



EAST RIDING  
OF YORKSHIRE COUNCIL

# **Provider Agreement**

**for funded early education and childcare  
(FEE) for two- three- and four-year-olds**

**Effective from: 1 September 2020**

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# Contents

## Section 1: Overview

What does this agreement apply to? .....	1
Who is this provider agreement for? .....	2
Legal framework, statutory guidance and supplementary provisions,.....	2

## Section 2: Provider agreement requirements

Key local authority responsibilities .....	5
Key provider responsibilities .....	5
Eligibility .....	5
The Grace Period for the 30hr extended entitlement .....	7
Funding .....	8
Business Planning .....	9
Charging .....	11
Flexibility .....	12
Partnership working .....	12
Safeguarding .....	13
Special educational needs and disabilities .....	14
Social mobility and disadvantage .....	14
Quality .....	15
Compliance .....	15
Termination and withdrawal of funding .....	16
Appeals process .....	16
Complaints process for parents.....	17

Annex A: Provider Agreement Form to be signed and returned to the Local Authority .....	18
Annex B: Parental Agreement and Declaration Form for providers to use with parents .....	19
Annex C: Template Privacy Notice .....	24

The forms and template on the FISH website should be used, in preference to those in this provider agreement, to ensure the most up to date version is used.

## Section 1: Overview

- 1.1. This document contains the East Riding provider agreement, additional information and forms for the delivery of funded, (i.e. free of charge to parents), early education in East Riding of Yorkshire. Section 2 sets out the requirements that all providers (identified in para 1.9) must comply with in order to receive funding.
- 1.2. It is based on the model agreement from the Department for Education (DfE), which sets out the Department's expectations on what should be included in agreements between local authorities and providers. The most recent version of the model agreement can be found on: <https://www.gov.uk/government/publications/free-early-years-provision-and-childcare-model-agreement>
- 1.3. The model agreement has been developed to bring consistency, as far as possible, in provider agreements across the country, by including standard headings and wording in Section 2, which the Department expects local authorities to use. However, they acknowledge that it is not a 'one size fits all' contract, as local authority level processes also need to be included.
- 1.4. Section 2 of this agreement has therefore been formatted to enable providers to identify the parts of the provider agreement, which are from the DfE model agreement, shown in un-shaded paragraphs like this:

the parts of the agreement which are the The East Riding of Yorkshire Council's local processes and policies, or are additional explanatory paragraphs taken from the Statutory Guidance, are shown in shaded blocks of text like this.

## What does this agreement apply to?

- 1.5. The agreement applies to the delivery of the following types of funded, (free of charge to parents) early education:
  - the 15 hour entitlement for the most disadvantaged two-year-olds
  - the 15 hour entitlement for parents of all three- and four-year-olds (called the universal entitlement)
  - the additional 15 hour entitlement for eligible working parents of three- and four-year-olds (called the 30hr extended entitlement when added to the universal 15 hours)
- 1.6. The agreement refers to early years provision free of charge (sections 7 and 7A of the Childcare Act 2006) and free childcare (section 2 of the Childcare Act 2016) as the 'free entitlement(s)' or 'free hours' or a 'free place', which is defined as 570 hours per year (for children eligible for the 15hr entitlement) or a maximum of 1,140 hours per year (for children eligible for the 30hr entitlement), which can be taken over no fewer than 38 weeks in any 12 month period until the child reaches compulsory school age. Throughout this document "free" has been replaced with "funded" in accordance with the terminology used in East Riding.
- 1.7. The agreement does NOT apply to funding of education for four-year-olds who have been admitted into an academy, free school or maintained school reception class (F2) as a full time pupil, as they are funded separately through the main schools budget. However, this agreement DOES cover four-year-olds in reception class in independent schools as they are funded through

the early years block and those four year olds whose parents have chosen to continue using early years provision until the September after their child turns five.

- 1.8. This document does not provide guidance on how providers operate their private businesses, including charges for provision over and above a child's funded hours. The East Riding of Yorkshire Council will not intervene where parents choose to purchase additional hours of provision or additional services providing that this does not affect the parent's ability to take up their child's funded place.

## **Who is this provider agreement for?**

- 1.9. This provider agreement is for any early years provider in the East Riding of Yorkshire approved by the Council to offer the funded 15 and/or 30 hr entitlements, who are all referred to as 'providers' throughout this agreement and include:
- Early years providers and childminders in the private, voluntary and independent sector, who are registered on the Ofsted Early Years Register
  - Childminders registered with a childminder agency that is registered with Ofsted
  - Independent Schools, Free Schools and Academies taking children age two and over who are exempt from registering separately with Ofsted as an early years provider
- 1.10. This agreement is NOT for maintained nursery schools and primary schools with nursery classes, even though they can also offer the funded 15 or 30 hr entitlements to children age two and over and are normally exempt from registering separately with Ofsted as an early years provider. The Council has a duty to maintain these schools and they, therefore, do not need to enter into a separate agreement as set out in this document. However, this provider agreement is based on legislation and the Statutory Guidance for funded early education, (see paras 1.14 below), which maintained schools MUST follow, and they are therefore advised to have regard to the requirements in this agreement and take note of the additional information and use the parental agreement and declaration form to comply with data protection laws, when delivering the funded entitlements.
- 1.11. Providers should also make parents aware of the information in this agreement in their own letters, notices and leaflets or by directing them to the Families Information Service Hub (FISH), particularly for information in sections about flexibility, charging, data protection and the parental agreement and declaration form and complaints procedure.

