024-25

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COSLA

Scottish Government
Riaghaltas na h-Alba

Overview

1. The payment of sustainable rates to funded providers in the private, third and childminding sectors is vital to supporting financial sustainability, and is a key aspect of Funding Follows the Child.

2. In April 2019, guidance was published to support local authorities to set sustainable rates for funded providers in the private and third sectors, including childminders, from August 2020. In recognition of the challenges of ensuring a sustainable rate given the impacts of the COVID-19 pandemic and the costs crisis, interim sustainable rates guidance was published in May 2022 to complement the full guidance published in April 2019.

3. In 2024-25, the Scottish Government will provide £16 million additional funding to local authorities to enable childcare workers delivering funded early learning and childcare (ELC) in private and third sector services to be paid at least £12 per hour from April 2024. The commitment will also be applied in a fair and sustainable way for all childminders who deliver funded ELC.

4. Providers will receive the funding to enable them to deliver the £12 per hour pay commitment through the sustainable rate setting process in 2024-25. This funding will be made available to providers through the consistent and transparent approach set out in this guidance.

5. As confirmed by the Living Wage Foundation, £12 per hour is also the level that has been set for the real Living Wage in 2024.

6. This update acts as a complement to the Sustainable Rates Guidance published in April 2019. It is designed to support delivery of the £12 per hour pay commitment as part of the wider annual sustainable rate-setting process and in line with the approach agreed by Scottish Government and COSLA for 2024-25. For future years, updated sustainable rates guidance will be developed to reflect the actions set out in the joint Scottish Government and COSLA Sustainable Rates Review.

7. Updated Funding Follows the Child Operating Guidance was published on 12 December 2023. Section 2 (The National Standard for all Early Learning and Childcare Providers) of the guidance sets out how settings can meet the Fair Work criterion in the National Standard and the ELC real Living Wage commitment. The real Living Wage commitment requirements (which also apply to the £12 per hour pay commitment) are also included in Annex A of this guidance.

8. During 2023, COSLA and Scottish Government conducted a joint Review of Sustainable Rates. This was an evidence-led review, with input from local government and the childcare sector, that examined the process for setting rates for 2022-23 to identify where rate-setting processes could be improved further and how to ensure rates are set in line with the aims of the guidance.

9. The Review set out a wide range of actions, including a commitment to undertake a comprehensive update to the sustainable rates guidance. The Scottish Government and COSLA are developing a programme of work with local government and the sector to deliver this update and will set out more information on timescales and how the sector will be involved soon.

Setting sustainable rates for the delivery of funded ELC in 2024-25

10. It is the responsibility of the local authority to set a sustainable rate for the delivery of the funded hours in their area.

11. It is for private and third sector providers, including childminders, to determine whether the rate set is suitable for their business and whether they wish to enter into a contract on this basis.

12. As set out in the Sustainable Rates Guidance, published in April 2019, the rate paid to funded providers should be sustainable and should meet the following criteria:

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

13. From a local authority perspective, the rate must be sustainable for authorities in terms of the budgets available. Local authorities will also need to consider the following points when setting a sustainable rate:

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

14. In setting overall sustainable rates for 2024-25, local authorities will reflect the following elements:

    a. a fixed minimum percentage uplift to reflect the estimated average increase in staffing costs required to enable delivery of the £12 per hour pay commitment (this is assumed to account for, on average, 75% of the sustainable rate); and

    b. the remainder of the sustainable rate is set in line with the requirements of the sustainable rates guidance (assumed to account for, on average, 25% of the sustainable rate, and reflecting the non-staffing cost elements of the requirements of the sustainable rate set out in paragraphs 12 and 13, including providing scope for reinvestment).

15. The process for setting sustainable rates in 2024-25 is summarised in Box 1 with further details set out in the sections below.

