Department for Education

Early years funding formulae

Government consultation

Launch date 4 July 2022

Respond by 16 September 2022

Contents

Ministerial foreword

Children's early education is crucial to their future success, as well as being a vital component of spreading opportunity and Levelling Up. This Government has committed to supporting as many families as possible by providing access to high quality, affordable childcare − both to help children to learn in their earliest years and to support parents to continue working, whilst looking after their children in the way that works best for them.

The proposed reforms described in this document not only reflect this commitment, but also provide the foundation for taking a renewed look into the childcare system. As part of this wider consideration, the government is separately consulting on specific proposals for changing the current statutory minimum staff:child ratios in England for two-year-olds; allowing childminders to care for a fourth child under the age of 5; and looking at changes around adequate supervision whilst children are eating.

In 2017, we extended the free entitlement to childcare for three- and four-year-olds from 15 to 30 hours a week, to provide working parents with further support with the cost of childcare. At the same time, we launched the Early Years National Funding Formula (EYNFF), to ensure that funding for three- and four-year-olds would be distributed fairly and transparently to local authorities (LAs) across the country. This replaced the previous funding system which was based on historic LA expenditure. The EYNFF has since been at the heart of a record funding investment, alongside the separate formula for funding for the most disadvantaged two-year olds. Every year, over the last three years, we have spent over £3.5 billion on these free entitlements.

Many of the datasets which underpin these formulae and which we use to reflect geographical cost variation are not up to date. The longer we wait to do something about this, the further the formulae will drift away from recognising current need. It is important that they remain current, to ensure the funding system can be fair, effective and responsive to changing levels of need across different areas, with targeted investment towards those areas where it will do the most good. We are therefore planning to update the formulae for the 2023-24 financial year and will continue to do so annually thereafter.

This update will result in some changes to LA funding levels, given costs and levels of need in certain areas will have changed relative to others. As such, we are also consulting on applying new year-to-year protections to local authority funding rates, to help local markets to better manage changes. The 2021 Spending Review settlement allows us to offer protections which means all local authorities will see an increase in the hourly rate that the government provides in 2023-24.

We are also consulting on reforms to maintained nursery school (MNS) supplementary funding. MNSs make a valuable contribution to improving the lives of some of our most disadvantaged children, and the government remains committed to supporting these schools in the long-term. We have confirmed continuation of MNS supplementary funding throughout the Spending Review period, and it is now right to look at the way in which this funding is distributed to local authorities. We are therefore announcing our intention to invest an additional £10 million, taken from the Department's overall Spending Review settlement for the early years, into MNS supplementary funding from 2023-24, in order to uplift the lowest funded areas and to create a fairer distribution of the funding across all LAs with MNSs.

We look forward to receiving your responses.

Will Quince MP, Minister for Children and Families

Introduction

The Department for Education has spent over £3.5 billion in each of the past three years on our early education entitlements.

We want parents to have access to a range of affordable childcare, giving them increased flexibility in their working hours and helping children thrive in the crucial early years. The government-funded early years entitlements deliver 15 or 30 hours a week of free, high quality, flexible early education and childcare for eligible two, three- and four-year-olds for 38 weeks a year.

In April 2017 the early years national funding formula (EYNFF) was introduced to set the hourly funding rates that each local authority is paid to deliver the universal and additional entitlements for three- and four-year-olds. There is a separate formula that sets the hourly funding rates for two-year-olds. These formulae have been designed to allocate our record investment in early years entitlement funding fairly, efficiently and transparently across the country in order to give local authorities the funding they need to deliver the government's free childcare entitlement offers. Following extensive consultation, the EYNFF was designed to take account of the proportion of children with additional needs based on free school meals eligibility, English as an additional language and being in receipt of Disability Living Allowance, as well as staffing and premises related costs, as important drivers of, or proxies for, the relative cost of providing the childcare entitlement in different parts of the country.

We have not updated either of the formulae since their introduction initially to allow the 30 hours policy to embed and more recently due to one-year Spending settlements in 2019 and 2020. Between 2017 to 2018 and 2019 to 2020, local authorities protected by the transitional protections included when the EYNFF was introduced saw those protections unwind, whilst rates remained the same for other local authorities. Since 2020, we have increased the hourly rates paid to almost all local authorities, by adding the same amount to the rate paid to each authority; and for 2022-23 we have increased the hourly funding rates for all local authorities by 21p an hour for the two-year-old entitlement and, for the vast majority of areas[1], by 17p an hour for the three- and four-year-old entitlements.

As the formulae have not been updated since they were introduced, the datasets underpinning the various factors within the formulae are now not the latest available – which therefore means that the formula is no longer targeting funding as effectively as it

[1] There are nine LAs which are still being protected by the loss cap, meaning they are being funded (at a higher level) by reference to historic funding decisions, rather than in line with the funding formula. These local authorities have had their 2021-22 hourly funding rates maintained in 2022-23. The nine LAs are: Bristol, Camden, Ealing, Halton, Islington, Lambeth, Southwark, Tower Hamlets, and Westminster.

could be in order to meet current levels of need, which we know will have changed over the last few years.

At the Spending Review 2021 we announced that we are investing additional funding for the early years entitlements worth £160m in 2022-23, £180m in 2023-24 and £170m in 2024-25, compared to the 2021-22 financial year. It is right that we now use the certainty this settlement provides to look to make changes to the funding formulae for the 2023-24 financial year to ensure that we are distributing this funding fairly and in line with current need. The longer we wait to make these changes, the more out of date the underlying data becomes and therefore the larger the subsequent shifts in funding levels are likely to be when eventually the updates are made.

