



WOKINGHAM BOROUGH COUNCIL

PROVIDER AGREEMENT FOR

RECEIPT OF

EARLY YEARS FREE ENTITLEMENT

FOR 2, 3 & 4 YEAR

OLD CHILDREN

2021/22



**WOKINGHAM
BOROUGH COUNCIL**

Overview

This documents sets out the terms of agreement in regards to providers registering with Wokingham Borough Council to provide the Early Years Free Entitlement (EYFE) to eligible parents. This agreement covers the free entitlement for disadvantaged 2 year olds, the universal entitlement for 3 and 4 year olds and the additional entitlement for working families.

The terms of the agreement are based on the model agreement published by the Department for Education in June 2018. They should be read alongside '*Early Education and Childcare, Statutory Guidance for Local Authorities June 2018*'

The following legislation underpins this agreement.

- Early Education and Childcare, Statutory Guidance for Local Authorities 2018
- Childcare Act 2006
- Childcare Act 2016
- Equality Act 2010
- School admissions code
- Statutory framework for the early years foundation stage
- Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
- The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016
- Special educational needs and disability code of practice: 0 to 25 years
- Data Protection Act 2018

Any reference to legislation in this agreement will be to that legislation, as amended from time to time, without express change in the agreement.

Key Local Authority Responsibilities

1. Local authorities must secure a free entitlement place for every eligible child in their area.
2. The local authority should work in partnership with providers to agree how to deliver free entitlement places.
3. 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.
4. The local authority must contribute to the safeguarding and promote the welfare of children and young people in their area.

Key Provider Responsibilities

In order to be registered to offer EYFE providers

5. must comply with all relevant legislation and insurance requirements;
6. 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;
7. must follow the Early Years Foundation Stage (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;
8. 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 (EYIF) and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents as required.

Safeguarding

9. Wokingham Borough Council 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 2018'* guidance sets these out in detail.
10. In order to be registered to offer EYFE providers must follow the EYFS with 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.

11. Providers must comply with the requirements of the Local Safeguarding Children's Board requirements and return a satisfactory annual compliance check.

Eligibility

12. Providers should check original copies of documentation to confirm a child has reached the eligible 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.
13. If providers offer places for eligible two year olds they should do so on the understanding that the child remains eligible until they become eligible for the universal entitlement for three and four year olds.
14. Wokingham Borough Council will ensure that a child has a free entitlement place no later than the beginning of the term following the child's birthday and the parent meeting the eligibility criteria for the free entitlements.
15. Alongside the 30 hours eligibility code, which is the child's unique 11-digit number, and original copies of documentation (see 2.14), providers must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from Wokingham Borough Council of the validity of the parent's 30 hours eligibility code. This written consent will form part of the parent declaration form.
16. Once providers have received written consent from the parent, they should verify the 30 hour eligibility code with Wokingham Borough Council.
17. Wokingham Borough Council will confirm the validity of 30 hour eligibility codes to allow providers to offer 30 hour places for eligible three- and four-year-olds. Wokingham Borough Council will provide a validity checking service to providers to enable them to verify the 30 hours eligibility code. Details of this checking service will be sent to providers and placed on the Early Years and Childcare Hub.
18. Wokingham Borough Council will complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours free childcare at 6 fixed points in the year. This will be at half-term and at the end of term across the year, in line with the dates as listed in the table below. It is Wokingham Borough Council's responsibility to notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date.

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

19. A child will enter the grace period when the child's parents cease to meet the eligibility criteria set out in the *Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016*, as determined by HMRC or a First Tier Tribunal in the case of an appeal.
20. Wokingham Borough Council will access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.
21. Wokingham Borough Council will 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 2018*.
22. Wokingham Borough Council will inform providers through the provider portal when a child enters their grace period. It will be made clear the date at which the additional entitlement for working families will cease. If the child attends 2 or more providers each provider will be informed. Parents will have already indicated on the parent declaration form which hours were associated with the additional entitlement and will, therefore, cease to be funded at the end of the grace period and those which will remain funded as part of the universal offer.

