

# Model agreement template: free early years provision and childcare

## Key local authority responsibilities

Local authorities must secure a free place for every eligible child in their area.

The local authority should work in partnership with providers to agree how to deliver places.

The local authority should be clear about their role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations of providers.

The local authority must contribute to the safeguarding and promote the welfare of children and young people in their area.

## Key provider responsibilities

The provider must comply with all relevant legislation and insurance requirements.

The provider should deliver the free entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the provider should be clear and communicate to parents details about the days and times that they offer free places, along with their services and charges. Those children accessing the free entitlements should receive the same quality and access to provision.

The provider must follow the EYFS and have clear safeguarding policies and procedures in place that link to the local authority’s guidance for recognising, responding, reporting and recording suspected or actual abuse.

The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.

**Safeguarding**

The local authority has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the ‘[Working together to safeguard children’](https://www.gov.uk/government/publications/working-together-to-safeguard-children--2) guidance sets these out in detail.

The provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A lead practitioner must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. The provider must have regard to ‘Working Together to safeguard Children’ guidance.

## Eligibility

The provider should check original copies of documentation to confirm a child has reached the relevant age on initial registration for all free entitlements. The provider can retain paper or digital copies of documentation to enable the local authority to carry out audits and fraud investigations. Where a provider retains a copy of documentation this must be stored securely and deleted when there is no longer a good reason to keep the data. Please refer to the data privacy guidance set out in Annex A: Parent declaration, part 6.

The provider should offer disadvantaged 2-year-old places on the understanding that the child remains eligible until they become eligible for the universal entitlement for 3- and 4- year-olds.

The local authority must ensure that a child has a free place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlement.

Alongside the eligibility code, which is the child’s unique 11-digit number, and original copies of documentation (see 2.14), a provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from the local authority of the validity of the parent’s eligibility code.

Once a provider has received written consent from the parent, they should verify the eligibility code with the local authority.

The local authority will confirm the validity of eligibility codes to allow providers to offer free places for eligible children aged 9 months and above. The local authority will provide a validity checking service to providers to enable them to verify the eligibility code. The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity.

Thereafter, the local authority should complete audit checks to review the validity of eligibility codes for children who qualify for the working parent entitlement at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as listed at table A below). It is the local authority’s responsibility to notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date.

**Table A: Audit and Grace Period Dates**

|  |  |  |
| --- | --- | --- |
| **Date Parent receives ineligible decision on reconfirmation:**  | **LA audit date:**  | **Grace Period End date:**  |
| 1 Jan – 10 Feb  | 11 February  | 31 March  |
| 11 Feb – 31 March  | 1 April  | 31 August  |
| 1 April – 26 May  | 27 May  | 31 August  |
| 27 May – 31 August  | 1 September  | 31 December  |
| 1 September – 21 October  | 22 October  | 31 December  |
| 22 October – 31 December  | 1 January  | 31 March  |

## The Grace Period

A child will enter the grace period when the child’s parents cease to meet the eligibility criteria set out in the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 as determined by HMRC (or where the child is in foster care, the responsible local authority) or a First Tier Tribunal in the case of an appeal.

Local authorities will be able to access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the ECS. The grace period end date will automatically be applied to eligibility codes.

The local authority should continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory guidance for Local Authorities 2023.

*[Local authority to insert their local level grace period process here]*

## Flexibility

Provision must be offered within the national parameters on flexibility as set out in Section A2 of Early Education and Childcare [Statutory guidance for Local Authorities](https://www.gov.uk/government/publications/early-education-and-childcare--2).

The provider should work with the local authority and share information about the times and periods at which they are able to offer free entitlements to support the local authority to secure sufficient stretched and flexible places to meet parental demand in the local authority. The provider should also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting.

[*Local authority to insert process for child receiving free entitlement at multiple providers*]

## Partnership working

Partnerships should be supported by local authorities on four levels between:

1. Local authorities and providers
2. Providers working with other providers, including childminders, schools and organisations
3. Providers and parents
4. Local authorities and parents

The local authority should promote partnership working between different types of providers, including childminders, across all sectors and encourage more providers to offer flexible provision, alongside other providers.

The provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting. An [interactive toolkit](http://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit) has been developed to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring.

The provider should discuss and work closely with parents to agree how a child’s overall care will work in practice when their free entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.

## Special educational needs and disabilities

The local authority must strategically plan support for children with special educational needs and/or disabilities (SEND) to meet the needs of all children in their local area as per the [Special Educational Needs and Disability code of practice: 0 to 25 years](https://www.gov.uk/government/publications/send-code-of-practice-0-to-25).

The provider must ensure owners and all staff members are aware of their duties in relation to the SEND Code of Practice 2014 and the Equality Act 2010.

The local authority must be clear and transparent about the support on offer in their area, through their local offer, so parents and providers can access that support.

The provider should be clear and transparent about the SEND support on offer at their setting and make information available about their offer to support parents to choose the right setting for their child with SEND.

## Supporting disadvantaged children

The local authority should promote equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to places and working with parents to give each child support to fulfil their potential.

