

# **Wiltshire Council Provider Agreement**

**The provision of Early Years  
Entitlement for two-, three-  
and four- year olds**

**Updated September 2021**

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## 1. Introduction

This provider agreement provides guidance which 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 hour entitlement for working parents of three and four year olds (the extended entitlement).

The agreement is based on the Department for Education's (DfE) 'Model Agreement: Early Years Provision Free of Charge and Free Childcare'. It is a contractual document between Wiltshire Council and childcare providers situated in the county in accordance with the Wiltshire Council's duties under Section 2 of the Childcare Act 2016 and Sections 6, 7, 7a, 9, 9a, 12 and 13 of the Childcare Act 2006.

Wiltshire Council reserves the right to unilaterally vary the agreement to reflect changes in legislation and departmental guidance. References to legislation will be to that legislation as amended from time to time, without express change in the Wiltshire Council Provider Agreement.

Wiltshire Council and providers must have regard for the Data Protection Act 2018 and the new UK General Data Protection Regulation 2021 (EU GDPR) regarding data use, storage, and confidentiality.

Wiltshire Council will comply with its responsibilities in relation to the Freedom of Information Act.

N.B The national statutory guidance uses the term 'Free Entitlement' to refer to funding for two-, three- and four-year-old children. In Wiltshire, a local decision has been made to use the alternative term 'Early Years Entitlement' instead. Despite this change, Wiltshire Council follows all national statutory guidance relating to the terms and conditions for the delivery of the funding.

## 2. Legal Framework and Statutory Guidance

The following frameworks and legislation underpin this provider 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
- UK General Data Protection Regulation 2021

### **3. Key Wiltshire Council responsibilities**

Wiltshire Council:

- must secure an Early Years Entitlement place for every eligible child in their area;
- should work in partnership with providers to agree how to deliver Early Years Entitlement places;
- 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;
- must contribute to safeguarding and promote the welfare of children and young people in their area.

### **4. Key provider responsibilities**

Early Years providers delivering Early Years Entitlement funded hours:

- a. must be fully registered with Ofsted;
- b. must comply with all relevant legislation and insurance requirements;
- c. should deliver the early years entitlement 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 providers should be clear and communicate to parents details about the days and times that they offer early years entitlement places, along with their services and charges. Those children accessing the early years entitlements should receive the same quality and access to provision;
- d. must follow the Early Years Foundation Stage (EYFS), and have clear safeguarding policies and procedures in place;
- e. 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 utilize the SEN Inclusion Fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents;
- f. must use the Wiltshire Council online Early Years Establishment Portal to claim Early Years Entitlement funding for two-, three- and four-year-old children;
- g. must adhere to all funding deadlines as set out by Wiltshire Council in the Summary of Important Dates (Appendix B) to receive monthly funding payments;
- h. must check and update their details (if required) on Wiltshire Council's online Family Information Service (FIS) directory at least 3 times a year, for example, 1 January, 1 April, and 1 December.
- i. must complete and submit all data collections issued by Wiltshire Council, or issued by the Local Authority on behalf of the Department for Education. Failure to do so may result in delayed or suspended funding.

### **5. Safeguarding**

Wiltshire Council has overarching responsibility for safeguarding and promoting the welfare

of all children and young people in their area. It has a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the ['Working together to safeguard children' guidance 2015](#) sets these out in detail.

Providers 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 providers must train all staff to understand their safeguarding policy and procedures and ensure that all staff have up to date knowledge of safeguarding issues. Providers must enable staff to identify signs of possible abuse and neglect at the earliest opportunity.

## 6. Eligibility

Providers should check original copies of documentation to confirm a child has reached the eligible age on initial registration for all Early Years Entitlement. Providers are not required to keep a copy of the birth certificate but in cases where this is done, the provider must ensure that the data is stored in accordance with the Data Protection Act 2018.

### 6.1 Two-year-olds

In Wiltshire, Early Years Entitlement for two-year-olds is known as the Better 2gether scheme. Not all two-year-olds are eligible to access Early Years Entitlement funding. It is the provider's responsibility to check that a two-year-old child has been approved to receive funding. The provider must check that the parent is in receipt of a Wiltshire Council approval letter notification indicating the child's application number before offering an Early Years Entitlement place. A provider is able to check the eligibility of a child's two-year-old application reference number eligibility code via a validity checking service button at the bottom of the dashboard in their Wiltshire Council Early Years Establishment Portal account.

Where the parent meets the eligibility criteria for the Early Years Entitlement, the funding will start from the beginning of the term following the child's second birthday.

<b>A child born in the period</b>	<b>Eligibility starts</b>
1 January to 31 March (inclusive)	Funding from 1 April
1 April to 31 August (inclusive)	Funding from 1 September
1 September to 31 December (inclusive)	Funding from 1 January

Providers 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, regardless of whether their circumstances change.

If a child has had their eligibility confirmed by another local authority, the provider will need to submit a copy of their award notification (via the Wiltshire Council Early Years Establishment Portal), or in the absence of such a letter, they will need to provide details so Wiltshire Council can contact the other local authority to confirm the child's eligibility. If the other local authority confirms eligibility, Wiltshire Council will honour their entitlement at a Wiltshire provider.

