



## BRIEFING PAPER

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# Coronavirus: Childcare FAQs

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2. Childcare providers during the coronavirus outbreak: FAQs



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## Summary

The Government has stated that the coronavirus outbreak presents “particular challenges and risks to those operating in an educational or childcare context.” This is both because of the need or tendency for people to learn in groups and because of the harmful impact that a break in education may have on a child’s development and progression to further study or employment.

What is in the best interests of those in education and childcare settings during the outbreak will, the Government believes, “vary according to the level of risk which presents itself in a particular place at a particular time.”<sup>1</sup>

This briefing paper provides brief information in response to some key questions regarding the impact of the coronavirus outbreak on childcare providers and parents whose children attend such settings, including:

- The current position on the closure of childcare providers and the continuing provision of childcare for the children of key workers and vulnerable children
- The possible opening of early years providers to more children from 1 June 2020.
- Whether parents should be charged while their child’s childcare provider is closed
- Whose children can still attend childcare settings
- Whether childcare providers that have remained open are required to follow the Early Years Foundation Stage (EYFS) statutory framework
- What financial support is available to childcare providers during the coronavirus outbreak
- Whether childcare providers can furlough workers and access the Coronavirus Job Retention Scheme
- How the Coronavirus Act 2020 affects childcare providers

Section one covers questions of particular relevance for parents and carers. Section two focuses more on issues of concern to childcare providers themselves.

This is a fast-moving issue and the briefing should be read as correct at the time of publication. The briefing covers England only.

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<sup>1</sup> [Coronavirus Bill Explanatory Notes](#), paras 70-1.

# 1. Closures of childcare providers: FAQs

## 1.1 What is the current position on childcare closures?

In a [statement](#) on 18 March 2020, the Education Secretary, Gavin Williamson, announced that after schools in England shut their gates on Friday 20 March they would “remain closed until further notice”. He stated that this would be “for all children except those of key workers and the children of the most vulnerable.” He added that the Government expected early years providers to do the same.<sup>2</sup> This covers all children at registered childcare providers, including nurseries and childminders. The closures will continue until further notice.<sup>3</sup>

The Department for Education (DfE) has published guidance for parents on the closures:

- DfE, [What parents and carers need to know about schools and education during the coronavirus outbreak](#), last updated 11 May 2020.
- DfE, [Supporting your children's education during coronavirus \(COVID-19\)](#), last updated 19 April 2020.

The Department has also published a range of guidance for childcare providers and other education settings. This can be accessed at:

- DfE, [Coronavirus \(COVID-19\): guidance for schools and other educational settings](#), last updated 24 April 2020.

## 1.2 Who can still attend childcare settings?

Childcare providers are being asked by the Government to “remain open for children of critical workers and vulnerable children where they can.”<sup>4</sup>

The [DfE's guidance for parents and carers](#) (see section 1.1 above) defines vulnerable children as children who:

- are assessed as being in need under section 17 of the *Children Act 1989*, including children who have a child in need plan, a child protection plan or who are a looked after child.
- have an education, health and care (EHC) plan whose needs cannot be met safely in the home environment
- have been assessed as otherwise vulnerable by educational providers or local authorities (including children's social care

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<sup>2</sup> HC Deb, [Educational Settings](#), vol 673, c 1083, 18 March 2020.

<sup>3</sup> Department for Education (DfE), [Closure of educational settings: information for parents and carers](#), 20 March 2020.

<sup>4</sup> DfE, [What parents and carers need to know about schools and education during the coronavirus outbreak](#), 23 April 2020.

services), and who are therefore in need of continued education provision.

The guidance adds that vulnerable children could include “children on the edge of receiving support from children’s social care services, adopted children, or those who are young carers, and others at the provider and local authority discretion.”<sup>5</sup>

[Guidance for education providers on maintain educational provision](#) states that parents whose work is critical to the Covid-19 response includes those who work in the following sectors:

- Health and social care
- Education and childcare
- Key public services
- Local and national government
- Public safety and national security
- Transport
- Utilities, communication and financial services

The guidance provides more information on which workers within each of these sectors is classed as a key worker.<sup>6</sup>

### **Do vulnerable children and the children of key workers have to attend childcare?**

While the children of key workers are able to attend childcare settings, there is no requirement for parents and carers to send their children if they do not wish to do so.<sup>7</sup> DfE [guidance on maintaining educational provision](#) further states that many key workers may be able to ensure their child is kept at home and that “every child who can be safely cared for at home must be”.<sup>8</sup>

Regarding vulnerable children, the [guidance for parents and carers states](#):

#### **Is it compulsory for parents of vulnerable children to accept their place offer?**

There is an expectation that vulnerable children who have a social worker will attend provision, so long as they do not have underlying health conditions that put them at higher risk than others. In circumstances where a parent does not want to bring their child to an education setting, and their child is considered vulnerable, the social worker and education provider should explore the reasons for this, directly with the parent.

