



Department
for Education

Early education and childcare

Statutory guidance for local authorities

February 2025

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Summary

About this guidance

This statutory guidance from the Department for Education is for English local authorities on their duties pursuant to section 2 of the Childcare Act 2016 and sections 6, 7, 7A, 9A, 12 and 13 of the Childcare Act 2006. Local authorities **must** have regard to this guidance when seeking to discharge those duties. They **should not** depart from it unless they have good reason to do so.

From 1 April 2025, it will supersede the current statutory guidance (which came into effect from 1 April 2024).

Review date

This guidance will be kept under review and updated as necessary.

What legislation does this guidance refer to?

The Childcare Act 2006

- Section 6, which places a duty on English local authorities, so far as reasonably practicable to secure sufficient childcare in their area for working parents.
- Section 7¹ which places a duty on English local authorities to secure early years provision free of charge. Regulations made under section 7 set out the type and amount of free provision and the children who benefit from free provision.
- Section 7A². Regulations made under section 7A make provision about how local authorities should discharge their duty under section 7.
- Section 9A³. Regulations made under section 9A limit the requirements local authorities can impose when they make arrangements to deliver early education places for eligible children.
- Section 12, which places a duty on English local authorities to provide information, advice and assistance to parents and prospective parents. Section 12 was amended by section 5 of the Childcare Act 2016 to enable the Secretary of State to

¹ as substituted by section 1 of the Education Act 2011

² as inserted by the Children and Families Act 2014

³ as inserted by the Children and Families Act 2014

make regulations placing a duty on English local authorities to publish certain information at prescribed intervals.

- Section 13, which places a duty on English local authorities to provide information, advice and training to childcare providers.

The Childcare Act 2016

- Section 1, which places a duty on the Secretary of State to secure the equivalent of 30 hours of free childcare over 38 weeks of the year for qualifying children of eligible working parents. Children in England will qualify if they are under compulsory school age and meet the description set out in regulations made under Section 2. These regulations also set out the conditions to be met by parents in order for their children to qualify.
- Section 2, which allows the Secretary of State to make regulations setting out detailed requirements for discharging the duty under section 1 of the Act. The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 set out this detail. Regulation 44 of the Regulations requires local authorities to secure free childcare for qualifying children of eligible working parents, to discharge the duty in section 1 of the Act.

Who is this guidance for?

This guidance is for English local authorities.

Main points and definitions

The guidance refers to early years provision free of charge (sections 7 and 7A [Childcare Act 2006](#)) and free childcare for eligible working parents (section 2 [Childcare Act 2016](#)) as the ‘**free entitlement(s)**’, a ‘**free place**’ or ‘**free hours**’. This guidance applies to:

- the duty to secure childcare free of charge for qualifying children of working parents aged from 9 months (Part A1) (the ‘**working parent entitlement**’)
- the duty to secure childcare free of charge for parents of disadvantaged 2-year-olds (Part A1) (the ‘**disadvantaged 2-year-old entitlement**’) (also referred to as the ‘2-year-olds from families receiving additional support entitlement’)
- the duty to secure universal childcare free of charge for parents of 3- and 4-year-olds (Part A1) (the ‘**universal entitlement**’)

- the duty on local authorities to secure sufficient childcare for parents to enable them to work or undertake education or training which could assist them to obtain work, including wraparound care (Part B)
- the provision of information, advice and assistance to parents (Part C), and
- the provision of information, advice and training to childcare providers (Part D).

It also supports the expansion of the working parent entitlements to 30 hours from September 2025.

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

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

Ofsted inspection judgement

In the guidance, references to a provider's Ofsted inspection judgement should be read to include the inspection judgement of an independent inspectorate approved by the Secretary of State for Education.

Inadequate and less than good judgements

The guidance outlines the circumstances in which local authorities are not required to make arrangements with providers for the delivery of the free entitlements following an Ofsted inspection.

Ofsted removed single headline grades and overall effectiveness judgements in September 2024. For schools inspected after 2 September 2024, including maintained schools, maintained nursery schools, academies and non-maintained special schools, the following definitions now apply:

- inadequate means a judgement where a state funded school requires significant improvement or special measures
- a judgement of less than good means less than good in the early years provision judgement

Eligible child

An eligible child means a child who meets the description of a qualifying child of working parents set out in section 1(2) of the Childcare Act 2016, and a child eligible for free of charge early years provision by virtue of regulations under section 7 of the Childcare Act 2006.

Early years provider or provider

Early years provider or provider means:

- an early years provider other than a childminder registered on the Ofsted Early Years Register
- a childminder registered on the Ofsted Early Years Register
- a childminder or childcare provider registered with a childminder agency which is itself registered with Ofsted
- schools taking children age 2 and over which are exempt from registration with Ofsted as an early years provider
- schools taking children under 2 which are separately registered on the Ofsted Early Years Register

Entitlement regulations

This means [The Local Authority \(Duty to Secure Early Years Provision Free of Charge\) Regulations 2014](#) and [The Childcare \(Free of Charge for Working Parents\) \(England\) Regulations 2022](#).

This document does not provide guidance on how providers operate their private businesses including charges associated with additional hours outside the entitlement.

Part A: Free places

Section A1: Eligibility

Outcome: all children who meet the eligibility criteria are able to take up a free place if their parent wants one.

Disadvantaged 2-year-olds entitlement:

A child will be entitled to the free hours from the term after both of the following conditions are satisfied:

- the child has attained the age of 2
- the child or parent meets the eligibility criteria.

The eligibility criteria are set out in the legal annex.

Local authorities **are required** by legislation to:

A1.1 Secure free places offering 570 hours a year, over no fewer than 38 weeks of the year⁴ and up to 52 weeks of the year for every eligible child in their area from the relevant date, as set out in paragraph A1.2.

A1.2 The relevant dates (in relation to the age criterion) are:

- Children born in the period 1 January to 31 March: the start of term beginning on or following **1 April** after the child's second birthday
- Children born in the period 1 April to 31 August: the start of term beginning on or following **1 September** after the child's second birthday
- Children born in the period 1 September to 31 December: the start of term beginning on or following **1 January** after the child's second birthday

A1.3 Local authorities must ensure that the child has a place no later than the beginning of the term following the child or parent meeting the eligibility criteria.

A1.4 Local authorities must ensure that 2-year-olds, who have met the eligibility criteria and taken up their free place at a provider, can continue to receive a free place until the

⁴ This equates to 15 hours a week for 38 weeks of the year. Children may stretch their entitlement over more than 38 weeks (and up to 52 weeks). This means taking fewer hours per week, subject to a maximum of 570 hours a year.

point when the child becomes eligible for the universal entitlement for 3-year-olds even if the child or parent ceases to meet the eligibility criteria during this time.

A1.5 Local authorities should secure a pro-rated number of free hours for children who first take up their place part-way through the year⁵. The total number of hours should be adjusted to reflect the portion of the year remaining from the relevant date after the child is first eligible (i.e. from 1 April, 1 September or 1 January).

