



Department  
for Education

# **Early years entitlements: operational guidance**

**For local authorities and providers**

**June 2018**

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## Introduction

The purpose of this guidance is to help local authorities and providers understand in more detail the Department for Education's (DfE) expectations about how the free entitlements for two-, three- and four-year-olds should be delivered. The guidance applies to the:

- 15 hour entitlement for the most disadvantaged two-year-olds;
- 15 hour entitlement for parents of three- and four-year-olds (the universal entitlement); and
- 30 hour entitlement for working parents of three- and four-year-olds (the extended entitlement).

We would like to thank the many providers, local authorities and sector organisations that have supported the production of this guidance. There are case studies and additional supporting tools which can be found on the Childcare Works [website](#).

## Summary

This publication provides operational guidance from the DfE. Local authorities must have regard to this guidance when discharging their duties to secure free early years provision. They should not depart from it unless they have good reason to do so. This guidance should be read alongside the [statutory guidance](#) for local authorities on the provision of early education and childcare.

The operational guidance also includes examples of practice which do not constitute guidance but which might assist local authorities in setting up appropriate arrangements to meet their legal duties related to the free entitlements.

## Who is this publication for?

This guidance is for:

- Local authorities
- Early years providers who are delivering the free entitlements. These are referred to as 'providers' throughout the document and include:
  - early years providers and childminders registered on the Ofsted Early Years Register;
  - childminders registered with a childminder agency that is registered with Ofsted
  - schools taking children age two and over that are exempt from registration with Ofsted as an early years provider.

## **Main points**

This guidance seeks to assist local authorities and providers through examples and further information, supporting greater consistency across the country by making clear:

- what local authorities should do to fulfil their statutory responsibilities
- what providers should do to fulfil their agreement with the local authority
- what local authorities and providers may wish to do to support parents and children

## **What are the main changes to the guidance?**

The main change is the introduction of a section covering the extension of 30 hours to children in foster care.

As part of our process of continuous improvement, we have re-ordered and clarified the text throughout the guidance following feedback from local authorities and providers.

## 30 Hours Free Childcare (the Extended Entitlement)

### Summary

Summary of the end-to-end application process:

- Parents apply through the digital childcare service, or in some circumstances, by phone using the childcare service helpline. If their application is successful, they are given an 11-digit eligibility code (usually beginning '500').
- Foster parents will apply directly to their responsible local authority (see page 17)
- Parents take their eligibility code to a provider for verification, together with their National Insurance number and child's date of birth.
- The provider verifies the code through their local authority – either by phone or email, or through a provider portal linked to the local authority system. The local authority verifies the code through DfE's Eligibility Checking System (ECS).
- Local authorities should audit the eligibility codes at six points in the year to identify children who have fallen out of eligibility.

Parents will be prompted every three months to reconfirm that they remain eligible. If they are no longer eligible for 30 hours, and their child is already in a 30 hours place, they will enter a grace period and will be able to retain their place for a short period.

Parents are only legally entitled to start claiming a 30 hours place for their three or four year old **the term following the date they receive a decision from HMRC**. Therefore, they should be encouraged to apply well before the deadlines. Providers will need to verify the code before a child take up their place.

### Application Process

Parents must apply for 30 hours free childcare through the digital childcare service **not** through their local authority or provider. HMRC is responsible for checking whether a parent is eligible and issuing an eligibility code. The only exception is for foster parents of children in foster care (see page 17). Parents wanting only to claim the universal 15 hours entitlement should do so via their provider and local authority and not through the digital childcare service. Parents need to check with their childcare provider or local authority whether their two year old is eligible for a free 15 hour place.

In contrast to the universal entitlement (which only has an age criterion), for 30 hours free childcare, parents also need to meet a set of eligibility requirements (i.e. income requirements). A child will be entitled to the additional free hours from the term after both of the following conditions are satisfied: (1) the child has attained the age of three; (2) the child's parent has a current positive determination of eligibility from HMRC i.e. a valid 30 hours eligibility code. Parents can check online whether they could be eligible for a range

of government childcare offers, including 30 hours, via [Childcare Choices](#) or the [Childcare Calculator](#). Those who could be eligible for 30 hours and/or Tax-Free Childcare will be directed to the digital childcare service to apply.

The eligibility criteria for 30 hours and Tax-Free Childcare are broadly aligned. For a more detailed guide to the 30 hours eligibility criteria see [our guide](#). Parents are able to apply for both 30 hours and Tax-Free Childcare at the same time by entering their details once. HMRC checks parents' eligibility for both schemes at the same time.

### What can local authorities and providers do to help?

- Direct parents to **Childcare Choices and the Childcare Calculator** to learn more about which offers might be best for them, whether they are likely to be eligible and how to apply.
- Local authorities and providers should **encourage parents to apply well in advance of deadlines**. Local authorities are encouraged to utilise the **communications products** that the Department issues to support this messaging
- Providers should **encourage parents to bring in their code as soon as they receive it**, along with their National Insurance number and the child's date of birth
- Local authorities should **encourage providers to verify parent codes as rapidly as possible**.
- Local authorities should **remind providers that a parent cannot take up their 30 hours place until the code has been verified**.
- Reassure **parents who do not want to use Tax-Free Childcare that they should still apply for 30 hours via the digital childcare service**. If they are receiving financial support through tax credits and childcare vouchers and only want to take up 30 hours, they can choose not to apply for Tax-Free Childcare (and keep their tax credits) as part of the application.
- **Remind** parents that they can use Tax-Free Childcare alongside 30 hours to pay for additional childcare costs outside of the free entitlement, for example, during the school summer holidays.
- Tell **parents they do not need to apply via the childcare service** if they only want the universal 15 hours entitlement for 3 and 4 year olds or the 2 year old offer
- Remind **parents that they need to reconfirm every three months**. The date for when to do this is in a parent's childcare account.

### Digital Childcare Service

Parents should apply via the childcare service, unless they are applying for a child in foster care (see page 17). They will be asked to:

1. Create a Government Gateway account if they do not already have one. If they do, they will need to sign into Government Gateway to verify their identity before accessing the childcare service. Parents can find details and instructions on how to register for a Government Gateway account at [gov.uk](https://www.gov.uk).
2. Once in the childcare service, enter their personal details including their name, address and National Insurance number and the same details for their partner (if they have one).
3. Declare that they expect to meet the income requirements over the coming three months.
4. Declare whether they are in receipt of any relevant benefits.

Having completed their application, if eligible, parents will:

5. Have a childcare account. In the “secure messages” section of their account, parents will receive messages regarding their eligibility.
6. Be given an 11 digit ‘eligibility code’ for their child – this can be found in the ‘30 hours free childcare’ section of their childcare service account and in their ‘secure messages’ section. These codes normally start with ‘500’. However, there are a small number of cases where parents might have a temporary code starting with ‘11’. Temporary codes are issued manually, outside of the childcare service.
7. Be asked to take this code (along with their National Insurance number and child’s date of birth) to their provider to reserve their 30 hours place.

Parents who need assistance to apply, or who do not have access to the internet, can call the childcare service helpline on 0300 123 4097 and apply over the phone.

If parents encounter any problems during the application process or accessing their childcare service account, they should direct their queries to the childcare service helpline. The telephone number can be found under ‘Get help’.

### **When Parents can Claim and Start a 30 Hour Place**

Parents should be encouraged to apply the term before their child turns three to ensure they can access a place when they want it. If they do not receive a code before the deadline, they will need to wait until the following term to access their 30 hours place. Parents can apply up to 31 days before taking up or returning to work. The earliest a parent could receive a 30 hours code for their child is 16 weeks before they turn three. If a parent applies before this point, they will only be able to apply for Tax-Free Childcare.

Like the universal 15 hours entitlement, parents cannot claim 30 hours free childcare once their child has reached compulsory school age (the term following their fifth birthday). As the latest a parent could receive a 30 hours code is 22 weeks after the child turns five, it is important that providers check the age of the child as well as the code. Parents cannot claim their 30 hours in addition to a full time reception place in a state-funded school or independent school.



If a four or five year old child is not taking up a full time reception class place they are only entitled to the free hours until they reach compulsory school age (the beginning of the term following their fifth birthday).

