

24 July 2026

LGSCO response to the CMA consultation: Early years education and childcare market study: other interested people

The Local Government and Social Care Ombudsman (LGSCO) welcomes the opportunity to respond to this consultation on early years education and childcare services in England. As the independent body responsible for complaints about the actions of councils and social care providers, we have a unique evidence base drawn from the complaints we receive and the findings we make. In particular we take complaints about the actions taken by councils in discharging their responsibilities for childcare.

The role of local authorities and their oversight duties

Local authorities have significant statutory responsibilities in the childcare market. The Childcare Act 2006 places a duty on councils to secure, so far as is reasonably practicable, sufficient childcare provision to meet the requirements of parents in their area who need it to enable them to work. This includes a specific duty to ensure provision is suitable for disabled children as defined by the Equality Act 2010.

Councils are also responsible for ensuring that free early years entitlement hours are delivered in line with the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014. This means they have a direct role in how funded childcare is made available, by whom, and on what terms. From the complaints we investigate, it is clear that the way councils discharge — or fail to discharge — these duties has a direct and material impact on whether families can access the childcare they are entitled to, at no cost to themselves.

We would encourage the CMA to examine closely whether the current framework gives local authorities sufficient tools, resource and accountability to fulfil these responsibilities effectively, and whether existing oversight mechanisms are robust enough to identify and address gaps in provision.

Below are some key themes from our casework in this area.

Provider charging practices

One issue that arises from our casework is the question of whether providers are charging families in ways that are fair and lawful. Where councils are responsible for securing free entitlement hours, they are also responsible for ensuring that providers are not, in practice, imposing charges that effectively negate the value of those funded hours — for example, through mandatory add-ons, inflexible session structures, or conditions that place undue financial burden on families.

This was a central issue in a [report we issued against Bournemouth, Christchurch and Poole Council](#). The Council judicially reviewed our decision but the court found our decision was sound. Following this the government issued updated guidance to local authorities on how to discharge this duty.

We would encourage the CMA to consider whether local provider agreements are clear about the restrictions around additional charges on free-hours, and whether local authorities are taking action when they receive evidence that providers' practices fall outside what is permitted. Our experience suggests that where oversight is weak, families — particularly those in more vulnerable circumstances — may be paying more than they should, or may find the nominally free entitlement inaccessible in practice.

Failure to ensure sufficient childcare for disabled children

Perhaps the starkest illustration of what can go wrong when local authority oversight is inadequate comes from a case we investigated involving Reading Borough Council (complaint reference [24 009 593](#), decided May 2025).

In this case, a father — Mr K — had a son with significant disabilities affecting his development, vision, hearing, communication and mobility. When Mr K sought a nursery place, there was only one provider in the entire council area capable of supporting his son's needs, and that provider was full. No other suitable provision existed. The family was effectively locked out of the free childcare entitlement their son had a legal right to access. We found the Council at fault, concluding there had been a service failure in its duty to ensure sufficient childcare provision for disabled children in its area. The Council itself acknowledged it did not have adequate early years provision for children with disabilities and special educational needs, and confirmed it was taking steps to try to resolve this.

As a result of the Council's failure, Mr K's son missed out on the developmental and social benefits that childcare is designed to provide. He was socially isolated from his peers at a critical stage of his development. Mr K was forced to fund private childcare out of his own pocket for a period during which his son should have been accessing his free entitlement. We recommended the Council apologise, make financial payments to acknowledge the injustice caused, and report back to us on the steps it was taking to address the gap in provision.

This case suggests that where demand specialist provision for disabled children outstrips supply, families have no meaningful alternative. This places a particular premium on local authorities actively managing supply — and on their being accountability when they do not.

Drawing on our casework, we would invite the CMA to consider the following:

- Whether local authorities have sufficient capacity and guidance to respond to concerns about providers acting outside the charging regime; have robust local provider agreements to enforce provider compliance with charging rules; and what improvements to the oversight regime might be needed.
- Whether the current framework adequately holds councils to account for gaps in childcare provision, particularly for disabled children and those with special educational needs, and whether there are systemic barriers to councils fulfilling these duties.
- Whether families who are affected by gaps in provision or unlawful charging have adequate and accessible routes to redress — including awareness of their rights and

how to exercise them. In particular we would recommend that all relevant guidance and information contains reference to the role of the Ombudsman where people remain dissatisfied following the local authorities complaints process.

If you would like more information or to discuss this response in more detail, please don't hesitate to get in contact.

Yours sincerely,

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Local Government and Social Care Ombudsman for England