[...]

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<sup>5</sup> DfE, [What parents and carers need to know about schools and education during the coronavirus outbreak](#), 23 April 2020.

<sup>6</sup> DfE, [Guidance for schools, childcare providers, colleges and local authorities in England on maintaining educational provision](#), 19 March 2020.

<sup>7</sup> DfE, [What parents and carers need to know about schools and education during the coronavirus outbreak](#), last updated 23 April 2020.

<sup>8</sup> DfE, [Guidance for schools, childcare providers, colleges and local authorities in England on maintaining educational provision](#), last updated 19 March 2020.

Those with an EHC plan should be risk-assessed by their education setting in consultation with the local authority and parents, to decide whether they need to continue to be offered a school/college place in order to meet their needs, or whether they can safely have their needs met at home. This could include, if necessary, carers, therapists or clinicians visiting the home to provide any essential services. Many children and young people with EHC plans can safely remain at home.<sup>9</sup>

[DfE guidance on supporting vulnerable children](#) sets out the expectations concerning attendance for the different categories of vulnerable children. It also outlines how providers should follow up on non-attendance.<sup>10</sup>

### What if only one parent is a key worker?

The DfE's [guidance for parents and carers](#) states that children with at least one parent or carer who is critical to the COVID-19 response can attend childcare if required.<sup>11</sup> As noted above, however, DfE guidance for providers also states that where children can be safely cared for at home they should be.

### What if a child's normal childcare provider is closed?

While the Government expects the majority of settings to stay open for the children of key workers and vulnerable children, it has acknowledged that this may not be possible for some. The guidance for parents and carers states that where a setting is not able to stay open, the Government will "work with local areas to use neighbouring...childcare providers to continue to support vulnerable children and children of critical workers."<sup>12</sup>

[DfE guidance for childcare providers](#) notes that "local authorities are responsible for coordinating a response to the new arrangements" and should "use the critical worker list and the definition of vulnerable children to support childcare settings to ensure that there are sufficient places for the children of critical workers and vulnerable children." The guidance adds that local authorities are "also responsible for monitoring demand and capacity" and this "may involve working with childcare settings to provide places in alternative settings if necessary." While in the first instance local authorities should try to find alternative provision in their area, the guidance states that, if this is not possible, they "should consider working with neighbouring local authorities while keeping in mind the impact on children."<sup>13</sup>

On 23 April 2020, the Government announced that, in exceptional circumstances, local authorities can move Government funding for the

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<sup>9</sup> DfE, [What parents and carers need to know about schools and education during the coronavirus outbreak](#), last updated 23 April 2020.

<sup>10</sup> DfE, [Supporting vulnerable children and young people during the coronavirus \(COVID-19\) outbreak](#), last updated 19 April 2020.

<sup>11</sup> DfE, [What parents and carers need to know about schools and education during the coronavirus outbreak](#), last updated 23 April 2020.

<sup>12</sup> As above.

<sup>13</sup> DfE, [Actions for early years and childcare providers during the coronavirus outbreak](#), 24 April 2020.

early years entitlements between settings if necessary to make sure that sufficient childcare places are available for vulnerable children and the children of critical workers.<sup>14</sup> On 28 April 2020, the DfE published [guidance on the use of the early entitlements funding during the coronavirus outbreak](#), which provides further information.<sup>15</sup>

The Government has stated that, where there are areas with limited availability of provision, “a cluster or hub model could support necessary provision for the children of critical workers and vulnerable children.” It has also noted, however, that clusters or hubs may “increase the public health risk.” The DfE has published [guidance](#) for those considering introducing a cluster or hub model, and for those where such a model is already operating.<sup>16</sup>

### 1.3 How many children are still attending childcare providers?

On 21 April 2020, the Department for Education published [statistics on attendance in education settings since 23 March 2020](#). It is planned that the figures will be published on a weekly basis. The statistics covers both schools and nurseries.