**6.2 Three- and four-year-olds (universal entitlement)**

The universal entitlement for three and four olds is for 570 Early Years Entitlement hours a year over no fewer than 38 weeks and up to 52 weeks per year. Children will be eligible at the start of the funding period following their third birthday and continue to be eligible until they reach compulsory school age (the beginning of the term following their fifth birthday).

A child born in the period	Eligibility starts
1 January to 31 March (inclusive)	Funding from 1 April
1 April to 31 August (inclusive)	Funding from 1 September
1 September to 31 December (inclusive)	Funding from 1 January

**6.3 Three- and four-year-olds of working parents (extended entitlement)**

The extended entitlement for children of working parents is an additional 15 Early Years Entitlement hours a week (an annual total of 1140 hours) over no fewer than 38 weeks and up to 52 weeks per year.

Parents must apply for the additional Early Years Entitlement hours through the Government's online Childcare Service. Eligibility for the additional Early Years Entitlement hours is determined by HMRC through this online service, and an 11-digit eligibility code will be issued to the parent. Providers must validate this code along with the parent's National Insurance number and the child's date of birth via a validity checking service button at the bottom of the dashboard in their Wiltshire Council Early Years Establishment Portal account. Providers **must acquire written consent** from, or on behalf of, the parent to be able to receive confirmation and future notifications from Wiltshire Council of the validity of the parent's 30 hours eligibility code. Once the provider has validated the code, an extended entitlement place can then be offered.

Wiltshire Council must ensure that a child has a place no later than the beginning of the funding period following the child and parent meeting the eligibility criteria for their place. If a parent becomes eligible for the extended entitlement after the start of a funding period, the parent can claim the additional hours from the start of the following funding period. A child ceases to be eligible to access any Early Years Entitlement hours once they have reached compulsory school age (the funding

period following their fifth birthday).

Where a child is eligible for the extended entitlement and they are accessing their hours at more than one provider, it is up to the parent to determine the split of entitlement (universal and extended) between those providers.

Providers must use the Parent Declaration form (available on the Wiltshire Council website) to record the parent's eligibility code and National Insurance number.

Wiltshire Council and providers will ensure that parents are aware that there is a review and appeals process available to them if they disagree with the eligibility outcome as determined by HMRC. The review and appeals process is managed by HMRC.

Wiltshire Council will complete audit checks of all eligibility codes. Providers will be informed via the Wiltshire Council Early Years Establishment Portal where a parent has fallen out of eligibility and notified of the grace period end date. A provider can check if a child's 11-digit eligibility code is valid via a validity checking service button at the bottom of the dashboard in their Wiltshire Council Early Years Establishment Portal account.

<b>Date parent receives ineligible decision on reconfirmation</b>	<b>Grace period end date</b>
1 Jan – 10 Feb	31 March
11 Feb – 31 March	31 August
1 April – 26 May	31 August
27 May – 31 August	31 December
1 September – 21 October	31 December
22 October – 31 December	31 March

## **7. The Grace Period (for the Extended Entitlement only)**

The Grace Period enables parents to retain their child's place for a short period if they become ineligible, for example, if a parent loses their job.

A child will enter the Grace Period when the child's parent(s) 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.

Wiltshire 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 national Eligibility Checking Service (ECS). The Grace Period end date will automatically be applied to eligibility codes.

Wiltshire 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 2018.

Providers should make parents aware that if they cease to meet the eligibility criteria and the Grace Period has expired, they can continue to take up their child's universal entitlement up to 15 hours (or its equivalent if the entitlement is being stretched) provided they have not exceeded 570 hours.

Parents may appeal the decision that has determined their ineligibility directly to HMRC via their appeals process. The Local Authority has no influence or discretion regarding this.

A child is unable to access extended entitlement hours for the first time with an eligibility code in its Grace Period.

## **8. Flexibility**

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 2018.

Providers are encouraged to offer flexible packages of Early Years Entitlement hours.

Early Years Entitlement can be offered over 38 weeks (term-time offer) or up to 52 weeks (stretched offer).

Where a provider is offering less than 38 funded weeks per year, parents must be made aware they cannot access their full entitlement with them. Providers must not offer more than either 15 hours (universal entitlement) or 30 hours (extended entitlement) over a reduced number of weeks.

Providers should publish information about their offer and their admissions criteria and ensure parents are made fully aware at the point of registration what hours can be accessed as funded hours.

Providers should ensure that they make their patterns of delivery for both 15 and 30 hours clear and transparent enabling parents to decide where to access their entitlement. There is no requirement for all providers to offer a minimum session length.

Wiltshire Council will make both providers and parents aware that there is no requirement for providers to offer 30 hours in order to receive funding to deliver the universal entitlement and that providers are free to choose not to deliver the universal entitlement at all.

Wiltshire Council will make parents and providers aware that there is no requirement that Early Years Entitlement places must be taken on or delivered on particular days of the week or at particular times of the day. In addition, there is now no longer the requirement that a provider must be open for at least 38 weeks of the year, or that a provider must offer 30 hours in order to receive funding to deliver Early Years Entitlement places.

Where a child attends more than one setting to access the extended entitlement, parents will need to make it clear on the Parent Declaration form which setting will receive the universal

entitlement and extended entitlement.

Wiltshire Council will ensure parents are made aware that the entitlement to an Early Years Entitlement place does not offer any guarantee of a place at any one provider or a particular pattern of provision.