## **Legal framework, statutory guidance and supplementary provisions**

- 1.12. The agreement is between The East Riding of Yorkshire Council, (referred to as 'the Council') and the provider, who must sign the form in Annex A before funding can be released. It constitutes a contractual agreement between the Council and provider to deliver the type of funded early education as specified and any changes by the provider to this offer must be given in writing for the Council to approve. By signing the agreement, the provider is undertaking to deliver the funded early education in accordance with this agreement and, as a data processor for the Council, is accepting responsibility to act in accordance with data protection laws in the

collection, storage, transmission, sharing and disposal of parent and child information, as set out in para 2.42 of this agreement

- 1.13. This agreement will remain in effect until the Council issue an updated one. However, the Council reserves the right to unilaterally vary the agreement to reflect changes in legislation and departmental guidance as described in para 1.14 below.
- 1.14. This provider agreement sets out the expectations for delivery of the funded entitlements. It is not otherwise intended to replace, supersede or negate the requirements or expectations set out in legislation, other published statutory guidance and government advice. The following frameworks and legislation underpin this agreement, which may be amended from time to time, without necessitating a change to this provider agreement, unless there is an in year change to the model agreement or other relevant regulatory guidance issued by the DfE or Ofsted:
- Early Education and Childcare, Statutory Guidance for Local Authorities 2018
  - Childcare Act 2006
  - Childcare Act 2016
  - Equality Act 2010
  - School admissions code 2014
  - Statutory Framework for the Early Years Foundation Stage 2017
  - Early Years Entitlements: operational guidance 2018
  - 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
- 1.15. Reference to general legislative requirements such as data protection, confidentiality and Freedom of Information are also included in Section 2 where relevant. A template Privacy Notice for all providers to use is in Annex C and data protection clauses are included in the parental agreement and declaration form for use by providers. However, it is ultimately the responsibility of all providers to ensure they comply with all relevant data protection legislation.
- 1.16. Other relevant legislation and statutory guidance related to the operation of the providers' business, is also referred to in Section 2, such as the obligation to take out and maintain adequate levels of insurance. It is the provider's responsibility to ensure that the free early education funding is properly accounted for and recorded for financial audit purposes. (The Council's audit process to ensure compliance with this agreement is set out in Section 2)
- 1.17. Termination and enforcement clauses are included in Section 2 to cover all enforcement stages up to and including termination of this agreement with a specific provider. However, the Council does not waive the right to act if they do not act immediately (a slower evidence based approach may be required on occasion). A clear process for resolving any disputes is described in Section 2, to deal with disputes between the provider and the Council and between parents and providers.
- 1.18. The Local Authority cannot impose requirements which subject the quality of the early years provision, or services provided by a childminder agency, to a quality assessment process by the

Local Authority; or require the provider to attend any training or other quality improvement programme, other than any training or quality improvement programme identified in an early years provision inspection report.

## **Section 2: Provider agreement requirements**

### **Key local authority responsibilities**

- 2.1. Local authorities must secure a funded entitlement place for every eligible child in their area.
- 2.2. The Local Authority should work in partnership with providers to agree how to deliver funded entitlement places.
- 2.3. The Local Authority should be clear about their role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations of providers.
- 2.4. The Local Authority must contribute to the safeguarding and promote the welfare of children and young people in their area.

### **Key provider responsibilities**

- 2.5. The provider must comply with all relevant legislation and insurance requirements.
- 2.6. The provider should deliver the funded entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the provider should be clear and communicate to parents details about the days and times that they offer funded places, along with their services and charges. Those children accessing the funded entitlements should receive the same quality and access to provision.
- 2.7. The provider must follow the Statutory Framework for 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.
- 2.8. 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.

### **Eligibility Checking for two-year-old, three- and four-year-old universal and 30hr extended entitlement**

- 2.9. The Local Authority must ensure that a child has a funded entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the funded entitlements. (Full details of eligibility criteria can be found on both the Government and Council FISH websites.) In accordance with the Statutory Guidance Section A1, a child will be entitled to their funded hours from the start of the term AFTER both the age and other eligibility conditions, where relevant, are met. (See table below for details of relevant dates.)

Children should be in a place at the start of term no later than Headcount/School Census week.

<b>Children are born and the parent has applied, where eligibility criteria are relevant, in the period:</b>	<b>Are eligible from the start of term beginning on or after the following relevant dates:</b>
1 <sup>st</sup> April to 31 <sup>st</sup> August	from 1 <sup>st</sup> September
1 <sup>st</sup> September to 31 <sup>st</sup> December	from 1 <sup>st</sup> January
1 <sup>st</sup> January to 31 <sup>st</sup> March	from 1 <sup>st</sup> April

