

**Bath and North East Somerset – Local
Authority and Provider Agreement including
the Bath and North East Somerset
requirements on the Provision of the Early
Years Entitlement (EYE)**

September 2015

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1. Introduction

Vision

Bath and North East Somerset's Children and Young People's Plan sets an ambitious vision as follows:

'We want all Children and Young People to enjoy childhood and to be well prepared for adult life'.

As part of this vision, Bath and North East Somerset Council is committed to working with partners to improve the outcomes of all children under 5 and reduce inequalities.

The Department for Education's (DfE) publication "Early education and childcare – statutory guidance for local authorities" (September 2014) supports this vision and outlines on Page 6 a key outcome for the EYE as follows: -

All children who meet the prescribed criteria are able to take up high quality early education, regardless of their parents' ability to pay – benefiting their social, physical and mental development and helping to prepare them for school. Evidence shows that regular, high quality early education has lasting benefits for all children.

The DfE's webpage outlines that their 2014 guidance makes key changes in the following areas: -

- the extension of the early education entitlement for 2-year-olds
- the introduction of childminder agencies
- providers who do not actively promote fundamental British values or promote views or theories as fact which is contrary to established scientific or historical evidence and explanations

In April 2015 the DfE introduced the Early Years Pupil Premium (EYPP) for a cohort of eligible children who access all or part of the 3 and 4 year old EYE.

2. Criteria for Provider Eligibility for Funding

Bath and North East Somerset will fund a wide variety of provision offering the EYE, provided that it meets:

- The national guidance
- The Local Authority and Provider Agreement (the local agreement).

The Council has a duty to ensure that there are sufficient places under the Childcare Act 2006. Early years providers support the Council in ensuring that there is both sufficiency and choice in provision. However, while parents should be able to access an offer that most closely meets their need and have a choice of provider, they may not always be offered the full entitlement at the times they want and at their provider of choice.

Quality

In order that all children can access their entitlement to high quality early year's provision and in-line with statutory guidance, Bath and North East Somerset will:

- Fund places for two, three and four year old children attending providers rated 'good' or 'outstanding' by Ofsted.
- Fund places for three and four year old children attending providers rated 'good', 'outstanding' or 'requires improvement' by Ofsted. Advice will be available to settings judged 'requires improvement' to support them improve the quality of provision.
- Not fund places for children attending providers who are judged 'inadequate' by Ofsted. See section 4 for further information.

Bath and North East Somerset Council is instructed within the statutory guidance to withdraw funding where it has reasonable grounds that one or more of the following criteria are in evidence:

- is not meeting the independent school standard in relation to the spiritual, moral, social and cultural development of pupils;
- is not actively promoting fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
- is promoting as fact views or theories which are contrary to established scientific or historical evidence and explanations.

The Childrens Act 2006 requires the Local Authority and their partners to improve the outcomes of all children under 5 and reduce inequalities. In particular the Council has a duty to ensure that:

- All children and in particular those at risk of poorer outcomes are effectively supported to make good progress through the Early Years Foundation Stage
- Providers have regard to the SEND Code of Practice (2014). They should be alert to any emerging difficulties and respond early. (Early Years: guide to the 0 to 25 SEND code of practice page 9)
- All Early Years providers have a duty under the Equality Act (2010) to provide

reasonable adjustments for children with a disability to ensure that are not substantially disadvantaged. (Early Years: guide to the 0 to 25 SEND code of practice page 10)

- Providers are keeping children safe

In order to meet these requirements every setting should have a named SENDCo and Equalities Leader who take responsibility for evaluating, updating and leading practice.

Providers listed with The Council's Family Information Service on 31st August 2015 as providers of the EYE will transfer to the new local agreement subject to returning a signed copy of the document to the Early Years Team by Monday 19th October 2015.

Providers who have returned their signed agreement will continue to retain their eligibility for funding subject to the following criteria: -

- To be eligible for inclusion on the Directory, all providers must be registered on the relevant Ofsted Register or with the Independent Schools Inspectorate (ISI) and must be open to inspection by Ofsted or ISI as required. Whenever inspected, the provider must have been found to be delivering its service to the minimum level of "requires improvement" to be eligible for 3 and 4 year old funding and "good" to be eligible for 2 year old funding.
- The registered body must meet legal requirements and be registered with Ofsted or equivalent. The Local Authority must be informed of all significant contact with Ofsted or equivalent related to your registration e.g. complaints; concerns; compliance action; enforcement action; inspection.
- Staffing ratios and qualification levels must meet the statutory requirements at all times.
- Providers should keep the Early Years Team up to date with all contact details for the setting and with all staffing information including staff leaving, new staff, changes in job role and staff vacancies.
- Providers should keep the Family Information Service informed of childcare vacancies.
- Provide places as outlined in the conditions specified in both the national guidance and the local agreement

Providers who subsequently do not adhere to either the national guidance or the local agreement may be considered for withdrawal from the scheme as outlined later in this document.