## **9. Partnership working**

Wiltshire Council will support partnership working between:

- a. Wiltshire Council and providers;
- b. Providers working with other providers, including childminders, schools and organisations;
- c. Providers and parents;
- d. Wiltshire Council and parents.

Wiltshire Council actively encourages partnership working between different types of providers, including childminders, across all sectors, and will encourage more providers to offer flexible provision alongside other providers.

Providers should work in partnership with parents and other providers to improve provision and outcomes for children in their setting. A toolkit has been developed by the Family and Childcare Trust to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring. More details can be found at: <https://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>.

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

## **10. Special Educational Needs and Disabilities**

Wiltshire Council promotes an inclusive approach to its work and strategically plans to support children with special educational needs and/or disabilities (SEND) so that the needs of all children in their local area are met in accordance with the Special Educational Needs and Disability Code of Practice: 0-25 years (January 2015).

Providers 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.

Wiltshire Council's Local Offer is very clear and transparent about the support on offer within the county for parents and providers, and how that support can be accessed. More details can be found at <https://www.wiltshire.gov.uk/local-offer>.

Providers must publish clear and transparent information 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.

Providers should promote the Disability Access Fund (DAF) to parents and collect information from parents about their Disability Living Allowance on the Parent Declaration form. Further information about DAF and how it can be claimed can be found at

## **11. Social mobility and disadvantage**

Wiltshire Council promotes equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to Early Years Entitlement places and working with parents to give each child support to fulfil their potential.

Providers should ensure they have identified the disadvantaged children in their setting as part of their process for checking Early Years Pupil Premium (EYPP) eligibility. They must also use EYPP and any locally available funding streams or support to improve outcomes for this group. Further information about EYPP can be found at <http://www.wiltshire.gov.uk/child-care-early-years-pupil-premium>

## **12. Quality**

The Early Years Foundation Stage 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.

Ofsted are the sole arbiter of quality for all Early Years 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.

Wiltshire Council has a legal duty to provide information, advice, and training on meeting the requirements of the Early Years Foundation Stage (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 order that all children can access their entitlement to high quality provision in line with Section A3 of Early Education and Childcare Statutory Guidance and the EYFS statutory framework, Wiltshire Council will deliver Early Years Entitlement places through:

- a. early years providers other than a childminder registered on the Ofsted Early Years register; or
- b. a childminder registered on the Ofsted Early Years register; or
- c. a childminder registered with a childminder agency which is itself registered with Ofsted on Early Years Register; or
- d. schools taking children aged two and over and which therefore are exempt from registration with Ofsted as early years providers.

Wiltshire Council will:

- e. fund places for children attending any provider judged 'good' or 'outstanding' by Ofsted and the provider is willing to accept Wiltshire Council's funding requirements as set out in this agreement;
- f. fund places for three- and four-year-old children at any provider judged 'satisfactory' (prior to 2014) or 'requires improvement' by Ofsted. Advice will be

available to settings judged 'requires improvement' to support them to improve the quality of their provisions;

- g. only fund places for two-year-old children with 'requires improvement' providers where there is insufficient, accessible 'good' or 'outstanding' provision in the area;
- h. fund places for two-, three- and four-year-old children at new providers registered with Ofsted until the provider's first full Ofsted inspection judgement is published, and the provider is willing to accept Wiltshire Council's funding requirements as set out in this agreement. Following publication of their Ofsted inspection judgement the conditions above will apply;
- i. fund providers with an Ofsted inspection judgement of 'met' until their Ofsted quality inspection judgement is published;
- j. fund providers with exemptions from the EYFS if a parent wants their child to take up their Early Years Entitlement at an exempt provider and the provider is willing to accept Wiltshire Council's funding requirements as set out in this agreement;
- k. fund individual children who have exemptions from the EYFS.
- l. rely solely on the Ofsted inspection judgement of the provider as the benchmark of quality;
- m. consider any information published by Ofsted about a provider or childminder agency including the recent history about childcare provision by a particular provider or agency or childcare provision at a particular address. This may include where Wiltshire Council has concerns that a provider judged 'inadequate' by Ofsted may have re-registered their setting to avoid making the improvements identified by Ofsted.

Wiltshire Council will not:

- n. fund providers who do not meet the quality standards as set out by Ofsted with an Ofsted inspection judgement of 'not met';
- o. fund providers who do not actively promote fundamental British values or if they promote views or theories as fact which are contrary to established scientific or historical evidence and explanations (as set out in sections A4.28-A4.32 of 'Early education and childcare: Statutory guidance for local authorities', June 2018).

### **13. Business planning**

Wiltshire Council will clearly set out the documentation that they need from providers to support payment and delivery of Early Years Entitlements, and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.

Wiltshire Council will offer advice, support, and guidance to providers. Providers will be challenged where business practice is found to be poor, and they will be expected to improve.

Wiltshire Council will not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.

Providers must:

- a. comply with legislation including the auditing and submission of accounts, the passing of information to the Charities Commission (where appropriate) and the regular submission of information to bodies such as Companies House;
- b. provide financial information to the Local Authority for the purposes of auditing to ensure the correct use of public funds;
- c. run their business in a legal and professional way;
- d. follow the conditions of capital and revenue grants that are offered and comply with monitoring arrangements for those grants;
- e. ensure timely and accurate information is submitted, 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.
- f. maintain accurate financial and non-financial records relating to Early Years Entitlement places and should give the local authority access on reasonable notice to all financial and non-financial records relating to the Early Years Entitlement funded under the provider agreement, subject to confidentiality restrictions.

