



**SCOTTISH BORDERS COUNCIL
WEDNESDAY, 29TH OCTOBER, 2025**

Please find attached the final version of the Policy in respect of Item No. 9 on the agenda for the above meeting.

9.	Early Learning and Childcare Provision - Revised Policy (Pages 3 - 12) Consider report by Director Education and Children's Services. (Copy attached.)	15 mins
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Scottish Borders Council

Policy and Guidance on Promoting Sustainability in Early Learning and Childcare Settings

October 2025

Context

The expansion of Early Learning and Childcare, which was fully implemented in Scottish Borders in 2020, provides 1140 hours of funded Early Learning and Childcare for every 3-and-4-year-olds and to eligible 2-year-old children.

The model of provision implemented in Scottish Borders Council (SBC) is based on a mixed market model of delivery which allows children to access their provision in local authority Early Learning and Childcare settings, Private and Voluntary providers and with childminders.

Scottish Borders Council operates ELC settings in 47 of the 59 Primary Schools. There are also the 20 private and voluntary providers and 12 childminders across the region, all able to provide funded ELC on behalf of Scottish Borders Council. The principal of 1140 hours is that of a funding follows the child model and therefore, some parents access their entitlements across more than one setting also choose to use funded hours of ELC in neighbouring local authorities.

To provide flexibility each cluster area has a mixture of settings which provide asymmetric models (session times and term times which mirror the school calendar), hubs (settings where parents can opt to take fewer hours per week over a greater number of weeks, accessing some provision during school holiday periods, or to pay for additional hours to extend the length or number of sessions accessed). Private and voluntary sector providers can often offer even more flexibility of sessions.

To ensure the council's ability to meet supply and demand, operational efficiency and service delivery, it is important that a regular cycle of review of models and capacity is undertaken.

The process for the review of ELC delivery models and capacity, involves 3 key elements: a biannual provision of NHS data; ongoing analysis of uptake of hours and staffing capacity; and targeted stakeholder/parent survey analysis to understand local needs and priorities.

The biannual data analysis looks at the NHS data in August of any year, identifying children aged 5 years or younger, living in the Scottish Borders Council area and registered with a GP surgery, to project potential demand. This is then compared to actual admissions data to monitor trends in demand for provision. It also supports the extensive planning of the supply of spaces across the Scottish Borders Council area in a way that balances meeting the needs of families and children, while remaining efficient and sustainable.

A rolling programme of stakeholder engagement, parent surveys and community engagement gathers information and intelligence on local need and priorities. These surveys will target specific clusters/localities to gather data around needs and priorities for the delivery model and offer to parents.

This process of review could result in a range of changes to the cluster delivery models. For example, changes could be made to the times a setting offers, to the provision of sessions out with term time or the addition or removal of settings.

Changes in demographics such as a decline in overall birth rates leading to reduced demand for places over a period of time has led to the need to regularly review delivery models and capacity across each of the 9 clusters areas to ensure the most efficient and effective delivery of 1140 childcare hours is delivered at cluster level.

Parental choice and flexibility are a key driver in planning ELC provision, but the geography of the Scottish Borders can present challenges, particularly in small, rural communities where access to a choice of provision within an acceptable distance can be limited.

It is also important, therefore, that any delivery model is driven by the educational benefit and experience for children, by the accessibility of provision for all families and by securing both best value for the Council and longer-term sustainability for the delivery of ELC/1140 hours in Scottish Borders Council.

Protecting the sustainability of all settings is priority in planning for ELC provision. This redeveloped policy sets out the annual processes to establish demand (enrolment), and to plan provision across Scottish Borders with a focus on protection and sustainability of provision through early engagement with any settings where demand for places is considered low.

The policy sets out actions which will be taken in partnership with settings and communities to build sustainability and outlines the circumstances and process to be followed if, as a last resort and despite all other attempts, consideration needs to be given to mothball a setting.

Communication and promotion of Enrolment Process

In October each year, ahead of enrolment processes commencing, SBC will place adverts in local press and across social media channels to advise parents of enrolment processes and dates. Parent Councils and Community Councils will also be informed at this point.

Headteachers will also be asked to consider how to promote enrolment to the parents in their community. In communities where settings are smaller, headteachers will be asked to take additional steps to do this through, for example engaging with the parent council and community council to promote enrolment, making visits to, e.g. toddler or playgroups, to talk about ELC, sharing posters and communications locally as well as working with partners such as health visitors to

promote to families. Local knowledge of families will be vital in targeting communications.

Where an ELC setting is able to offer parents of 2-year-old children, the option to “buy” spaces, this will be highlighted on the individual communications to parents.