The proposals we are making in this consultation relate to the distribution of the entitlements funding. We are not proposing changes to the overall quantum of funding going through the two funding formulae, which remains at the level agreed at the Spending Review 2021.

Reforms to the national early years funding formulae

We have always been clear that we would continue to review the data underpinning the EYNFF. We are now proposing to update the underlying data in both formulae to bring them up to date. We are also proposing to make some adjustments to the formulae, in particular to the area cost adjustment, to ensure that the proxy measures within both formulae continue to direct funding where it is most needed.

Going forward, we propose to update the data annually, as is done with the schools and high needs national funding formulae, to ensure that we continue to remain responsive to changing levels of need across the country, rather than allowing multiple years' worth of changes to build up.

Protections

The reforms we are proposing will result in some changes to local authorities' funding rates. Some local authorities would see their funding rate decrease if their relative levels of need have decreased compared to other areas. In order to mitigate the impact, we are proposing to introduce year-to-year protections to ensure that local authorities can manage the changes at a local level. For 2023-24, we propose to set this at +1% meaning every local authority sees an increase in their hourly funding rate in 2023-24.

Reforms to maintained nursery school supplementary funding

We are also proposing to reform the funding arrangements for maintained nursery schools (MNS). Since 2017, many local authorities have received supplementary funding for their MNS in recognition of the additional costs that they bear over and above other providers, because of the fact that they are schools. This additional funding was introduced to take account of historic LA spend on maintained nursery schools at that time and was intended to provide stability to the nursery school sector.

We have continued to provide this supplementary funding to enable local authorities to protect their 2016-17 funding level for the universal 15-hour entitlement for MNSs. At the Spending Review 2021, we confirmed continuation of MNS supplementary funding through the three-year spending period. From 2023-24, we are proposing to invest an additional £10 million into MNS supplementary funding and to reform the distribution to ensure that it is being shared more evenly across all LAs with MNSs.

Scope of the consultation

Some elements of early years funding remain out of scope for this consultation. In this consultation we are focusing on the way in which the entitlements funding is distributed from the Department to local authorities through the national funding formulae, rather than on local funding arrangements. We are not currently proposing to make changes to the local rules which local authorities must follow when setting their own local funding formulae and so we would consider matters relating to this to be out of scope for this consultation. We have, however, included a final question which provides an opportunity for more general comments.

Who this is for

- Local authorities
- Early years providers
- Sector representative bodies

Issue date

The consultation was issued on 4 July 2022.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team on:

EYNFF.Consultation@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk or by telephone: 0370 000 2288 or via the DfE Contact us page.

Additional copies

Additional copies are available electronically and can be downloaded from GOV.UK DfE consultations.

The response

The results of the consultation and the Department's response will be published on GOV.UK in Autumn 2022.

About this consultation

This consultation document makes a number of proposals regarding the early years funding formulae for the 2023-24 financial year – in particular, we are proposing to update the data which underpins the formulae, as well as some adjustments to the different factors within the formulae to ensure that we are continuing to direct funding where it is most needed.

Section 1 focuses on the early years national funding formula (EYNFF) for the universal and additional entitlements for 3- and 4-year-olds and sets out the updates that we are proposing to make. This also includes proposals for mainstreaming the currently separate teachers' pay and pensions grants into the EYNFF.

Section 2 then sets out our proposals regarding the formula for the 2-year-old entitlement in a similar manner.

Section 3 sets out proposals for year-to-year protections which we intend to include in order to mitigate the impact and ensure that local authorities can manage the changes at a local level. For 2023-24, we propose to set the year-to-year at +1% meaning every local authority sees an increase in their hourly funding rate in 2023-24.

Section 4 sets out the overall illustrative impact that these reforms will have on funding rates for local authorities in 2023-24. Alongside this consultation document we have also published illustrative modelling which sets this out in more detail, accompanied by a technical note.

Section 5 of the consultation document sets out proposals to reform maintained nursery school (MNS) supplementary funding in 2023-24. This also includes our proposed approach to rolling the teachers' pay and pensions grants into MNS supplementary funding.

We would like to hear your views on our proposals.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

EYNFF.Consultation@education.gov.uk

By post

Funding Policy Unit
Department for Education
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

Deadline

The consultation closes on 16 September 2022.

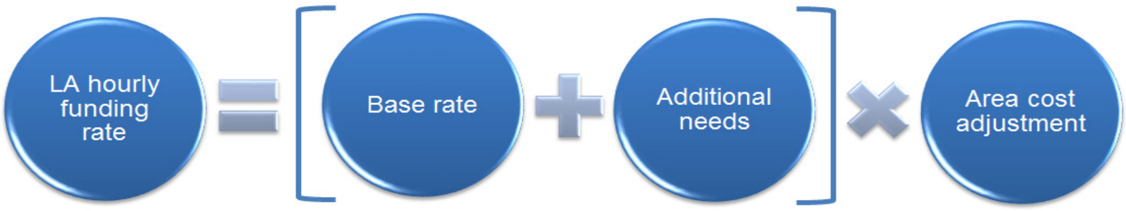
1. The early years national funding formula (EYNFF)

In this section we set out proposals in relation to the early years national funding formula (EYNFF), including updating the underlying data, making some adjustments to the area cost adjustment used within the formula and rolling in the early years element of the teachers' pay and pensions grants.