## **14. Charging**

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

Providers can charge for meals and snacks as part of an Early Years Entitlement place and can also charge for consumables such as nappies or sun cream, and for additional services such as trips and activities. Parents can therefore be expected to pay for these, although these charges must be voluntary for the parent and not be a condition of accessing their Early Years Entitlement place. Where parents are unable or unwilling to pay for meals and consumables, providers who choose to offer the Early Years Entitlement are responsible for setting their own policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals. Providers should be particularly mindful of the impact of additional charges on the most disadvantaged families.

Providers should deliver the Early Years Entitlement consistently so that all children accessing any of the entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals, or consumables. Providers should make all their charges clear in a Fee Structure and ensure that parents are aware of any charges for additional services before they take up their Early Years Entitlement place.

Wiltshire Council will not intervene where parents choose to purchase additional hours or additional services, providing this does not affect the parents' ability to take up their child's Early Years Entitlement place. Providers should be completely transparent about any additional charges.

Children with special educational needs and disabilities (SEND) must be treated fairly and equally with reasonable adjustments made as set out in Sections 20 and 21 of the Equalities Act 2010'. Providers must not charge parents additional fees to support a child with SEND.

Providers should publish their admissions criteria ensuring it is clear and available to all parents, so they can understand which hours can be taken as Early Years Entitlement provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of hours are convenient for parents' working hours.

Providers can charge a deposit to secure their child's Early Years Entitlement place but must refund the deposit in full to parents within a reasonable time scale. Wiltshire Council's recommendation is the end of a half term or within six weeks of a child's start. However, the charging of a deposit must not be a barrier to a child accessing their Early Years Entitlement hours.

Providers cannot charge parents 'top-up' fees (the difference between a provider's usual fee and the funding they receive from Wiltshire Council to deliver Early Years Entitlement places) or require parents to pay a registration fee as a condition of taking up their child's Early Years Entitlement place.

Providers should ensure their invoices and receipts are clear, transparent, and itemised, allowing parents to see that they have received their full Early Years Entitlement and understand fees paid for additional hours or services. The provider will also ensure that invoices and receipts contain their full details so that they can be identified as coming from a specific provider.

The early years entitlement is an entitlement in hours, not a monetary value to be deducted from a childcare provider's bill or as a discounted item on an invoice.

## **15. Funding**

To receive early years entitlement payments, providers must be fully registered with Ofsted or a childminding agency, as well as with Wiltshire Council's Directory of registered childcare providers. In the event that a provider is taken over by another provider, funding for the new registered owner will commence from the date Ofsted confirm the registration has been completed.

Providers should accurately complete and submit headcount, Early Years Census, and other necessary data returns via the Wiltshire Council Early Years Establishment Portal by the agreed dates to support Wiltshire Council to make payment.

Wiltshire Council will produce a Summary of Important Dates for the current financial year (Appendix B) and all providers need to adhere to the deadlines detailed therein.

Wiltshire Council is funded on the same basis for both the 15 hour universal entitlement for all three and four year olds and the extended entitlement for children of working parents. This is because the statutory framework and the quality requirements for the universal and extended entitlement are the same. Wiltshire Council will fund providers as follows:

- An hourly rate for eligible two-year-olds
- An hourly base rate for three- and four-year-olds (both universal and extended entitlement) plus:
  - i. A deprivation supplement for any eligible three- and four-year-old children
  - ii. A rurality/sustainability supplement for providers who have less than 9 children and where the next nearest provider is more than 2 miles away.

Providers will receive an annual indicative funding estimate at the beginning of the financial year, detailing the hourly rates for two-, three- and four-year-olds and an indication of the estimated amount of funding they will receive for that year. All childminders will have their budget set to zero to reduce the risk of overpayment. Wiltshire Council will adjust this funding estimate throughout the financial year to reflect actual participation.

Early Years Pupil Premium (EYPP) is claimed through the Wiltshire Council Early Years Establishment Portal. Please see Appendix C for further information and how to claim this funding.

The Disability Access Fund can be used to support access to the Early Years Entitlement. Please see Appendix D for further information and how to claim this funding.

## **15.1 Payments**

Providers will receive 12 monthly instalments based on their annual indicative funding estimate. Estimated hours will be reconciled to actual hours delivered for each funding block. Any amendments to payments will be made in the adjustment months (July, December, and March).

Payment dates are listed on a provider's annual indicative funding estimate and in the Summary of Important Dates (Appendix B), and payments are made via BACS directly into a provider's bank/building society account.

If a provider wishes to change their bank details, the new details can be submitted using the online [New Provider Details Form](#) giving at least one month's notice of the required change.

No funding payments will be released whilst a provider has outstanding debts relating to Early Years Entitlement for two-, three- and four-year-olds with Wiltshire Council.

## **15.2 Payment of balances due**

In the event of a provider delivering *more* hours than estimated, the monies due will be paid in the next available adjustment month (July, December, March).

## **15.3 Recovery of overpayments**

In the event of a provider delivering *fewer* hours than estimated, the overpayment will be recovered as a lump sum from the next available adjustment month (July, December,

March). Where there is insufficient funding to cover the full amount to be recovered, an invoice will be raised for the remaining balance.