All 3- and 4-year-olds (universal entitlement):

Local authorities **are required** by legislation to:

A1.6 Secure free places offering 570 hours a year over no fewer than 38 weeks of the year^{6,7} and up to 52 weeks of the year, for every eligible child in their area from the relevant date, as set out in paragraph A1.7 below, until the child reaches compulsory school age (the beginning of the term following their fifth birthday).

A1.7 The relevant dates are as follows:

- Children born in the period 1 January to 31 March: the start of term beginning on or following **1 April** after the child's third birthday
- Children born in the period 1 April to 31 August: the start of term beginning on or following **1 September** after the child's third birthday
- Children born in the period 1 September to 31 December: the start of term beginning on or following **1 January** after the child's third birthday

Local authorities **should**:

⁵ This is relevant for 2-year-olds who meet the eligibility criteria who take up their place later in the year or move to the local authority area part-way through the year.

⁶ This equates to 15 hours a week for 38 weeks of the year. Children may stretch their entitlement over more than 38 weeks (and up to 52 weeks). This means taking fewer hours per week, subject to a maximum of 570 hours a year.

⁷ Children who have been admitted to school and are attending a state-funded school reception class or independent school reception class that is funded by the local authority are not entitled to any additional free hours outside their school reception class place as local authorities can meet their duty to secure the universal entitlement through reception class provision.

A1.8 Secure a pro-rated number of free hours for children who first take up their place part-way through the year⁸. The total number of hours should be adjusted to reflect the portion of the year remaining from the relevant date after the child is first eligible (i.e. from 1 April, 1 September or 1 January).

A1.9 Ensure that all⁹ 3- and 4-year-old children moving to England from another country can access their free place on the same basis as any other 3- and 4-year-old child in the local authority area.

Working Parent entitlements:

A1.10 A child is eligible for the entitlement for eligible working parents provided the eligibility criteria set out in the legal annex are met. The child will need to attain the relevant age and have a positive determination of eligibility from HMRC¹⁰. From the Effective Date, a child will be entitled to the specified free hours set out in the table below the term after both of the following conditions are satisfied:

(1) the child has attained the Relevant Age; and,

(2) the child's parent has a current positive determination of eligibility from HMRC, i.e., a valid eligibility code¹¹.

Effective Date	Relevant Age	Free hours per annum ¹²	<u>Examples of when a child can take up their free place¹³</u>
Since 1 September 2024	9 months old and above	570 hours	The term after the child turns 9 months old i.e.,

⁸ This is relevant for 3- and 4-year-olds who take up their place later in the year or move to the local authority area part-way through the year.

⁹ All 3- and 4-year-olds living in England are entitled to the universal entitlement irrespective of their family circumstances.

¹⁰ For foster children, eligibility is determined by the LA instead of HMRC.

¹¹ For foster children, eligibility is determined by the LA instead of HMRC.

¹² Note that in calculating the number of hours available under the working parents entitlement, account must be taken of any hours available under the universal or disadvantaged 2 year old entitlements.

¹³ After meeting both conditions i.e., the relevant age and a positive determination of eligibility from HMRC

			• 1 April if the child turns 9 months between 1 January and 31 March • 1 September if the child turns 9 months between 1 April and 31 August • 1 January if the child turns 9 months between 1 September and 31 December
From 1 September 2025	9 months old and above	1140 hours	The term after the child turns 9 months old i.e., • 1 April if the child turns 9 months between 1 January and 31 March • 1 September if the child turns 9 months between 1 April and 31 August • 1 January if the child turns 9 months between 1 September and 31 December

A1.11 The eligibility criteria for the free hours are set out in the legal annex. Where parents meet the eligibility criteria for both the disadvantaged 2-year-old entitlement and the working parent entitlement, local authorities have a duty to account for any hours available under the disadvantaged entitlement when determining how many hours a parent should be funded for under the working parent entitlement. This means that local authorities must fund the first 15 hours under the disadvantaged entitlement before they fund any working parent hours. Until September 2025, children eligible for both entitlements will only be able to access 15 hours under the disadvantaged entitlement. From September 2025 they will be able to access 15 hours under the disadvantaged entitlement plus 15 hours under the working parent entitlement.

A1.12 Children in foster care who have attained the Relevant Age are also eligible for the working parent entitlements, provided the foster parent is in paid work outside their fostering role, does not expect their adjusted net income to exceed £100,000, and the

responsible local authority¹⁴ confirms it is satisfied that the foster parent engaging in paid work other than as a foster parent is consistent with the child's care plan. The foster parent does not have to meet the minimum income requirement.

A1.13 Local authorities should ensure that parents and providers are aware that the child's parent **must** apply for the working parent entitlements through the Government's online Childcare Service¹⁵. Eligibility for the working parent entitlements is determined by HMRC through this online application. The only exception to this is children in foster care.

A1.14 Local authorities should ensure foster parents and providers are aware that the foster parent should apply directly to the responsible local authority to assess eligibility and ensure that parents engaging in paid work outside their role as a foster parent is consistent with the child's care plan. Local authorities should have systems in place to check the eligibility criteria are met. The guidance on [30 hours free childcare for foster children aged 9 months and above](#) has information on how local authorities should meet their statutory responsibilities to foster children.

A1.15 Other than the application and reconfirmation process and the minimum income requirement, all other eligibility criteria and provisions set out below apply to children in foster care taking up the working parent entitlement in the same way as they do to all other children.

Local authorities **are required** by legislation to:

A1.16 Secure the free hours (set out in paragraph A1.10 above) a year over no fewer than 38 weeks of the year^{16,17} and up to 52 weeks of the year, for eligible children in their area.

¹⁴ The 'responsible local authority' for these purposes is the English local authority who is looking after the child and is therefore the child's corporate parent. Where the local authority looking after the child is in Wales, Scotland or Northern Ireland the "responsible local authority" is the English local authority in whose area the child is currently living. The "funding local authority" is the local authority in which the child is taking their place and who is paying the provider. They may not be the same local authority.

¹⁵ Parents will be able to call a helpline in cases where they are unable to send information by electronic communication due to age, disability, inability to operate a computer effectively with the use of assisted digital support or where they live in remote locations where electronic communications are not practicable. The helpline will provide support on making an application through the electronic system (by an employee or agent of HMRC) using information that is supplied by the applicant over the phone.

¹⁶ Children may stretch their entitlement and take fewer hours per week over up to 52 weeks of the year subject to the maximum number of free hours a year.

¹⁷ Children who have been admitted to school and are attending a state- funded school reception class or an independent school reception class which is funded by the local authority are not entitled to any

A1.17 The relevant dates (in relation to the age criterion) are as follows:

- Children become eligible on 1 April, 1 September or 1 January following them attaining the age of 9 months.

