
STATUTORY INSTRUMENTS

2022 No. 1134

The Childcare (Free of Charge for Working
Parents) (England) Regulations 2022

PART 6

Duties of English local authorities

Childcare for qualifying children of working parents

Duty to secure childcare available free of charge

44.—(1) An English local authority must secure that childcare is made available free of charge for every child in its area who is a qualifying child of working parents.

(2) The childcare must be—

- (a) provided by a childcare provider, and
- (b) made available for 570 hours during no fewer than 38 weeks in each year.

Arrangements for provision of childcare

Duty to make arrangements with childcare provider chosen by parent

45.—(1) The parent of a child in the area of an English local authority may choose a childcare provider to provide the childcare the local authority must secure for the child (see regulation 44).

(2) The local authority must make arrangements for the childcare if the provider is willing—

- (a) to provide the childcare to the child, and
- (b) to accept as part of the arrangements—
 - (i) the local authority's terms as to payment for the childcare,
 - (ii) the mandatory termination provision (see regulation 46), and
 - (iii) any requirements the local authority seeks to impose (see regulation 47).

(3) Paragraph (2) does not apply if the provider is any of the following—

- (a) a childcare provider the local authority has grounds to believe would not be able to satisfy a requirement the authority would impose if arrangements were made;
- (b) a childminder registered with an early years childminder agency that—
 - (i) fails in its most recent inspection report (if any) to achieve a grade of “effective” or better, or
 - (ii) notifies the local authority that, in the agency's reasonable opinion, the childminder has ceased to provide childcare of satisfactory quality;

- (c) a childcare provider (other than a childminder registered with a childcare agency) that fails in its most recent inspection report (if any) to achieve Grade 3 (“requires improvement”) or better for the overall effectiveness of its childcare.
- (4) Paragraph (2)(b) does not apply if the provider is the governing body of a maintained school⁽¹⁾.

Arrangements to provide for termination

46. An English local authority must, as part of arrangements with a childcare provider under regulation 45(2), include provision authorising the local authority to terminate the arrangements if the provider—

- (a) ceases to be a childcare provider (see regulation 6), or
- (b) becomes a childcare provider mentioned in regulation 45(3)(b) or (c) (which relates to minimum standard of childcare).

Requirements permissible in arrangements

47.—(1) As part of any arrangements with a childcare provider under regulation 45(2), an English local authority may impose on the provider one or more of only the following requirements—

- (a) a requirement to enable the local authority to—
 - (i) comply with its duty to make arrangements with a childcare provider chosen by the parent of a child (see regulation 45), and
 - (ii) terminate the arrangements (see regulation 46);
- (b) a requirement for the purpose of satisfying one or more of the following objectives—
 - (i) that the childcare is provided free of charge;
 - (ii) that the childcare is provided in a pattern to suit the needs of the parents of the children for whom the childcare is provided;
 - (iii) that any financial assistance provided by a local authority under the arrangements is used properly and in accordance with the arrangements;
- (c) a requirement for the purpose of meeting the needs of a child—
 - (i) to whom the local authority owes a duty under regulation 45, and
 - (ii) who has a disability or special educational needs;
- (d) a requirement that the provider actively promotes the fundamental British values of—
 - (i) democracy,
 - (ii) individual liberty,
 - (iii) mutual respect and tolerance of those with different faiths and beliefs, and
 - (iv) the rule of law;
- (e) a requirement that views or theories contrary to established scientific or historical evidence and explanations are not promoted as evidence-based views or theories;
- (f) a requirement that, if the childcare provider (being other than a childminder registered with a childcare agency) achieves in its most recent inspection report (if any) the minimum grade mentioned in regulation 45(3)(c) or worse, the provider takes the measures specified in the report—

(1) Arrangements between an English local authority and the governing body of a maintained school are regulated by statute, in particular the School Standards and Framework Act 1998 (c. 31).

- (i) to improve the overall effectiveness of its childcare, and
 - (ii) which may include the participation in any training or other quality improvement programme specified in the report;
 - (g) a requirement necessary for the effective administration of the arrangements.
- (2) In this regulation—
- “disability” has the meaning given in section 6 of the Equality Act 2010⁽²⁾;
 - “special educational needs” has the meaning given in section 20 of the Children and Families Act 2014⁽³⁾.

Requirements prohibited in arrangements

48. An English local authority must not, as part of arrangements with a childcare provider under regulation 45(2), impose on the provider any of the following—

- (a) a requirement that the provider attend a training or other quality improvement programme other than that specified in an inspection report;
- (b) a requirement subjecting the provider to a quality assessment process conducted by the local authority relating to—
 - (i) in the case of a childminder registered with an early years childminder agency, the quality of the agency’s services, or
 - (ii) in the case of any other childcare provider, the quality of the provider’s childcare.

Guidance in discharging of functions

Duty of English local authority to have regard to guidance

49. An English local authority must, when discharging its duties under these Regulations, have regard to any guidance given from time to time by the Secretary of State.

(2) 2010 c. 15.
(3) 2014 c. 6.