

Planning Inquiry

Town and Country Planning Act 1990 (as amended)

Appeal Reference: APP/B1605/W/21/3273053

Cheltenham Application no. 20/01069/OUT

Proof of Evidence

Stephen Chandler, Place Planning Manager,
Commissioning for Learning,
Gloucestershire County Council.

Qualifications and Experience

My name is Stephen Chandler, and I am currently the Place Planning Manager in the Commissioning for Learning Service at Gloucestershire County Council (GCC). I have a degree in Mathematics. My work profile includes pupil place planning and school organisation, consultation and stakeholder engagement.

I have over 15 years' public sector experience in Local Government working in Education and Children's Services. I was the School and Early Years Place Planning Officer at South Gloucestershire Council from 2006 and I moved to GCC in 2019.

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1.0 Introduction

- 1.1 My evidence for this Inquiry draws upon material submitted to the Local Planning Authority (LPA) in response to the planning application consultation, the full Statement of Case which accompanied the initial appeal papers and the Statement of Case of GCC. It should be read in association with the Proof of Evidence of Elizabeth Fitzgerald, which deals with planning matters.

- 1.2 I am providing this evidence because the appellant has not agreed to offer the level of funding contributions required in order to provide the educational infrastructure needed to meet the additional demand for school places generated by the proposed housing development at Oakley Farm. My evidence shows that the requested contributions towards primary, secondary and post-16 school places are justified. Ms Fitzgerald's evidence deals with the planning policy aspects of this case.

- 1.3 My evidence will cover GCC's statutory responsibilities for school place planning in Section 2. Section 3 describes the school place planning process and the methodology for producing pupil forecasts. The accuracy of GCC's pupil forecasts is demonstrated in Section 4, and the process for calculating the forecast pupil yield from new housing developments is described in Section 5. Section 6 contains full details of the capacity and demand for school places in the school planning areas relevant to the Appeal site and demonstrates that the additional demand that would be generated by the site cannot be accommodated in existing school capacity, which is the reason for requesting a financial contribution towards additional provision. Section 7 contains details of the level of financial contributions required, including how they have been calculated; and Conclusions are given in Section 8.

- 1.4 At the time of writing, the Statement of Common Ground between the Appellant and GCC remains in draft and discussions are ongoing.

2.0 Statutory Responsibilities for School Place Planning

2.1 In terms of education provision, GCC has statutory duties to ensure the provision of:

- Early years, pre-school provision. Every local Authority in England is required by legislation (section 7 and 7A Childcare Act 2006 and section 2 Childcare Act 2016) (**Appendix 1**) to ensure all children who meet the eligibility are able to take up a place if their parent wants one. This relates to:
 - the most disadvantaged two year olds, the 15 hour entitlement
 - three and four year olds, the 15 hour entitlement (the universal entitlement); and
 - three and four year olds of working parents, the 30 hour entitlement (the extended entitlement).
- Primary and secondary provision. Under section 14 of the Education Act 1996 (**Appendix 1**), every Local Authority has a statutory duty to provide sufficient school places for all 4 to 19 year old young people in its area.

2.2 The organisation of places across Gloucestershire is broken down into school planning areas for provision for children aged 2-18. As a starting point, the Council uses the primary planning area for pre-school (2-4 years) and primary school (5-11 years) aged children. Secondary planning areas, including sixth form, are used for pupils 11-18 years of age. Each school planning area is defined by, and represents, a list of a set of schools within a geographical area. Planning areas do not have hard borders that can be drawn as a line on a map because the geographical areas change over time according to the number of resident pupils and the relative parental preferences for each school. If a school becomes more popular as a preference with local parents then the size of the geographical area it serves will shrink because places will be offered to the closest pupils, in accordance with the published Admission Policy criteria, until the full capacity of the school is occupied. Any pupil that lives further away will be offered a place at a lower preference school, or if necessary at another local school, which may be in a different planning area.

- 2.3 This planning arrangement provides accurate local information and highlights particular growth areas or excess capacity. There is complete coverage of planning areas across the whole county.
- 2.4 As with any boundary arrangement, there is cross over between school planning areas. The authority also considers distance, accessibility, trends and preferences as major factors when forecasting and making changes to the schools' estate.
- 2.5 Gloucestershire is a predominantly rural County. It has a population of 637,070 (2019)¹, however nearly 40% of the population live in the urban areas of Gloucester and Cheltenham.
- 2.6 Pupil projections are reviewed and updated annually as part of the school planning process and in order to inform the annual Schools Capacity Survey (SCAP) provided to the DfE. This national exercise presents the statistics on school places, unfilled school places, pupils over capacity, pupil number forecasts and place planning in England. In light of the COVID-19 pandemic, the 2020 SCAP collection was cancelled by the DfE.
- 2.7 Gloucestershire has continued to plan pupil places maintaining and updating the pupil forecasts. The 2021 SCAP collection is currently being prepared for submission to the DfE.
- 2.8 The methodology for forecasting is detailed at paragraph 3.6 - 3.10 below.
- 2.9 Pupil forecasts are compared with school capacities to give the projected surplus or deficit places. It is important to note that where a deficit is identified within the next few years, work will already be underway to address the situation. Depending upon the extent of any deficit this might include bulge classes, expansion projects to add one or more classrooms permanently to a school, or the provision of an extra form of entry to an existing school, or a new school in the case of meeting demand from new strategic housing developments.
- 2.10 The forecasting process is trend-based, which means that relative popularity and intake patterns from the previous five years are assumed to continue throughout the

¹ Source: GCC Current Population of Gloucestershire (Mid-2019)

forecasting period. The annual refresh offers an opportunity to take account of recent changes in these trends to give a rolling five year forecast with annual updates. These updated forecasts form the basis of revisions to the School Places Strategy Report when it is updated biennially. If a housing development that was already under way and partially completed in the previous year's forecast has slowed or halted, this will be reflected in the next forecast because there will be fewer completions reported to feed into that forecast. For example, this situation occurred last year at the Chesterton housing development in Cirencester. The developer of that site reported a two year delay in their build schedule because of unusual economic conditions relating to the on-going pandemic. Consequently, GCC revised its pupil forecasts and has agreed with the Regional Schools Commissioner to open the new The Steadings Primary Academy two years later than planned. Pupil yields from anticipated future housing developments are not included in the forecasts. This yield is only included once GCC has been notified that the houses have been completed.

- 2.11 The Oakley Farm appeal site is to the south-east of the Whaddon primary school planning area (D31) and to the north of the Charlton Kings primary school planning area (D33). It is in the Cheltenham secondary school planning area (D53). These school planning areas are all referenced in the School Places Strategy.
- 2.12 The two figures below show the Oakley Farm appeal site and the individual school planning areas in more detail. Figure 1 shows the Whaddon primary school planning area (D31), and Pittville School, which is the nearest secondary. Figure 2 shows the Charlton Kings primary school planning area (D33), and Balcarras School, which is the second nearest secondary school and the closest school with post-16 provision.

Figure 1

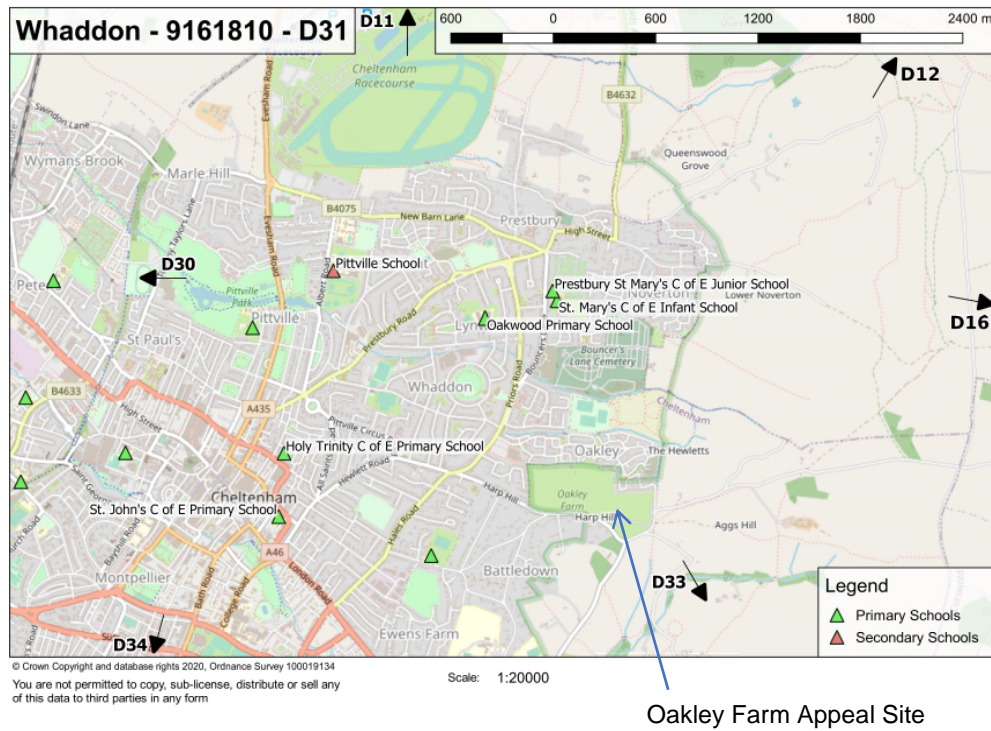
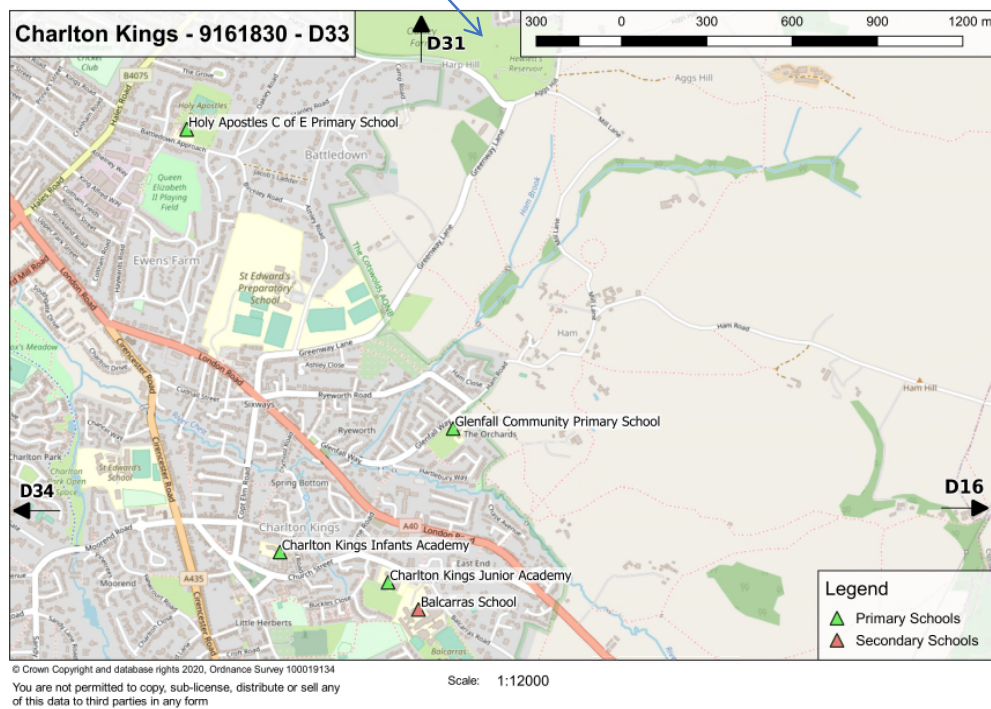


Figure 2



3.0 Planning for School Places and the Forecasting Methodology

- 3.1 The planning and organisation of school places in Gloucestershire is a complex task not least because of the size and diversity of the County. In accordance with its statutory duties, GCC commissions suitable school accommodation to support the promotion of high-quality educational standards and to ensure vulnerable learners get fair access to educational opportunities. GCC manages the impact of rising and declining pupil numbers and helps to create a diverse community of schools and providers.
- 3.2 GCC actively plans school places through its annual planning cycle of forecasting, review and change to ensure that supply is in line with existing and forecast demand and that parents are given the best possible chance of securing one of their preferences. The available data is analysed annually and the areas of greatest basic need are identified for options to increase the number of places registered with Ofsted at early years settings (child minders, private, voluntary and independent nurseries and pre-schools, etc.), and where possible to change admission numbers at schools either increasing or decreasing them to reflect the need locally.
- 3.3 GCC has published a School Places Strategy (**Appendix 3**) that sets out the pupil place needs in mainstream, state funded schools in Gloucestershire between 2021 and 2026. The strategy examines the duties placed upon GCC by the Department for Education (DfE) and its purpose is to help key stakeholders and partners understand how school places are planned and developed though out the County. The strategy is reviewed every 2 years and was last published in spring 2021.
- 3.4 The School Places Strategy report is refreshed to keep in line with latest developments. This report and the GCC forecasts do not consider non-state-funded schools, other than to assume that historical rates of admission to the independent sector will continue in future years such that projections are unaffected by them. The forecasts include pupil yield from new housing that has already been completed as reported annually to GCC by the District and Borough Councils. The forecasts do not include pupil yield from any other planned housing that has not been completed at the time when the forecasts are calculated.

- 3.5 On an annual basis the GCC's commissioning team receive updated local level data. This is used to provide revised school level pupil forecasts and identify if further provision is required for the following year.
- 3.6 GCC uses the following sources of data for its pupil forecasts: pupil numbers from the annual October DfE School Census aggregated at school level; and anonymized population data, relating to pre-school children, based upon GP patient registers in the county, which are provided by NHS England.
- 3.7 For primary school Reception year intake figures notional catchment areas have been drawn up around each primary school and the pre-school population data is aggregated by individual year groups within each of those catchment areas. We use current pupils on roll at each school to establish a proportion of pupils in successive years who have been drawn from the catchment in the past, and other patterns of inflow from outside the catchment. Age group cohorts are monitored as they progress through the school system, for example the number of 5 year olds in 2020 would be compared with 6 year olds in 2021. These growth/wastage rates are monitored for each year group from Reception to Year 6 over a 5 year period. The actual growth/waste rate applied to each age group in the forecast model is reviewed each year. The current model predicts year group changes using 1, 2, 3, 4 or 5 year averages.
- 3.8 For secondary school Year 7 intake in order to calculate an individual school forecast we take into account the historic patterns of intake to that school from County primary schools. We calculate the proportion of pupils who have transferred to that school from partner/'feeder' primary schools each year over the last five years (or three years if there has been a significant change in recent patterns of intake). We then take the current number on roll of the 'feeder' primary schools and apply an average proportion to each year group to give us an expected transfer number from each primary school. The expected transfers are totalled to give an overall figure transferring from 'feeder' primaries to that secondary school. Similar work is undertaken relating to 'non-feeder' schools that have transferred pupils to that secondary school in the past. Patterns of intake from independent schools, out of county schools and from further afield are also factored into the final projections for the school. In the secondary sector cohort survival rates are expected to be 1 i.e. no change in cohort size between Y7 and Y11. Sixth form numbers are

projected using a 'stay-on rate' for each school, based upon historic patterns of movement.

- 3.9 No major changes as a result of boundary adjustments or major rationalisation etc are expected to be included in the base forecasts. It is assumed that in/out migration from the County will be reflected in recent rates of growth or wastage in the absence of major changes in economic activity. Some relocation into Gloucestershire is expected, but this is more likely to have discernible impact at local levels.
- 3.10 The overall accuracy of this model in October 2018 was an over forecast by 0.5%. This degree of accuracy comprised a 0.3% over forecast of primary numbers and a 0.7% over forecast in the secondary sector.²
- 3.11 The underlying health data appeared to have contradicted the local level information about the increasing number of live births in some areas of the County. Upon interrogation, GCC have identified cumulative growth/wastage amongst pre-school numbers across the four year's data that we traditionally use. This is the result of migration into the county. We have successfully modelled this growth at place planning area level and applied the new model to the pre-school data from health prior to the forecasting calculations. We anticipate that this will result in greater accuracy in our long-term forecasts at place planning area level.
- 3.12 The base forecast, which does not include any pupil yield from potential development, only completed development based on the annual figures provided by the individual Local Planning Authorities, is used to formulate responses to planning applications. This approach ensures that consideration is not given to any speculative developments.
- 3.13 It is important to clarify that the forecasts within the School Place Strategy (SPS), which do include potential future developments are used for planning for future growth within the individual place planning area. The forecasts that include future developments do not feed back into the base forecasts, which are compiled from the data excluding housing as described above each time they are revised.

² Source: GCC School Capacity (SCAP 2019) submission to the Department for Education

- 3.14 The SPS provides a snapshot that is updated every two years of the rolling five year forecast. It is used by GCC for strategic and implementation planning of places at a planning area level. However, requests for financial contributions from housing developments are analysed and calculated using the latest base forecasts available for the current academic year.
- 3.15 To forecast potential additional pupils from housing developments at place planning area level, we have used data from Housing Land Supply reports produced by each of our district councils. These have identified planned housing developments which have then been linked to the most appropriate planning area. Where a S106 contribution has been secured to add capacity to a new or existing school, the number of places that will be added is shown within the S106 pupil forecast submitted in our annual School Capacity (SCAP) return to the DfE, which differs from the base forecasts for each planning area as specified by guidance. These reports identify a total housing supply over the next 5 years of 14,434 dwellings.
- 3.16 Information about expected levels of new housing from the six District/Borough Councils is also taken into account in the planning of places linked to the annual forecasts.
- 3.17 In areas where pupil numbers are increasing GCC will identify where additional places may be required, firstly taking into account any remaining surplus in the local area and then if necessary, by expanding existing schools or by commissioning new schools on new sites within the community.
- 3.18 Where new school places are required as a result of new housing developments, and where existing capacity cannot meet that requirement, the Council seeks developer contributions to address this.
- 3.19 GCC will, in all cases, consult with the head teacher, staff, governors, Academy trustees, the relevant Diocesan Authority (where appropriate) and the local community where any major re-organisation or closure of provision is proposed. Such factors as the number of available and required places, school performance, the condition and suitability of the school buildings and any site constraints as well as parental choice, community issues and resources available will be considered in respect of both general and specific place planning.