The government provides a significant package of childcare support to parents and carers, including our 30 hours offer for working parents of 3- and 4-year-olds which has rolled out successfully since it was introduced in September 2017. When it was introduced in April 2017, the EYNFF set the hourly funding rates that each local authority was paid to deliver the universal and additional entitlements for 3- and 4-year-olds (with flat rate increases added in recent years).

The EYNFF was designed to allocate funding to reflect the relative costs of providing childcare that meets the needs of children in a local area, and features:

- a universal base rate (UBR) of funding for each child (89.5% of funding);
- an uplift for children with additional needs (10.5% of funding); and
- an area cost adjustment to reflect variations in costs across the country



None of the underlying data has been updated since the EYNFF was introduced in 2017-18, and so many of the datasets underpinning the formula factors are now not using the latest data. We are therefore proposing to update the formula so that it is using the most up to date data available, and to continue to update the data annually going forward, to ensure that we are distributing funding in line with current levels of need.

We are not proposing to make any major changes to the structure or composition of the formula itself. We are, however, proposing to make some amendments to the way in which some of the additional needs data is calculated, along with several adjustments to the way in which the area cost adjustment is calculated so that it better reflects the variation in costs across different areas.

1.1 Base rate

The universal base rate is designed to fund the core costs of childcare provision which do not vary by local area. 89.5% of the total funding for three- and four-year olds is channelled through this base rate. As set out in our 2016 consultation[2] ahead of the introduction of the EYNFF, this approach was informed by the Cost of Childcare Review[3]. We believe that this approach continues to be appropriate to ensure sufficient basic funding for each child, while also ensuring adequate levels of funding are channelled to those with additional needs.

The base rate has not been updated since the formula was introduced in 2017. Between 2017-18 and 2019-20, local authorities protected by transitional protections saw those protections unwind, whilst rates remained the same for other local authorities. Since 2020-21, we have provided local authorities with fixed pence uplifts to their hourly rates, rather than using the formula to calculate an updated rate. In 2023-24 we are proposing to return to using the formula which means that the base rate will be updated. Further details are set out in the accompanying technical note.

1.2 Additional needs factor

We want to ensure local authorities are able to fund childcare providers for the additional costs of providing quality early education for children with additional needs. This is why the EYNFF includes an additional needs factor to channel funding towards local authorities with a higher relative proportion of children with additional needs, reflecting the extra costs of supporting such children to achieve good early learning and development outcomes.

This factor accounts for 10.5% of funding and is made up of three proxy measures:

- Free school meals (FSM) eligibility for KS1 & KS2 children[4], as a proxy measure for the additional costs of providing childcare for children with disadvantage or low-level special educational needs (the incidence of the latter is correlated with deprivation): weighted 8%

- English as an additional language (EAL) for KS1 & KS2 children, as a proxy measure for the costs of additional support for children who do not have English as a first language: weighted 1.5%

[2] The consultation ran in 2016, but it is available here: https://consult.education.gov.uk/early-years-funding/eynff/. The government response to the consultation is available here: https://www.gov.uk/government/consultations/early-years-funding-changes-to-funding-for-3-and-4-year-olds

[3] Review of Childcare Costs: https://www.gov.uk/government/publications/review-of-childcare-costs

[4] From 2023-24 we are proposing to move to using the headline FSM measure which does include some children who are below KS1.

- Disability Living Allowance (DLA) for 0–5-year-olds[5], as a proxy measure for children with more complex special educational needs and disabilities (SEND): weighted 1%

We believe that these three proxy measures are still the most appropriate for ensuring that more money reaches local authorities where the incidence of children with additional needs is greater. We believe that they still meet our aim to reflect the extra costs associated with narrowing the gap in outcomes and supporting children's early education.

However, the datasets currently used to determine how much funding authorities receive in respect of these factors date from 2015 and 2016, and so we are proposing to update all three with the most current data available, as set out below, and to continue doing so annually from now on. In some cases, this data is already available and has been used in the accompanying modelling, but in other cases it will be updated again before we publish final rates in the autumn:

Data	Source of data	Date of data currently used in formula	Date of latest available data (used in accompanying modelling)	Date of data to be used for final rates
Free school meals (FSM)	DfE Annual Schools Censuses	January 2016	January 2021	January 2022
English as an additional language (EAL)	DfE Annual Schools Censuses	January 2016	January 2021	January 2022
Disability Living Allowance (DLA)	Department for Work and Pensions (DWP)	August 2015	February 2020	February 2021[6]

Table 1 Data sources for the Additional Needs Factor

We are not proposing to change the three proxy measures we use or their weightings in the formula, but we are proposing to adjust the way in which we calculate FSM and DLA. We are not proposing to make any changes to the way in which we use the EAL data.

[5] From 2023-24 we are proposing to move to using data for 3- and 4-year-olds only, as set out below.

[6] Subject to availability of the necessary data in time for final rates in the autumn

Free school meals data

For FSM, we propose to move to the headline measure for FSM which is calculated using all pupils in state-funded nursery and primary schools, rather than the current measure which filters by age e.g., excluding part-time pupils aged under 5. This is the measure that is more commonly used – for example this change will align the FSM measure used in the EYNFF with that used in the High Needs NFF.

Disability Living Allowance data

We propose to update the underlying DLA data within the additional needs factor and to make some amendments to the way in which we are using it to better align with the eligibility for the entitlements and ensure we are using the most recent data available. Currently this measure is based on the number of claimants aged under five years old. We propose to instead use the number of 3- and 4-year-olds who are entitled to the DLA, in line with the age group being funded, and to move to using data from February rather than August. We also propose to calculate the proportion of children who are eligible using 3- and 4-year-olds mid-year ONS population estimates as this will be more representative than the current approach of using census data.