Enrolment and allocation of provision

In November each year, parents are invited to enrol children for the following academic session (August to June). Parents can select to access all or part of the 1140 entitlement in a local authority setting, funded provider settings or with a childminder, and can opt to request a “split” placement which allows a blend of settings and flexibility of accessing hours during term-time, full year-round and over longer or shorter weeks. Each cluster offers a range of models and settings to offer maximum flexibility.

When enrolling, parents/carers are asked to identify a first and second preference of ELC setting. This is a requirement because first choice places are not guaranteed and as there are no catchments for ELC provision, there is no entitlement to access an ELC setting associated with the subsequent catchment school.

Enrolment for Early Learning and Childcare takes place every November. Parents of children who will reach their 3rd birthday by the 3rd term of the following academic year. This also includes those who are already accessing ELC at age 2 as they meet specific eligibility criteria apply for an N4 place and children who are already 3 and can apply for an N5 place. Parents are also asked to complete an enrolment form for children who are already in an ELC place to progress to the following year.

Children who do not reach their 5th birthday before the end of August in the session that they could start Primary 1, can request automatic deferral in starting school and would also apply for their additional N5 place in the November enrolment process. Parents of children considering deferral then have until May 31st of any year to confirm whether they wish to proceed with a deferred start to Primary 1.

Enrolment for children who may be eligible for 1140 hours of ELC at age 2 who meet eligibility criteria opens in May preceding the academic year in which they become eligible.

In settings where there is the option for parents to pay for places for 2-year-old children, a note of interest form such a place will be able to be lodged at this stage.

All applications are logged in NAMS (Nursery Applications Management System) and following enrolment, education officers review the number of places requested in each setting. The required child/staff ratio of 8:1 is used to then consider the staffing allocations for each SBC setting.

Private and Voluntary settings and childminders are provided with requests for places and asked to confirm whether they can accept all first-choice place requests.

In school settings, headteachers are required to consider their registered capacity and staffing allocation to provide places under the criteria set out below.

1. Children who are Care Experienced, or who have multi-agency support in place
2. Children moving from N4 to N5 (3-year-old to 4-year-old) and children deferring entry to Primary 1
3. Eligible 2-year-olds moving from N3 (2-year-old) to N4 (3-year-old) (oldest first)
4. Children with a sibling in the school or setting (oldest first)
5. Children residing in Scottish Borders (oldest first)
6. Children who are resident outwith Scottish Borders (oldest first)

After following the allocation process above and where a setting is oversubscribed, , the application is marked as rejected in NAMS and is automatically re-directed to the second choice setting, who in turn confirms whether a place can be allocated. The first-choice setting will inform the parents of either a confirmed place or that their application has been directed to their second choice.

Where the number of applications for an individual setting falls below the minimum capacity, education officers may consider the viability of the provision both in terms of education experience for the children, and within a best value approach.

EDUCATIONAL BENEFITS

Educational benefits must be a primary consideration when assessing small settings. Research supports the importance of high-quality early learning experiences, particularly in environments that allow children to develop holistically. Realising the Ambition – A Blueprint for ELC and the newly developed Joint Inspection Framework (2025) outline the educational benefits of well-structured settings, highlighting the need for high quality and varied interactions, a wide range of experiences and rich stimulating learning environments.

The starting principle for any setting which has a low demand for places is to consider all options to allow provision to continue, and to build sustainability to protect the provision.

Where there is concern for the viability of a provision, the process which has been followed previously involved a senior officer engaging with the headteacher, parents and staff of the setting to discuss concerns and to allocate second choice places to those children who have applied for a place. The provision affected would then not operate for the following academic session and the Care Inspectorate would be informed that the setting was changing status to become “inactive”. This meant that the setting would maintain the registration status as a provider and usually would be offered for enrolment at the next enrolment period.

Following enrolment (November 2024) for session 2025/26, it was identified that the operational application of inactive registration was insufficient, and that the approach was not appropriate in failing to attempt to provide continuity and sustainability of provision.

This policy sets out that that only when all other efforts to sustain a provision have been exhausted will consideration be given to temporarily cease the provision and that in these circumstances, the process which should be applied would be that of mothballing.

Supporting Sustainability of an ELC setting

If when taking account of all enrolments, including 3 year olds starting in a later term, 2 year olds (including those indicate wishing to pay for a place), and children who are indicated to defer entry, the overall number of registered children is 10 or fewer, proactive steps will begin to ensure viability can be sustained for the future.

This is an early intervention threshold and not a threshold against which mothballing proposals would be made and for many settings, the consideration of wider factors such location, there will be a straightforward position to retain the setting regardless of the enrolment numbers, while for other settings, there may be opportunity to seek additional measures to build long term sustainability.

Early engagement allows preventative steps to be taken to protect the roll of a setting and is not intended to be a specific measure of viability.