For example:

- 1) The child's fourth birthday was on 10th May and the parent's code was issued on 27th August. If the child starts in full-time reception in a state-funded or independent school from September, the child will not be able to claim 30 hours with that provider from September.
- 2) The parent's code was issued on 18th November (2017) and the child's fifth birthday was on 1st November of the same year. Whilst they have an eligibility code, the child will reach compulsory school age from 1st January 2018 so they will not be able to claim 30 hours. If the parent had applied the term before their child's fifth birthday (i.e. between April and August 2017) the child would be able to claim 30 hours for one term (September-December) until they reached compulsory school age.

Local authorities are encouraged to consider securing the additional free hours for parents who have applied (or reconfirmed) by the deadline but received their valid 30 hours eligibility code after the beginning of term, up to the dates set out below.

- Parent applied / reconfirmed by 31st August – but code with validity start date between 1st - 14th September
- Parent applied / reconfirmed by 31st December – but code with validity start date between 1st -14th January
- Parent applied / reconfirmed by 31st March – but code with validity start date between 1st - 14th April

Local authorities are not expected to secure the additional free hours where the parent has applied after the 31<sup>st</sup> August, 31<sup>st</sup> December or 31<sup>st</sup> March nor for any codes issued after the relevant dates set out above. .

### **Verification of Codes for 30 Hours (Extended Entitlement)**

Once a code has been successfully verified, a parent can reserve a place for their child with their provider. We recommend that providers do not sign an agreement with parents until they have verified both the age of the child and the validity of the code. The graphic on the next page sets out the code validation process.

# Providers verifying 30 hours eligibility codes



Parents will apply for 30 hours free childcare using the childcare service online application. Parents will give you their 30 hours eligibility code to reserve their 30 hours place.



You will need to **validate the code** with your local authority. To do this, you need from the parent:

1

30 hours code

2

Parent's National Insurance Number

3

Child's Date of Birth



**Contact your LA to validate code**

Your LA will have their own process for this



OR

**Validate code yourself**

Your LA will have their own online portal for you to use



**Inform parent their code is valid and can take up 30 hours place**



Your LA will let you know when a parent is no longer eligible for 30 hours and give you a grace period. Your parents may also let you know when this occurs.



Parents wishing to reserve a 30 hours place will present the childcare provider with their 30 hours eligibility code. The parent's eligibility code will be 11 digits long and usually begin with the number '500'. There might be some circumstances where a parent's code will begin with '11'. These are temporary codes that will allow parents to claim 30 hours for a short period until they can apply through the digital childcare service. Foster parents who apply through their responsible local authority will receive codes beginning with '400'.

When parents bring their eligibility code to their provider, they should also bring their child's date of birth and the National Insurance number of the parent who made the application. A partner who is listed on the application may come in place of the applicant and should bring their own National Insurance number. Providers only need to verify the code against either the applicant or the partner listed on the application, not both.

Before providers verify the code with the local authority, they will need to get the written consent of the parent or partner whose information is being checked. The Department has provided a sample parental declaration form at Annex A of the Model Agreement, which can be accessed on [gov.uk](https://www.gov.uk).

### **What providers will need to verify a parent's 30 hours eligibility code**

- A 30 hours eligibility code
- The parent or partner's National Insurance number
- The child's date of birth
- The written consent of the parent/partner whose details are being used

### **Using the ECS to verify codes**

The DfE provides an Eligibility Checking System (ECS), which checks eligibility for 30 hours free childcare, Free School Meals, the Early Years Pupil Premium and the entitlement to early learning for two-year-olds.

The ECS supports the verification of codes as follows:

- A. Every successful 30 hours application through the childcare service generates an eligibility code that is transmitted, instantaneously, to the ECS. Temporary codes will take two full working days to reach the ECS.
- B. ECS checks the validity of codes supplied by local authorities by matching them to codes held in the ECS database.
- C. All successful applications from foster parents approved by the local authority will generate an eligibility code on the ECS.

The ECS provides two methods that local authorities can use to verify eligibility codes:

- Web browser
- Web services

It is crucial that parents take their codes to providers as early as possible in the term before they wish to take up a place. Otherwise, the parent cannot be certain that they have reserved a place with that provider. The method a provider will use to check the validity of an eligibility code will depend on the systems the local authority has in place.

**Web browser** access to the ECS is available through a standard web browser. Checks can be made individually or by bulk upload of a file, which lists all the codes with the necessary additional information.

The local authority staff must perform the check and communicate the outcome to providers including the code's validity start date.

The ECS **web services** interface allows local authorities to connect local systems to the ECS. The local system provides a portal allowing providers to check codes without needing to contact the local authority. After the parent has presented their eligibility code, the necessary evidence and the provider has obtained written consent, the provider logs into the portal, enters the eligibility code and receives the code's validity start date for the child.

Once an eligibility code has been successfully verified, the provider can confirm the parent's place and agree the start date. Providers should then add the child to their headcount. The provider should update their local authority on changes to headcount and the number of hours they have agreed with the parent.

### **Reconfirmation Process**

Every three months parents will need to reconfirm that the details they entered on their application are still accurate. This is to check that they are still eligible. They will be prompted, via email by HMRC, four weeks before their reconfirmation deadline and again two weeks before the deadline if they still have not reconfirmed. This prompt will tell them that they need to reconfirm. If their circumstances have changed, they will log into their childcare account, amend and then resubmit their details. If their circumstances have not changed, they only need to confirm that their details have not changed. Parents that completed their original application over the phone will need to phone the childcare service helpline to reconfirm their eligibility. Temporary codes beginning '11' expire and so parents will 'reconfirm' by completing a new childcare service application online. Foster parents will need to reconfirm with the local authority. **Parents will need to reconfirm regardless of whether their child has started their 30 hours place.**

If parents miss the reconfirmation deadline or their circumstances change they will receive an email telling them that their eligibility has lapsed. Although they are no longer eligible, if their child is already in a 30 hours place, they will be able to retain their childcare place for a short period; this is known as a grace period. Parents should speak to their childcare provider about this.

Further guidance on how local authorities and providers should administer the grace period is provided below.

If a parent becomes eligible again for 30 hours after they have fallen out of eligibility, they can go into their childcare account and resubmit their childcare service application and **present their code to their provider again for verification**. Please note, if the same parent completes this application, they will receive the same eligibility code, not a new one.

## When a parent loses eligibility

### The grace period

The grace period enables parents to retain their childcare place for a short period if they become ineligible for 30 hours following the reconfirmation process. The statutory guidance outlines the specific grace period cut-off dates.

The 'validity start date' is the date on which the parent has been made eligible by HMRC and been issued with a code. The 'validity end date' is the parent's 'deadline' for reconfirming and the date their code becomes invalid if they do not reconfirm or are found ineligible. Their 'grace period' date is the last date on which they should receive their 30 hours place after falling out of eligibility and is generated by the ECS.

When local authorities undertake their audits (see next section), they will inform providers which children are in their grace period (and for how long).

#### Example:

Child turns three on 3<sup>rd</sup> March; parent successfully applies for 30 hours on 15<sup>th</sup> March (can take up a place from 1<sup>st</sup> April). Parent is issued a code with a validity start date of 15<sup>th</sup> March and end date of 21<sup>st</sup> June.

Parent is able to reconfirm their eligibility for 30 hours up to four weeks before their validity end date (i.e. from 24<sup>th</sup> May). The parent reconfirms on this date but their circumstances have changed (e.g. job loss) and they are no longer eligible. Therefore, the parent's eligibility ends on 21<sup>st</sup> June.

The grace period will apply from 21<sup>st</sup> June until 31<sup>st</sup> December.

A grace period will not continue beyond the age that a child has reached compulsory school age (the term following their fifth birthday).

In general, a parent should not start a new 30 hours place in their grace period. This includes in the following scenarios:

- Where a parent falls into their grace period before the child has started a 30 hours place
- Where a parent falls into their grace period whilst their child is in a 30 hours place, and the parent attempts to move the child to a different setting.

However, we understand that in some exceptional circumstances, outside of a parent's control, they may be forced to move settings whilst in their grace period. Examples include: if their provider closes, or receives an Ofsted inspection judgement of "inadequate" and the local authority withdraws funding, or parent(s) move homes as a result of domestic abuse or other exceptional circumstances. In such situations, the LA should use their discretion to allow the child to continue their 30 hours place in a new setting.

A parent is able to take up a 30 hours place in their grace period if they fall out of eligibility in the period following the 31<sup>st</sup> termly deadline (31<sup>st</sup> August, 31<sup>st</sup> December or 31<sup>st</sup> March, depending on which term the scenario relates to) and before a provider's term start date. The parent is eligible to start their 30 hours place that term, as their code was valid on the termly deadline.