4.0 Accuracy of Pupil Forecasts

- 4.1 Forecasting future demand for school places can never be absolutely accurate given the assumptions which have to be made about movements in and out of any given locality, the pace of individual developments, patterns of occupation and not least the parental preference for places at individual schools. This will be a function of geography, school reputation, past and present achievement levels and the availability of alternative provision, hence the need to review on an annual basis.
- 4.2 The level of accuracy of forecasts can be judged by comparing them at a later date with the actual numbers of pupils on roll. The Local Authority Scorecard for 2019 published by the Department for Education (**Appendix 16**) shows that GCC's primary forecasts have a high level of accuracy to within +0.3% for one year ahead (other LAs range from -1.6% to +7.5%); and to within +1.4% for three years ahead (other LAs range from -4.7% to +12.8%).
- 4.3 The same DfE scorecard shows that GCC's secondary forecasts have a high level of accuracy to within +1.1% for one year ahead (other LAs range from -1.8% to +5.4%); and to within +2.1% for three years ahead (other LAs range from -7.7% to +15.8%).
- 4.4 In the local area around Oakley Farm, comparisons for the last four sets of forecasts (2016-based to 2019-based forecasts) looking ahead up to four years for numbers on roll in academic years 2017/18 to 2020/21 are shown below for Whaddon Primary, Charlton Kings Primary and Cheltenham Secondary planning areas. These comparisons show that the accuracy of the forecasts looking one year ahead for these planning areas range from an under-forecast of -1.4% to an over-forecast of +1.3%. The accuracy of forecasts looking two to four years ahead range from an under-forecast of -4.3% to an over-forecast of +2.2%. At this fine geographical resolution it is expected that there would be greater variability in results than at the overall GCC level. Even so, the accuracy of the forecasts at this resolution is favourable to many other LAs overall results for their whole areas.
- 4.5 Further details of the underlying forecasts, broken down to individual cohorts are provided for primary pupils (**Appendix 9**) and secondary pupils (**Appendix 10**).

Whaddon Planning Area				
Percentage difference between Forecast and Actual Number on Roll (A positive number is an over-forecast, a negative number is an under-forecast)				
Actual Year	Forecast Year			
	2016-based	2017-based	2018-based	2019-based
17/18	1.3%			
18/19	-0.2%	-1.4%		
19/20	-1.5%	-3.3%	-0.5%	
20/21	-2.9%	-4.3%	-0.3%	-0.4%

Charlton Kings Planning Area				
Percentage difference between Forecast and Actual Number on Roll (A positive number is an over-forecast, a negative number is an under-forecast)				
Actual Year	Forecast Year			
	2016-based	2017-based	2018-based	2019-based
17/18	-0.9%			
18/19	-1.4%	-0.4%		
19/20	-1.8%	-1.0%	-0.3%	
20/21	-3.3%	-2.3%	-0.9%	-0.9%

Cheltenham Secondary Planning Area				
Percentage difference between Forecast and Actual Number on Roll (A positive number is an over-forecast, a negative number is an under-forecast)				
Actual Year	Forecast Year			
	2016-based	2017-based	2018-based	2019-based
17/18	0.9%			
18/19	2.2%	0.9%		
19/20	1.1%	0.1%	0.4%	
20/21	0.2%	-0.5%	0.1%	0.1%

5.0 **Pupil Yields**

5.1 The number of pupils arising from new housing developments is known as the 'pupil yield'. The Department for Education non-statutory guidance, Securing Developer Contributions for Education (November 2019) (**Appendix 4**) (DfE guidance) states at paragraph 8 that pupil yields should be based on up-to-date evidence from recent local housing developments. It is the responsibility of a local authority to assess and determine pupil yields from development.

5.2 Pre-empting but subsequently in accordance with this guidance, in 2018 GCC commissioned a survey and report from Cognisant Research to establish updated pupil yields (also known as pupil product ratios). Cognisant are an independent team of researchers who have carried out similar exercises for other local authorities across the country. A letter from Cognisant is enclosed at **Appendix 17** For example:

- (i) Cognisant completed pupil yield studies across the county of Northamptonshire in 2011, 2014 and 2018, completing in excess of 1100 interviews on each occasion. These studies identified child yield data for new dwellings, with an additional longitudinal study undertaken to assess how yields had changed over time, targeting properties first identified in a 2005 study. The Cognisant studies have identified the number of pre-school children, as well as primary and secondary school pupils generated by dwellings of different type, size and tenure. (**Appendix 14**)
- (ii) In June 2017 Milton Keynes Council commissioned a research project to visit housing developments completed in the authority since 2012. The primary purpose of the study was to establish Pupil Product Ratios generated by new housing developments. Visiting over 5,000 dwellings, Cognisant generated 1,119 valid interviews and the collected data identified yields from specific dwellings sizes, types and tenures. The study also identified child yields, broken down by the age of the child and the year in which the household moved into the dwelling. (**Appendix 15**)

5.3 The Cognisant survey for GCC was conducted to identify the child/pupil yield from recently completed housing developments in Gloucestershire. The methodology agreed was to collect data, house by house on newly constructed housing

- developments in two of the County's local planning areas.
- 5.4 The 2018 Cognisant Research study revealed new ratios and yields that exceeded the Council's previous levels. The ratios were also higher than the national average. These levels were challenged by a number of housing developers at the time, who were considering the impact of pupil yields from future development proposals.
- 5.5 In 2019, a group of developers (Crest Nicholson, Redrow and Taylor Wimpey, coordinated by Rapleys LLP) challenged the pupil yield figures adopted by the local authority. The three developers approached GCC, to discuss the Cognisant Research survey carried out in 2018 and indicated that they felt it was unrepresentative of a wider range of developments in the county, as the scope of the survey had been limited. They requested that we work together with them to increase the scope of the survey to include other recent developments in the county, so that a more representative outcome would be produced. GCC agreed to this approach and Cognisant Research was commissioned to expand the study, to be funded by three national housing developers, coordinated by Rapleys LLP and funded by the three national housing developers: Crest Nicholson, Redrow and Taylor Wimpey.
- 5.6 All the commissioning parties, together with GCC, agreed to adopt the original research methodology. The area coverage was extended. The 2019 study Cognisant Research collected, analysed and published data from research undertaken at seven settlements, totalling 8690 dwellings (**Appendix 5**).
- 5.7 The findings from this research revealed pupil ratios in keeping with the GCC 2018 study and again greater than the national average. A post survey meeting was held with the developers who were involved in commissioning the additional survey work and the findings were explained in detail by Cognisant Research to ensure all involved were fully conversant with the outcomes. The updated pupil ratios were used to calculate education contributions for more than 80 planning applications since they were introduced in 2019 and were accepted at the planning appeal for Stoke Road, Bishop's Cleeve (APP/G1630/W/19/3229581).
- 5.8 At the recent Coombe Hill planning appeal (reference APP/G1630/W/20/3257625) the Appellant presented headline findings of a NEMS market research survey commissioned by Robert Hitchins Ltd. This report advised that a hard copy survey was posted to 7,430 residential properties and 815 responses were received,

representing an 11% response rate. Three cash prizes totalling £2,250 were offered as inducements for residents to respond. The NEMS survey was smaller than the Cognisant survey of 8,690 dwellings, which received 1,479 responses representing a response rate of 17%. A larger sample size and a higher response rate increases confidence in the precision of estimates and reduces the variability and margin for error in the results. GCC has requested a copy of the detailed report underlying the headline findings of the NEMS survey from the Appellant, but it has not been provided, and was not submitted in evidence to the Coombe Hill Planning Inquiry. The full Cognisant report was provided by GCC at Coombe Hill and appears as **Appendix 5** of this Proof of Evidence.

- 5.9 In considering the recent Coombe Hill planning appeal (reference APP/G1630/W/20/3257625), the Inspector considered the Cognisant report to be self-selecting and that the PPRs needed to have regard to discounting for home education, independent schools, vacant and second homes and household formations.
- 5.10 Accordingly, GCC has undertaken to review their PPRs comprehensively, however, this process is likely to take 6-12 months, accordingly, an Interim Position Statement has been produced (**Appendix 2**), which takes into account the comments raised by the Planning Inspector in regard to Education contributions. The Interim Position Statement (IPS) includes the datasets and assumptions that have been used to 'discount' the GCC pupil product ratio (PPRs), or pupil yield figures, from new housing developments. Discounts have been applied on a conservative basis in the IPS and it may be that the full review of PPRs could indicate that less conservative estimates for the discounts may be justified.
- 5.11 The PPRs have been discounted to take into consideration the effects on school places of home education, independent school education, vacant homes, second homes, and back-filling household formation in homes that are vacated when families move to a new development.
- 5.12 GCC keep records of home education registrations across the County, the latest figures are from 2019 (**Appendix 2**). The Covid pandemic has prevented the ability to obtain accurate data since. The data shows that there were 271 primary home education registrations and 503 secondary home education registration in 2019, compared to the total number of primary pupils of 48,020 and secondary pupils of

33,082. The effect of home education is therefore to reduce the PPRs by 0.6% for primary school places and by 1.2% for secondary school places.

- 5.13 GCC records show that in 2019 there were 799 primary pupils (2%) attending independent schools out of the total number of 48,020 primary pupils. There were 7,189 secondary pupils attending independent schools in the GCC area, which includes children from all home locations, not just GCC. The annual Independent Schools Council Census Report 2019 (**Appendix 11**) shows that between 6% and 9% of children in the South West region of England were educated at Independent schools, thus the effect of independent school education is to reduce the PPRs by 2% for primary school places and by 9% for secondary school places.
- 5.14 Council Tax records from October 2020 (**Appendix 12**) show that 2.1% of homes were vacant and 1.5% were second homes in the Gloucestershire area. Both Primary and Secondary PPRs have also been discounted by these amounts.
- 5.15 The cumulative effect of each of these discounts is to reduce the primary PPR by 6.2% from 41 places per 100 dwellings to 38.5 places per 100 dwellings; and to reduce the secondary and Post 16 PPRs by 13.8 % from 20 places per 100 dwellings to 17 places per 100 dwellings and from 7 places per 100 dwellings to 6 places per 100 dwellings respectively.
- 5.16 Concerns were raised by the Coombe Hill Planning Inspector that the 2019 PPRs take no account of the fact that some house moves take place over short distances with the result that many prospective children are already in attendance within Gloucestershire schools, or regard being given to split households. The Inspector considered that *“the County’s view that such house moves would be backfilled by new residents with equal demands on the school system is mistaken because, as is well known, average household sizes nationally are falling as a result of the fragmentation of families, delays in family formation and the greater longevity of elderly households whose children have left home.”*
- 5.17 There are no national datasets or survey results that consider such fragmentation of families or household formations that result. However, both the Census 2011 (**Appendix 2**) and the Cognisant report November 2019, provide data on the number of households that do not have any children, this would include households resulting from family fragmentation, where children have left home or are no longer

in the education system, elderly residents and adults that do not have children. That is those families that are not from fragmented households.

- 5.18 Whilst it may be the case that household sizes are falling nationally, regard must be given to the change in the nature of new housing development. Compared to historic development that is reflective of much of Cheltenham, 40% affordable housing is sought on developments such as this. Affordable housing generates more children per property than a market dwelling on average. Hence new development generally generates more pupils than is existing within the existing housing stock.
- 5.19 It is therefore considered that the PPRs already account for such household formations by virtue of the responses received and when sense checked against the Census 2011.
- 5.20 The pupil yield formula used in the GCC yield calculation for the proposed development at Oakley Farm is derived from the evidence in the GCC IPS. The discounted calculations indicate that for every 100 new dwellings there are: 38.5 primary pupils, 17 secondary pupils, and 6 post-16 pupils.
- 5.21 This development of 250 qualifying dwellings would therefore generate: 96.25 primary pupils, 42.5 secondary pupil and 15 post-16 pupils, based upon the GCC pupil yield calculations in the Interim Statement.
- 5.22 GCC is using the figure of 250 qualifying dwellings, assuming all 2 bed and above, as at the current time there is no information about the housing mix. If information is provided at a later date regarding the mix of housing, then any 1 bed dwelling could be discounted from the calculations. This can be accommodated in a wording of the s106 Agreement.

6.0 Capacity to Accommodate Pupils Generated by the Appeal Site

Primary and Secondary Schools

- 6.1 The GCC School Places Strategy (**Appendix 3**) states at paragraph B8 that *“The fundamental aim in planning school places is to provide places near to where children live, to meet parental preferences as far as possible; to locate schools at the heart of their communities and to minimise travel to school distances. Gloucestershire County Council believes that where additional school places are needed because of new housing development, as far as possible the costs should fall on the landowners and/or developers, by way of contributions falling within the concept of planning obligations.”*
- 6.2 Additionally, NPPF Para 95 states *“It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”*
- 6.3 The PGG, paragraph 23b-008 advises that *“Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas.”* It cross refers to the DfE guidance on Securing Developer Contributions for Education (November 2019), which advises at paragraph 3, that it is important that the impacts of development are adequately mitigated, requiring an understanding of, for one, the capacity of existing schools that serve the development. I address the school place planning areas that serve the appeal site below. There are clear community and social benefits in children from the same settlement attending the same school, as is recognised in the School Places Strategy.
- 6.4 Where possible, any additional school places should be located within the statutory walking distance of pupils’ home addresses. Schedule 35B of the Education and Inspections Act defines statutory walking distance eligibility. The statutory walking

distance is two miles for pupils aged up to eight years and three miles for those aged eight years and over. The statutory walking distance is measured by the shortest route along which a child, accompanied as necessary, may walk with reasonable safety.

Primary School Provision

- 6.5 The nearest primary schools to the Appeal site are the St Mary's C of E Infant School and Prestbury St Mary's C of E Junior School pair at a walking / travel distance of 0.9 miles. These schools are currently operating at capacity. The relevant primary planning areas for the Appeal site are *Whaddon* (1810) and *Charlton Kings* (1830). Maps showing these planning areas and the appeal site are included in paragraph 8.5, Figures 1 & 2 below. There is one other primary school within the statutory walking distance of 2 miles, which is Dunalley Primary School in the *Swindon Road* (1800) planning area. In total these schools are forecast to be operating at 97% capacity. Prestbury St Mary's C of E Junior School has a bulge class for September 2021, which temporarily increases its capacity from 240 to 270. Information about distances, capacity and forecasts for all relevant primary schools are shown in the table below, and there are two additional tables in 6.7 showing the subtotals for *Whaddon* (1810) and *Charlton Kings* (1830) respectively.

Planning Area 916	Primary School Name	Distance (Miles/ Walking route)	PAN	Final Capacity	2023 /24 capacity by year group PANs	2021/22	2022/23	2023/24	2024/25	% 2023/24 forecast year
1810	St Mary's C of E Infant School	0.9	60	180	180	180	179	179	179	99%
1810	Prestbury St Mary's C of E Junior School	0.9	[60]	240	270	270	270	270	270	100 %
1810	Oakwood Primary School	0.9	60	420	420	323	333	334	335	80%
1830	Holy Apostles CofE Primary School	1.1	30	210	210	213	213	212	210	101 %
1810	Holy Trinity C of E Primary School	1.3	30	210	210	200	200	201	196	96%
1810	St. John's C of E Primary School (Chelt)	1.3	29	203	203	194	196	199	199	98%
1800	Dunalley Primary School	1.5	60	420	420	408	409	407	406	97%
Schools within statutory walking distance Total			269	1883	1913	1788	1800	1802	1795	94%
1830	Glenfall Community Primary School	2.1	30	210	210	208	208	208	204	99%
1830	Charlton Kings Infant Academy	2.1	90	270	270	269	270	270	262	100 %
1830	Charlton Kings Junior School	2.2	[93]	372	372	373	374	373	372	100 %
Other schools with Primary Planning Area(s) Total			389	2735	2765	2638	2652	2653	2633	97%

6.6 Oakwood Primary School was expanded from a capacity of 315 places to 420 places using Section 106 funding contributions that have been received from earlier committed housing developments. It still has some spare capacity available as shown in the table above for additional pupils that will be generated by those sites

as they mature. It would not be appropriate for children from this Appeal site to take up places that were created using funding from another development. Information about other committed development in this area is described in paragraph 6.15 below.

6.7 Apart from Dunalley Primary School, all other primary schools in neighbouring planning areas are over the statutory walking distance of 2 miles. It is not considered to be reasonable or appropriate for primary school children to travel that distance.

6.8 The two tables below show information about distances, capacity and forecasts for all primary schools in each of the relevant primary planning areas for the appeal site showing the subtotals for *Whaddon* (1810) and *Charlton Kings* (1830) respectively.

Whaddon (1810)

Planning Area 916	Primary School Name	Distance (Miles/ Walking route)	PAN	Final Capacity	2023 /24 capacity by year group PANs	2021/22	2022/23	2023/24	2024/25	% 2023/24 forecast year
1810	St Mary's C of E Infant School	0.9	60	180	180	180	179	179	179	99%
1810	Prestbury St Mary's C of E Junior School	0.9	[60]	240	270	270	270	270	270	100%
1810	Oakwood Primary School	0.9	60	420	420	323	333	334	335	80%
1810	Holy Trinity C of E Primary School	1.3	30	210	210	200	200	201	196	96%
1810	St. John's C of E Primary School (Chelt)	1.3	29	203	203	194	196	199	199	98%
Total			179	1253	1283	1167	1178	1183	1179	94%

Charlton Kings (1830)

Planning Area 916	Primary School Name	Distance (Miles/Walking route)	PAN	Final Capacity	2023 /24 capacity by year group PANs	2021/22	2022/23	2023/24	2024/25	% 2023/24 forecast year
1830	Holy Apostles CofE Primary School	1.1	30	210	210	213	213	212	210	101%
1830	Glenfall Community Primary School	2.1	30	210	210	208	208	208	204	99%
1830	Charlton Kings Infant Academy	2.1	90	270	270	269	270	270	262	100%
1830	Charlton Kings Junior School	2.2	[93]	372	372	373	374	373	372	100%
Total			150	1062	1062	1063	1065	1063	1048	100%

Secondary School Provision

6.9 The nearest secondary school to the Appeal site is Pittville School at a walking / travel distance of 1.5 miles, the nearest sixth-form provision is at Balcarras School at a walking / travel distance of 2.3 miles. The relevant planning area is Cheltenham (2500). All of the other schools in this planning area are over the statutory walking distance of 3 miles away from the Appeal site. The schools in this planning area are forecast to be operating at capacity as shown in the table below, which is split into two parts to allow more columns to be displayed.

