

Equality Impact Assessment (EIA) – Part 1

Policy title and purpose (brief outline):	Childcare Funding (Wales) Bill
Name of official:	Catrin Davies
Department:	Education and Public Services – Childcare, Play and Early Years
Date:	22 November

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 Welsh Government’s commitment to deliver the Offer was set out in *Taking Wales Forward*¹ and expanded on in *Prosperity for All*². The Offer also features in the *Economic Action Plan*³ and the *Employability Plan*⁴.

As set out in *Prosperity for All*, the Offer commits the Welsh Government to provide:

“30 hours of free education and childcare to support working families across Wales and make it easier for people to take up and retain jobs”.

The Offer builds on the current universal entitlement to early education, which provides every 3 and 4 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 the universal entitlement, working parents of qualifying 3 and 4 year olds will be eligible for the childcare element of the Offer from the term after the child’s third

¹Welsh Government - Taking Wales Forward 2016-2021:

<http://gov.wales/docs/strategies/160920-taking-wales-forward-en.pdf>

² Welsh Government – Prosperity for All: the national strategy :

<http://gov.wales/docs/strategies/170919-prosperity-for-all-en.pdf>

³ Welsh Government- Prosperity for All: economic action plan :

<http://gov.wales/docs/det/publications/171213-economic-action-plan-en.pdf>

⁴ Welsh Government- Prosperity for All: Employability plan

:<http://gov.wales/topics/educationandskills/skillsandtraining/employability-plan-for-wales/?skip=1&lang=en>

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 (gross), 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;

1. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?

A communications plan has been developed for the Bill which seeks to build on the extensive engagement which has already taken place in respect of the Offer itself.

To date, discussions on the content of the Bill have taken place with:

1.1 Early Implementer Local Authorities (EILAs) – Early implementation of the Offer began in September 2017 in Anglesey, Gwynedd, Blaenau Gwent, Caerphilly, Flintshire, Rhondda Cynon Taff and Swansea. Since September 2018, these authorities have been joined by Ceredigion, Neath Port Talbot, Newport, Wrexham, Conwy and Torfaen, with Cardiff joining from October 2018. We are planning to roll out to other authorities in 2019. 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. The views of some of these local authorities on the feasibility of establishing a single national application system have been sought and their feedback used to generate the options considered.

- **Umbrella Organisations** – there are five umbrella organisations for the childcare sector, drawn together under a single grouping referred to as Cwlwm⁵. Regular updates on the early implementation of the Offer have been shared with Cwlwm and their views on the establishment of a single national application system were sought. Their views are also pertinent to the development of a payment system for childcare providers.
- **Key Stakeholders** – in addition to Cwlwm, the Childcare Offer Stakeholder Reference Group includes representatives from the All-Wales Group of Childcare Providers (AWARE); All Wales Flying Start; Care Inspectorate Wales (CIW – formerly the Care and Social Services Inspectorate Wales); Estyn; Children’s Commissioner; Children in Wales; the Future Generations Commissioner; Mentrau Iaith; Welsh Language Commissioner and the Welsh Local Government Association. This group was invited to discuss options for undertaking eligibility checks in the future and the purpose of the Childcare Funding (Wales) Bill on 23 November 2017 and have received regular updates on the Bill since.
- **UK Government Departments** – in drafting the Bill the Welsh Government has worked closely with HMRC, Department for Work and Pensions and the Home Office. Discussions about the Bill have also been held with the Wales Office, the Ministry of Justice and the Department for Education in relation to the data to be shared with the Welsh Government along with lessons from both Tax Free Childcare and the English extended entitlement scheme.

⁵ 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.

An engagement plan was developed for the Childcare Offer Programme in 2016 which set out how the Welsh Government planned to engage with stakeholders, both internally and externally.

A communications strategy has been developed in respect of the Childcare Offer. In support of this, the #TrafodGofalPlant / #TalkChildcare campaign was launched in August 2016 and an activity plan produced which set out how different audiences would be engaged throughout the campaign.

In the first phase of this campaign, which ran from August 2016 to April 2017, the Welsh Government:

- hosted an online survey asking people what is important about choosing childcare for all ages; what would allow people to access it more easily; whether people access existing early education entitlement and what is important to people about the new offer;
- held a #TrafodGofalPlant / #TalkChildcare Roadshow which visited 15 towns in Wales and a number of childcare settings;
- commissioned a set of in-depth focus groups with parents; and
- spoke to childcare providers through a series of regional events, focus groups and webinars.