**Example:**

The parent applies on 7<sup>th</sup> January and receives a 30 hours code with a validity end date of 7<sup>th</sup> April.

The parent books a place with their chosen provider. The provider's summer term begins on 14<sup>th</sup> April.

When the parent reconfirms on 7<sup>th</sup> April, they are ineligible and are therefore in their grace period when term starts on 14<sup>th</sup> April.

In this scenario, as the parent was eligible on the 31<sup>st</sup> March (the cut-off point for the summer term), the parent is eligible to access that 30 hours place.

### **Using the ECS to determine the Grace Period and Audits**

Local authorities should complete audits of eligibility codes during the year. Authorities can then prompt providers to inform parents when they will lose funding for their child's place. They can also ensure that children do not start places who have fallen out of eligibility.

The statutory guidance specifies that local authorities should complete an audit check on eligibility codes at six fixed points in the year as set out in the table of LA audit dates. Local authorities can determine whether children are still eligible or have fallen out of eligibility ahead of the start of term. Local authorities can determine whether children are still eligible or in the grace period at the mid-term audit date.

Therefore, we suggest as a minimum local authorities complete an audit of previously verified codes during the windows show in Table 1. This table is intended to complement the audit dates as set out in the statutory guidance. It will also assist local authorities manage a range of dates that they may see when carrying out an audit. The exact dates that local authorities use, and how frequently they audit, can be decided locally.

**Table 1 – Suggested local authority audit dates**

<b>Audit</b>	<b>LA audit date from statutory guidance</b>	<b>Suggested LA audit window</b>	<b>Validity end dates</b>	<b>Grace Period End date</b>
<b>Spring: Midterm</b>	11 February	11 – 18 February	1 Jan – 10 February	31 March
<b>Summer: Start of term</b>	1 April	24 March - 1 April	11 Feb – 31 March	31 August
<b>Summer: Mid-term</b>	27 May	27 May – 2 June	1 April – 26 May	31 August
<b>Autumn: Start of term</b>	1 September	24 August - 1 September	27 May – 31 August	31 December
<b>Autumn: Midterm</b>	22 October	22 October – 29 October	1 September – 21 October	31 December
<b>Spring: Start of term</b>	1 January	24 December - 6 January	22 October – 31 December	31 March

**Note: HMRC will not issue validity end dates which fall between the 23<sup>rd</sup> month and 6<sup>th</sup> of the following month inclusive.**

At the start-of-term audit, local authorities should:

- Identify children who may have reserved a 30 hours place with a valid code but have fallen out of eligibility. These children cannot take up their place. Providers should be advised accordingly.

At the mid-term audit, local authorities should:

- Identify children in a 30 hours place who are now ineligible and should stop before the start of the next term.
- Advise providers that the place should be stopped at the end of term (because the child will have finished their grace period). The provider can confirm this to the parent.

Local authorities should be aware of the importance of prompting providers to notify parents they have fallen out of their eligibility, in good time. Good practice is to notify parents within five working days.

Local systems (which access ECS via the web services interface) will be able to run an automatic check against all previously verified eligibility codes and will associate codes with relevant providers. If local authorities use the ECS web browser, they will need to keep a record of codes verified and which providers are relevant so they can undertake a batch check and communicate the results to the right providers.

Local authorities should also be aware that the ECS provides a '30 Hours Cross Border Report' which can be used to show eligibility codes checked by the local authority which have also been checked by other local authorities in the last six months. It is recommended that local authorities check which eligibility codes they have approved for funding have also been checked in other local authorities and make contact to reduce the risk of a parent accessing more than the maximum of 1,140 hours per year. Further information on the ECS

Local authorities can obtain more information on the ECS from the ECS Service Desk and via the ECS LA Portal. The following documentation is available:

- The ECS User Guide describes the process for local authorities to gain access to the ECS and a complete description of the services provided by the ECS web browser interface and the user's responsibilities
- The ECS Reference Guide provides answers to a wide range of frequently asked questions regarding the use of the ECS for eligibility checking

### *Further information on Tax-Free Childcare*

Working parents are also able to apply for Tax-Free Childcare through the digital childcare service. For every £8 parents pay into their childcare account, the Government will add an extra £2, up to a maximum of £2,000 per child per year, or £4,000 per year, if the child is disabled. Parents can then use these funds to pay for registered childcare outside of the free entitlements.

The eligibility criteria for Tax-Free Childcare are broadly aligned with 30 hours free childcare. The main differences are that Tax-Free Childcare is available for children under 12, or 17 if disabled, and is not available to parents in receipt of tax credits, Universal Credit or childcare vouchers. As part of their childcare service application, parents in receipt of tax credits, Universal Credit or childcare vouchers can choose whether they want to keep these benefits and apply for 30 hours free childcare only, or apply for Tax-Free Childcare as well as 30 hours free childcare. Parents can use Tax-Free Childcare alongside 30 hours free childcare to cover additional childcare costs, e.g. during school holidays.

Childcare providers need to sign-up to the childcare service in order to receive Tax-Free Childcare payments. All providers registered with a regulator (e.g. Ofsted) will have received an invitation to apply containing the information they need to sign up. Providers who need assistance with the sign-up process should contact the childcare service helpline on 0300 123 4097.



# Extending 30 hours to Children in Foster Care

## Introduction

In December 2017, government announced plans to extend eligibility for 30 hours childcare to children in foster care where the foster parents meet certain eligibility criteria, giving foster families the same support as other families where it is right for the child. Children in foster care will be able to receive 30 hours free childcare, if the following criteria are met:

- That accessing the extended hours is consistent with the child's care plan, placing the child at the centre of the process and decision making, and
- That, in single parent foster families, the foster parent engages in paid work outside their role as a foster parent.
- And in two parent foster families, both partners engage in paid work outside their role as a foster parent. If one partner is not a foster parent then they must be in qualifying paid work and earn a minimum of the equivalent to 16 hours at national minimum/national living wage.

The Childcare Service is unable to perform the additional eligibility checks required so the Department has developed a parallel application process that uses existing delivery arrangements wherever possible. The application form will be completed by the foster parent and be counter-signed by a designated person determined by the responsible local authority to confirm eligibility. Foster parents will be required to reconfirm their eligibility every three months to mirror the existing process and support the work enabling objective of the 30 hours policy. Agreement that the foster parents can take up the extended hours should be recorded and the care plan for the child should be updated as appropriate.

## Key Considerations

Throughout this section, we use the terminology 'responsible local authority' for the authority who is looking after the child and is therefore the child's corporate parent. The funding local authority is the local authority in which the child is taking up their place and who is paying the provider. They do not have to be the same local authority.

When supporting foster parents, local authorities should be aware of the following:

- Accessing 30 hours will **not** be appropriate for every child in foster care. This change is to enable those foster parents who are working outside of fostering to access this support where it is right for the child.
- We are not expecting or requiring foster parents to work outside fostering unless they choose to do so and this decision is supported by the fostering service. There is no requirement on the type of work or number of hours that a foster parent must work in order to access the 30 hours and there is no minimum earnings limit (although they must be engaging in paid work)