The enrolment numbers will include all children enrolled to start at any point in the academic year, this means that some children may not attend until Christmas or Easter, but they will count in the overall numbers for the full year. It will also include a projected number of eligible 2-year-olds where there is registration for this provision, based on numbers achieved in previous years, and will include those numbers who have expressed interest in paying for a 2-year-old place where applicable. It will also assume any requests for deferred places will be taken up. This will ensure that the starting point of enrolment numbers includes the widest number of children as possible.

Education Officers and the headteacher of the setting will engage with the parents of enrolled children, the parent council and ward elected members to discuss the position.

The first action will be to check whether all eligible children have enrolled.

This may involve contacting individual families who have children in the eligible age range and who may not have realised the need to enrol, to ensure they are aware of the options available for ELC and checking that children, who already attend the setting have all submitted a form to continue for the coming year.

The complexity of a rural operating context in the Scottish Borders Council area means that there cannot be a universal/one size fits all solution and determination of sustainability cannot be made only on roll numbers.

Consideration of sustainability needs to be made on a case-by-case basis, taking account of a range of other factors including (but not limited to those listed below):

- Proximity and capacity of alternative provisions in cluster/locality to the setting
- Location of those families accessing the settings and the proximity to alternative provision
- Accessibility of alternative provision, for example availability of public transport or safe access routes to access alternative provision
- SIMD (Scottish Index of Multiple Deprivation) must be used to consider the impact of changes within the anti-poverty agenda

If, having taken account of all factors above, and having ensured all possible enrolments have been secured a determination will be made as to whether the setting will operate as normal or whether further actions are needed to support sustaining the provision.

Where a setting has been operating successfully in an alternative model in the preceding year, if, taking account of factors such as staffing in a composite model, this remains viable, the model will be continued to allow the opportunity to build further sustainability and continuity.

Communication with the wider community will share the position and, where further actions are needed to support sustainability of provision, a plan will be devised to identify all potential options for sustained delivery and to progress with an options appraisal to assess the viability of each.

This process will be led by the headteacher of the setting and an education officer. The purpose of this will be to seek every opportunity to continue to deliver Early Learning and Childcare for a low number of children.

Areas which may be identified for inclusion in an options appraisal may include (but are not limited to):

- Operating the setting for a different number of sessions or for part days only– this may help to address situations where the number of children attending changes across the sessions where parents need to use a split placement with another provider for example, or where parents are not wishing to take up the full 1140 hours, but would allow families to maintain a connection to the local setting.
- Supporting sustainability by generating income through the provision of paid places for 2-year-olds who do not meet the eligibility criteria for 1140 hours – this option would be available where the setting is already registered for eligible 2-year-old places or is suitable to become registered. An application

will be made to the Care Inspectorate to seek a variation to support 2-year-olds will be lodged.

- Providing ELC within a composite class where children aged 3 and 4 are co-located with primary 1 and in some instances primary 2 children. This model will be dependent on the number of children across each year group in the primary stages and the associated staffing levels being suitable.
- To support continuity for children already attending a setting, consideration may be given to provision of a composite class for one ELC year group if school year group numbers cannot support.

The options appraisal process will consider each of the operating models identified to determine whether these are viable, deliverable and will meet the needs of the families. While the number of children enrolled is a consideration, it will not be used in isolation or as a single determining factor.

The options appraisal will involve focus discussion groups with key stakeholders including parents of children requesting enrolment in the setting, staff, parent council, elected members and community councils. The Care Inspectorate may also be invited to advise on any proposals which may result in a variation to the registration.

An Integrated Impact Assessment will support consideration of the impacts of implementing each proposal, with the primary consideration being that all children and parents/carers can continue to access their ELC entitlement.

When a viable option for the continuing delivery of ELC is identified, steps to implement this will be actioned immediately.

In exceptional circumstances, when despite all alternative options being explored, there is still a risk to the viability of a setting, consideration will be made for a proposal to mothball the setting for a session. This will only be considered as a last resort, and the next section of this policy outlines the steps to be taken if this circumstance should arise.

Definition of Mothballing

Mothballing is a term from Schools (Consultation) (Scotland) Act 2010 (As Amended)- Statutory Guidance. Mothballing is a temporary closure of a school (or a stage of education or a nursery class at a school) which does not lead to a consultation under the 2010 Act.

The statutory guidance considers that mothballing is only appropriate in very restricted circumstances as referenced in paragraph 63-65 of the statutory guidance.

Section 11 of the Statutory Guidance on the 2010 Act notes that The Act applies to a proposal which affects a nursery class or nursery school (under the management of the education authority) in the same way that it applies to all other “relevant proposals” as defined in Schedule 1 to the 2010 Act. It is, therefore, reasonable to

consider that the statutory guidance provided in regard to mothballing equally applies to ELC settings.