Over 6,250 people took part in this first phase of the campaign, ranging from parents to childcare providers. The Welsh Government has subsequently published the key messages received from stakeholders and outlined the intended action in relation to the points raised⁶. Alongside this the Welsh Government published the findings of the focus groups with parents⁷.

To maintain engagement, phase 2 of the #TrafodGofalPlant / #TalkChildcare campaign was launched in October 2017. The focus of this phase is on (but not limited to) childcare providers to ensure that a good awareness of the Offer is maintained but with a focus on a national level. It also captures the learning and views of those involved in early implementation. 5 provider events were held over the Summer of 2018, with a further 4 planned for the Autumn.

The second phase of the #TrafodGofalPlant / #TalkChildcare campaign will also seek to engage with harder to reach communities. The Welsh Government is currently considering feedback from recent engagement events with Childcare providers, particularly around how the Offer can be communicated to harder to reach communities, for example Gypsy and Traveller and refugee communities, and how best to support such groups in taking up the Offer.

Further focus groups with harder to reach groups are planned towards the end of 2018 and early 2019.

⁶ <http://gov.wales/topics/people-and-communities/people/children-and-young-people/childcare/talk-childcare/?lang=en>

⁷ <http://gov.wales/statistics-and-research/the-childcare-offer-for-wales/?lang=en>

2. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence e.g. National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?

The main purposes of the Bill will be to enable an online national system for checking the eligibility of applicants for the Offer. Five options for the delivery of a national application and eligibility checking system were considered and are set out in more detail as part of the Regulatory Impact Assessment. The five options are:

Option 1 – Local Authorities accept applications and check eligibility

Option 2 – HMRC accept applications and check eligibility

Option 3 – Welsh Government accepts applications and check eligibility

Option 4 – Contracted party accept applications and check eligibility

Option 5 – 10 Delivery Authorities accept applications and check eligibility on behalf of all local authorities

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.

Under current arrangements, Local Authorities are responsible for manually checking the documents against the applications and eligibility criteria to establish parents’ eligibility.

The time burden for parent and guardian applicants to check their eligibility and to submit their applications and the supporting documentation, under the do nothing option, is significantly higher than the preferred option. The digital solution available under the HMRC option should make it easier for parents to apply, with fewer forms to complete and less documentation to provide as proof of eligibility, and provides parents with a quicker decision as to their eligibility. It also reduces risk around data security and fraud. As a result, we believe that more parents are likely to apply for and take-up the offer.

Research undertaken by HMRC into parental attitudes around applications for Tax Free Childcare has been considered, which showed that parents wanted a system

that was simple and easy to access, as well as clear information about what support is available to them⁸.

We know from the National Survey for Wales that digital exclusion is relatively low (15%) amongst the adult population as a whole (16+), but higher amongst those with a limiting long-standing illness, disability or infirmity (25%) and people aged 50 and over (27%)⁹. In recognition of this, when implementing the Bill we will not require that the application system be wholly online and arrangements are in place for an offline function, with a telephone helpline offering support for parents in completing applications.

In summary, 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.

It is important to note any opportunities you have identified that could advance or promote equality.

⁸https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293081/TFC_online_questionnaires_summary_of_responses.pdf

⁹ Welsh Government National Survey for Wales - <http://gov.wales/docs/statistics/2017/170831-national-survey-2016-17-internet-access-online-public-services-en.pdf>

Impact

Please complete the next section to show how this policy / decision / practice could have an impact (positive or negative) on the protected groups under the Equality Act 2010 (refer to the EIA guidance document for more information).

Lack of evidence is not a reason for *not* progressing to carrying out an EIA. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

4.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?

Age	Positive	Negative	None / Negligible	Reasons for your decision (including evidence) / How might it impact?
Young people (Children and young people, up to the age of 18)	All eligible children aged 3 and 4		Ineligible children	The application and eligibility checking system should have a positive impact on eligible children by ensuring a quick decision on eligibility and facilitating early take up of childcare. Applicants will be able to apply online or by telephone for the Offer and will be able to express their preferred method of interacting with the system and receiving notifications. This is relevant and applicable whatever the age of the applicant.
People 18-50	All eligible working parents and guardians		Ineligible parents and guardians	Applicants will be able to apply online or by telephone for the Offer and will be able to express their preferred method of interacting with the system and receiving notifications. This is relevant and applicable whatever the

				age of the applicant.
Older people (50+)	Eligible older parents and guardians		Ineligible parents and guardians	<p>Applicants will be able to apply online or by telephone for the Offer and will be able to express their preferred method of interacting with the system and receiving notifications. This is relevant and applicable whatever the age of the applicant.</p> <p>We will be taking steps to ensure that any person who may be digitally excluded can apply for the Offer.</p>

4.2 Because they are disabled?

Disabled	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Disabled			None	Applicants will be able to apply online or by telephone for the Offer and will be able to express their preferred method of interacting with the system and receiving notifications.