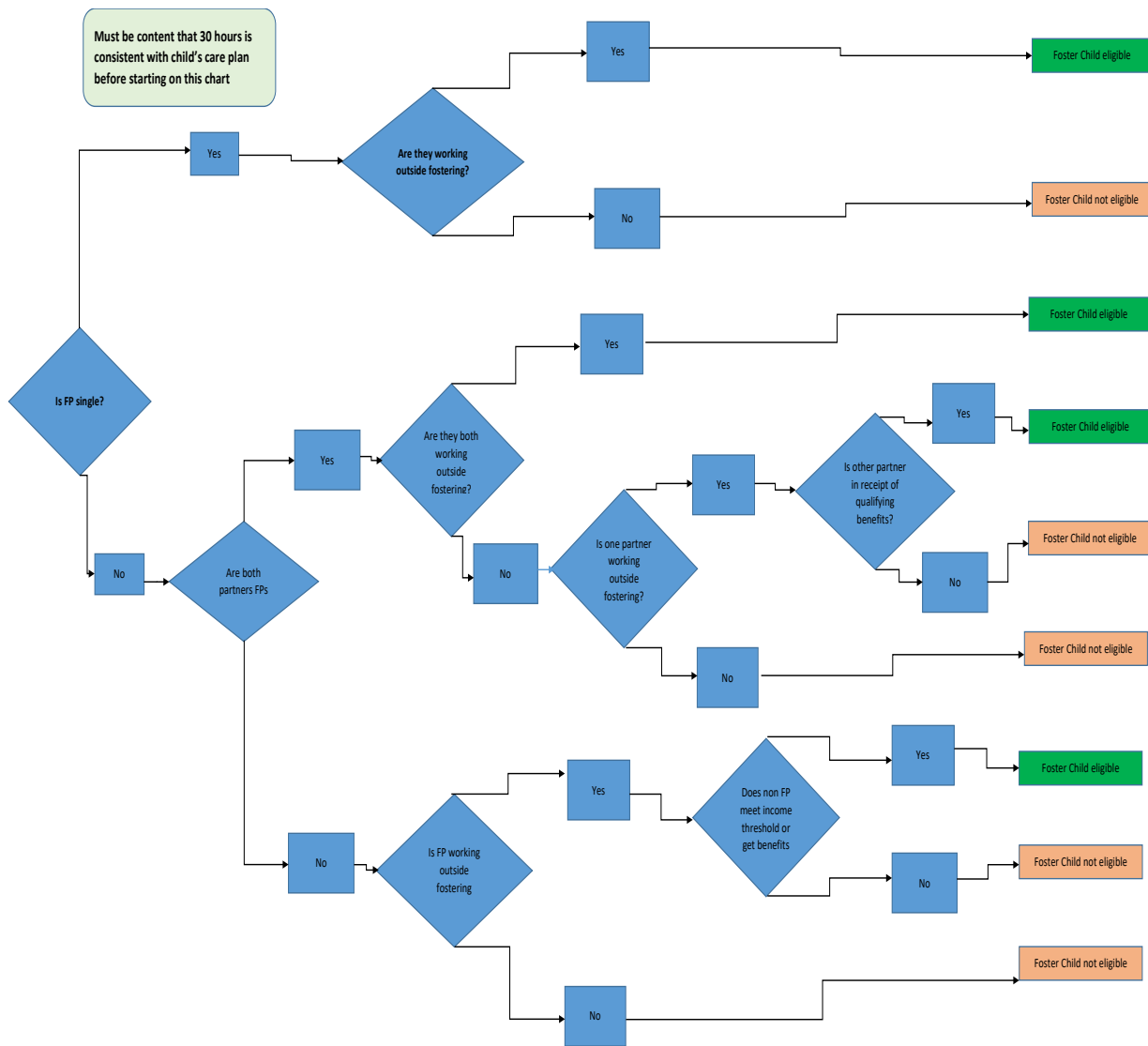
- Foster parents will only be eligible if this is consistent with a child's care plan,
- The child in foster care does **not** have to take up the full 30 hours.
- Children in foster care **will** continue to qualify for the universal 15 hours regardless of the working status of their foster parents.
- If circumstances change and a child in foster care ceases to be eligible for 30 hours the responsible local authority should assess the child's needs for early years provision as part of the care plan.

## Process

We expect responsible authorities to establish that foster parents are engaging in paid work outside their role as a foster parent and ensure that accessing 30 hours is consistent with the child's care plan. Local authorities have the flexibility to develop local policies and processes for establishing the eligibility of children in foster care but any process that is introduced should be proportionate, flexible and aligned with existing processes as far as possible. This guidance is intended to help authorities develop approaches that fit their circumstances.

### *Checking Eligibility*

The diagram below sets out when foster parents will be eligible for 30 hours for their children in foster care. If the designated person is not satisfied that accessing 30 hours is consistent with the child's care plan, then the child will **not** be able to take up a 30 hours place and no code should be issued.



### Stage 1: The Foster Parent(s) apply

Foster parents and social workers start discussions, as the child approaches their 3rd birthday or when a foster parent decides to take up additional work. We would expect these to happen as part of the usual supervision meetings and review process.

Local authorities can use the following documents (available in the resources section of [Childcare Works website](#)) on to support these discussions:

- Foster Parents Journey
- Information Sheet for Social Workers

Local authorities will need to provide guidance on local approaches, particularly on who the designated person is within their area and where completed forms should be sent. We have provided a template that local authorities may want to adapt to support this process.

The foster parent should complete an application form, the template form is in annex A – but local authorities can [download](#) an editable version from gov.uk. Local authorities may wish to add suitable local information (such as their contact details) before making this available to foster parents. However, the information requested should not be altered as this is needed to ensure parity with 30 hours and for generation of the child's 30 hours code.

Once the form has been completed and signed by the foster parents, this will be the declaration as required by regulations. For the purposes of determining when a foster child is entitled to take up their place, the date of application will be the date the parents signed the form.

## **Stage 2: The responsible LA confirms eligibility**

The responsible authority will set their own local process for checking foster parents meet the eligibility criteria, which should be clear and made available to all foster parents. The local authority should set out:

- The role of the designated person
- Who is currently the designated person and how to contact them
- What evidence the foster parents should be expected to provide
- How the foster parent should pass the form to the local authority
- How/if that evidence will be stored once form is completed and approved
- The timeframe by which the designated person should respond to any application (not longer than 4 weeks from receipt of application)

### *Designated Person*

The designated person is an individual identified by the responsible local authority who must be able to confirm that the foster parents are working outside their role as a foster parent and that accessing 30 hours free childcare is consistent with the child's care plan. Local authorities have flexibility to set this locally to reflect existing local practices. This could be:

- Child's social worker
- Supervising social worker
- Independent Reviewing Officer (person appointed by the responsible local authority to protect the child's interests throughout the care planning process)

In some cases, the responsible authority may consider it appropriate for the foster parent to sign the application form and not require a second signature by the designated person. This must be agreed between the foster parent and the local authority before the application is made and the decision should be recorded. The foster parent must inform the child's social worker when they start the application process. In this case the signed form will need to be sent directly to the contact within the local authority who is responsible for issuing the codes.

## *Evidence*

The level of evidence required will depend on how local authorities want to operate and who is fulfilling the role of designated person in the local authority. Local authorities should make clear to foster parents what evidence will be required – this could be covered on the application form.

The evidence needs to allow the designated person to be confident that the foster parent(s) are engaging in paid work outside their role as a foster parent (there is no requirement to check the number of hours). This can be done by checking pay slips, a job offer letter or evidence of self-employment (such as tax return). Alternatively, the designated person may contact the social worker (via email or phone call) for confirmation. However, if one partner is not a foster parent, there will need to be a check that the partner is meeting the normal income requirements for 30 hours.

### **Stage 3: Responsible LA issues a code to Parents**

The responsible local authority will issue eligibility codes to foster parents.

Once stage 2 is complete and it has been agreed that the foster child should take up a 30 hours place, the details will need to be entered on ECS by the responsible local authority to create a record for the foster child. Further details on creation of records will be available on ECS portal.

Once the 11 digit code has been generated, local authorities should send this to the foster parents, usually via email. The child's social worker should also be informed when the code is issued. Local authorities will want to include further instructions to foster parents about taking the code to their provider to confirm their place and further information on their reconfirmation process. It may be worth clarifying that foster parents can use the code with any provider, even outside the issuing local authority.

### **Stage 4: Provider Checking and Payment**

Once the foster parent has received the code, the process is the same as for any other 30 hours parent and child. The foster parent contacts a provider to agree a 30 hour place, giving them the code to confirm their place. We have provided a customer journey document which can be found on [Childcare Works website](#), which will help foster parents navigate the process, and may also be useful for providers working with foster families.

Local authorities should ensure that providers are aware that, despite beginning with 400, these are legitimate codes. The provider will be able to check the eligibility of the code using their local authority portal. Local authorities should ensure that providers are aware that foster parents may not have access to all the documents (such as birth certificates) relating to the children in their care. In this situation, the letter or email from the LA issuing the code can provide evidence of meeting the age criteria.

## **Stage 5: Reconfirmation**

Foster parents, like all other parents accessing 30 hours are required to reconfirm their eligibility every three months. The exact dates and intervals for children in foster care are set by ECS system when the child's record is created.

However, local authorities are able to determine the exact process and nature of evidence required from foster parents locally. As set out above, this should be clear and transparent and made available to foster parents when they first apply for 30 hours.

As a minimum, the responsible authority should be satisfied that the placement is still on-going, that accessing the 30 hours is still consistent with the child's care plan and the foster parents are still engaging in paid work outside their role as a foster parent. They may approach foster parents (using a simple declaration form) supported by evidence, or contact the social workers for a verbal confirmation.