Planning Area 916	Estab N°	Closest Schools	Distance (Miles/Walking route)	PAN	Final Capacity	NOR Jan 2021
2500	5421	Pittville School	1.5	175	875	836
2500	5408	Balcarras School	2.3	194	1331	1405
2500	5418	Cheltenham Bournside School	3.1	300	1960	1747
2500	6905	All Saints' Academy	3.7	180	1150	948
Sub Totals for schools without selective admissions policies				849	5316	4936
2500	5403	Pate's Grammar School	3.8	150	1204	1222
Totals				999	6520	6158

Closest Schools	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	% 2026/27 forecast year
Pittville School	888	901	902	875	875	875	875	100%
Balcarras School	1400	1395	1395	1384	1378	1347	1340	101%
Cheltenham Bournside School	1778	1826	1859	1883	1890	1889	1889	96%
All Saints' Academy	990	1040	1080	1113	1126	1124	1120	98%
Sub Totals for schools without selective admissions policies	5056	5162	5236	5255	5269	5235	5224	98%
Pate's Grammar School	1249	1283	1287	1291	1282	1292	1298	107%
Totals	6305	6445	6523	6546	6551	6527	6522	100%

6.10 Not all unfilled school places should be considered “*surplus*”. The National Audit Office advises that some margin of spare school capacity is necessary to provide some flexibility for unexpected influxes of children and expressions of parental preference. The 2013 National Audit Office report Capital Funding for New School Places (**Appendix 7**).confirms that the Department for Education (DfE) considers it “*reasonable for authorities to aim for between 5 and 10 per cent primary surplus to allow them some opportunity to respond to parental choice*” (para 1.17) and that 5% is “*the bare minimum needed for authorities to meet their statutory duty with operational flexibility, while enabling parents to have some choice of schools*” (para 1.16).

6.11 In the Coombe Hill decision the Inspector referred to the Audit Commission report Trading Place: the Supply and Allocation of School Places 1997. It is unclear why he chose to use a document that even then was out of date, nevertheless he concluded that: “*a sensible approach would be to plan for a 95% occupancy rate at schools and accept some variation, say plus or minus 10% around this target. That is to say that capacity means a figure of between 85 and 105% occupancy*”. It should be noted that the Audit Commission report makes no reference to capacity meaning a figure meaning 85%-105%; the only correct reference is that one should plan for 95%.

6.12 The National Audit Office report is the most up to date guidance. It states expressly:

“Although the Department issued guidance in June 2009 that it was

reasonable for authorities to aim for between 5 and 10 per cent primary surplus to allow them some opportunity to respond to parental choice, it did not subsequently communicate to authorities its September 2010 figure of a minimum of 5 per cent surplus.” (para 1.17)

- 6.13 The Department for Education clarified that this is a planning assumption, namely that you plan for 90-95% occupancy, but accept that the reality may be a higher operational occupancy, as you are planning for a degree of flexibility within the area.
- 6.14 It is acknowledged that this is a high-level report by the National Audit Office, at paragraph 2.19 the Department for Education acknowledges that a more detailed understanding of local need was required and commenced collection of data from the local planning area level. It states at paragraph 3.17 that this data should enable a better understanding of hot spots in demand to be ascertained.
- 6.15 The GCC position is to plan for schools to operate at 95% occupancy and to request funding to expand schools when the direct impact of developments would take the occupancy above that level. Given the diverse nature of Gloucestershire, this 95% occupancy is applied across the place planning areas, including other schools within the statutory walking distances. To plan for a 95% occupancy across the entire County or even District would result in children having to travel some distance, in some cases to access school places and reduce the ability for children to gain access to their first or second choice school. Whilst it is accepted that schools may need to have an operational capacity of over 95%, even potentially over 100% from time to time, it would not be good practice to plan for schools to operate at this high level of occupancy because there would be no flexibility for parental preference; in-year admissions when children move into the area part way through a phase of education; or when pupil generation exceeds the forecasted level, in accordance with the Department for Education guidance. This approach ensures that GCC can fulfil its statutory function as the Local Education Authority and ensure a school place for any person seeking one.
- 6.16 If school places were to be planned on the basis of 100% occupancy and this was achieved or exceeded then any child moving into the area part way through a phase of education, either into the new housing development or into a house in the existing local community, would not be able to attend a school in their local planning

area, but would need to travel to a more distant school. With pressure upon the number of school places from new housing across Cheltenham this could mean a significantly long journey to the nearest planning area with available spaces. Pupils sometimes need to change schools for an educational reason or another reason unrelated to a house move. These children may not be able to access an in-year admission place at a local school either if they were operating at 100%+ capacity.

- 6.17 As can be seen from the above tables, there is no surplus capacity within either the primary or secondary place planning area. As will be discussed below, GCC are assessing capacity on a place planning area capacity basis. However, within the Coombe Hill Inspectors Report, the Inspector considered both the cumulative capacity within the place planning area, and as an alternative, not a second step, capacity within individual schools within the place planning area.
- 6.18 For completeness, and to assist the Inspector, we have also considered the capacity of individual schools.
- 6.19 The Oakwood Primary School forecast shows 334 pupils (80%) against a capacity of 420 places. This is because Oakwood was expanded from a capacity of 315 places to meet additional demand identified in the Cheltenham Primary Review. The additional demand from committed (already approved) housing developments is expected to generate increased numbers of pupils in future years so the spare places currently at Oakwood will not be available to accommodate additional children from Oakley Farm.
- 6.20 At secondary level there is currently some surplus capacity available at Bournside School because it was expanded from 9 forms of entry to 10 forms of entry in September 2018 using funding from five housing developments in Charlton Lane, Cold Pool Lane and St Georges Road. The additional pupils generated by committed housing developments in the area are expected to fill this capacity in future years.
- 6.21 Ms Fitzgerald's GCC Planning Proof of Evidence lists committed housing developments totalling 495 dwellings (**Appendix 13**) that are either currently under-construction or about to commence on site and will impact primary or secondary schools in Cheltenham. Of those committed developments, there will be 186 dwellings within the relevant primary planning areas and 450 dwellings within

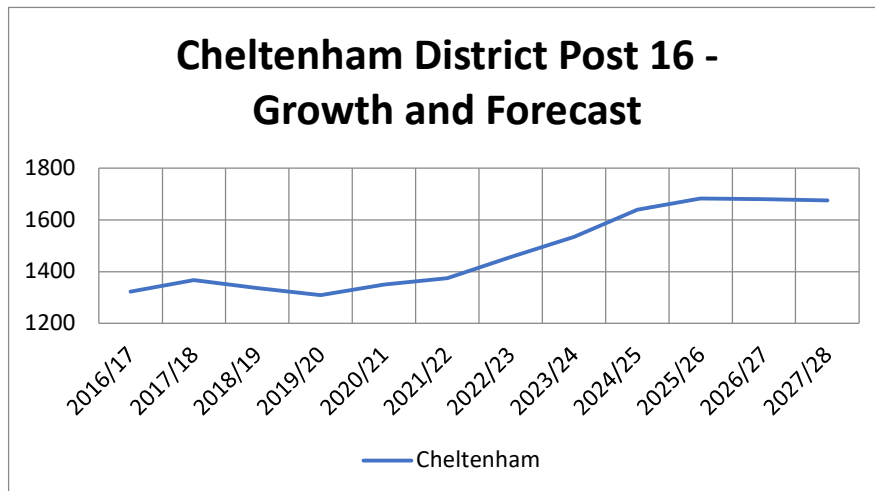
Cheltenham Secondary Planning area, with discounts made for any 1no. bed dwellings within the developments. These are anticipated to generate demand for an additional 71.61 primary school places and 76.5 secondary school places.

- 6.22 As a result of this additional demand on the place planning areas the cumulative capacity for the primary planning areas will increase to 99% and the secondary planning area to 101%. Both result in no flexibility being available within this locality to allow for parental choice or changes in circumstance during the academic year if required.
- 6.23 Additionally, consideration needs to be given to the site allocations within the JCS and Cheltenham Plan, as those within the vicinity of these place planning areas will also have an impact on the capacity within these schools.

Post-16 Provision

- 6.24 There is forecast to be growth in demand for post 16 places at Balcarras School, and generally in the Cheltenham secondary planning area (**Appendix 6**), arising from committed housing developments in the area. The forecast increase in demand for post 16 places by 2026/27 will need to be addressed by the provision of further dedicated accommodation, alongside the Years 7-11 additional accommodation. The table and graph below show the forecast increase in requirement for post-16 places across the Cheltenham Secondary Planning Area during the forecast period until 2027/28.

	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Balcarras School	384	391	395	411	408	377	370
Cheltenham	1374	1457	1534	1639	1683	1680	1675
Gloucestershire	6684	7107	7619	8181	8487	8631	8686



- 6.25 In September 2019 Balcarras submitted a case report to the Regional Schools Commissioner (RSC) to expand their Post 16 provision (**Appendix 8**). Decisions on Post 16 provision are the responsibility of the RSC, not the LEA. Balcarras consulted the local community on the proposal to expand, and the need for extra places is even more pressing now than it was in 2019. A significant number of students move from Pittville School, which doesn't have a sixth form, to Balcarras and the numbers doing so are likely to increase even more if Oakley Farm is developed. The Post 16 expansion proposal was supported by the RSC in 2019 but there were insufficient funds available for the expansion, so additional resources will be needed in order to implement it.
- 6.26 It is possible that some pupils from the new development may apply to and attend independent schools that are not state funded. Whether in fact this will occur is speculative particularly due to the high performance of local state schools. However, these independent schools have no effect on either the pupil forecasts, where both historical numbers and consequently future projections exclude those pupils. The pupil yield ratios have already been discounted from the number of pupils that were recorded in the household survey to take account of pupils that may attend an independent school.
- 6.27 The secondary contribution from the Oakley Farm site would be used to provide additional accommodation at Pittville School, whilst the post-16 contribution would be used to provide additional sixth form accommodation at Balcarras School. Additional specialist accommodation, such as indoor sports facilities, may be

required at Pittville School as well as additional classroom space in order to make it feasible to expand the school. If it is not possible to expand these schools, for example if agreement was not reached with the relevant Academy Trusts at the time, then the funding would be used to expand another school in the Cheltenham Planning Area. Both the number of secondary school aged pupils moving into the development, and the number of primary pupils aging up into secondary phase will be monitored in the annual forecast updates to ensure that new secondary school places are provided when they are needed. The demand for places will not appear immediately, it is likely to continue to increase steadily to a peak and plateau as much as fifteen years after the final house is completed.

Early Years Provision

- 6.28 According to DfE guidance 2019, GCC has a duty to ensure early years childcare provision within the terms set out in the Childcare Acts 2006 and 2016 (referred to above). The DfE has scaled up state-funded early years places since 2010, including the introduction of funding for eligible 2 year olds and the 30 hours funded childcare offer for all 3-4 year olds. The take-up has been high with the Summer 2020 Headcount in Gloucestershire recording that 92% of three and four-year-olds and 68% of two-year-olds accessed their funded entitlement, which has increased the demand for early years provision in most areas. Consequently developer contributions are necessary to fund those additional nursery places required as a result of housing growth.
- 6.29 However, GCC has withdrawn its request for a financial contribution to enable additional nursery or pre-school places to be provided from the appellant in this case. As described in the GCC Interim Position Statement, no pre-school contributions will be sought from housing developments during this interim stage, until the full review of pupil yields has been completed.

7.0 Level of Contribution Required

- 7.1 The DfE has not produced updated Place Cost Multipliers since 2008/09, so in the subsequent years GCC has applied the annual percentage increase or decrease in the RICS BCIS Public Sector Tender Price Index (BCIS All In TPI from 2019/20) during the previous 12 months to produce a revised annual cost multiplier in line with current building costs, as per our standard drafting of GCC's planning obligations. We calculate the percentage increase using the BCIS indices published at the start of the financial year and use this for all indexation calculations during the year for consistency and transparency, in accordance with the guidance set out in the GCC Local Developer Guide. This is the approach that has generally been taken by LAs across the country since 2010.
- 7.2 At the 2020/21 value of the index GCC seeks a cumulative education contribution of £2,602,127.50 to meet demand generated by this development of 250 qualifying dwellings.
- 7.3 This total comprises £1,439,322.50 towards primary school provision (96.25 places x £14,954 per place); £820,760 towards secondary school provision (42.5 places x £19,312 per place); and £342,045 towards post-16 provision (15 places x £22,803 per place).
- 7.4 The Appellant has advised that 24no. dwellings are to be 1 bed units. Should this be secured, the contribution would be reduced as follows:

Primary	(87 places x £14,954 per place)	£1,300,998
Secondary	(38.42 places x £19,312 per place)	£741,967
6 th Form	(15 places x £22,803 per place)	£342,045

8.0 Conclusions

- 8.1 The number of places required and the cost per place is clearly laid out by the County Council. This represents a true capital cost of providing the places required arising from this development summarised in the following table.
- 8.2 To meet the demand arising from the development the local authority will need to provide:
- a. 96.25 primary places at St Mary's Infant and Junior Schools, Prestbury or another school in the *Whaddon* Primary Planning Area (at £14,954 per place) total £1,439,322.50; and
 - b. 42.5 secondary places to be provided at Pittville School or another school in the *Cheltenham* Secondary Planning Area (at £19,312 per place) total £820,760; and
 - c. 15 post-16 places to be provided at Balcarras School or another school in the *Cheltenham* Secondary Planning Area (at £22,803 per place) total £342,045.
- 8.3 Absent the additional places proposed by the County Council, the education need from this development could not be met within reasonable travel distance from the appeal site.
- 8.4 The total cost of providing the additional places arising from this development is substantial (£2,602,127.50 indexed at 2020/21 prices) and funding is required in advance of housing development becoming occupied.

9.0 Declarations

Statement of Truth

- 9.1 I confirm that, in so far as the facts stated in my Evidence, are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions expressed represent my true and complete professional opinion.

Declaration

- 9.2 I confirm that my Proof of Evidence includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matters which would affect the validity of those opinions.
- 9.3 I can confirm that my duty to the Planning Inspector as an Expert Witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 9.4 I confirm that I am not instructed under any conditional fee arrangement.
- 9.5 I can confirm that I have no conflicts of interest of any kind.

APPENDIX 1



Childcare Act 2006

CHAPTER 21

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

£12.00



Childcare Act 2006

CHAPTER 21

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Childcare Act 2006

2006 CHAPTER 21

An Act to make provision about the powers and duties of local authorities and other bodies in England in relation to the improvement of the well-being of young children; to make provision about the powers and duties of local authorities in England and Wales in relation to the provision of childcare and the provision of information to parents and other persons; to make provision about the regulation and inspection of childcare provision in England; to amend Part 10A of the Children Act 1989 in relation to Wales; and for connected purposes. [11th July 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

GENERAL FUNCTIONS OF LOCAL AUTHORITY: ENGLAND

Improvement of young children's well-being

1 General duties of local authority in relation to well-being of young children

- (1) An English local authority must—
 - (a) improve the well-being of young children in their area, and
 - (b) reduce inequalities between young children in their area in relation to the matters mentioned in subsection (2).
- (2) In this Act “well-being”, in relation to children, means their well-being so far as relating to—
 - (a) physical and mental health and emotional well-being;
 - (b) protection from harm and neglect;
 - (c) education, training and recreation;

- (d) the contribution made by them to society;
 - (e) social and economic well-being.
- (3) The Secretary of State may, in accordance with regulations, set targets for –
 - (a) the improvement of the well-being of young children in the area of an English local authority;
 - (b) the reduction of inequalities between young children in the area of an English local authority in relation to the matters mentioned in subsection (2).
- (4) In exercising their functions, an English local authority must act in the manner that is best calculated to secure that any targets set under subsection (3) (so far as relating to the area of the local authority) are met.
- (5) In performing their duties under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.

2 Meaning of “early childhood services” for purposes of section 3

- (1) In section 3 “early childhood services”, in relation to an English local authority, means –
 - (a) early years provision;
 - (b) the social services functions of the local authority, so far as relating to young children, parents or prospective parents;
 - (c) health services relating to young children, parents or prospective parents;
 - (d) the provision, under arrangements made under section 2 of the Employment and Training Act 1973 (c. 50), of assistance to parents or prospective parents;
 - (e) the service provided by the local authority under section 12 (duty to provide information and assistance) so far as relating to parents or prospective parents.
- (2) In this section –
 - “parent” means a parent of a young child, and includes any individual who –
 - (a) has parental responsibility for a young child, or
 - (b) has care of a young child;
 - “prospective parent” means a pregnant woman or any other person who is likely to become, or is planning to become, a parent;
 - “social services functions”, in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970 (c. 42).

3 Specific duties of local authority in relation to early childhood services

- (1) For the purpose of their general duty under section 1(1), an English local authority have the further duties imposed by subsections (2) and (3).
- (2) The authority must make arrangements to secure that early childhood services in their area are provided in an integrated manner which is calculated to –
 - (a) facilitate access to those services, and
 - (b) maximise the benefit of those services to parents, prospective parents and young children.

- (3) The authority must take steps –
 - (a) to identify parents or prospective parents in the authority’s area who would otherwise be unlikely to take advantage of early childhood services that may be of benefit to them and their young children, and
 - (b) to encourage those parents or prospective parents to take advantage of those services.
- (4) An English local authority must take all reasonable steps to encourage and facilitate the involvement in the making and implementation of arrangements under this section of –
 - (a) parents and prospective parents in their area,
 - (b) early years providers in their area, including those in the private and voluntary sectors, and
 - (c) other persons engaged in activities which may improve the well-being of young children in their area.
- (5) In discharging their duties under this section, an English local authority must have regard to such information about the views of young children as is available to the local authority and appears to them to be relevant to the discharge of those duties.
- (6) In discharging their duties under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.
- (7) In this section –
 - “early years provider” has the same meaning as in Part 3;
 - “parent” and “prospective parent” have the same meaning as in section 2.

4 Duty of local authority and relevant partners to work together

- (1) For the purposes of this section each of the following is a relevant partner of an English local authority –
 - (a) a Strategic Health Authority or Primary Care Trust for an area any part of which falls within the area of the local authority;
 - (b) the Secretary of State, in relation to his functions under section 2 of the Employment and Training Act 1973 (c. 50).
- (2) An English local authority must make arrangements to work with each of the authority’s relevant partners in the performance by the authority of their duties under sections 1 and 3.
- (3) Each of the relevant partners of an English local authority must work with the authority and with the other relevant partners in the making of the arrangements.
- (4) An English local authority and each of their relevant partners may for the purposes of arrangements under this section –
 - (a) provide staff, goods, services, accommodation or other resources;
 - (b) establish and maintain a pooled fund.
- (5) For the purposes of subsection (4) a pooled fund is a fund –
 - (a) which is made up of contributions by the authority and the relevant partner or partners concerned, and

- (b) out of which payments may be made towards expenditure incurred in the discharge of functions of the authority and functions of the relevant partner or partners.
- (6) An English local authority and each of their relevant partners falling within subsection (1)(a) must, in exercising their functions under this section, have regard to any guidance given from time to time by the Secretary of State.

