



**Children's Rights Impact Assessment (CRIA)**

<b>Title / Piece of work:</b>	<b>Childcare Funding (Wales) Bill</b>
<b>Related MA / LF number (if applicable)</b>	MA - L/HID/0471/18
<b>Name of Official:</b>	Catrin Davies
<b>Department:</b>	Childcare, Play and Early Years Division
<b>Date:</b>	20 November 2018

**Six Steps to Due Regard**



## Step 1. What's the piece of work and its objective(s)?

### Childcare Funding (Wales) Bill

The Welsh Government is introducing a Bill into the National Assembly for Wales to confer a power on the Welsh Ministers to provide funding for childcare for qualifying children of working parents. The Bill contains a power to make regulations about the administration and operation of arrangements made by the Welsh Ministers for the purpose of such funding. In accordance with this power it is intended that Welsh Ministers will make provision in regulations to facilitate the sharing of data pertinent to the development of a national application and eligibility checking system in respect of the Childcare Offer for Wales ("the Offer"). This will be a primarily online system, although it will also be possible for applications to be made offline, with a dedicated telephone helpline available.

The primary focus of the Bill is to enable the collection and consideration of data pertinent to the determination of a person's eligibility for the Offer. To that end it is intended that Regulations made under the Bill will make it possible for relevant UK Government departments to share information with the Welsh Ministers for the purposes of determining a person's eligibility and for the onward transmission of relevant data and determinations as required. The Bill will also permit the making of arrangements for imposing penalties in situations where applicants provide false or misleading information or behave dishonestly. Regulations made under the Bill must provide arrangements for applicants to ask for a penalty or a decision made about their eligibility to be reviewed and establish a process for appeals against a penalty or in relation to a decision about eligibility.

### Policy background

The Bill is intended to facilitate the delivery of the Welsh Government's commitment to provide 30 hours per week of government funded early education and childcare to the working parents of three and four year olds in Wales for up to 48 weeks per year, as set out in *Taking Wales Forward*<sup>1</sup> and expanded on in *Prosperity for All*<sup>2</sup>.

The provision of affordable, accessible, quality early years provision, available at the times parents need it, plays an essential role in the expansion of our economy, helping and enabling parents, especially mothers, to work and/or increase the hours that they work. Dual-earning (for couple households) or employment (for single parent households) have been demonstrated to be the best route out of poverty and to help tackle "in work poverty". This, in turn, will increase household income and raise the standard of living of the whole family. Reducing the number of families living in workless households is also a priority, as children living in workless households are particularly at risk of living in poverty.

The Offer will help families by providing them with options and support. It will ensure children have a safe and interesting place to thrive, learn and grow and that home life is better due to less financial pressure on families. In supporting working parents with the costs of childcare, we remove one of the potential barriers to employment, increase employability choices and influence disposable income.

The Offer builds on the universal commitment to early education, which provides every 3 and 4

<sup>1</sup>Welsh Government - Taking Wales Forward 2016-2021:  
<http://gov.wales/docs/strategies/160920-taking-wales-forward-en.pdf>

<sup>2</sup>Welsh Government – Prosperity for All: the national strategy :  
<http://gov.wales/docs/strategies/170919-prosperity-for-all-en.pdf>

year old with a minimum of 10 hours per week of free education during school term time, from the term after their third birthday. In addition to this, working parents of 3 and 4 year olds will be eligible for the childcare element of the Offer.

### **Eligibility for childcare funding**

The Bill will set out the high level eligibility criteria for the funding. Regulations and an administrative scheme will provide further detail about the administration and operation of the Offer. Statements of Policy Intent in relation to both the regulations and the scheme have been made available for scrutiny by the Assembly. Funding will be available from the term after the child's third birthday until the September after their fourth birthday:

- where both parents are working or where the sole parent is working in lone parent families;
- where each parent is earning, on average, a weekly minimum equivalent to 16 hours at national minimum wage (NMW) or national living wage (NLW); and
- for self-employed parents and parents on zero hours contracts, providing their average earnings meet the minimum earnings criteria over a 3 month period.

If at least one parent in a household earns £100,000 or more a year, that family will not be eligible to take up the additional hours of childcare provided through the Offer.

Recognising that there are many types of family groupings and their situations and circumstances can sometimes be complex, the funding will be available in other exceptional circumstances, including:

- where both parents are employed (and earning the equivalent of at least 16 hours at NLW or NMW per week) but one or both parents are temporarily away from the workplace on statutory parental, maternity, paternity or adoption leave;
- where both parents are employed (and earning the equivalent of at least 16 hours at NLW or NMW per week) but one or both parents are temporarily away from the workplace on statutory sick pay;
- where one parent is employed (and earning the equivalent of at least 16 hours at NLW or NMW per week) and one parent is disabled or incapacitated based on receipt of specific benefits or has substantial caring responsibilities based on specific benefits received for caring. This includes families where one parent meets the eligibility criteria and the other parent is in receipt of one of the following benefits:
  - Incapacity benefit
  - Carers allowance
  - Severe disablement allowance
  - Income-based Employment and support allowance
- the first 12 months in which a parent is newly self-employed and their business is within the initial start up period. Parents will need to register their business with Her Majesty's Revenue and Customs (HMRC) and provide evidence that they are self employed in order to qualify but will not need to meet the minimum earnings criteria during this time;
- to kinship carers, where they meet the definition of a working parent.