Updating the underlying data, along with the above adjustments, results in changes to the factor rates for the additional needs factor, leading to some changes to funding levels across different areas where relative levels of need have shifted in the years since the formula was introduced. The accompanying modelling and technical note set this out in more detail.

Question 1: Do you agree with our proposal to update the underlying data in the additional needs factor in the EYNFF?

Question 2: Do you agree with our proposal to move to using the free school meals headline measure?

Question 3: Do you agree with our proposal to update the way in which the Disability Living Allowance data is used?

1.3 Area cost adjustment

The 'area cost adjustment' (ACA) takes account of the relative difference in costs in different areas of the country. It accounts for variations in both staff and premises costs.

The ACA acts as a multiplier to each authority's hourly rate as calculated through their base rate and additional needs factor, and is made up of the following components:

- General labour market (GLM) measure to reflect staff costs: weighted 80%
- Nursery rates cost adjustment (NRCA) to reflect premises costs: weighted 10%

- The remaining 10% of costs are assumed not to vary from authority to authority

We are proposing to update the underlying data with the most current data available. In some cases, this data is already available and has been used in the accompanying modelling, but in other cases it will be updated again before we publish final rates in the autumn:

Data	Source of data	Date of data currently used in the formula	Date of latest available data (used in accompanying modelling)	Date of data to be used for final rates
Nursery rates cost adjustment (NRCA)	Valuation Office Agency (VOA)	2015[7]	Average of 2019, 2020 and 2021[8]	Average of 2020, 2021 & 2022
General labour market (GLM)	Department for Levelling Up, Housing and Communities (DLUHC)	2013-14	2013-14	2013-14

Table 2 Data sources for the Area Cost Adjustment

General labour market (GLM) measure

We propose to keep the current GLM measure as we believe it is still the best proxy for staff related costs, as variations in average early years wage costs correlate well to the general labour market. Currently the formula uses data from 2013-14, which is still the most recent data available in the format required for use in our formula[9]. However, going forward we propose to update this underlying data when it becomes available. For example, we anticipate new data being available in time for the 2024-25 financial year.

London fringe local authorities

For the 2023-24 financial year we are proposing to make a technical amendment to improve the way the GLM data is calculated in London fringe local authorities. There are

---

[7] Based on 2010 full property revaluation with smaller annual updates for new builds – snapshot taken as at September 2015.

[8] Based on 2017 full property revaluation with smaller annual updates, snapshot taken as at March 2021, published September 2021. The next *large* update based on full revaluation of properties is due to be published in Summer 2023.

[9] Please refer to the accompanying technical note for further detail on the availability of GLM data.

five local authorities[10] where the GLM rate is split into fringe and non-fringe districts within the LA. The two early years funding formulae currently use different methods for incorporation of London fringe data. In the EYNFF, for LAs which incorporate 'fringe' and 'non-fringe' areas, only data for the fringe was used to calculate the GLM measure. However, the 2-year-old formula uses a weighted average, weighted by population in each district. This represents a better estimate of the cost that will be faced in an area, and we therefore propose to change the 'fringe' method used in the EYNFF to use the weighted average measure, consistent with the approach taken in the 2-year-old formula.

Nursery rates cost adjustment

We propose to continue to use rateable values data within the ACA as a proxy for premises related costs, as we still consider this to be the most suitable proxy available. We do, however, propose to make a number of amendments to the way in which this data is used to improve this proxy measure.

Updating the underlying data

We propose to update the underlying valuation data that is used. Currently the data is based on the 2010 full property revaluation, following which there have been smaller annual updates. The formula uses a snapshot of this data that was taken as at September 2015. There was a 2017 full property revaluation, and subsequent smaller annual updates and so we propose to take snapshots as at March 2019, 2020, and 2021, which is the most recent three years of data available, which will then be averaged – see below.

Smoothing the data

Currently the data used is a single snapshot taken as at September 2015, taking account of just one year's data. We propose to move to an approach where we calculate the rates cost adjustment measure for each of the last three years and then take an average of these to smooth volatility, i.e., for 2023-24, to calculate the rates cost adjustment measures using March 2019, 2020, and 2021 data and then take an average of these measures. We are proposing this approach primarily to help reduce the volatility that could be caused by future property revaluations.

A metre-squared approach

We propose an amendment to the rateable value measure used. The current methodology takes account of the rateable values by setting, i.e., calculates a simple, mean average rateable value for all settings in each LA. This tends to disadvantage authorities with many, smaller settings, whose absolute rateable values will correspondingly be relatively smaller. We propose to replace this with a measure that

[10] Buckinghamshire, Essex, Hertfordshire, Kent and West Sussex.

also takes account of the floor area of each setting, i.e., calculates an average rateable value per metre squared for all settings in each LA. This means that the formula should better take account of the size of setting, and therefore better reflect relative costs.

Nursery, infant and primary rates cost adjustment (NIPRCA)

The current nursery rates cost adjustment (NRCA) is calculated using private nursery sector data only. We are also proposing to amend this approach to include an infant and primary (schools') rates cost adjustment (IPRCA) calculated using school rateable value data, with these two factors then combined by weighting by the proportion of 3- and 4-year-old universal and additional hours taken up in each setting type. This will allow the formula to better recognise the overall cost of childcare across an authority, taking account of the different provider types in which entitlements are being taken up within each authority, and it also increases the sample size, which will result in less volatility at future updates.

