

# **Provider Agreement for Funding Free Places for 2, 3 and 4 Year Olds**

**Effective from September 2019**

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## 1. Introduction

- 1.1. This document sets out the conditions placed on early years providers who wish to be registered to offer the early years free entitlements for 2, 3 and 4 year olds. For the purposes of this document early years providers are referred to as 'providers' and include:
- early years providers and childminders registered on the Ofsted Early Years Register;
  - childminders registered with a childminder agency (CMA) which is itself registered with Ofsted;
  - Maintained Schools, Independent Schools and Academies taking children age two and over and which are exempt from registration with Ofsted as an early years provider
- 1.2. These conditions have been produced with regard to the Department for Education (DfE) Early Education and Childcare Statutory guidance for local authorities (June 2018) and refers to the Early Years Provision Free of Charge (sections 7 and 7A Childcare Act 2006) and Free Childcare (section 2 of the Childcare Act 2016) as the 'free entitlement(s)', a 'free place' or 'free hours'. It applies to the 15 hours entitlement for the most disadvantaged two year olds, the 15 hour entitlement for parents of three and four year olds (the universal entitlement) and the 30 hours entitlement for working parents of three and four year olds (the extended entitlement).
- 1.3. This document does not provide guidance on how providers operate their private businesses, including charges for provision over and above a child's free hours. The Local Authority 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.

## 2. Review date

- 2.1. The information included in this document is correct at the time of publication but is subject to changes in Government policy. This document will be kept under review and updated as necessary.

### 3. Legal framework

- 3.1. The following frameworks and legislation underpin this model agreement, the list is not an exhaustive list:
- Early Education and childcare, Statutory guidance for Local Authorities June 2018
  - Childcare Act 2006
  - Childcare Act 2016
  - Equality Act 2010
  - School admissions code 2014
  - Statutory framework for the early years foundation stage 2017
  - 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 2015
  - Data Protection Act 2018
  - Freedom of Information Act 2000
- 3.2. Bracknell Forest Council (BFC) reserves the right to unilaterally vary this document to reflect changes in legislation and departmental advice.
- 3.3. References to legislation will be to that legislation as amended from time to time, without express change to this document.
- 3.4. All providers are required to keep up-to-date with and comply with relevant legislation and are expected to attend provider meetings.
- 3.5. The Freedom of Information Act 2000 gives any person the right to request information held by public authorities such as Bracknell forest Council. For more information, please see the [freedom of information](#) page on the BFC website.
- 3.6. The General Data Protection Regulation and Data Protection Act 2018 requires local authorities to inform individuals about how their personal data is used. This is provided through a [privacy notice](#) on the BFC website.
- 3.7. All early years providers are data controllers and data processors in their own right and, as such, they have a duty to inform pupils, staff and parents how they process the data that is within their control. Guidance on data protection is available on the DfE website<sup>1</sup>.

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<sup>1</sup> <https://www.gov.uk/government/publications/data-protection-and-privacy-privacy-notice>

## 4. Key responsibilities

- 4.1. The DfE has set key responsibilities for local authorities and providers in relation to the provision of free entitlement places.

### Key local authority responsibilities

- 4.2. Local Authorities must secure a free entitlement place for every eligible child in their area.
- 4.3. The Local Authority should work in partnership with providers to agree how to deliver free entitlement places.
- 4.4. 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.
- 4.5. The Local Authority must contribute to the safeguarding and promote the welfare of children and young people in their area.

### Key provider responsibilities

- 4.6. The provider must comply with all relevant legislation and take out and maintain adequate levels of insurance.
- 4.7. 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 details to parents 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.
- 4.8. The provider 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.
- 4.9. 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.

## 5. Safeguarding

- 5.1. BFC has overarching responsibility for safeguarding and promoting the welfare of all children and young people in the Borough. BFC 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'<sup>2</sup> sets these out in detail. All procedures can be accessed on the Bracknell Forest Local Safeguarding Children Board Website<sup>3</sup>.
- 5.2. Providers 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.
- 5.3. The Local Authority Designated Officer (LADO) occupies a statutory role that is underpinned by The Children Act 2004, The Education Act 2002, and Working Together 2018, all of which place duties on organisations to safeguard and promote the welfare of children. The LADO manages all of the allegations that are made against persons working with children, this includes paid and unpaid workers, full time, part time, agency and volunteers.

The LADO allegations procedure applies whenever there is an allegation or concern that a person who works with children has:

- Behaved in a way that has harmed a child or may have harmed a child,
- Has possibly committed a criminal offence against or related to a child,
- Has behaved towards a child or children that indicates he or she may pose a risk of harm to children.

If you observe or are made aware of any concerns about a person who is working with young people then you should make your designated safeguarding lead at work aware, and either they (or yourself if they are not available) have a duty to refer these concerns onto the LADO within one working day. Concerns may be around a person's current role, historical allegations that you have become aware of, or something in relation to their personal lives.

The LADO is available to discuss any concerns that you may have and will then assess what the next steps needs to be and provide you with support around any safeguarding actions.

