

# **Provider Agreement**

**Grant funded early years provision for  
2, 3 and 4 year olds**

**January 2020**

**V1.7**

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Version	Date	Changes
v1.7	17/01/2020	<b>Section 2.62</b> information added to explain what happens when an overpayment of funding occurs and the steps Solihull Council will take to recover the money.

## Section 1: Overview

- 1.1. This agreement is based on the DfE 'Model Agreement; Early Years Provision Free of Charge and Free Childcare' June 2018. Early years childcare providers ("providers") must follow this agreement if they are funded by the local authority to provide Early Education Funding ("EEF").
- 1.2. The agreement applies to the 15 hour entitlement for the most disadvantaged two-year-olds, the 15 hour entitlement for parents of three- and four-year-olds (the universal entitlement) and the 30 hours entitlement for working parents of three- and four-year-olds (the extended entitlement).
- 1.3. This document does not provide guidance on how providers operate their private businesses, including charges for provision over and above a child's free hours. Local authorities 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 free place.
- 1.4. This agreement will be kept under review and updated as necessary.

## Legal framework and statutory guidance

- 1.5. The following frameworks and legislation underpin this agreement:
  - Early Education and childcare, Statutory guidance for Local Authorities June 2018
  - Childcare Act 2006
  - Childcare Act 2016
  - Equality Act 2010
  - School admissions code 2014
  - Statutory framework for the early years foundation stage 2014
  - 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

## **Section 2: Provider agreement**

### **Key Solihull Council responsibilities**

- 2.1. Local authorities must secure a free entitlement place for every eligible child in their area. Solihull Council meets this responsibility by undertaking periodic sufficiency research and publishing this in an Early Years Sufficiency Plan
- 2.2. Solihull Council should work in partnership with providers to agree how to deliver free 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. Solihull Council meets this responsibility by maintaining a Special Educational Needs document and implementation of associated processes: “Solihull Special Educational Needs and Disability (SEND): Definitions, Bands and Descriptors for Areas of Need”. Aligned with this Solihull provides additional funding for pupils with additional needs from an Inclusion fund.
- 2.4. Solihull Council will 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 free entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the provider should be clear and communicate to parents details about the days and times that they offer free places, along with their services and charges. Those children accessing the free entitlements should receive the same quality and access to provision.
- 2.7. The provider must follow the 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.
- 2.9. The provider must inform Solihull Council at their earliest convenience of any circumstances which mean they can no longer offer Early Education provision for existing children receiving a funded place; or if that offer changes in a material way. For example, if your building is not operational or there is an emergency resulting in a temporary closure of your business. This is to ensure that appropriate arrangements are made for these children to ensure they are able to continue to access funded provision.

## Safeguarding

- 2.10. Solihull Council has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the 'Working together to safeguard children' 2015 guidance<sup>1</sup> sets these out in detail.
- 2.11. 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 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.

## Eligibility

- 2.12. 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/destroyed when there is no longer a good reason to keep the data. Solihull Council will issue a separate privacy notice to providers. Providers must ensure that the privacy notice is passed to parents prior to acceptance of funding offer. Reference to the privacy notice will be included in the parental declaration form provided by the local authority.
- 2.13. The provider should offer places to eligible two-year-olds on the understanding that the child remains eligible until they become eligible for the universal entitlement for three- and four-year-olds. Information about eligibility and eligible date of birth ranges will be issued to providers by Solihull Council each term as part of the termly information published on the Early Years website – [www.solgrid.org.uk/eyc/eef](http://www.solgrid.org.uk/eyc/eef).
- 2.14. Solihull Council must ensure that a child has a free entitlement place no later than the beginning of the term following the child's 2<sup>nd</sup> or 3<sup>rd</sup> birthday and the parent meeting the eligibility criteria for the free entitlements (2 year old funding or 30 hours).
- 2.15. Alongside the 30 hours eligibility code, which is the child's unique 11-digit number, and original copies of documentation (see 2.12), a provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from Solihull Council of the validity of the parent's 30 hours eligibility code. The provider will use the parental declaration form provided by the local authority to gather the necessary information and consent from the parents.

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<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/592101/Working\\_Together\\_](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592101/Working_Together_)

- 2.16. Solihull Council will provide a validity checking service to providers via the provider portal. The provider portal connects directly to the DfE Eligibility Checking Service (ECS) and allows for instant code validity checks to be completed by the provider. Once a provider has received written consent from the parent the provider must verify the 30 hours eligibility code on the portal.
- 2.17. Thereafter, Solihull Council will complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours free childcare at 5 fixed points in the year, both after half term and immediately after carry forward across the year. Solihull Council won't be able to complete an audit check for the beginning of the Autumn term as the local authority won't have any data to complete an audit at this point. It is Solihull Council's responsibility to notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date.