Taking account of these changes, we are therefore proposing to rename the nursery rates cost adjustment (NRCA) as the new nursery, infant and primary rates cost adjustment (NIPRCA).

We are not proposing any changes to the weightings of these components, and so our new proposed ACA will be made up of:

- General labour market (GLM) measure: weighted 80%
- Nursery, infant and primary rates cost adjustment (NIPRCA): weighted 10%
- The remaining 10% of costs which are assumed not to vary from authority to authority

The area cost adjustment will continue to be applied as a multiplier of both the universal base rate and the additional needs factor, to ensure that both the universal and the additional costs of provision in a local area are increased where staffing and/or premises costs are relatively higher than elsewhere. Further details are set out in the accompanying technical note.

Question 4: Do you agree with our proposal to update the underlying data used in the area cost adjustment in the EYNFF, in particular the rateable values data and the GLM data, when available?

Question 5: Do you agree with our proposed amendments to the proxy measure for premises related costs in the EYNFF, including introducing schools rateable values data?

1.4 Teachers' pay and pensions grants

Since 2018, school-based nurseries and maintained nursery schools have received the Teachers' Pay Grant (TPG) and since 2019 they have also received the Teachers' Pension Employer Contribution Grant (TPECG), in addition to their free entitlements funding. These grants were introduced to provide support to schools with respect to the 2018 and 2019 teachers' pay awards, and to support schools and local authorities with the cost of the 2019 increase in employer contributions to the teachers' pension scheme.

From the 2021-22 financial year, the (much larger) elements of these grants which are intended for 5-16 mainstream schools and special schools, have been paid through the schools and high needs national funding formulae (NFF). However, as maintained nursery schools and school nurseries are not funded through the NFF, these institutions have continued to receive their share of this funding as grants.

From the 2023-24 financial year we are proposing to mainstream the early years elements of this funding, bringing early years in line with schools and high needs, to streamline the system to make it easier for institutions to manage their finances.

We propose to roll the majority of the money which is currently distributed through the teachers' pay and pensions grants into the overall quantum of the 3- and 4-year-old entitlements funding[11], and then we will use this new quantum in the updated formula to calculate local authority hourly rates.

To limit the extent of the changes in distribution of the grant, we propose to include each local authorities' indicative 2022-23 teachers' pay and pensions grants funding within the baseline against which we apply protections for 2023-24, which we set out in Section 4. Further details are set out in the accompany modelling and technical note.

We encourage local authorities to continue to use this funding to support some of the costs for which the grants were originally introduced. We propose to change local (non-statutory) funding guidance to LAs by updating the language in the operational guide regarding the quality supplement, which is one of the existing discretionary supplements that local authorities can choose to include in their local funding formula. We would encourage LAs to consider using this supplement to take account of additional pressures that some providers might face, from, for example, the need to pay employer contributions to the teachers' pension scheme.

[11] Currently the teachers' pay and pensions grants funding is calculated using 2-4yo headcount. We are proposing to derive an implied hourly rate using 3- and 4-year-old PTEs, rather than separating out the 2-year-old element, because the quantum for just 2-year-olds would be very small (as there are very few 2-year-olds taking up entitlements in school-based nurseries). We believe that using 3- and 4-year-olds headcount and putting all of the money through the EYNFF will sufficiently cover both.

Although we intend to roll the majority of the funding into the EYNFF, for maintained nursery schools we propose to retain their share of the money and allocate it through supplementary funding – see Section 5 on MNS for further details.

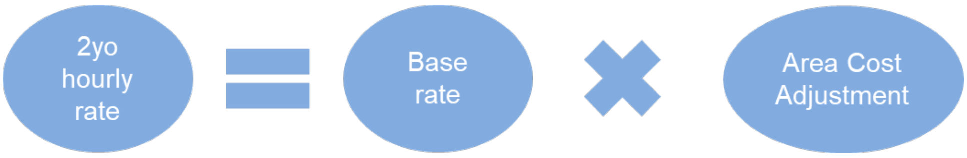
Question 6: Do you agree with our proposed approach to mainstreaming the early years element of the teachers' pay and pensions grants?

Question 7: Do you agree with our proposal to update the operational guide to encourage local authorities to take account of additional pressures that some providers might face using the existing quality supplement?

2. The 2-year-old funding formula

In this section we set out proposals in relation to the 2-year-old formula, including updating the underlying data and expanding the area cost adjustment to bring it in line with the EYNFF and better reflect the differences in costs experienced by providers across the country.

The government provides 15 hours of free childcare a week for 38 weeks of the year for disadvantaged two-year-olds, available for those from low-income families, or children with a disability or special educational need, and those who are looked after or who have been adopted from care. Funding for the early years entitlement for disadvantaged two-year-olds is distributed to local authorities through its own formula, distinct from the EYNFF. The 2-year-old formula predates the EYNFF and is much simpler. It is made up of a base rate multiplied by an area cost adjustment (ACA). As the entitlement is already directed at the most disadvantaged group, an 'additional needs' factor is not needed in this formula.



2.1 Base rate

The base rate has not been updated since the 2015-16 financial year. In the last two years, we have provided local authorities with fixed pence uplifts to their hourly rates, rather than using the formula to calculate an updated rate, as we have done for the EYNFF. In 2023-24 we are proposing to return to using the formula which means that the base rate will be updated. Further details are set out in the accompanying technical note.