The attendance rate amongst pupils in educational establishments was around 0.9% during the Easter holidays and has been between 1.6% and 2.4% since the Easter break ended.

Concerns have been raised about the low proportion of vulnerable children attending education settings. For example, an article in Children and Young People Now estimated that only 5% of all vulnerable children attended schools and nurseries during the Easter holidays.<sup>17</sup>

As noted above, [DfE guidance on supporting vulnerable children](#) sets out the expectations relating to attendance for the different categories of vulnerable children. It also outlines how providers should follow up on non-attendance.<sup>18</sup>

### 1.4 Should parents be charged while childcare providers are closed?

Polices on fees and enforced closures should be set out in contracts and terms and conditions agreed between parents and childcare providers. Although these will not mention coronavirus specifically, they may include the policy on enforced closures more generally. Parents may like

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<sup>14</sup> DfE, [Councils given flexibility with free childcare funding](#), 23 April 2020.

<sup>15</sup> DfE, [Use of free early education entitlements funding during the coronavirus outbreak](#), 28 April 2020.

<sup>16</sup> DfE, [Cluster and hub provision: coronavirus \(COVID-19\)](#), 24 April 2020.

<sup>17</sup> Children and Young People Now, ['Very low numbers of vulnerable children attending school, figures reveal'](#), 22 April 2020.

<sup>18</sup> DfE, [Supporting vulnerable children and young people during the coronavirus \(COVID-19\) outbreak](#), last updated 19 April 2020.

to check the terms and conditions set out by their childcare provider and discuss any concerns they have with the provider.

Organisations within the early years sector have similarly advised providers to check their terms and conditions and contracts regarding charges, sickness and enforced closure. For example, the National Day Nurseries Association has [advised](#) providers to “check your T&Cs to ensure that parents know where they stand in terms of payments if their child has to stay away from nursery or your nursery has to close for a period of time.”<sup>19</sup>

The Government has announced a range of measures aimed at providing financial support to childcare providers during the coronavirus outbreak (see section 2.5 below). It has also noted, however, that in many cases the insurance that early years providers have will not cover them for lost income during coronavirus related closures.<sup>20</sup>

In its guidance for parents and carers, the DfE states the following regarding the charging of parents during the closures:

The government acknowledges that in many cases, the insurance that early years providers have will not cover them for income lost during coronavirus (COVID-19) related closures.

That is why the government has set out a range of support for businesses to reduce the impact of coronavirus (COVID-19) on them, including for early years providers. This includes a business rate holiday for all private childcare providers for one year from 1 April.

We urge all childcare settings to be reasonable and balanced in their dealings with parents, given the great uncertainty they will also be facing.<sup>21</sup>

On 30 April 2020, the Competition and Markets Authority (CMA) [announced](#) that it had started a programme of work to investigate reports of businesses failing to respect cancellation rights during the coronavirus outbreak. The announcement said that the CMA had seen increasing numbers of complaints in relation to cancellation and refunds, including “nurseries asking people to pay very high sums in order to keep a place open for their child.” Based on the complaints received, the CMA stated that it had identified three sectors of particular concern, one of which was nurseries and childcare providers, which it would tackle as a priority. If it finds evidence that companies are failing to comply with the law, the announcement stated, “the CMA will take appropriate enforcement action, which could include taking a firm to court if it does not address its concerns.”<sup>22</sup>

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<sup>19</sup> [Nursery business support for coronavirus / COVID-19, National Day Nurseries Association](#), last accessed 24 March 2020.

<sup>20</sup> DfE, [What parents and carers need to know about schools and education during the coronavirus outbreak](#), 23 April 2020.

<sup>21</sup> As above.

<sup>22</sup> CMA, [COVID-19: CMA to investigate cancellation policy concerns](#), 30 April 2020.



## 1.5 Will parents still be eligible for support with childcare costs if their circumstances have changed?

On 5 May 2020, the Government [announced](#) that “parents who are normally eligible for the government’s childcare offers will continue receiving the entitlements during the summer term if their income levels fall due to the impact of coronavirus.” The announcement further explained: “any working parent usually eligible for 30 hours free childcare or Tax-Free Childcare will remain eligible if they fall below the minimum income requirement due to COVID-19.” Subject to Parliamentary approval, the announcement added, “parents who are critical workers will also remain eligible for these entitlements if their income has increased over the maximum threshold during the COVID-19 pandemic.”