- 2.10. The provider should check original copies of documentation to confirm a child has reached the eligible age on initial registration for all free entitlements. The provider can retain paper or digital copies of documentation to enable the Local Authority to carry out audits and fraud investigations. Where a provider retains a copy of documentation this must be stored securely and deleted when there is no longer a good reason to keep the data. Please refer to the data privacy guidance set out in para2.42 and Annex C.
- 2.11. The provider should offer places to eligible two-year-olds on the understanding that the child remains eligible until they transfer to the universal entitlement for three- and four-year-olds. Proof of eligibility for two year old funding should be requested from the parent and retained for audit purposes. For children resident in the East Riding of Yorkshire Council area, this will be a letter from the Council providing an eligibility code or provided by the parent from their parental portal account showing their eligibility code.
- 2.12. For the extended entitlement for three and four year olds - alongside the 30 hour eligibility code, which is the child's unique 11-digit number, and original copies of documentation (see 2.11 above), a provider must acquire written agreement from, or on behalf of, the parent to be able to receive confirmation and future notifications from the Local Authority of the validity of the parent's 30 hour eligibility code. The provider must use the Parental Agreement and Declaration Form in Annex B, which asks the parent for the necessary information and signature.
- 2.13. The Local Authority will confirm the validity of 30 hour eligibility codes to allow providers to offer 30 hour places for eligible three- and four-year-olds. The Local Authority will provide a validity checking service to providers to enable them to verify the 30 hour eligibility code. The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity.
- 2.14. The Council has two ways for providers to check validity codes for all parents, including foster carers, for the 30hr entitlement BEFORE the child takes up their additional hours:
- Providers using the eHub can check voucher codes themselves for an instant response
  - Academies and Free Schools should enter details onto a spreadsheet and send in to the Council, who will check voucher codes and send results back within one week
- 2.15. Thereafter, the Local Authority should complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours funded childcare at six fixed points in the year, both



at half-term and at the end of term across the year (in line with the dates as listed at table A below). It is the Local Authority's responsibility to notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date.

- 2.16. The Council will conduct audits of 30hr codes fortnightly through the term via the eHub and twice per term as shown in Table A for providers who do not use the eHub. Providers who use the eHub will be able to view the updated status of all eligible children on an ongoing basis. All other providers will be notified of the updated results by the Council within 5 working days. In accordance with Statutory Guidance para A1.21, the Council expects all providers to inform parents as soon as possible when they have entered the grace period and consider 5 working days to be good practice.

**Table A:**

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

## The Grace Period for the 30hr extended entitlement

- 2.17. 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. In accordance with Statutory Guidance in para A1.19, foster carers who are unhappy about any decisions made by the relevant local authority, should seek resolution through their social worker.
- 2.18. Local Authorities will be able to access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.
- 2.19. The Local Authority should continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory Guidance for Local Authorities 2017. However, in accordance with Statutory Guidance para A1.23, the Council will not fund children who start a 30hr place whilst in their grace period.
- 2.20. In accordance with Statutory Guidance paras A1.22 and A1.23, the Council will consider requests to:

- extend the grace period in very exceptional circumstances such as if the parent has been forced to leave their home and paid employment, or where a parent is a victim of domestic abuse or other serious crime. Providers and professionals working with the parent should contact FISH in the first instance
- fund children who move providers when they are in their grace period only in exceptional circumstances

## Funding

- 2.21.** The Local Authority will continue to pay all providers on a termly basis as per the result of the consolation carried out in 2018.
- 2.22. The provider should accurately complete and submit headcount and other necessary data returns by the agreed date to support the Local Authority to make payment.
- 2.23. The Council will issue an indicative budget to all providers at the start of the financial year, based on estimates submitted by the provider, which can be reviewed termly. Providers are currently paid as follows:
- the PVI sector are paid twice per term as per the published timetable, which can be found on the FISH website. At the start of the financial year, the percentage paid on estimate to providers will be published on the FISH website with the applicable dates at the start of term and the remaining balance, with any adjustments, will follow later in each term, if applicable, to reflect actual hours delivered as recorded on the Headcount ( this may change due to exceptional circumstances)
  - Academies and Free Schools are paid monthly, and issued a revised payment schedule with each payment notifying them of the increase or decrease in funding they should expect following any adjustments after Census
  - new providers starting up in business part way through the financial year or term are paid an interim payment for that term, following submission of an initial estimate
- 2.24. The Council will fund multiple providers for the same child up to the maximum number of hours that child is entitled to, unless guidance issued from the DfE stipulates otherwise. Duplicate checking will be conducted each term, and where claims from providers, within the East Riding and cross-border in neighbouring local authorities, are identified that exceed an individual child's entitlement, no payments will be made until these discrepancies have been resolved.
- 2.25. Where overpayment has occurred, as a result of the provider overestimating numbers of hours to be delivered, no funds will be reclaimed, unless in exceptional cases. Instead, no further funding will be paid until such time as the funding paid agrees with the actual hours delivered. Providers should review their estimates termly and submit revised estimates to minimise instances of overpayment.
- 2.26. A parent and the setting or childminder must give four week's notice if either party wish to end the funded early education agreement. The Council will fund providers in the following way, when a child leaves and:

- does not transfer to a provider in the East Riding, the provider must complete an Adjustment Form during the term this occurs, to enable readjustments to be made in the next payment
- transfers to another provider within the East Riding, the Council requires all providers to transfer any outstanding funds between themselves and not complete an Adjustment Form. If this does not occur within a reasonable timescale, the Council will intervene
- before the four week's notice has elapsed and moves to a new provider in the East Riding, the new provider will not be funded until after the notice period, unless there are exceptional circumstances