Responsible local authorities will use the new ECS report to help identify which of the codes they issued for children in foster care are approaching reconfirmation. At least 4 weeks before the end-date, the responsible local authority should initiate the reconfirmation process. Once they have received confirmation that foster parents are still eligible, they will need to update the child's ECS record.

Funding local authorities will be able to see which children in foster care are accessing 30 hours in their area during the regular audits as they will begin with a '400'. They should include these codes in their normal processes.

However, local authorities should be aware of handling circumstances sensitively if the funding and responsible local authority are different. The responsible authority should be aware that if they have not initiated the reconfirmation process, and the foster child enters their grace period, the funding authority will have contacted the provider, who will then tell foster parents that they are no longer eligible.

## **Appeals Process**

If foster parents are unhappy about the decision made by the local authority, then the foster parents should seek resolution through their social worker or through the local authority complaints process.

## **Transition Arrangements for September 2018**

We are aware that this is a new process, we are therefore suggesting for the September 2018 only, that local authorities exercise their discretion and secure a place for children in foster care even if the application form was received after 31<sup>st</sup> August 2018.

## Delivery models and flexibility

### Summary

We recognise that there is no 'one size fits all' approach, and that demand for different types of childcare will vary from area to area and from parent to parent. We encourage local authorities to work closely with parents and their providers to understand demand and develop models of delivery that support the needs of working parents.

Local authorities should encourage providers to deliver flexible packages of free hours within the parameters set out in the statutory guidance, these are:

- no session to be longer than 10 hours
- no minimum session length
- not before 6.00am or after 8.00pm
- sessions can take place on any day of the week, including Saturday and Sunday
- a maximum of two sites in a single day
- meet the quality requirements as set out in regulations and in the statutory guidance
- no artificial breaks

There will be many delivery models for both the universal and extended entitlements and this guidance does **not** cover **all** of these. It sets out some options and additional guidance on issues raised by providers. Local authorities and providers are reminded that this guidance does not address how providers operate their private businesses over and above a child's free hours. This is a matter between the provider and the parent, providing it does not affect the parent's ability to take-up their child's free place.

### Minimum Requirements of Sessions

As set out in the statutory guidance, there is no minimum session length. However, providers must be registered (or be schools that are exempt from registration) on the Ofsted Early Years Register (EYR) or with a childminder agency which is registered with Ofsted. In order to register, a provider must care for an individual child for more than two hours in a single day.

Local authorities should ensure that, providers are registered on the EYR (or are exempt from this requirement), that the free entitlement sessions are no longer than 10 hours and delivered between 6 am and 8 pm.

As set out in regulations, in order to receive funding to deliver free places providers must be either:

- registered on the Ofsted Early Years Register
- registered with a childminding agency which is registered with Ofsted

- schools taking children aged two and over which are exempt from registration with Ofsted as an early years providers

Providers must deliver the full Learning and Development requirements of the Early Years Foundation Stage (EYFS) unless:

- they are an independent school which has met the quality requirement (most recent Ofsted inspection judgement is “good” or better) and notified the Secretary of State that they intend to take up exemption from the Learning and Development requirement; or
- the Department has granted an exemption from one or more of the Learning and Development requirements on the grounds that the provider’s established principles cannot be reconciled with one or more of the Learning and Development requirements.; or
- they are providers offering care exclusively before and after school or during school holidays for children younger than those in the reception class age range. In this case they should be guided by, but do not have to meet, the Learning and Development requirements.

### *Two sites*

Continuity of care is important for the child so local authorities and providers should bear in mind the impact that multiple providers may have on a child’s learning, development and wellbeing. Parents can split their free entitlement between multiple providers, though no more than two sites in one day.

A child may attend a breakfast club based on the school site in the morning, followed by nursery class and then move to a childminder at lunchtime. This would still class as two sites, even though the child could be attending three different providers.

## **Flexible Models**

### **Full day care delivery models**

The model below shows how full day care providers offering 10 hours a day, including schools with wraparound care, can offer the free entitlements in term time only in a sustainable way that works for some parents and maximises provider occupancy. Parents may choose to buy additional hours beyond the 38 weeks at the provider rate (if the provider is open beyond 38 weeks). Using places this way allows a provider to offer five families 30 hours over three days a week instead of three families accessing 30 hours as five 6-hour days. There is scope for income to increase as there are now five families accessing their 1,140 hours in the three places instead of just three.



### Table key

	Family 1
	Family 2
	Family 3
	Family 4
	Family 5

Places 10 hour day x 3 days a week	Monday	Tuesday	Wednesday	Thursday	Friday
1					
2					
3					

### Sessional delivery models

The tables below set out how this could work for a parent.

Term Time	Flexible Provider	Morning Session (typically 9-12)	Flexible Provider	
	Flexible Provider		Afternoon Session (typically 12-3)	Flexible Provider
Holiday	Flexible Provider			

## Table key

<b>Sessional Provider</b> Examples include <ul style="list-style-type: none"><li>• Nursery class in a school</li><li>• Independent nursery school</li><li>• Playgroup</li></ul>	Usually term-time only	15 hours per week 38 weeks a year
<b>Flexible Provider</b> Examples include <ul style="list-style-type: none"><li>• Childminders</li><li>• PVI's</li><li>• Out-of-school clubs</li></ul>	Could also be open during holidays but must be open in the January census week	Parent can agree to take 15 hours a week for 38 weeks a year or stretch offer over the full year.  Any time outside these hours paid for by parents as agreed with providers

It would also be possible to wrap funded hours from the flexible provider around a morning or afternoon session, providing this did not exceed the two sites in a day requirements.

## Childminders

Childminders are a valuable part of the childcare sector and we want to see them play a full role in delivering all of the free entitlements.

Childminders can deliver all of the extended entitlement, offering the free entitlement at times between 6 am and 8 pm for a maximum of 10 hours per day, on days to suit both them and the parents. As with all other providers, they should avoid artificial breaks in the day wherever possible. Childminders can also deliver the extended entitlement in partnership with other providers such as a sessional nursery, pre-school or playgroup.

There will be several services that childminders can offer as part of a broader package alongside the free hours they are delivering. These should be optional extras that parents can choose to pay for, and, as such, are a matter for the childminder and the parent.

These services could include offering to pick up or deliver children to nursery classes or playgroups (if these fall outside the free hours taken with the childminder), and covering the remaining time that the parent is at work. In addition, childminders may offer an oncall service as part of their offer to parents while the child is at school and needs to be collected unexpectedly. This is a clear additional service that some parents may feel is worth paying for. An example of how this could work is shown below.

Before 9 am	9 am – 12 pm	12 pm – 3 pm	After 3 pm
Childminder charges for care, transfer to nursery or playgroup and on all services	Free hours at nursery or playgroup	Childminder picks up and provides free hours	Childminder charges for any additional hours needed

## Schools

Schools are able to deliver the free entitlements in the following ways:

Setting up nursery provision:

- As a community or charitable service (either Section 27 of the Education Act 2002 or community powers or charitable objectives in Grant Funding Agreement). These powers allow schools to provide any facilities or services whose provision furthers any charitable purpose for the benefit of families of pupils at the school, or their families or people who live or work in the locality in which the school is situated. Children attending this provision are not usually registered as pupils
- As pupils – schools can register the children as pupils, providing they are within the published age range of the school

Or schools may work in partnership with other providers (please see the section on partnership working on page 31).

As local authorities have a statutory duty to ensure sufficient childcare places, schools should discuss their plans with their local authority. There may be local issues or processes that may influence a governing body's decision.

State funded schools who have set up nursery provision as a community or charitable service must actively decide whether to register the children as pupils of the school. A child does not automatically become a pupil of the school by virtue of being educated at the school. The law requires all schools to have an admission register. In order to be registered as a pupil of a school and placed on the admission register, the child must be within the published age range of the school. If a child is a registered pupil of the school, they remain a pupil of the school even when they are attending governor-run, community or charitable provision.

Maintained nursery schools (MNS) have a particular focus on disadvantaged children and children with additional needs. Decisions about their involvement in the delivery of the 30 hours entitlement should be taken locally, but two points should be considered. First, the supplementary funding that is provided to local authorities to enable them to preserve MNS' pre-Early Years National Funding Formula funding is based on the universal (first) 15 hours

of provision. Second, any involvement in the delivery of the 30 hours entitlement should preserve MNS's overall focus on the most disadvantaged. If an MNS cannot, or does not want to, offer the full 30 hours entitlement itself, we would encourage it to consider alternative ways of being involved in its delivery such as partnerships with nearby providers.