The temporary flexibility will, the announcement said, ensure critical workers can continue to access the childcare they need to enable them to work.” The arrangements will be reviewed over the summer.<sup>23</sup>

Further information on Government support with childcare costs, including the 30 hours entitlement and Tax Free Childcare is available in Library Briefing 8054, [Childcare: support with costs \(England\)](#).

## 1.6 When will childcare providers re-open for all children?

On 11 May 2020, the Government published [Our plan to rebuild: The UK Government’s COVID-19 recovery strategy](#), which sets out a timetable for the lifting of restrictions in three broad steps.

The plan states that, as part of the second step in lifting restrictions, schools should prepare to begin to be open for more children from 1 June 2020. It adds that the “the Government expects children to be able to return to early years settings...from this point.”<sup>24</sup>

Also on 11 May 2020 the DfE published [guidance on actions for education childcare settings to prepare for wider opening from 1 June](#). This states that childcare settings will be asked to open for all children from 1 June 2020, but that in some cases providers may have to put a cap on numbers:

In childcare settings, providers will be asked to welcome back all children below statutory school age from the week commencing 1 June 2020. Demand for childcare is likely to be lower than usual at first, and existing space requirements and staff to child ratios for these age groups should allow for small group working. Where the physical layout of a setting does not allow small groups of children to be kept at a safe distance apart, we expect practitioners to exercise judgement in ensuring the highest standards of safety are maintained. In some cases, it may be

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<sup>23</sup> DfE, [Eligibility for government childcare offers protected](#), 5 May 2020.

<sup>24</sup> Cabinet Office, [Our plan to rebuild: The UK Government’s COVID-19 recovery strategy](#), 11 May 2020, p30.

necessary for providers to introduce a temporary cap on numbers to ensure that safety is prioritised.<sup>25</sup>

The guidance additionally states that providers will only be asked to open for all children from 1 June if the five key tests set by the Government justify the change at the time, including that the rate of infection is decreasing.

The DfE has also published [guidance for parents and carers on the possible opening of early years settings from 1 June 2020](#). This provides answers to a number of questions, including how risks to children will be managed and what should happen if there is a confirmed case of coronavirus in a childcare setting.

### Will children be eligible for testing?

The [guidance for parents and carers on the possible opening of early years settings from 1 June 2020](#) states that once childcare providers open to more children, staff and children in those settings will be eligible for testing if they become ill with coronavirus symptoms, as will members of their household.<sup>26</sup>

### What about childminders and nannies?

The two guidance documents published by the DfE on 11 May (see section 1.6 above) state that “from the week commencing 1 June” the Government is asking “nurseries and other early years providers, including childminders, to begin welcoming back all children”.<sup>27</sup>

However, the Government’s [recovery strategy](#) seems to suggest that childminders and nannies could begin looking after children sooner than 1 June. In a section setting out steps to be taken from 13 May, as part of stage one of the lifting of restrictions, it states:

The Government is also amending its guidance to clarify that paid childcare, for example nannies and childminders, can take place subject to being able to meet the public health principles at Annex A, because these are roles where working from home is not possible. This should enable more working parents to return to work.<sup>28</sup>

This has led to some confusion as to when childminders and nannies can re-open for more children. The Professional Association for Childcare and Early Years (PACEY), for example, has been reported as saying that “huge numbers” of childminders had been in contact over the issue and that it was seeking clarification from the government.<sup>29</sup>

On 12 May, PACEY published a [clarification](#) on the position that it had received from the DfE [emphasis in original]:

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<sup>25</sup> DfE, [Actions for education and childcare settings to prepare for wider opening from 1 June 2020](#), 11 May 2020.

<sup>26</sup> DfE, [Opening schools and educational settings to more pupils from 1 June: guidance for parents and carers](#), last updated 11 May 2020.

<sup>27</sup> DfE, [Opening schools and educational settings to more pupils from 1 June: guidance for parents and carers](#), 11 May 2020.

<sup>28</sup> Cabinet Office, [Our plan to rebuild: The UK Government’s COVID-19 recovery strategy](#), 11 May 2020, p30.