5 Power to amend sections 2 and 4

The Secretary of State may by order –

- (a) amend the definition of “early childhood services” in section 2(1), and
- (b) in connection with any amendment of that definition, make such other amendments of section 2 or 4 as appear to him to be necessary or expedient.

Provision of childcare

6 Duty to secure sufficient childcare for working parents

- (1) An English local authority must 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 who require childcare in order to enable them –
 - (a) to take up, or remain in, work, or
 - (b) to undertake education or training which could reasonably be expected to assist them to obtain work.
- (2) In determining for the purposes of subsection (1) whether the provision of childcare is sufficient to meet those requirements, a local authority –
 - (a) must have regard to the needs of parents in their area for –
 - (i) the provision of childcare in respect of which the child care element of working tax credit is payable, and
 - (ii) the provision of childcare which is suitable for disabled children, and
 - (b) may have regard to any childcare which they expect to be available outside their area.
- (3) In discharging their duty under subsection (1), a local authority must have regard to any guidance given from time to time by the Secretary of State.
- (4) The Secretary of State may by order amend subsection (2) (and subsection (6) so far as relating to that subsection) so as to modify the matters to which a local authority must or may have regard in determining whether the provision of childcare is sufficient.
- (5) Except in relation to a disabled child, this section does not apply in relation to childcare for a child on or after the 1st September next following the date on which he attains the age of 14.
- (6) In this section –
 - “child care element”, in relation to working tax credit, is to be read in accordance with section 12 of the Tax Credits Act 2002 (c. 21);
 - “disabled child” means a child who has a disability for the purposes of the Disability Discrimination Act 1995 (c. 50);

“parent” includes any individual who –

- (a) has parental responsibility for a child, or
- (b) has care of a child.

7 Duty to secure prescribed early years provision free of charge

- (1) An English local authority must secure that early years provision of a prescribed description is available free of charge for such periods as may be prescribed for each young child in their area who –
 - (a) has attained such age as may be prescribed, but
 - (b) is under compulsory school age.
- (2) In discharging their duty under subsection (1), a local authority must have regard to any guidance given from time to time by the Secretary of State.

8 Powers of local authority in relation to the provision of childcare

- (1) An English local authority may –
 - (a) assist any person who provides or proposes to provide childcare;
 - (b) make arrangements with any other person for the provision of childcare;
 - (c) subject to subsection (3), provide childcare.
- (2) The assistance which a local authority may give under subsection (1)(a) includes financial assistance; and the arrangements which a local authority may make under subsection (1)(b) include arrangements involving the provision of financial assistance by the authority.
- (3) An English local authority may not provide childcare for a particular child or group of children unless the local authority are satisfied –
 - (a) that no other person is willing to provide the childcare (whether in pursuance of arrangements made with the authority or otherwise), or
 - (b) if another person is willing to do so, that in the circumstances it is appropriate for the local authority to provide the childcare.
- (4) Subsection (3) does not affect the provision of childcare by the governing body of a maintained school.
- (5) Subsection (3) does not apply in relation to the provision of childcare under section 18(1) or (5) of the Children Act 1989 (c. 41) (day care for children in need).
- (6) In exercising their functions under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.

9 Arrangements between local authority and childcare providers

- (1) This section applies where an English local authority make arrangements with a person (other than the governing body of a maintained school) for the provision by that person of childcare in consideration of financial assistance provided by the authority under the arrangements.
- (2) The local authority must exercise their functions with a view to securing that the provider of the childcare meets any requirements imposed on him by the arrangements.

- (3) The requirements imposed by the arrangements may, in particular, if any specified conditions are not satisfied, require the repayment of the whole or any part of any financial assistance provided by the local authority under the arrangements.

10 Charges where local authority provide childcare

- (1) An English local authority may enter into an agreement under which payments are made to the authority for the provision by the authority of childcare for a child.
- (2) Subsection (1) does not apply –
 - (a) to childcare provided in pursuance of the duty imposed by section 7, or
 - (b) to childcare provided under section 18(1) or (5) of the Children Act 1989 (c. 41) (day care for children in need), provision as to charges for such care being made by section 29 of that Act.

11 Duty to assess childcare provision

- (1) An English local authority must prepare assessments of the sufficiency of the provision of childcare (whether or not by them) in their area (“childcare assessments”).
- (2) The first childcare assessment must be prepared before the end of the period of one year beginning with the commencement of this section.
- (3) Subsequent childcare assessments must be prepared at intervals not exceeding three years.
- (4) The authority must keep a childcare assessment prepared by them under review until the childcare assessment is superseded by a further childcare assessment.
- (5) Regulations may make provision requiring a childcare assessment –
 - (a) to deal with prescribed matters or be prepared according to prescribed criteria;
 - (b) to be in the prescribed form;
 - (c) to be published in the prescribed manner.
- (6) In preparing a childcare assessment and keeping it under review, an English local authority must –
 - (a) consult such persons, or persons of such a description, as may be prescribed, and
 - (b) have regard to any guidance given from time to time by the Secretary of State.
- (7) Subsection (5) of section 6 applies for the purposes of this section as it applies for the purposes of that section.

Information, advice and assistance

12 Duty to provide information, advice and assistance

- (1) An English local authority must establish and maintain a service providing information, advice and assistance in accordance with this section.

- (2) The service must provide to parents or prospective parents information which is of a prescribed description and relates to any of the following –
 - (a) the provision of childcare in the area of the local authority;
 - (b) any other services or facilities, or any publications, which may be of benefit to parents or prospective parents in their area;
 - (c) any other services or facilities, or any publications, which may be of benefit to children or young persons in their area.
- (3) In prescribing information for the purpose of subsection (2), the Secretary of State must have regard to the needs of the parents of disabled children or young persons for information relating to –
 - (a) the provision of childcare which is suitable for disabled children, and
 - (b) other services or facilities, or publications, which may be of particular benefit to the parents of disabled children or young persons or to disabled children or young persons.
- (4) The service may, in addition to providing information which it is required to provide under subsection (2), provide information relating to any of the matters mentioned in paragraphs (a) to (c) of that subsection to such persons as the local authority consider appropriate.
- (5) The service must provide advice and assistance to parents or prospective parents who use, or propose to use, childcare provided in the area of the local authority.
- (6) The service must be established and maintained in the manner which is best calculated to facilitate access to the service by persons in the local authority's area who may benefit from it, including, in particular, persons who might otherwise have difficulty in taking advantage of the service.
- (7) In exercising their functions under this section, a local authority must have regard to any guidance given from time to time by the Secretary of State.
- (8) For the purposes of this section, a child or young person is disabled if he has a disability for the purposes of the Disability Discrimination Act 1995 (c. 50).
- (9) In this section –
 - “parent” means a parent of a child or young person and includes any individual who –
 - (a) has parental responsibility for a child, or
 - (b) has care of a child;
 - “prospective parent” means a pregnant woman or any other person who is likely to become, or is planning to become, a parent;
 - “young person” means a person who has attained the age of 18 but has not attained the age of 20.

13 Duty to provide information, advice and training to childcare providers

- (1) An English local authority must, in accordance with regulations, secure the provision of information, advice and training to –
 - (a) persons providing childcare in their area who are registered under Part 3;
 - (b) persons who intend to provide childcare in their area in respect of which they will be required to be registered under Part 3;

- (c) persons who provide childcare at any of the following schools in their area (whether or not they are required to be registered under Part 3) –
 - (i) a maintained school,
 - (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools),
 - (iii) an independent school;
 - (d) persons who intend to provide childcare at any such school (whether or not they would be required to be registered under Part 3);
 - (e) persons who are employed to assist any such persons as are mentioned in paragraph (a) or (c) in the provision of childcare or persons who intend to obtain such employment.
- (2) An English local authority may, in addition to securing the provision of information, advice and training which they are required to secure under subsection (1), provide other information, advice and training to any persons mentioned in paragraphs (a) to (e) of that subsection.
 - (3) An English local authority may provide information, advice and training to persons who do not fall within any of paragraphs (a) to (e) of subsection (1) but who –
 - (a) provide or intend to provide childcare in their area, or
 - (b) are employed to assist in the provision of childcare in their area or who intend to obtain such employment.
 - (4) An English local authority may impose such charges as they consider reasonable for the provision of information, advice or training provided by them in pursuance of subsection (1), (2) or (3).
 - (5) In exercising their functions under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.

Miscellaneous

14 Inspection

For the purposes of section 38 of the Education Act 1997 (c. 44) (inspection of local education authorities), the functions conferred on an English local authority by or under this Part are to be regarded as functions conferred on a local education authority in their capacity as such.

15 Powers of Secretary of State to secure proper performance etc.

- (1) Section 496 of the 1996 Act (powers of Secretary of State to prevent unreasonable exercise of functions) applies in relation to an English local authority and the powers conferred or duties imposed on them by or under this Part as it applies in relation to a local education authority in England and the powers conferred or duties imposed on them by or under the 1996 Act.
- (2) Section 497 of the 1996 Act (general default powers) applies in relation to the duties imposed on an English local authority by or for the purposes of this Part as it applies in relation to the duties imposed on a local education authority in England by or for the purposes of the 1996 Act.

- (3) Section 497A of the 1996 Act (power to secure proper performance of LEA's functions) applies in relation to an English local authority's functions under this Part as it applies in relation to the functions of a local education authority in England mentioned in subsection (1) of that section.
- (4) Sections 497AA and 497B of the 1996 Act apply accordingly where powers under section 497A of that Act are exercised in relation to any of the functions of an English local authority under this Part.
- (5) In the application of sections 497A(2) to (7), 497AA and 497B of the 1996 Act in relation to an English local authority's functions under this Part, references to the local education authority are to be read as references to the local authority.
- (6) In subsection (5) of section 497A of the 1996 Act, the reference to functions to which that section applies includes (for all purposes) functions of an English local authority under this Part.
- (7) In this section, "the 1996 Act" means the Education Act 1996 (c. 56).

16 Amendments of Children Act 2004

- (1) The Children Act 2004 (c. 31) is amended as follows.
- (2) In section 18 (director of children's services), in subsection (2) –
 - (a) omit the "and" at the end of paragraph (d), and
 - (b) after paragraph (e) insert "and
 - (f) the functions conferred on the authority under Part 1 of the Childcare Act 2006."
- (3) In section 23 (interpretation), in subsection (3) (which defines "children's services") –
 - (a) omit the "and" at the end of paragraph (b), and
 - (b) after paragraph (c) insert "and
 - (d) any function conferred on a local authority under Part 1 of the Childcare Act 2006."

17 Charges for early years provision at maintained school

- (1) Section 451 of the Education Act 1996 (prohibition of charges for provision of education) is amended as follows.
- (2) After subsection (2) insert –
 - "(2A) Regulations may, in relation to England, prescribe circumstances in which subsection (2) does not apply in relation to education which is early years provision (as defined by section 20 of the Childcare Act 2006) other than –
 - (a) early years provision provided in pursuance of the duty imposed by section 7 of that Act, or
 - (b) early years provision for a pupil who is of compulsory school age."
- (3) In subsection (4) after paragraph (b) insert "or
- (c) provided in pursuance of the duty imposed by section 7 of the Childcare Act 2006."

*Interpretation***18 Meaning of childcare**

- (1) This section applies for the purposes of this Part and Part 3.
- (2) “Childcare” means any form of care for a child and, subject to subsection (3), care includes—
 - (a) education for a child, and
 - (b) any other supervised activity for a child.
- (3) “Childcare” does not include—
 - (a) education (or any other supervised activity) provided by a school during school hours for a registered pupil who is not a young child, or
 - (b) any form of health care for a child.
- (4) “Childcare” does not include care provided for a child by—
 - (a) a parent or step-parent of the child;
 - (b) a person with parental responsibility for the child;
 - (c) a relative of the child;
 - (d) a person who is a local authority foster parent in relation to the child;
 - (e) a person who is a foster parent with whom the child has been placed by a voluntary organisation;
 - (f) a person who fosters the child privately.
- (5) “Childcare” does not include care provided for a child if the care—
 - (a) is provided in any of the following establishments as part of the establishment’s activities—
 - (i) an appropriate children’s home,
 - (ii) a care home,
 - (iii) a hospital in which the child is a patient,
 - (iv) a residential family centre, and
 - (b) is so provided by the person carrying on the establishment or a person employed to work at the establishment.
- (6) The reference in subsection (5)(b) to a person who is employed includes a reference to a person who is employed under a contract for services.
- (7) “Childcare” does not include care provided for a child who is detained in—
 - (a) a young offender institution, or
 - (b) a secure training centre.
- (8) In this section—
 - (a) “appropriate children’s home”, “local authority foster parent”, “to foster a child privately” and “voluntary organisation” have the same meaning as in the Children Act 1989 (c. 41);
 - (b) “care home”, “hospital” and “residential family centre” have the same meaning as in the Care Standards Act 2000 (c. 14);
 - (c) “relative”, in relation to a child, means a grandparent, aunt, uncle, brother or sister, whether of the full blood or half blood or by marriage or civil partnership.

19 Meaning of “young child”

For the purposes of this Part and Part 3, a child is a “young child” during the period –

- (a) beginning with his birth, and
- (b) ending immediately before the 1st September next following the date on which he attains the age of five.

20 Meaning of “early years provision”

In this Part “early years provision” means the provision of childcare for a young child.

21 Interpretation of Part 1

In this Part –

- “childcare” has the meaning given by section 18;
- “early years provision” has the meaning given by section 20;
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the Secretary of State;
- “young child” has the meaning given by section 19.

PART 2

GENERAL FUNCTIONS OF LOCAL AUTHORITY: WALES

Provision of childcare

22 Duty to secure sufficient childcare for working parents

- (1) A Welsh local authority must 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 who require childcare in order to enable them –
 - (a) to take up, or remain in, work, or
 - (b) to undertake education or training which could reasonably be expected to assist them to obtain work.
- (2) In determining for the purposes of subsection (1) whether the provision of childcare is sufficient to meet those requirements, a local authority –
 - (a) must have regard to the needs of parents in their area for –
 - (i) the provision of childcare in respect of which the child care element of working tax credit is payable,
 - (ii) the provision of childcare which is suitable for disabled children, and
 - (iii) the provision of childcare involving the use of the Welsh language, and
 - (b) may have regard to any childcare which they expect to be available outside their area.
- (3) In discharging their duty under subsection (1), a local authority must have regard to any guidance given from time to time by the Assembly.

- (4) The Assembly may by order amend subsection (2) (and subsection (6) so far as relating to that subsection) so as to modify the matters to which a local authority must or may have regard in determining whether the provision of childcare is sufficient.
- (5) Except in relation to a disabled child, this section does not apply in relation to childcare for a child on or after the 1st September next following the date on which he attains the age of 14.
- (6) In this section –
 - “child care element”, in relation to working tax credit, is to be read in accordance with section 12 of the Tax Credits Act 2002 (c. 21);
 - “disabled child” means a child who has a disability for the purposes of the Disability Discrimination Act 1995 (c. 50);
 - “parent” includes any individual who –
 - (a) has parental responsibility for a child, or
 - (b) has care of a child.

23 Powers of local authority in relation to the provision of childcare

- (1) A Welsh local authority may –
 - (a) assist any person who provides or proposes to provide childcare;
 - (b) make arrangements with any other person for the provision of childcare;
 - (c) provide childcare.
- (2) The assistance which a local authority may give under subsection (1)(a) includes financial assistance; and the arrangements which a local authority may make under subsection (1)(b) include arrangements involving the provision of financial assistance by the authority.
- (3) In exercising their functions under this section, a Welsh local authority must have regard to any guidance given from time to time by the Assembly.

24 Arrangements between local authority and childcare providers

- (1) This section applies where a Welsh local authority make arrangements with a person (other than the governing body of a maintained school) for the provision by that person of childcare in consideration of financial assistance provided by the authority under the arrangements.
- (2) The local authority must exercise their functions with a view to securing that the provider of the childcare meets any requirements imposed on him by the arrangements.
- (3) The requirements imposed by the arrangements may, in particular, if any specified conditions are not satisfied, require the repayment of the whole or any part of any financial assistance provided by the local authority under the arrangements.

25 Charges where local authority provide childcare

- (1) A Welsh local authority may enter into an agreement under which payments are made to the authority for the provision by the authority of childcare for a child.

- (2) Subsection (1) does not apply to childcare provided under section 18 of the Children Act 1989 (c. 41) (day care for pre-school and other children), provision as to charges for such care being made by section 29 of that Act.

26 Power to require local authority to assess childcare provision

- (1) The Assembly may by regulations require a Welsh local authority to—
 - (a) prepare assessments at prescribed intervals of the sufficiency of the provision of childcare (whether or not by them) in their area;
 - (b) review any such assessment prepared by them.
- (2) Regulations under subsection (1) may make provision for the manner in which an assessment or review is to be prepared and, in particular, may require the local authority to—
 - (a) consult such persons, or persons of such a description, as may be prescribed, and
 - (b) have regard to any guidance given from time to time by the Assembly.
- (3) Subsection (5) of section 22 applies for the purposes of this section as it applies for the purposes of that section.

Information, advice and assistance

27 Duty to provide information, advice and assistance

- (1) A Welsh local authority must establish and maintain a service providing information, advice and assistance in accordance with this section.
- (2) The service must provide to parents or prospective parents information which is of a prescribed description and relates to any of the following—
 - (a) the provision of childcare in the area of the local authority;
 - (b) any other services or facilities, or any publications, which may be of benefit to parents or prospective parents in their area;
 - (c) any other services or facilities, or any publications, which may be of benefit to children or young persons in their area.
- (3) In prescribing information for the purpose of subsection (2), the Assembly must have regard to the needs of the parents of disabled children or young persons for information relating to—
 - (a) the provision of childcare which is suitable for disabled children, and
 - (b) other services or facilities, or publications, which may be of particular benefit to the parents of disabled children or young persons or to disabled children or young persons.
- (4) The service may, in addition to providing information which it is required to provide under subsection (2), provide information relating to any of the matters mentioned in paragraphs (a) to (c) of that subsection to such persons as the local authority consider appropriate.
- (5) The service must provide advice and assistance to parents or prospective parents who use, or propose to use, childcare provided in the area of the local authority.
- (6) The service must be established and maintained in the manner which is best calculated to facilitate access to the service by persons in the local authority's

area who may benefit from it, including, in particular, persons who might otherwise have difficulty in taking advantage of the service.