The LADO can be contacted on 01344 351572 or at [LADO@bracknell-forest.gov.uk](mailto:LADO@bracknell-forest.gov.uk)

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779401/Working\\_Together\\_to\\_Safeguard-Children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf)

<sup>3</sup> <https://www.proceduresonline.com/berks/bracknell/>

## 6. Requirements for receiving the free entitlements

- 6.1. Providers wanting to offer the free entitlements must:
- operate a setting located within Bracknell Forest
  - register with the Bracknell Forest Local Directory
  - register with OFSTED (if providing childcare that requires registration)
- 6.2. Providers must actively promote fundamental British values in accordance with section A1.39 of the Early Education and Childcare Statutory Guidance for Local Authorities.
- 6.3. Providers must confirm compliance with the terms and conditions of this document by completing the online registration process.

## 7. The free entitlements

- 7.1. The free entitlements, also known as ‘free places’ or ‘free hours’ are:
- the 15 hour entitlement for the most disadvantaged 2 year olds
  - the 15 hour entitlement for parents of 3 and 4 year olds (the universal entitlement); and
  - the 30 hour entitlement for working parents of 3 and 4 year olds (the extended entitlement).

### Eligibility

- 7.2. The DfE sets the dates of birth for the start of eligibility for the free entitlements, as set out in the table below. School term dates are not taken into account when determining eligibility.

<b>Child’s second (where eligible) or third birthday falls between</b>	<b>Free entitlement starts</b>
1 April and 31 August	1 September (autumn term)
1 September and 31 December	1 January (spring term)
1 January and 31 March	1 April (summer term)

- 7.3. The provider should check original copies of documentation to confirm a child has reached the eligible age on initial registration. 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.

- 7.4. The local authority must ensure that a child has a free entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlements.
- 7.5. Children who have been admitted to primary school and are attending a state-funded or independent school reception class are not entitled to any additional free hours outside their school reception class place as local authorities can meet their duty to secure the universal entitlement through reception class provision.
- 7.6. A child who takes up their free entitlement part way through the year will be entitled to a pro-rata'd number of hours adjusted to reflect the portion of the year remaining.

### **Free places for 2 year olds**

- 7.7. A child will be entitled to the free hours from the term after both of the following conditions are satisfied:
- the child has attained the age of 2; and,
  - the child or parent meets the eligibility criteria.
- 7.8. Eligible two year olds are entitled to a free place offering 570 hours a year over no fewer than 38 weeks of the year. The free entitlement may be [stretched](#) over more than 38 weeks (and up to 52 weeks). This means taking fewer hours per week, subject to a maximum of 570 hours a year.
- 7.9. If a child is entitled to free hours a code will be issued to the parent which they can share with their chosen childcare provider.
- 7.10. Providers should offer places to eligible two year olds on the understanding that the child remains entitled to two year old funding until they become eligible for the universal entitlement for three and four year olds.

### **15 hours universal entitlement for all 3 and 4 year olds**

- 7.11. A child is eligible to the free hours from the term after their third birthday.
- 7.12. Eligible 3 and 4 year olds are entitled to a free place offering 570 hours a year over no fewer than 38 weeks of the year, until the child reaches compulsory school age (the beginning of the term following their fifth birthday). The free entitlement may be [stretched](#) over more than 38 weeks (and up to 52 weeks). This means taking fewer hours per week, subject to a maximum of 570 hours a year.
- 7.13. All three and four year olds living in England are entitled to the universal entitlement irrespective of the immigration status of the child or their parent(s).

### **30 hours extended entitlement for 3 and 4 year olds of working parents**

- 7.14. A child will be entitled to the extended entitlement from the term after both the following conditions are satisfied:
- the child has attained the age of 3

- the child's parent has a current positive determination of eligibility from HMRC i.e. a valid 30 hours free childcare eligibility code.
- 7.15. Eligible 3 and 4 year olds will be entitled to an additional 570 hours, making a total of 1,140 hours a year over no fewer than 38 weeks of the year, until the child reaches compulsory school age (the beginning of the term following their fifth birthday). The free entitlement may be [stretched](#) over more than 38 weeks (and up to 52 weeks). This means taking fewer hours per week, subject to a maximum of 570 hours a year.
- 7.16. The child's parent must apply for the extended entitlement through the Government's online service – [Childcare Choices](#). **Eligibility for the extended entitlement is determined by HMRC through this online application.** The only exception to this is children in foster care.
- 7.17. Parents who are unable to access the HMRC website or are experiencing difficulties completing the application should call the HMRC Customer Interaction Centre on 0300 123 4097 who will provide support using information supplied by the applicant over the phone.
- 7.18. Prior to checking an eligibility code or applying for 30 hours funding a provider must have:
- The 30 hours eligibility code, the child's unique 11-digit number
  - Written consent from the parent to apply for the funding on behalf of their child
  - Seen original documents which confirm a child has reached the eligible age
- This is provided in the [Parent Declaration Form](#)
- 7.19. Once a provider has received written consent from the parent, they should verify the 30 hours eligibility code on the BFC [provider portal](#) which has the Eligibility Checking Service built into it and enables providers to verify the 30 hours eligibility code swiftly and efficiently
- 7.20. The provider portal will confirm the validity of 30 hours eligibility codes to allow providers to offer 30 hours places for eligible three and four year olds. Providers should confirm the validity of eligibility codes and the date from which funding can be claimed before offering a 30 hours funded place.
- 7.21. The provider portal reviews the validity of eligibility codes on an ongoing basis and meets the requirement to complete audit checks at 6 fixed points in a 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). The expiration dashboard of the provider portal will notify providers where a parent has fallen out of eligibility and informs them of the grace period end date.