Flexibility

23. 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 2018*.
24. Providers should work with Wokingham Borough Council and share information about the times and periods they are able to offer free entitlements to support the local authority to secure sufficient stretched and flexible places to meet parental demand. Providers should also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting.
25. Parents are able to split their entitlement over an unlimited number of providers as long as in any one day the child does not access funding on more than two sites. Providers will be able to use the parent declaration form to ascertain if the parent has chosen to split their funding. Details of the other provider will be recorded on the form.

Partnership Working

26. Wokingham Borough Council will support partnerships on four levels:
 - i. Local authorities and providers
 - ii. Providers working with other providers, including childminders, schools and organisations
 - iii. Providers and parents
 - iv. Local authorities and parents

27. Wokingham Borough Council will promote partnership working between different types of providers, including childminders, across all sectors and encourage more providers to offer flexible provision, alongside other providers.
28. Providers should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting. An interactive toolkit has been developed by the family and child care trust to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring. A link to this has been made available on the Early Years and Childcare Hub.
29. Providers 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

30. Wokingham Borough Council will continue to 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 (January 2015)*.
31. Providers must ensure owners and all staff members are aware of their duties in relation to the *SEND Code of Practice* and the *Equality Act 2010*.
32. Wokingham Borough Council will be clear and transparent about the support on offer in their area, through their Local Offer, so parents and providers can access that support. Full details of the support available can be found on the Early Years and Childcare Hub.
33. Providers must complete and update their Local Offer at least annually.
34. Providers 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. This should be through regularly reviewing and updating their local offer on the Wokingham Information Network site managed by the Family Information Service.

Social mobility and disadvantage

35. Wokingham Borough Council will continue to promote equality and inclusion, particularly for disadvantaged families, looked after children and children in need, by removing barriers of access to free places and working with parents to give each child support to fulfil their potential.
36. Providers should ensure that they have identified the disadvantaged children in their setting as part of the process for checking Early Years Pupil Premium eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.

Quality

37. The Early Years Foundation Stage (EYFS) statutory framework is mandatory for all schools that provide early years provision and Ofsted-registered early years providers 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.
38. Ofsted are the sole arbiter of quality for all free 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.
39. Wokingham Borough Council 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.
40. All free entitlement 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 and the EYFS statutory framework.

Business Planning

41. In order to claim for the Early Years Free Entitlement providers are required to complete the headcount process on a termly basis. Details of the process and a timeline of when information will be required is available under the relevant section of the Early Years and Childcare Hub.
42. Providers should ensure they submit timely and accurate information, including, but not limited to, headcount data and census data. Failure to do so may result in inaccurate, delayed or suspended funding.
43. Wokingham Borough Council will at their discretion conduct an audit to ensure information provided is accurate and that funding is being offered in line with this agreement. This audit regime will not put unnecessary burdens on providers.
44. Providers should maintain accurate financial and non-financial records relating to free entitlement places and should give Wokingham Borough Council 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

45. Government funding is intended to cover the cost to deliver up to 15 or 30 hours a week of free, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or additional services.
46. Providers can charge for meals and snacks as part of a free entitlement place and they can also charge for consumables such as nappies, sun cream and for services such as trips and musical tuition. These charges must be voluntary for the parent. Where parents are unable or unwilling to pay for meals and consumables, providers who choose to offer the free entitlements are responsible for setting their own policy on how to respond, with options

including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals

47. Wokingham Borough Council will not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to take up their child's free place. The provider should be completely transparent about any additional charges.
48. Providers 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.
49. Providers 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.
50. Providers cannot charge parents "top-up" fees (the difference between a provider's usual fee 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.
51. Providers 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. Providers should also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.

Funding

52. Providers should accurately complete and submit headcount and other necessary data returns by the agreed date to support Wokingham Borough Council to make payment.
53. All data must be submitted to Wokingham Borough Council by the method and the dates set out in the headcount information on the Early Years and Childcare Hub.
54. Providers can only claim hours for children who are registered to attend the provision on headcount day or who are absent on that day for permissible reasons, for example, absence through illness or for some exceptional reason. If a child for whom a provision is claiming hours is not attending regularly or has had a long term absence (in excess of 3 weeks) the provider must inform Wokingham Borough Council.
55. Providers may claim for the number of EYFE hours the child is attending per week when headcount takes place. A child's total hours must not exceed their entitlement of 570 hours per year taken over no fewer than 38 weeks for the universal entitlement (equivalent to a maximum of 15 hours per week). From September 2017 a child who is eligible for the enhanced free entitlement for working families will be able to receive up to a maximum 1140 hours if the provider chooses to offer it.
56. Headcount day will be on the same day as the Department for Education's school census. Dates will be published on the Early Years and Childcare Hub.