Box 1: Key steps for setting sustainable rates for 2024-25

- Apply a minimum 7.6% uplift to 2023-24 rates to reflect the estimated increase in the average staff cost element of the sustainable rate required to meet the £12 per hour (real Living Wage) pay commitment in 2024-25. This reflects staffing costs accounting for, on average, 75% of the sustainable rate in 2023-24.
- The minimum 7.6% uplift will also be applied to the sustainable rates paid to all childminders delivering funded ELC.
- The remainder of the sustainable rate is set in-line with the requirements of the sustainable rates guidance (assumed to account for, on average, 25% of the sustainable rate, and reflecting the non-staffing cost elements of the requirements of the sustainable rate set out in paragraphs 12 and 13. This includes providing scope for reinvestment).
- If sustainable rates for 2024-25 are set after April 2024, any payments that reflect the increased real Living Wage should be backdated to 1 April 2024.
- Confirm the funding to be provided, in addition to the sustainable rate, to support delivery of the free meal commitment.
- Local authorities will be transparent as to each element of the increase, including the uplift for staffing costs, in their sustainable rate(s) for 2024-25.

Delivering the £12 per hour pay commitment through 2024-25 sustainable rates

16. An additional £16 million of in year funding will be made available in 2024-25 to support delivery of the commitment that childcare workers delivering funded Early Learning and Childcare (ELC) in private and third sector services are paid at least £12 per hour from April 2024.

17. To support payment of at least the real Living Wage in 2024-25 to childcare workers delivering funded ELC, all funded ELC providers in the private, and third sector will receive a minimum uplift of 7.6% to the sustainable rate(s) they received in 2023-24.

18. This uplift reflects the estimated increase in the average staff cost element of the sustainable rate required to enable payment of the increased real Living Wage. Overall staff costs will be uplifted by 10.1% to reflect the increase from the real Living Wage rate that applied during 2023-24 and £12 per hour. As we are assuming that, on average, staff costs account for 75% of overall costs (and

therefore around 75% of the sustainable rate) this will be reflected in a 7.6% uplift to 2023-24 rates.

19. The commitment will also be applied in a fair and sustainable way for childminders, with the minimum 7.6% uplift to 2023-24 rates also being applied to the sustainable rates paid to all childminders delivering funded ELC in 2024-25.

20. Further details as to how the minimum uplift was estimated are provided in Annex B.

21. Local authorities will be transparent as to how this increased funding to reflect the new real Living Wage is included in their sustainable rate(s) for 2024-25.

22. Both the joint Scottish Government and COSLA Review of Sustainable Rates, and the 2023-24 Sustainable Rates Data Collection Report have highlighted variations between local authorities in when sustainable rates for providers are confirmed. Where sustainable rates for 2024-25 are confirmed after April 2024 local authorities should ensure that any payments to funded providers to support delivery of the £12 per hour pay commitment are backdated to 1 April 2024.

Key considerations in setting overall sustainable rates for 2024-25

23. The minimum 7.6% uplift only reflects the change to the average staffing cost element of the sustainable rate and the final sustainable rate(s) for 2024-25 should also reflect other, non-staffing, cost elements and the requirements for the sustainable rate set out in paragraphs 12 and 13. This includes providing scope for reinvestment (reflecting a measure of profit in a private sector setting or surplus in a third sector organisation).

24. It is expected that the overall setting of sustainable rates in 2024-25, beyond the minimum 7.6% uplift to be applied to support delivery of the £12 per hour pay commitment, will be set in line with the Sustainable Rates Guidance published in April 2019. Rates must be affordable for local authorities in terms of the budgets available.

Payments for delivery of the free meal commitment

25. As part of Funding Follows the Child, every child attending a funded ELC session – which is any session that includes funded hours, regardless of whether they are mixed with ‘paid for’ hours – will be provided with a free meal.

26. Funding to deliver the free meal commitment will be additional to the sustainable rate for funded providers.

27. Local authorities must continue to ensure that they are transparent as to the funding being provided to private and third sector providers for the delivery of the free meal commitment.

28. To ease the administrative burden on providers, a local authority may decide to include these elements in the same payment as the sustainable rate or a local

authority may account for it separately. The local authority must make sure, particularly where all elements are reflected in one payment, that there is transparency for providers regarding the separate elements of funding being received.