## The Grace Period

- 2.18. 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.
- 2.19. Solihull Council 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. The grace period end dates will be either 31<sup>st</sup> March, 31<sup>st</sup> August or 31<sup>st</sup> December.
- 2.20. Solihull Council will continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory guidance for Local Authorities June 2018.
- 2.21. Details of the child's grace period will be made available to the providers via the provider portal. The information will be updated in line with the audit dates set out in the table above

## Flexibility

- 2.22. 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.
- 2.23. The provider should work with Solihull Council 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.
- 2.24. A child may receive their entitlement by attending between 6am – 8pm, up to two sites per day and a maximum of 10 hours per day, ensuring that they do not exceed 15 hours per week. (or 30 hours per week if eligible for the extended entitlement). A child must not exceed the termly maximum number of hours as set by Solihull Council. For further information on notice periods and children moving please visit [www.solgrid.org.uk/eyc/eef](http://www.solgrid.org.uk/eyc/eef).

## Partnership working

- 2.25. Partnerships will be supported by Solihull Council on four levels between:
- Solihull Council and providers
  - Providers working with other providers, including childminders, schools and organisations
  - Providers and parents
  - Solihull Council and parents
- 2.26. Solihull Council will promote partnership working between different types of providers, including childminders, across all sectors and encourage more providers to offer flexible provision.
- 2.27. The provider should work in partnership with parents, 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.
- 2.28. 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.

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

## Special educational needs and disabilities

- 2.29. Solihull Council will 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).
- 2.30. 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.
- 2.31. Solihull Council will be clear and transparent about the support on offer in their area, through their Local Offer, so parents and providers can access that support. The Solihull local offer can be found here: <http://socialsolihull.org.uk/localoffer/>
- 2.32. 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.
- 2.33. The provider must work in partnership with the child's parents and other support services to ensure that the child's needs are met.

## Social mobility and disadvantage

- 2.34. Solihull Council will promote equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to free places and working with parents to give each child support to fulfil their potential.
- 2.35. The Provider shall ensure that they obtain parent data and submit this data via the portal to enable Solihull Council to identify children eligible for Early Years Pupil Premium (EYPP). They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.

## Quality

- 2.36. To become eligible to receive EEF a provider on the Early Years Ofsted register must have an Ofsted rating of "good" or "outstanding" for 2-, 3-, 4- year olds, and also, "requires improvement" for 3- or 4- year olds. A new provider will be classed as being eligible until such time as their first Ofsted inspection is published.
- 2.37. Where a provider receives an Ofsted rating of "inadequate" the provider cannot offer any 2-, 3- or 4- year old funding to new children. Existing funded children may have their funding removed if there is a significant safeguarding issue which would put children at risk of harm. The Family Information Service will notify the Early Years Education and Improvement Service of the above action and update the provider's record detailing the actions taken.

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<sup>3</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)



- 2.38. Where a provider receives an Ofsted rating of “requires improvement” the provider must no longer offer new funded places for 2-year old children however can continue to offer new funded places for 3- and 4-year old children. Solihull Council will continue to fund children already receiving Early Education Funding, and on roll, or where there is a written agreement with a parent for an imminent start. The Family Information Service will notify the Early Years Education and Improvement Service of the above action and update the provider’s record detailing the actions taken.
- 2.39. Solihull Council will reinstate funding and promote the provider for EEF once the relevant quality category has been confirmed by Ofsted. Solihull Council will support all settings on the LA register of EEF to ensure they have an Ofsted rating of “good” or better
- 2.40. The Early Years Foundation Stage (EYFS) statutory framework is mandatory for all schools that provide early years provision and Ofsted-registered early years providers in England. The EYFS sets the standards that all early years providers must meet to ensure that children learn and develop well and are kept healthy and safe.
- 2.41. Ofsted are the sole arbiter of quality for all free entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision. Childminder agency must inform Solihull Council within 5 working days if a Solihull childminder in their agency doesn’t meet the appropriate quality.
- 2.42. Solihull Council will 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, in line with the legal duty to do so.
- 2.43. 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**

- 2.44. Solihull Council will provide details of the information required from providers each term. This information will form part of the termly claim information pack. The information pack will include a timetable which providers should follow when submitting information via the provider portal or where documentation needs to be sent to the local authority. It will also set out the importance of timely and accurate census returns.
- 2.45. Solihull Council will not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of free entitlements. Any charges will be reasonable and proportionate to the inconvenience or costs incurred to the local authority as a result of the lateness and Solihull Council will ensure charges are clearly communicated to providers.