57. It is the provider's responsibility to ensure the headcount data is accurate and complete. Wokingham Borough Council is under no obligation to provide additional funding for errors of omission or miscalculation. Providers may only claim hours in respect of EYFE for which no charge is made to parents. Providers are required to repay funding when errors have occurred or when an advance payment has been made in excess of the amount claimed through the headcount process. It is a condition of funding that any recovery may be made by an appropriate reduction in a subsequent terms funding allocation if possible. If this is not possible Providers will be sent an invoice for the amount outstanding.
58. If a child leaves a provision following headcount day no funding is repayable by the provision
59. If a child increases their hours after headcount day and the increase is still within their EYFE no adjustment for the increased hours will be available for that term and the parent must not be charged for these hours.
60. If a child joins a provider after headcount day and they have not received EYFE funding within that funding period at another provider, an application for the funded weeks the child has attended can be made.
61. If a child moves between provisions in the Wokingham Borough during a funding period, providers are under no obligation to transfer the EYFE funding to the new Provider, however may do if they wish.
62. When a child first becomes eligible for EYFE the provision must ensure that the parents fully complete the Parent Declaration Form and enter the relevant data on the headcount return. Parent Declaration Forms should be retained by providers and should be updated whenever the parent changes the number of hours being accessed. If the home address for a child changes a new form should be completed.
63. Parents must also be given the link to the Wokingham Borough Council Privacy Notice.
64. Providers must ensure that documentation which states the child has reached eligible age is seen prior to the initial claim for the EYFE funding and records kept of dates seen and by whom.
65. If a child is accessing EYFE at more than one provision the name of the other provision and the hours claimed there must be stated on the Parent Declaration Form. The other setting should be contacted to confirm the details of the claim do not exceed the maximum number of hours permitted.
66. In addition to the headcount returns, providers must forward any additional information as requested for the annual Early Years Census and for the Early Years Foundation Stage Assessment data collection in the summer term.
67. Providers must undertake to repay on demand any funding, if that payment was:
- made to a provision which did not meet the minimum requirements for eligibility;
 - made incorrectly; or
 - made as an advance payment for a funding period during which a provider is de-registered. The provider would be expected to repay a pro- rata amount relating to the period of time following deregistration.

It is a condition of funding that any recovery may be made by an appropriate reduction in a subsequent terms funding allocation.

Compliance

- 68. Wokingham Borough Council can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the free entitlements.
- 69. Providers are required to keep financial records / accounts of the receipt and use of funding for a minimum of 7 years
- 70. Providers must agree to be inspected by officials from Wokingham Borough Council (or Wokingham Borough Council's Nominees) to ensure EYFE Funding is being used correctly. They must allow access to all accounts, supporting documents and other materials, and provide such assistance with their interpretation as required.
- 71. Providers must record the presence or absence at each session of each child for whom EYFE Funding has been claimed and have a procedure in place for unexplained absence(s).
- 72. Providers must ensure that funded non-attendees are contacted on the first day of absence. This communication should be recorded and the family subsequently given appropriate support on their return to ensure continued attendance.

Continued and recurrent absence periods must be monitored and recorded by the provider and discussed with the Early Years Team. In the event that a child is found to be continually absent, without good reason, Wokingham Borough Council will review its funding for the child.

- 73. Providers must use their best endeavours to safeguard these arrangements against fraud on the part of Directors, Governors, staff or parents with particular regard to inaccurate, incomplete or misleading claims for payment.
- 74. Providers must ensure that all personal data held in relation to their provision are processed and protected in accordance with the Data Protection Act 2018.
- 75. Providers must ensure that personal data is accessible only by authorised persons who have a need to know and for whom a Disclosure & Barring Service Enhanced Disclosure has been obtained. Wokingham Borough Council will only exchange personal information with providers on the basis that this requirement is met. The provider must respect the family's privacy and confidentiality, only sharing information agreed by parents or to safeguard the welfare of the child.
- 76. Providers must adhere to the process as detailed by Wokingham Borough Council for the transfer of data. This is to ensure all sensitive data is handled securely. Information about this process can be obtained on the Early Years and Childcare Hub or by contacting the Early Years Team.