- (7) In exercising their functions under this section, a local authority must have regard to any guidance given from time to time by the Assembly.
- (8) For the purposes of this section, a child or young person is disabled if he has a disability for the purposes of the Disability Discrimination Act 1995 (c. 50).
- (9) In this section –
 - “parent” means a parent of a child or young person and includes any individual who –
 - (a) has parental responsibility for a child, or
 - (b) has care of a child;
 - “prospective parent” means a pregnant woman or any other person who is likely to become, or is planning to become, a parent;
 - “young person” means a person who has attained the age of 18 but has not attained the age of 20.

Miscellaneous

28 Inspection

For the purposes of section 38 of the Education Act 1997 (c. 44) (inspection of local education authorities), the functions conferred on a Welsh local authority by or under this Part are to be regarded as functions conferred on a local education authority in their capacity as such.

29 Powers of Assembly to secure proper performance etc.

- (1) Section 496 of the 1996 Act (power to prevent unreasonable exercise of functions) applies in relation to a Welsh local authority and the powers conferred or duties imposed on them by or under this Part as it applies in relation to a local education authority in Wales and the powers conferred or duties imposed on them by or under the 1996 Act.
- (2) Section 497 of the 1996 Act (general default powers) applies in relation to the duties imposed on a Welsh local authority by or for the purposes of this Part as it applies in relation to the duties imposed on a local education authority in Wales by or for the purposes of the 1996 Act.
- (3) Section 497A of the 1996 Act (power to secure proper performance of LEA’s functions) applies in relation to a Welsh local authority’s functions under this Part as it applies in relation to the functions of a local education authority in Wales mentioned in subsection (1) of that section.
- (4) Sections 497AA and 497B of the 1996 Act apply accordingly where powers under section 497A of that Act are exercised in relation to any of the functions of a Welsh local authority under this Part.
- (5) In the application of sections 497A(2) to (7), 497AA and 497B of the 1996 Act in relation to a Welsh local authority’s functions under this Part, references to the local education authority are to be read as references to the local authority.

- (6) In subsection (5) of section 497A of the 1996 Act, the reference to functions to which that section applies includes (for all purposes) functions of a Welsh local authority under this Part.
- (7) In this section, “the 1996 Act” means the Education Act 1996 (c. 56).

Interpretation

30 Interpretation of Part 2

In this Part—

“childcare” means—

- (a) child minding or day care within the meaning of Part 10A of the Children Act 1989 (c. 41) in respect of which the provider is required to be registered under that Part;
- (b) care provided by a person of a description approved in accordance with a scheme made by the Assembly under section 12(5) of the Tax Credits Act 2002 (c. 21);

“prescribed” means prescribed by regulations made by the Assembly.

PART 3

REGULATION OF PROVISION OF CHILDCARE IN ENGLAND

CHAPTER 1

GENERAL FUNCTIONS OF CHIEF INSPECTOR

31 General functions of the Chief Inspector

- (1) The Chief Inspector has the general duty of keeping the Secretary of State informed about—
 - (a) the contribution of regulated early years provision in England to the well-being of children for whom it is provided;
 - (b) the quality and standards of regulated early years provision in England;
 - (c) how far regulated early years provision in England meets the needs of the range of children for whom it is provided;
 - (d) the quality of leadership and management in connection with regulated early years provision in England.
- (2) In subsection (1), “regulated early years provision” means early years provision in respect of which a person is required to be registered under Chapter 2 or in respect of which he would be required to be registered under that Chapter but for section 34(2) (exemption for provision for children aged 3 or over at certain schools).
- (3) When asked to do so by the Secretary of State, the Chief Inspector must give advice to the Secretary of State on such matters relating to early years provision or later years provision in England as may be specified in the Secretary of State’s request.
- (4) The Chief Inspector may at any time give advice to the Secretary of State on any matter connected with—

- (a) early years provision or later years provision in England generally, or
 - (b) early years provision or later years provision in England by particular persons or on particular premises.
- (5) The Chief Inspector is to have such other functions in connection with early years provision or later years provision in England as may be assigned to him by the Secretary of State.

32 Maintenance of the two childcare registers

- (1) The Chief Inspector must maintain two registers.
- (2) The first register (“the early years register”) is to be a register of all persons who are registered as early years childminders or other early years providers under Chapter 2 (which provides for the compulsory registration of persons providing early years provision).
- (3) The second register (“the general childcare register”) is to be divided into two Parts.
- (4) The first Part (“Part A”) is to be a register of all persons who are registered as later years childminders or other later years providers under Chapter 3 (which provides for the compulsory registration of persons providing later years provision for children under the age of eight).
- (5) The second Part (“Part B”) is to be a register of all persons who are registered as childminders or other childcare providers under Chapter 4 (which provides for the voluntary registration of persons providing early years provision or later years provision in respect of which they are not required to be registered under Chapter 2 or 3).

CHAPTER 2

REGULATION OF EARLY YEARS PROVISION

Requirements to register

33 Requirement to register: early years childminders

- (1) A person may not provide early years childminding in England unless he is registered in the early years register as an early years childminder.
- (2) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to early years childminding.
- (3) The circumstances specified in an order under subsection (2) may relate to one or more of the following matters (among others) –
 - (a) the person providing the early years childminding;
 - (b) the child or children for whom it is provided;
 - (c) the nature of the early years childminding;
 - (d) the premises on which it is provided;
 - (e) the times during which it is provided;
 - (f) the arrangements under which it is provided.

- (4) If it appears to the Chief Inspector that a person has provided early years childminding in contravention of subsection (1), he may serve a notice (“an enforcement notice”) on the person.
- (5) An enforcement notice may be served on a person –
 - (a) by delivering it to him, or
 - (b) by sending it by post.
- (6) An enforcement notice has effect until it is revoked by the Chief Inspector.
- (7) A person commits an offence if, at any time when an enforcement notice has effect in relation to him and without reasonable excuse, he provides early years childminding in contravention of subsection (1).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

34 Requirement to register: other early years providers

- (1) A person may not provide –
 - (a) early years provision on premises in England which are not domestic premises, or
 - (b) early years provision on domestic premises in England which would be early years childminding but for section 96(5),unless he is registered in the early years register in respect of the premises.
- (2) Subsection (1) does not apply in relation to early years provision for a child or children who has (or have) attained the age of three if –
 - (a) the provision is made at any of the following schools as part of the school’s activities –
 - (i) a maintained school,
 - (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools), or
 - (iii) an independent school,
 - (b) the provision is made by the proprietor of the school or a person employed to work at the school, and
 - (c) the child is a registered pupil at the school or, if the provision is made for more than one child, at least one of the children is a registered pupil at the school.
- (3) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to early years provision.
- (4) The circumstances specified in an order under subsection (3) may relate to one or more of the following matters (among others) –
 - (a) the person providing the early years provision;
 - (b) the child or children for whom it is provided;
 - (c) the nature of the early years provision;
 - (d) the premises on which it is provided;
 - (e) the times during which it is provided;
 - (f) the arrangements under which it is provided.
- (5) A person commits an offence if, without reasonable excuse, he provides early years provision in contravention of subsection (1).

- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Process of registration

35 Applications for registration: early years childminders

- (1) A person who proposes to provide early years childminding in respect of which he is required by section 33(1) to be registered may make an application to the Chief Inspector for registration as an early years childminder.
- (2) An application under subsection (1) must –
 - (a) give any prescribed information about prescribed matters,
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
 - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if –
 - (a) the applicant is not disqualified from registration by regulations under section 75, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to –
 - (a) the applicant;
 - (b) the premises on which the early years childminding is to be provided;
 - (c) the arrangements for early years childminding on those premises;
 - (d) any person who may be caring for children on those premises;
 - (e) any other person who may be on those premises.

36 Applications for registration: other early years providers

- (1) A person who proposes to provide on any premises early years provision in respect of which he is required by section 34(1) to be registered may make an application to the Chief Inspector for registration as an early years provider in respect of the premises.
- (2) An application under subsection (1) must –
 - (a) give any prescribed information about prescribed matters,
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
 - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if –
 - (a) the applicant is not disqualified from registration by regulations under section 75, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.

- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
 - (a) the applicant;
 - (b) the premises on which the early years provision is to be provided;
 - (c) the arrangements for early years provision on those premises;
 - (d) any person who may be caring for children on those premises;
 - (e) any other person who may be on those premises.

37 Entry on the register and certificates

- (1) If an application under section 35(1) is granted, the Chief Inspector must—
 - (a) register the applicant in the early years register as an early years childminder, and
 - (b) give the applicant a certificate of registration stating that he is so registered.
- (2) If an application under section 36(1) is granted, the Chief Inspector must—
 - (a) register the applicant in the early years register as an early years provider other than a childminder, in respect of the premises in question, and
 - (b) give the applicant a certificate of registration stating that he is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the registered early years provider an amended certificate.
- (5) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the registered early years provider a copy, on payment by the provider of any prescribed fee.

38 Conditions on registration

- (1) The Chief Inspector may impose such conditions as he thinks fit on the registration of an early years provider under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers the person in pursuance of section 37 or at any subsequent time.
- (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
- (4) The power conferred by subsection (1) includes power to impose conditions for the purpose of giving effect to an order under subsection (1)(a) of section 39 or regulations under subsection (1)(b) of that section.
- (5) An early years provider registered under this Chapter commits an offence if, without reasonable excuse, he fails to comply with any condition imposed under subsection (1).

- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Requirements to be met by early years providers

39 The Early Years Foundation Stage

- (1) For the purpose of promoting the well-being of young children for whom early years provision is provided by early years providers to whom section 40 applies, the Secretary of State must –
- (a) by order specify in accordance with section 41 such requirements as he considers appropriate relating to learning by, and the development of, such children (“learning and development requirements”), and
 - (b) by regulations specify in accordance with section 43 such requirements as he considers appropriate governing the activities of early years providers to whom section 40 applies (“welfare requirements”).
- (2) The learning and development requirements and the welfare requirements are together to be known as “the Early Years Foundation Stage”.

40 Duty to implement Early Years Foundation Stage

- (1) This section applies to –
- (a) early years providers providing early years provision in respect of which they are registered under this Chapter, and
 - (b) early years providers providing early years provision in respect of which, but for section 34(2) (exemption for provision for children aged 3 or over at certain schools), they would be required to be registered under this Chapter.
- (2) An early years provider to whom this section applies –
- (a) must secure that the early years provision meets the learning and development requirements, and
 - (b) must comply with the welfare requirements.

41 The learning and development requirements

- (1) The learning and development requirements must cover the areas of learning and development specified in subsection (3).
- (2) The learning and development requirements may specify in relation to each of the areas of learning and development –
- (a) the knowledge, skills and understanding which young children of different abilities and maturities are expected to have before the 1st September next following the day on which they attain the age of five (“early learning goals”);
 - (b) the matters, skills and processes which are required to be taught to young children of different abilities and maturities (“educational programmes”), and
 - (c) the arrangements which are required for assessing children for the purpose of ascertaining what they have achieved in relation to the early learning goals (“assessment arrangements”).
- (3) The areas of learning and development are as follows –

- (a) personal, social and emotional development,
 - (b) communication, language and literacy,
 - (c) problem solving, reasoning and numeracy,
 - (d) knowledge and understanding of the world,
 - (e) physical development, and
 - (f) creative development.
- (4) The Secretary of State may by order amend subsection (3).
- (5) A learning and development order may not require –
 - (a) the allocation of any particular period or periods of time to the teaching of any educational programme or any matter, skill or process forming part of it, or
 - (b) the making in the timetables of any early years provider of provision of any particular kind for the periods to be allocated to such teaching.
- (6) In this section “a learning and development order” means an order under section 39(1)(a).

42 Further provisions about assessment arrangements

- (1) A learning and development order specifying assessment arrangements may confer or impose on any of the persons mentioned in subsection (2) such functions as appear to the Secretary of State to be required.
- (2) Those persons are –
 - (a) an early years provider,
 - (b) the governing body or head teacher of a maintained school in England, and
 - (c) an English local authority.
- (3) A learning and development order may specify such assessment arrangements as may for the time being be made by a person specified in the order.
- (4) Provision must be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements were made; and any such provision may be made by or under the learning and development order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.
- (5) The duties that may be imposed by virtue of subsection (1) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (4), the duty to permit them –
 - (a) to enter premises on which the early years provision is provided,
 - (b) to observe implementation of the arrangements, and
 - (c) to inspect, and take copies of, documents and other articles.
- (6) A learning and development order specifying assessment arrangements may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection (1)) as appear to the Secretary of State to be expedient; and any provisions made under such an order, on being published as specified in the order, are to have effect for the purposes of this Chapter as if made by the order.

- (7) In this section “a learning and development order” means an order under section 39(1)(a).

43 Welfare requirements

- (1) The matters that may be dealt with by welfare regulations include—
- (a) the welfare of the children concerned;
 - (b) the arrangements for safeguarding the children concerned;
 - (c) suitability of persons to care for, or be in regular contact with, the children concerned;
 - (d) qualifications and training;
 - (e) the suitability of premises and equipment;
 - (f) the manner in which the early years provision is organised;
 - (g) procedures for dealing with complaints;
 - (h) the keeping of records;
 - (i) the provision of information.
- (2) Before making welfare regulations, the Secretary of State must consult the Chief Inspector and any other persons he considers appropriate.
- (3) Welfare regulations may provide—
- (a) that a person who without reasonable excuse fails to comply with any requirement of the regulations is guilty of an offence, and
 - (b) that a person guilty of the offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) In this section “welfare regulations” means regulations under section 39(1)(b).

44 Instruments specifying learning and development or welfare requirements

- (1) A relevant instrument may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the instrument and direct that those provisions are to have effect or, as the case may be, are to have effect as specified in the instrument.
- (2) The power to make a relevant instrument may be exercised so as to confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.
- (3) In particular, that power may be exercised so as to require or authorise the Chief Inspector, in exercising those functions, to have regard to factors, standards and other matters prescribed by or referred to in the instrument.
- (4) If a relevant instrument requires any person (other than the Chief Inspector) to have regard to or meet factors, standards and other matters prescribed by or referred to in the instrument, the instrument may also provide for any allegation that the person has failed to do so to be taken into account—
- (a) by the Chief Inspector in the exercise of his functions under this Part, or
 - (b) in any proceedings under this Part.
- (5) In this section “a relevant instrument” means an order under subsection (1)(a) of section 39 or regulations under subsection (1)(b) of that section.

45 Procedure for making certain orders

- (1) This section applies where the Secretary of State proposes to make an order under section 39(1)(a) specifying early learning goals or educational programmes.
- (2) The Secretary of State must give notice of the proposal –
 - (a) to such bodies representing the interests of early years providers as the Secretary of State considers appropriate, and
 - (b) to any other persons with whom consultation appears to the Secretary of State to be desirable,and must give them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (3) When the Secretary of State has considered any evidence and representations submitted to him in pursuance of subsection (2), he must publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in early years provision –
 - (a) a draft of the proposed order and any associated document, and
 - (b) a summary of the views expressed during the consultation.
- (4) The Secretary of State must allow a period of not less than one month beginning with the publication of the draft of the proposed order for the submission of any further evidence and representations as to the issues arising.
- (5) When the period so allowed has expired, the Secretary of State may make the order, with or without modifications.

46 Power to enable exemptions to be conferred

- (1) Regulations may enable the Secretary of State, in prescribed circumstances, to direct in respect of a particular early years provider or a particular description of early years providers, that to such extent as may be prescribed the learning and development requirements –
 - (a) do not apply, or
 - (b) apply with such modifications as may be specified in the direction.
- (2) Regulations may enable an early years provider, in prescribed circumstances, to determine in respect of a particular young child that to such extent as may be prescribed the learning and development requirements –
 - (a) do not apply, or
 - (b) apply with such modifications as may be specified in the determination.

47 Independent schools

- (1) In section 157 of the Education Act 2002 (c. 32) (independent school standards) after subsection (1) insert –

“(1A) In relation to England, the standards do not apply to early years provision for pupils who have not attained the age of three (separate requirements as to such provision being imposed by or under Part 3 of the Childcare Act 2006).”

- (2) For subsection (2) of that section substitute –
 - “(2) In this Chapter “independent school standards” means –
 - (a) the standards for the time being prescribed under this section, and
 - (b) in relation to early years provision in England for pupils who have attained the age of three, the Early Years Foundation Stage.”
- (3) In section 171 of that Act (interpretation of Chapter 1 of Part 10), after the definition of “Chief Inspector” insert –
 - ““early years provision”, in relation to England, has the meaning given by section 96(2) of the Childcare Act 2006;”.

48 Amendments relating to curriculum

Schedule 1 (which contains amendments relating to the preceding provisions of this Chapter, including amendments excluding or modifying the application to early years provision of provisions of Part 6 of the Education Act 2002 (c. 32)) has effect.

Inspection

49 Inspections

- (1) This section applies to early years provision in respect of which the early years provider is registered under this Chapter.
- (2) The Chief Inspector –
 - (a) must at such intervals as may be prescribed inspect early years provision to which this section applies,
 - (b) must inspect early years provision to which this section applies at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
 - (c) may inspect early years provision to which this section applies at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (3) Regulations may provide that in prescribed circumstances the Chief Inspector is not required to inspect early years provision at an interval prescribed for the purposes of subsection (2)(a).
- (4) Regulations may provide that the Chief Inspector is not required by subsection (2)(a) to inspect early years provision at an independent school if the early years provision is inspected in prescribed circumstances by a body approved by the Secretary of State for the purposes of this subsection.
- (5) A requirement made by the Secretary of State as mentioned in subsection (2)(b) may be imposed in relation to early years provision at particular premises or a class of premises.
- (6) Regulations may make provision requiring the registered person to notify prescribed persons of the fact that early years provision is to be inspected under this section.

- (7) If the Chief Inspector so elects in the case of an inspection falling within paragraph (b) or (c) of subsection (2), that inspection is to be treated as if it were an inspection falling within paragraph (a) of that subsection.

