

**EXPLANATORY MEMORANDUM TO
THE CHILDCARE PROVIDERS (INFORMATION, ADVICE AND TRAINING)
REGULATIONS 2007**

2007 No. 1797

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

2. Description

2.1 The Regulations set out the statutory framework for local authorities to provide information, advice and training to childcare providers.

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

3.1 None.

4. Legislative Background

4.1 Section 13 of the Childcare Act 2006 (“the 2006 Act”) places a duty on English local authorities (defined in section 106 of that Act) to provide information, advice and training to childcare providers, prospective childcare providers and those working or intending to work in childcare. Section 13(1) confers powers on the Secretary of State to make regulations in relation to this duty.

4.2 This duty will replace the existing local authority duty to support providers of childminding and daycare under section 79V of the Children Act 1989. It will first apply to anyone registering under the provisions for voluntary registration under Chapter 4 of Part 3 of the 2006 Act and will apply to compulsory registrations once they come into effect in September 2008.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 The 2006 Act gives local authorities a key role in shaping the childcare market in their area. They will be working with providers from the private, voluntary, independent and maintained sectors to shape and support an accessible, sustainable and diverse childcare market that meets the needs of parents.

7.2 From April 2007, authorities will be required by section 11 of the 2006 Act to undertake a detailed assessment of the supply of, and demand for, childcare in their area.

From October 2007 they will be given additional powers and duties, including the duty to provide information, advice and training to providers and prospective providers, which will enable them to implement strategies in order to meet the new duty to secure sufficient childcare (section 6 of the 2006 Act) which will come into force in April 2008.

7.3 The section 13 duty is intended to ensure that childcare providers have a range of information, advice and training available to them, provided by the local authority or by other organisations, to help them develop their staff and business and meet their regulatory requirements. It is also intended to support those in – or looking to move into – jobs within the sector.

7.4 The regulations require local authorities to address the sustainability of providers; to assist them and their staff in meeting their registration requirements and gaining appropriate qualifications; and to secure support/training in implementing inclusive practices and providing appropriate care for children with Special Educational Needs and/or disabilities.

7.5 The overall aim is a sustainable childcare market where providers obtain information, advice and training to develop their own capabilities, staff and childcare and their ability to work within the wider children's services system on issues such as child protection.

7.6 Where providers are facing issues of sustainability or poor quality, local authorities are required to take reasonable steps to support them in addressing those issues. This could sometimes require the provision of one-off subsidies and greater use of public resources in the short term; but local authorities are encouraged to aim to help such providers towards a position of sustainability so that they are able to pay for their own advice or training.

7.7 The DfES has undertaken a formal consultation on the section 13 duty regulations and guidance. (See paragraph 26 of the attached Regulatory Impact Assessment.) There was strong support for the policy and agreement that the duty will be important in enabling providers to access the information, advice and training they require to better meet the needs of local families.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 These regulations will not place an additional burden on local authorities:

8.2.1 Section 13 of the 2006 Act and these regulations effectively replace the duty to support providers of childminding and daycare under section 79V of the Children Act 1989. Section 13(4) confers powers on an English local authority to impose charges as they consider reasonable for the provision of information, advice and training provided by them in pursuance of subsection (1), (2) or (3).

8.2.2 The funding available within the General Sure Start Grant (which is made to authorities to assist them with their work in supporting the Government's ten year strategy for childcare) is sufficient to cover the costs to authorities fulfilling this duty.

9. Contact

Hollie Godsmark at the Department for Education and Skills Tel: 020 7273 5336 or e-mail: hollie.godsmark@dfes.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment for The Childcare Act 2006 (Duty to secure sufficient childcare and the provision of information, advice and training to childcare providers) Statutory Guidance and Regulations [2007]