Monitoring delivery

29. Delivery of the £12 per hour, and the real Living Wage, pay commitment by providers delivering funded ELC should be monitored.

30. As part of their role in delivering the Funding Follows the Child approach, local authorities are responsible for assessing and monitoring compliance with the National Standard in all funded providers, including local authority settings, as part of their contract management arrangements and in their role as guarantors of quality. Further information on this role is set out in Section 3 of the Funding Follows the Child (FFtC) Operating Guidance.

31. The Scottish Government will continue to work with COSLA and local authorities, including through the ELC Fair Work and Real Living Wage Implementation Group, to identify approaches to monitoring delivery of the commitment nationally. As set out in the Funding Follows the Child Operating Guidance, whilst it is for local authorities to decide how to fulfil their responsibility to assess and monitor compliance with the National Standard, it is important that the process is transparent and proportionate. It is also important that local authorities – as part of the commitment to simplify the process for, and reduce the burden on, providers to deliver the funded entitlement – share practice in order to encourage consistency of approach.

Next steps

32. The Scottish Government will provide local authorities with an additional £16 million in year in 2024-25 to fully fund the estimated additional costs associated with enabling childcare workers delivering funded ELC in private and third sector services to be paid at least £12 per hour from April 2024.

33. This additional funding will be distributed to local authorities using the distribution methodology recommended by the Settlement and Distribution Group and agreed by COSLA Leaders at their meeting on 26 January 2024. Final funding allocations to local authorities will be confirmed via a funding allocation letter issued by the Scottish Government.

34. Providers will then receive the funding to enable them to deliver the £12 per hour pay commitment through the sustainable rate setting process in 2024-25 in line with the approach set out in this guidance (and summarised in Box 1).

35. As set out in paragraph 6, for future years, updated sustainable rates guidance will be developed to reflect the actions set out in the joint Scottish Government and COSLA Sustainable Rates Review. In addition to a comprehensive update to the sustainable rates guidance, other relevant actions set out in the Review include the continuation of a range of support from the Improvement Service to

support local authorities with the sustainable rate-setting process, and consideration of how cost data can be improved to produce more robust financial evidence for rate-setting.

36. The Scottish Government and COSLA are currently developing a programme of work with local government and the sector to deliver these actions and will set out more information on timescales, including when future updates to the sustainable rates guidance will be available, and how the sector will be involved soon.

Annex A

Requirements for ELC Real Living Wage Commitment

1. Updated Funding Follows the Child Operating Guidance was published on 12 December. Section 2 (The National Standard for all Early Learning and Childcare Providers) of the guidance sets out how settings can meet the Fair Work criterion of the National Standard and the real Living Wage commitment.

2. The Operating Guidance sets out that the key points to note on implementing the real Living Wage commitment are:
   - The real Living Wage should not be confused with the National Minimum Wage (including the "national Living Wage" which, from April 2024 applies to those aged 21 and over) which is the legal minimum an employer must pay an employee and is set by the UK Government.
   - The real Living Wage is a voluntary wage rate of pay which is estimated at a level based on the cost of living. These figures are calculated annually and are generally announced in November each year.
   - Employers who pay the real Living Wage can, if they wish, seek to become Living Wage accredited through Living Wage Scotland. Some providers who deliver ELC in Scotland are Living Wage accredited employers, however, it is important to note that whilst the Scottish Government encourages more providers to become Living Wage accredited, it is not a requirement for becoming a funded provider.
   - The commitment covers all ELC staff providing direct care to children who are receiving funded hours, regardless of age and qualification and of the setting in which they are employed.
   - In line with the requirements for Living Wage accreditation, apprentices do not have to receive the real Living Wage – this is in recognition that, particularly in the earlier stages, apprentices may spend more time training than working. However, it is good practice to ensure pay rises over the course of the apprenticeship.
   - In line with the Fair Work criteria (set out in Section 2 of the Funding Follows the Child Operating Guidance), employers must demonstrate a fair and equal pay policy.