<sup>29</sup> Children and Young People Now, [Coronavirus Daily Round Up: Tuesday 12 May](#), 12 May 2020.

PACEY has today worked with the Department for Education to ensure government guidance on when childminders (in England) can re-open (if they wish to) is clarified.

Department for Education have made clear to PACEY that:

**If you are a childminder that is already open and currently caring for children of key workers or vulnerable children, you can stay open and continue caring for these children.**

However, you should not take on any more new non-eligible children.

**If you are not currently open at all**, you could now open for a child or children from ONE other household, providing it is in line with current guidelines to minimise the risk of spreading infection.

It is up to you as an individual to decide whether you want to open now or take time to prepare to open to all children from 1 June. This is all with the continued provision that the final decision on whether childcare settings and schools can reopen will be taken on 28 May and is dependent on the rate of COVID-19 infections continuing to decline at the current rate.<sup>30</sup>

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<sup>30</sup> PACEY, [NEWS: DfE clarifies re-opening options for childminders in England](#), 12 May 2020.

## 2. Childcare providers during the coronavirus outbreak: FAQs

### 2.1 Do childcare providers that are open have to follow the Early Years Foundation Stage?

The [Early Years Foundation Stage \(EYFS\) statutory framework](#) sets the standards that all early years providers must meet to ensure that children aged 0 to 5 learn and develop well and are kept healthy and safe.

On 23 April 2020 the Government laid [regulations](#) temporarily disapplying and modifying certain elements of the EYFS statutory framework.<sup>31</sup> For example, the regulations provide that early years providers will be required to use “reasonable endeavours” to meet the learning and development requirements outlined in the EYFS, instead of this being something they “must do”.<sup>32</sup>

The Government has stated that the regulations “will allow providers greater flexibility to respond to changes in workforce availability and potential fluctuations in demand, while still providing care that is high quality and safe.”<sup>33</sup>

The regulations came into force on 24 April and are set to remain in place until 25 September 2020, although they will be reviewed on a monthly basis and may be lifted earlier.<sup>34</sup>

Statutory guidance published by the DfE on 24 April 2020 provides more information on the changes: [Early years foundation stage: coronavirus disapplications](#).

### 2.2 What financial support is available to childcare providers?

In his statement announcing the closure of schools and childcare providers (see section 2.1 above), the Education Secretary stated that he was “working with Her Majesty’s Treasury on the financial support that will be required.”<sup>35</sup>

The Government has announced a range of measures aimed at supporting small businesses generally, and childcare providers specifically, during the coronavirus outbreak:

- On 17 March 2020, the Government [announced](#) that it will **continue to pay funding to local authorities for the early**

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<sup>31</sup> [The Early Years Foundation Stage \(Learning and Development and Welfare Requirements\) \(Coronavirus\) \(Amendment\) Regulations 2020](#), SI 2020/444.

<sup>32</sup> DfE, [Early years foundation stage: coronavirus disapplications](#), 24 April 2020.

<sup>33</sup> As above.

<sup>34</sup> As above.

<sup>35</sup> HC Deb, [Educational Settings](#), vol 673, c 1083, 18 March 2020.

**education entitlements for two, three and four year olds**

during any periods of nursery, pre-school or childminder closures, or when children cannot attend due to coronavirus. The DfE has set out an expectation that local authorities should continue to pass on the funding they receive to providers.<sup>36</sup>

- On 17 March 2020, the Government announced that all businesses currently eligible for Small Business Rate Relief or Rural Rate Relief would be eligible for **a grant of £10,000 in 2020-21**. This was an increase from a £3,000 grant made available in the 11 March Budget statement.<sup>37</sup>
- On 18 March 2020, the Government [announced](#) that non-local authority providers of childcare will **pay no business rates in the 2020-21 financial year**. Local authorities will, the announcement said, be compensated for this measure.
- On 20 March 2020, the Chancellor announced that a new **Coronavirus Job Retention Scheme** would be set up to help pay employee's wages. Under the scheme, employers will be able to contact HMRC for a grant to cover most of the wages of their workforce who remain on payroll but are temporarily not working during the coronavirus outbreak. The [announcement](#) stated that "any employer in the country- small or large, charitable or non-profit will be eligible for the scheme". Employees placed on the Coronavirus Job Retention Scheme will have 80% of their wages paid by the Government, up to a total of £2,500 a month.<sup>38</sup> There have, however, been concerns raised regarding how the scheme relates to childcare providers (see below).
- On 26 March 2020, the Government announced that it would launch an **income support scheme for the self-employed**. Under the scheme, the Government will pay direct cash grants to self-employed individuals worth 80% of their profits, up to £2,500 per month, for the three months March to June, and may be extended if necessary.<sup>39</sup> The scheme is of particular relevance for childminders, the majority of whom are self-employed.