A1.18 Local authorities must ensure that the child has a place no later than the beginning of the term following the child and the parent meeting the eligibility criteria, provided that the eligibility code remains valid on:

- 31 March to take up a place during the term beginning **1 April**;
- 31 August to take up a place during the term beginning **1 September**;
- 31 December to take up a place during the term beginning **1 January**.

A1.19 Local authorities should secure a pro-rated number of free hours for children who first take up their place part-way through the year. This is relevant for children who meet the eligibility criteria who take up their place later in the year or move to the local authority area part-way through the year. The total number of hours should be adjusted to reflect the portion of the year remaining from the relevant date after the child is first eligible (i.e. from 1 April, 1 September or 1 January).

A1.20 Local authorities should ensure that parents and providers are aware that the eligibility code must be verified by either the local authority or provider before a child can take up the working parent entitlement and ensure all providers receive clear guidance on how to verify the eligibility code, preferably through a digital portal to minimise burdens on providers.¹⁸

A1.21 Local authorities should ensure that the parent is 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. Foster parents who are unhappy about decisions made by the local authority should seek resolution through their social worker or through the local authority complaints process.

additional free hours outside their school reception class place as local authorities can meet their duty to secure the working parent entitlement through reception class provision.

¹⁸ Local authorities may provide a validity checking service to providers to enable them to verify the eligibility code before parents take up a place. The Eligibility Checking System allows all LAs to make instant checks for eligibility code validity.

The Grace Period

A1.22 Where parents cease to meet the eligibility criteria for the working parent entitlements upon reconfirmation, local authorities should continue to fund a place for the child for a limited grace period and ensure that providers and parents are aware of this.

A1.23 During the grace period, local authorities should fund the free hours set out in paragraph A1.10, as follows:

- Until the end of the funding block (31 March, 31 August, 31 December), if a child becomes ineligible during the first half of a funding block (as defined at table A).
- Until the end of the following funding block or for as long as the child remains under compulsory school age (whichever is shorter), if a child becomes ineligible in the latter half of the funding block (up to the last day of the funding block).

A1.24 Local authorities will be able to access information about parents that have entered the grace period via the Eligibility Checking System, which will automatically encode the grace period end date to all eligibility codes. Local authorities should complete an audit check on eligibility codes at six fixed points in the year, both at the start of term and half-term across the year (in line with the dates as listed at table A). Local authorities should communicate the grace period (through providers) to parents who are found to be ineligible for the working parent entitlements at the audit check date. Local authorities should be aware of the importance of prompting providers to notify parents in good time. Good practice is to notify parents within 5 working days.

Table A:

Date parent's eligibility code becomes invalid:	Local authority audit date:	Grace Period end date:
1 January – 10 February	11 February	31 March
11 February – 31 March	1 April	31 August
1 April – 26 May	27 May	31 August
27 May – 31 August	1 September	31 December
1 September – 21 October	22 October	31 December
22 October – 31 December	1 January	31 March

A1.25 Local authorities should consider extending the grace period set out above for a short time in very exceptional circumstances if the parent has been forced to leave their

home and paid employment, for example, where the parent is a victim of domestic abuse or in other emergency situations.

A1.26 Children should not start a new working parent entitlement place at a provider during the grace period. This includes:

- where a parent falls into their grace period before the child has started a place;
- where a parent falls into their grace period whilst their child is in a place, and the parent seeks to move the child to a different provider.

A1.27 In some exceptional circumstances, that are outside of a parent's control, parents may need to move providers during the grace period. In such situations, the local authority should use their discretion to allow the child to continue their working parent entitlement place in a new setting. Circumstances may include:

- if the provider closes or receives an Ofsted inspection judgement of inadequate and the local authority withdraws funding - for state funded schools inspected after 2 September 2024 this means an Ofsted inspection judgement of requiring significant improvement or special measures
- the parent(s) moves home as a result of domestic abuse or other emergency situation.

A1.28 A parent can take up a working parent entitlement place in their grace period if their eligibility code is valid on the termly deadline (31st August, 31st December or 31st March), even if they fall out of eligibility in the period after the termly deadline but before a provider's term start date. For example, if a parent's code was valid on 31st March and the provider's term starts on 11th April, and the parent falls out of eligibility on the 4th April, the parent is still eligible to access the working parent place.

A1.29 If a child ceases to be a foster child and the parent has been granted a special guardianship order or has adopted the child, the same guidance relating to the grace period applies.

A1.30 Local authorities should ensure that parents are aware that if they cease to meet the eligibility criteria and the grace period has expired, children aged 3 and 4 can continue to take up the 15 hour universal entitlement, provided they have not exceeded the number of hours as set out at A1.10. If the parent has been taking up the free hours at more than one provider, the local authority should continue to fund 15 hours at the provider of the parent's choice. Local authorities should make parents aware of the disadvantaged 2-year-old entitlement and encourage them to check their eligibility for this entitlement. Falling out of eligibility for the working parent entitlement will not necessarily make a 2-year-old child eligible for the disadvantaged entitlement. Any child who has not

previously been recorded as using the 15-hour disadvantaged 2-year-old entitlement must be eligibility checked before they can receive funding for a place.

A1.31 Before the September 2025 expansion - local authorities should honour the grace periods of children who were eligible for both entitlements at age 2 who have reached the term following their third birthday. The local authority needs to be sure the parent was eligible for the working parent entitlement in the previous term. If the parent had a valid working parent entitlement code the previous term but was recorded as using the 15-hour entitlement for disadvantaged 2-year-olds, the grace period should be honoured as if they had been recorded as a working parent, provided the child is continuing in a place at the same provider. Children cannot start at a new provider whilst in a grace period. The local authority should advise these parents they are in their grace period and they need to reconfirm for the working parent entitlement before the grace period expires, otherwise they will only be eligible for the universal 15 hours for 3- and 4-year-olds. If the parent has not previously had a working parent code or has used more than one term of provision and has not been reconfirming, the child will move to using the universal 15 hours entitlement for 3- and 4-year-olds only, until the term after they obtain confirmation of their eligibility for the working parent entitlement from HMRC.

Charging

A1.32 Government funding is intended to deliver 15 or 30 hours a week of free, high quality, flexible childcare. The 15 or 30 hours must be able to be accessed free of charge to parents. There must not be any mandatory charges for parents in relation to the free hours. Government funding is not intended to cover the costs of meals, other consumables, additional hours or additional services.

A1.33 Local authorities should ensure that providers are aware that they **can** charge parents for the following extras in connection with the free hours, but these charges must be **voluntary** for the parent:

- Consumables to be used by the child, such as nappies or sun cream.
- Meals and snacks consumed by the child.
- Extra optional activities such as events, celebrations, specialist tuition (for example music classes or foreign languages) or other activities that are not directly related or necessary for the effective delivery of the Early Years Foundation Stage (EYFS) statutory framework.

Providers can also charge parents for any additional, private paid hours according to their usual terms and conditions provided taking up private paid hours is not a condition of accessing a free place.

A1.34 Local authorities should ensure that providers follow these terms in levying any chargeable extras.