- 2.27. The Council will fund children starting after Headcount/Census each term ONLY if they have moved in to the area, or in other exceptional circumstances such as withdrawal of funding or closure of a provider. In all cases the provider must submit an Adjustment Form during the term in which the adjustment takes place.
- 2.28. The Council will not reclaim funding where funded early education cannot be delivered for short periods, either to individual children being absent due to illness or holidays as notified by the parent, or to groups of children where premises are closed for example, as a result of loss of utility services, acting upon advice from Public Health England or damage to property. In certain circumstances funding will be continued for a child's absence for longer periods of time, where the provider has the relevant documentary evidence from the parent. Any absences, explained or unexplained, should be dealt with in accordance with the provider's safeguarding policy and/or attendance management arrangements and parents contacted accordingly. This should always be followed up in order to meet the provider's safeguarding duties and recorded for audit purposes, see para 2.38 below.
- 2.29. In accordance with Statutory Guidance para A1.24, the Council will fund the provider of the parent's choice for the universal 15 hr entitlement for three- and four-year-olds, where they have become ineligible for the extended 30hr entitlement.
- 2.30. Funding cannot be claimed by childminders for their own or related children, as defined by S.18 of the Childcare Act 2006, which includes step-children, foster children and grandchildren.

## Business planning

- 2.31. The Local Authority should clearly set out the documentation that they need to receive from providers to support payment and delivery of funded entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.
- 2.32. The Council requires all providers to use the **Parental Agreement and Declaration Form** in Annex B for the provision of funded early education hours, to ensure that the funded early education arrangements for that term are clear to both parents and providers. (Parental agreements and contracts for all other childcare which is paid for by the parent, including any additional services and consumables, must be part of a separate agreement form devised by the provider.) A copy of the funded early education agreement must be given to the parents and

the Council will request a copy in the event of any funding discrepancies and as part of an audit visit or other investigation.

2.33. The Council requires all providers to complete, retain and submit, where requested, the following information by the deadlines set in the published timetable for each financial year to enable payment:

- estimates for the coming financial year which can be reviewed termly
- termly Headcount/Census returns and Nil returns
- Parental Agreement and Declaration Forms for each child for each term
- the Annual Early Years Census for PVI sector
- up to date contact and bank account details
- Adjustment Forms when relevant

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

2.35. The Council may charge all providers a fee of £50 for each late submission of Headcount or Census returns, Early Years Pupil Premium (EYPP) or Disability Access Funding (DAF) claims.

2.36. The Local Authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.

2.37. The Council's financial audit arrangements involve a representative from the Finance department visiting a number of providers each year, normally selected at random. Providers will be given prior notice of the visit. If contact cannot be made, or there are concerns about a particular provider, a visit may be made without prior notice.

2.38. For audit purposes, providers will be required to make available to the Local Authority all documents related to the funded entitlement for the previous two years including the following supporting documents:

- attendance register, which is a legal requirement and must be kept up to date and available on site at all times
- employers and public liability insurance documents
- evidence of checking proof of a child's eligibility by age
- signed Parental Agreement and Declaration Forms for each child
- Proof of two-year-old eligibility code (letter from The East Riding of Yorkshire Council or screen shot of parental portal summary screen)
- copies of parents invoices (where appropriate)
- evidence of attendance monitoring (where appropriate)

(NB. Providers should follow their own retention schedules to determine how long they should retain and store this information for the longer term.)

2.39. The Council requires all providers to maintain a specific business bank account, which is separate from any personal accounts, and where possible have dual signatory, (unless the

provider is a sole trader) and provide up to date bank account details to the Council for receipt of funding.

2.40. The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of their Local Authority as set out in paras 2.32 and 2.33 above. Failure to do so may result in inaccurate, delayed or suspended funding.

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

2.42. Providers act as data processors for the Council for funded early education and must ensure they act in accordance with the Data Protection Act 2018 and carry out their role as data processors responsibly in collecting, storing and transferring data securely. Providers should:

- cooperate with the Council, who is the Data Controller and ensure they provide and retain all information set out above by the deadlines set by the Council.
- ensure they keep all personal data confidential and their IT security does not enable any unauthorised person to access parents' and children's personal data.
- use the Privacy Notice in Annex C, which explains how the parent's and child's personal information will be used by the provider and the Council and ensure all staff and parents are made aware of this.
- only share information where parents consent has been given, unless covered by law, such as sharing information with the Council at headcount/census, or there is a safeguarding concern.

2.43. The Council, as the data controller for personal information related to funded early education will, in return, ensure they cooperate with all data processors and regulatory bodies such as the ICO to ensure the security of data, in act in accordance with the Data Protection Act 2018.

## Charging

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

2.45. The provider can charge for meals and snacks as part of a funded 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 funded 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.

- 2.46. The provider should deliver the funded entitlements consistently so that all children accessing any of the funded entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
- 2.47. The Local Authority should 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 funded place. The provider should be completely transparent about any additional charges.
- 2.48. The provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as funded provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of hours is convenient for parents' working hours.
- 2.49. The provider can charge parents a deposit to secure their child's funded place but should refund the deposit in full to parents within a reasonable time scale. The Council expects providers to refund any deposit within a month of the child starting their funded early education place.
- 2.50. The provider cannot charge parents 'top-up' fees (any difference between a provider's normal charge to parents and the funding they receive from the Local Authority to deliver funded places) or require parents to pay a registration fee as a condition of taking up their child's funded place.
- 2.51. The provider should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their funded entitlement completely free of charge and understand fees paid for additional hours. The provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.