## **Does early years provision in a school need to be registered with Ofsted?**

If early years provision is set up for pupils, or under a school's community or charitable powers, it is likely that the provision will not need to be separately registered with Ofsted.

In order for a school's early years provision to be exempt from registering their provision separately with Ofsted, it must satisfy the following:

- be delivered directly by the school (that is under the auspices of the governing body);
- be related to the schools' activity;
- all children attending are two or older; and,
- if it is for more than one child, at least one of the children attending the early years provision must be a pupil of the school. The early years children do not need to be in the same room as the pupils, who could be in a separate reception class

If a school's early years provision meets the criteria for exemption from registration with Ofsted, it should not be registered on the Early Years Register. The criteria for a school's exemption from registration are set out in the Childcare Act 2006 and you can find more details in this [document](#) from Ofsted. However, in summary, the process is:

**Is the provision for children aged between 2 and September following 5<sup>th</sup> birthday?**

Yes

If there are children aged under 2, then you will need to register separately with Ofsted as an early years provider

**Is the early years provision delivered directly by the school?**

Yes

That is under the auspices of the governing body or by the proprietor of the school. Who employs the staff?

**Is it related to the schools activity?**

Yes

As all early years provision is considered to be educational, this condition will be met

**If provision is for more than one child is at least one of the children attending the early years provision a pupil?**

Yes

There isn't a separate exemption for each age group – so in most cases where there are reception pupils, they will meet this criteria. There is no requirement for reception pupils to be in the same room as other early years provision

**Provision is exempt from separate registration with Ofsted**

*Staffing ratios and qualifications - early years provision for 3-year-olds in schools*

	<b>Maintained nursery schools and nursery classes in maintained schools</b>	<b>Maintained school governor-run (s27) provision</b>	<b>Academies, Free schools and Independent schools</b>
<b>Learning and Development Requirements of EYFS</b>	Yes	Yes	Yes*
<b>Inspection</b>	Ofsted	Ofsted (as part of the main school inspection)	Ofsted <sup>1</sup>
<b>Ratios and qualifications</b>	<p>Ratio: <b>1:13</b></p> <ul style="list-style-type: none"> <li>One member of staff must be 'school teacher'**</li> <li>At least one other member of staff must have L3</li> <li>Qualifications of additional staff left to provider</li> </ul>	<p>Ratio: if <u>no</u> registered pupils are present and QTS, EYPS or EYT or other suitable L6 working directly with children then <b>1:13</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L6</li> <li>At least one other staff member must have L3</li> </ul> <p>If no listed L6 present, then ratio <b>1:8</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L3</li> <li>At least half of all other staff must hold relevant L2</li> </ul>	<p>Ratio: if <u>no</u> registered pupils are present and QTS, EYPS or EYT or other suitable L6 working directly with children then <b>1:13</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L6</li> <li>At least one other staff member must have L3</li> </ul> <p>If no listed L6 present, then ratio <b>1:8</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L3</li> <li>At least half of all other staff must hold relevant L2</li> </ul>
<b>Census</b>	School census	<ul style="list-style-type: none"> <li>School census - registered pupils</li> <li>Early years census – for children who are not registered pupils</li> </ul>	<p>Academies and Free Schools</p> <ul style="list-style-type: none"> <li>School census – for registered pupils</li> <li>Early years census – for children who are not registered pupils</li> </ul> <p>Independent Schools</p> <ul style="list-style-type: none"> <li>Early years census – independent school</li> </ul>

\* Some independent schools may have exemptions from some or all of the EYFS Learning and Development (L & D) requirements because of a direction made by the Secretary of State. Providers with exemptions from the L & D requirements should be funded

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<sup>1</sup> Independent schools may be inspected by an independent inspectorate approved by the Secretary of State

to deliver free places if they meet the quality requirements and any local authority requirements. There are no exemptions from the EYFS welfare requirements.

\*\* Maintained Schools may wish to consider using the flexibility set out in the EYFS Framework and use ratio of 1:8 with at least one staff member holding a full and relevant level 3 qualification and at least half of all other staff holding a full and relevant level 2 qualification for provision delivered outside the standard two session school day where children normally attend nursery classes.

### *Maintained schools: Governor-run nurseries*

Where provision is set up under Section 27 of the Education Act 2002 (community powers), then the governing body can use the ratios and qualification requirements set out for early years providers. In this case, they can use either 1:8 or 1:13 ratio staffed appropriately, but must deliver the learning and development part of the EYFS at all times.

This flexibility (to operate without a school teacher leading provision) applies where the children are not registered pupils – so it will only apply to community provision. Schools will be able to choose which staffing model is most appropriate to their situation. Once a child is a registered pupil, then that is their status. For example, it is not possible for a child to be a pupil in the morning and a non-pupil in the afternoon.

We expect that, as the governor-run early years provision is part of the school, and will be inspected as part of the school, that the head and governing body will ensure that the provision is adequately supervised and run, even if a school teacher is not working directly with the children.

## **Partnership working**

This section sets out different ways in which providers in different sectors can work in partnership to deliver the entitlements. There are many reasons why providers may choose to work in partnership to deliver free places. Some want to meet the demand amongst their parents for a pattern of free places that they cannot – or do not want to provide. Some want to build a local network of contacts to help them improve their offer to parents. Others want to create new opportunities by joining up with local providers to create a joint offer that is appealing to parents.

Strong and constructive relationships are the basis for effective local partnerships. Good partnerships bring a wide range of benefits, but in particularly sharing best practice and continuous profession development (CPD).

### *What are the key features of a partnership?*

There is no single model of partnership working that is right for everyone, but there are some common features amongst successful partnerships:

- they have children's wellbeing and development at their heart, with the delivery of high quality services as a common focus
- trust between partners is vital - strong working relationships need significant investment of time to establish them
- they share learning and good practice to the benefit of the partnership as a whole
- they involve parents in their development and delivery, to ensure that the offer meets – and continues to meet – their needs they use a pool of locally available staff to ensure efficient delivery they allow partners to maximise the use of buildings and space across the day and the year

### *Establishing a partnership*

Often, providers that are interested in partnership working do not know how to get a partnership off the ground or get involved in an existing one. To help with this, previously the Family and Childcare Trust supported a number of new and existing partnerships, and from this developed a practical toolkit that provides advice, templates and examples to help providers to establish and run partnerships. Sections of the toolkit are aimed at different kinds of providers. It has the 30 hours entitlement as its focus, but the principles and guidance are suitable for a wide range of partnerships. The toolkit can be found [online](#).

The Department has continued to build on the success of this by offering further support for development of effective partnerships between childminders and schools to deliver the 30 hours entitlement, supported by Action for Children. The support comprised events and hands-on support and up-to-date details are on the Foundation Years [website](#). Local authorities and providers interested in setting up partnerships can find two further toolkits [here](#). The toolkits are:

- Working in Partnership to meet the Childcare
- Early Learning and Childcare Partnership Hubs

Local authorities should have a good understanding of the pattern of supply and demand for childcare in the local area, and details of any existing partnerships that could be joined.



# Charging

## Summary

This section clarifies statutory guidance and provides information on charging, which providers may want to consider. Local authorities are responsible for ensuring that all eligible children can take up their free entitlement place free of charge and that providers' charging policies enable this.

## Meals, consumables and additional activities

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 costs of meals, other consumables, additional hours or additional activities. Parents can therefore expect to pay for any meals offered by the provider alongside their free entitlement. Parents can also expect to pay for other consumables or additional activities offered by the provider, such as nappies or trips. Where parents choose to purchase additional hours of provision, consumables or additional activities, this is a private matter between the provider and the parent. However, providers must offer alternative options for parents. This could include, for example, allowing a parent to bring in their own consumables or a packed lunch, where the meal offered is not suitable for children with specific dietary needs or the parent prefers a lower cost option. Providers should be mindful of the impact of additional charges on the most disadvantaged parents.

Children should be able to take up their free hours as part of continuous provision and providers should avoid artificial breaks in the day wherever possible. For example, the lunch time hour/session should form part of the free provision where the child is attending a morning and afternoon session. Providers may wish to offer additional hours around the free provision hours, as set out in the model below.

