

EXPLANATORY MEMORANDUM TO
THE CHILDCARE PROVIDERS (INFORMATION, ADVICE AND TRAINING)
REGULATIONS 2014

2014 No. 2319

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

English local authorities are under a duty to secure information, advice and training (“IAT”) to childcare providers in their area, in accordance with regulations. These regulations set out the scope of that duty to secure IAT.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Context

4.1 Section 13(1) of the Childcare Act 2006 (“the 2006 Act”) places a duty on an English local authority to secure, in accordance with regulations, the provision of IAT to childcare providers in their area. These regulations prescribe the matters on which IAT is to be secured, and the persons to whom the IAT is to be secured. These regulations replace, from 24th September 2014, the Childcare Providers (Information, Advice and Training) Regulations 2007 (S.I. 2007/1797).

4.2 These regulations provide that local authorities must secure IAT on:

- meeting the requirements of the Early Years Foundation Stage, which is made up of the learning and development requirements and welfare requirements;
- meeting the needs of:
 - disabled children;
 - children with a disability within section 6(1) of the Equality Act 2010;
 - children with special educational needs within section 20(1) of the Children and Families Act 2014;
 - looked after children within section 22(1) of the Children Act 1989;
 - those using, or intending to use, childcare in respect of which the child care element of the working tax credit, and the childcare costs element of universal credit, are payable;
 - other children who are at risk of social exclusion by virtue of economic, cultural or social factors.

- the effective safeguarding and promotion of children’s welfare and compliance with statutory requirements, guidance and procedures for the protection of children.

4.3 Early years providers (who provide childcare for children from birth to the period ending 31st August after the child turns 5) and later years providers (who provide childcare for children from 5-8) are required, under the 2006 Act, to be registered on registers maintained by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (the “Chief Inspector”), unless the provider is registered with a childminder agency, or the provider benefits from an exemption from registration. The Chief Inspector inspects early and later years providers and publishes an inspection report when an inspection has been carried out.

4.4 The regulations provide that local authorities must secure IAT to:

- early years providers registered by the Chief Inspector on the early years register who have not yet had an inspection report published by the Chief Inspector, or who have been awarded a judgement of less than “good” by the Chief Inspector in their latest inspection report;
- later years providers registered by the Chief Inspector on the compulsory part of the general childcare register who have had an inspection report that identifies that one or more of the requirements for registration on that register, or the requirements governing the activities of later years providers, have not been met;
- employees of the above.

4.5 Section 13(2) of the Act allows local authorities to provide other IAT to any providers listed in subsection (1), beyond the extent to which they are required to do so under that subsection.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Section 13 of the 2006 Act imposes a duty on local authorities to secure IAT for childcare providers in their area, in accordance with regulations.

7.2 The current regulations (the Childcare Providers (Information, Advice and Training) Regulations 2007) set out the matters on which a local authority must secure the provision of IAT. The regulations require additional support to be secured to a childcare

provider if the childcare falls below an adequate standard, as assessed by the Chief Inspector, and where a provider has been granted an exemption by the Secretary of State from the requirement to meet the learning and development requirements of the Early Years Foundation Stage.

7.3 Following a general review, a package of childcare reforms was announced in 'More Affordable Childcare' (MAC) on 16 July 2013. The role of local authorities was to concentrate their resources on championing the needs of children, particularly the most disadvantaged. This included ensuring that children and families could access high quality early education and childcare and, therefore, that local authorities must focus their duty to secure the provision of IAT on meeting the needs of providers who have been rated as "inadequate" or "requires improvement". To ensure these providers could access training and support means that where such support is not available, local authorities would need to provide it directly. Taking up that support would be a condition of funding. Ofsted would inspect or monitor providers requiring improvement more often and failure to address the concerns identified could lead to loss of government funding and registration.

7.5 At a time when local budgets are tight, it also makes no sense for the government to compel local authorities to deliver support services to high quality providers who do not need or do not want them, perhaps because they have other effective arrangements in place. There is also evidence that some "good" or "excellent" providers were being obliged to take up local authority IAT to qualify for government funded places, even when it did not address their needs. Many of these providers claimed they could get better bespoke support and training from other sources.

7.6 In September 2013, a revised statutory guidance to local authorities took effect: "Early education and childcare, Statutory guidance for local authorities". It makes clear that IAT should be available to childcare providers to enable them to improve the quality of their provision. The guidance says that local authorities are required by legislation to secure IAT for childcare providers in the local authority area, and says that local authorities should only secure IAT for providers judged "good" or "outstanding" by the Chief Inspector if the provider requests the IAT, ensuring that it should be voluntary for such providers to take up IAT delivered directly or commissioned by the local authority. The guidance states that receiving funding to deliver early education places should not be conditional, in the case of providers judged "good" or "outstanding", on the provider taking up local authority training. The guidance also makes clear the Department's intention to introduce measures to refocus the duty on local authorities to provide IAT to childcare providers judged less than "good" by Ofsted.

8. Consultation outcome

As part of a wider consultation on the role of the local authority in early education and childcare the Department consulted on replacing the duty at section 13(1) of the 2006 Act with a power and on reducing the number of matters on which the IAT would be offered. The consultation ran from 25th March to 6th May 2013. In total there were 543 responses:

32% from local authorities; 38% from private, voluntary or independent childcare providers and childminders and 3% from parents. There was one question that asked what the impact would be of reducing training requirements by replacing the duty to secure IAT with a power that would allow local authorities to continue to deliver training for providers who wanted it.

Of the 525 respondents who answered the question 77% thought it would have a negative effect, nearly 40% of these were local authorities. Of the 16% respondents who thought the proposal would have a positive or neutral impact, nearly three quarters were providers. 24% said that weaker providers would not have the support needed to improve. In answer to a question about whether the changes would have a greater impact on some areas over others, 64% said yes and 11% said the impact would be greatest on safeguarding training.

On the question of reducing the list of prescribed training requirements, 73% disagreed with the proposal 36% of whom were local authorities. Of the 17% who agreed 69% were providers.

As a result no further action was taken to amend primary legislation. The Government response to the consultation was published in June 2013 and can be found [here](#).

These regulations, which ensure that local authorities provide IAT to weaker providers, are in line with the consultation outcome.

9. Guidance

9.1 The statutory guidance for local authorities on early education and childcare, published on 16th July 2013 is available at www.education.gov.uk/aboutdfe/statutory/g00209650/code-of-practice-for-las.

9.2 That guidance has been revised, effective from 8th September 2014, and will include advice on the local authority's duty to secure the provision of IAT. The new guidance will be available to download from the Department for Education's website: www.education.gov.uk

10. Impact

10.1 The impact on business, charities or voluntary bodies is small. Private, voluntary or independent providers who are assessed by Ofsted as 'good' or 'outstanding' will no longer be required to take IAT secured by the local authority as a condition of funding or for any other reason. They may request it but may also look to secure their own bespoke package of support from other sources. Those who are assessed by Ofsted as less than good will have access to proportionately more of their local authority's IAT as part of the authority's role to support them to improve.

10.2 The impact on the public sector is small. Local authorities will be freed up to focus on improving ineffective providers and securing higher standards of early education and childcare.

11. Regulating small business

The legislation does not apply to small businesses.

12. Monitoring and review

The main criterion for the success of this policy is the number of weaker providers who subsequently achieve an Ofsted judgment of “good” or “outstanding” for their provision. The Department will monitor this through the routine publication of inspection results published by Ofsted.

13. Contact

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