## Flexibility

- 2.52. 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. These are:
- no session longer than 10 hours per day
  - no minimum session length (subject to Ofsted requirements of registration)
  - delivered between the hours of 6.00am and 8.00pm
  - a maximum of two sites to be used by the parent per day
  - can be delivered at weekends
  - can be delivered 'stretched' over the school holidays up to 52 weeks of the year
  - hours cannot be compressed to enable more than 15 or 30hrs to be taken in any week
- 2.53. The provider should work with the Local Authority and share information about the times and periods at which they are able to offer funded 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. (See also para 2.24 for details of how the Council will deal with payments for children attending multiple settings.)

## Partnership working

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

- i. Local authorities and providers
- ii. Providers working with other providers, including childminders, schools and organisations
- iii. Providers and parents
- iv. Local authorities and parents

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

2.56. As part of its role in supporting childcare providers and promoting partnership working the Council offers the opportunity to attend update and network meetings and training courses. Providers in the PVI sector are supported by Early Years Development Advisers and Area SENCO's, who can offer information, advice and training from the Council on the following matters:

- meeting the requirements of the Statutory framework for the Early Years Foundation Stage
- meeting the needs of children with special educational needs and disabilities, vulnerable and disadvantaged children
- effective safeguarding and child protection
- developing effective partnerships with other childcare providers

2.57. The provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting.

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

2.59. As part of its role in supporting all childcare providers to ensure the best possible outcomes for children, the Council will ask all providers to submit information on children's development on a termly basis.

## Safeguarding

2.60. The Local Authority has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the 'Working Together to Safeguard Children' 2018 guidance<sup>1</sup> sets these out in detail.

2.61. The provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A lead practitioner, known as the Designated Safeguarding Lead,

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/683115/Changes\\_to\\_statutory\\_guidance-Working\\_Together\\_to\\_Safeguard\\_Children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683115/Changes_to_statutory_guidance-Working_Together_to_Safeguard_Children.pdf)

must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. The provider must have regard to 'Working Together to Safeguard Children' 2018 guidance.

2.62. All providers should ensure that their staff access safeguarding training delivered by the East Riding Safeguarding Children's Partnership (ERSCP), both eLearning and face to face training, and have a Designated Safeguarding Lead (DSL) who attends regular training and update meetings.

## **Special educational needs and disabilities**

2.63. The Local Authority must strategically plan support for children with special educational needs and/or disabilities (SEND) to meet the needs of all children in their local area as per the Special Educational Needs and Disability code of practice: 0 to 25 years<sup>2</sup> (January 2015).

2.64. 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.

2.65. The Local Authority must be clear and transparent about the support on offer in their area, through their Local Offer, so parents and providers can access that support.

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

2.67. In accordance with the statutory framework for the Early Years Foundation Stage, providers are expected to identify a member of staff to act as the Special Educational Needs Coordinator (SENCO) and the Council will provide support to them through regular update meetings and inclusion training and guidance. Providers should visit the East Riding Local Offer website, which contains full details of the Council's inclusion support offer, the Portage Stamp of Approval and the Early Years Support system.

2.68. Providers should also ensure that they identify children who qualify for the Disability Access Funding (DAF), promote this to parents and submit claims to the Council in line with Headcount and Census deadlines.

## **Social mobility and disadvantage (Early Years Pupil Premium)**

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

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

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<sup>2</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)



2.71. The Council expects all providers to submit parent's details once per term at the same time as Headcount or Census, if parents would like to be checked for EYPP eligibility. Payments are included as part of the termly Headcount/Census payments and adjustments. Further details of eligibility criteria and how providers can check eligibility for all children are available on the FISH website.

## Quality

- 2.72. The Statutory Framework for the Early Years Foundation Stage (EYFS) is mandatory for all Ofsted-registered early years providers and schools that provide early years provision 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.
- 2.73. Ofsted are the sole arbiter of quality for all funded entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.
- 2.74. 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.
- 2.75. Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of Early Education and Childcare Statutory Guidance for Local Authorities and the EYFS statutory framework, which sets out which providers the Council can fund to offer funded early education as follows:
- providers judged 'good' or 'outstanding', or 'met' (or 'effective' for childminders registered with an agency) by Ofsted can offer places to two- three- and four-year-olds
  - providers judged 'requires improvement' (or 'effective' for childminders registered with an agency) by Ofsted can offer places to three- and four-year-olds ONLY
  - providers judged 'requires improvement' by Ofsted may be able to offer places to two-year-olds, subject to the Local Authority's approval to ensure sufficiency of places
  - new providers or childminders registered with agencies can offer places to two- three- and four-year-olds until the provider's or agency's first full Ofsted inspection is published
  - providers with exemptions from the EYFS can offer places to two- three- and four-year-olds, if the parent wishes
  - providers who do not actively promote fundamental British values or who promote views and theories contrary to established scientific or historical evidence and explanations cannot be funded

## Compliance

- 2.76. The Local Authority can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the funded entitlements.
- 2.77. The Council will initiate its compliance process where it has been found that a provider is not delivering funded early education in accordance with the requirements of this Provider Agreement. This may occur as a result of a routine financial audit, a visit from another Council

officer, (such as Early Years Development Adviser or Area SENCO) or an investigation of a complaint by a parent.