## Access to free places

Private, voluntary and independent providers are free to set their own criteria for the admission of children, providing they comply with relevant legislation on equalities and non-discrimination. However, for clarity, all parents should have the same rights to access a free entitlement place, regardless of whether they choose to pay for additional hours of provision, additional activities or meals. Whilst the child continues to take up the 30 hours' entitlement there should be no restrictions on that place e.g. parents should not have to reserve a place each term.

Providers should ensure that their admissions information is clear and accessible for parents, for example, by publishing the number of standalone 15 and 30 hours places they offer to enable parents to make an informed decision on where to take up their child's entitlement. Providers should ensure that they are completely clear and transparent about which hours / sessions can be taken as free provision and this should be consistent for all parents taking

up free hours. Providers should also ensure they have clear invoicing structures in place for parents.

## Written agreement

Providers should have a written agreement with all parents that take up a free entitlement place. Annex A in the model agreement is an example of a written agreement and can be found on [gov.uk](https://www.gov.uk).

To ensure that parents can make informed decisions on their choice of childcare, providers should publish a statement of how they deliver the free entitlement and any additional charges for optional activities outside of the entitlement. This should set out clearly the charges for meals, additional activities or additional hours. Providers may wish to have a separate agreement for any additional hours, meals and/or optional activities, which clearly sets out for how long the parent has opted to pay the additional charges and the circumstances when the parent can opt out of paying the additional charges.

## Deposits

Providers can charge a refundable deposit to parents accessing the free entitlements for two year olds and the universal and extended entitlement for three and four-year olds.. The purpose of the deposit is to give providers certainty that a parent will take up the place. Local authorities should work with providers to determine a reasonable timescale for refunding deposits in full to parents. Local authorities and providers should make clear to parents that if a parent fails to take up their place, the provider is not obliged to refund the deposit. Local authorities can use their discretion to determine if charging a deposit will prevent take-up, for example, for the two year old entitlement for disadvantaged families.

## On-call services

As set out on page 26, childminders may offer a chargeable on-call service as part of their offer to parents. This service could include providing emergency childcare cover whilst the child is in another setting taking up free hours.

# SEND

## Summary

The government is committed to promoting equality and inclusion for children with Special Educational Needs and Disabilities (SEND) by removing barriers that prevent children from accessing free places and working with parents to give each child support to fulfil their potential.

Local authorities and providers must ensure that they meet their duties under the Equality Act 2010<sup>2</sup> and take full account of the SEND Code of Practice 0-25<sup>3</sup> when securing and providing free places.

We want all early years staff to feel confident that they can support a child with SEND to access and enjoy their early years setting and their full entitlement. Our workforce strategy<sup>4</sup> sets out how we will support staff to offer good quality provision to children with SEND. The Department worked with organisations specialising in SEND to develop a specification for a [Level 3 SEND qualification](#), a [Level 3 SENCO job description](#) and [case studies](#), and to produce a package of free [SEND resources](#) specific to the early years.

There are good examples up and down the country of providers and local authorities working with children, parents, health and social work professionals, and others to ensure that children with SEND are able to access and get the best from their free place.

To put providers and local authorities in a stronger position to deliver 30 hours, we have two models for allocating additional funding to support children with SEND:

- a targeted £12.5m Disability Access Fund (DAF) to support disabled children to access the free entitlements, equivalent to £615 per child per year
- a requirement for local authorities to set up a local SEN inclusion fund (SENIF) to support providers to secure better outcomes for children with SEN.

For additional information and guidance on these funding streams please consult the [Early years entitlements: local authority funding of providers](#) operational guide. You may also want to consult the [High needs funding 2018-19: operational guide](#).

## Summary of key provisions in the Children and Families Act Part 3

Part 3 of the Act sets out the general principles that local authorities must have regard to when supporting children and young people with SEND. The principles are based on the

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<sup>2</sup> See legal annex to 30 hours statutory guidance -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/596460/early\\_education\\_and\\_childcare\\_statutory\\_guidance\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596460/early_education_and_childcare_statutory_guidance_2017.pdf)

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/350685/Early\\_Years\\_Guide\\_to\\_SEND\\_Code\\_of\\_Practice\\_-\\_02Sept14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350685/Early_Years_Guide_to_SEND_Code_of_Practice_-_02Sept14.pdf)

<sup>4</sup> <https://www.gov.uk/government/publications/early-years-workforce-strategy>

government's vision for reforming services for children and young people with special educational needs, as set out in the 2011 Green Paper, "*Support and Aspiration: A new approach to Special Educational Needs and Disability*" and the 2012 follow up paper "*Progress and next steps*". They seek to ensure that local authorities place children, young people and families at the centre of decision-making, enabling them to participate in a fully informed way, and with a focus on achieving the best possible outcomes.

- Section 20 sets out that a child or young person has special educational needs if they have a learning difficulty or disability, which calls for special educational provision to be made for them. It also provides a definition of learning difficulty.
- Section 21 defines special educational provision as provision that is additional to or different from that which would normally be provided for children or young people of the same age in a mainstream education setting.
- Section 22 places a duty on local authorities to identify, in their area, all of the disabled children and young people and all the children and young people who have or may have special educational needs.
- Section 23 outlines the duty on health bodies, who have determined that a child under compulsory school age, has or probably has special educational needs or a disability, to inform the child's parents and the local authority of their opinion.
- Section 24 states that a local authority in England is responsible for a child or young person if he or she is in the authority's area and has been identified by the authority or brought to the authority's attention, as someone who has or may have special educational needs.
- Sections 25 to 27 places a duty on LAs and their partner commissioning bodies to ensure integration between education, health and social care provision including joint commissioning arrangements. The education, health and care provision must be kept under review.
- Sections 30 requires local authorities to publish and maintain and keep under review a local offer. The local offer is information about the education, health and social care provision that the local authority expects to be available for disabled children and young people and those with special educational needs.
- Sections 33 to 48 cover mainstream education for children and young people both with and without education, health and care (EHC) plans, including assessment of EHC needs, and details of EHC plans.
- Section 49 requires local authorities to prepare a personal budget for children and young people who have EHC plans if the child's parent or young person requests one. A personal budget is an amount identified as available to secure particular provision specified or to be specified in the EHC plan.
- Sections 51 to-60 cover the appeals, mediation and dispute resolution process.
- Section 66 requires maintained nursery schools, schools and post-16 institutions to use their best endeavours to secure that the special educational provision called for by their pupil's or student's needs, is made. Section 67 requires schools to

have a SEN Coordinator (SENCO) and to ensure that SENCOs have particular qualifications and/or experience.

- Sections 69 requires all maintained nursery schools and schools to publish a SEN information report. This report must include information such as an institution's SEN policy and the arrangements it has to prevent disabled pupils from being treated less favourably than other pupils.
- Section 70-75 sets out how the legislation applies to children and young people detained in youth custody.
- Section 76 places a duty on the Secretary of State to exercise his/her information gathering powers to secure information about children and young people under the age of 19 with special educational needs.
- Section 77 requires the Secretary of State to issue a code of practice, which local authorities, school governing bodies, colleges, clinical commissioning groups and a range of other bodies must have regard to, when exercising their functions.

Section 79 requires the Secretary of State and Lord Chancellor to carry out a review about how effectively disagreements about the exercise of functions, in relation to children and young people with SEND are being resolved.

## **Education, Health and Care plans**

Part 3 of the Children and Families Act 2014 contains provisions that set out the statutory framework for identifying and assessing the needs of children with special educational needs (SEN) who require support beyond that which is usually available. Children with complex needs may be entitled to an Education, Health and Care plans (EHC plans).

## **Case studies**

Local authorities and providers will find examples of good practice in developing local SEND strategies, workforce development and culture, and engaging and informing parents on the [Childcare Works website](#).

Providers and local authorities may also wish to access the 'SEND and disability in the early years toolkit', produced by the Council for Disabled Children and Action4Children, available on the Foundation Years website.<sup>5</sup>

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<sup>5</sup> <http://www.foundationyears.org.uk/2015/06/sen-and-disability-in-the-early-years-toolkit/>

# School Census and Early Years Census

## Summary

This section explains regulations underpinning the schools and early years census and focuses on the changes to data collected.

## Legislation

Regulations made under section 99 of the Childcare Act 2006 (The Childcare (Provision of Information About Young Children) (England) Regulations require all providers delivering free provision to children aged under five to provide data on children in their care to the Secretary of State their local authority when requested to do so. The information about individual children that must be provided is set out in Schedule 2 of the regulations.