4.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Male			None	The application and eligibility checking system will be accessible to all, regardless of gender.

Female			None	The application and eligibility checking system will be accessible to all, regardless of gender.
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4.4 Because they are transgender?

Transgender	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Transgender			None	The application and eligibility checking system will be accessible to all.

4.5 Because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Marriage			None	The application and eligibility checking system will be accessible to all.
Civil Partnership			None	The application and eligibility checking system will be accessible to all.

4.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Pregnancy			None	The application and eligibility checking system will be accessible to all, regardless of pregnancy or maternity.
Maternity (the period after birth)			None	

4.7 Because of their race?

Race	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g. Asian, Black,			None	<p>The application and eligibility checking system will be accessible to all, regardless of their race.</p> <p>The Knowledge and Analytical Services internal research programme recommended that information about childcare provision should be tailored for different cultural groups¹⁰.</p> <p>There is limited information on take up of childcare by ethnic group. Data is being collected as part of the evaluation and monitoring of the early implementation of the Offer.</p> <p>Further research on the awareness and use of childcare by BAME communities is required to ensure the Offer is developed in a way which enables them to access it equally and this will include consideration of the application and eligibility checking system. This could result in more families from these communities accessing childcare, benefiting both from government support with funded childcare and the additional child development support.</p>

¹⁰ <http://gov.wales/docs/caecd/research/2017/170928-childcare-offer-wales-en.pdf>

National Origin (e.g. Welsh, English)			None	<p>The application and eligibility checking system will be accessible to all, regardless of their national origin.</p> <p>A separate impact assessment has been published in respect of the Welsh language.</p>
Asylum Seeker and Refugees			None	<p>Most asylum applicants are not allowed to work whilst their application for asylum is being considered. This means they will not be eligible for the Offer.</p>
Gypsies and Travellers			None	<p>The application and eligibility checking system will be accessible to all.</p> <p>The Knowledge and Analytical Services internal research programme recommended that information about childcare provision should be tailored for different cultural groups.</p> <p>There is limited information on take up of childcare by ethnic group. Data is being collected as part of the evaluation and monitoring of the early implementation of the Offer.</p> <p>Further research on the awareness and use of childcare by gypsy and traveller communities is required to ensure the Offer is developed in a way which enables them to access it equally and this will include consideration of the application and eligibility checking process. This could result in more families from these communities accessing childcare, benefiting both</p>

				from government support with funded childcare and the additional child development support.
Migrants			None	<p>The application and eligibility checking system will be accessible to all, The Knowledge and Analytical Services internal research programme recommended that information about childcare provision should be tailored for different cultural groups.</p> <p>There is limited information on take up of childcare by ethnic group. Data is being collected as part of the evaluation and monitoring of the early implementation of the Offer.</p> <p>Further research on the awareness and use of childcare by migrant communities is required to ensure the Offer is developed in a way which enables them to access it equally and this will include consideration of the application and eligibility checking system. This could result in more families from these communities accessing childcare, benefiting both from government support with funded childcare and the additional child development support.</p>
Others			None	The application and eligibility checking system will be accessible to all, regardless of race.



4.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Religion and belief or non-belief			None	The application and eligibility checking system will be accessible to all, regardless of their religion and belief or non-belief.

4.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Sexual Orientation			None	The application and eligibility checking system will be accessible to all, regardless of their sexual orientation.

4.10 Do you think that this policy will have a positive or negative impact on people’s human rights? Please refer to point 1.4 of the EIA Annex A - Guidance for further information about Human Rights.