2.78. The Council will set out recommendations in writing, which clearly state what the provider must do to become compliant and will give a timescale for these actions to be implemented.

## **Termination and withdrawal of funding**

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

2.80. Funding will be withdrawn, in whole or part, where the provider:

- does not sign and return the Provider Agreement Form, or comply with the requirements of the Provider Agreement after the timescale set in the compliance period (see para 2.77 above) has elapsed, if relevant
- receives an Ofsted inspection judgement of 'inadequate'
- in relation to two-year-olds, receives a judgement of 'requires improvement', subject to sufficient places for two-year-olds being available elsewhere in the area
- is subject to Ofsted enforcement action or has been found to have ineffective safeguarding practices by Ofsted
- acts in a fraudulent manner

2.81. The Council will normally give half a term's notice that funding is being withdrawn and secure alternative provision as soon as is practicable, taking into account continuity of care for children who are already taking up free early education at the provider and Ofsted monitoring information about the provider, in accordance with para A3.13 in the Statutory Guidance. The provider must inform parents this action is being taken.

2.82. Providers must give a half-term's notice in writing to the Council if they wish to stop offering funded early education and reimburse the Council for any overpayments if appropriate. The Council will implement its corporate debt recovery policy where necessary.

## **Appeals process for withdrawal of funds to providers**

2.83. A provider may be denied approval to offer the funded entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision by following the complaints process set out in paras 2.84 and 2.87 below.

2.84. If the provider wishes to appeal against withdrawal, withholding or reclaiming funding, or refusal to approve their setting to offer funded early education, the Council's appeals process is as follows:

- the provider should do so in writing within 10 working days of the Council's decision letter being received or from the date on the letter
- the reasons for the appeal should be set out and any relevant documents included
- these should be emailed to [FISH@eastriding.gov.uk](mailto:FISH@eastriding.gov.uk) for the attention of the Service Manager

- the appeal will be investigated and a response will be given within 10 working days. If a full response cannot be provided within 10 working days then a written explanation will be given with a date by which a full response can be expected

## Complaints process for parents

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

2.86. The Council's complaints procedure, for parents who are not able to resolve their concern directly with the provider, is as follows:

- providers should inform the parent that they can take their complaint to the Council
- the parent should contact FISH giving details of their complaint, which will be passed on to an officer in the Early Years Service
- the officer will contact both the parent and provider within 10 working days to gather full details and documentary evidence where appropriate, (such as copies of invoices or the signed parental agreement and declaration form) and will include the Finance Audit team where relevant
- the Council will reply in writing to both the parent and provider, no later than 10 working days after gathering all relevant information, setting out their assessment of the situation and stating whether the actions of the provider are in accordance with this Provider Agreement

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

**Annex A: Provider Agreement to be signed and returned to the Council**

(2020 Version)

## Provider Agreement Form for the Delivery of Funded Early Education (FEE) for Two- Three- and Four-Year-Olds

All providers (settings in the private, voluntary and independent sector, childminders, academies and free schools) must sign this agreement form before funding can be received. You must read the Provider Agreement to ensure you fully understand your responsibilities. Email a signed and scanned copy to [fish@eastriding.gov.uk](mailto:fish@eastriding.gov.uk) a delay in returning this form will affect your funding.

This agreement is made between **THE EAST RIDING OF YORKSHIRE COUNCIL** and

<b>Name of setting, childminder, academy or free school:</b>						
<b>Registered person (if applicable) or Name of Headteacher:</b>						
<b>Ofsted URN:</b>						
<b>Address and postcode:</b>						
<b>Telephone number:</b>						
<b>Email address:</b>						
<b>FEE Offer (put an X in all relevant boxes). You must notify the Council of any changes to this offer.</b>	2 yr olds		3&4 yr olds 15hrs		3&4 yr olds 30hrs	
<b>Number of weeks per year the FEE offer is available (e.g. 38 or 50 weeks) If less than 38 weeks give the reason.</b>						

On behalf of the setting/childminder/academy/free school\*, I agree to provide funded early education to eligible children and operate in accordance with the requirements set out in the Provider Agreement and understand it remains in effect until such time as a revised Provider Agreement is issued. As a data processor for the Council for funded early education delivery, I understand I must act in accordance with the Data Protection Act 2018 in the collection, storage, transmission, sharing and disposal of parent and child information.

\* delete as appropriate

Name:	Position:
Signature:	Date:
Name:	Position:
Signature:	Date:

**Who should sign this form?**

- a) Privately owned day nursery, pre-school or independent school – the Registered person or their nominated representative
- b) Pre-school or playgroup with a voluntary management committee – two nominated committee members as agreed by the committee
- c) Childminder – themselves or both childminders where registered jointly at the same address
- d) Academy of Free School – Chair of Governors

## **Annex B: Parental Agreement and Declaration form**

**Providers MUST use this form for funded early education only.**

NB: Providers must devise and use their own separate parental agreement form, covering any additional hours or services paid for by the parent, as part of operating their business.