The provider should ensure that they have identified the disadvantaged children in their setting as part of the process for checking EYPP eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.

From April 2024, there may be some circumstances where households meet the eligibility criteria for both the disadvantaged two-year-old entitlement and the working parent entitlement. In these circumstances, the childcare should be provided under the disadvantaged 2-year-old entitlement. The child will remain on the disadvantage entitlement until they become eligible for the universal entitlement for 3- and 4-year-olds or 30 hours free childcare for 3- and 4-year-olds if they meet the eligibility criteria. Therefore, households will not lose eligibility for their 15 hours free early education, as is currently the case for the disadvantage entitlement. From September 2025, when the working parent entitlement increases to 30 hours, where households meet the eligibility criteria for both 2-year-old entitlements, they should be recorded as taking up 15 hours of the disadvantage entitlement and 15 hours of the working parent entitlement. They will need to reconfirm eligibility every 3 months for the working parent entitlement and from September 2025, they will not be defaulted automatically onto the disadvantage entitlement should they lose eligibility for the working parent entitlement.

## Quality

The [Early Years Foundation Stage (EYFS) statutory framework](https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2) is mandatory for all schools that provide early years provision and early years providers registered with Ofsted or with an Ofsted-registered Childminder Agency in England. The EYFS sets the standards that all early years providers must meet to ensure that children learn and develop well and are kept healthy and safe.

Ofsted are the sole arbiter of quality for all childcare entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision. Childminder agencies (CMAs) are organisations that can register and quality assure childminders as an alternative to registering with Ofsted.

Local authorities have a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than ‘Good’ by Ofsted or newly registered providers.

Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of Early Education and Childcare Statutory Guidance for Local Authorities 2023 and the EYFS statutory framework.

## Business planning

The local authority should clearly set out the documentation that they need to receive from providers to support payment and delivery of the free entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.

The local authority should not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of free entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the local authority as a result of the lateness and local authorities will ensure charges are clearly communicated to providers.

The local authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.

The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of their local authority. Failure to do so may result in inaccurate, delayed or suspended funding.

The provider should maintain accurate financial and non-financial records relating to free entitlement places and should give the local authority access on reasonable notice to all financial and non-financial records relating to free entitlement places funded under the provider agreement, subject to confidentiality restrictions.

## Charging

Government funding is intended to deliver 15 or 30 hours a week of free, high quality, flexible childcare. It is not intended to cover the cost of meals, other consumables, additional hours or additional services.

The provider can charge for meals and snacks as part of a free entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and musical tuition. Providers should be mindful of the impact of additional charges, especially on the most disadvantaged parents. Where parents are unable to pay for meals and consumables, providers who choose to offer the free entitlements are responsible for setting their own policy on providing parents with options for alternatives to additional charges, including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals.

The provider should deliver the free entitlements consistently so that eligible children accessing them will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.

The local authority should not intervene where parents choose to purchase additional hours of provision or additional services, provided that this is not a condition of accessing the free entitlement.

The provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as free provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of hours are convenient for parents’ working hours.

The provider can charge parents a deposit to secure their child’s free place but should refund the deposit in full to parents within a reasonable time scale.

The provider cannot charge parents “top-up” fees (any difference between a provider’s normal charge to parents and the funding they receive from the local authority to deliver free places) or require parents to pay a registration fee as a condition of taking up their child’s free place.

The provider should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their free entitlement completely free of charge and understand fees paid for additional hours. The provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.

## Funding

The local authority should pay all providers monthly, particularly childminders, unless a provider requests and the local authority agrees to continue an existing alternative sustainable method of payment.

The provider should accurately complete and submit headcount and other necessary data returns by the agreed date to support the local authority to make payment.

[*Local authority to set out funding process and timetable so providers are clear about the funding that they will receive and the requirements on them in order to receive it, including funding multiple providers and changes in provider*]

## Compliance

The local authority can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the free entitlements.

*[Local authority to insert details of their compliance process*]

## Termination and withdrawal of funding

Suspension of registration by Ofsted or childminder agency, or a breach of statutory requirements or safeguarding issues may result in the termination of the arrangement and withdrawal of funding.

[*Local authority to insert details of their termination/withdrawal of funding terms and process. Termination provisions must also include those required by regulation 7 (Termination of the arrangements) of the Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 and regulation 37 (Arrangements between local authorities and early years providers: termination) of The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016]*

## Appeals process

A provider may be denied approval to offer the free entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision.

[*Local authority to insert details of their appeals process*]

## Complaints process

[*The local authority will set out here their complaints procedure for parents who are not able to resolve their concern directly with the provider where the parent is not satisfied that their child has received their free entitlement in accordance with the legislation or as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities. This complaints procedures must satisfy public law requirements*]

 The Provider should ensure they have a complaints procedure in place that is published and accessible for parents who are not satisfied their child has received their free entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities.

If a parent or provider is not satisfied with the way in which their complaint has been dealt with by the local authority or believes the local authority has acted unreasonably, they can make a complaint to the Local Authority Ombudsman. Such complaints will only be considered when the local complaints procedures have been exhausted.

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