2.2 Area cost adjustment

The area cost adjustment (ACA) takes account of the relative difference in costs in different areas of the country. In the 2-year-old formula it accounts for variations in staff costs but does not currently factor in premises costs.

The area cost adjustment (ACA) acts as a multiplier and is currently made up of:

- General labour market (GLM) measure to reflect staff costs: weighted 83%
- The remaining 17% of costs are assumed to be fixed across all LAs

General labour market (GLM) measure

We propose to keep the current GLM measure as we believe it is still the best proxy for staff related costs. Currently the formula uses data from 2011-12, and so we propose to update the data to use the 2013-14 data, in line with the EYNFF. Going forward we propose to update this underlying data when it becomes available.

Data	Source of data	Date of data currently used in the formula	Date of latest available data
General labour market (GLM)	Department for Levelling Up, Housing and Communities (DLUHC)	2011-12	2013-14

Table 3 Data sources for the 2-year-old area cost adjustment

Nursery, infant and primary rates cost adjustment (NIPRCA)

We are also proposing to amend the area cost adjustment for the 2-year-old formula to include a premises related proxy for the first time. Premises costs were not originally included in the 2-year-old formula, and it was not updated when the EYNFF was introduced. We are now proposing to add a premises factor to the 2-year-old formula ACA, bringing the formula in line with the EYNFF, as settings offering the 2-year-old entitlement face the same premises costs as those catering for older children, and this will better reflect their costs. This would be the same approach as we take for the EYNFF, meaning we will add a nursery, infant and primary rates cost adjustment (NIPRCA) element as set out in Section 1, but will weight together the nursery rates cost adjustments and the infant and primary schools rate cost adjustments using the proportion of 2-year-old entitlement hours in each setting type in each LA.

To facilitate this, we also propose a change to the weighting of the ACA to bring it in line with the EYNFF, moving from the current 83% GLM, 17% fixed cost weighting, to our new proposed ACA made up of:

- General labour market (GLM) measure: weighted 80%
- Nursery, infant and primary rates cost adjustment (NIPRCA): weighted 10%
- The remaining 10% of costs which are assumed not to vary from authority to authority

Question 8: Do you agree with our proposal to update the underlying data in the area cost adjustment in the 2-year-old formula?

Question 9: Do you agree with our proposal to introduce a proxy for premises related costs into the 2-year-old formula?

3. Protections

In this section we set out our intention to include year-to-year protections to help smooth the return to using an updated formula and minimise the impact of changes to funding levels driven by these reforms in 2023-24.

Our proposals to update the EYNFF and 2-year-old formula will, rightly, see new levels of funding across the country as funding is better matched to current levels of need. We want those areas and providers due to receive increases to benefit and receive gains as soon as possible. In the minority of cases where making these changes without introducing protections would mean local authorities would not see their funding increase, we want the transition to be manageable. This will give early years providers and local authorities time to plan how to make the best use of their new levels of funding.

3.1 Loss cap

When the EYNFF was introduced, a loss cap protection was applied to ensure that no area could lose more than 10% from their 2016-17 funding baseline. There are a small number of local authorities[12] which continue to be protected as a result of the 'loss cap'. This means they are being funded − at a higher level − by reference to historic funding decisions, rather than in line with the funding formula used to determine funding levels for every other local authority. These local authorities have had their 2021-22 hourly funding rates maintained in 2022-23.

In 2023-24 we propose to remove this loss cap and replace it with the alternative protections set out below.

3.2 Minimum funding floor

When the EYNFF was introduced, a minimum funding floor was applied to ensure that no areas received less than £4.30 per hour for the 3- and 4-year-old entitlements. The minimum funding floor has increased in subsequent years in line with the uplift that we have provided to local authorities' hourly rates. In 2022-23, this minimum funding floor was increased to £4.61. For 2023-24 we are proposing to increase the minimum funding floor in the EYNFF in line with the national average rate increase (including the impact of rolling in TPPG funding).

There is not currently a minimum funding floor for the 2-year-old formula, and we are not proposing to introduce one. We do not believe that a minimum funding floor is

[12] The nine loss cap LAs in 2022-23 are: Bristol, Camden, Ealing, Halton, Islington, Lambeth, Southwark, Tower Hamlets, and Westminster.

necessary given the smaller variation seen in 2-year-old funding rates across the country, compared with the variation in the EYNFF.

3.3 Year-to-year protections

For both formulae, we propose to introduce year-to-year protections to mitigate the impact of the reforms and ensure local authorities can manage the changes at a local level. For 2023-24, we propose to set this at +1% meaning every local authority sees an increase in their hourly funding rate in 2023-24.

This protection will be applied against a baseline which will be calculated as follows (further details are set out in the accompanying technical note):

For the EYNFF, we propose to use a baseline made up of the sum of each local authority's:

- Indicative 2022-23 EYNFF rate and
- Indicative rate for funding distributed to early years providers through the teachers' pay and pensions grants in 2022-23

For the 2-year-old formula, we propose to use each local authority's indicative 2022-23 rate as a baseline.

In 2023-24, all local authorities will therefore see their funding rates increase by at least 1% compared with their 2022-23 rate, with the majority expected to see greater funding rate increases.

3.4 Gains cap

To pay for the proposed year-to-year protections, we propose to introduce a cap on the gains that any local authority can see. In order to be able to ensure that all LAs see an increase in their hourly rate in 2023-24, our illustrative modelling suggests we will limit local authorities' gains in 2023-24 to 4.5% for the EYNFF and 8.6% for the 2-year-old formula.