## Parental Agreement and Declaration Form for the Delivery of Free Early Education (FEE) for Two- Three- and Four-Year-Olds

### Section 1:

<b>CHILD'S DETAILS:</b>		
Legal First Name (s):	Legal Surname:	
Name by which child is know (if different):	Date of birth:	Male/Female:
Address:		
Postcode:		
*Date of Birth proof of eligibility checked: (e.g. birth certificate/passport ):        YES / NO	2 yr old funding proof of eligibility code (letter or screen shot of parent portal summary page retained) Code No:	
30 hr proof of eligibility voucher code given and retained (an 11 digit number): Code No:	Parent/carers National Insurance Number or NASS Number (needed for 30hr and EYPP): No:	

\* For foster carers where birth certificate or passport is not available, evidence from the Council will be provided.

### Section 2:

<b>AGREED TIMES AND NUMBER OF FEE HOURS AT ALL PROVIDERS</b>								
For the term starting on: .....								
Name of provider*:	Mon	Tues	Wed	Thurs	Fri	Sat/ Sun	Total hrs per week	Total for term†
1)								
2)								
3)								
<b>Total hours attending each day/week/term:</b>								
†Number weeks (for stretched offer, if applicable):								
Parent signature to agree above arrangements for this term								
Signature ..... Date .....								
Parent signature to confirm no changes to above arrangements for next term starting on .....								
Signature ..... Date .....								
Parent signature to confirm no changes to above arrangements for next term starting on .....								
Signature ..... Date .....								

\* Where more than one childcare provider is used, details of ALL providers (including schools) should be shown on each parental agreement and declaration form. If the parent is paying for additional hours and services, this should be part of a separate agreement. To make amendments to the above arrangement each term, use the additional Agreed Times tables at the end of this form, *Please note that changes in hours cannot be made mid-term*

### Section 3: 30hr Extended Entitlement with more than one provider

For 3 and 4 yr olds taking the 30hrs at more than one provider, the parent can choose which provider is delivering the universal 15 hrs (U) and which is providing the additional 15hrs (Ex) for that term for Headcount/Census data collection purposes ONLY. This does not affect the parent's statutory right to choose which provider should deliver the universal 15hrs, if they become ineligible for the extended entitlement.

Agreed provider for universal and extended hours for term starting .....		
Provider Name	No. hrs per week	Univ /Ext / both U & Ex
1)		
2)		
3)		
Parent signature to agree above arrangements for this term		
Signature .....		Date .....
Parent signature to confirm no changes to above arrangements for next term starting on .....		
Signature .....		Date .....
Parent signature to confirm no changes to above arrangements for next term starting on .....		
Signature .....		Date .....

### Section 4: Early Years Pupil Premium (for three- and four-year-old children funded only)

Provider should give a copy of the EYPP letter to all parents, which lists the eligibility criteria.

- a) If the parent would like to be checked for eligibility they should provide their National Insurance number (in Section 1) and the following information for the **main benefit holder**:

PARENT/GUARDIAN DETAILS:	
First Name:	
Surname:	
Date of Birth:	

- b) For adopted children, proof of adoption should be given to the provider and retained for audit purposes.

**NB. Looked after children will automatically be identified by the Council.**

### Section 5: Terms of the agreement for funded early education

The parent:

1. is responsible for ensuring their child uses the number of hours at the times indicated in Section 2 of this agreement
2. must give a four weeks notice to terminate this agreement, unless exceptional circumstances apply
3. will inform the provider if their child will be absent for any reason
4. will lose the FEE place if their child is absent without explanation for more than one week
5. does not have to pay for any additional hours, meals or services in order to receive their free entitlement
6. can take a maximum of 15 hours per week (or 30hrs per week if eligible for the extended entitlement)
7. must use no more than two sites per day
8. may make a complaint to East Riding Council if issues cannot be resolved with the provider

The provider must follow all requirements and conditions set out in the East Riding Provider Agreement. A copy of this should be made available to parents on request.

This agreement is made between:	
Parent's Full Name:	
Parent's Address:	
Childcare Providers Business name:	

## Section 6: Parent/Carer/Guardian Declaration

I confirm that the information I have provided above is accurate and true. I understand and agree to the conditions set out in this document.

I authorise my childcare provider to claim early education funding as agreed above on behalf of my child.

In collecting your data for the purposes of checking your eligibility for the two-year-old funding, 30hr extended entitlement funding, Early Years Pupil Premium (EYPP) and/or Disability Access Fund (DAF) (where applicable), The East Riding of Yorkshire Council is exercising the function of a government department and is authorised to collect this data pursuant to Section 13 of the Childcare Act 2006

I have seen a copy of the provider's Privacy Notice and understand that my consent will be sought to share my or my child's personal information unless the law allows this, as described above, or in accordance with the Data Protection Act 2018.

Parent's Signature ..... Date .....