Purpose and Intended Effect

Objective

1. The Childcare Act 2006 (the '2006' Act) seeks to ensure local authorities effectively shape and support the development of childcare provision in that local area in order to make it flexible, sustainable and responsive to the needs of the community. This will make it possible for parents to find and access high quality, affordable childcare locally, enabling them to make a real choice about balancing work and family life.
2. Section 11 of the 2006 Act requires local authorities to assess childcare provision in their area, generating an overall up-to-date picture of the supply, parents' use of, and demand for, childcare in the local authority area. Through this analysis, local authorities will be able to identify gaps in childcare provision where parents' needs are not being met. Local authorities will be required to undertake a childcare sufficiency assessment within a year of the commencement of the legislation and then at least every three years after that, keeping it under review in between main assessments.
3. Section 6 of the 2006 Act gives local authorities a new duty to secure, so far as is reasonably practicable, that the provision of childcare (whether or not by them) is sufficient to meet the requirements of parents in their area in order to enable them to work or undertake training. This will ensure that provision is high quality, accessible, affordable, sustainable and flexible. In addition, in determining sufficiency the local authority must have regard to the needs of parents in their area for the provision of childcare for which the childcare element of the working tax credit is payable, and childcare which is suitable for disabled children.
4. Sections 8, 9 and 10 give local authorities the necessary powers to allow them to facilitate the market and secure sufficiency. Section 8 gives local authorities powers to give assistance to childcare providers (including financial support) and to provide childcare themselves, if it cannot be appropriately provided by others. Section 9 allows authorities to place conditions on any financial agreements they may make with childcare providers and to require repayment if providers fail to meet the conditions. Section 10 allows authorities to charge for the provision of childcare, subject to restrictions.
5. In addition, section 13 of the 2006 Act ensures that local authorities provide information, advice and training to childcare providers in order to assist them in improving their services and meeting the needs of parents.
6. The section 7 duty to secure prescribed early years provision free of charge will replace local authorities' current duty, under Section 118 of the *School Standards and Framework Act 1998* and Section 153 of the *Education Act 2002*, to ensure that all parents of three and four year olds are able to access the minimum free entitlement for up to two years before their child reaches compulsory school age. Detailed guidance to local authorities on discharging their duties under section 7 will be consulted upon and its impact assessed separately.

Background

7. Since the late 1990s local authorities have had a growing strategic role in planning, commissioning and delivering services for young children and their families, including facilitation of their local childcare market. The significant increase in services has been driven through hypothecated grant funding and targets. This approach was appropriate in the early phases of service development, but the remaining challenges require greater flexibility and scope for locally determined action.

8. Local authorities have hitherto been under a statutory duty to secure sufficient nursery education for three and four year olds, but had only limited statutory responsibilities as regards to childcare. Local authorities have played a big part in securing childcare provision through Sure Start Local Programmes, children's centres and extended schools; but there has been no requirement on central or local Government to ensure that there is sufficient provision. Against this background, the childcare sector has grown considerably and the supply of childcare places is now closer to meeting the demand nationwide. However, there are still some areas where local action is required, particularly in relation to families on low incomes, with disabled children and those which require childcare at atypical times¹. The market is less likely to operate effectively to provide childcare for these groups because providers find it more difficult to become self-sustaining as parents in less affluent communities are likely to be less able to pay higher prices and there is some evidence that providers do not feel able to meet the needs of disabled children.

Rationale for Government Intervention

9. More parents than ever are choosing to work, not least because doing so will help them secure a better future for their children. Parents making important choices about how to balance work and family life need to be confident that whatever they choose will be right for their child. Providing high quality early learning and childcare with better access to services enables those parents who are working or wishing to undertake work, training or education to have a greater choice in balancing their work and family life.

10. Pre-school experience and particularly high quality provision, enhances children's all round, cognitive, language and social development. Measures to increase the accessibility of childcare provision will help to ensure equality of opportunity for children, putting them on a more equal footing when they start school and throughout their development. Disadvantaged children in particular can benefit significantly from good quality pre-school experiences, giving them a developmental boost at entry to primary school, improving outcomes and narrowing inequalities. In addition, to achieve good outcomes for children, there is a need to ensure that childcare is properly joined up with other services and that, as local needs change and develop, the childcare market responds.

11. *Choice for Parents, the best start for children: a ten year strategy for childcare*, set out the Government's plans to ensure that the provision of childcare places is sustainable in the long-term, by placing local authorities under a statutory duty to secure the availability of sufficient childcare. The aim has been to legislate to sustain this enhanced childcare provision and to ensure that continued development reflects local needs and circumstances. The key aim for the underpinning regime is that it should provide assurance of a long-term commitment to childcare,

¹ survey evidence suggests that parents of disabled children find it hard to obtain appropriate childcare for their children and sometimes face higher childcare costs if their child has complex needs.

without creating new administrative burdens or service costs for local authorities.