In the event of an invoice having to be raised, the terms of payment are 28 days. Unpaid invoices will be subject to legal action and any costs involved can be added to the provider's account.

## 16. Compliance

Wiltshire Council reserves the right to carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the early years entitlement in accordance with this provider agreement and the national guidance.

Parent declaration forms and other checks referred to in this provider agreement must be completed and signed (where necessary) in order for providers to claim Early Years Entitlement funding.

Failure to allow access to carry out an audit within a designated timeframe may result in funding being withheld.

## 17. Termination and withdrawal of funding

Wiltshire Council will work in partnership with providers to ensure quality of provision and a sufficient number of places for the delivery of Early Years Entitlement to eligible two-, three- and four-year-olds.

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.

Childcare providers **must** comply with the requirements of the national guidance and the Wiltshire Council Provider Agreement as well as working within all other legal requirements in their provision. Wiltshire Council reserves the right to withdraw funding from a provider and remove them from the Wiltshire Directory of Registered Early Years Providers for non-compliance of any statutory requirement. Wiltshire Council will not waive the right to act to terminate or withdraw funding if it does not act immediately.

Wiltshire Council will withdraw funding from providers in the following circumstances:

- 1 . In the event that Ofsted judge the provision as inadequate the Local Authority will follow the procedure set out in the national statutory guidance by securing alternative provision and withdraw funding for children who are already receiving their funded entitlement at a provider on receipt of official Ofsted notification, and as soon as is practical. Funding will not be withdrawn from a provider until the provider's Ofsted inspection is published.
- 2 . Funding will be restored once Ofsted has re-inspected and judged the provision as 'requires improvement' or above, and where the childcare provider has re-registered for entry onto the Wiltshire Directory of Registered Early Years Providers.

- 3 . In cases of gross misconduct e.g., Ofsted enforcement action, fraud, or financial irregularity, where children are unsafe or not safeguarded effectively.
- 4 . In the event of outstanding invoices related to the delivery of Early Years Entitlement funding, Wiltshire Council will suspend monthly estimated payments until full payment of the invoice(s) has been made.

Ofsted will be informed if a provider has their funding withdrawn.

The provider will have the opportunity to make written representations prior to the final decision for withdrawal of funding being made. The right to appeal is set out in Appeals section below.

## **18. Appeals procedure**

A provider may be denied approval to offer the Early Years Entitlement or have their funding withdrawn as set in the Termination and withdrawal of funding section above. The provider can appeal using the local authority's procedure where either:

- a. a decision has been made to suspend or withdraw funding from a provider; or
  - b. a decision has been made to remove a provider from the Wiltshire Directory of Early Years Providers; or
  - c. a decision has been made to not enter an applicant onto the Wiltshire Directory of Early Years Providers
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1. If a childcare provider wishes to appeal any decisions, they **must** write to the Local Authority within two weeks (14 days) of the notice being given, detailing the grounds for objection with relevant evidence in support.
  2. On receipt, Wiltshire Council will acknowledge receipt of the appeal in writing giving details for an appeal hearing. The appeal panel will meet within 1 month of the evidence having been received by the local authority.
  3. Wiltshire Council will prepare a written report for the appeal panel. This report, along with the childcare provider's evidence will be emailed to the panel and the childcare provider at least one week before the date of the appeal hearing.
  4. The appeal will be heard by a panel of three council members. The panel members will have had no prior involvement in the matter under appeal. One of the panel members will act as chair. There will also be an independent clerk present to record the proceedings. A member of staff from the provision may attend the hearing in order to put the childcare provider's case to the panel. He/she may also bring another person with them e.g., a friend, relative, business colleague to help or to put the provider's case on its behalf. In addition, there will be a maximum of two representatives from the Local Authority to put the Local Authority's case to the panel.
  5. The panel's decision will be final.

## **19. Complaint procedures**

### **19.1 Parents**

Providers 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 Early Years Entitlement in the correct way, as set out in this agreement and in the Early Education and Childcare Statutory Guidance for Local Authorities.

Parents who are not able to access their entitlement in the correct way should first approach the provider to discuss their concerns or complaints. If they are not satisfied or believe that the statutory guidance is not being adhered to, they should make their complaint to the Early Years Entitlement officers at Wiltshire Council via the online Parent Complaint form on the Wiltshire Council website or [earlyyears@wiltshire.gov.uk](mailto:earlyyears@wiltshire.gov.uk).

### **19.2 Providers**

If a childcare provider wishes to make a complaint about the management and administration of Early Years Entitlement, then providers should make their complaint to the Customer Complaints Team either via the [online complaints form](#) on the Wiltshire Council website or on 01225 718400 or [complaints@wiltshire.gov.uk](mailto:complaints@wiltshire.gov.uk).

If a parent or provider is not satisfied with the way in which their complaint has been dealt with by the local authority or believes the local authority has acted unreasonably, a complaint can be made to the Local Authority Ombudsman. Such complaints will only be considered when local complaints procedures have been exhausted. For further details visit [www.lgo.org.uk](http://www.lgo.org.uk) or telephone 0300 061 0614.

## **20. Data Protection and Freedom of Information**

Wiltshire Council and providers will acknowledge their respective duties under the Freedom of Information Act 2000 and must give all reasonable assistance to each other where appropriate or necessary to comply with such duties.

