

## BRIEFING – July 2013

### Ending birthday discrimination in nursery provision

#### FAST FACTS

- A child's current legal entitlement to government-funded nursery provision can vary by up to 317 hours or £1,033 towards the cost of a partnership provider.
- **Under expansion provisions included in the Children & Young People Bill, this gap will widen to 400 hours or £1,305.**
- Proposals to widen access to vulnerable groups of two-year olds will not lead to an additional year's provision for all – some will gain only 200 hours more, as opposed to 600, which is the Scottish government's aim.
- Only way to ensure that all children have a basic entitlement to two years of government-funded nursery provision, with vulnerable two-year olds getting three years, is for nursery provision to start at a fixed point in the year, probably in August, two or three years before starting school.

#### BACKGROUND

In January 2013, Reform Scotland published "An Equal Start: Fair Access to Nursery Provision", which looked at government-funded nursery provision in Scotland. It pointed out that because a child's right to government-funded nursery provision began in the term after they turned three, as opposed to at a fixed point in the year as is the case with school, there was a wide variation in children's entitlement to nursery provision.

In May, the Scottish government published the Children and Young People (Scotland) Bill which seeks to expand nursery provision in Scotland.

Reform Scotland has submitted evidence to the Scottish Parliament's Education and Culture Committee welcoming the aims of expanding provision, but highlighting that **unless the issue of birthday discrimination is addressed, the wide variation in the amount of government-funded nursery provision to which children are entitled will actually increase.**

We have produced **new research** as part of our evidence highlighting how birthday discrimination will also impact on the Scottish government's attempt to expand provision to looked-after two-year olds. When we published our report in January a Scottish government spokesman said: "We

*are aware of this particular issue and it is part of our wider considerations around the forthcoming Bill.”<sup>1</sup>*

Unfortunately, our concerns were not addressed prior to the publication of the bill, but we hope that this can be addressed during the parliamentary stages of the legislation.

## RESEARCH

At present, all children are legally entitled to the same amount of primary or secondary school education. However, a child’s legal entitlement to government-funded nursery provision depends on when a child’s birthday falls. Table 1 illustrates the current difference in entitlement and an approximation of what the difference will be following the expansion in provision from 475 hours to 600 hours per year.

For children already receiving nursery education through partnership providers, it means that their parents do not receive as much money towards the costs of their nursery provision as others. However, children attending local authority nurseries who are born between August and February and will start school when they are four, will receive less nursery education.

Indeed, some children can end up only receiving one year’s provision as many local authority nurseries, especially those linked to schools, fill-up with the August intake and there are no places available for subsequent in-takes. As a result, parents may choose to wait until the following August to ensure their child’s place at the chosen nursery rather than take up a place elsewhere. While it can be argued that this is a parental choice, it is worth pointing out

the practical difficulties of taking up a place elsewhere if the parent has another child attending the school.

The Children and Young People Bill aims to provide looked-after children with an additional year of government-funded nursery provision and we are aware that there is a great deal of debate over the issue of expanding this to other groups of two-year olds to help try and close developmental gaps before children start school.

While we would agree with such policies, we would warn that by picking an age, rather than a set period of time the problem of birthday discrimination will be extended, as highlighted in Table 2.

For example, under the system proposed in the Children & Young People Bill, some looked-after two-year olds would only end up receiving 3 months or roughly 200 hours additional provision, rather than the 600 hours which appears to be the Scottish government’s aim.

## RECOMMENDATIONS

Reform Scotland believes that all children should be given a basic equal entitlement to government-funded nursery provision, regardless of when their birthday falls.

**We believe that to correct the current situation, provision for all children should start at a fixed point in the year, just as it does for primary school. We think this should probably be the August two years before they are due to start school.**

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<sup>1</sup> <http://www.bbc.co.uk/news/uk-scotland-21171099>

When we published our report, Children in Scotland Chief Executive Jackie Brock commented:

*"We fully support Reform Scotland's call for fair and equal access to nursery provision for all children in Scotland, and urge the Scottish Government to pay heed that 'two years should mean two years'."*

With reference to looked-after two year olds, who are dealt with in the bill, and if it is extended to disadvantaged two-year olds, the extension should start in the August three years before they are due to start school, rather in the term after a child turns two. This is the only way to guarantee an additional year's provision of 600 hours and to ensure that the policy adequately deals with the problems it seeks to address, as is illustrated in Table 3.

The other recommendation made in our evidence to the Education and Culture Committee was that we believe that if a nursery provider meets necessary standards; passes inspection by both Education Scotland and the Care Inspectorate; and parents wish to take up their funded place at that nursery, they should be able to do so. **Parents should be able to choose the nursery which suits them best, rather than have their choice restricted by the council.**

Using a partnership provider is not about a parent choosing the private sector over the state sector, but can be a matter of necessity. With most local authorities offering the minimum 2.5 hours a day five days a week at local authority-run nurseries, it is virtually impossible for parents to take up these placements if they work or undertake training, unless they also rely on relatives or other options such

as wrap around care, if they are available. Therefore, for many parents they have no option but to use a partnership provider to take up their child's entitlement.