## A copy of this signed agreement must be given to the parent.

### Data Privacy

The Data Protection Act 2018 (the Act) puts in place certain safeguards regarding the use of personal data by organisations, including the Department for Education, local authorities, schools and other early education providers. The Act gives rights to those about whom data is held (known as data subjects), such as children, their parents and professionals. This includes:

- The right to know the types of data being held
- Why it is being held; and
- To whom it may be disclosed

The provider's Privacy Notice explains this in more detail and gives contacts details if you have any concerns relating to how your information or the information relating to your child/ren is being or will be used. Please note that information about whether a child is in receipt of Disability Living Allowance is, under the Act, Special Category Data which should be handled appropriately. Providers are asked to pay particular note to advice from the Information Commissioner's Office on holding personal data including sensitive personal data available at:

<https://ico.org.uk/for-organisations/guide-to-data-protection/principle-3-adequacy/>





## Parental Agreement and Declaration Form – additional Section 2 and 3

### For amendments to termly arrangements

<b>AGREED TIMES AND NUMBER OF FEE HOURS AT ALL PROVIDERS</b>								
For the term starting on: .....								
Name of provider*:	Mon	Tues	Wed	Thurs	Fri	Sat/ Sun	Total hrs per week	Total for term†
1)								
2)								
3)								
<b>Total hours attending each day/week/term:</b>								
†Number weeks (for stretched offer, if applicable):								
Parent signature to agree above arrangements for this term starting on ..... Signature ..... Date .....								
Parent signature to confirm no changes to above arrangements for next term starting on ..... Signature ..... Date .....								
Parent signature to confirm no changes to above arrangements for next term starting on ..... Signature ..... Date .....								

### Section 3: 30hr Extended Entitlement with more than one provider

For 3 and 4 yr olds taking 30hrs at more than one provider, the parent can choose which provider is delivering the universal 15 hrs (U) and which is providing the additional 15hrs (Ex) for that term for Headcount/Census data collection purposes ONLY. This does not affect the parent's statutory right to choose which provider should deliver the universal 15hrs, if they become ineligible for the extended entitlement.

Agreed provider for universal and extended hours for term starting .....		
Provider Name	No. hrs per week	Univ /Ext / both U & Ex
1)		
2)		
3)		
Parent signature to agree above arrangements for this term Signature ..... Date .....		
Parent signature to confirm no changes to above arrangements for next term starting on ..... Signature ..... Date .....		
Parent signature to confirm no changes to above arrangements for next term starting on ..... Signature ..... Date .....		

**A copy of the amendments to this signed agreement must be given to the parent.**

## Annex C: Template Privacy Notice

Please insert your details where the requested in [ ] brackets. This covers the requirements for funded early education ONLY. Providers should have their own privacy notice for all other data collected as part of their business.

<p style="text-align: center;"><b>PRIVACY NOTICE for 2, 3 and 4 yr old Funded Children in Early Years Settings and Schools</b></p>
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**For the purposes of providing funded early education for 2, 3 and 4 yr olds [insert name of provider] is a data processor on behalf of The East Riding of Yorkshire Council.**

[insert name of provider] uses parent and child information, so that we can:

- care for and keep children safe and support their learning and development
- check parent's eligibility for funded early education for 2 yr olds and the 30hrs offer for 3 and 4 yr olds, Early Years Pupil Premium funding and Disability Access Funding
- send in termly headcount data returns and annual census returns on numbers and characteristics of children taking funded early education to the local authority
- ensure that we receive the appropriate funding to enable all eligible children to receive their entitlement to funded early education
- assess how well we are doing and the quality of our services

[insert name of provider] collects and processes the following information:

- Personal information (such as name, date of birth and address of parents and children parent's National Insurance or NASS number)
- Characteristics of children (such as ethnicity, gender, disability and special educational needs, and eligibility for EYPP and DAF)
- Personal circumstances of the child such as being looked after, adopted or under special guardianship orders
- The number of hours of funded early education delivered to each child, and the times and days attended, any absences and reasons for this

This information is collected and processed under the Childcare Acts of 2006 and 2016 and Children Acts of 1989 and 2004 and the following conditions of the GDPR:

- Processing is necessary for compliance with a legal obligation to which The East Riding of Yorkshire Council is subject
- Processing is necessary for the performance of a contract to which you are party or in order to take steps at your request prior to entering into a contract
- Processing is necessary to protect the vital interests of your child

[insert name of provider] collects this information direct from parents via registration and parent declaration forms, attendance registers and local authority eligibility checking systems, and letters.

Data on funded early education for all children is shared with the Department for Education, via the local authority, and with specific providers where children are attending multiple providers for their FEE or move to a new provider. [insert name of provider] will not share parent or child data on funded early education with anyone else without the parent's consent.

Information is only held for as long as it is needed and no longer than [insert your retention periods here] years after a child has left our setting.

[insert name of provider] keeps your information secure by [ provider to insert details here about how they ensure data is kept confidential and secure and in what format this is kept and where – or refer to provider policy on safe use of data as part of their overall business].

Parents have the following right to:

- access the information [insert name of provider] holds about you and can request a copy
- rectify any information we hold about you if you believe it to be incorrect so that we can amend the information accordingly
- object to the processing or limit processing of data that is likely to cause damage or distress
- in certain circumstances, have inaccurate information erased or destroyed

If you want to exercise any of your rights or know more about how we or the Council uses information, or have a concern about the way we are collecting or using your personal data, we request that you raise your concern with us in the first instance.

Contact the setting manager/provider: [insert contact name in setting]

Further information can be found from the Information Commissioner's Office at:

<https://ico.org.uk/concerns/>

For details of how the local authority use your data go to:

<http://www2.eastriding.gov.uk/council/governance-and-spending/how-we-use-your-information/find-privacy-information/general-privacy-information/>

For details of how the Department of Education use your data go to:

<https://www.gov.uk/guidance/data-protection-how-we-collect-and-share-research-data>