Termination and withdrawal of funding

77. If a provider breaches statutory requirements, there is evidence of serious safeguarding issues or has their registration by Ofsted suspended this agreement may be terminated and funding withdrawn with immediate effect. This includes if a setting is issued Welfare Requirement Notices from Ofsted. It is a requirement of this funding that providers contact the local authority as soon as Welfare Requirement Notices have been issued.
78. If a provider receives an Ofsted judgement of inadequate Wokingham Borough Council are required to terminate this agreement and remove funding as soon as practicable. Once the report detailing the inadequate judgement has been published a letter detailing the timeframe for the withdrawal of funding will be sent to the provider. When deciding the timeframe Wokingham Borough Council will take into account the continuity of care for children already receiving funded hours with the provider, as well as Ofsted monitoring information regarding the provider.
79. If Wokingham Borough Council does not act immediately it does not waive its right to do so at any time a provider fails to meet the requirements of this agreement or relevant legislation.
80. When considering funding new providers, Wokingham Borough Council will consult any information published by Ofsted about a provider including recent history of any childcare provider at a particular address. Wokingham Borough Council will not fund a provider who it deems has re-registered with Ofsted following an inadequate inspection in order to avoid making the quality improvements identified by Ofsted.

Appeals Process

81. 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.
82. In the first instance a letter should be sent detailing the grounds for the appeal to the Early Years Team Manager:

Early Years Team Manager
Wokingham Borough Council
Shute End
Wokingham
RG40 1BN

83. If a provider is unsatisfied with the outcome of the appeal they can escalate it to the Head of Learning and Achievement. This should be sent to

Head of Learning and Achievement
Wokingham Borough Council
Shute End
Wokingham
RG40 1BN

Complaints Process

- 84. If a parent is concerned that they are not receiving their free entitlement in accordance with legislation or as set out in this agreement and in '*Early Education and Childcare Statutory Guidance for Local Authorities*' they should in the first instance contact their provider.
- 85. Providers are required to have a published and accessible complaints procedure.
- 86. If this fails to resolve the issue a complaint should be made giving as much detail as possible to:

Early Years Advisor – Free Entitlement
Wokingham Borough Council
Shute End
Wokingham
RG40 1BN

Tel. number: 0118 9088260

Email : earlyyears@wokingham.gov.uk

- 87. If a parent or provider is unhappy with the outcome of the complaint it should be escalated to the Early Years Team Manager. They can be contacted at the address above.
- 88. 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.

Data Protection and Information Security

Data Protection

Data kept on children (in any medium) is personal data. The data must be managed in accordance with the requirements of the Data Protection Act 2018. All staff having access to personal data should be aware of their responsibilities under the Act.

To comply with the Data Protection Act 2018, data will only be sent to and received from provisions that comply with this act. Provisions will also need to comply with the Safeguarding Vulnerable Groups Act (2006) by registering with the vetting and barring scheme operated by the Disclosure and Barring Service (DBS).

The Data Protection Act protects the privacy and integrity of data held on individuals by businesses and other organisations and ensures that individuals have access to their data and can correct it if necessary. This act covers data held electronically and in paper format.

If you store personal information on individuals you may need to review your policies, practices and procedures.

The website www.ico.org.uk gives further information on data protection and there is an online tool to help 'businesses' establish if they need to register.

Computer Security

Storing data on the computer is inevitable in today's climate and is to be encouraged however it is important to ensure the data is kept safely. A useful website is www.getsafeonline.org as it gives advice on security as recommended by the ICO

Security tips include:

- Install a firewall and virus checking on your computer;
- Destroy / delete information after its retention period (7 years for personal data related to business transactions).

Where information on a laptop could be used to cause an individual damage or distress it should be encrypted. The level of protection provided by the encryption should be reviewed and updated periodically to ensure that it is sufficient if the device was lost or stolen. It may be necessary to seek specialist technical advice on this.

Secure Data Exchange

Information to be exchanged between Wokingham Borough Council and Early Years providers **must** be transferred by using secure methods as detailed by the Early Years and Data and Performance Teams.