50 Report of inspections

- (1) After conducting an inspection under section 49, the Chief Inspector must make a report in writing on –
- (a) the contribution of the early years provision to the well-being of the children for whom it is provided,
 - (b) the quality and standards of the early years provision,
 - (c) how far the early years provision meets the needs of the range of children for whom it is provided, and
 - (d) the quality of leadership and management in connection with the early years provision.
- (2) The Chief Inspector –
- (a) may send a copy of the report to the Secretary of State and must do so without delay if the Secretary of State requests a copy,
 - (b) must ensure that a copy of the report is sent without delay to the registered person,
 - (c) must ensure that copies of the report, or such parts of it as he considers appropriate, are sent to such other persons as may be prescribed, and
 - (d) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.
- (3) Regulations may make provision –
- (a) requiring the registered person to make a copy of any report sent to him under subsection (2)(b) available for inspection by prescribed persons;
 - (b) requiring the registered person, except in prescribed cases, to provide a copy of the report to prescribed persons;
 - (c) authorising the registered person in prescribed cases to charge a fee for providing a copy of the report.
- (4) Subsections (2) to (4) of section 11 of the Education Act 2005 (c. 18) (publication of inspection reports) apply in relation to the publication of a report under subsection (2) of this section as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 11.

Interpretation

51 Interpretation of Chapter 2

In this Chapter –

- “assessment arrangements” is to be read in accordance with section 41(2)(c);
- “early learning goals” is to be read in accordance with section 41(2)(a);
- “educational programmes” is to be read in accordance with section 41(2)(b);
- “learning and development requirements” means requirements specified by order under section 39(1)(a);
- “welfare requirements” means requirements specified by regulations under section 39(1)(b).

CHAPTER 3

REGULATION OF LATER YEARS PROVISION FOR CHILDREN UNDER 8

Requirements to register

52 Requirement to register: later years childminders for children under eight

- (1) A person may not provide later years childminding in England for a child who has not attained the age of eight unless he is registered in Part A of the general childcare register as a childminder.
- (2) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to later years childminding.
- (3) The circumstances specified in an order under subsection (2) may relate to one or more of the following matters (among others) –
 - (a) the person providing the later years childminding;
 - (b) the child or children for whom it is provided;
 - (c) the nature of the later years childminding;
 - (d) the premises on which it is provided;
 - (e) the times during which it is provided;
 - (f) the arrangements under which it is provided.
- (4) If it appears to the Chief Inspector that a person has provided later years childminding in contravention of subsection (1), the Chief Inspector may serve a notice (“an enforcement notice”) on the person.
- (5) An enforcement notice may be served on a person –
 - (a) by delivering it to him, or
 - (b) by sending it by post.
- (6) An enforcement notice has effect until it is revoked by the Chief Inspector.
- (7) A person commits an offence if, at any time when an enforcement notice has effect in relation to him and without reasonable excuse, he provides later years childminding in contravention of subsection (1).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

53 Requirement to register: other later years providers for children under eight

- (1) A person may not provide for a child who has not attained the age of eight –
 - (a) later years provision on premises in England which are not domestic premises, or
 - (b) later years provision on domestic premises in England which would be later years childminding but for section 96(9),
 unless he is registered in Part A of the general childcare register in respect of the premises.
- (2) Subsection (1) does not apply in relation to later years provision for a child if –
 - (a) the provision is made at any of the following schools as part of the school’s activities –
 - (i) a maintained school,

- (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools), or
 - (iii) an independent school,
 - (b) the provision is made by the proprietor of the school or a person employed to work at the school, and
 - (c) the child is a registered pupil at the school or, if the provision is made for more than one child who has not attained the age of eight, at least one of the children is a registered pupil at the school.
- (3) The Secretary of State may by order provide that, in circumstances specified in the order, subsection (1) does not apply in relation to later years provision.
- (4) The circumstances specified in an order under subsection (3) may relate to one or more of the following matters (among others) –
- (a) the person providing the later years provision;
 - (b) the child or children for whom it is provided;
 - (c) the nature of the later years provision;
 - (d) the premises on which it is provided;
 - (e) the times during which it is provided;
 - (f) the arrangements under which it is provided.
- (5) A person commits an offence if, without reasonable excuse, he provides later years provision in contravention of subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Process of registration

54 Applications for registration: later years childminders

- (1) A person who proposes to provide later years childminding in respect of which he is required by section 52(1) to be registered may make an application to the Chief Inspector for registration as a later years childminder.
- (2) An application under subsection (1) must –
- (a) give any prescribed information about prescribed matters,
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
 - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if –
- (a) the applicant is not disqualified from registration by regulations under section 75, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to –
- (a) the applicant;

- (b) the premises on which the later years childminding is to be provided;
- (c) the arrangements for later years childminding on those premises;
- (d) any person who may be caring for children on those premises;
- (e) any other person who may be on those premises.

55 Applications for registration: other later years providers

- (1) A person who proposes to provide on any premises later years provision in respect of which he is required by section 53(1) to be registered may make an application to the Chief Inspector for registration as a later years provider in respect of the premises.
- (2) An application under subsection (1) must –
 - (a) give any prescribed information about prescribed matters,
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
 - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if –
 - (a) the applicant is not disqualified from registration by regulations under section 75, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to –
 - (a) the applicant;
 - (b) the premises on which the later years provision is to be provided;
 - (c) the arrangements for later years provision on those premises;
 - (d) any person who may be caring for children on those premises;
 - (e) any other person who may be on those premises.

56 Entry on the register and certificates

- (1) If an application under section 54(1) is granted, the Chief Inspector must –
 - (a) register the applicant in Part A of the general childcare register as a later years childminder, and
 - (b) give the applicant a certificate of registration stating that he is so registered.
- (2) If an application under section 55(1) is granted, the Chief Inspector must –
 - (a) register the applicant in Part A of the general childcare register as a later years provider other than a childminder, in respect of the premises in question, and
 - (b) give the applicant a certificate of registration stating that he is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.

- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the registered later years provider an amended certificate.
- (5) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the registered later years provider a copy, on payment by the provider of any prescribed fee.

57 Special procedure for registered early years providers

- (1) If a person who is registered in the early years register as an early years childminder gives notice to the Chief Inspector that he proposes to provide later years childminding in respect of which he is required to be registered under this Chapter, the Chief Inspector must—
 - (a) register the person in Part A of the general childcare register as a later years childminder, and
 - (b) give the person a certificate of registration stating that he is so registered.
- (2) If a person who is registered in the early years register in respect of particular premises as an early years provider other than a childminder gives notice to the Chief Inspector that he proposes to provide later years provision in respect of which he is required to be registered under this Chapter on the same premises, the Chief Inspector must—
 - (a) register the person in Part A of the general childcare register as a later years provider other than a childminder, in respect of the premises, and
 - (b) give the person a certificate of registration stating that he is so registered.
- (3) Subsections (3) to (5) of section 56 apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of this section as they apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of that section.

Regulation

58 Conditions on registration

- (1) The Chief Inspector may impose such conditions as he thinks fit on the registration of a later years provider under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers the person in pursuance of section 56 or 57 or at any subsequent time.
- (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
- (4) The power conferred by subsection (1) includes power to impose conditions for the purpose of giving effect to regulations under section 59.
- (5) A later years provider registered under this Chapter commits an offence if, without reasonable excuse, he fails to comply with any condition imposed under subsection (1).

- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

59 Regulations governing activities

- (1) This section applies to –
- (a) later years providers providing later years provision in respect of which they are registered under this Chapter, and
 - (b) later years providers providing later years provision in respect of which, but for section 53(2) (exemption for provision for children at certain schools), they would be required to be registered under this Chapter.
- (2) The Secretary of State may, after consulting the Chief Inspector and any other person he considers appropriate, make regulations governing the activities of later years providers to whom this section applies.
- (3) The regulations may deal with the following matters (among others) –
- (a) the welfare of the children concerned;
 - (b) the arrangements for safeguarding the children concerned;
 - (c) suitability of persons to care for, or be in regular contact with, the children concerned;
 - (d) qualifications and training;
 - (e) the suitability of premises and equipment;
 - (f) the manner in which the later years provision is organised;
 - (g) procedures for dealing with complaints;
 - (h) the keeping of records;
 - (i) the provision of information.
- (4) The power to make regulations under this section may be exercised so as confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.
- (5) In particular, it may be so exercised so as to require the Chief Inspector, in exercising his functions under this Part, to have regard to factors, standards and other matters prescribed by or referred to in the regulations.
- (6) If the regulations require any person (other than the Chief Inspector) to have regard to or to meet factors, standards and other matters prescribed by or referred to in the regulations, they may also provide for any allegation that the person has failed to do so to be taken into account –
- (a) by the Chief Inspector in the exercise of his functions under this Part, or
 - (b) in any proceedings under this Part.
- (7) The regulations may provide –
- (a) that a person who without reasonable excuse fails to comply with any requirement of the regulations is guilty of an offence, and
 - (b) that a person guilty of the offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Inspection

60 Inspections

- (1) This section applies to later years provision in respect of which the provider is registered under this Chapter.
- (2) The Chief Inspector –
 - (a) must inspect later years provision to which this section applies at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
 - (b) may inspect later years provision to which this section applies at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (3) A requirement made by the Secretary of State as mentioned in subsection (2)(a) may be imposed in relation to later years provision at particular premises or a class of premises.
- (4) Regulations may make provision requiring the registered person to notify prescribed persons of the fact that later years provision is to be inspected under this section.

61 Report of inspections

- (1) After conducting an inspection under section 60, the Chief Inspector may make a report in writing on such of the following matters as he considers appropriate –
 - (a) the contribution of the later years provision to the well-being of the children for whom it is provided,
 - (b) the quality and standards of the later years provision,
 - (c) how far the later years provision meets the needs of the range of children for whom it is provided, and
 - (d) the quality of leadership and management in connection with the later years provision.
- (2) The Chief Inspector –
 - (a) may send a copy of the report to the Secretary of State and must do so without delay if the Secretary of State requests a copy,
 - (b) must ensure that a copy of the report is sent without delay to the registered person,
 - (c) must ensure that copies of the report, or such parts of it as he considers appropriate, are sent to such other persons as may be prescribed, and
 - (d) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.
- (3) Regulations may make provision –
 - (a) requiring the registered person to make a copy of any report sent to him under subsection (2)(b) available for inspection by prescribed persons;
 - (b) requiring the registered person, except in prescribed cases, to provide a copy of the report to prescribed persons;
 - (c) authorising the registered person in prescribed cases to charge a fee for providing a copy of the report.

- (4) Subsections (2) to (4) of section 11 of the Education Act 2005 (c. 18)(publication of inspection reports) apply in relation to the publication of a report under subsection (2) of this section as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 11.

CHAPTER 4

VOLUNTARY REGISTRATION

Process of voluntary registration

62 Applications for registration on the general register: childminders

- (1) A person who provides or proposes to provide in England –
 - (a) later years childminding for a child who has attained the age of eight, or
 - (b) early years childminding or later years childminding for a child who has not attained that age but in respect of which the person is not required to be registered under Chapter 2 or 3,
 may make an application to the Chief Inspector for registration in Part B of the general childcare register as a childminder.
- (2) An application under subsection (1) must –
 - (a) give any prescribed information about prescribed matters,
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
 - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if –
 - (a) the applicant is not disqualified from registration by regulations under section 75, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require him to grant.
- (5) The prescribed requirements for registration may include requirements relating to –
 - (a) the applicant;
 - (b) the premises on which the childminding is being (or is to be) provided;
 - (c) the arrangements for childminding on those premises;
 - (d) any person who may be caring for children on those premises;
 - (e) any other person who may be on those premises.

63 Applications for registration on the general register: other childcare providers

- (1) A person who provides or proposes to provide on premises in England –
 - (a) later years provision (other than later years childminding) for a child who has attained the age of eight, or
 - (b) early years provision or later years provision (other than early years or later years childminding) for a child who has not attained that age but

in respect of which the person is not required to be registered under Chapter 2 or 3,

may make an application to the Chief Inspector for registration in Part B of the general childcare register in respect of the premises.

- (2) An application under subsection (1) must –
 - (a) give any prescribed information about prescribed matters;
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give;
 - (c) be accompanied by any prescribed fee.
- (3) An application under subsection (1) may not be made in respect of provision for a child who has attained the age of three if –
 - (a) the provision is made at any of the following schools as part of the school's activities –
 - (i) a maintained school,
 - (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools), or
 - (iii) an independent school,
 - (b) the provision is made by the proprietor of the school or a person employed to work at the school, and
 - (c) the child is a registered pupil at the school or, if the provision is made for more than one child who has attained the age of three, at least one of the children is a registered pupil at the school.
- (4) The Chief Inspector must grant an application under subsection (1) if –
 - (a) the applicant is not disqualified from registration by regulations under section 75, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection ("the prescribed requirements for registration") are satisfied and are likely to continue to be satisfied.
- (5) The Chief Inspector must refuse any application under subsection (1) which subsection (4) does not require him to grant.
- (6) The prescribed requirements for registration may include requirements relating to –
 - (a) the applicant;
 - (b) the premises on which the childcare is being (or is to be) provided;
 - (c) the arrangements for childcare on those premises;
 - (d) any person who may be caring for children on those premises;
 - (e) any other person who may be on those premises.

64 Entry on the register and certificates

- (1) If an application under section 62(1) is granted, the Chief Inspector must –
 - (a) register the applicant in Part B of the general childcare register as a childminder, and
 - (b) give the applicant a certificate of registration stating that he is so registered.
- (2) If an application under section 63(1) is granted, the Chief Inspector must –

- (a) register the applicant in Part B of the general childcare register as a provider of childcare other than a childminder, in respect of the premises in question, and
 - (b) give the applicant a certificate of registration stating that he is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the registered person an amended certificate.
- (5) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the registered person a copy, on payment by the provider of any prescribed fee.

65 Special procedure for persons already registered

- (1) If a person who is registered as a childminder in the early years register or in Part A of the general childcare register gives notice to the Chief Inspector that he wishes to be registered in Part B of the general childcare register, the Chief Inspector must—
 - (a) register the person in Part B of the general childcare register as a childminder, and
 - (b) give the applicant a certificate of registration stating that he is so registered.
- (2) If a person who is registered (otherwise than as a childminder) in the early years register or in Part A of the general childcare register in respect of particular premises gives notice to the Chief Inspector that he wishes to be registered in Part B of the general childcare register in respect of the same premises, the Chief Inspector must—
 - (a) register the person in Part B of the general childcare register as a provider of childcare other than a childminder, in respect of the premises, and
 - (b) give the person a certificate of registration stating that he is so registered.
- (3) Subsections (3) to (5) of section 64 apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of this section as they apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of that section.

Regulation of persons registering voluntarily

66 Conditions on registration

- (1) The Chief Inspector may impose such conditions as he thinks fit on the registration of a person under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers a person in pursuance of section 64 or 65 or at any subsequent time.

- (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
- (4) The power conferred by subsection (1) includes power to impose conditions for the purpose of giving effect to regulations under section 67.
- (5) A person registered under this Chapter commits an offence if, without reasonable excuse, he fails to comply with any condition imposed under subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

67 Regulations governing activities

- (1) This section applies to persons providing early years provision or later years provision (or both) in respect of which they are registered under this Chapter.
- (2) The Secretary of State may, after consulting the Chief Inspector and any other person he considers appropriate, make regulations governing the activities of persons to whom this section applies.
- (3) The regulations may deal with the following matters (among others) –
 - (a) the welfare of the children concerned;
 - (b) the arrangements for safeguarding the children concerned;
 - (c) suitability of persons to care for, or be in regular contact with, the children concerned;
 - (d) qualifications and training;
 - (e) the suitability of premises and equipment;
 - (f) the manner in which the childcare provision is organised;
 - (g) procedures for dealing with complaints;
 - (h) the keeping of records;
 - (i) the provision of information.
- (4) The power to make regulations under this section may be exercised so as confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.
- (5) In particular, it may be so exercised so as to require the Chief Inspector, in exercising his functions under this Part, to have regard to factors, standards and other matters prescribed by or referred to in the regulations.
- (6) If the regulations require any person (other than the Chief Inspector) to have regard to or meet factors, standards and other matters prescribed by or referred to in the regulations, they may also provide for any allegation that the person has failed to do so to be taken into account –
 - (a) by the Chief Inspector in the exercise of his functions under this Part, or
 - (b) in any proceedings under this Part.

CHAPTER 5

COMMON PROVISIONS

Cancellation of registration etc.

68 Cancellation of registration

- (1) The Chief Inspector must cancel the registration of a person registered under Chapter 2, 3 or 4 if it appears to him that the person has become disqualified from registration by regulations under section 75.
- (2) The Chief Inspector may cancel the registration of a person registered under Chapter 2, 3 or 4 if it appears to him –
 - (a) that the prescribed requirements for registration which apply in relation to the person's registration under that Chapter have ceased, or will cease, to be satisfied,
 - (b) that the person has failed to comply with a condition imposed on his registration under that Chapter,
 - (c) that he has failed to comply with a requirement imposed on him by regulations under that Chapter,
 - (d) in the case of a person registered under Chapter 2, that he has failed to comply with section 40(2)(a), or
 - (e) in any case, that he has failed to pay a prescribed fee.
- (3) The Chief Inspector may cancel the registration of a person registered as an early years childminder under Chapter 2 if it appears to him that the person has not provided early years childminding for a period of more than three years during which he was registered.
- (4) The Chief Inspector may cancel the registration of a person registered as a later years childminder under Chapter 3 if it appears to him that the person has not provided later years childminding for a period of more than three years during which he was registered.
- (5) The Chief Inspector may cancel the registration of a person registered as a childminder under Chapter 4 if it appears to him that the person has provided neither early years childminding nor later years childminding for a period of more than three years during which he was registered.
- (6) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a person registered under Chapter 2, 3 or 4, his registration may not be cancelled on the ground of any defect or insufficiency in the services, equipment or premises if –
 - (a) the time set for complying with the requirements has not expired, and
 - (b) it is shown that the defect or insufficiency is due to the changes or additions not having been made.

69 Suspension of registration

- (1) Regulations may provide for the registration of a person registered under Chapter 2, 3 or 4 to be suspended for a prescribed period in prescribed circumstances.