- 2.46. Solihull Council will not carry out audit regimes that are unnecessarily burdensome to providers.
- 2.47. The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data and census data, as per the financial guidelines of their local authority. Failure to do so may result in inaccurate, delayed or suspended funding.
- 2.48. 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

- 2.49. 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.
- 2.50. Parents of eligible children must pay no charge in respect of the child's minimum entitlement. Providers must ensure that the free entitlement is not presented to parents as monetary subsidy but as a free part-time place.
- 2.51. 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.
- 2.52. The provider should deliver the free entitlements consistently so that all children accessing any of the free entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
- 2.53. Solihull Council will not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to take up their child's free place. The provider should be completely transparent about any additional charges.
- 2.54. The provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as free provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the patterns of hours are convenient for parents' working hours.
- 2.55. The provider can charge parents a deposit to secure their child's free place but should refund the deposit in full to parents within a reasonable time scale.
- 2.56. The provider cannot charge parents "top-up" fees (the difference between a provider's usual fee and the funding they receive from the local authority to deliver

free places) or require parents to pay a registration fee as a condition of taking up their child's free place.

2.57. The provider should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their free entitlement completely free of charge and understand fees paid for additional hours. The provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.

## Funding

2.58. Payments to private, voluntary and independent (PVI) settings and Academies are made each term in two instalments. An advance payment will be based on the providers estimate of funded hours of eligible children for the term and is payable at 75%. A final headcount payment will be calculated based on the headcount data for the term submitted by a provider. The balance due will be calculated by deducting the advance claim already paid. EYPP and Disability Access Funding (DAF) payments are included in your final headcount payment.

2.59. Payments to Maintained schools are made in full as part of the final headcount payment. Maintained schools do not receive an advance payment.

2.60. The provider should accurately complete and submit headcount and other necessary data returns by the agreed date as stipulated in the termly information published on the Early Years website to support the local authority to make payment. If you consistently fail to meet our termly headcount submission deadlines then we reserve the right to delay your advance payment until we have received your headcount submission.

2.61. Where a child transfers to another PVI setting or school during a term the funding must follow the child. Overpayment of EEF to the original provider will be identified and recovered by Solihull Council. The child may take up their remaining EEF entitlement for the term at the new provider.

2.62. In the event of any overpayment, arising for any reason (reasons may include a data error, subsequent data validation, additional information, potential fraud etc) then the Council will recover monies owed in all circumstances, including if necessary, legal action to recover debts. Normally, an overpayment will be deducted from the following term's payment. In the event that there is no payment in the next term (or the amount is greater than the next payment) then the Council will raise a debtor invoice to the provider, and the Council's normal debt recovery processes will be followed.

2.63. Solihull Council will issue providers with details of the funding claim procedure and associated timetable each term which will be published on the Early Years website. This will include information on funding multiple providers and changes in provider.

2.64. The provider will specify on the parental declaration form the funding hours agreed at their setting and the parent will state any attendance elsewhere. Where the parent has specified dual attendance at a school or Academy the school or Academy will claim the universal hours. For information on funding on

Bank Holidays and changes to funding please visit the Early Years website – [www.solgrid.org.uk/eyc/eef](http://www.solgrid.org.uk/eyc/eef).

## Compliance

- 2.65. Solihull Council can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the free entitlements.
- 2.66. All early years providers must meet the standards set out in the Early Years Foundation Stage (EYFS) to ensure that children learn and develop well and are kept healthy and safe. The free entitlement must be accessed at the highest possible quality, and provide planned learning opportunities to help children progress towards achieving the early learning goals.

## Termination and withdrawal of funding

- 2.67. 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.
- 2.68. Further information on the termination and withdrawal of funding is available in the “Quality” section of this document (paragraphs 2.36 to 2.43).

## Appeals process

- 2.69. A provider may be denied approval to offer the free entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision.
- 2.70. Providers should write to the Head of Service, Access and Development, within 10 days of receiving the letter advising them that their funding has been withdrawn, setting out in full why funding should not have been withdrawn. Email is also acceptable which should be sent to [eefenquiries@solihull.gov.uk](mailto:eefenquiries@solihull.gov.uk).

## Complaints process

- 2.71. 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 free entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities.
- 2.72. If a parent is not satisfied that their child has received their EEF in accordance with the legislation or as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities, and has not been able to resolve their concern directly with their provider, they should contact the Family Information Service via [eefenquiries@solihull.gov.uk](mailto:eefenquiries@solihull.gov.uk). Solihull Council will investigate the parent’s complaint and will ask the provider to provide information regarding the complaint within a specified timescale.
- 2.73. If a parent or provider is not satisfied with the way in which their complaint has been dealt with by Solihull Council or believes Solihull Council has acted

unreasonably, they can make a complaint to the Local Authority Ombudsman. Such complaints will only be considered when the local complaints procedure has been exhausted.

2.74. Solihull Council's complaints procedure can be found here:

<http://www.solihull.gov.uk/About-the-Council/Complaints>