A1.35 The costs of chargeable extras should be published on provider websites or, where they do not have any website, on local authority Family Information Services. These should be clear, up-to-date and easily accessible to parents, to enable parents to make an informed choice of provider. They should set out, for each setting, the amounts charged for all the chargeable extras listed above, as well as the pattern of hours that parents can take the entitlements. Local authorities may wish to ensure providers follow DfE's template of how to set out these costs and may exempt childminders and providers caring for ten or fewer children at any one time. This should be fully implemented by January 2026 at the latest.

A1.36 Invoices and receipts should be itemised, and local authorities should work with providers to ensure their invoices break down separately into:

- the free entitlement hours
- additional private paid hours
- food charges
- non-food consumables charges
- activities charges.

Local authorities should ensure these itemised invoices are in place by January 2026. This is to allow parents to see that they have received their child's free entitlement hours completely free of charge and understand that any fees paid are for additional hours or voluntary services. Invoices and receipts should include the provider's full details so that they can be identified as coming from a specific provider.

A1.37 Parents must be able to opt out of paying for chargeable extras and the associated consumable or activity for their child. For activities and extra services, providers should be made aware that participation in any voluntary extra activity should be on the basis of parental choice and a willingness to meet the charges. In these circumstances, local authorities should ensure that children who do not participate in voluntary activities continue to receive provision that complies with the EYFS.

A1.38 Providers should be mindful of the impact of charges on families, particularly the most disadvantaged. Providers who choose to offer the free entitlements are responsible for setting a policy on providing parents with options for alternatives to additional charges. This policy must offer reasonable alternatives that allow parents to access the entitlement for free, including allowing parents to supply their own, or waiving the cost of these items.

A1.39 In all cases, these chargeable extras must not be a condition of taking up a free place. All parents, including disadvantaged families, must have fair access to a free place. A local authority should intervene if a provider seeks to make additional hours,

voluntary services or voluntary consumables a mandatory condition of taking up a free place.

A1.40 Providers should deliver the free entitlements consistently, so that all children within a setting accessing any of the free entitlements receive the same quality and access to provision, regardless of whether they choose to pay for voluntary hours, voluntary extra services, meals or consumables.

A1.41 Local authorities must take all steps available to ensure that the free entitlements are available free of charge and therefore that providers do not charge parents for the following in connection with the entitlement hours:

- Top-up fees - any difference between a provider's normal charge to parents and the funding they receive from the local authority to deliver free places.
- The supply of or use of any materials, including but not limited to, craft materials, crayons, paper, books, instruments, toys, or other equipment or learning resources that are necessary for the effective delivery of childcare.
- Business running costs, including but not limited to, rent, staff wages, cleaning materials, insurance, or utility bills such as energy, gas or water.
- Registration fees as a condition of taking up a child's entitlement place.
- Non-refundable deposits as a condition of taking up a child's entitlement place.
- General charges, including but not limited to, non-itemised enrichment charges, sustainability charges, business continuity charges, additional charges, enhanced ratios, hourly rates, or any other supplementary charges on top of the free hours.
- Any additional fees that are not specifically identified and itemised as being for chargeable extras as described in A1.33.

A1.42 Local authorities should ensure providers adhere to the following terms, regardless of whether they charge any chargeable extras.

A1.43 Local authorities should ensure that providers work with parents so that parents understand which hours and sessions can be taken as free provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of the entitlement hours are convenient for parents' working hours. Local authorities should ensure that children are able to take up their free hours in continuous blocks if they wish to, and there should be no artificial breaks in the entitlement hours. For example a provider should not offer 10am to midday and 1pm to 3pm as entitlement hours and offer only private paid hours in between.

A1.44 Local authorities should ensure that providers and parents are aware that the Early Years Pupil Premium (EYPP) provides additional funding to providers to support the quality of early education for eligible children taking up early education and childcare

entitlements. The Disability Access Fund (DAF) supports eligible, disabled children's access to the entitlements.

Inclusion

A1.45 All local authorities are required to have a Special Educational Needs Inclusion Fund. More information is available in the [local authority funding operational guide 2025 to 2026](#).

Local authorities **should**:

A1.46 Promote equality and inclusion, particularly for disadvantaged families, looked after children, children in need and children with special educational needs and disability, by removing barriers to access to free places and working with parents to give each child the opportunity to achieve and thrive. Local authorities **must** ensure they meet their duties under the Equality Act 2010 and take account of the [Special Educational Needs and Disability \(SEND\) Code of Practice 0-25](#) when securing free places.

A1.47 Identify children who qualify for the Early Years Pupil Premium and the Disability Access Fund and promote these to parents. Children aged 9 months to 4-years-old who are accessing the early education and childcare entitlements and who meet the eligibility criteria can access the Early Years Pupil Premium and the Disability Access Fund.

A1.48 Ensure a strong multi-agency focus by securing local partnerships between all joint working professionals including education, health and social care and employment services.

A1.49 Encourage providers to be clear, transparent and consistent about the SEND support available at their setting and make information available about the support to enable parents to choose the right setting for their child.

A1.50 Encourage take-up of free places and undertake outreach activities to identify disadvantaged children and children who are not taking up their entitlement or their full hours and support them to do so.

A1.51 Take action over concerns about providers that do not actively promote fundamental British values, or promote as evidence-based views or theories which are contrary to established scientific or historical evidence and explanations. Further details on this are set out in section A4b. We define fundamental British values as democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs.

Section A2: Flexibility

Outcome

Children are able to take up their full entitlement to a free place at times that best support their learning and development, and at times which fit with the needs of parents to enable them to work or increase their hours of work if they wish to do so.

Delivering the free entitlements:

To secure flexible delivery, local authorities **should**:

A2.1 Consult with parents and involve them in local assessments of demand for flexibility.

A2.2 Act as a broker between overall parental demand in the area and provider capacity, seeking to provide the maximum possible flexibility for parents. Support providers to establish parental declarations setting out their hours and patterns of hours during which free places are offered. A parental declaration template is available in the [Free early years provision and childcare: model agreement](#).

A2.3 Encourage strong partnership working between providers from all sectors (maintained schools, academies and free schools, private, voluntary and independent providers and childminders) to ensure the market offers maximum flexibility for parents to access free hours to meet their needs and the needs of their child.

A2.4 Encourage providers to offer flexible packages of free hours, subject to the following standards which will enable children to access regular, high quality provision, whilst maximising flexibility for parents and ensuring a degree of stability for providers.

- no session to be longer than 10 hours
- no minimum session length (subject to the requirements of registration on the Ofsted Early Years Register)
- not before 6.00am or after 8.00pm
- a maximum of 2 sites in a single day

A2.5 As detailed in A1.43, local authorities should ensure that children are able to take up their free hours in continuous blocks if they wish to, and avoid artificial breaks being created throughout the day, for example, over the lunch period.