3. Affordability and Flexibility

The **free entitlement** is free early years provision for every eligible child, for 570 hours per year and during no fewer than 38 weeks in any year – for example, at least 15 hours per week over 38 weeks of the year. However, although this free provision must be available during at least 38 weeks of the year, the regulations also clarify that provision does not have to be available for 15 hours per week and can be stretched over more than 38 weeks, with fewer than 15 hours a week, to enable the entitlement to be delivered more flexibly. This supports the aim to ensure that local authorities can secure the availability of the free provision flexibly to meet parental demand.

In Bath and North East Somerset many of our providers offer flexibility where they can within the framework of the national guidance.

There will be a number of providers who do not make the full offer because they are unable to due to their premises or because that it is not the provision they intend to offer e.g. they intend to operate only within school pattern hours, during school term dates. This must be made clear to parents who should be made aware that there may be other providers within the area who can make an offer that most closely meets the family's needs.

There may also be a limited number of providers who wish to define their own core hours within the framework because of how they structure their own individual provision. In doing so the expectation of informing parents also applies, especially with regard to lunch “breaks.” Providers can only make these only if they have declared additional local conditions for using EYE.

The offer will be marketed to parents as up to 15 hours of **FREE** flexible entitlement per week, and the national guidance outlines a minimum and maximum number of hours per day that may be available which are widely advertised. At a local level some providers may decide to offer “core hours” i.e. a time during the day which is when they offer the free entitlement. This should be proportionate with the likely demands of families for use of their entitlement e.g. a provider only offering a block from 3pm to 6pm daily is likely to be considered to be setting unreasonable “core hours.”

Reminder “if providers charge for any goods or services, this is not a condition of children accessing their place. Such goods or services might include meals, optional extra activities or additional hours of provision in addition to the funded place”. (A1.7 DfE statutory guidance)

4. Withdrawal of a Provider's eligibility

In order to ensure the best outcomes for children Bath and North East Somerset are permitted within the national guidance and our local agreement to withdraw funding from providers in certain circumstances which are outlined below.

- 1) Failure to meet the national guidance or the local agreement.
- 2) Following an inadequate Ofsted inspection Bath and North East Somerset will enforce the following national requirement, point A3.11 :-
 - Secure alternative provision and withdraw funding from a provider (other than a local authority maintained school), as soon as is practicable, when Ofsted publish an inspection judgment of the provider or childminder agency of 'inadequate'.
- 3) In cases of gross misconduct e.g. Ofsted enforcement action, fraud or financial impropriety, where children are unsafe or not safeguarded effectively. Funding will be withdrawn.

* Ofsted has the legislative power to allow providers the opportunity to pay for an earlier re-inspection although details of the scheme have not been announced or implemented when this agreement was produced. In order to fund provider support, Bath and North East Somerset will charge for the support and advice provided in order to get a provider to the minimum level required to receive EYE by the DfE as inspected by Ofsted. This charge will be outlined to the provider and deducted from their first tranche of EYE funding due following their re-instatement to the scheme.

5. Appeals

Provider Appeals

A provider may appeal regarding withdrawal of their status as an existing EYE provider. The process for appealing is outlined below.

- The provider should send (in writing) reasons for the appeal within 14 working days of a decision being notified, and include any supporting documentation.
- Bath and North East Somerset will send an acknowledgement of receipt of the appeal within 5 working days.
- A panel of 3 officers in the Children's Service, who are independent of the original decision, will review the decision through a review of the supporting documentation and an interview with the provider within a further 10 working days of acknowledging the appeal.
- The provider will receive a written decision on the appeal within 4 working days of the appeal decision being made.

Corporate complaints procedure

Should the provider be unhappy with the appeals process Bath and North East Somerset have a corporate complaints procedure and details can be found at this internet address: -

<http://www.bathnes.gov.uk/services/your-council-and-democracy/complaints>

The Local Authority Ombudsman

If you are dissatisfied with your treatment under either the appeals procedure or the corporate complaints procedure, you may make a complaint to the Local Authority Ombudsman after the full appeals procedure with Bath and North East Somerset Council has been exhausted.