Table A:

Date Parent receives ineligible decision on reconfirmation:	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

- 7.22. It is the provider's responsibility to check the expiration dashboard regularly and contact parents where the eligibility code is nearing its end date to remind them to renew the eligibility code (reminders will have been sent to parents by the HMRC website). It is a parent's responsibility to renew the eligibility code every three months.

## 8. The grace period

- 8.1. 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.
- 8.2. The grace period end date will automatically be applied to eligibility codes and is displayed in the BFC provider portal expiration dashboard and against individual child records in the BFC provider portal tasks.
- 8.3. BFC will continue to fund a 30 hours place for a child who enters the grace period as set out in the Early Education and Childcare Statutory guidance for local authorities (2017).
- 8.4. Children will not be able to start a new 30 hours place at a provider during the grace period. The scenarios below help explain the impact of the grace period on eligibility to a 30 hours place:
- A child may not start claiming 30 hours funding in the same term as an eligibility code is issued, even if the child has attended the setting in previous terms.

- A child may not start a new 30 hours place if their 30 hours code is in its grace period on the first day of the term
- A child may continue to receive extended entitlement funding with the same provider if their 30 hours code is in its grace period on the first day of term.
- Changing provider is considered starting a new 30 hours place, a child who changes provider mid-term must have had a valid 30 hours code on the first day of the term even if they were claiming extended entitlement funding at their previous provider

8.5. The grace period is an opportunity for providers to remind parents to renew the eligibility code or if parents are no longer eligible, to make arrangements for when the additional funding ends. This could be a reduction in attendance or invoicing for the additional hours.

8.6. Where parents cease to meet eligibility criteria and the grace period has expired, the child can continue to take up their universal entitlement, provided they have not exceeded the 570 hours entitlement for the year.

## **9. Children in foster care**

9.1. Children in foster care will be eligible for the additional free hours from the term after they meet the following criteria:

- the child has attained the age of three and is under compulsory school age
- accessing the extended entitlement is consistent with the child's care plan
- in single foster parent families, the foster parent holds additional paid employment outside of their role as a foster carer
- in two foster parent families, both partners hold additional paid employment outside of their role as a foster carer.

9.2. Foster parents who wish to apply for the extended entitlement must apply directly to the Local Authority and should discuss this with their social workers.

## **10. Flexibility**

10.1. 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 (2017).

10.2. 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.

- 10.3. Evidence shows that continuous provision is in the best interests of the child. Where it is reasonably practicable providers should ensure that children are able to take up their free hours in continuous blocks and avoid artificial breaks being created throughout the day, for example over the lunch period.
- 10.4. BFC is committed to supporting providers to offer flexible places to meet parental need and will work in partnership with providers to achieve this. Providers are encouraged to offer flexible packages of free places, within the following parameters:
- no session longer than 10 hours
  - no minimum session length (subject to the requirements of registration on the Ofsted Early Years Register)
  - not before 6.00am or after 8.00pm
  - a maximum of two sites in a single day
  - up to 52 weeks of the year
  - can be outside of maintained school term times
  - can include weekends
- 10.5. If parents choose to take their entitlement with more than one provider, all parties have a duty to ensure there is a system in place to ensure continuity of care and that regular liaison between providers takes place.
- 10.6. Where a child attends 2 or more settings per week, it is up to the parent to decide the distribution of free hours between the settings. The distribution of hours must be recorded on the Parent Declaration Form (PDF). Each provider will claim funding according to the distribution of hours recorded on the PDF.
- 10.7. The situation may arise where a child attends one provider term time only and a second provider on a stretched offer over more than 38 weeks. Providers should check the funded hours claimed across both providers to ensure that the child is receiving a maximum of 15 funded hours a week and a maximum of 570 hours a year (or 1140 for children accessing the 30 hours entitlement).
- 10.8. There is no requirement for providers to be open for 38 weeks of the year or that providers offer 30 hours in order to receive funding to deliver free places. However, providers must make it clear to parents, prior to the child taking up their place, where their business model restricts access to the full free entitlement.

## **11. Partnership working**

- 11.1. BFC will support all providers to work in partnership to meet the needs of children and parents in the Local Authority.
- 11.2. Providers should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting. An interactive toolkit<sup>4</sup> has been developed to help providers set up or join a partnership,

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<sup>4</sup> <http://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>

maximise the benefits of working together and tackle the challenges joint working can bring.

- 11.3. 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 a childminder, to ensure a smooth transition for the child.

## **12. Special educational needs and disabilities**

- 12.1. All providers in the maintained, private, voluntary and independent sectors must have regard to the Special Educational Needs and Disability (SEND) code of practice: 0-25 years<sup>5</sup> (January 2015).
- 12.2. The provider 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.
- 12.3. Providers must have a SEND policy that is clear and transparent and sets out the SEND support on offer at their setting. The policy must cover admissions. Providers must complete their SEND Local Offer on the BFC website and update it annually so information is available to parents to enable them to choose the right setting for their child.

## **13. Social mobility and disadvantage**

- 13.1. BFC promotes 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.
- 13.2. Providers should ensure that they have identified the disadvantaged children in their setting as part of the process for checking Early Years Pupil Premium (EYPP) eligibility. Providers will also use EYPP and any locally available funding streams or support to improve outcomes for this group.

