

## Regulatory Triage Assessment

<b>Title of regulatory proposal</b>	Amendments to the Childcare (Provision of Information About Young Children) Regulations 2009
<b>Lead Department/Agency</b>	DfE
<b>Expected date of implementation</b>	1 January 2016
<b>Origin</b>	Domestic
<b>Date</b>	07/07/2015
<b>Lead Departmental Contact</b>	Jill Martin
<b>Departmental Triage Assessment</b>	Low-cost regulation (fast track)

### **Rationale for intervention and intended effects**

The Early Years Pupil Premium (EYPP), which was introduced in April 2015, provides additional funding to support disadvantaged three and four year olds receiving government funded early education. Children are eligible if they meet the qualifying criteria for free school meals, if they are looked after by the local authority or if they have left care through adoption, special guardianship or child arrangements orders. Funding for the EYPP is paid by local authorities directly to providers who can spend it in the way they feel is most appropriate to meet the needs of the eligible children in their care.

Our proposal is to amend secondary legislation to require private, voluntary and independent providers (PVIs) to return data to DfE through their local authority about children who are eligible for the EYPP through the Early Years Census and the Alternative Provision census. As part of our consultation on the EYPP in the summer 2014, we indicated that we would collect data on the EYPP using the January 2016 census.

The data will allow DfE to adjust existing funding allocations to local authorities which were based on estimates to an allocation based on actual number of eligible children in each setting.

Providers are already required to collect and return data through both censuses to local authorities on the number of hours of early education that children in this age group receive. The proposal will not impose a significant burden on providers as it only requires them to specify which of those children for whom they are already required to collect data are eligible for the EYPP and the basis for eligibility.

### **Viable policy options (including alternatives to regulation)**

PVIs are already legally required to return data about three and four year olds in their settings through the Early Years Census and the Alternative Provision Census in order to be funded for the early education entitlement. Using this existing census collection is the least burdensome way in which to collect information on the EYPP. Alternative non-regulatory options (such as voluntary returns) would not ensure sufficiently high quality data on which to base our EYPP allocations to local authorities because we cannot guarantee that all providers would fill in the return. It would also be confusing if one set of information on the return is voluntary while another on the same return is

compulsory.

Providers will hold information on which children attract the EYPP because they use that extra funding to support those children and they are expected to keep data on eligible children for use in Ofsted inspections. It is not viable to ask Ofsted to return information to DfE on how many eligible children there are in each setting because inspections are infrequent and we need accurate annual information on each provider to ensure local authorities are funded appropriately.

#### **Initial assessment of business impact**

There are around 26,268 PVI settings offering government funded early education for three and four year olds. They will all fall within scope of the new regulations.

While the statutory duty will be on providers, it is likely that most of the burden will be on local authorities who are responsible for returning the information to DfE.

Providers already collect and are required to return data to local authorities on the number of hours of early education that children in this age group receive. The proposal will not impose a significant burden on providers as all it will be asking them to do is to specify which of those children for whom they already collect data is eligible for the EYPP and the basis for eligibility. This data is already held by providers because as part of an Ofsted inspection providers will be expected to identify which children in their care are eligible for the EYPP to enable inspectors to assess how the provider has used the EYPP to improve the individual child's outcomes.

#### **One-in, Two-out status**

Under the Small Business, Enterprise and Employment Act 2015, s22(4)(c), regulatory changes that make or amend provisions in connection with the giving of grants or other financial assistance by or on behalf of a public authority, are out-of-scope of the Business Impact Target. As these regulatory changes are needed in order to make accurate allocations of EYPP to providers (via the local authority) they are out-of-scope of the Business Impact Target.

#### **Rationale for Triage rating**

We have assessed these changes to be regulatory in nature and low cost. Our estimate is that the annual gross cost to business will be between £88,982 £177,965. This is well below the £1m threshold for Low Cost Fast-Track assessments.

**Departmental signoff (SCS):** Katy Willison

Date: 8/07/2015

**Economist signoff (*senior analyst*):** Andrew Mellon  
30/06/2015

Date:

**Better Regulation Unit signoff:** Vivien Clowes  
08/07/2015

Date:

## **Supporting evidence**

### **1. The policy issue and rationale for Government intervention**

The Early Years Pupil Premium was introduced in April 2015. It is additional funding to support disadvantaged three and four year olds receiving government funded early education. Children are eligible if they meet the qualifying criteria for free school meals, if they are looked after by the local authority or if they have left care through adoption, special guardianship or child arrangements orders.