A2.6 Ensure that parents and providers are aware that free places can be delivered:

- over up to 52 weeks of the year if the parent is stretching their child's entitlement (see A2.12)

- outside of maintained school term times
- at weekends

A2.7 Ensure that parents and providers are aware that, subject to the standards set out in A2.4 and any terms in the local authority's arrangements with providers, there is no requirement that free places must be taken on, or delivered on, particular days of the week or at particular times of the day.

A2.8 Ensure that parents and providers are aware that there is no requirement that providers must be open for at least 38 weeks of the year, or that providers must offer all the free entitlements in order to receive funding to deliver free places.

A2.9 Ensure that parents and providers are aware that the free entitlement hours cannot be compressed i.e., a parent cannot take more than 15 or 30 hours per week over fewer than 38 weeks of the year. However, a parent can choose a provider that is open for fewer than 38 weeks of the year and therefore receive 15 or 30 hours a week during fewer weeks.

A2.10 Ensure that providers are aware that they can choose not to deliver free places.

A2.11 Ensure that parents are aware that the entitlement to a free place does not offer a guarantee of a place at any one provider or a particular pattern of provision.

A2.12 Enable parents to take up their child's free place in patterns of hours that "stretch" their child's entitlement by taking fewer hours a week over more weeks of the year, where there is provider capacity and parental demand, for example, just under 12 hours a week for 48 weeks of the year where the child is entitled to a total of 570 hours per year or around 23 hours a week for 48 weeks of the year where the child is entitled to a total of 1140 hours per year (as set out in paragraph A1.10). Providers should set out how many free hours parents are getting per day and per week, to ensure parents understand what free hours they are receiving over the calendar year from when their child first becomes eligible.

A2.13 Support parents to identify providers who can offer free places on the days and at the times needed by the parent.

A2.14 Encourage providers to work with parents to ensure continuity of care for children and effective transitional arrangements to support children's learning and wellbeing when enabling children to take up their free place at more than one provider or on more than one site.

A2.15 Refer to the department's [early years funding operational guidance](#) for the circumstances in which an authority can provide a flexibility supplement (see A4.6).

A2.16 Use their Family Information Service, children's centres, family hubs and any childminder agencies with a presence in the area to publicise childminders and other flexible wraparound provision in their areas, and help match providers with parents. Childminder agencies in particular have a specific role on this in relation to childminders and providers of childcare on domestic premises.

A2.17 Ensure that the early years expertise and experience of their maintained nursery schools (MNS), if they have them, are used to benefit the whole local area. Local authorities should ensure that they have a role in the pedagogical leadership for the local early years system. What this means in practice will depend on local need, but it might include for example: commissioning nursery schools to develop and deliver a quality improvement strategy for the area; having nursery schools work with other providers to share their experience and expertise to raise the overall quality of provision across the area; helping nursery schools to work in partnership with other providers to offer parents who choose to split their free hours between a MNS and other provider.

Section A3: Quality

Outcome

All children are able to take up their free hours in a high-quality setting. Evidence shows that higher quality provision has greater developmental benefits for children, particularly for the most disadvantaged children, leading to better outcomes. This guidance reflects the Government's intention that, as far as possible, free places are delivered by providers who have achieved an overall rating of 'outstanding' or 'good' in their most recent Ofsted inspection report.

For all state funded schools, except maintained nursery schools, inspected after 2 September 2024, this means those achieving good or better in the early year provision judgement. For maintained nursery schools this means not being judged to require significant improvement or special measures.

The [Early Years Foundation Stage \(EYFS\) statutory framework](#) (EYFS) is mandatory for all 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 and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.

Securing quality for the free entitlements:

A3.1 To secure quality, local authorities **are required** by legislation to deliver free places through one of the following:

- early years providers other than a childminder registered on the Ofsted Early Years Register, including schools taking children under 2 that are separately registered on the Ofsted Early Years Register
- a childminder registered on the Ofsted Early Years Register
- a childminder or childcare provider registered with a childminder agency which is itself registered with Ofsted
- schools taking children aged 2 and over that are exempt from registration with Ofsted as early years providers

A3.2 Fund places for eligible disadvantaged 2-year-olds at any:

- provider judged good or outstanding for overall effectiveness by Ofsted
- childminder or childcare provider registered with a childminder agency judged effective by Ofsted if a parent wants their child to take up their free place at that provider and the provider is willing to accept the local authority funding and any other local authority requirements (see also A4.9 and A4.10)

For all state funded schools, except maintained nursery schools, inspected after 2 September 2024, this means those achieving 'good' or better in the early year provision judgement. For maintained nursery schools this means not being judged to require significant improvement or special measures.

References to a provider's Ofsted judgement in this guidance should be read to include the inspection judgement of an independent inspectorate approved by the Secretary of State for Education.

The regulations also allow local authorities to not make arrangements with childminders where the childminder agency notifies the local authority that, in the agency's opinion, the childminder has ceased to provide childcare of satisfactory quality.

A3.3 Fund places for children eligible for the universal or working parent entitlements at any:

- provider judged requires improvement or better by Ofsted
- any childminder or childcare provider registered with a childminder agency judged effective by Ofsted if a parent wants their child to take up their free place at that provider and the provider is willing to accept the local authority funding and any other local authority requirements (see also A4.9 and A4.10)

For all state funded schools inspected after 2 September 2024 this means providers judged as not requiring significant improvement or special measures.

A3.4 Fund places for children eligible for a free place at new providers registered with Ofsted until the provider's first full Ofsted inspection judgement is published or at a childminder or childcare provider registered with an agency until the agency's first full Ofsted inspection judgement is published if a parent wants their child to take up their free place at that provider and the provider is willing to accept the local authority funding and any other local authority requirements (see also A4.9 and A4.10).

A3.5 Fund providers with exemptions from the Learning and Development requirements of the Early Years Foundation Stage if a parent wants their child to take up their free place at an exempt provider and the provider is willing to accept the local authority funding and any other local authority requirements (see also A4.9 and A4.10).

A3.6 Fund individual children who have exemptions from the Learning and Development requirements of the Early Years Foundation Stage. Find out more from [Exemptions from the EYFS for providers and individual children](#).

A3.7 Local authorities are not required to fund places at providers who do not meet the quality standards set out at A3.2 and A3.3 above but may choose to do so in appropriate cases, for example to ensure sufficiency of free places.

Local authorities **should**:

A3.8 Rely on Ofsted's inspection judgement of the provider or the childminder agency, or the childminder agency's reasonable opinion of the childminder, as the sole benchmarks of quality.

A3.9 Not fund providers who do not actively promote fundamental British values or if they promote as evidence-based, views or theories which are contrary to established scientific or historical evidence and explanations.

A3.10 Only fund places for eligible disadvantaged 2-year-old children in 'requires improvement' providers where there is not sufficient, accessible 'good' or 'outstanding' provision. For all state funded schools, except maintained nursery schools, inspected after 2 September 2024, this means those inspection outcomes in the early years provision. For maintained nursery schools this means not receiving an inspection outcome requiring significant improvement or special measures.