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<sup>5</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398815/SEND\\_Code\\_of\\_Practice\\_January\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)

## 14. Quality

- 14.1. 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.
- 14.2. Ofsted are the sole arbiter of quality for all free entitlements. Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.
- 14.3. 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.
- 14.4. A child aged two, three or four years old can be funded at a provider rated 'good' or 'outstanding' by <sup>6</sup>Ofsted or at any childminder registered with a childminder agency judged 'effective' by Ofsted.
- 14.5. A child aged three or four years old can be funded at a provider rated 'satisfactory' (prior to 2014) or 'requires improvement' by <sup>7</sup>Ofsted or at any childminder registered with a childminder agency judged 'effective'.
- 14.6. Children aged two years will only be funded in settings judged 'satisfactory' or 'requires improvement' where there is insufficient, accessible 'good' or 'outstanding' provision in the area.
- 14.7. Bracknell Forest Council will fund providers with an Ofsted inspection judgement of 'met' until their Ofsted quality inspection judgement is published. Providers with an Ofsted inspection judgement of 'not met' will not be funded.
- 14.8. Funding will be approved for new providers registered with Ofsted until the provider's first full Ofsted inspection judgement is published or childminder registered with an agency until the agency's first full Ofsted inspection judgement is published.
- 14.9. BFC will withdraw funding from providers when Ofsted publish an inspection judgement of a provider of 'inadequate' or an inspection judgement of a

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<sup>6</sup> For schools inspected by the Independent Schools Inspectorate the relevant inspection judgements are "good" and "excellent"

<sup>7</sup> For schools inspected by the Independent Schools Inspectorate the relevant inspection judgement is "sound".

childminder agency of 'not effective'<sup>8</sup>. BFC will consider the continuity of care for children who are already receiving their free hours at a provider or agency when withdrawing funding and will determine an appropriate timeframe for withdrawing funding on a case by case basis

## 15. Business planning

- 15.1. Providers should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices. Failure to do so may result in inaccurate, delayed or suspended funding.
- 15.2. Providers 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.

### Provider portal

- 15.3. Providers must complete and submit headcount and other necessary data returns via the [provider portal](#). Providers may only claim for the care they provide (or intend to provide when completing the forecast task).
- 15.4. Each provider must register one or more staff members to use the provider portal by completing and returning a [Provider Portal Access Form](#) for each user. Users must activate their account once it has been registered as the majority of communications regarding the free entitlement are sent via the provider portal.
- 15.5. Login details must not be shared between users and it is the user's responsibility to keep their login details secure.
- 15.6. Autocomplete options that remember passwords should not be used.
- 15.7. If a provider portal user leaves the setting or changes roles, the setting must contact the Early Help Team to remove the user's access from the system.
- 15.8. If the device you use to access the portal (laptop, tablet, mobile phone etc.) is lost or stolen you must contact the Early Help Team immediately so that your password can be reset. See page 30 for contact details.
- 15.9. BFC will publish a funding timetable ([schedule of dates](#)) in the spring term of each year setting out when tasks on the portal will open and close and the date payments will be processed.
- 15.10. Providers should use the Self Update section of the provider portal to keep their setting details up to date. Providers details must be up to date on headcount day of the Spring term, as these details will be used in the annual Early Years Census.

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<sup>8</sup> For schools inspected by the Independent Schools Inspectorate the relevant inspection judgement is "unsatisfactory".

## Early years census

- 15.11. The Early Years Census takes place each January and must be completed by private, voluntary and independent providers, including governor run preschools and funded childminders using the Self Update Portal.
- 15.12. BFC is required to make census returns to the DfE. These returns are used to calculate the amount of funding that is given to BFC for the following year. It is important that BFC has information on additional hours; please ensure this is fully completed when making this return.

## Administration fees

- 15.13. It is a provider's responsibility to submit funding claims via the provider portal tasks within the published deadlines and to ensure that the funding claim is complete and accurate. As a child could be claiming funding across multiple settings, missed deadlines or submitting inaccurate and incomplete funding claims result in additional administration and can impact the payment to other providers.
- 15.14. Where additional administration resource is required due to:
- a provider missing the submission deadline for a funding claim
  - a submission contains substantial omissions
  - a submission contains substantial errors
- BFC reserves the right to charge an administration fee.
- 15.15. The fee will be charged for a minimum of 1 hour and a maximum of 3 hours. The current hourly rate is published on the BFC website.

## 16. Charging

- 16.1 Government funding is intended to cover the cost to deliver 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.
- 16.2 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. Parents should therefore expect to pay for these, although 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. Providers should be particularly mindful of the impact of additional charges on the most disadvantaged parents.

- 16.3 The provider should deliver the free entitlements consistently so that all children accessing any of the free entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
- 16.4 BFC 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.
- 16.5 Providers must publish their admissions criteria and ensure parents understand which hours/sessions can be taken as free provision and where additional charges will apply. 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 patterns of hours are convenient for parents' working hours.
- 16.6 To give providers certainty that a parent will take up a place for a 3 or 4 year old, providers can charge parents a deposit to secure their child's free place but must refund the deposit in full to parents within 6 weeks of the child's start date. If a parent fails to take up their place the provider is not obliged to refund the deposit. Deposits must not be charged for funded 2 year old places.
- 16.7 Providers must not 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.
- 16.8 Providers should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their free entitlements completely free of charge and understand fees charged for additional hours. Providers should also ensure that receipts/invoices contain their full details so that they can be identified as coming from a specific provider.