Question 10: Do you agree with our proposed approach to protections in the EYNFF for 2023-24?

Question 11: Do you agree with our proposed approach to protections in the 2-year-old formula for 2023-24?

4. Impacts

Our proposals will see new levels of funding across the country as funding is better matched to current levels of need. This means that funding levels will shift between areas as the latest data shows that different local authorities' relative needs have changed. As we have set out in section 3, we are proposing to include protections to ensure that local authorities can manage the changes at a local level. For 2023-24, we propose to set this at +1% meaning every local authority sees an increase in their hourly funding rate in 2023-24.

Alongside this consultation document we have published modelling which sets out the illustrative impact that these proposed reforms will have on local authorities' funding rates for 2023-24. It is worth noting that this analysis is illustrative only. We will confirm final funding rates in autumn 2022, following this consultation and using the most up to date data available at that point.

4.1 Impact on EYNFF rates

Under our proposals all local authorities in England would see their EYNFF hourly funding rate increase in 2023-24. Our illustrative modelling suggests that 31 LAs would be on the minimum funding floor. Beyond this, 49 LAs would benefit from our proposed protections against cash losses, and would see their hourly funding rate increased by 1%. 43 LAs would be affected by the gains cap of 4.5%.

4.2 Impact on 2-year-old rates

Under our proposals, all local authorities in England would see their 2-year-old hourly funding rate increase in 2023-24. Our illustrative modelling suggests that 64 local authorities would benefit from our proposed protection against losses, seeing their hourly rate increased by 1%. 38 LAs would be impacted by the gains cap of 8.6%.

4.3 Overall impacts

A much larger proportion of funding is allocated to the 3- and 4-year-old entitlement than 2-year-old entitlement, as many more children in total are eligible for the 3- and 4-year-old entitlements, while the 2-year-old entitlement provides for 15 hours for eligible children. As a result, changes to EYNFF rates have a larger impact on local authorities' overall allocations than changes in 2-year-old rates.

The biggest driver of changes in funding levels across both formulae is the update to the underlying data, given the number of years that has passed since the data was last updated and therefore the changes in relative need between areas which have occurred over that time. Within the EYNFF, it is updating the valuations data in the area cost adjustment that causes the biggest change, with further shifts in funding levels being driven by the subsequent move from the NRCA to the NIPRCA. For the 2-year-old formula it is also the addition of a proxy for premises related costs (using valuations data) which is driving the biggest changes.

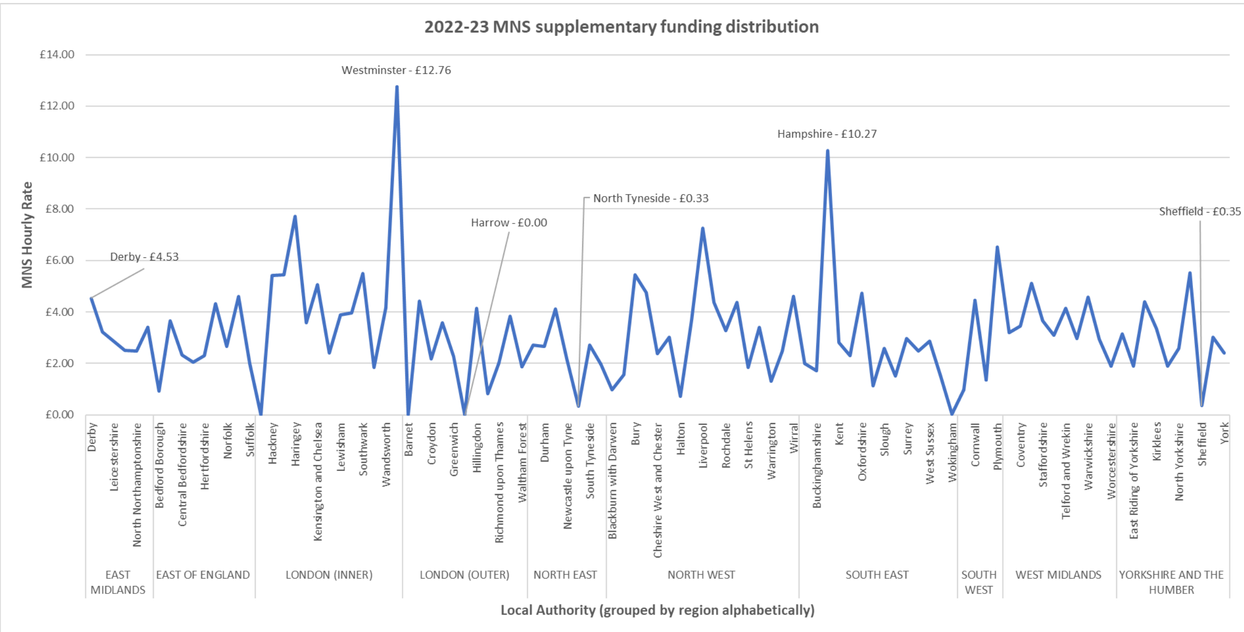
5. Reform of maintained nursery school (MNS) supplementary funding

In this section we set out proposals to reform maintained nursery school supplementary funding to correct some of the most extreme outliers in the current distribution and to put all local authorities with maintained nurseries schools on a more even footing.

Maintained nursery schools (MNS) have a well-deserved reputation for providing high quality early years education and childcare, and they make a valuable contribution to improving the lives of some of our most disadvantaged children. Their status as schools means they must have a head teacher, governing body, a SEN coordinator (SENCO) and at least one qualified teacher, which means they face higher costs than other EY providers.