A3.11 Fund providers with an Ofsted inspection judgement of 'met' until their Ofsted quality inspection judgement is published. Local authorities should not fund providers with an Ofsted inspection judgement of 'not met'.¹⁹

A3.12 Refer to the department's [early years funding operational guidance](#) for the circumstances in which an authority can provide a quality supplement (see A4.6).

A3.13 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 judgement of the provider of inadequate or when Ofsted publish a second consecutive inspection judgement of a childminder agency of ineffective. For state funded schools inspected after 2 September 2024 this means an Ofsted outcome of requiring significant improvement or special measures.

Following a second consecutive ineffective inspection judgement, local authorities should continue to fund the childminder agency's providers if the childminder agency has assessed them as being of acceptable quality and Ofsted has not identified any concerns about the childminder agency's assessment arrangements, and should endeavour to treat all of the childminder agency's other providers in a comparable way to Ofsted-registered providers with equivalent judgements. Subject to this, it is for local authorities to determine an appropriate timeframe for withdrawing funding. When withdrawing funding, local authorities should take into account the continuity of care for children who are already receiving their free hours at a provider or with an agency registered childminder or childcare provider and Ofsted monitoring information about the provider or agency.

A3.14 Local authorities should take appropriate action to improve the quality of provision at a local authority maintained school which has been judged by Ofsted to require significant improvement or has been placed in special measures. Because of the different relationship between local authorities and the schools they maintain, including the duty for the authority to maintain the schools, there are some differences in the way the entitlement regulations apply to maintained schools compared to other providers. In particular:

- local authorities are not required to include provision in their arrangements with maintained schools enabling the local authority to terminate the arrangements in certain circumstances including if the provider does not achieve the specified Ofsted judgements

¹⁹ Childminders and other providers may have a 'met' judgement following a no children on roll or no children present inspection.

- the requirements that local authorities can impose on maintained schools are not limited by the entitlements regulations

A3.15 Not withdraw funding from providers until the provider's or childminder agency's Ofsted inspection judgement is published.

A3.16 Not fund childminders or childcare providers registered with a childminder agency where the agency has indicated to the local authority that the childminder or childcare provider is not of the appropriate quality unless it is necessary to do so to ensure sufficiency of accessible places or support parental choice. Local authorities should also consider any information provided by a childminder agency about the childminder or childcare provider registered with them and the childminder's premises.

A3.17 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, for example, where the local authority has concerns that a provider judged inadequate by Ofsted may have re-registered their setting with Ofsted to avoid making the quality improvements identified.

Section A4: Funding places

Outcome

Fair and transparent funding which supports a diverse range of providers to deliver free places on a sustainable basis and encourages existing providers to expand and new providers to enter the childcare market. This diversity enables parents to choose a provider that best meets the needs of their child and family.

A4a: Early years funding formulae

Free entitlements:

The School and Early Years Finance (England) Regulations set out the framework for early years funding. These regulations are updated annually for each financial year.

To fund places, local authorities **are required** by legislation to:

A4.1 Use locally-determined, transparent formulae to set the funding rates for all types of provider. Any proposed changes to the formulae from the previous financial year must be consulted on locally.

A4.2 Issue all providers with an indicative budget at the beginning of the financial year which broadly reflects anticipated participation. Local authorities must also adjust budgets to reflect actual levels of participation within the financial year, across all sectors.

Funding for children aged 9 months to 4-years-old

A4.3 For 2025 to 2026, the distribution of funding for local authorities will continue to be determined by national funding formulae. The formulae are used to calculate three different hourly rates at which a local authority is funded for delivering the entitlements in the 2025 to 2026 financial year:

- the working parent entitlement for children aged 9 months to 2 years old
- the 2-year-old entitlements - the working parent entitlement for 2-year-olds and the disadvantaged 2-year-old entitlement
- the rate for the 3- and 4-year-old entitlements - the working parent entitlement for 3- and 4-year-olds and the universal 3- and 4-year-old entitlement

A4.4 Legislation requires a local authority to fund a provider for the disadvantaged 2-year-old entitlement at a rate which is at least equivalent to the rate at which it funds the same provider for the working parent entitlement for 2-year-olds. We expect local authorities to fund providers for both sets of hours for 3- and 4-year-olds at the same rate.

A4.5 Local authorities have flexibility in how they may set local funding formulae for these entitlements, in compliance with [The School and Early Years Finance \(England\) Regulations 2025](#).

A4.6 A guide to the regulations in respect of this funding, including our expectations as to how local authorities should fund providers via their local funding formulae for both 2-year-olds and under and 3- and 4-year-old entitlements in 2025 to 2026 can be found in [Early Years Funding Operational Guidance 2025 to 2026](#).

A4.7 From 2025 to 2026, the main requirements imposed on local authorities by the regulations are to:

- pass-through a minimum of 96% of government funding (in accordance with the pass-through calculation outlined in the [early years operational guidance](#)) to providers for each of the early years entitlements separately - for 3- and- 4-year-old entitlements, the pass-through rate is calculated together for the universal and working parent hours
- ensure that the total funding rate (base rate plus supplements if applicable) they pay to a provider for the disadvantaged 2-year-old entitlement is at least equivalent to their total funding rate for that provider for the 2-year-old working

parent entitlement²⁰

- include a mandatory deprivation supplement for the 3- and 4-year-old entitlements in their local formula (the deprivation supplement is not mandatory for the working parents entitlements for children under 3 or the disadvantaged 2-year-old entitlement)
- restrict the total amount of planned value of funding supplements to a maximum of 12% of the total planned formula funding to providers for the early years entitlements (note for 3- and 4-year-old entitlements, the supplements cap is calculated together for the universal and working parent hours)
- pay providers the Disability Access Fund in respect of their eligible children
- establish a special educational needs inclusion fund for children with special educational needs taking up each of the entitlements
- pay providers the Early Years Pupil Premium in respect of their eligible children

Other funding matters

A4.8 Local authorities must:

- submit details of the funding rates they pay providers for those aged 2 and under, as well as 3- and 4-year-old places to the department via the Section 251 return under the [Apprenticeships, Skills, Children and Learning Act 2009](#) - this information will be published by the department and enable providers and parents to compare rates across the country
- provide free school meals for children who are registered pupils of a state funded school, who attend places both before and after lunch and whose parents are in receipt of specified benefits - this requirement is distinct from the duty to secure a free place for 2-year-olds who meet some of the criteria also used for free school meals, and the extended eligibility criteria for free school meals to include infants who are registered pupils in maintained schools

Further information about the eligibility for free school meals can be found in the legal annex.

²⁰ Under limited circumstances, local authorities may make a disapplication request to the Secretary of State for Education to disregard this requirement, for example if there are sufficiency issues in their area for the 2-year-old entitlement for working parents. It is permissible for local authorities to set a higher total funding rate for the 2-year-old disadvantaged entitlement.