## 17. Funding

### Tasks & payments

- 17.1 As per the [schedule of dates](#), BFC will set 'tasks' for providers to complete on the [provider portal](#) which will require providers to update personal and attendance data for the children they are claiming funding for. Each task will have a deadline for submission. Failure to meet the deadline may delay the funding payment for that provider. Guidance on the use of the provider portal is available on the [BFC website](#).

- 17.2 Private, Voluntary and Independent Providers (PVIs) and Childminders will be set 3 tasks in the spring and autumn per term on the provider portal and will receive 3 payments based on these tasks. A fourth task and payment will be set in the summer term.
- Forecast payment - 60% of the total forecast funding for the term
  - Actual payment – balance of funding for the term calculated on headcount
  - Amendment payment – corrections and additions to the headcount
  - Second amendment payment (summer term only) – corrections and additions to the headcount

Providers will receive reports after each payment.

- 17.3 Where changes in funded hours claimed in an actual or amendment tasks results in a provider being overpaid for the term, BFC will clawback the overpayment by reducing a future payment or issuing an invoice, whichever is appropriate.
- 17.4 Providers should pay invoices in a timely manner. BFC reserves the right to deduct the balance of outstanding invoices from future payments where invoices remain unpaid.
- 17.5 Maintained and academy settings have an initial budget calculated for the financial year based on actual funded hours for the previous three terms. They will be set the same tasks as above and their budgets will be recalculated at the end of each term based on the participation data provided in these tasks. Early years pupil premium and additional education needs payments will be paid in line with the schedule of dates.

### Parent Declaration Forms

- 17.6 Providers must ensure they hold a fully completed, signed [Parent Declaration Form](#) (PDF) for each child they are claiming free entitlement funding for. The PDF serves as an agreement between the parent and the provider, detailing what free entitlement funding the provider will claim on behalf of the child and authorising the provider to share the parent and child data with the Local Authority and the DfE in order to validate eligibility and claim funding.
- 17.7 The signed PDF is required by the provider to meet their obligations under the General Data Protection Regulation and Data Protection Act 2018.
- 17.8 Where a child accesses their free entitlements across two or more providers, the PDF will be used to resolve any disputes regarding the distribution of funding. BFC reserves the right to clawback funding where providers do not hold a completed, signed PDF or where the funding claimed by a provider does not match the completed PDF.
- 17.9 The PDF does not replace the contract between the provider and the parent/carer and providers are strongly advised to have signed contracts with all parents.
- 17.10 A new PDF must be completed and signed for each change in hours claimed and attached to the superseded declaration. This provides a full audit trail of free

hours claimed for each child. It is not acceptable to cross out/change hours and initial declarations.

- 17.11 Providers do not need a new PDF each term if the child and/or parent details and the free entitlements remain unchanged from the previous term.

### **Closures**

- 17.12 While there is no requirement for providers to be open for 38 weeks of the year (see 10.7), planned closures such as staff training, holidays (including bank holidays) or any other non-emergency reasons which limit access to the free entitlement to fewer than 190 days (or less than 570 hours) a year may not be included in the providers free entitlement claim.
- 17.13 Closures due to emergencies and unforeseen circumstances such as broken heating, inclement weather, sickness outbreak etc. may be included in the providers free entitlement claim.
- 17.14 BFC does not require providers to compensate parents for closures due to emergencies or unforeseen circumstances, however, arrangements between parents and providers must be set out in the providers contract.

### **Part Weeks**

- 17.15 Providers may claim funding in part weeks. Note that part weeks are claimed in decimal format where:
- 1 day = 0.2
  - 2 days = 0.4
  - 3 days = 0.6
  - 4 days = 0.8

As an example, to claim 11 weeks and 3 days a provider would input 11.6 weeks in the provider portal.

### **Funding Rates**

- 17.16 Funding rates to providers are calculated via the Early Years Funding Formula (EYFF). The current EYFF was updated in January 2019 following consultation with all providers and is available on the [BFC website](#).

### **Attending multiple providers**

- 17.17 Where a child is claiming free hours at more than one provider, the parent must complete a PDF with each provider. All PDF's must include the details of all the providers attended and the hours and weeks claimed at each provider.
- 17.18 It is the parents choice how free hours are split between multiple providers. Where parents are claiming 30 hours, the parent must indicate on the PDF which provider is claiming the universal hours and which provider is claiming the extended hours.

## Changing childcare provider

- 17.19 BFC has a duty to ensure providers of early education places receive funding for an eligible child as soon as the child takes up their funded place in the Local Authority area, regardless of when during the term this is.
- 17.20 BFC believes that funding should be flexible to allow providers to offer free places that meet the needs of working parents and therefore when a child moves from one provider to another mid-term the funding will follow the child. However, parents do have an obligation to commit to providers and this is reflected in any signed contract between parents and their childcare provider.
- 17.21 BFC must balance the business needs of providers with the need for parents to be able to access flexibility childcare. If there is a signed provider/parent contract which includes a notice period, the provider will be entitled to claim funding for 6 weeks from the date notice is received or to the end of the notice period, whichever is shorter, so long as the provider would normally have been entitled to claim funding for those weeks.
- 17.22 The start of the 6 weeks will be the same date as the start of the contractual notice period.
- 17.23 This does not prohibit providers from including holidays in their notice periods or from having notice periods of longer than six weeks; however, it will be up to providers to enforce the terms and conditions of their contract with parents.
- 17.24 Providers are requested to give consideration to exceptional circumstances in which parents may not be able to give contracted notice.
- 17.25 A child may not change provider while their 30 hours code is in a grace period, please see point 8.4 for details.