3. Section 5 of the of Operating Guidance includes a set of Frequently Asked Questions regarding implementation of the ELC real Living Wage commitment.

Annex B

Methodology for estimating the uplift required to enable payment of £12 per hour to childcare workers providing funded ELC

1. All funded providers in the private and third sector will receive additional funding to increase staff pay to at least £12 per hour from April 2024 via a fixed percentage uplift that is applied to their current (2023-24) sustainable rate(s). The commitment will also be applied in a fair and sustainable way for childminders who deliver funded ELC.

2. The size of this uplift has been calculated to reflect the estimated average increase in the staff cost element of the sustainable rate required to meet the increase in the real Living Wage from £10.90 per hour to £12 per hour.

3. Sustainable rates (for 2023-24) should be set, in line with the Sustainable Rates Guidance, at a level to allow funded providers in the private and third sector to pay at least the real Living Wage of £10.90 per hour to staff delivering funded ELC.

4. Moving to £12 per hour from April 2024 would represent a 10.1% increase in the staff costs associated with those workers who were receiving the previous real Living Wage rate of £10.90 per hour.

5. It is important to note that staff within these services will likely be on a range of salaries, with some above or below the real Living Wage rate of £10.90 per hour in 2023-24. The fixed uplift approach will therefore be based on uplifting the total staff cost element (not just those on the real Living Wage) of the average sustainable rate by 10.1%.

6. Applying the uplift to the overall staff cost element is expected to provide scope to providers to maintain existing pay differentials within their setting.

7. Going forward, and as identified in the joint Scottish Government and COSLA Sustainable Rates Review, there is a need for more robust and reliable evidence on the costs of delivering funded ELC in private, third and childminding sector providers. This includes a need for more robust information on staffing costs, including wage differentials within settings.

8. As part of previous actions undertaken to strengthen the sustainable rates setting process, local authorities identified a need for more support in gathering robust evidence on costs of delivery, which could then be used as the starting point for developing local sustainable rates. To support this, COSLA and local authorities, through the Improvement Service, commissioned Ipsos Mori to undertake an independent cost collection exercise. Ipsos Mori collected information from funded services in the private and third sector through a detailed survey in March 2022. There was also a separate, more limited, cost collection exercise of funded childminding services.

9. Evidence from the Ipsos Mori survey indicates that total staff costs accounted for between 70% and 80% of total costs for providers in the private and third sector who deliver funded ELC.

10. For the purposes of estimating the size of the fixed uplift it is assumed that between 70% and 80% of the sustainable rate that these providers receive is expected to reflect staffing costs. For our analysis we have used 75% as the average share of total costs accounted for by staff costs.

11. Uprating the total staff cost element (75%) of the sustainable rates by 10.1% would result in an increase in the overall rate of 7.6%.

12. In order to support payment of the increased real Living Wage all funded ELC providers in the private, and third sector will therefore receive a minimum uplift of 7.6% to the sustainable rate(s) they received in 2023-24.

13. As set out in the guidance, the commitment will also be applied in a fair and sustainable way for childminders, with the minimum 7.6% uplift to 2023-24 rates also being applied to the sustainable rates paid to all childminders delivering funded ELC in 2024-25. Whilst, as highlighted above, a more limited cost collection exercise of childminders was undertaken by Ipsos Mori in 2022, this does not provide the equivalent level of detail for childminders as the separate survey for private and third sector services. In light of this, and the need to collect more robust and reliable data on costs of delivery for childminders (as set out in the Sustainable Rates Review and in paragraph 7 of this Annex), in order to deliver the commitment in a fair and sustainable way, the same uplift will be applied to sustainable rates for all childminders delivering funded ELC as for private and third sector services.

14. Local authorities are responsible for determining the overall sustainable rate for 2024-25 in line with the published guidance. As highlighted in the guidance, the overall sustainable rate(s) for 2024-25 should, in addition to the minimum 7.6% uplift to enable payment of at least the real Living Wage, be set in line with the requirements of the sustainable rates guidance. These other elements are assumed to account for, on average, 25% of the sustainable rate in 2023-24.

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