The new UK General Data Protection Regulation 2018 (EU GDPR) puts in place certain safeguards regarding the use of personal data by organisations, including the Department for Education, local authorities, schools, and other early education providers. It also obliges organisations to treat people's data correctly, transparently and have systems in place for managing information. This regulation is the legal framework within which Wiltshire Council as a controller of personal data must operate. It covers all data held about an individual (data subject) in both manual and computerized files. GDPR is also augmented by The Data Protection Act 2018.

Providers are asked to pay particular note to advice from the Information Commissioner's Office on holding personal data including sensitive personal data available in the Guide to Data Protection which can be found at <https://ico.org.uk/for-organisations/guide-to-data-protection/>

## **Appendix A – Funding Process**

There are three funding periods each year (Summer, Autumn and Spring) which are similar to the school terms, and there is a headcount week within each funding period.

For each funding period, providers are expected to submit estimated and actual claims for hours of eligible children via the Wiltshire Council Early Years Establishment Portal.

All funding related dates are detailed in the Summary of Important Dates (Appendix B) which also includes additional information such as the number of funded weeks and funded hours within each funding period.

Providers must complete and sign the Provider Declaration (Appendix F) and agree to adhere to the Wiltshire Council Provider Agreement. This must only be signed by the person legally responsible for the provision with a copy held on site.

Once the Provider Declaration has been signed and returned along with all other relevant set up documentation, a provider can then start to receive Early Years Entitlement funding for any eligible children they may have.

### **Estimates**

At the start of each funding period, providers will need to submit an estimate of the number of children and hours they expect to deliver via the Wiltshire Council Early Years Establishment Portal.

The details of all eligible children for Early Years Entitlement in that funding period should be input onto a provider's Live Register within the Portal in readiness to carry out the estimate submission. Providers will be given a 'window' in which to complete this task. Estimate submissions received after the closing date will not be processed.

Guidance on how to submit an Estimate can be found in the Wiltshire Council Early Years Establishment Portal Guide.

### **Headcount submissions**

Providers must accurately submit headcount returns for each funding period recording actual attendance to support their estimated monthly payments.

Headcount returns are submitted via the Wiltshire Council Early Years Establishment Portal. Providers will be given a 'window' in which to complete this task. Failure to submit accurate returns by the closing date may result in inaccurate, delayed, or suspended funding.

Guidance on how to submit a Headcount can be found in the Wiltshire Council Early Years Establishment Portal Guide.

Once all headcount submissions have been processed, providers will receive a Statement of Grant by email detailing a list of eligible children with their approved hours for funding along with any other funding claims such as Early Years Pupil Premium and Disability Access Fund. Providers will be given a 'window' within which to contact the Early Years Entitlement Team

regarding any amendments via email at [earlyyears@wiltshire.gov.uk](mailto:earlyyears@wiltshire.gov.uk) . Statement of Grant amendments received after the closing date will not be processed.

## **Early Years Census**

Wiltshire Council reports annually the take up of Early Years Entitlement funding of two-, three- and four-year-olds to the Department for Education (DfE). The Spring term headcount (in January) forms part of the statutory Early Years Census. Providers must submit child level and provision level data (such as opening hours and staff qualifications) via the Wiltshire Council Early Years Establishment Portal.

Guidance on how to add provision and staff details for the Early Years Census headcount submission can be found in the Wiltshire Council Early Years Establishment Portal Guide.

## **Funding claims**

- Funding can only be claimed between 6am and 8pm.
- Funding can only be claimed in ¼ hour (0.25 hour) blocks.
- There is no minimum session length (subject to the requirements of registration on the Ofsted Early Years Register);
- A maximum of 10 hours funding per day can be claimed.
- A maximum of 15 hours or 30 hours (if the parent has a valid 30 hour code) funding per week can be claimed.
- A maximum of two early years providers may be used in one day.
- Where claims at multiple providers are received in excess of the maximum number of hours allowable, funding will not be paid to either provision until the over claim is resolved.
- Early Years Entitlement can be offered over 38 weeks (term-time offer) or up to 52 weeks (stretched offer).
- Where a provider is offering less than 38 funded weeks per year, parents must be made aware they cannot access their full entitlement with them. Providers must not offer more than either 15 hours (universal entitlement) or 30 hours (extended entitlement) over a reduced number of weeks.
- Providers must ensure they have a fully completed and signed Parent Declaration form by the parent or legal guardian for each child they wish to claim funding for. No funding will be paid in the absence of this form. The Parent Declaration form and the actual claim made will be examined as part of any audit of the Early Years Entitlement and any discrepancies will be investigated and any overpayments recovered.

- Childminders, whether registered with Ofsted or with a Childminder Agency, cannot claim Early Years Entitlement for their own children, stepchildren, or a relative's child (grandparent, aunt, uncle, brother, or sister, including by marriage).
- Children can be absent due to holidays/sickness for a period of up to 4 weeks before any funding will be recovered. In cases of prolonged sickness please contact Wiltshire Council.
- Wiltshire Council will fund any child attending a Wiltshire provision regardless of whether they live in the county or not.
- Wiltshire Council will work with other local authorities where parents wish their child to access part of their Early Years Entitlement at a provision outside of Wiltshire.

### **Change of providers**

Once a parent has completed and signed a provider's parent declaration form for a funding period, Wiltshire Council does not expect any movements between providers, unless one of the valid reasons as detailed below has been met.