## Non-Attendance

- 17.26 Free entitlement funding is participation based, with providers funded for the hours attended. Good attendance patterns promote good outcomes for children and starting this as soon as a child starts accessing early years is important. Regular attendance will promote: good habits, secure relationships, self-esteem and support learning and development opportunities. If a provider has concerns about a child's attendance (e.g. unexplained breaks in attendance), a child is not attending the agreed hours, or attendance is irregular, providers must notify the Quality and Development team. An assessment will be made regarding the continued funding of the place, with the primary consideration being what is in the best interest of the child. The team can support the setting to work with parents to improve attendance.
- 17.27 On occasion providers will be notified that a child will not be attending due to a family holiday. Providers may claim for these holiday breaks for periods of up to 6 weeks. However, where a holiday break is for longer than 3 weeks, provider must notify the Early Help Team by email [ehbs@bracknell-forest.gov.uk](mailto:ehbs@bracknell-forest.gov.uk)

## Early Years Pupil Premium

- 17.28 Early Years Pupil Premium (EYPP) is additional funding for early years settings to improve the education they provide for disadvantaged 3 and 4 year olds. Children must receive free early education in order to attract EYPP funding but do not have to take up their full entitlement in order to get EYPP.
- 17.29 BFC will pay providers EYPP for eligible 3 and 4 year olds. All children in receipt of EYPP will receive an additional deprivation supplement to their hourly funded rate. The funding rates for EYPP and the EYPP deprivation supplement are available on the [BFC website](#). Note that EYPP and the EYPP deprivation supplement apply to universal hours only.
- 17.30 The current eligibility criteria for EYPP are detailed in the DfE [Operational guide 2018-19](#).
- 17.31 Providers are ultimately responsible for identifying eligible children. Providers are encouraged to speak to parents to find out who is eligible for EYPP funding. In particular, providers should speak to the parents of children who took up the early education entitlement for two year olds, as some of these children will attract EYPP the term after their third birthday.
- 17.32 To claim EYPP funding for a child, a provider must have signed permission from the child's parent/carer to check their eligibility. This permission is provided on a [Parent Declaration Form](#). The parent/carer details must then be entered on the child records on the provider portal when the next task is completed. BFC will check eligibility for the EYPP before processing the task and payment for children eligible for EYPP will be included in the funding payment.
- 17.33 EYPP funding will follow the eligible child. Therefore, if a child moves to a different provider part way through the year, an adjustment will be calculated to ensure the existing and the new provider each receive the correct allocation of EYPP funding for the term, taking notice periods into account as set out in paragraphs 17.17 to 17.23.

## 18. Disability access fund

- 18.1. The Disability Access Fund (DAF) supports registered early years settings to make initial reasonable adjustments and to build the capacity of their setting to support disabled children. DAF must not be used for childcare costs.
- 18.2. The DAF is not based on an hourly rate and will be paid as a one-off payment of £615 per 12 month period for each eligible child.
- 18.3. Children do not have to take up the full 570 hours of early education in order to receive the DAF. Children in receipt of the DAF will be eligible where they take-up any period of free entitlement.

## Eligibility

- 18.4. Three and four year olds (term after 3<sup>rd</sup> birthday) will be eligible for the DAF if they meet the following criteria:
- the child is in receipt of disability living allowance (DLA) and;
  - the child receives free early education
- 18.5. If a child eligible for the DAF is splitting their free place across two or more settings, parents must nominate the setting to whom they wish the DAF payment to be made.
- 18.6. If a child receiving DAF moves from one setting to another within a calendar year, the new setting is not eligible to receive DAF funding for this child until after the anniversary of the previous payment. DAF funding received by the original setting will not be recouped.
- 18.7. In cases where a child lives in one authority and attends a setting in a different local authority, the setting's local authority is responsible for funding the DAF for the child and checking eligibility.

## Claiming DAF

- 18.8. Providers claim the DAF on the [provider portal](#). Provider must hold a completed and signed PDF for the child. If the child attends more than one setting the PDF must be completed to confirm which setting has been nominated by the child's parents for receipt of the DAF. Providers must supply a copy of the PDF and the DLA entitlement letter as part of the DAF application process. Providers will have the option to supply the required documents electronically or by post.
- 18.9. BFC aims to process DAF applications weekly with payments for approved applications being processed the following week. Providers (including academies) should receive payment within approximately 14 days of application. Where evidence has been submitted by post the payment process will be delayed until receipt of the documentation. DAF funding is in addition to the free entitlement funding and as such is not included in the forecast budget for maintained settings and academies. DAF payments will be transferred to maintained settings via journal transfer as a lump sum payment.

## 19. Restrictions

- 19.1. Under the Childcare Act (2006), childminding a relative does not constitute 'childcare'. Under section 18,(4) the 'Meaning of childcare', the Act states that: 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;
- 19.2. Paragraph 8 (c) defines that a '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.