## **Application and eligibility checking system**

The Offer will consist of the universal entitlement to early education and additional hours of childcare for working parents. We therefore need to develop a model which makes it as simple as possible for working parents to access the additional hours of childcare provided through the entitlement. We are committed to developing a seamless online childcare application system, ensuring a smooth customer journey.

Five options for the delivery of a national application and eligibility checking system have been considered and the associated costs and benefits are considered in the Regulatory Impact Assessment which accompanies the Bill. We have introduced a change in delivery arrangements for the second year of early implementation. In the first year, each local authority undertook the full process themselves, including the assessment of applications and processing of payments to childcare providers. For the remaining period of early implementation, local authorities will be working in partnership, with one authority accepting and processing applications on behalf of others and making relevant payments. As a result of these new arrangements, we have added a fifth option to the Regulatory Impact Assessment which has now become the baseline (“do nothing”) option.

It is envisaged that the application and eligibility checking system will be operated by HMRC (as the “relevant authority” of choice), utilising their Childcare Service, which has links to relevant corroborative data sets and represents the best value for money. Applications for the childcare funding scheme will work in a very similar way to the system currently operating in England in respect of their Childcare Offer, which has been tried and tested since 2017, and Tax Free Childcare (TFC).

The intention is to adapt this system to meet the needs of the Welsh Offer. Using HMRC’s system has a number of advantages, including:

- enabling eligibility checks to be made against real-time data; providing a consistent system and approach across the whole of Wales;
- providing quick decisions to parents regarding their eligibility;
- reducing the risk around data security and fraud; and
- The experience of HMRC through their Childcare Service, of administering the eligibility checks for both TFC and the English Childcare Offer. By full roll-out of our Offer, they will have three years experience and learning.

## **Engagement**

Members of the Childcare Offer Stakeholder Reference Group were invited to an engagement session on 23 November 2017 to discuss some of the options available to Welsh Government in terms of administering the application and eligibility checking system for childcare funding. This

session afforded an opportunity to discuss with key stakeholders, including the Children's Commissioner; Care Inspectorate Wales, CWLWM<sup>3</sup> and Local Authority representatives, some of the advantages and disadvantages of the four options for implementation outlined in the Regulatory Impact Assessment and the purpose of the proposed Bill. A further session was held on 14 March 2018, where parts of the Bill were shared with members of the Stakeholder Reference Group. The Group has received regular updates on the Bill during its passage through the Assembly.

A further "lessons learned" session was held with Early Implementer Local Authorities on 17 January 2018 which proved useful in understanding some of the challenges and issues associated with the current approach to eligibility checking for childcare funding and alternative ways of achieving this policy objective.

Welsh Government has consulted appropriately with other stakeholders directly affected by the Bill, particularly HMRC.

## Step 2. Analysing the impact

### Childcare Funding (Wales) Bill

The main purpose of the Bill is to enable the development and administration of a national online system for checking the eligibility of applicants for the Offer. The online system itself would not have any specific impacts on children's rights, beyond ensuring qualifying children of eligible parents are identified and enabled to receive the funded childcare they are entitled to should their parents choose to access it.

All types of families will be able to interact with the online system and submit an application for funded childcare as there will be two inbound channels. Online applications will be routed via a digital portal; offline applications will be managed by telephone. The national system will facilitate the provision of the Offer, offering a quick and easy way for applicants to apply for childcare and providing a quick decision on eligibility, enabling the applicant and the child to take advantage of the Offer as soon as arrangements can be made with a qualifying provider.

As illustrated by the Regulatory Impact Assessment, the parental burden associated with local authorities checking eligibility and administering the offer (options 1 and 5) is significantly higher compared to other options, with the cost to parents and guardians associated with the time involved in checking eligibility and submitting an application with supporting documentation (where required) the highest.

In addition, the development of a system akin to the model currently being operated in England should help avoid a situation in Wales where all Local Authorities approach the task of eligibility checking in a different way and will mean that all applicants and children across Wales have access to the same service and that the same rules apply. Given that the applications will work in a very similar way to the system currently operating across the UK for TFC, it increases the possibility that parents will apply for both the Offer and TFC, thus maximising the benefits to

<sup>3</sup> Cwlwm brings together the five leading childcare organisations in Wales to deliver a bilingual integrated service that seeks to ensure the best possible outcomes for children and families across Wales. Cwlwm partner organisations are: Mudiad Meithrin; Clybiau Plant Cymru Kids' Club; National Day Nurseries Association Cymru; Professional Association for Childcare and Early Years (PACEY Cymru) and Wales Pre-School Providers Association.

their income and therefore their children.

