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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – Summary of Responses

Approval of Home Childcare Providers (Wales) Scheme 2021

25 February 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

The Approval of Home Childcare Providers (Wales) Scheme 2021

The Welsh Government is developing a scheme under section 60 of the Government of Wales Act 2006 to enable nannies to be approved as home childcare providers and to enable parents using the services of an approved nanny to claim relevant UK Government financial support with childcare costs.

Background

The purpose of this new scheme is to replace, and improve on, the existing Tax Credits (Approval of Childcare Providers) (Wales) Scheme 2007 (“the 2007 Scheme”) which is a voluntary scheme for approving home childcare providers (“nannies”) in Wales who meet certain basic criteria. The 2007 Scheme was introduced to meet the commitment in the Childcare Strategy for Wales (November 2005) to ensure that parents who use childcare practitioners within their home have the option of using nannies who have sought voluntary approval. Under the terms applied by the UK Government, financial support with childcare costs can only be claimed by parents in relation to ‘approved’ childcare providers.

Nannies are still captured in law by article 5 of The Child Minding and Day Care Exceptions (Wales) Order 2010, as amended, therefore excluding them from the requirement to register with Care Inspectorate Wales (CIW). The scheme was in part devised to address that gap and to provide what was considered a proportionate and appropriate mechanism for the approval of nannies in Wales.

Whilst nannies approved under the scheme are not subject to statutory regulation, the scheme requires them to meet certain criteria, thereby ensuring that they are suitable and appropriately qualified to care for children and offering a basic level of assurance to the families employing them. This is similar to the approach taken in England, where nannies can register on the voluntary part of the OFSTED register and in Northern Ireland, where nannies can opt to become approved under the Home Childcarer Approval Scheme. Arrangements in Scotland are slightly different as it is incumbent on the nanny to seek work through a Nanny Agency and it is the Agency as opposed to the nanny which is regulated by the Care Inspectorate.

In February 2019, the introduction of The Welfare Reform Act 2012 (Commencement No.32 and Savings and Transitional Provisions) Order 2019 repealed section 12 of the Tax Credits Act 2002, which provided the underpinning legal basis for the 2007 scheme. Despite a period of brief disruption during the months of March-August 2019, the Welsh Government was able to work with our UK Government partners, HMRC and DWP, to ensure that nannies could continue to be approved in Wales and that families did not miss out on important benefits while a replacement scheme was developed.

Approvals for the 2007 Nanny Scheme are currently managed by CIW as the approval body on behalf of the Welsh Ministers and it is anticipated that these arrangements will remain unchanged in the foreseeable future.

Public Consultation

A consultation document, accompanied by a draft new Nanny Scheme, was published on the Welsh Government website on 11 September 2020, with feedback invited by 4 December 2020.

Stakeholders targeted for their views included the following:

- Department of Work and Pensions (DWP)
- Her Majesty's Revenue and Customs (HMRC)
- Care Inspectorate Wales
- Social Care Wales
- Cwlwm, the umbrella organisation representing the interests of childcare providers in Wales and Pacey Cymru, in particular, who represent nannies
- Members of the Welsh Government Childcare Offer for Wales Stakeholder Reference Group, including the Children's Commissioner and Welsh Language Commissioner
- Local Authorities
- Nannies and families employing nannies
- Nanny agencies based in Wales

Responses to the Consultation

Responses were invited through a webpage as well as directly to the Childcare Policy Team either by email or by post.

We received 33 consultation responses through our website (23 full responses and 10 partial responses). In addition, we received 5 responses via the talkchildcare mailbox.

Officials also participated in two consultation events run by PACEY Cymru that targeted local authorities and nannies.

Consultation Questions

Approval Criteria

Question 1

Do you agree with the six proposed criteria for approval?

Yes – 82%

No – 5%

Don't Know – 13%

Comments

All respondents were broadly supportive of the Approval Criteria.

One or two respondents felt there may be a need to be more specific about the type of first aid training that should be undertaken, although others felt that, by requiring nannies to undertake training in accordance with the list maintained by the approval body, the scheme would not need to be amended should qualification requirements change over time.

Pacey Cymru, Swansea Council and the Vale of Glamorgan Council asked whether safeguarding training should be part of the Approval Criteria. The nannies who attended the

consultation event arranged by Pacey Cymru were also supportive of a requirement to undertake safeguarding training, subject to there being no additional cost.

One response asked whether a reference from a family should be provided as part of the Approval Criteria. Another wished the Welsh Government to consider how the requirement for a DBS certificate would be applied to applicants who may have recently moved, or returned, to the UK and advised that consideration should be given to compulsory registration of nannies rather than voluntary approval.

Question 2

Do you agree that approval should only be given to nannies aged 18 and over?

Yes – 95%

No – 5%

Don't Know – 0%

Comments

Most respondents supported nannies being 18, however one respondent proposed 21 and another 16.