Private, voluntary and independent providers who deliver free entitlement places should complete the early years census. This includes independent schools, childminders registered with Ofsted and childminders registered with a childminder agency that is registered with Ofsted.

Maintained nursery schools, maintained schools, academies and free schools complete the school census.

Within state funded schools, it is the status of the child that determines which census should be used, not the nature of the school's early years provision. If the child is a registered pupil of the school they must be recorded on the school census. If they are not a registered pupil of the school then they must be recorded on the early years census.

## Changes to data collection

### *School census*

For children in receipt of the free entitlement the school census will collect data on children in early years and nursery year groups:

- who are taking up the universal 15 hours free entitlement and separately the additional 15 hours of free provision (the extended free entitlement) including the child's eligibility code;
- whether a child is in receipt of Disability Access Funding from the local authority

Pupils aged 4 at the start of the academic year in reception year groups and above are funded via the schools block of the dedicated schools grant and therefore the school census will not collect information about the extended entitlement, the eligibility code or Disability Access Funding for those children.

## *Early years census*

The early years census will collect data on:

- children who are taking up the universal 15-hour free entitlement and separately the additional 15 hours of free provision (the extended free entitlement) including the child's eligibility code;
- whether a child is in receipt of Disability Access Funding from the local authority except for children taking up their free entitlement in independent school reception classes.

The early years census will also collect data items on provider opening and closing times and staff qualifications. Further information can be found [online](#).

## **Children splitting provision between providers**

Where parents split their child's free entitlement between providers, local authorities and / or providers will need to distinguish between the 15 hours universal entitlement and the additional 15 hours extended entitlement in order to accurately record take-up in either the school census or the early years census.

Local authorities and providers may wish to use the parental declaration form to enable parents to indicate at which provider they are taking the universal 15 hours free entitlement and, where appropriate, pass this information onto the provider or local authority. Local authorities should take account of the statutory guidance. This states that, if a parent ceases to meet the eligibility criteria for 30 hours, the parent may, at that point, choose which provider they continue to take up their child's universal 15 hours entitlement.

## **The January census and calculation of the Dedicated Schools Grant**

Local authority Dedicated Schools Grant (DSG) allocations are calculated using **January** school and early years census data. Early years providers and schools provide data on the number of children taking up free entitlement places and the number of hours of free provision. For example, in 2019, Thursday 17<sup>th</sup> January will be census day.

The early years census collects data on all children receiving provision that is funded by the Department during census week (the week in which the census day falls). The school census collects data on all children who were registered pupils of the school on census day

If a child would normally be taking up free hours in census week but is absent, for example, because of sickness, the child should still be recorded on the census return as being in receipt of the free provision.

Similarly, if a child is registered at a school on census day but is only expected to attend that school for part of the week, which does not include census day, the child should still be recorded on the census return as being in receipt of free hours.

If a provider would normally be open and delivering free places to children but is closed during census week due to exceptional circumstances, for example severe bad weather, the provider can still make a census return for the children who would have been taking up free hours had the provider not been closed.

Local authorities must fund children who are eligible for the childcare entitlements.

Local authorities must base its allocation to providers on the predicted total number of hours of attendance (of eligible children).

During the course of the financial year, local authorities must review and re-determine the allocations to providers when further information about hours of attendance becomes available.

DSG allocations to local authorities are based on census results. Further information on completion of the school census is available [here](#) and information on the early years census is available [here](#).

Further information on how the data collected in the school census and early years census is used in the calculation of the dedicated schools grant can be found on [gov.uk](http://gov.uk).



## **Annex A: Application Form Template**

[Insert local authority logo]

### **Apply for 30 hours free childcare for foster children**

Speak to the child's social worker before applying. If they agree, complete this form.

Once you and your partner (if you have one) have signed, the form must be counter-signed by [insert details of the designated person]. [Get more information at [insert any local links].

If your application is successful, you will get your eligibility code from [insert local details].

If you need more help contact [insert local details].

This form is only for foster parents. If you are applying for your own children use the childcare service: [www.gov.uk/help-with-childcare-costs](http://www.gov.uk/help-with-childcare-costs).

If your partner is not a foster parent you could contact [insert local details] for more help.

## Section 1 – about you

### 1.1 Your details:

<b>Title</b>	
<b>First name</b>	
<b>Last name</b>	
<b>Date of birth (DD/MM/YYYY)</b>	
<b>National Insurance number</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Email address</b>	

We need your address and email to send your 30 hours free childcare eligibility code.

### 1.2 Are you a foster parent of the children named in this form?

- Yes  
 No

### 1.3 Do you and the children live in England?

- Yes  
 No

If no, speak to your local council about what childcare schemes are available in your area.

### 1.3 Are you a European Economic Area (EEA) national?

- Yes  
 No

This means you are from the UK, another European Union member state, Norway, Liechtenstein or Iceland.

### 1.4 Are you subject to immigration rules that prevent you from receiving public funds?

- Yes  
 No

## Section 2 – your employment details

2.1 Are you employed or self-employed outside your fostering responsibilities?

- Yes
- No

You can still answer yes if you are not currently working. For example, you are on parental leave or sick leave, or expect to start or re-start work in the next 31 days.

2.2. Do you expect to earn more than £100,000 in this tax year (April to March)?

- Yes
- No

If your income is over this amount you cannot get 30 hours free childcare.

2.3 If you are **not** employed outside your fostering responsibilities, select any that apply to you:

- For Universal Credit purposes, I am assessed as having limited capability for work
- I receive National Insurance credits because of incapacity or limited capability for work
- I receive a Carer's Allowance
- I receive an Employment and Support Allowance
- I receive Incapacity Benefit
- I receive a Severe Disablement Allowance

If you get one of these benefits you may still be able to get 30 hours free childcare if you have a partner who holds additional employment outside their role as foster carer.

2.4 Do you have a partner who lives with you?

- Yes
- No

A person is your partner if you are married or in a civil partnership, and live together in the same household, or a couple who live together as if you are married or in a civil partnership.

If **Yes**: go to section 3.

If **No**: skip to section 5.

## Section 3 – your partner

### 3.1 Your partner's details

<b>Title</b>	
<b>First name</b>	
<b>Last name</b>	
<b>Date of birth (DD/MM/YYYY)</b>	
<b>National Insurance number</b>	

### 3.2 Is your partner also a foster parent?

- Yes
- No

If **Yes**: go to section 4.

If **No**: please contact your local authority (see page 1) who will help you further.

## Section 4 – partner’s employment details

4.1 Is your partner employed or self-employed outside their fostering responsibilities?

Yes

No

You can still answer yes if they are not currently working. For example, they are on parental leave or sick leave, or expect to start or re-start work in the next 31 days.

4.2 Does your partner expect their total taxable income in this tax year (April to March) to be more than £100,000?

Yes

No

If their income is over this amount you cannot get 30 hours free childcare.

Now go to section 5.

## Section 5 – the children who will get 30 hours free childcare

If you are fostering non-related children who could both be eligible for 30 hours free childcare you will need to complete a separate form for each child.

### 5.1 Foster children details:

First name	Last name	Date of birth (DD/MM/YYYY)	When do you expect the child in foster care to join a school reception year? MM/YYYY

## Section 6 – declaration

### 6.1 Your declaration:

I declare that I am applying for 30 hours free childcare, to enable me to work outside of fostering, and that the information I have given on this form is correct and complete.

<b>Signature</b>	
<b>Date (DD/MM/YYYY)</b>	

### 6.2 Your partner's declaration:

I declare that I am applying for 30 hours free childcare, to enable me to work outside of fostering, and that the information I have given on this form is correct and complete.

<b>Your partner's signature</b>	
<b>Date (DD/MM/YYYY)</b>	

## Section 7 – [insert responsible authorities designated person] declaration

Before [insert responsible authority name] can issue you with a code, this form must be counter-signed by [insert designated person details].

I declare that I have seen evidence of employment outside fostering, and it has been discussed how this employment is consistent with the care plan for the foster child or children listed in this application.

7.1 I confirm that I support this application for 30 hours free childcare in respect of the foster children listed in this application.

<b>Signature</b>	
<b>Position and contact details</b>	
<b>Date (DD/MM/YYYY)</b>	

### Data protection statement

[Insert local authority data protection statement here.]



Department  
for Education

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