Further information on the support available to childcare providers is available in guidance published by the DfE: [Coronavirus \(COVID-19\): financial support for education, early years and children's social care](#). The Library has also published a briefing, [Support for businesses during the Coronavirus \(covid-19\) outbreak](#), which provides information on the various sources of support available to businesses more generally.

Concerns have also been raised, however, that many nurseries may not be covered by their insurance policies for a period of enforced closures. For example, the [DfE's guidance for parents and carers](#) states that "the government acknowledges that in many cases, the insurance that early years providers have will not cover them for income lost during COVID-

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<sup>36</sup> DfE, [Free childcare offers to continue during coronavirus closures](#), 17 March 2020.

<sup>37</sup> HM Treasury, [Chancellor of the Exchequer, Rishi Sunak on COVID19 response](#), 17 March 2020.

<sup>38</sup> HM Treasury, [Chancellor announces workers' support package](#), 20 March 2020.

<sup>39</sup> HM Treasury, [Chancellor gives support to millions of self-employed individuals](#), 26 March 2020.

19-related closures.”<sup>40</sup> Whether this is the case for a specific provider will depend on the wording of their individual insurance policy.

## Can childcare providers access the Coronavirus Job Retention Scheme?

As set out above, on 17 March 2020, the DfE announced that it would continue to pay funding to local authorities for the early education entitlements during any periods of childcare closures due to coronavirus.

On 20 March, the Chancellor [announced](#) that the Coronavirus Job Retention Scheme would be set up to help pay employee’s wages (see above).<sup>41</sup> While the announcement stated that “any employer in the country small or large, charitable or non-profit will be eligible for the scheme”, [guidance on the scheme](#) published by HMRC states that where non-public sector employers receive public funding for staff costs, and that funding is continuing, it is expected that employers “use that money to continue to pay staff in the usual fashion – and correspondingly not furlough them.”<sup>42</sup>

This has led to some uncertainty as to whether childcare providers that are still in receipt of early years entitlement funding can furlough employees and access the Coronavirus Job Retention Scheme.

On 17 April 2020, the DfE published [guidance](#) on the financial support for education, early years and children’s social care during the coronavirus outbreak. The guidance repeats the information from the HMRC guidance regarding employers in receipt of public funding:

where employers receive public funding for staff costs, and that funding is continuing, we expect employers to use that money to continue to pay staff in the usual fashion – and correspondingly not furlough them. This also applies to non-public sector employers who receive public funding for staff costs

However, it adds that “in a small number of cases, for example where organisations are not primarily funded by the government and whose staff cannot be redeployed to assist with the coronavirus response, the scheme may be appropriate.”

In a section giving sector-specific advice for early years providers, the guidance states that a private provider should only furlough employees, and therefore seek support through the Coronavirus Job Retention Scheme, if they meet the following conditions:

- the employee works in an area of business where services are temporarily not required and where their salary is not covered by public funding
- the employee would otherwise be made redundant or laid off
- the employee is not involved in delivering provision that has already been funded (free entitlement funding)

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<sup>40</sup> DfE, [Closure of educational settings: information for parents and carers](#), 20 March 2020.

<sup>41</sup> HM Treasury, [Chancellor announces workers’ support package](#), 20 March 2020.

<sup>42</sup> HMRC, [Check if your employer can use the Coronavirus Job Retention Scheme](#), last updated 23 April 2020.