The address for the Local Authority Ombudsman is:

**The Oaks, Westwood Way, Westwood Business Park
Coventry CV4 8JB Telephone 0300 0610614**

Parent/Carer Appeals and/or Complaints

A parent/carers may appeal or complain if they are unable to access their full entitlement or where they may not be receiving their EYE within the terms of the national guidance and/or local agreement.

Bath and North East Somerset's Children's Service procedure for can be found at the following internet address/link

<http://www.bathnes.gov.uk/services/your-council-and-democracy/complaints/complaints-about-childrens-services-0>

or by calling 01225 477931

6. Provider Declaration - 2015

I have read Bath and North East Somerset's Local Authority and Provider Agreement including the Bath and North East Somerset requirements on the Provision of the Early Years Entitlement together with the Department for Education's document "Early Education and Childcare – statutory guidance for local authorities (September 2014)" A copy is retained at my provision.

This signed and returned copy of Bath and North East Somerset's Local Authority and Provider Agreement including the Bath and North East Somerset requirements on the Provision of the Early Years Entitlement acknowledges receipt, understanding and adherence to both the national guidance and local agreement.

Name of provision _____

Signature _____

Print name _____

Position _____

Date _____

Contact number _____

Please return this page to:
Early Years Entitlement Team, Bath and North East Somerset Council,
Lewis House, Manvers Street, Bath, BA1 1JG

Appendix 1

Procedures for claiming the entitlement

Which providers can claim the Early Years Entitlement?

Local authorities must secure that the prescribed amount of free early years provision is available for each eligible child in their area from providers who meet the Department for Education's requirements as outlined in "Early Education and Childcare – statutory guidance for local authorities."

That is:

Early years providers prescribed in the 2014 Regulations are providers to whom section 40 of the 2006 Act applies. Section 40 applies to early year's providers, providing early years provision in respect of which they are required by the 2006 Act to be registered with Her Majesty's Chief Inspector of Education, Children's Services and Skills. These providers are either a) registered on the Ofsted Early Years Register (as required by section 34(1) of the 2006 Act) or b) are schools which are exempt from registration on the Ofsted Early Years Register (pursuant to section 34(2) of the 2006 Act). Section 34(2) covers maintained schools, approved non-maintained special schools and independent schools.

Prescribed provision includes provision from providers who are exempt from delivering the EYFS Learning and Development requirements because of a direction made by the Secretary of State under regulations made under section 46 (1) of the 2006 Act, or because a provider has made a determination in relation to a young child under regulations made under section 46 (2) of the 2006 Act. The relevant regulations are the Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008 (SI 2008/1743, as amended by SI 2012/2463).

Prescribed provision excludes provision where it is provided by:

- an independent school (other than an Academy) which does not meet the independent school standard in relation to the spiritual, moral, social and cultural development of pupils at the school; or
- a provider in relation to whom the local authority has grounds to believe:
- does not actively promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths or beliefs; or
- promotes views or theories as evidence-based which are contrary to established scientific or historical evidence or explanations.

You will need to sign a copy of the local agreement to accept the terms and conditions associated with receiving the Early Years Entitlement (EYE).

What is the Entitlement?

All eligible children will be entitled to 15 hours a week for 38 weeks of the year (570 hours) divided into three terms in Bath and North East Somerset as follows:

Autumn (14 week term)	The basic entitlement is worth a maximum of 210 hours
Spring (11 week term)	The basic entitlement is worth a maximum of 165 hours
Summer (13 week term)	The basic entitlement is worth a maximum of 195 hours

Children who change hours mid-term

When a child decreases their hours part way through the term, Bath and North East Somerset will not remove the funding allocated at the start of term, however, if additional hours are claimed for another child, any decrease in funding will be offset against the increase.

When a child increases their hours part way through the term, if an amendment form is returned to Bath and North East Somerset by that term's amendment date, then these hours will be paid. If the form is returned after this date, payment may be deferred until the next full payment is due to be made to the provider although the provider should offer the EYE from the child's start date.

Children who change providers mid-term

Bath and North East Somerset recognise that providers will have planned for the child's attendance throughout the term, and the Headcount form is a signed contract by the parent that their child will attend the provider for the whole of term (unless otherwise stated on the form). Providers will therefore have to negotiate with each other if a child then moves and they wish to retain or transfer the remaining funding in respect of that child. This will also apply to children moving outside Bath and North East Somerset.