Human Rights	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Human Rights including Human Rights Act and UN Conventions	All eligible parents and children			We have considered the articles of the Human Rights Act and consider that the Bill is compatible with them. The Bill is based on

			<p>providing eligible families with the opportunity to take up Government funded childcare in settings that are registered with CIW or Ofsted to ensure as far as is possible that children are cared for in a safe and caring environment and that their basic human rights are protected.</p> <p>Article 6 is engaged to the extent that the Bill will include a mechanism that will allow claimants to appeal determinations on eligibility for the Offer to an independent and impartial tribunal.</p> <p>Article 14 is engaged in that the Bill is intended to facilitate a system that is not based on discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.</p> <p>A separate Children's Rights Impact Assessment has been completed and has been published on the Welsh Government website alongside this assessment to coincide with the introduction of the Bill to the National Assembly for Wales.</p>
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If you have identified any impacts (other than negligible ones), positive or negative, on any group with protected characteristics, please complete Part 2.

Only if there are no or negligible positive or negative impacts should you go straight to part 2 and sign off the EIA.

Equality Impact Assessment – Part 2

1. Building on the evidence you gathered and considered in Part 1, please consider the following:

1.1 How could, or does, the policy help advance / promote equality of opportunity?

For example, positive measures designed to address disadvantage and reach different communities or protected groups?

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 specifically promote or advance equality of opportunity, beyond ensuring all qualifying children of all 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.

1.2 How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?

N/A

1.3 How could/does the policy impact on advancing / promoting good relations and wider community cohesion?

The Bill is intended to result in one consistent, national system for application and eligibility checking for the Offer. This 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 across England and Wales have access to the same service and that the rules of the scheme are applied consistently across the board.

2. Strengthening the policy

2.1 If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or good relations, what are the reasons for this?

What practical changes/actions could help reduce or remove any negative impacts identified in Part 1?

In terms of the online system that will be established for the purpose of applications and eligibility checking, there will be a telephone line to meet the needs of people who are digitally excluded or unable to complete the process electronically.

The Welsh Government considers it a priority to ensure that the Offer is as accessible as possible to all eligible parents. Officials have already begun to engage with parents to understand the current barriers that prevent them from being able to access childcare and what's important to them about how the Offer is delivered. This engagement has highlighted that flexibility and choice of childcare is vital to everyone being able to access it. Officials will continue to engage with parents, specifically targeting groups who may struggle to access the Offer, in order to find ways of making the Offer as accessible as possible.

As part of Welsh Government guidance to local authorities, the Welsh Government will be encouraging local authorities to ensure that information about the Offer and how to apply is disseminated effectively to communities and groups which are traditionally less likely to take advantage of formal childcare.

2.2 If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.

(Please remember that if you have identified unlawful discrimination (immediate or potential) as a result of the policy, the policy must be changed or revised.)

N/A

3. Monitoring, evaluating and reviewing

How will you monitor the impact and effectiveness of the policy?

List details of any follow-up work that will be undertaken in relation to the policy (e.g. consultations, specific monitoring etc).

As the English childcare offer and associated online application system are rolled out in England, we expect there will be lessons to be learned in terms of impact on people with protected characteristics. Welsh Government officials will be working with counterparts in England to understand more fully the extent and nature of any impact..

During Stage 1, HMRC provided the Children, Young People and Education committee with a note setting out how they have set up a comprehensive research and evaluation programme to monitor, understand and improve parent and providers experiences of the service.

Their customer experience survey for the Childcare Service has been conducted on an ongoing basis since 2017 by IFF Research and covers both Tax-Free Childcare and the 30 hours childcare customers. Research is conducted on a quarterly basis with parents and this enables HMRC to understand customers' experience of the key touchpoints of the service – e.g. application/sign-up, account usage and support usage. IFF Research also conduct qualitative research that seeks to understand the key triggers and barriers to parents and providers taking up Tax-Free Childcare. This research is conducted in several stages to understand how these change over time, and to allow us to feed in any findings into communication and marketing plans.

HMRC reported that they have seen a steady rise in customer satisfaction scores from around 76% in the summer of 2017 to 84% in the summer of 2018.

There will be a wider review of the efficiency, effectiveness and impact of the Childcare Offer for Wales and the impact of any application and eligibility checking

system will be considered as part of that.

This impact assessment has been reviewed during Stage 3 of the Bill's passage through the National Assembly.

The results of all impact assessments where the impact is significant will be published on the Welsh Government's website.

4. Declaration

***Please delete as appropriate:**

The policy does not have a significant impact upon equality issues

Official completing the EIA

Name: Catrin Davies

Department: EPS – Childcare, play and early years

Date: 20 November 2018

Signature:

Head of Division (Sign-off)

Name: Owain Lloyd

Job title and department: Deputy Director, Childcare, Play and Early

Years Division

Date: 19 November 2018

Signature:

Review Date: 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.