Our proposal is to amend secondary legislation to require private, voluntary and independent providers (PVIs) to return data relating to children who are eligible for the EYPP through the Early Years Census and the Alternative Provision Census. The change will take effect from January 2016. This proposal was set out in the consultation document on the implementation of the EYPP which was published in June 2014 and no concerns were raised. 89% of respondents agreed with the specific proposal for an additional census count in October 2015 to assess take up of the EYPP, and to adjust funding to take account of actual take up.

The data will allow DfE to adjust future funding allocations to local authorities and through local authorities to providers based on the actual number of eligible children in each setting. This will ensure that providers are appropriately funded and that eligible children receive the additional support.

Providers already collect and return data through both censuses to local authorities on the number of hours of early education that children in this age group receive. The proposal will not impose a significant burden on providers as it only requires them to also specify which of those children for whom they are already required to collect and submit data is eligible for the EYPP and the basis for eligibility.

While the statutory duty will be on providers, it is likely that most of the burden will be on local authorities who will gather information from all their providers and are responsible for returning it to the DfE.

Eligibility for the EYPP is determined either because parents have identified themselves to the provider as eligible (and checks by the local authority have confirmed eligibility), or because the local authority has allocated funding based on existing information about the parents income (e.g. information about siblings eligible for free school meals).

### **2. Policy objectives and intended effects**

The proposal will allow DfE to collect data on the number of children eligible for the EYPP and the basis on which they are eligible. We will use the information to correct initial allocations to local authorities which were announced in December 2014 but which were determined using proxy data. The collection will provide the department with accurate information on the

number of children eligible and to revise our allocations to local authorities accordingly. It will also inform potential future allocations in 2016-17 and provide take-up data to inform future developments of the policy.

### **3. Policy options considered, including alternatives to regulation**

DfE will carry out a paper based mid-year collection in autumn 2015 which will allow us to make a first adjustment to local authorities allocations in-year. The data will be returned to DfE via local authorities. This collection will only offer a snapshot on the number of children who have been identified as being eligible in the first two terms of the year. The census collection will collect information on the number of children eligible within the year and to make a final adjustment to allocations for 2015-16 as well as inform potential allocations to local authorities for 2016-17.

Providers are familiar with the census data collection, it is an automated system which they know how to use and have systems in place which enable them to comply with the census collection throughout the year. LAs and PVIs already collect and return data on three and four year olds accessing government funded early education. Using the existing system through the census provides the most practical and least burdensome way of collecting this information.

There are no alternative options to regulation that would ensure reliable collection of this data. A voluntary system would not ensure sufficiently robust data on which to base final allocations. By working with the existing data collection, costs to providers will be minimised.

### **4. Expected level of business impact**

The census data provided by PVIs is returned by the local authority to the Department through a DfE managed IT system. The additional fields include confirming whether a child is eligible for the EYPP and the basis for eligibility.

We have estimated that 170,000 children will be eligible for the EYPP in 2015-16, or around 12% of the total number of three and four year olds in early years settings. There are 26,268 PVIs settings offering government funded early education for three and four year olds.

The “Childcare and Early Years Providers Survey 2013”, which provides the latest data on mean hourly pay, found that the mean hourly pay of a senior manager in a group setting is £11.20<sup>1</sup>. We include an uplift to account for non-wage labour costs (NWLC), to estimate the value of one hour’s managerial time.

Alternative data sources can be used to calculate percentage uplift to salary to account for NWLC across the economy. We have used the quadrennial Labour Cost Survey, the most recent version of which was undertaken in

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<sup>1</sup> Figure is taken from DfE’s ‘Childcare and Early Years Providers Survey 2013’ -(published September 2014);

2012 and available through the Eurostat's website<sup>[2]</sup> . We have used the general 'industry, construction and services' uplift (21%) in the absence of an estimate specifically for the childcare workforce. Note that the 'education' uplift (25%) presents an alternative, but we consider that this is likely to be too high. The average private and voluntary group-based childcare provider is likely to have a lower proportion of pension enrolments than the education sector as a whole. Applying this assumption to hourly pay assumptions brings the estimated cost per hour to £13.55 (£11.20 x 1.21).

It is not possible to provide a definitive estimate for how long it will take providers to complete the census information for the EYPP, but we estimate the additional burden to be low. As set out above, providers will already be collecting the relevant information to inform Ofsted inspections and they are already required to return data about three and four year olds in their settings through the Early Years Census in order to be funded for the early education entitlement.

We estimate that it will only take between 15 and 30 minutes to complete the additional box, at a total cost for all 26,268 settings of between £88,982 - £177,965. This is clearly well below the £1m gross cost threshold required for a fast track low cost RTA. We estimate that there will be no one off costs to providers because the information is already held by them and they are already required to complete the Early Years Census and the Alternative Provision Census.

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<sup>[2]</sup> <http://ec.europa.eu/eurostat/web/labour-market/labour-costs/database>