### **Mid-term claims**

Providers can claim funding for children who join their provision after the headcount week within a funding period (late starters).

Providers are also expected to return funding for children who leave after the headcount week but before the end of the funding period (early leavers).

Only full weeks of funding can be claimed.

Mid-term claims for both late starters and early leavers can be submitted via the Wiltshire Council Early Years Establishment Portal. Guidance on how to submit a mid-term claim for either a starter or leaver can be found in the Wiltshire Council Early Years Establishment Portal Guide. Submission deadlines for these returns are detailed in the Summary of Important Dates (Appendix B).

It is a provider's responsibility to check the reason for their move with the parent, and to make them aware that their mid-term move might not be approved for funding.

There are 6 valid reasons for a mid-term move and subsequent mid-term claim:

- moving house;
- a change in the child's primary carer;
- where a sibling moves school and the child is able to attend a nearby setting;
- where loss/change of employment affects the childcare place e.g. if a child's provision was taken up near a parent's employment rather than their home;
- health and safety issues e.g. child protection/domestic violence;
- when a child requires a place at a District Specialist Centre.

Mid-term claims for a late starter child who has not accessed their Early Years Entitlement at any other provider in the current funding period will be approved for funding.

If a provider agrees to offer the Early Years Entitlement to a child mid-way through the funding period for a reason other than a valid reason listed, Wiltshire Council will not approve a claim for funding. In such cases, providers will need to honour the universal entitlement of up to 15 hours per week, without charging the parent for these hours.

Mid-term claim payments are made in arrears. Claim submission deadlines and payment dates can be found in the Summary of Important Dates (Appendix B).

## Appendix B - Summary of Important Dates

Term	Summer 2021	Autumn 2021	Spring 2022
Funding period dates	1 April – 31 August 2021	1 September – 31 December 2021	1 January – 31 March 2022
Funded weeks	13 – 22	14 – 18	11 - 13
Max number of funded hours in funding period	<b>195</b> hours (universal entitlement) <b>195</b> hours (extended entitlement)	<b>210</b> hours (universal entitlement) <b>210</b> hours (extended entitlement)	<b>165</b> hours (universal entitlement) <b>165</b> hours (extended entitlement)
Monthly payments	23 OR 30 April 2021 21 May 2021 21 June 2021 23 July 2021 23 August 2021	20 September 2021 22 October 2021 22 November 2021 20 December 2021	21 January 2022 21 February 2022 21 March 2022
Estimated Hours - submission window opens in Establishment Portal	26 March 2021	1 September 2021	4 January 2022
Estimated Hours - submission window closes in Establishment Portal	21 April 2021	8 September 2021	10 January 2022
Headcount week	17 – 21 May 2021	4 – 8 October 2021	17 – 21 January 2022
Headcount - submission window opens in Establishment Portal	17 May 2021	4 October 2021	17 January 2022
Headcount - submission window closes in Establishment Portal	24 May 2021	11 October 2021	24 January 2022
Statement of Grant - emailed out to early years providers	Week commencing 7 June 2021	Week commencing 1 November 2021	Week commencing 7 February 2022
Statement of Grant – closing date for amendments to be emailed to Early Years inbox	25 June 2021	19 November 2021	25 February 2022
EYPP and DAF lump sum payments made	23 July 2021	20 December 2021	21 March 2022
Mid-term changes – submission window closes in Establishment Portal	31 August 2021	31 December 2021	31 March 2022
Mid-term change payments made by	31 September 2021	31 January 2022	31 April 2022

## **Appendix C – Early Years Pupil Premium**

Early Years Pupil Premium (EYPP) is additional funding available to early years providers to support delivering funded hours to eligible three- and four-year-old children.

2-year-old children are not eligible for EYPP funding.

Providers can submit an EYPP claim through the Wiltshire Council Early Years Establishment Portal at the same time as completing the termly headcount submission.

Guidance on how to submit an EYPP claim can be found in the Wiltshire Council Early Years Establishment Portal Guide.

### **Eligibility checking**

Three- and four-year-olds will be eligible for EYPP if they are accessing universal entitlement hours at a provider and meet any of the following criteria:

- their family gets one of the following:
  - Income Support;
  - Income-based Jobseeker's Allowance;
  - Income-related Employment and Support Allowance;
  - Support under part VI of the Immigration and Asylum Act 1999;
  - The guaranteed element of the State Pension 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);
  - Working Tax Credit run-on, which is paid 4 weeks after they stop qualifying for Working Tax Credit;
  - Universal Credit (household income must be less than £7,400 a year after tax, not including any benefits – this is assessed on up to 3 of the parent's most recent Universal Credit assessment periods);
  
- they are currently being looked after by a local authority in England or Wales;
  
- they have left care in England or Wales through:
  - an adoption order;
  - a special guardianship order;
  - a child arrangements order.

If a child qualifies for EYPP under more than one set of criteria, they will only attract the funding once.

An EYPP check should not be made more than a term in advance of a child taking up their Early Years Entitlement place in case the family's circumstances change.

Once a provider starts receiving EYPP funding for a child, they will not lose it while the child is accessing Early Years Entitlement at their provision.

Eligible children will be clearly identified on your termly Statement of Grant.

Once a child enters reception, they will no longer be eligible for EYPP, but may be eligible for pupil premium. Eligibility for EYPP does not lead automatically to eligibility for pupil premium when a child enters school.