- 19.3. Therefore, it is important to note that childminders will be unable to claim early education funding for any child in their care who has a relationship with them as described above.

## 20. Compliance

- 20.1. BFC will carry out checks on providers to ensure compliance with the requirements of delivering the free entitlements. Providers must submit to these compliance checks which may be undertaken by the Early Help Team or auditors operating on behalf of the Council. No prior warning of compliance checks will be given.
- 20.2. Compliance checks will be undertaken annually and a selection of providers will be asked to supply the following information for a random selection of children claiming free entitlements:
- Copies of invoices and parent declaration forms
  - Copies of terms and conditions and published fees and charges
  - Copies of compliance records illustrating how the Provider has complied with data protection laws.
- 20.3. The documentation provided will be reviewed for compliance with the signed local conditions of funding and relevant legislation. Where weaknesses are identified, BFC will contact the provider asking for changes to be made. If deemed necessary, a site visit may be requested to carry out a more in-depth compliance check. For maintained providers, identified weaknesses may be referred to audit. Prior notice will be given for onsite visits.
- 20.4. Providers must maintain accurate financial and non-financial records relating to free entitlement places and must give BFC or its nominated auditors access on reasonable notice to all financial and non-financial records (subject to confidentiality restrictions) relating to free entitlement places funded under the provider agreement.
- 20.5. These checks will also assess the responsibilities in regard to compliance to the General Data Protection Regulation and Data Protection Act 2018. Compliance to the personal data standards are your responsibility. Guidance of your responsibilities in regard to how to process and hold personal data are available from the Information Commissioner's Office: <https://ico.org.uk/for-organisations/business/>.

## 21. Termination and withdrawal of funding

- 21.1. Termination of registration to the Bracknell Forest Local Directory and/or withdrawal of funding may result for the following reasons:
- Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues
  - The provider acts in a fraudulent manner, has an action for fraud brought against their business or is convicted of fraud by a recognised court of law
  - Any provider registered on the Ofsted Early Years Register with a funded two year old is judged as 'Satisfactory' or 'Requires Improvement' or lower by OFSTED
  - Any provider registered on the Ofsted Early Years Register with a funded three or four year old is judged as 'Inadequate'<sup>9</sup> by OFSTED.
  - A childminder with a funded two, three or four year old, registered with a childminder agency (CMA) where the CMA is judged as 'Ineffective' by Ofsted.
- 21.2. BFC do not waive the right to act if we do not act immediately, a slower evidence based approach may be required on occasion.
- 21.3. Where termination of registration and withdrawal of funding are being considered, BFC will look at each case individually. BFC will consider the reason the withdrawal is required, the needs of funded children and whether the provider is actively working with the Council to resolve the issue.
- 21.4. BFC may choose to delay withdrawal of funding if this is considered to be in the best interest of funded children at the setting or where no suitable alternate provision is available.
- 21.5. Where withdrawal of funding is required, BFC we will work with providers to contact the parents of funded children, explaining the reason for withdrawing funding and the available options. Where appropriate BFC will work with parents to arrange alternate provision for funded children.

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<sup>9</sup> For schools inspected by the Independent Schools Inspectorate the relevant inspection judgement is "unsatisfactory".

## 22. Provider complaints and appeals process

- 22.1. 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.
- 22.2. Wherever possible, the Early Help Team aims to resolve issues as soon as possible and before a formal complaint is made. If you have any questions or concerns about any matter relating to the free entitlement, please contact the Early Help Team in the first instance.

**Telephone:** Early Help Team 01344 351555

**Email:** [EHBS@bracknell-forest.gov.uk](mailto:EHBS@bracknell-forest.gov.uk)

**Write to:**

Bracknell Forest Council  
Early Help Team  
2<sup>nd</sup> Floor North  
Time Square  
Market Street  
Bracknell  
RG12 1JD

- 22.3. If the Early Help Team are unable to satisfactorily resolve your concerns and you still wish to make a complaint about or appeal a decision made by the Early Help Team, please use the [complaints page](#) of the Bracknell Forest Website to escalate the matter:

## 23. Parental Complaints

- 23.1. Where parents have issues or concerns about accessing the free entitlements or the quality of care, they should discuss their concerns with the provider in the first instance.
- 23.2. If parents concerns are not resolved informally, or they feel the provider did not respond adequately they should follow the providers complaints procedure. Provider should ensure they have a complaints procedure in place that is published and accessible for parents.
- 23.3. After exhausting the providers complaints procedure, if parents are not satisfied with the response they should contact OFSTED or the Council, depending on the nature of their concerns.
- 23.4. Where their concerns are about the quality of care, they should contact OFSTED via their [website](#). For concerns about accessing the free entitlements BFC has a [complaints procedure and complaints form](#) to enable parents to raise their concerns with the Council.