The duty to secure sufficient childcare

12. Local authorities already have the expertise and local knowledge that is necessary to shape the market to secure sufficient childcare, and they are also best placed to assess local need for, and stimulate local provision of, childcare. Placing a statutory duty to assess the sufficiency of childcare and then secure sufficiency will focus this expertise, enabling appropriate systems to be put in place to ensure that sufficient childcare is available in each locality and that this childcare is suitable and reflects local needs and circumstances.

13. The statutory guidance relating to sections 6 – 10 and 13 will ensure local authorities work effectively with local partners, using the findings of their assessment to agree clear targets and priorities, and to identify the actions and activities needed to achieve them. Local authorities retain the ability to fund unmet demand, although the majority of provision will continue to be provided by the private, voluntary and independent sectors. Where gaps in the market exist, local authorities will be expected to continue to take the sort of action that they already take, including providing training and business support to help providers run efficiently; providing market information to providers; and supporting networks of, and links between, providers.

14. The guidance covers what the sufficiency duty entails, including the meanings of ‘sufficiency’ and ‘reasonably practicable’, and how this duty, and local authorities’ role in relation to it, fit into the emerging legislative landscape created by the Children Act 2004 and the Childcare Act 2006. It describes the strategic role local authorities should play in facilitating the childcare market, ensuring their activities fit within existing frameworks such as the *Joint Planning and Commissioning Framework for Children, Young People and Maternity Services*, and identifies the range of levers local authorities have available and how they could be used. It provides examples of good practice, ensuring that different aspects of the market are considered appropriately and the specific needs of families are met.

Duty to Assess the Sufficiency of Childcare Provision

15. To meet the duty to secure sufficient childcare, local authorities will need to have a good understanding of how the childcare market operates in their area. They will need robust evidence upon which to plan their strategy for meeting the sufficiency duty and having confidence that they are meeting the needs of their communities.

16. Local authorities already have a duty to review the provision of childcare under section 118A of the School Standards and Framework Act 1998. However, its impact has been uneven and has been affected by the lack of a comprehensive and coherent legal framework for the provision of childcare. At present local authority reviews of childcare focus mainly on the supply of childcare and not on demand. The Section 11 regulations and guidance will ensure local authorities undertake comprehensive and robust assessments considering both demand and supply.

17. Public consultation will be a vital part of undertaking the assessment and the regulations and guidance stipulate the individuals and organisations that the local authority must consult. They provide a framework through which the local authority can work, ensuring that all aspects of sufficiency are considered appropriately and that the assessment effectively represents local circumstances. The regulations also cover how local authorities should publish specific data and analysis that will enable some comparison across all 150 local authorities and consideration of how well they are achieving the Section 6 duty.

18. The duty on local authorities to assess childcare provision is contained in Section 11 of the Childcare Act 2006. The regulations and related statutory guidance made under Section 11 were consulted on separately in summer 2006 and published in early 2007. A Regulatory Impact Assessment for the Section 11 regulations was also produced. However, as the benefits of the section 11 duty come mainly through the implementation of sections 6 and 13, are included here.

Duty to provide information, advice and training to childcare providers

19. The section 13 duty to secure information, advice and training to childcare providers replaces an existing local authority duty to support providers of childminding and day care (as defined under part 10 of the Children Act 1989) under section 79V of the Children Act 1989. That duty requires local authorities to secure the provision of advice and information about childminding and day care; and training for people who provide or assist in the provision of childminding and day care. Further details are set out in the related regulations.

20. Section 13 sets out who the local authorities must, in accordance with regulations, secure the provision of information, advice and training for, this includes: providers who are required register under Part 3 of the same Act; school based providers; prospective providers, and those working, or who intend to work in childcare. Local authorities also have the power to secure information, advice and training of a type not specified in regulations, or to persons not specified in section 13, as they see fit to meet local needs. Section 13 (4) enables local authorities to make reasonable charges for information, advice and training. Statutory guidance relating to this duty will encourage local authorities to consider providers' circumstances; the need to secure sufficient childcare; and the principles of securing sufficiency when deciding whether and how much to charge for information, advice and training they provide.

21. The section 13 regulations cover the nature and content of the information, advice and training that must be secured for childcare providers by local authorities. They ensure that providers have available the information, advice and training they need to improve their services, including information, advice and training relating to provider registration procedures, sustainability, the Early Years Foundation Stage, safeguarding, and meeting the needs of disabled children and those at risk of social exclusion.

22. Both sets of guidance and regulations will also be supported by best practice guidance, developed through the Childcare Implementation Project, providing local authorities, via the Every Child Matters website, with a range of tools and resources.