We provide local authorities with additional funding for maintained nursery schools, and we remain committed to continuing this support to maintained nursery schools.

Since the introduction of the EYNFF, local authorities have received supplementary funding for maintained nursery schools on top of their EYNFF allocation, to protect their MNS funding at their 2016-17 level for the universal 15 hours. This supplementary funding is based purely on the amount each LA was spending on its MNSs in 2016-2017, which means that funding is very unevenly distributed with significant outliers at either end of the funding spectrum as the chart below illustrates.



We are therefore proposing to reform the way in which supplementary funding is distributed to local authorities to correct the most extreme outliers, including those local authorities which currently do not attract any supplementary funding for their MNSs.

To facilitate this, we are investing an additional £10m into MNS supplementary funding from 2023-24 to ensure that the vast majority of local authorities see their supplementary funding hourly rate increase, with a more generous increase for the lowest funded.

5.1 MNS minimum funding floor

We are proposing to introduce a minimum funding floor for the MNS supplementary funding hourly rate. For 2023-24 our current illustrative modelling suggests that we could set this minimum funding floor at c£3.80. This means that all local authorities would attract a minimum of c£3.80 per hour on top of their EYNFF allocation for universal 15 hours delivered in maintained nursery schools. We will confirm the final level for the minimum hourly rate following the outcome of this consultation, when we publish 2023-24 funding rates in autumn 2022. We anticipate that over half of all LAs with MNSs will benefit from this minimum funding floor.

5.2 MNS funding cap

We are also proposing to introduce a cap on the MNS supplementary funding hourly rate. We propose to set that cap at £10 per hour for universal 15 hours delivered in maintained nursery schools. This means that no local authority can attract more than £10 per hour on top of their EYNFF allocation for universal 15 hours delivered in MNSs. There are two local authorities, Westminster and Hampshire, which currently receive supplementary funding above that level and so for 2023-24 will have their funding rate capped.

The accompanying modelling published alongside this consultation document sets out in more detail the illustrative impact of these proposed changes on local authorities' MNS funding rates in 2023-24.

5.3 Teachers' pay and pensions grants for MNSs

Although we intend to roll the majority of the early years element of the teachers' pay and pensions grants into the EYNFF, for maintained nursery schools we propose to retain their share of the money (c. £8m of the total £60m) and allocate it through supplementary funding. This is because for MNSs this grant represents a greater proportion of their overall funding. For school-based nurseries, by comparison, the early years element of the TPPG will not represent a significant portion of the schools' overall funding. School-based nurseries can also often benefit from cross-subsidisation from the funding the school receives through the schools NFF, but MNSs do not have this option and they are also unlikely to benefit from the same economies of scale as nurseries based within schools.

We therefore propose to use the existing MNS supplementary funding system to continue to target the MNS portion of the funding. We are proposing to calculate an indicative hourly rate for the amount of funding MNSs in each LA receive through the teachers' pay and pensions grants in 2022-23 and then increase each LA's MNS supplementary funding rate by that in 2023-24. We will do this before applying the MNS minimum funding floor and the cap. Further details are set out in the accompanying modelling and technical note.

Question 12: Do you agree with our proposal to introduce a minimum hourly funding rate and a cap on the hourly funding rate for MNS supplementary funding?

Question 13: Do you agree with our proposed approach to rolling the teachers' pay and pensions grants into MNS supplementary funding?

6. Equalities Impact Assessment

The Public Sector Equality Duty requires public authorities to have due regard to the need to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

Public authorities include the Department for Education, local authorities, governing bodies.

The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual Orientation

Our proposed reforms mean that the formulae will better reflect need across the country, which has an overall positive impact on equalities, and we do not anticipate any significant negative impacts on any groups that share particular protected characteristics.

Updating the data behind the additional needs factor in the EYNFF will positively impact children with special educational needs and disability, as Disability Living Allowance (DLA) is used as a proxy measure. The data update will mean that the distribution of funding better reflects current need.

There may also be a positive impact to certain ethnicities with greater proportions of children attracting funding through the additional needs factor of the EYNFF. There is evidence that certain ethnic groups, (including Irish Traveller, Gypsy and Roma, and white and black Caribbean) are disproportionately represented in the number of children eligible for free school meals (FSM). Both FSM and English as an additional language (EAL) are used as proxies in the additional needs factor.

Our proposals to reform and increase investment in MNS supplementary funding will likely have a positive impact on disabled children, as MNS generally care for a higher proportion of children with SEND.

Our proposed year-to-year protections will safeguard local authorities that would otherwise see a reduction in funding. Some of the local authorities that would otherwise see a reduction under the reform proposals have higher levels of ethnic diversity, and so our proposal to include protections will help to mitigate any potential negative impact.

Updating the underlying data for the 2-year-old formula, which targets the most disadvantaged children, means that we will better reflect current levels of need across the country. This will have a positive impact on children with disability, and some evidence also suggests a positive impact on certain ethnicities.

Question 14: Do you have any comments about the potential impact, both positive and negative, of our proposals on individuals on the basis of their protected characteristics? Where any negative impacts have been identified, do you know how these might be mitigated?

Question 15: Are there any other comments that you would like to make about our proposed reforms?

Department for Education

About this publication:

enquiries	www.education.gov.uk/contactus
download	www.gov.uk/government/consultations

Follow us on Twitter:
@educationgovuk

Like us on Facebook:
facebook.com/educationgovuk