A4.9 Local authorities should fund separately, through the schools block of the Dedicated Schools Grant (DSG), eligible children who have already been admitted to a state funded primary school and are attending a state funded school reception class.

If a local authority decides, with the agreement of the parent and the provider, that a child over compulsory school age should be placed in a school nursery, local authorities cannot use any of the 96% pass through funding of the early years block of the DSG to fund these children and will need to consider using other funding streams.

Local authorities should work in partnership with providers in all sectors and actively support partnership working between providers to ensure that free places are high quality, flexible and accessible to give parents choice about how and where they take-up their child's free hours. Unless they have good reason not to, local authorities should use the model agreement as a tool to develop their agreements with providers.

Local authorities should be clear in their agreements with providers about:

- how and when providers will be paid
- the documentation required from providers in order to receive payment

This is particularly important when children:

- split their entitlement between providers
- move into the local authority area mid term
- move between providers mid term

Local authorities should pay all providers the full amount owed to them monthly unless they have good reason not to do so. For example, if, after consultation, the clear majority of providers opt for an alternative method of payment. Local authorities should be mindful of the concerns of smaller providers, particularly childminders, about their cash flow when making decisions about payment methods and should strive to make monthly payments to these providers where possible. Local authorities should regularly review how they pay providers to ensure that it continues to meet the needs of all providers in their area.

Local authorities should:

- sign up to the [Fair Payment Code](#) that is administered by the Office of the Small Business Commissioner on behalf of the Department for Business and Trade
- discuss and agree locally with childminder agencies and each childminder or childcare provider registered with each agency whether funding is paid directly to childminders or is routed to the childminder or childcare provider through the agency

- ensure that none of the funding (Dedicated Schools Grant, Early Years Pupil Premium or Disability Access Fund) paid to childminders or childcare providers registered with an agency to deliver free places is retained by the agency (see also A4.12)
- ensure that providers are aware that they are required by legislation to complete the termly school census or the annual early years census and submit their census returns to the local authority
- communicate funding rates to early years providers in their area no later than 28 February 2025

A4b: Scope of requirements on providers

Paragraphs A4.10 to A4.17 do not apply where the entitlements are provided by local authority maintained schools.

A4.10 The entitlements regulations require local authorities to make arrangements for the provision of free childcare with an early years provider chosen by the child's parents, as long as the provider is willing to accept the child, the local authority's payment terms and other requirements imposed by the authority. Local authorities are therefore permitted to place requirements on providers in those arrangements in order for providers to receive free early education and childcare funding. However, they **are required** by legislation to limit the requirements they place on any provider or childminder agency to those which ensure:

- places are delivered completely free of charge to parents
- places are provided flexibly in a pattern which meets the needs of parents
- that the funding provided is used properly and in accordance with any arrangements made with providers
- that the provider meets the needs of disabled children and children with special educational needs
- effective safeguarding and promotion of welfare of the children for whom the early education and childcare is provided
- that providers actively promote fundamental British values and do not promote as evidence-based views or theories which are contrary to established scientific or historical evidence and explanations
- that the early years provider takes any measures identified in a report from Ofsted to improve the effectiveness of the provision (see A4.12 and A4.15)
- are necessary for the effective administration of the arrangements

A4.11 Where the local authority makes arrangements with a provider for the purposes of securing free places, it must limit the requirements to those aimed at meeting the above objectives at A4.10. It must also include termination provisions permitting it to terminate the arrangements if the quality standards in A3.2 and A3.3 are not met or if the provider ceases to be a childcare provider (for example, if the provider no longer meets the requirement to be registered with Ofsted).

A4.12 Limit the requirements they place on providers judged less than good for overall effectiveness by Ofsted to those that enable providers to improve the quality of their provision as identified in the provider's Ofsted inspection report. For all state funded schools inspected after 2 September 2024, this means those inspection outcomes in the early years provision. The requirements may include, where applicable, participating in training or other quality improvement programmes.

A4.13 The requirements will apply to the person with whom the local authority makes arrangements to deliver free places. If the local authority funds an agency registered childminder or childcare provider directly, the local authority may place requirements on the childminder or childcare provider. If funding is routed via the childminder agency to the childminder or childcare provider, the local authority can place requirements on the childminder agency. In order to place specific requirements on a childminder or childcare provider funded via an agency, it would be necessary for the local authority to put in place arrangements directly with that childminder or childcare provider as well as the agency.

A4.14 Local authorities **cannot** place additional requirements on any childminder agency, regardless of the agency's Ofsted inspection judgement, beyond those listed in paragraphs A4.10 and A4.11.

A4.15 Local authorities **cannot** require a provider to undertake any training or quality improvement programme, unless the training or quality improvement programme has been identified as necessary to address concerns raised in the Ofsted inspection report and the provider has been judged less than 'good' by Ofsted. For all state funded schools inspected after 2 September 2024, this means those inspection outcomes in the early years provision.

A4.16 Where Ofsted has identified the need for training or quality improvement, the local authority **cannot** require the provider to undertake training or quality improvement provided by the local authority itself and should enable providers to choose where and how they take up training or quality improvement (see D.2).

A4.17 Local authorities **cannot** require a provider or a childminder agency to participate in a local authority assessment of a provider's quality.

A4.18 Local authorities **can** refuse to fund providers who meet the quality standards set out at A3.2 and A3.3 if the local authority has reasonable grounds to believe that the provider is unable to meet any of the local authority terms of funding as set out in A4.10 and A4.11 or the provider falls into one of the categories set out in A4.20.

A4.19 To fund providers, local authorities **should**:

- ensure that providers are treated in an equitable way
- ensure any process to ensure the proper use of public funding does not place undue administrative burdens on providers.

A4.20 Local authorities **cannot** meet their duty to secure free places by securing places at a provider in relation to whom the local authority has reasonable grounds to believe:

- 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
- is promoting as evidence-based views or theories which are contrary to established scientific or historical evidence and explanations

A4.21 Local authorities **should** respond to substantive and well-evidenced concerns that are brought to their attention regarding fundamental British values or the promotion of evidence-based views and theories which are contrary to established scientific or historical evidence and explanations. Where the local authority has reasonable grounds to believe that one or more of the criteria set out in A4.19 applies, the local authority should withdraw funding.

A4.22 The reference to the promotion as evidence-based views and theories contrary to established scientific or historical evidence and explanations is intended to cover the presentation of creationism as scientific fact. It has no bearing on teaching children about religious beliefs, expressions of religious faith, traditions and festivals, and is simply intended to remove funding from providers presenting such views and beliefs as verifiable fact or science.

A4.23 The learning goals in the EYFS are clear that providers are expected to offer a broad and balanced curriculum to ensure that children ‘understand the world’ and learn about ‘similarities and differences between themselves and others, and among families, communities and traditions’. Providers who wish to celebrate religious and cultural festivals, for example putting on a nativity play, a harvest festival or a celebration of Eid, can still do so.