Any decision regarding transferring funding is at the provider's discretion, and cannot be enforced by Bath and North East Somerset. Parents should be made aware of this before they sign the Headcount form.

When a parent moves a child at the start of a new term without giving a notice period to a previous provider:

- If they have not signed the headcount, the previous provider is still eligible to claim the funding until the end of their contracted notice period but only if a parent has signed a contract to this effect. Bath and North East Somerset will require a copy of this contract as evidence for payment. If the parent has also signed to claim at a new provider then the funding may be split.
- If they have not signed the headcount or a contract, then no payment will be made for that term.

Children who are absent

Where a child attending has recurring absences or is absent for an extended period (more than 4 weeks), providers should notify Bath and North East Somerset to discuss whether funding will be reduced accordingly. There is no

obligation for a child to attend for their entire agreed attendance pattern however prolonged absences and failure to attend on a regular basis for agreed sessions should be notified as part of Bath and North East Somerset's audit procedure. The provider's contract with the family will be supported as this is how staffing levels and finances will have been planned. Bath and North East Somerset may request evidence of the provider's effort to work with the family to improve attendance.

We therefore recommend that providers get parents to sign a parental contract to confirm this arrangement along with their terms and conditions.

Providers who forget to claim for a child/queries in funding allocations

There are occasions when children do get missed from the term's headcount or the provider does not agree with the funding allocated for a child. This can normally be investigated and adjusted if necessary by notification at amendment time. However, if the child is still missing from the information submitted on the next term's headcount form, the provider should inform us by that term's Headcount return date in order to allocate funding for the previous term (in addition to the current term). Failure to do so will result in payment only being made for the term in which the error was noticed. Similarly, any investigations required to funding allocations will only be made if this has been notified to Bath and North East Somerset by the Headcount return date of the following term.

Failure of the provider to return the correct forms and/or check the paperwork sent out by Bath and North East Somerset must not disadvantage the child and their family from receiving their free entitlement.

How much time will the Early Years Entitlement cover per day?

- Between 2.5 and 10 hours each day.

You can define 'core' hours at a provision level during which the entitlement can be taken, but this information must be made clear to parents.

- Up to 15 hours per week.

If 15 hours are offered, this must be taken over 2 days or more.

- Up to 38 weeks a year in school term times only.

Although the entitlement is for 38 weeks, if you are open for more weeks you can split the total annual hours funded (i.e. 38 x 15) over more weeks, but this is in agreement with the parent and not mandatory.

How to claim the Entitlement

Before the start of each term, you will need to indicate how many children you think will attend the following term and how many hours they will attend. You can inform us by completing and returning an estimate form, over the telephone, or by sending an email to the eye@bathnes.gov.uk mailbox. Larger providers may choose to have their estimate based on the number of children funded in the previous term plus a 5% increase. After supplying this information, you will be paid 50% of the entitlement, based upon the information you provide. The final payment of the remaining balance will be paid to you following the traditional school half term.

Funding Splits

If a child attends 2 providers, families are able to specify how the entitlement is split between the providers.

Further information is contained within both the provider and parent booklets.

Data Protection and Security

Providers will provide parents with a privacy notice to indicate how their details may be used. Providers should also send any child details required securely to Bath and North East Somerset.

Paperwork

Headcount Form (EYE1)

At the start of each of the 3 terms, you will be sent a pre-populated form listing all children from the previous term. This will need to be signed by the parent /guardian of each child still attending and returned to Bath and North East Somerset along with any new starter forms.

If there are any changes to hours attended from that stated on the pre-populated forms, these can be noted on the same form and the parent can sign. If the child has changed address and/or name, this information should be entered on an amendment form (EYE3) and returned to Bath and North East Somerset with the EYE1 form.

New Starters

Full child details must be supplied once, when the child becomes eligible. This can either be supplied on an EYE2 starter form or via the SIMS system. You should also provide the parent with a Privacy Notice to indicate how this data may be used.

Amendment Form (EYE3)

If any changes are notified to the provider after the Headcount deadline date, these should be submitted to Bath and North East Somerset by the amendment return date as published in the "Information for Providers" leaflet. Each amendment must be signed by the parent/guardian, unless the child has left.

If any amendments are submitted later than the amendment date specified for each term, there will be no guarantee that the entitlement will be split as anticipated if a child is claiming at 2 providers.

All Forms

You must inform Bath and North East Somerset how many hours (in total) and how many days each child attends. The hours should be stated to the nearest ¼ hour.