- (where appropriate) the employee is not required to deliver provision for a child of a critical worker and/or vulnerable child
- the grant from the Coronavirus Job Retention Scheme would not duplicate other public grants received, and would not lead to financial reserves being created

The guidance provides the following information on how to distinguish whether staff are funded through free entitlement funding or private income:

If it is difficult to distinguish whether staff are funded through free entitlement or private income for the purposes of meeting the first 3 conditions as listed above, then an early years provider can access the CJRS to cover up to the proportion of its paybill which could be considered to have been paid for from that provider's private income. This would typically be income received from 'parent-paid' hours, and excludes all income from the government's free entitlements (or 'DSG income') for all age groups. In line with the conditions of the scheme listed above, providers should initially use the month of February 2020 to represent their usual income in calculating the proportion of its paybill eligible to be covered by the scheme. Providers should adjust these proportions in subsequent furloughing applications if their income from the government's free entitlements changes, but are not expected to make any adjustments in relation to changes in parent-paid income.

An example is then given:

If a provider's average monthly income is 40% from DSG [early years entitlements] and 60% from other income, the provider could claim CJRS support for up to 60% of their paybill.

This would be done by furloughing staff whose usual salary / combined salaries come to no greater than 60% of the provider's total paybill.

The guidance notes that the DfE is "considering appropriate measures to monitor the use of these schemes in order to detect any duplication of funding, and will be considering potential options to recover misused public funding as required."<sup>43</sup>

A response to a parliamentary question on 5 May 2020 stated that allowing early years providers to only use the job retention scheme to cover the proportion of their pay bill which could be considered to have been paid for from their private income was "vital to support providers whilst ensuring that staff are not furloughed if staff costs are paid for by public sector funding."<sup>44</sup>

As noted above (see section 2.2), local authorities are able to move funding for the early years entitlements between settings if necessary to make sure that sufficient childcare places are available for vulnerable children and those of critical workers.<sup>45</sup> The Government has stated that "any setting which sees their early entitlement funding reduced in order

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<sup>43</sup> DfE, [Coronavirus \(COVID-19\): financial support for education, early years and children's social care](#), last updated 22 April 2020.

<sup>44</sup> [PO40553](#), 5 May 2020.

<sup>45</sup> DfE, [Councils given flexibility with free childcare funding](#), 23 April 2020.

to fund childcare places elsewhere will be able to increase the proportion of their salary bill eligible for the coronavirus job retention scheme in line with the department's guidance on access to the scheme."<sup>46</sup>

## 2.3 What guidance is there for childcare providers planning to re-open for 1 June?

On 11 May 2020, the DfE published [guidance on actions for education and childcare settings to prepare for wider opening from 1 June 2020](#), which sets out a number of key issues that childcare settings will need to consider.

Among other things, the guidance states that each setting should carry out a risk assessment that should directly address risks associated with coronavirus.

While acknowledging that children in early years settings cannot be expected to stay 2m apart, the guidance states that it is still important to reduce contact as much as possible. This can be done, it says, by ensuring that children and staff mix in a small group and by keeping that small group away from others. It recommends using existing staff to child ratios to group children. Any setting that cannot achieve these small groups (e.g. because there is not enough space) is advised to discuss options with their local authority. If necessary, the guidance states, early years settings should prioritise three and four year olds followed by younger age groups.<sup>47</sup>

Further DfE guidance, on [Implementing Protective Measures in Education and Childcare Settings](#) contains further advice for settings, including regarding:

- cleaning, including supplies of cleaning and handwashing products
- testing and tracing
- personal protective equipment
- what settings should do in response to a case of COVID-19 being confirmed.

## 2.4 How does the Coronavirus Act 2020 affect childcare providers?

The [Coronavirus Act 2020](#), which received Royal Assent on 25 March 2020, provides the Government with three powers relating to childcare providers (and other educational establishments):

- 1 A power to require or direct the temporary closure of an educational institution or registered childcare provider.

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<sup>46</sup> [HCWS193](#), 21 April 2020; DfE, [Use of free early education entitlements funding during coronavirus \(COVID-19\)](#), 28 April 2020.

<sup>47</sup> DfE, [Actions for education and childcare settings to prepare for wider opening from 1 June 2020](#), last updated 12 May 2020.



- 2 A power to make specified types of directions in connection with the running of the education and registered childcare systems – for example, that they should stay open, open for specified children, or alter their term dates.
- 3 A power to dis-apply or vary specified existing requirements contained in or arising out of education and childcare – for example, local authority duties to guarantee education.

Further information on the Act as it relates to childcare providers is available in Library Briefing 8859, [Coronavirus Bill: childcare and education settings](#). Although this briefing relates to the Bill as introduced in the Commons, no substantive changes were made to the provisions relating to education during the Bill's passage through Parliament.

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