- (2) Regulations under subsection (1) must include provision conferring on the registered person a right of appeal to the Tribunal against suspension.
- (3) A person registered as an early years childminder under Chapter 2 may not provide early years childminding in England at any time when his registration under that Chapter is suspended in accordance with regulations under this section.
- (4) A person registered as a later years childminder under Chapter 3 may not provide later years childminding in England, for a child who has not attained the age of eight, at any time when his registration under that Chapter is suspended in accordance with regulations under this section.
- (5) Subsection (3) or (4) does not apply in relation to early years childminding or (as the case may be) later years childminding which the person may provide without being registered under Chapter 2 or 3.
- (6) A person registered as an early years provider (other than an early years childminder) under Chapter 2 may not provide early years provision on premises in England at any time when his registration under that Chapter in respect of the premises is suspended in accordance with regulations under this section.
- (7) A person registered as a later years provider (other than a later years childminder) under Chapter 3 may not provide later years provision on premises in England, for a child who has not attained the age of eight, at any time when his registration under that Chapter in respect of the premises is suspended in accordance with regulations under this section.
- (8) Subsection (6) or (7) does not apply in relation to early years provision or (as the case may be) later years provision which the person may provide without being registered under Chapter 2 or 3.
- (9) A person commits an offence if, without reasonable excuse, he contravenes subsection (3), (4), (6) or (7).
- (10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) In this Part, “the Tribunal” means the Tribunal established by section 9 of the Protection of Children Act 1999 (c. 14).

70 Voluntary removal from register

- (1) A person registered under any of Chapters 2 to 4 may give notice to the Chief Inspector that he wishes to be removed from the early years register or (as the case may be) from Part A or B of the general childcare register.
- (2) If a person gives notice under subsection (1) the Chief Inspector must remove him from the early years register or (as the case may be) from the relevant Part of the general childcare register.
- (3) The Chief Inspector must not act under subsection (2) if –
 - (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(2)) of his intention to cancel his registration, and
 - (b) the Chief Inspector has not decided that he no longer intends to take that step.
- (4) The Chief Inspector must not act under subsection (2) if –

- (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(7)) of his decision to cancel his registration, and
 - (b) the time within which an appeal under section 74 may be brought has not expired or, if such an appeal has been brought, it has not been determined.
- (5) Subsections (3) and (4) do not apply if the person is seeking removal from Part B of the general childcare register.

71 Termination of voluntary registration on expiry of prescribed period

Regulations may make provision requiring the Chief Inspector to remove a registered person from Part B of the general childcare register on the expiry of a prescribed period of time from the date of his registration.

Cancellation etc. in an emergency

72 Protection of children in an emergency

- (1) In relation to a person registered under Chapter 2, 3 or 4, the Chief Inspector may apply to a justice of the peace for an order –
 - (a) cancelling the person’s registration;
 - (b) varying or removing a condition to which his registration is subject;
 - (c) imposing a new condition on his registration.
- (2) If it appears to the justice that a child for whom early years provision or later years provision is being or may be provided by that person is suffering or is likely to suffer significant harm, the justice may make the order.
- (3) An application under subsection (1) may be made without notice.
- (4) An order under subsection (2) –
 - (a) must be made in writing, and
 - (b) has effect from the time when it is made.
- (5) If an order is made under subsection (2), the Chief Inspector must serve on the registered person as soon as is reasonably practicable after the making of the order –
 - (a) a copy of the order,
 - (b) a copy of any written statement in support of the application for the order, and
 - (c) notice of any right of appeal conferred by section 74.
- (6) The documents mentioned in subsection (5) may be served on the registered person by –
 - (a) delivering them to him, or
 - (b) sending them by post.
- (7) For the purposes of this section, “harm” has the same meaning as in the Children Act 1989 (c. 41) and the question of whether harm is significant is to be determined in accordance with section 31(10) of that Act.

Registration - procedural safeguards

73 Procedure for taking certain steps

- (1) This section applies if the Chief Inspector proposes to take any of the following steps under this Part –
 - (a) refuse an application for registration;
 - (b) impose a new condition on a person’s registration;
 - (c) vary or remove any condition imposed on a person’s registration;
 - (d) refuse to grant an application for the variation or removal of any such condition;
 - (e) cancel a person’s registration.
- (2) The Chief Inspector must give to the applicant or (as the case may be) the registered person notice of his intention to take the step in question.
- (3) The notice must –
 - (a) give the Chief Inspector’s reasons for proposing to take the step, and
 - (b) inform the person concerned of his rights under this section.
- (4) The Chief Inspector may not take the step until the end of the period of 14 days beginning with the day on which he gives notice under subsection (2) unless the applicant or (as the case may be) the registered person notifies the Chief Inspector that he does not wish to object to the step being taken.
- (5) If the recipient of a notice under subsection (2) (“the recipient”) gives notice to the Chief Inspector that he wishes to object to the step being taken, the Chief Inspector must give him an opportunity to object before deciding whether to take the step.
- (6) An objection made in pursuance of subsection (5) may be made orally or in writing and in either case may be made by the recipient or his representative.
- (7) If the Chief Inspector decides to take the step, he must give the recipient notice of his decision (whether or not the recipient informed the Chief Inspector that he wished to object to the step being taken).
- (8) The taking of a step mentioned in paragraph (b), (c) or (e) of subsection (1) does not have effect until –
 - (a) the expiry of the time within which an appeal may be brought under section 74, or
 - (b) if such an appeal is brought, the time when the appeal is determined (and the taking of the step is confirmed).
- (9) Subsection (8) does not prevent such a step having effect before the expiry of the time within which an appeal may be brought if the person concerned notifies the Chief Inspector that he does not intend to appeal.
- (10) If the Chief Inspector gives notice to an applicant for registration under Chapter 2 or 3 that he intends to refuse his application, the application may not be withdrawn without the consent of the Chief Inspector.
- (11) In this section and in section 74, “a new condition” means a condition imposed otherwise than at the time of the person’s registration.

74 Appeals

- (1) An applicant for registration or (as the case may be) a registered person may appeal to the Tribunal against the taking of any of the following steps by the Chief Inspector under this Part—
 - (a) the refusal of his application for registration;
 - (b) the imposition of a new condition on his registration;
 - (c) the variation or removal of any condition imposed on his registration;
 - (d) the refusal of an application to vary or remove any such condition;
 - (e) the cancellation of his registration.
- (2) An applicant for registration or (as the case may be) a registered person may also appeal to the Tribunal against any other determination made by the Chief Inspector under this Part which is of a prescribed description.
- (3) A person against whom an order is made under section 72(2) may appeal to the Tribunal against the making of the order.
- (4) On an appeal the Tribunal must either—
 - (a) confirm the taking of the step, the making of the other determination or the making of the order (as the case may be), or
 - (b) direct that it shall not have, or shall cease to have, effect.
- (5) Unless the Tribunal has confirmed the taking of a step mentioned in subsection (1)(a) or (e) or the making of an order under section 72(2) cancelling a person's registration, the Tribunal may also do either or both of the following—
 - (a) impose conditions on the registration of the person concerned;
 - (b) vary or remove any condition previously imposed on his registration.

Disqualification from registration

75 Disqualification from registration

- (1) In this section, “registration” means registration under Chapters 2, 3 and 4.
- (2) Regulations may provide for a person to be disqualified from registration.
- (3) The regulations may, in particular, provide for a person to be disqualified from registration if—
 - (a) he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14);
 - (b) he is subject to a direction under section 142 of the Education Act 2002 (c. 32) on the grounds that he is unsuitable to work with children or on grounds relating to his health;
 - (c) an order of a prescribed kind has been made at any time with respect to him;
 - (d) an order of a prescribed kind has been made at any time with respect to a child who has been in his care;
 - (e) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;
 - (f) he has at any time been refused registration under Chapter 2, 3 or 4 of this Part of this Act or under Part 10 or Part 10A of the Children Act 1989 (c. 41) or any prescribed enactment, or had any such registration cancelled;

- (g) he has been convicted of an offence of a prescribed kind or has been discharged absolutely or conditionally for such an offence;
 - (h) he has been given a caution in respect of an offence of a prescribed kind;
 - (i) he has at any time been disqualified from fostering a child privately (within the meaning of the Children Act 1989 (c. 41));
 - (j) a prohibition has been imposed on him at any time under section 69 of the Children Act 1989, section 10 of the Foster Children (Scotland) Act 1984 (c. 56) or any prescribed enactment;
 - (k) his rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.
- (4) Regulations may provide for a person to be disqualified from registration if –
 - (a) he lives in the same household as another person who is disqualified from registration, or
 - (b) he lives in a household in which any such person is employed.
- (5) Regulations under subsection (2) or (4) may provide for a person not to be disqualified from registration (and in particular may provide for a person not to be disqualified from registration for the purposes of section 76) by reason of any fact which would otherwise cause him to be disqualified if –
 - (a) he has disclosed the fact to the Chief Inspector, and
 - (b) the Chief Inspector has consented in writing to the person's not being disqualified from registration and has not withdrawn his consent.
- (6) In this section –
 - “caution” includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998 (c. 37);
 - “enactment” means any enactment having effect at any time in any part of the United Kingdom.
- (7) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of this section.

76 Consequences of disqualification

- (1) This section applies to –
 - (a) early years provision in respect of which the provider is required by section 33(1) or 34(1) to be registered,
 - (b) early years provision in respect of which, but for section 34(2), the provider would be required to be registered,
 - (c) later years provision in respect of which the provider is required by section 52(1) or 53(1) to be registered, and
 - (d) later years provision in respect of which, but for section 53(2), the provider would be required to be registered.
- (2) A person who is disqualified from registration by regulations under section 75 must not –
 - (a) provide early years or later years provision to which this section applies, or
 - (b) be directly concerned in the management of early years or later years provision to which this section applies.

- (3) No person may employ, in connection with the provision of early years or later years provision to which this section applies, a person who is disqualified from registration by regulations under section 75.
- (4) A person who contravenes subsection (2) or (3) commits an offence.
- (5) A person who contravenes subsection (2) is not guilty of an offence under subsection (4) if—
 - (a) he is disqualified from registration by virtue only of regulations under section 75(4), and
 - (b) he proves that he did not know, and had no reasonable grounds for believing, that he was living—
 - (i) in the same household as a person who was disqualified from registration, or
 - (ii) in a household in which such a person was employed.
- (6) A person who contravenes subsection (3) is not guilty of an offence under subsection (4) if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified from registration.
- (7) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 5 on the standard scale, or to both.
- (8) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference in subsection (7) to 51 weeks is to be read as a reference to 6 months.

Rights of entry

77 Powers of entry

- (1) A person authorised for the purposes of this subsection by the Chief Inspector may at any reasonable time enter any premises in England if he has reasonable cause to believe that early years provision or later years provision is being provided on the premises in breach of section 33(1), 34(1), 52(1) or 53(1).
- (2) A person authorised for the purposes of this subsection by the Chief Inspector may at any reasonable time enter any premises in England on which early years provision or later years provision in respect of which a person is registered under this Part is being provided—
 - (a) for the purpose of conducting an inspection under section 49 or 60, or
 - (b) for the purpose of determining whether any conditions or requirements imposed by or under this Part are being complied with.
- (3) Authorisation under subsection (1) or (2)—
 - (a) may be given for a particular occasion or period;
 - (b) may be given subject to conditions.
- (4) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b))—
 - (a) inspect the premises;
 - (b) inspect, and take copies of—

- (i) any records kept by the person providing the childcare, and
 - (ii) any other documents containing information relating to that provision;
 - (c) seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;
 - (d) take measurements and photographs or make recordings;
 - (e) inspect any children being cared for there, and the arrangements made for their welfare;
 - (f) interview in private the childcare provider;
 - (g) interview in private any person caring for children, or living or working, on the premises who consents to be interviewed.
- (5) A person entering premises under this section may (subject to any conditions imposed under subsection (3)(b)) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under this section.
- (6) Section 58 of the Education Act 2005 (c. 18) (inspection of computer records for the purposes of Part 1 of that Act) applies for the purposes of this section as it applies for the purposes of Part 1 of that Act.
- (7) A person exercising any power conferred by this section must, if so required, produce a duly authenticated document showing his authority to do so.
- (8) A person commits an offence if he intentionally obstructs a person exercising any power under this section.
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (10) In this section, "documents" and "records" each include information recorded in any form.

78 Requirement for consent to entry

- (1) This section applies where a person ("the authorised person") proposes to enter domestic premises in pursuance of –
- (a) provision made by virtue of section 42(1) and (4) in a learning and development order specifying assessment arrangements in relation to early years provision, or
 - (b) a power of entry conferred by section 77(2).
- (2) If the authorised person has reasonable cause to believe –
- (a) that the premises are not the home of the person providing the early years or later years provision, or
 - (b) that the premises are the home of a child for whom the early years or later years provision is provided,
- the authorised person may not enter the premises without the consent of an adult who is an occupier of the premises.
- (3) Subsection (2) does not prevent the imposition under section 38, 58 or 66 of a condition requiring a person registered under Chapter 2, 3 or 4 to secure that the occupier of any premises on which the registered person provides early

years provision or later years provision gives any consent required by that subsection.

- (4) In this section –
 “a learning and development order” means an order under section 39(1)(a);
 “occupier” does not include the person providing the early years or later years provision.

79 Power of constable to assist in exercise of powers of entry

- (1) A person authorised for the purpose of subsection (1) or (2) of section 77 may apply to a court for a warrant under this section.
- (2) If it appears to the court that the authorised person –
 - (a) has attempted to exercise a power conferred on him by section 77 but has been prevented from doing so, or
 - (b) is likely to be prevented from exercising any such power,the court may issue a warrant authorising any constable to assist that person in the exercise of the power, using reasonable force if necessary.
- (3) A warrant issued under this section must be addressed to, and executed by, a constable.
- (4) Schedule 11 to the Children Act 1989 (c. 41) (jurisdiction of courts) applies in relation to proceedings under this section as if they were proceedings under that Act.
- (5) In this section, “court” means the High Court, a county court or a magistrates’ court but this is subject to any provision which may be made (by virtue of subsection (4)) by or under Schedule 11 to the Children Act 1989.

Reports and information

80 Combined reports

- (1) This section applies if, following inspections under this Part of early years or later years provision, the Chief Inspector –
 - (a) is required to make more than one report under section 50(1) or determines to make more than one report under section 61(1), or
 - (b) is required to make one or more reports under section 50(1) and determines to make one or more reports under section 61(1).
- (2) If the Chief Inspector considers it appropriate, he may –
 - (a) combine any two or more of those reports in a single document (“a combined report”), and
 - (b) to such extent as he considers appropriate, combine the substantive reports.
- (3) If the Chief Inspector combines reports under this section, the powers and duties which apply in relation to each report by virtue of section 50(2) or 61(2) are to be read as applying instead to the combined report.

81 Information to be included in annual reports

- (1) The annual reports of the Chief Inspector required by section 3(a) of the Education Act 2005 (c. 18) to be made to the Secretary of State must include an account of the exercise of the Chief Inspector's functions under this Part in relation to early years provision and later years provision.
- (2) The power conferred on the Chief Inspector by section 3(b) of that Act includes a power to make reports with respect to matters which fall within the scope of his functions by virtue of the provisions of this Part relating to early years provision and later years provision.

82 Supply of information to Chief Inspector

The Chief Inspector may at any time require any person registered under this Part to provide him with any information connected with the person's activities as an early years provider or later years provider which the Chief Inspector considers it necessary to have for the purposes of his functions under this Part.

83 Supply of information to HMRC and local authorities

- (1) The Chief Inspector must provide prescribed information to Her Majesty's Revenue and Customs, and the relevant local authority, if he takes any of the following steps under this Part –
 - (a) grants a person's application for registration;
 - (b) gives notice of his intention to cancel a person's registration;
 - (c) cancels a person's registration;
 - (d) suspends a person's registration;
 - (e) removes a person from the register at that person's request.
- (2) The Chief Inspector must also provide prescribed information to Her Majesty's Revenue and Customs, and the relevant local authority, if an order is made under section 72(2).
- (3) The information which may be prescribed for the purposes of this section is –
 - (a) in the case of information to be provided to Her Majesty's Revenue and Customs, information which Her Majesty's Revenue and Customs may require for the purposes of their functions in relation to tax credits;
 - (b) in the case of information to be provided to the relevant local authority, information which would assist the local authority in the discharge of their functions under section 12.
- (4) In this section, "the relevant local authority" means the English local authority for the area in which the person provides (or, as the case may be, has provided) the early years provision or later years provision in respect of which he is (or was) registered.

84 Disclosure of information for certain purposes

- (1) The Chief Inspector may arrange for prescribed information held by him in relation to persons registered under this Part to be made available for the purpose of –
 - (a) assisting parents or prospective parents in choosing an early years or later years provider, or

- (b) protecting children from harm or neglect.
- (2) The information may be made available in such manner and to such persons as the Chief Inspector considers appropriate.
- (3) Regulations may require the Chief Inspector to provide prescribed information held by him in relation to persons registered under this Part to prescribed persons for either of the purposes mentioned in subsection (1).

Offences and criminal proceedings

85 Offence of making false or misleading statement

- (1) A person commits an offence if, in an application for registration under any of Chapters 2 to 4, he knowingly makes a statement which is false or misleading in a material particular.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

86 Time limit for proceedings

- (1) Proceedings for an offence under this Part or regulations made under it may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings comes to his knowledge.
- (2) No such proceedings may be brought by virtue of subsection (1) more than three years after the commission of the offence.

87 Offences by bodies corporate

- (1) This section applies where any offence under this Part is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

88 Unincorporated associations

- (1) Proceedings for an offence under this Part which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in the name of any of its members).
- (2) For the purpose of any such proceedings, rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (3) In proceedings for an offence under this Part brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure) apply as they do in relation to a body corporate.
- (4) A fine imposed on an unincorporated association on its conviction of an offence under this Part is to be paid out of the funds of the association.

- (5) If an offence under this Part by an unincorporated association is shown –
- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
 - (b) to be attributable to any neglect on the part of such an officer or member,
- the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

Miscellaneous

89 Fees

- (1) Regulations may require persons registered under any of Chapters 2 to 4 to pay to the Chief Inspector at or by prescribed times fees of the prescribed amounts in respect of the discharge by the Chief Inspector of his functions under this Part.
- (2) Regulations under subsection (1) may prescribe circumstances in which –
- (a) the amount of a fee payable under the regulations may be varied in accordance with the regulations;
 - (b) a fee payable under the regulations may be waived.