Scottish Borders Council Policy and Criteria on Mothballing a School was approved by Education Sub Committee in June 2022. This sets out the factors, assessment, decision-making and procedural arrangements for mothballing a school, in line with the statutory guidance under the Schools (Consultation) (Scotland) Act 2010.

Process

The section sets out the process be followed when mothballing an ELC setting. This mirrors the Guidance for Mothballing a school, and sets out the factors, assessment, decision-making and procedural arrangements for mothballing an ELC setting.

There are 3 circumstances under which the decision to mothball an ELC setting might be considered, and each are described below: -

- Mothballing of an associated primary school
- Enrolments numbers causing concern for sustainability
- Other Exceptional Circumstances

Mothballing of an ELC associated with a Primary School being considered for mothballing

In the situation when the Director or Senior Officer/s within Education and Children's Services takes the decision to propose mothballing a school under the School Mothballing Policy, consideration will also be given to mothballing the ELC setting through the application of the ELC Mothballing Policy.

The decision on whether a school and associated ELC is to be mothballed must be made by the Education Sub-Committee.

Enrolment numbers causing concern for sustainability

Where the process to identify and assess all opportunities to sustain an ELC has been exhausted and the number of enrolments is very low, the viability of a setting may remain of significant concern. Having assessed all alternatives, a proposal to consult on mothballing may be brought to the Education Sub-Committee for consideration.

Other Exceptional Circumstances

There may be other circumstances and operational challenges in which the Director and/ or a Senior Education Officers may be forced to take the decision to consider a proposal to mothball an ELC setting.

These could include for example persistent staffing recruitment or retention challenges leading to disruption and inconsistency of service, ongoing failure to meet

National Standards, the closure or restriction of a physical facility to make emergency repairs or inadequacy of the physical environment.

Process for mothballing an ELC Setting

An IIA will always be carried out in relation to any proposal to mothball any Council ELC settings with the over-riding consideration being whether all potentially impacted children and parents/carers can continue to access their childcare entitlement within the cluster delivery model.

It is recognised that whilst there may be an impact on parental choice and flexibility, the Council also has a duty to ensure best value and to promote the future sustainability of the service.

Where a setting is being proposed to be mothballed, communication with relevant Early Learning and Childcare (ELC) stakeholders will be commenced. Stakeholder engagement in the options appraisal process outlined in this policy should mean that this communication is ongoing and happening from the outset of the process.

The stakeholders will include but are not limited to carers/parents, school management, elected members, and parent councils and community councils and the aim of this part of the communication process is to ensure engagement with all relevant stakeholders, to inform them of the outcome of the Options Appraisal Process and the subsequent proposal potential mothballing of the ELC setting and to consult with those who may be affected on the likely impacts of the mothballing proposal.

The mothballing consultation will be undertaken over a 4-week period and will begin with the completion an IIA. This will be undertaken with stakeholder involvement.

Feedback on the proposal and evidence of the impact will be gathered through stakeholder engagement and focus groups, and the consultation evidence will be presented with the Officer recommendation to the Executive Committee who will make a final decision. The Director will then communicate the decision of Committee to officers responsible for implementation of the decision.

Officers will progress communication of any decision to mothball an ELC setting to relevant stakeholders, namely parents/carers, specific setting and wider cluster staffing, school management, elected members and Trade Unions.

Parents will be offered the second-choice placement made at the point of enrolment, however parents can also? alternatively request to meet individually with an Early Years Officer to discuss their alternative placement options.

Any affected staff will be supported through the relevant deployment process.

Once alternative placements (children) and appropriate redeployment (staff) have been confirmed, transition planning can be initiated. This will be particularly important for children with additional support needs (ASN).

Mothballing is only appropriate for a temporary period and will therefore be subject to review at least annually, against the same requirements which led to the original decision to mothball. All mothballed settings will be advertised for enrolments each November.

It is the intention of this policy that no ELC setting should be declared mothballed for longer than is necessary. If it appears that any setting will be unlikely to be re-established, then a proposal for permanent change such as permanent closure would be progressed under the requirements of the Schools (Consultation) (Scotland) Act 2010 (As Amended)

It is important to note that all ELC settings require to be registered with the Care Inspectorate and operate within the related regulatory framework. A setting that is not required to deliver ELC in the short to medium term can be designated 'inactive' or deactivated with the Care Inspectorate. Inactive status in relation to the Care Inspectorate can be reviewed on an annual basis, allowing for monitoring and analysis of both system-wide and local data to inform the requirement to reactivate any inactive ELC setting with the Care Inspectorate at any time. Where a setting is approved to be mothballed by the Education Sub-Committee, the Care Inspectorate will be informed to this effect.

It is recognised that Scottish Government has intimated an intention to publish updated guidance on mothballing of Early Learning and Childcare settings and therefore it is proposed that the policy be reviewed and updated a) upon publication of said guidance and/or b) prior to enrolment in November 2026 for session 2027/28.