Consultation

Within Government

23. The Department has consulted and shared its early thinking with:

- HM Treasury,
- Department for Work and Pensions,
- Department for Communities and Local Government,
- Department of Health,
- Department for the Environment, Farming and Rural Affairs,

- Her Majesty's Revenue and Customs.

24. The Government has also consulted with the Local Government Association, Ofsted, the Government Offices for the Regions, JobCentre Plus and local authorities which took part in the Childcare Implementation Project. The Government has already consulted on the Childcare Bill and produced a Regulatory Impact Assessment for the Bill as a whole.

Public consultation

25. A formal consultation on the regulations and guidance for Section 11 duties took place from 14 August to 6 November 2006. Written responses were received from a broad range of stakeholders including local authorities, Government Offices, childcare providers, sector representative bodies, and the trade unions. The Section 11 regulations and guidance were refined in the light of the consultation responses.

26. Formal public consultation on regulations and guidance for Section 6–10 and 13 took place from 7 February to 6 April 2007. The Department received responses from a broad range of stakeholders including local authorities, Government Offices, Childcare Providers, Sector Representative Bodies, Schools and parents. The Section 13 regulations and Securing Sufficient Childcare guidance were refined as a result of the consultation responses.

Costs and Benefits

Sectors and groups affected

The costs and benefits of the sufficiency duties will fall to:

- 11.7 million children and their families
- Over 130,000 private, voluntary and maintained sector childcare providers (affected indirectly) in England, from individual carers, sole traders to large chains, children's centres and schools.
- 150 top-tier local authorities

27. As part of this Regulatory Impact Assessment the Government has produced an estimate of the monetary value of the benefits of the implementation of the sufficiency duties (see summary table below). In addition, a Race Equality Impact Assessment, which considers the impact on black and minority ethnic groups and a Disability Impact Assessment, considering the impact on parents and children with disabilities, have been produced.

Analysis of benefits

To Families

28. Evidence suggests that a significant proportion of parents, especially mothers², are unemployed, in part, due to lack of accessible childcare. The cost of childcare is a particular

² Working age women in the UK with dependent children are less likely than those without to be economically active: 68% compared with 79% in spring 2003. Conversely, men with dependent children are more likely than those without to be in the labour force. (Office of National Statistics, 2006 *Work and Family Study*)

barrier to work for lower income families, both for non-working mothers wanting to work 16 hours or more a week and for working mothers already working between 1-15 hours a week, who may wish to work more³. It will also be a key issue of concern for the parents of disabled children and for disabled parents. Disabled children may require specialist care or equipment increasing the cost of provision. In addition, disabled people in work are disproportionately in low paid jobs, making the costs of childcare an increasingly important factor in decisions to take up, or remain in, work.

29. The sufficiency duty will work with, and assist in bringing together, existing initiatives such as children's centres and extended schools, all of which will contribute to securing sufficient provision. The availability of sufficient childcare will give parents a real choice about balancing work and family life and will enable more parents, who want to, to enter employment or work longer hours. (Estimates using the 2004 Families and Children' Survey suggest that between 221,000 and 456,000 parents would return to work; and between 96,000 and 124,000 parents would work longer hours if sufficient childcare were available.) An increase in the number of parents working will result in a reduction in the number of children living in workless households and an increase in parental income. If all these parents return to work or work longer hours, we estimate that they will generate an overall increase in income of between £1,773m to £4,433m. There is some evidence to suggest that this increase in family income will lead to improvements in children's cognitive and behavioural development.

30. Children's outcomes will also improve through increased use of high quality childcare. Disadvantaged children, in particular, can benefit significantly from good quality pre-school experiences, giving them a developmental boost at entry to primary school⁴. Research has shown that the quality of childcare and early years provision matters in terms of children's intellectual and socio-emotional development. High quality childcare has been associated with benefits for children's development, with the strongest effects for children from disadvantaged backgrounds. Improving the affordability of provision will make it more accessible to these families, producing benefits in cognitive, language and social development.

To Providers

31. Childcare providers are likely to benefit from the increased knowledge of the market they will gain through being given access to the findings of childcare sufficiency assessments. As regulations require the publication of the assessments, providers will be able to find out about families needs that are not currently being met and so may choose to enter new areas of the market.