90 Cases where consent to disclosure withheld

- (1) This section applies where the Chief Inspector –
- (a) is determining, for the purpose of deciding whether to grant an application for registration under Chapter 2, 3 or 4, whether the prescribed requirements for registration are satisfied and are likely to be continued to be satisfied, or
 - (b) is determining, for the purpose of deciding whether to cancel the registration of any person under section 68(2)(a), whether the prescribed requirements for registration have ceased, or will cease, to be satisfied.
- (2) The Chief Inspector may, if regulations so provide and he thinks it appropriate to do so, treat the prescribed requirements for registration as not being satisfied or (as the case may be) as having ceased to be satisfied if for the purpose of his determination –
- (a) the Chief Inspector has requested a person (“A”) to consent to the disclosure by another person (“B”) to the Chief Inspector of information which –
 - (i) relates to A,
 - (ii) is held by B, and
 - (iii) is of a prescribed description, and
 - (b) A does not give his consent or withdraws his consent after giving it.

91 Co-operation between authorities

- (1) If it appears to the Chief Inspector that any English local authority could, by taking any specified action, help in the exercise of any of his functions under this Part, he may request the help of the authority, specifying the action in question.

- (2) An authority whose help is requested must comply with the request if it is compatible with their own statutory and other duties and does not unduly prejudice the discharge of any of their functions.

92 Combined certificates of registration

- (1) This section applies if the Chief Inspector is required by virtue of this Part to issue more than one certificate of registration to a person.
- (2) If the Chief Inspector considers it appropriate, he may combine any two or more of those certificates in a single certificate (a combined certificate).
- (3) A combined certificate of registration must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a combined certificate of registration, the Chief Inspector must give the registered person an amended combined certificate.
- (5) If the Chief Inspector is satisfied that a combined certificate of registration has been lost or destroyed, the Chief Inspector must give the registered person a copy, on payment by that person of any prescribed fee.

93 Notices

- (1) This section applies in relation to notices required or authorised to be given to any person by any of the following –
 - (a) section 57(1) and (2);
 - (b) section 65(1) and (2);
 - (c) section 70(1);
 - (d) section 73(2), (4), (5), (7) and (9).
- (2) The notice may be given to the person in question –
 - (a) by delivering it to him,
 - (b) by sending it by post, or
 - (c) subject to subsection (3), by transmitting it electronically.
- (3) If the notice is transmitted electronically, it is to be treated as given only if the requirements of subsection (4) or (5) are met.
- (4) If the person required or authorised to give the notice is the Chief Inspector –
 - (a) the person to whom the notice is required or authorised to be given must have indicated to the Chief Inspector his willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose, and
 - (b) the notice must be sent to the address provided by him.
- (5) If the person required or authorised to give the notice is not the Chief Inspector, the notice must be transmitted in such manner as the Chief Inspector may require.
- (6) An indication given for the purposes of subsection (4) may be given generally for the purposes of notices required or authorised to be given by the Chief Inspector under this Part or may be limited to notices of a particular description.

- (7) A requirement imposed by the Chief Inspector under subsection (5) must be published in such manner as the Chief Inspector thinks appropriate for the purpose of bringing it to the attention of persons who are likely to be affected by it.
- (8) In relation to the taking of a step mentioned in subsection (1)(b) or (c) of section 73, notification authorised to be given to the Chief Inspector under subsection (4) or (9) of that section may be given orally to a person authorised by the Chief Inspector to receive such notification (as well as by any of the methods mentioned in subsection (2)).

94 Power to amend Part 3: applications in respect of multiple premises

The Secretary of State may by order –

- (a) amend this Part so as to enable an application for registration under section 36(1), 55(1) or 63(1) to be made in respect of more than one set of premises, and
- (b) make such further amendments of this Part as appear to him to be necessary or expedient in consequence of the amendments made by virtue of paragraph (a).

95 Certain institutions not to be regarded as schools

- (1) Section 4 of the Education Act 1996 (c. 56) (schools: general) is amended as follows.
- (2) In subsection (1) after “In this Act” insert “(subject to subsection (1A))”.
- (3) After subsection (1) insert –
“(1A) An institution which –
 - (a) provides only early years provision (as defined by section 96(2) of the Childcare Act 2006), and
 - (b) is not a maintained nursery school,
is not a school.”

Interpretation

96 Meaning of early years and later years provision etc.

- (1) This section applies for the purposes of this Part.
- (2) “Early years provision” means the provision of childcare for a young child.
- (3) “Early years provider” means a person who provides early years provision.
- (4) Subject to subsection (5), “early years childminding” means early years provision on domestic premises for reward (and “early years childminder” is to be read accordingly).
- (5) Early years provision on domestic premises for reward is not early years childminding if at any time the number of persons providing the early years provision on the premises or assisting with the provision exceeds three.
- (6) “Later years provision”, in relation to a child, means the provision of childcare at any time during the period –

- (a) beginning with the 1st September next following the date on which he attains the age of five, and
 - (b) ending with such day as may be prescribed.
- (7) “Later years provider” means a person who provides later years provision.
- (8) Subject to subsection (9), “later years childminding” means later years provision on domestic premises for reward (and “later years childminder” is to be read accordingly).
- (9) Later years provision on domestic premises for reward is not later years childminding if at any time the number of persons providing the later years provision on the premises or assisting with the provision exceeds three.

97 Employees not to be regarded as providing childcare

- (1) This section applies for the purposes of this Part.
- (2) Where an individual (“the employee”) is employed to care for a child by a person who provides early years provision or later years provision for the child, the employee is not to be regarded as providing early years provision or (as the case may be) later years provision by virtue of anything done by him in the course of that employment.

98 Interpretation of Part 3

- (1) In this Part—
 - “the Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England;
 - “childcare” has the meaning given by section 18;
 - “domestic premises” means premises which are used wholly or mainly as a private dwelling;
 - “early years provision” has the meaning given by section 96(2);
 - “early years provider” has the meaning given by section 96(3);
 - “early years childminding” and “early years childminder” have the meanings given by section 96(4);
 - “later years provision” has the meaning given by section 96(6);
 - “later years provider” has the meaning given by section 96(7);
 - “later years childminding” and “later years childminder” have the meanings given by section 96(8);
 - “premises” includes any area and any vehicle;
 - “prescribed” means prescribed by regulations;
 - “proprietor”, in relation to a school, has the same meaning as in the Education Act 1996 (c. 56);
 - “regulations” means regulations made by the Secretary of State;
 - “the Tribunal” has the meaning given by section 69(11);
 - “young child” has the meaning given by section 19.
- (2) For the purposes of section 7 of the Interpretation Act 1978 (c. 30) (references to service by post), a notice or order which may by virtue of any provision of this Part be sent by post to an applicant for registration or to a registered person is to be treated as properly addressed if it is addressed to him at the address notified by him to the Chief Inspector as the address to which correspondence to him should be sent.

PART 4

MISCELLANEOUS AND GENERAL

Provision of information about children

99 Provision of information about young children: England

- (1) Regulations may make provision, in relation to England, requiring –
 - (a) a person registered as an early years provider under Chapter 2 of Part 3, and
 - (b) a person who provides early years provision in respect of which, but for section 34(2) (exemption for provision for children aged 3 or over at certain schools), he would be required to be registered under that Chapter,to provide to the relevant person such individual child information as may be prescribed.
- (2) In subsection (1), “the relevant person” means one or more of the following –
 - (a) the Secretary of State, and
 - (b) any prescribed person.
- (3) Where any person within paragraph (b) of subsection (2) receives information by virtue of subsection (1), the Secretary of State may require that person to provide any such information –
 - (a) to the Secretary of State, or
 - (b) to any prescribed person.
- (4) The Secretary of State may provide any individual child information –
 - (a) to any information collator,
 - (b) to any prescribed person, or
 - (c) to any person falling within a prescribed category.
- (5) Any information collator –
 - (a) may provide any individual child information –
 - (i) to the Secretary of State, or
 - (ii) to any other information collator, and
 - (b) may at such times as the Secretary of State may determine or in prescribed circumstances provide such individual child information as may be prescribed –
 - (i) to any prescribed person, or
 - (ii) to any person falling within a prescribed category.
- (6) Any person holding any individual child information (other than the Secretary of State or an information collator) may provide that information to –
 - (a) the Secretary of State,
 - (b) any information collator, or
 - (c) any prescribed person.
- (7) No information received under or by virtue of this section shall be published in any form which includes the name of the child or children to whom it relates.
- (8) Regulations under this section may provide that, in such circumstances as may be prescribed, the provision of information to a person other than the Secretary

of State is to be treated, for the purposes of any provision of such regulations or this section, as compliance with any requirement imposed by or by virtue of any such provision and relating to the provision of information to the Secretary of State.

(9) In this section –

“early years provision” has the meaning given by section 20;

“individual child information” means information relating to and identifying individual children for whom early years provision is being or has been provided by a person mentioned in subsection (1)(a) or (b), whether obtained under subsection (1) or otherwise;

“information collator” means any body which, for the purposes of or in connection with the functions of the Secretary of State relating to early years provision, is responsible for collating or checking information relating to children for whom such provision is made;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State.

100 Provision of information about young children: transitory provision

(1) Section 99 has effect with the modifications specified in subsections (2) and (3) until section 7 comes into force.

(2) In subsection (1) –

(a) after “requiring” insert “a person who provides funded nursery education”, and

(b) omit paragraphs (a) and (b).

(3) In subsection (9) –

(a) for the definition of “early years provision” substitute –

““funded nursery education” means nursery education, within the meaning of Part 5 of the School Standards and Framework Act 1998 (c. 31), which is provided by any person –

(a) under arrangements made with that person by a local education authority in England in pursuance of the duty imposed on the authority by section 118 of that Act (duty of LEA to secure sufficient nursery education), and

(b) in consideration of financial assistance provided by the authority under those arrangements, other than such education provided by a school for its pupils;”,

(b) for the definition of “individual child information” substitute –

“individual child information” means information relating to and identifying individual children for whom funded nursery education is being or has been provided, whether obtained under subsection (1) or otherwise;”, and

(c) in the definition of “information collator” for “early years provision” substitute “funded nursery education”.

101 Provision of information about children: Wales

- (1) Regulations may make provision, in relation to Wales, requiring –
 - (a) a person who is registered under Part 10A of the Children Act 1989 (c. 41) to provide child minding or day care, and
 - (b) a person who provides funded nursery education, to provide to the relevant person such individual child information as may be prescribed.
- (2) In subsection (1), “the relevant person” means one or more of the following –
 - (a) the Assembly, and
 - (b) any prescribed person.
- (3) Where any person within paragraph (b) of subsection (2) receives information by virtue of subsection (1), the Assembly may require that person to provide any such information –
 - (a) to the Assembly, or
 - (b) to any prescribed person.
- (4) The Assembly may provide any individual child information –
 - (a) to any information collator,
 - (b) to any prescribed person, or
 - (c) to any person falling within a prescribed category.
- (5) Any information collator –
 - (a) may provide any individual child information –
 - (i) to the Assembly, or
 - (ii) to any other information collator, and
 - (b) may at such times as the Assembly may determine or in prescribed circumstances provide such individual child information as may be prescribed –
 - (i) to any prescribed person, or
 - (ii) to any person falling within a prescribed category.
- (6) Any person holding any individual child information (other than the Assembly or an information collator) may provide that information to –
 - (a) the Assembly,
 - (b) any information collator, or
 - (c) any prescribed person.
- (7) No information received under or by virtue of this section shall be published in any form which includes the name of the child or children to whom it relates.
- (8) Regulations under this section may provide that, in such circumstances as may be prescribed, the provision of information to a person other than the Assembly is to be treated, for the purposes of any provision of such regulations or this section, as compliance with any requirement imposed by or by virtue of any such provision and relating to the provision of information to the Assembly.
- (9) In this section –

“child minding” and “day care” have the same meaning as in Part 10A of the Children Act 1989;

“funded nursery education” means nursery education, within the meaning of Part 5 of the School Standards and Framework Act 1998 (c. 31), which is provided by any person—

- (a) under arrangements made with that person by a local education authority in Wales in pursuance of the duty imposed on the authority by section 118 of that Act (duty of LEA to secure sufficient nursery education), and
- (b) in consideration of financial assistance provided by the authority under those arrangements,

other than such education provided by a school for its pupils;

“individual child information” means information relating to and identifying individual children for whom child minding, day care or funded nursery education is being or has been provided, whether obtained under subsection (1) or otherwise;

“information collator” means any body which, for the purposes of or in connection with the functions of the Assembly relating to child minding, day care or funded nursery education (as the case may be), is responsible for collating or checking information relating to children for whom such provision is made;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Assembly.

Disqualification for registration under Children Act 1989

102 Disqualification for registration under Children Act 1989

- (1) Paragraph 4 of Schedule 9A to the Children Act 1989 (c. 41) (disqualification for registration) is amended as follows.
- (2) In sub-paragraph (2) —
 - (a) in paragraph (b) after “children” insert “or on grounds relating to his health”, and
 - (b) after paragraph (g) insert —
 - “(ga) he has been given a caution in respect of any offence of a prescribed kind;”.
- (3) For sub-paragraph (6) substitute —
 - “(6) In this paragraph —
 - “caution” includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998;
 - “enactment” means any enactment having effect, at any time, in any part of the United Kingdom.”

General

103 Minor and consequential amendments and repeals

- (1) Schedule 2 (which contains minor and consequential amendments) has effect.
- (2) The enactments specified in Schedule 3 are repealed to the extent specified.

104 Subordinate legislation: general provisions

- (1) Any power of the Secretary of State or the Assembly to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any power of the Secretary of State or the Assembly to make an order or regulations under this Act includes power—
 - (a) to make different provision for different cases or areas;
 - (b) to make provision generally or in relation to specific cases;
 - (c) to make such incidental, supplementary, saving or transitional provision as the Secretary of State or the Assembly thinks fit.

105 Subordinate legislation: parliamentary control

- (1) A statutory instrument containing an order or regulations made by the Secretary of State under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subsection (1) does not apply to—
 - (a) an order under section 109(2) (commencement), or
 - (b) an order to which subsection (3) applies.
- (3) A statutory instrument which contains (whether alone or with other provisions) —
 - (a) an order under section 5,
 - (b) an order under section 41(4), or
 - (c) an order under section 94,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

106 General interpretation etc.

In this Act—

“the Assembly” means the National Assembly for Wales;

“child” means a person under the age of 18;

“English local authority” means—

- (a) a county council in England;
- (b) a metropolitan district council;
- (c) a non-metropolitan district council for an area for which there is no county council;
- (d) a London borough council;
- (e) the Common Council of the City of London (in their capacity as a local authority);
- (f) the Council of the Isles of Scilly;

“independent school” has the same meaning as in the Education Act 1996 (c. 56);

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“maintained nursery school” has the same meaning as in the School Standards and Framework Act 1998 (c. 31);

- “parental responsibility” has the same meaning as in the Children Act 1989 (c. 41);
- “registered pupil” has the same meaning as in the Education Act 1996 (c. 56);
- “school” has the same meaning as in the Education Act 1996;
- “Welsh local authority” means a county council or county borough council in Wales;
- “well-being”, in relation to children, has the meaning given by section 1(2).

107 Financial provisions

There shall be paid out of money provided by Parliament –

- (a) any expenses incurred by a Minister of the Crown or government department under or by virtue of this Act, and
- (b) any increase attributable to this Act in the sums which under any other Act are payable out of money so provided.

108 Isles of Scilly

Parts 1 and 3 and this Part, in their application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order prescribe.

109 Commencement

- (1) The following provisions come into force on the day on which this Act is passed –
 - this section,
 - sections 104 to 108,
 - sections 110 and 111, and
 - paragraph 1 of Schedule 2 (and section 103(1) so far as relating to that paragraph).
- (2) The other provisions of this Act come into force in accordance with provision made by order by the appropriate authority (as determined under section 110).

110 The appropriate authority by whom commencement order is made

- (1) This section has effect for determining who is the appropriate authority for the purposes of section 109(2).
- (2) In relation to Parts 1 and 3 (including Schedule 1) and sections 99 and 100, the appropriate authority is the Secretary of State.
- (3) In relation to Part 2 and section 101, the appropriate authority is the Assembly.
- (4) In relation to section 102, the appropriate authority is –
 - (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the Assembly.
- (5) In relation to section 103(1) and Schedule 2, the appropriate authority is –
 - (a) for paragraphs 18(5)(b) and (c), 20 to 24, 27, 31, 32(4) and 34 of that Schedule (and section 103(1) so far as relating to those provisions) –

- (i) in relation to England, the Secretary of State, and
 - (ii) in relation to Wales, the Assembly,
 - (b) for paragraph 28 of that Schedule (and section 103(1) so far as relating to that paragraph), the Assembly, and
 - (c) for the other provisions of that Schedule to which section 109(2) applies (and section 103(1) so far as relating to those provisions), the Secretary of State.
- (6) In relation to section 103(2) and Schedule 3, the appropriate authority is –
- (a) for a repeal contained in Part 1 of that Schedule, the Secretary of State, and
 - (b) for a repeal contained in Part 2 of that Schedule, the appropriate authority for the purposes of section 109(2) in relation to the provision on which the repeal is consequential.

111 Short title and extent

- (1) This Act may be cited as the Childcare Act 2006.
- (2) Any amendment or repeal made by this Act has the same extent as the provision amended or repealed.
- (3) Except as provided by subsection (2), this Act extends to England and Wales only.

SCHEDULES

SCHEDULE 1

Section 48

AMENDMENTS RELATING TO THE CURRICULUM

Interpretation

- 1 In this Schedule “the 2002 Act” means the Education Act 2002 (c. 32).

Education Act 1997 (c. 44)

- 2 (1) Section 23 of the Education Act 1997 (functions of Qualifications and Curriculum Authority) is amended as follows.
- (2) In subsection (1), omit paragraph (c) and the word “and” immediately preceding it.
- (3) After subsection (2) insert –
- “(2ZA) If the Secretary of State so provides by order, the Qualifications and Curriculum Authority shall also have –
- (a) such additional functions as may be specified in the order with respect to pupils falling within subsection (1)(a) or (b) who are young children, and
- (b) such functions as may be specified in the order with respect to children not falling within subsection (1)(a) or (b) for whom early years provision is provided in England by early years providers to whom section 40 of the Childcare Act 2006 (duty to implement Early Years Foundation Stage) applies.
- (2ZB) Before making an order under subsection (2ZA), the Secretary of State shall consult the Qualifications and Curriculum Authority.”
- (4) Omit subsection (2A).
- (5) In subsection (5) –
- (a) for the definition of “funded nursery education” and the “and” immediately following it substitute –
- ““early years provider” and “early years provision” have the same meaning as in Part 3 of the Childcare Act 2006;”, and
- (b) at the end insert –
- ““young children” has the same meaning as in Part 3 of the Childcare Act 2006.”