- 23.5. 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 \(LGO\)](#). The LGO will only consider complaints when the provider and Local Authority complaints procedures have been exhausted.
- 23.6. If a parent or provider is concerned about how personal data is being processed, held or stored in regards to the General Data Protection Regulation and the Data Protection Act 2018 they can make a complaint to the Information Commissioner's Office <https://ico.org.uk/make-a-complaint/>

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## Annex A: Summary of Conditions

No.	Conditions
1.	<b>Legal Framework</b> <ul style="list-style-type: none"><li>• Comply with all relevant legislation</li><li>• Meet the duties of the Equality Act 2010</li><li>• Have clear safeguarding policies &amp; procedures</li></ul>
2.	<b>Requirements for receiving the free entitlements</b> <ul style="list-style-type: none"><li>• Operate a setting located in Bracknell Forest</li><li>• Register on the Bracknell Forest Local Directory</li><li>• Registration with Ofsted (if providing childcare that requires registration)</li><li>• Comply with the conditions of the Provider Agreement</li><li>• Actively promote fundamental British Values</li><li>• Comply with the terms and conditions of the Provider Agreement</li></ul>
3.	<b>Free Entitlements</b> <ul style="list-style-type: none"><li>• Deliver the free entitlements in accordance with the conditions set out in sections 7 and 8 of the Provider Agreement</li><li>• Check original copies of documentation to confirm a child has reached the eligible age for all free entitlements</li><li>• Offer free places within the national parameters on flexibility</li><li>• Publish a stretched offer (if available)</li><li>• Hold completed, signed Parent Declarations for each funded child</li></ul>
4.	<b>Funding</b> <ul style="list-style-type: none"><li>• Submit accurate headcount and data returns within the published deadlines via the Provider Portal</li><li>• Register one or more users on the provider portal and activate the account</li><li>• Only claim free entitlements as detailed in the signed Parent Declaration Form</li></ul>

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5.	<b>Charging</b> <ul style="list-style-type: none"><li>• Parents must not be charged for any part of the free entitlements</li><li>• Providers may charge for meals, consumables, additional hours and additional services</li><li>• Charges for additional hours and services must be optional</li><li>• Providers must have a policy for parents who are unable or unwilling to pay for meals and consumables</li><li>• Fees and charges must be clear, transparent and published</li><li>• Deposits where charged are refunded with 6 weeks of child's start date</li><li>• Invoices must be clear, transparent, itemised and include providers full details</li></ul>
6.	<b>Compliance</b> <ul style="list-style-type: none"><li>• Submit to compliance checks by the Early Help Team and any other auditors operating on behalf of the Council.</li><li>• Maintain accurate financial and non-financial records relating to free entitlement places and make these records available to the Council or its auditors on request.</li><li>• Comply with responsibilities in regard to the General Data Protection Regulation and Data Protection Act 2018 e.g. Privacy Notice</li></ul>
7.	<b>Early Years Census</b> <ul style="list-style-type: none"><li>• Complete the Early Years census or schools census as appropriate</li><li>• Keep the Self Update section of the provider portal up to date</li></ul>
8.	<b>Early Years Pupil Premium</b> <ul style="list-style-type: none"><li>• Complete the EYPP section of the PDF</li></ul>
9.	<b>Disability Access Fund</b> <ul style="list-style-type: none"><li>• Complete the DAF section of the PDF</li><li>• Hold a copy of the DLA entitlement letter and make a copy available to BFC on request</li></ul>
10.	<b>SEND</b> <ul style="list-style-type: none"><li>• Providers must have regard to the Special Educational Needs (SEN) Code of Practice;</li><li>• Providers must have a SEN Policy or Inclusion Policy which promotes inclusion for all children (including those with SEN) and covers admissions</li></ul>
11.	<b>Quality</b> <ul style="list-style-type: none"><li>• Meet the requirements of the Early Years Foundation Stage</li><li>• When delivering 3 &amp; 4 year old free places, achieve an overall judgement of 'satisfactory' (prior to 2014) or 'requires improvement' or better under the Ofsted inspection framework.</li><li>• When delivering 2 year old free places, achieve an overall judgement of good or better under the Ofsted inspection framework.</li></ul>

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	<ul style="list-style-type: none"><li>• For childminders registered with a CMA, the agency must be judged 'effective' by Ofsted</li><li>• Where judged less than good by Ofsted, take measures identified by Ofsted to improve the overall effectiveness of the provision</li></ul>
12.	<p><b>Termination/Withdrawal of funding</b></p> <p>Termination/Withdrawal of funding may result from the following reasons</p> <ul style="list-style-type: none"><li>• Suspension of registration by Ofsted</li><li>• Breach of statutory requirements</li><li>• Safeguarding issues</li><li>• Fraudulent actions, accusations of and convictions for fraud</li><li>• Ofsted re-inspection of inadequate provider results in another inadequate judgement</li><li>• Failure to comply with the terms and conditions of the Provider Agreement</li></ul>
13.	<p><b>Complaints</b></p> <ul style="list-style-type: none"><li>• Providers must have a complaints procedure which is published and accessible to parents</li><li>• Providers must co-operate with BFC in the investigation of a complaint against them by any party</li></ul>

## Annex B: Useful Contacts

	Email	Telephone
Group Provision	<a href="mailto:QD.Team@bracknell-forest.gov.uk">QD.Team@bracknell-forest.gov.uk</a>	01344 312851
Childminders	<a href="mailto:QD.Team@bracknell-forest.gov.uk">QD.Team@bracknell-forest.gov.uk</a>	01344 312851
Funding and Business Support	<a href="mailto:EHBS@Bracknell-Forest.gov.uk">EHBS@Bracknell-Forest.gov.uk</a>	01344 351555
Funded Two Year Olds	<a href="mailto:Early.Education@bracknell-forest.gov.uk">Early.Education@bracknell-forest.gov.uk</a>	01344 354450