32. As a result of the new duties to assess and secure the sufficiency of childcare, childcare providers are likely to find that local authorities will have increased flexibility to provide targeted support to help them, either to stay open and remain sustainable in the long term, or to improve the services they offer. Providers may benefit through the support provided by local authorities and so be able to provide services, including specialist provision, more efficiently, meeting parents' needs whilst improving the viability of their setting. In addition, the duty to secure information, advice and training will enable providers to find and access the support and training they require more easily, and so improve their services. The provision of business support will reduce the number of providers requiring financial support to achieve sustainability and reduce the number of business closures, resulting in a more reliable service for parents and children.

³ Families with Children in Britain: Findings from the 2004 Families and Children Survey – refer to tables 5.11 and 5.12

⁴ The Effective Provision of Pre-School Education (EPPE) 2003

To the Local Authority

33. The childcare sufficiency assessment will enable the local authority to gain a more comprehensive understanding of supply and demand in its area. This will be particularly important for families who are currently not able to participate in the market, as their requirements will be considered. Comparison of supply and demand will enable the local authority to identify where gaps in the market exist and where additional support is most needed. This will avoid the duplication of provision and lead to more effective commissioning and targeting of resources.

34. By completing regular childcare sufficiency assessments the local authority will be able to measure its progress towards securing sufficient provision. From the findings it will be able to see the effect initiatives have had on the market and make decisions about future priorities and actions.

Analysis of Costs

To Families

35. As part of the assessment process the local authority will be required to consult with parents and children. The Department has estimated the cost to parents of getting involved in the consultation as being £3.76 per family (based on 20 minutes of a woman earning the average salary's time), though it should be noted this involvement is entirely voluntary.

36. The majority of childcare costs are met by parents, either directly or via the childcare element of the Working Tax Credit. If all the parents who cited lack of sufficient childcare as a barrier to work in the 2004 Families and Children Survey enter employment or work longer hours, the Department has estimated the additional cost of childcare to families to be between £1,537m and £2,913m. However, (depending on income and work status of partners) up to 80% of this will be eligible for funding via the childcare element of the Working Tax Credit. In addition to this we have estimated the travel to work costs for these parents to be between £2m and £4m.

To Childcare Providers

37. The Section 11 regulations will not have a direct effect on private and voluntary childcare providers. Providers may wish to provide information or participate in surveys as part of the assessment process. The Department has estimated the total cost to be £4.31 per business (based on 10 minutes of a middle manager's time). Nor will the Section 6 duty have a direct impact on private and voluntary childcare providers. Whilst the local authority will play a strategic role in shaping and supporting services, the involvement of providers in initiatives will be voluntary (although market intervention may impact indirectly on all providers). As part of the section 13 duty the local authority will secure the provision of information, advice and training in specific areas, but take up of this will be voluntary and there is no additional direct requirement on providers.

To the Local Authority

38. The Government is committed to ensuring that the duties under the Childcare Act 2006 do not place new, unfunded burdens on local authorities. The duties will be financed within the additional resources which have already been made available for childcare and early years services, and future funding levels will be determined through the normal spending review

mechanisms. They are, therefore, cost neutral, formalising and placing on a long term and sustainable basis the role that local authorities are already playing.

39. The Department's funding of childcare and early years services has increased significantly since 1997. Funding rises to £1.8 billion in 2007-08, around double the 2004-05 outturn figure of £928m⁵. From 2006-07 local authorities have had a greater degree of flexibility in the use of funding. For example, the number of ring-fenced budget within the GSSG in 2004-06 were reduced to five for 2006-08 (Main Revenue (MR-GSSG), Main Capital (MC-GSSG), Transformation Fund, Sure Start Local Programme (SSLP) funding and Two Year Old Pilot funding).

40. Local authorities were informed of their GSSG funding for 2006-08 in December 2005. These include three allocation streams which had already been announced. (Capital and revenue for children's centres, Extended Schools and Sure Start Local Programmes.) Children's Centres and Extended Schools funding comes out of the MR-GSSG and MC-GSSG and therefore the remaining MR-GSSG and MC-GSSG is assumed to be available for local authorities to spend on meeting the duty. A total of £1,056 million for Main Revenue and Main Capital of which approximately £347m revenue and capital is available for sustainable markets in 2007-08, this compares a total of £261m spent in 2004-05. The Government has also committed £340 million towards a package of policies to support disabled children and their families. This includes £35 million to fund a pilot project (announced on 21 May 2007 and beginning in April 2008) to provide accessible childcare for disabled children, promote training, and tackle other barriers to accessing childcare. Specific funding will be available to enable the parents of disabled children to increase their involvement in shaping services and for evaluation and benchmarking of good practice on early intervention for disabled children and their families. In addition, the Budget 2007 announced free childcare places for up to 50,000 workless parents undertaking training, to enable more parents to move back into work. Given the level of funding and the increase in flexibility around how much of this money can be spent, local authorities should be confident that the necessary resources are available to meet the costs of the duties.