### **Payment**

Funding is paid three times a year in July, December, and March along with your monthly Early Years Entitlement payment.

The EYPP funding rate is set at the national rate of 53p per universal entitlement hour.

## **Appendix D – Disability Access Fund**

Disability Access Funding (DAF) is available to support disabled children's access to the Early Years Entitlement for three- and four-year-olds.

The purpose of this funding is to enable a provider to make reasonable adjustments and/or helping with building the capacity of their provision to support disabled children.

### **Eligibility**

Three- and four-year-olds will be eligible for the DAF if they meet the following criteria:

- the child is in receipt of Disability Living Allowance (DLA)
- the child receives the universal 15 hours Early Years Entitlement

Children do not have to take up their full entitlement of 570 hours in order to receive the DAF. Children are eligible where they take up any period of Early Years Entitlement and receive DLA.

4-year-olds in primary school reception classes are not eligible for DAF funding.

### **Identifying eligible children**

Early years providers are responsible for identifying eligible children and are encouraged to speak to parents in order to find out who is eligible for this funding.

Parents will need to complete the Disability Access Fund section of the Parent Declaration Form and provide their chosen early years provider with a copy of their DLA award notification letter for audit purposes.

### **Funding and payment**

Wiltshire Council will fund all early years providers delivering Early Years Entitlement at the national annual rate of £615 per eligible child. This will be paid as a lump sum payment in either July, December, or March, depending on the date of a child's 3<sup>rd</sup> birthday and when the DAF claim has been received.

Where a child is still eligible for the DAF, providers should receive a second payment one year later: that is, one year after they first received the DAF.

Funding will be distributed in its entirety to early years providers and will not be offset against any other funding which Wiltshire Council may ordinarily be providing for children eligible for the DAF.

Where a child attends and splits their Early Years Entitlement at more than one early years provider, the parent must nominate only one to receive the full funding.

Where a child receiving DAF moves from one provider to another, the new provider is not eligible to receive DAF funding for this child until the anniversary of the first payment has

passed. DAF funding received by the original provider will not be recouped by Wiltshire Council.

Where a child who lives in one local authority attends a provider in another local authority, eligibility checking and funding the DAF for the child is the responsibility of the local authority in which the provider is based.

Providers can submit a DAF claim through the Wiltshire Council Early Years Establishment Portal at the same time as completing the termly headcount submission.

Guidance on how to submit a DAF claim can be found in the Wiltshire Council Early Years Establishment Portal Guide.

Eligible children will be clearly identified on your termly Statement of Grant.

## Appendix E – Supplements

### Deprivation

The deprivation supplement is intended to support children to have equal chances of achieving success irrespective of their family circumstances or where they live.

Only eligible three- and four-year-old children will attract this funding for a provider. If your provision attracts this funding it will be detailed on your indicative annual financial estimate issued at the start of the financial year.

Using the IDACI indices of Multiple Deprivation scoring system, the value of this funding will be calculated annually from the Autumn funded period headcount data and applied to the whole of the following financial year. Each provider will receive a supplement for the number of weighted hours delivered to qualifying children. The deprivation supplement is paid at 40p per weighted hour.

Providers will not be informed which children have attracted this funding so it should be spent on improving the overall outcomes of all children.

The deprivation supplement will be divided equally over the 12 months of the financial year and paid along with each monthly Early Years Entitlement payment. However, the supplement will only be paid when a provider is open and delivering the Early Years Entitlement, for example if a provider is only open for the Summer funding period within a financial year, then only 5 months of the supplement annual allocation will be paid.

### Rurality/sustainability

The rurality/sustainability supplement is intended to enable small early years providers, where there is no alternative provision, to retain a degree of stability.

Where applicable, an early years provider will receive an annually calculated additional 52p per hour where in the current year's Summer funding period:

- they had fewer than ten children in attendance; **and**
- they delivered less than 300 hours; **and**
- there was no other early years provider within a two mile radius.

Please note that this supplement is not available to childminders due to the generally small size of their provision.

The rurality supplement will be divided equally over the 12 months of the financial year and paid along with each monthly Early Years Entitlement payment.

## Appendix F – Provider Declaration

### Declaration of Agreement between Wiltshire Council and early years providers delivering Early Years Entitlement funding

**Name of provision:** .....

**Ofsted Registration Number** .....

I am the Registered Person for this provision (or Responsible Person, if the Registered Person is a 'body'). I have read and agree to abide by all aspects of the:

1. Early Education and Childcare, Statutory Guidance for Local Authorities (June 2018)
  2. Wiltshire Council Provider Agreement for the provision of Early Years Entitlement for Two, Three and Four Year Olds
- I understand that any failure on my behalf to uphold any obligation placed upon me by the Provider Agreement may result in a withdrawal of funding to deliver the Early Years Entitlement in my provision and/or recall of any monies already paid.
  - I understand that the above-named provision may be subject to visits and/or audit monitoring by Wiltshire Council Officers to examine any aspect of the delivery of the Early Years Entitlement to ensure full compliance.
  - A copy of this Declaration is held at my provision.

Registered Person(s)

Responsible Person(s) (applies only if the Registered Person is a 'body')

**Name:** .....

**Position:** .....

**Signed:** ..... **Date:** .....

*Failure to return this signed agreement will result in you being unable to offer the Early Years Entitlement and access the funding detailed in this agreement.*