Question 3

We have added in the requirement for a nanny to have Public Liability Insurance, which brings the new Nanny Scheme into line with the other home nations. Do you think this will cause an issue for nannies not being able/wanting to join the approval scheme?

Yes – 41%

No – 41%

Don't Know – 18%

Comments

Around half of respondents, including some of the nannies who engaged in the consultation, agreed with the principal of the requirement for nannies to have Public Liability Insurance, although some respondents questioned whether the requirement for Public Liability Insurance would place an additional financial burden on nannies and discourage some nannies from seeking voluntary approval. It was felt that if this additional requirement were included in the final scheme, nannies should be able to access such insurance at a reasonable cost, so as to avoid this becoming a barrier to approval. It was suggested by one respondent that local authorities could consider using the childcare and play element of the Welsh Government's Children and Communities Grant (allocated to local authorities for the purpose of addressing gaps identified in their Childcare Sufficiency Assessments) for the purpose of supporting nannies with costs associated with approval (e.g. with training costs or costs involved in approval/renewal of approval).

Applying for renewal of approval

Question 4

Do you agree with the proposed approach to renewals?

Yes – 86%

No – 5%

Don't Know – 9%

Comments

Most agreed with the renewal requirements, although one or two raised concerns about six weeks being too long and that this could lead to nannies forgetting to renew (30 days was suggested as an alternative).

Some practical suggestions were made by respondents, with some proposing that the approval body should provide clear guidance on the process to be followed for renewal of approval and what would happen in circumstances where renewal was not applied for within the set timescale, or not at all. The approval body should also provide guidance around the steps which could be taken should a nanny be unable to refresh a qualification in time for their renewal and where the reasons for this were beyond their control.

Provision of information to the approval body

Question 5

Do you agree to this approach?

Yes – 100%

No – 0%

Don't Know – 0%

Comments

Respondents were supportive of the requirements to notify the approval body of any cautions or convictions. However a number of respondents proposed that the process for notifying the approval body would need to be clearly set out by the approval body. One of the respondents highlighted that the use of CIW online could help facilitate effective and instant communication between nannies and the approval body. It was also noted that there would need to be clear expectations and guidance as to how interested parties would be informed, including UK Government bodies involved in providing financial support with childcare costs for families using the services of the nannies. It was felt important that the parents involved should be informed too, both in terms of safeguarding and the emotional wellbeing of the children in terms of continuity of care.

It was felt that clarification was required in respect of “as soon as reasonably practical” to ensure that nannies and families were clear on the expectations.

Concerns were raised about the consequences if a nanny failed to inform the approval body or the family they work for.

Refusal or withdrawal of approval and representation process

Question 6

Do you agree to this approach?

Yes – 91%

No – 0%

Don't Know – 9%

Comments

Most respondents were supportive of this criteria but felt that the process for refusal or withdrawal of approval needed to be communicated clearly by the approval body. The process for communicating decisions in relation to refusal or withdrawal of approval to DWP/HMRC needed to be clear also as this could impact on the tax/benefits received by the family. A small number of respondents were also concerned about how this process would be implemented and the outcome monitored/communicated, with particular concerns

raised in relation to ensuring that the families involved were appropriately notified of any changes in a nanny's approval.

One respondent sought clarification around how a refusal or withdrawal might affect a nanny's future employability/registration across the childcare sector.

Other

Question 7

We have asked a number of specific questions relevant to the scheme, but also invited respondents to raise any related issues.

Some of the other points raised included the following:

- The Approval Scheme needs to be clearly communicated to allow parents to decide which childcare option is best for their circumstances and parents need to be made aware that approval is different from registration;
- Measures should be put in place to allow for the continuous personal development of nannies in line with the Welsh Government's Childcare, Play and Early Years Workforce plan;
- A number of respondents raised the issue of nannies being unable to become registered childcare providers under the current legislation which means they are not currently eligible for funding under the Childcare Offer for Wales;
- A respondent asked whether a specific Nanny qualification was needed as opposed to requiring child minders and nannies to undertake the same training;
- There was a query around whether or not self-employed nannies have written policies and procedures, including Safeguarding and Complaints and be bound by a code of conduct and/or National Minimum Standards;
- Nannies can be both self-employed and employed and, with this in mind, one respondent questioned whether there was a need to revisit the wording within article 5 of The Child Minding and Day Care Exceptions (Wales) Order 2010, as amended.

Next steps

The following provides a summary of the Welsh Government's response to some of the main issues raised during the consultation exercise.