## TABLES

The tables on the following three pages outline:

Table 1:

In red, the current differences in government-funded nursery provision, showing a birthday discrimination of up to 9 months, equating to over £1,000, rising to over £1,300 under 600 hours

Table 2:

In red, the birthday discrimination for looked-after 2 year-olds

**Table 3:**

**In red, Reform Scotland's simple, fair and equitable solution i.e. offering all children at least 2 years of government-funding starting in the August 2 years before they start school**

**Table 1: Differences in government-funded nursery entitlement**

Child's birthday	Entitlement to government funded nursery provision begins	Total nursery entitlement before beginning school	Approximate entitlement in hours, under 475 hours per year *	Approximate entitlement in hours, under 600 hours per year *	Approximate financial entitlement for partnership provision under 475 hours **	Approximate financial entitlement for partnership provision under 600 hours **
1 Mar - 31 Aug	August (Autumn Term)	<b>2 years</b>	950 hours	1,200 hours	<b>£3,100</b>	<b>£3,916</b>
1 Sept - 31 Dec	January (Spring Term)	<b>18 months</b>	792 hours	1,000 hours	<b>£2,583</b>	<b>£3,263</b>
1 Jan - 28 Feb (starting school at 4)	April (Summer Term)	<b>15 months</b>	633 hours	800 hours	<b>£2,067</b>	<b>£2,611</b>
1 Jan - 28 Feb (starting school at 5)	April (Summer Term)	<b>2 years, 3 months</b>	1,108 hours	1,400 hours	<b>£3,617</b>	<b>£4,569</b>

\* We have approximated the hours based on an each of the three terms being equal, therefore 158.3 hours per term (under 475 hours) and 200 hours per term (under 600 hours)  
 \*\* The figures for partnership funding are an estimate and based on [Edinburgh Council's pre-school funding](#) for 3 and 4 year olds of £1,550 per year/£516.65 per term under 475 hours, and extrapolated at £3.26 per hour to an estimated £1,958 per year/ £652.67 per term under 600 hours

**Table 2: Examples of birthday discrimination following provisions in the bill for looked-after two-year olds (based on 600 hours p.a.)**

Child's birthday	Entitlement to government funded nursery provision begins	Total nursery entitlement before beginning school	Approximate entitlement in hours*
1 Mar - 31 Aug	August (Autumn Term)	<b>2 years</b>	1,200 hours
1 Sept - 31 Dec	January (Spring Term)	<b>18 months</b>	1,000 hours
1 Jan - 28 Feb (starting school at 4)	April (Summer Term)	<b>15 months</b>	800 hours
1 Jan - 28 Feb (starting school at 5)	April (Summer Term)	<b>2 years, 3 months</b>	1,400 hours
1 Mar - 31 Aug (looked-after 2 year old)	August (Autumn Term)	<b>3 years</b>	1,800 hours
1 Sept - 31 Dec (looked-after 2 year old)	January (Spring Term)	<b>2 years, 6 months</b>	1,600 hours
1 Jan - 28 Feb (looked-after 2 year old starting school at 4)	April (Summer Term)	<b>2 years, 3 months</b>	1,400 hours
1 Jan - 28 Feb (looked-after 2 year old starting school at 5)	April (Summer Term)	<b>3 years, 3 months</b>	2,000 hours

\* We have approximated the hours based on an each of the three terms being equal, therefore 200 hours per term (under 600 hours)

**Table 3: How our proposal would guarantee 1,200 hours for all children and an additional year's provision for certain two-year olds (based on 600 hours pa)**

Child's birthday	Entitlement to government funded nursery provision begins	Total nursery entitlement before beginning school	Total entitlement in hours*
All children: 1 March to 28 Feb	August (Autumn Term) 2 years prior to starting school	<b>2 years</b>	1,200 hours
Children born between 1 Jan and 28 Feb and choose to defer and start school at 5*	August (Autumn Term) 3 years prior to starting school	<b>3 years</b>	1,800 hours
Looked-after/ disadvantaged two-year olds 1 March to 28 Feb	August (Autumn Term) 3 years prior to starting school	<b>3 years</b>	1,800 hours
Looked-after/ disadvantaged two-year olds born between 1 Jan and 28 Feb and choose to defer and start school at 5*	August (Autumn Term) 4 years prior to starting school	<b>4 years</b>	2,400 hours

\* Parents of children born between 1 January and 28 February would, as currently, be able to access additional provision should they choose to defer their child. This is the case to fit in with the current system of starting school which allows for greater parental choice over this period and parents generally are encouraged not to decide upon whether their child should defer until once they are at nursery