All forms submitted should be completed fully, returned securely in compliance with data sharing legislation, and within the appropriate timescales, failure to do so will result in forms being rejected and in some cases non-payment of the entitlement.

Notification to providers of funding allocated to individual children

All providers will be notified of how many hours funding has been allocated to individual children when the actual payment is made and any individual child amendment will be notified with the amendment payment. The provider is responsible for checking amounts are correct and notifying Bath and North East Somerset by the Headcount date of the following term. Any errors notified after this date will not be paid.

Auditing the Early Years Entitlement

Bath and North East Somerset will request to view evidence of children's attendance (e.g. registers and/or signing in and out sheets) and billing procedures approximately once every eighteen months. This may be by a visit or a request to send copies of paperwork securely to the offices. Bath and North East Somerset may adjust funding as a result of findings in the audit as outlined in this code. In the event of severe discrepancies between submitted and actual records on children's attendance funding may be withdrawn.

The purpose of the audit is to verify the use of public money. The staff member carrying out the audit will offer support and guidance to the provider on their EYE processes.

Web Pages

The latest information and forms listed in this section will be made available on line on the Council's website.

Appendix 2

Parental charges and invoicing

The National Statutory Guidance states that the Local Authority should ensure that parents can clearly see, from the information they receive from their provider, that they have received their child's full 15 hour entitlement completely free. It also states that providers who charge for any goods or services, for example meals, optional extras or additional hours of provision outside of the free entitlement, do not do so as a condition of children accessing their place.

The provider must therefore prepare bills for parents which show what hours and services the child is accessing and how many hours are funded. The difference between the child's total bill at the provider and the funding provided must not be shown as a 'top-up'.

If bills are not felt by parents to show charges clearly they should at first be able to discuss their billing with you in order to resolve the matter. If resolution cannot be achieved between both parties then they should be advised of the provider's complaints procedure.

Appendix 3

Flexibility of EYE Offer

In order to ensure that children are able to easily access their full EYE, Bath and North East Somerset recommend that a provider as a minimum is able to offer one of the following patterns of attendance for 38 weeks of the year:

- 3 hours per day over 5 days of the week
- 5 hours per day over 3 days of the week
- 7.5 hours per day over 2 days of the week

For providers open all year round who choose to spread the entitlement, Bath and North East Somerset suggest the following offering to allow access to full funded hours:

- 12 hours a week over 2 or 3 days for 47.5 weeks of the year. This could be achieved by giving children the option of not attending during August.
- For children starting later in the term, providers can choose to spread the EYE into the school holiday period thus allowing them to access the full funding

Parents who choose for their child to attend for additional weeks or hours will be charged at the provider's advertised rates.

Although charges can be made for optional extras such as meals/snacks, it must be possible for parents who are unable to pay for these extras to access the place without paying for the extras.

Appendix 4

Early Years Pupil Premium

The Early Years Pupil Premium (EYPP) is a national fund of £50 million in 2015-2016 to extend the pupil premium into the Early Years. It was introduced from April 2015. The EYPP will provide nurseries, pre-schools, childminders and other providers with additional support for disadvantaged 3 or 4 year olds.

Funding will be allocated to Local Authorities through the Dedicated Schools Grant and Local Authorities will pay Providers at a rate of 53p per child per hour for all eligible children. This is the equivalent to over £300 per child per year if they take up their full 570 hours entitlement. If a child doesn't take up the full 570 hours, a pro rata payment will be paid.

To attract EYPP funding, parents/carers must meet at least one of the following criteria:

- Working Tax Credit run-on, which is paid for 4 weeks after they stop qualifying for Working Tax Credits
- Universal Credit
- Child Tax Credit (provided they are not also entitled to Working Tax Credit and have an annual gross income of no more than £16,190)
- Income Support
- Income Based Job Seekers Allowance
- Income Related Employment and Support Allowance
- Support under Part VI of the Immigration and Asylum Act 1999
- The Guaranteed Element of State Pension Credit

Also if the child has:

- Been looked after for 1 day or more
- Been adopted from care
- Left care under a special guardianship order or residence order.

Children must be eligible for free early education in order to attract EYPP funding. Children become eligible at different points, depending on when they turn 3 years old.

As with School's Pupil Premium, the main accountability route will be through OFSTED. Effective use and impact of the EYPP will be assessed under the leadership and management judgement in OFSTED inspection reports. The Early Years Census collection will be amended so that Providers must identify which children in their setting attract EYPP funding.

Further information regarding the EYPP can be found on the Foundation Years Website:

<http://www.foundationyears.org.uk/>