Safeguarding

In respect of training, nannies are required to have obtained the qualifications specified in the Social Care Wales list of required qualifications. The new scheme specifies that a nanny must "have obtained one of the qualifications specified in a list maintained by the approval body". The current qualification requirement in respect of nannies new to the Welsh Government Approval Scheme by Social Care Wales is the **City and Guilds unit 326 - Introduction to home-based childcare** Both training packages cover "safeguarding". Local authorities will also be encouraged to invite nannies within their authorities to attend safeguarding training made available to other childcare providers in their local area. Should it be considered appropriate, following further consideration,

to include in the scheme a specific requirement for safeguarding training as part of the approval criteria, the scheme will be amended at a later date and stakeholders informed appropriately.

The approval body has confirmed that should they be notified of safeguarding issues in relation to an approved nanny, they would report, in line with standard procedures, to the social services department of the relevant local authority.

Public Liability Insurance

The Welsh Government considers the requirement for public liability insurance a proportionate requirement given the responsibility and risks involved in caring for young children. We will work with key stakeholders including local authorities, representative bodies and the approval body to explore ways in which the overall financial burden associated with approval can be reduced.

Refreshed guidance

To support the coming into force of the new scheme, the Welsh Government and the Approval Body (CIW) will ensure that the updated published guidance serves to clarify some of the matters raised in the consultation responses, including to:

- Draw out more clearly the benefits of hiring an approved nanny and explain that it is parents' responsibility to interview nannies and seek references;
- Explain how applications will be handled from individuals who have recently returned, or moved, to the UK. The approval body adheres to the UK Government's guidelines for undertaking checks on individuals who are new to the UK or who have recently returned to the country;
- Explain the consequences of failure to submit an application for renewal and withdrawal of approval (in respect of the nanny and the family for which they work);
- Clarify the timescales for providing information to the approval body "as soon as reasonably practicable".

Amendments being proposed to the draft scheme from 1 April 2021

Upon further reflection and consideration of consultation responses, the draft scheme which was published for consultation will be amended as follows:

- (i) Amendments to reflect the approval body's current and planned approach to handling applications for DBS certificates on behalf of nannies seeking approval or renewal of approval under the scheme, which may also result in changes to the "fees" section of the scheme. This will bring the new scheme into line with the requirements placed on child minders and day care providers in schedules 1 and 2 of the Child Minding and Day Care (Wales) (Amendment) Regulations 2016 (as amended) and provides an element of "future proofing";;
- (ii) A new requirement for approved nannies to inform the approval body of any change in their name, home address or contact details, which will help ensure that the approval body has the most up to date contact details should they need to contact the nanny during the period of their approval. This is similar to some of the requirements placed on child minders and day care providers in Schedule 4 of the Child Minding and Day Care (Wales) (Amendment) Regulations 2016 (as amended);

- (iii) Minor technical and drafting changes to make parts of the scheme clearer but which do not impact on the overall purposes of the scheme.

It is not considered appropriate to amend the current scheme to require nannies to report directly to parents any new convictions as this is considered beyond the scope of the main purpose of this voluntary scheme, which is in the main to enable families to benefit from UK Government financial support and to provide basic assurances to families of the nanny's suitability to care for their children. We will emphasise in supporting guidance that it remains the responsibility of the parent, primarily, to satisfy themselves of the suitability of the nanny and that they may do so by seeking references and asking to see evidence of the nanny's approval.

Issues for the longer term

Many of the other issues raised as part of the consultation go beyond the scheme itself, with fundamental questions being asked by some about whether or not voluntary approval is the right approach and whether nannies should be subject to more rigorous regulation, registration and inspection procedures. This, in turn, would enable nannies to deliver the Childcare Offer for Wales and would require them to have written policies and procedures in place.

There are plans to undertake a consultation of The Child Minding and Day Care Exceptions (Wales) Order 2010 (as amended) which is the legislation which excludes nannies from registration. Although this consultation has been delayed as a result of the Coronavirus outbreak, it remains the aim of the Welsh Government to undertake this consultation.

In the meantime, this new scheme provides a replacement scheme (with some enhancements and additional safeguards compared to the previous scheme) and will ensure that families using approved nannies in Wales continue to be provided with a basic level of assurance relating to the nanny's suitability and professionalism and that they can continue to benefit from UK Government financial support with their childcare costs.

Work will also be taken forward by the Welsh Government and the approval body to explore the cost implications of enabling nannies to apply for approval (and re-apply) using an on-line system, which could bring a number of benefits, including better integration with the automatic updated service for enhanced criminal record checks and automated reminders for nannies when their re-approval is due.

It is currently planned for the final scheme, and associated integrated impact assessment, to be published on 25 March and for it to come into force from 1 April 2021.

Annex A

Cylch Meithrin Cwmbran
Swansea Council
Caerphilly County Borough Council
Wrexham Council (Childcare Team)
Pacey Cymru
Ceredigion County Council
Children's Commissioner
Early Years Wales
Social Care Wales
Vale of Glamorgan Council
Care Inspectorate Wales
18 Individuals