41. Following the piloting of this duty by local authorities involved in the Childcare Implementation Group, the Department has estimated that the cost of conducting an assessment will be around £20,000 - £30,000 per authority. (It is expected to vary depending on the type of assessment and the characteristics of the area). This cost is based on the local authority contracting out the assessment to external consultants, though some local authorities may choose to conduct it internally. The costs for completing the assessment will be met by the 'Sustainability Revenue' within the GSSG, which is approximately £258m for 06/07.

42. Existing regulations to review the sufficiency of childcare (see paragraph 8 above) require that an assessment is undertaken every year. The new Section 11 requires that assessments are done at intervals no greater than three years. This is expected to offset some of the additional cost resulting from the enhanced scope of the assessment process, and in particular, that of consulting and publishing the assessment. Following comments received during the formal consultation, the Department has also taken steps to reduce any potential burdens on local authorities by making the regulations less prescriptive about the way in which local authorities should seek comments on their draft assessment documents.

43. The section 6 duty requires local authorities to secure sufficient childcare "so far as is reasonably practicable". This will have the effect of allowing the local authority to take into account its resources and capabilities in making decisions about when and where to intervene to

⁵ Source DfES Departmental Report 2006 Cm 6812

address gaps in the childcare market. It will have to meet needs as far as it is able within those constraints. This allows flexibility – what might be reasonable will depend on the particular circumstances of a local authority. The guidance lays out the range of aspects local authorities should consider when making such decisions.

44. The section 13 duty replaces an existing local authority duty. Although the list of areas on which the local authority must secure information, advice and training is more extensive, for example including business support, the local authority does not have to provide services directly. As the guidance highlights that local authorities should seek to secure information, advice and training through a variety of partners and in many cases, they will fulfil the duty by distributing information provided by, or by signposting advice or training provided by, other organisations. We envisage that the increase in knowledge local authorities will have of the childcare market, through childcare sufficiency assessments and their duty to secure sufficient childcare, will mean they will be better able to efficiently direct childcare providers to the services they require. Where a local authority does provide training directly they may charge for it.

Summary quantifiable costs and benefits table

Benefits:

Benefit	Evidence	Expected size of benefit	Value of Present Benefit (if in NPV)
Increased productive output from parents who return to work or work longer hours. This is made up of earnings plus 25% non-wage labour cost, which represents the additional value (above pay) to the employer of what the worker produces.	1). The 2004 Families and Children Study (FACS) shows that a significant proportion of parents are not in employment, due to a lack of availability of affordable childcare. 2). 53k Job Centre Plus customers are recorded as citing childcare as a barrier to work (this data is incomplete, so likely to be more).	The 2004 FACS suggests that between 221k and 456k parents would return to work; and between 96k and 124k parents would work longer hours if sufficient childcare were available	£1773m to £4433m, depending on the number of parents that return to work or work longer hours as a result of this duty (rather than another govt. intervention)
Lower number of children living in workless households	2004 FACS shows significant proportion of single mothers and mothers in couples where neither parent is working are unemployed due to lack of availability of affordable childcare	Between 213k and 424k of children will no longer belong to workless households	Not present

There are additional benefits (outlined in paragraphs 27–33) which are not quantifiable and so are not shown here.

Costs:

The estimated annual costs of securing sufficiency are summarised below. We would expect the annual cost of the duty to reduce over time, as action is taken and gaps in provision are filled.

