



# **Model Agreement:**

**Early years provision free of charge and  
free childcare**

**March 2017**

# Contents

|                                                                 |    |
|-----------------------------------------------------------------|----|
| Section 1: Overview                                             | 3  |
| Who is the model agreement for?                                 | 3  |
| Supplementary provisions                                        | 4  |
| Legal framework and statutory guidance                          | 4  |
| Section 2: Provider agreement requirements and standard wording | 6  |
| Key local authority responsibilities                            | 6  |
| Key provider responsibilities                                   | 6  |
| Safeguarding                                                    | 7  |
| Eligibility                                                     | 7  |
| The Grace Period                                                | 8  |
| Flexibility                                                     | 9  |
| Partnership working                                             | 9  |
| Special educational needs and disabilities                      | 10 |
| Social mobility and disadvantage                                | 10 |
| Quality                                                         | 10 |
| Business planning                                               | 11 |
| Charging                                                        | 11 |
| Funding                                                         | 12 |
| Compliance                                                      | 12 |
| Termination and withdrawal of funding                           | 13 |
| Appeals process                                                 | 13 |
| Complaints process                                              | 13 |
| Annex A: Sample parent declaration for the free entitlements    | 14 |
| Annex B: Developing the model agreement                         | 18 |

## Section 1: Overview

- 1.1. This model agreement from the Department for Education sets out the department's expectations on what should be included in agreements between local authorities and providers (provider agreements) and refers to early years provision free of charge (sections 7 and 7A of the Childcare Act 2006) and free childcare (section 2 of

## Supplementary provisions

- 1.9. This model agreement sets out the department's expectations on what should be included in provider agreements for delivery of the free 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 and using the model agreement does not prevent local authorities from exercising their statutory powers to include other requirements.
- 1.10. Local authorities and providers must comply with all relevant legal obligations.
- 1.11. Local authorities should develop their provider agreements in line with their own legal advice, however the department recommends that local authorities include the following provisions:

A right to unilaterally vary the agreement to reflect changes in legislation and departmental guidance.

A clause stating that references to legislation will be to that legislation as amended from time to time, without express change in the model agreement and/or provider agreement.

Freedom of Information provisions.

Termination and enforcement clauses, to cover all enforcement stages up to and including termination of the agreement. The local authority should also make clear that they do not waive the right to act if they do not act immediately (a

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 1998





2.19. The local authority will confirm the validity of 30 hours eligibility codes to allow providers to offer 30 hours 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 hours eligibility code swiftly and efficiently. The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity. The local authority should set out details of their validity checking service for providers in this section.

2.20. Thereafter, the local authority should complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours free childcare at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as listed at table A below). It is the local authority's responsibility to notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date.

**Table A:**

| <b>Date Parent receives ineligible decision on reconfirmation:</b> | <b>LA audit date:</b> | <b>Grace Period End date:</b> |
|--------------------------------------------------------------------|-----------------------|-------------------------------|
| 1 Jan – 10 Feb                                                     | 11 February           | 31 March                      |

2.24. The local authority should set out their local arrangements for informing providers of a child's grace period in this section.

## Flexibility

2.25. 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.

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

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

## Partnership working

2.28. 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

2.29. 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.

2.30. The provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting. An interactive toolkit<sup>2</sup> has been developed to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring.

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

---

<sup>2</sup> <http://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>

## **Special educational needs and disabilities**

- 2.32. 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>3</sup> (January 2015).
- 2.33. 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.
- 2.34. 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.
- 2.35. 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.

## **Social mobb. SEND.**

and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.

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

## **Business planning**

- 2.42. The local authority should clearly set out in this section the documentation that they need to receive from providers to support payment and delivery of free entitlements and the timetable which providers should follow when submitting their documentation. This includes setting out the importance of timely and accurate census returns.
- 2.43. The local authority should not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of free entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the local authority as a result of the lateness and local authorities will ensure charges are clearly communicated to providers. The local authority should set out details of any charges in this section.
- 2.44. The local authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers. The local authority should set out details of its audit arrangements in this section.
- 2.45. The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of their local authority. Failure to do so may result in inaccurate, delayed or suspended funding.
- 2.46. The provider should maintain accurate financial and non-financial records relating to free entitlement places and should give the local authority access on reasonable notice to all financial and non-financial records relating to free entitlement places funded under the provider agreement, subject to confidentiality restrictions.

## **Charging**

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



2.59. The local authority should set out details of their compliance process in this section.

## **Termination and withdrawal of funding**

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





**Is your child eligible and in receipt of Disability Living Allowance (DLA)?<sup>5</sup>:**

Yes

No

**If your child is splitting their free entitlement across two or more providers please nominate the main setting where the local authority should pay the DAF:**

## **6. Parent/Carer/Guardian with legal responsibility declaration**

**Declaration** I (Name) .....

Of (Address) .....

confirm that the information I have provided above is accurate and true. I understand and agree to the conditions set out in this document and I authorise (Name of Provider/s)

..... to claim free entitlement funding as agreed above on behalf of my child.

In addition, I also agree that the information I have provided can be shared with the local authority and Department for Education, who will access information from other government departments to confirm my child's eligibility and enable this provider to claim Early Years Pupil Premium (EYPP) or Disability Access Fund (DAF) on behalf of my child.

| <b>Parent/Carer/Guardian with legal responsibility</b> |  | <b>Childcare Provider</b> |  |
|--------------------------------------------------------|--|---------------------------|--|
| Signed                                                 |  | Signed                    |  |
| Print name                                             |  | Print name                |  |
| Date                                                   |  | Date                      |  |

## **7. Data privacy**

The Data Protection Act 1998 puts in place certain safeguards regarding the use of personal data by organisations, including the Department for Education (DfE), local

to whom it may be communicated



© Crown copyright 2017

This publication (not including logos) is licensed un