### Step 3. How does your piece of work support and promote children's rights?

The Childcare Funding (Wales) Bill and the Offer will result in working parents of 3 and 4 year olds having access to 30 hours of government funded early education and childcare for 48 weeks of the year. The Bill will enable and facilitate delivery of the Offer itself by setting out an application and eligibility process which is parent-friendly and which gives quick decisions allowing the parent to access the offer as soon as they become eligible.

The Bill will support and promote children's rights by supporting the following articles, in particular:

- **Article 18** states that Government should support parents in helping to look after children, particularly when both parents work. The Welsh Government has a statutory commitment to ensuring high quality, sustainable and affordable childcare is available across Wales and works closely with Local Authorities to achieve this. The Offer will support working parents by funding hours of childcare, the cost of which is acting as a barrier and preventing them from returning to work or making changes to their employment to better suit their family's circumstances. Any application system developed, supported by the introduction of the Childcare Funding (Wales) Bill, will aim to support parents to apply for and access the Offer in the most straightforward manner possible;
- **Article 26** states that the Government should provide extra money for the children of families in need. By providing funding to help meet childcare costs, the Offer will enable some parents to consider working more hours or may open up different and better paid career choices;
- **Article 27** states that children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who can't afford to provide this.

### Step 4. Advising the Minister and Ministerial decision

When advice is given and recommendations are made to the Ministers on the development of the Offer, the Childcare Offer Team is responsible for considering the ways in which the piece of work helps to support and promote children’s rights and the articles of the UNCRC.

All advice presented to the Minister to date has noted that the best interests of the child has been considered and, where appropriate, the advice details this to enable the Minister to make an informed decision.

**Step 5. Recording and communicating the outcome**

**Final version to be retained on i-share**

All paperwork relating to the Offer, including consultations, research and policy decisions have been stored on the Welsh Government’s record management system. This will continue through the pilot phase of the programme into full roll out. This CRIA will be published on the Welsh Government website.

**Step 6. Revisiting the piece of work as and when needed**

This assessment is stored on the Welsh Government’s record system iShare (A17671790)

The CRIA will be reviewed and updated as needed:

- i. Following Early Implementation
- ii. Following the programme evaluation
- iii. Following Stage 1 scrutiny of the Childcare Funding (Wales) Bill

**Budgets**

**As a result of completing the CRIA, has there been any impact on budgets?**

It is important that where any changes are made to spending plans, including where additional allocations have been made, that this has been assessed and evidenced as part of the CRIA process.

**No**

**Please give any details:**

The requirements of the principles of the UNCRC have been considered in the development of this policy and where possible, embedded within the policy. No additional financial implications as a result of completing the CRIA have been identified at this stage.

Estimated costs relating to the preferred option are detailed in the Regulatory Impact Assessment which accompanies the Bill. Transition costs in 2019-2020 are estimated to be around £3.5M, with annual ongoing costs in the region of £1M.

**Monitoring & Review**

<b>Do we need to monitor / review the proposal?</b>	<b>Yes</b>
<b>If applicable: set the review date</b>	Subject to the Bill receiving Royal Assent in early 2019, no further reviews are planned.  Separate, integrated impact assessments will be developed for any subordinate legislation arising out of this Bill and in respect of the Childcare Offer more generally.



# THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

[www.uncrcletsgetitright.co.uk](http://www.uncrcletsgetitright.co.uk)

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.

## Article 1

Everyone under 18 years of age has all the rights in this Convention.

## Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

## Article 3

All organisations concerned with children should work towards what is best for each child.

## Article 4

Governments should make these rights available to children.

## Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

## Article 6

All children have the right of life. Governments should ensure that children survive and develop healthily.

## Article 7

All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

## Article 8

Governments should respect children's right to a name, a nationality and family ties.

## Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

## Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

## Article 11

Governments should take steps to stop children being taken out of their own country illegally.

## Article 12

Children have the right to say what they think should happen, when adults are making

decisions that affect them, and to have their opinions taken into account.

## Article 13

Children have the right to get and to share information as long as the information is not damaging to them or to others.

## Article 14

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

## Article 15

Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

## Article 16

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

## Article 17

Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

## Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

## Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

## Article 20

Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

## Article 21

When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

## Article 22

Children who come into a country as refugees should have the same rights as children born in that country.

## Article 23

Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

## Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

## Article 25

Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

## Article 26

The Government should provide extra money for the children of families in need.

## Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

## Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

## Article 29

Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

## Article 30

Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

## Article 31

All children have a right to relax and play, and to join in a wide range of activities.

## Article 32

The Government should protect children from work that is dangerous or might harm their health or their education.



Llywodraeth Cymru  
Welsh Government

[www.cymru.gov.uk](http://www.cymru.gov.uk)