Description of cost	Type of cost (policy or admin?)	Cost incurred by	Amount per year	Additional information
Cost of ensuring sufficient childcare provision (including assessing the market and securing information, advice and training under s13)	Policy	Local authorities	£346m	This is 'Sustainable Revenue and Capital Funding' within the GSSG, not actual costs. The £30k per LA cost of assessing the market is included within this amount.
Costs of assessing the market to those being surveyed	Admin	Businesses and families	£0.2m	£657k per year, once every 3 years
Childcare costs to those who return to work	Policy	Families	£237m to £571m	Cost of this depends on number of parents returning to work or working additional hours as a result of this policy.
Subsidy of childcare	Policy	Via Working Families Tax Credit	£1299m to £2341m	This assumes that all parents who start working or work longer hours as a result of this duty get an 80% subsidy
Travel to work costs to those who return to work	Policy	Families	£2m to £4m	Cost of this depends on number of parents returning to work or working additional hours as a result of this policy
Costs associated with existing employees being displaced out of their jobs by parents returning to work	Policy	Families	Unknown	This is unlikely to be an issue as a shortage of low paid jobs is not currently a problem in the economy.

45. The Department has made a range of estimates of whether the increased earnings from parents returning to work or working longer hours will exceed the costs associated with the duty. The lowest estimate suggests this is not possible. The upper estimate suggests that only 23% of parents who are currently not working or working fewer than 16 hours due to insignificant childcare, will have to enter part-time employment or extend their working hours, for the additional earnings to exceed the costs. However, this does not take into account any of the unmonetised benefits, such as improvements to children's outcomes.

Small Firms Impact Test

46. The majority of childcare is provided by small voluntary and private sector providers, with a few large firms having a relatively small share of the market. The new duties may have beneficial effects on small businesses. Local authorities will have an improved understanding of the childcare market and will be able to target support more effectively and provide a strategic overview. Local authorities are required in the Section 11 regulations and guidance to work proactively with childcare providers during the preparation of the assessment and to consult with them prior to its publication.

47. Childcare providers are also likely to find that, as a result of the new duties to assess and secure the sufficiency of childcare, local authorities will have increased flexibility to provide targeted help to childcare providers to stay open and remain sustainable in the long term.

48. Small childcare providers are likely to benefit from better information about childcare and children's services as more families become aware of the services that they provide.

49. The Small Business Service at the Department of Trade and Industry was consulted as

part of the development of the Childcare Bill RIA – New Duties on Local Authorities and agreed with the Departments assessment, that the duties are likely to have a positive impact on small businesses.

Competition Assessment

50. Consideration has been given to the potential impact of these provisions on competition. It is not envisaged that the number or size of firms will change significantly as a result of any of the new duties and increases in competition to existing providers, over and above what the market generates naturally, should be marginal.

Enforcement, Sanctions and Monitoring

51. How well the local authority fulfils the duties will be covered by the existing planning, inspection, assessment and intervention arrangements: Annual Performance Assessments, Joint Area Reviews and Comprehensive Performance Assessments and will be integrated within each authority's children's trusts arrangements. This will be backed by the ultimate sanction of the powers of the Secretary of State for Education and Skills to intervene.

Implementation and Delivery Plan

52. The duty to Secure Sufficient Childcare, the related duties and powers contained within sections 8, 9 and 10, and the duty to secure information advice and training will be implemented by local authorities. The section 13 regulations will come into force in October 2007. The supporting guidance will be published in July 2007. Best practice materials are available on the Department for Education and Skill's Every Child Matters website and a series of Childcare Regional Networks have been developed to support local authorities in fulfilling their duties.

Post Implementation Review

53. Although there is no statutory basis for reviewing implementation of the sufficiency duties the Government will seek to review their implementation on a continued basis in order to assess the extent to which the original aims and objectives have been successfully met. Reviewing and monitoring will be integrated with the Every Child Matters improvement cycle – i.e. local authority performance assessments (Annual Performance Assessment and Comprehensive Performance Assessment), integrated inspections through Joint Area Reviews and progress towards wider Government commitments, and evidence from Directors of children and Learners. The Government will take into account of the changes that may result from the recent Department for Communities and Local Government White Paper *Strong and Prosperous Communities*.

54. The Department for Education and Skills will continue to work with key partners including other Government Departments, local authorities and organisations representing childcare providers in monitoring the effectiveness of the duties and their implementation and will seek to identify any unintended consequences of the legislation. When necessary the Department for Education and Skills will work with these partners to amend and update guidance for local authorities on implementing the duties.

Summary and Recommendation

55. The Government recommends the proposed regulations for meeting the requirements set out in the Childcare Act 2006.

Declaration and Recommendation

56. I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed ...*Beverley Hughes*.....

Date*21st June 2007*.....

Beverley Hughes, Minister for Children, Young people and Families, Department for Education and Skills

Contact point:

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