

**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 2013

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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'.

The Department for Education's (DfE) publication "Early education and childcare – statutory guidance for local authorities" (September 2013) supports this vision and has highlighted the following key points on the department's webpage: -

"This statutory guidance includes new elements relating to early years provision for 2-year-olds from lower income families and the provision of information, advice and training to childcare providers. It sets out a changed role for local authorities, to enable them to focus on identifying and supporting disadvantaged children to take up their early education place.

The guidance seeks to assist local authorities, providers and parents by making it clear:

- what outcomes different measures are seeking to achieve
- what is a legal duty required by legislation
- what local authorities should do to fulfil their statutory responsibilities."

Within the DfE guidance page 6 highlights the key outcome of the entitlement: -

"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 good quality early education has lasting benefits for all children."

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 'satisfactory/ requires improvement' by Ofsted. Advice will be available to settings judged 'satisfactory/requires improvement' to support them improve the quality of provision.
- Not fund places for children attending providers who are judged 'inadequate' by Ofsted from 1st September 2013. See section 4 for further information.

The Council has a duty to ensure that:

- Providers have regard to the SEN Code of Practice and that they effectively meet the needs of children with SEND.
- Providers are keeping children safe
- The principles of equality and justice underpinning the law should be applied as good practice

In order to meet these requirement 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 2013 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 15th September 2013.

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 satisfactory to be eligible for 3 and 4 year old funding and good to be eligible for 2 year old funding. If a change is made to the inspection judgement terms e.g. “requires improvement” replaces satisfactory, the new equivalent judgements will apply.

- 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, for example meals, optional extras or additional hours of provision outside of the place, this is not a condition of children accessing their place." (1.9 DfE 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 3.7*:-
 - Secure alternative provision and withdraw funding, as soon as is practicable, for children who are already receiving their funded entitlement at a provider when it is rated 'inadequate' by Ofsted.
- 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 indicated that providers will have an opportunity to pay for an earlier re-inspection although details have not been announced. 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

7. Provider Declaration

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." 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 to the Early Years Team, Floor 1 Riverside North, Temple Street, Keynsham, Bristol BS31 1LA

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 regulations are providers who are under a duty (set out in section 40 of the 2006 Act) to deliver the EYFS (established under section 39 of the 2006 Act). 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 does not include 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).

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 (13 week term)	The basic entitlement is worth a maximum of 195 hours
Spring (12 week term)	The basic entitlement is worth a maximum of 180 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 signed a contract confirming their attendance for the whole term, then the payment will be allocated to the previous provider for the whole term.

Children who are absent

Where a child attending has recurring absences or is absent for an extended period, 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 all of their 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. However, Bath and North East Somerset may wish to discuss with the provider reallocating the entitlement to a later starter, utilising the entitlement to cover an amendment or possibly refunding the entitlement once the contracted period has ended.

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 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, the Bath and North East Somerset Early Years Team will send you an estimate form. You will need to indicate how many children you think will attend the following term and how many hours they will attend. After returning this, 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, the entitlement will be allocated to both providers in proportion to the number of hours they attend at each.

Please note. If a child attends at one provider in Bath and North East Somerset and another in a different local authority, then the split of the hours between the two providers will be determined in discussion with the other provider and any rules they have imposed for allocation of the hours. Further information is contained within both the provider and parent booklets.

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, then the payment will take place in the following term and in addition, 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; failure to do so will result in late 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 visit each provider claiming the entitlement approximately once a year to review the child attendance hours and billing procedures. 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 online 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 local complaints procedure.

Examples of good billing practice are shown below.

Example 1 – Termly invoice for child attending 4 x 3-hours sessions, term-time only with 9 hours EYE

Period covered – 11 th June – 17 th July	Days attending M,T,W,F	
<u>Description</u>	<u>Quantity</u>	<u>Amount</u>
3 Hour EYE funded session	18	£0
3 Hour non-EYE session @ £10.65	4	£42.60
	TOTAL PAYABLE:	£42.60

Example 2 – Termly invoice for child attending 4 x 3-hours sessions, term-time only, with 10.5 hours EYE

For each 12 hour week, 1.5 hours will be chargeable.

Any voluntary contribution can be added to the invoice as long as it is clear that this is not compulsory.

Period covered – 11 th June – 17 th July	Days attending M,T,W,F	
<u>Description</u>	<u>Quantity</u>	<u>Amount</u>
EYE funded hours per week (10.5 hours x 6 weeks)	63	£0
1.5 Hour non-EYE per week @ £3.55/hour x 6 weeks	9	£31.95
Voluntary Contribution @ £4 pw	6	£24.00
	TOTAL PAYABLE:	£55.95
<p>The Voluntary Contribution fee contributes to providing a good quality healthy snack for your child and replacement of existing equipment. Although not obligatory, we hope that you will agree that a contribution is good value and worthwhile to maintain the standards of the pre-school. Please speak in confidence with xxx if you are unable – or unwilling – to pay this invoice.</p>		

Example 3 – Monthly Invoice for child attending for 3 full days (30 hours) of which 15 hours is funded - 5 hours on each of 3 days

Date	Description	Amount
Mon 4 th June	Full day (not funded week)	£40
Tues 5 th June	Full day (not funded week)	£40
Wed 6 th June	Full day (not funded week)	£40
Mon 11 th June	am ½ day including lunch pm 5 hours EYE	£22 £0
Tues 12 th June	am ½ day including lunch pm 5 hours EYE	£22 £0
Wed 13 th June	am ½ day including lunch am 5 hours EYE	£22 £0
Mon 18 th June	am ½ day including lunch pm 5 hours EYE	£22 £0
Tue 19 th June	am ½ day including lunch pm 5 hours EYE	£22 £0
Wed 20 th June	am ½ day including lunch am 5 hours EYE	£22 £0
Mon 25 th June	am ½ day including lunch pm 5 hours EYE	£22 £0
Tue 26 th June	am ½ day including lunch pm 5 hours EYE	£22 £0
Wed 27 th June	am ½ day including lunch am 5 hours EYE	£22 £0
	TOTAL PAYABLE:	£318

Example 4 – Monthly Invoice for child attending for 3 full days (30 hours) of which 15 hours is funded. EYE is shown as a reduction from the total bill but must be at the provider’s hourly rate. Meal charges can be added

Date	Description	Quantity	Amount
4 th , 5 th , 6 th June	Full day including meal @ £40	3	£120
11 th , 12 th , 13 th June	Full day @ £40	3	£120
	Lunch @ £4	3	£12
	15 hours EYE		-£60
18 th , 19 th , 20 th June	Full day @ £40	3	£120
	Lunch @ £4	3	£12
	15 hours EYE		-£60
25 th , 26 th , 27 th June	Full day @ £40	3	£120
	Lunch @ £4	3	£12
	15 hours EYE		-£60
	TOTAL PAYABLE:		£336

Example 5 – Monthly Invoice for child attending for 2 full days (20 hours) of which 15 hours is funded. EYE is spread throughout the year by dividing the total funded hours for the year by 12 and is shown as a reduction from the bill at the providers hourly rate

Date	Description	Quantity	Amount
4 th , 6 th June	Full day @ £40	2	£80
	Lunch/tea @5	2	£10
11 th , 13 th June	Full day @ £40	2	£80
	Lunch/tea @5	2	£10
18 th , 20 th June	Full day @ £40	2	£80
	Lunch/tea @5	2	£10
25 th , 27 th June	Full day @ £40	2	£80
	Lunch/tea @5	2	£10
June	EYE per month (570hrs/12)	47.5	-£190
	TOTAL PAYABLE:		£170

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.