A4.24 The restriction described in A4.20 should not be interpreted as imposing an obligation on local authorities proactively to inspect providers. Local authorities can investigate allegations and, where appropriate, withdraw funding from providers on the grounds specified in A4.20.

A4.25 The first step to be taken upon receipt of a complaint will be to consider the claim being made. Some factors to which a local authority will wish to have regard are:

- **Source** – what is the relationship between the person making the claim and the institution? Is it a single claim, or have several been made together? A claim being made by a parent or member of staff will usually carry more weight than one made by a third party.
- **Substance** – how well-evidenced is the allegation? Is it based on rumour and hearsay or are the facts well substantiated? A specific claim might be considered differently to a claim that is vague or unspecific.
- **Severity** – in addition to substance, the severity of the claim will be a critical factor in determining appropriate steps.

These factors and examples are not exhaustive, local authorities should exercise judgement in deciding how best to proceed.

A4.26 Local authorities may choose to investigate further to support a decision made under paragraph A4.20. If a claim is taken further, local authorities should notify and consult the appropriate regulator²¹. The presumption is that local authorities will consider, but not necessarily investigate, all claims made.

A4.27 If funding is withdrawn on the grounds that a provider meets one or more of the criteria set out in A4.20, local authorities should secure alternative provision for children taking up their free place at those providers as soon as practicable. In cases where funding is withdrawn in the circumstances set out in A4.20 to A4.26 above, local authorities should make arrangements for the review of their decision if new information comes to light.

A4.28 In **all** cases where funding is withdrawn, the local authority should give the provider a written explanation of the decision to withdraw funding. Local authorities should have a complaints procedure for providers, including for those whose funding has been withdrawn despite the provider being of the required quality or awaiting their first Ofsted inspection. Local authorities should publicise this complaints procedure so that all providers can reasonably be aware.

²¹ The Department for Education for registered independent schools and Ofsted for all other providers

A4.29 Local authorities **should** also:

- as far as reasonably practicable, ensure that eligible children who move into the local authority area from another local authority area are able to take up their free place (or continue their free place if they have been attending a provider in a different local authority), regardless of when during the term this is. Local authorities should be clear in their provider agreements on how they will be funded when a child takes up their free place outside of any regular headcount for funding purposes
- be clear in their provider agreements how providers will be funded in situations where children change providers within the local authority area during the term and encourage providers to work together to support children's learning and well-being when children change providers
- ensure that providers are not penalised for short term absences of children, for example, sickness, arriving late or leaving early, or a family emergency through withdrawing funding, but use their discretion where absence is recurring or for extended periods taking into account the reason for the absence and the impact on the provider
- be clear in their provider agreements the local authority policy in the area in which they operate on reclaiming funding or not funding a provider when a child is absent from a setting
- ensure that providers are not penalised through withdrawal of funding for short term closures of a setting, for example, as a result of local or national elections, circumstances beyond the provider's control, for example strike action or damage to the premises

Part B: Securing sufficient childcare

Outcome

Parents are able to work, study or train to assist them to obtain work, because childcare places are available, accessible and affordable and are delivered flexibly in a range of high-quality settings.

To secure sufficient childcare places, local authorities **are required** by legislation to:

B.1 Secure sufficient childcare, so far as is reasonably practicable, for working parents, or parents who are studying or training for employment, for children aged 0-14 or up to 18 for disabled children.

To secure sufficient childcare places, local authorities **should take into account**:

- what is 'reasonably practicable' when assessing what sufficient childcare means in their area
- the state of the local childcare market, including wraparound provision, including the demand for specific types of providers in a particular locality and the amount and type of supply that currently exists
- the state of the local labour market including the sufficiency of the local childcare workforce
- the quality and capacity of childcare providers and childminders or childcare providers registered with a childminder agency, including their funding, staff, premises, experience and expertise

Local authorities **should**:

- encourage schools and other childcare providers in their area to offer childcare from 8.00am until 6.00pm and in school holidays
- aim to identify and remove barriers that prevent existing providers from expanding their provision and new providers entering the local childcare market if needed
- encourage providers to take a sustainable business approach to planning and signpost providers to resources to support them, for example, [the business sustainability tool kit](#)

Local authorities are encouraged to:

- advise providers to consider the suitability of existing wraparound provision and the needs of parents

- understand the minimum standards required across all wraparound settings, such as registration with Ofsted and where required, the Early Years Foundation Stage standards; and ensure that provision is inclusive and has considered the needs of all children, including those with SEND and additional needs

B.2 Local authorities should report annually to elected council members on how they are meeting their duty to secure sufficient childcare. This report should be made available and accessible to parents.

Local authorities are responsible for determining the appropriate level of detail in their report, geographical division and date of publication. It is advised that the level of data required to map supply and demand is proportionate. It should aim to minimise the burden on childcare providers. The report should include:

- a specific reference to how local authorities are ensuring there is sufficient childcare available to meet the needs of: children with special educational needs and disabilities; children from families in receipt of the childcare element of Working Tax Credit or Universal Credit; children with parents who work irregular hours; children taking up free early education and childcare places; school age children; and children needing holiday care
- information about the current and projected supply and demand of childcare for particular age ranges of children, and the affordability, accessibility and quality of provision
- details of how any gaps in childcare provision will be addressed

Part C: Information to parents

Outcome

Parents and prospective parents can access online, or are provided with, comprehensive and up to date information about childcare, including school-aged childcare, and early education, including free places in their area, usually via the Family Information Service.

Local authorities **must**:

C.1 Maintain a service that provides information for parents and prospective parents on the provision of childcare in their area as listed in Schedule 1 to the Childcare Act 2006 (Provision of Information to Parents) (England) Regulations 2007) and publish this information electronically on the local authority website and update it at a minimum termly on 1 January, 1 April and 1 September.

C.2 Maintain a service providing the information listed at Schedule 2 of these Regulations, i.e. information on any other services or facilities that may be of benefit to parents, prospective parents, children or young persons in the area.

C.3 Clearly publish how those without access to the internet or from different groups, including people with special educational needs and disability, can access Schedule 1 and Schedule 2 information.

C.4 Withhold provider information from publication, for example, where the childcare provider has notified the local authority that they do not want certain information to be disclosed such as their address.²²

C.5 Act in accordance with the [School admissions code](#) which enables children to take up a place in a state funded school reception class from the September following their fourth birthday or allows parents to defer their child's admission to school until later in the year. Further information on school admissions including the admission of summer born children outside their normal age group can be found in the legal annex to this guidance and the School Admissions Code.

Local authorities **should** ensure that published information for parents makes them aware:

- of the free entitlements and the eligibility criteria for these entitlements

²² This refers to childminders working from their own homes and other childcare where the address should not be published, for example in women's refuges and military bases.

- that whilst most parents applying for the working parent entitlement will get an immediate determination of eligibility, HMRC may require further information to make the decision for some parents. Parents should therefore apply in good time
- that for the working parent entitlements a parent will need to reconfirm that their details are up to date through their childcare account every three months (or through their local authority for foster parents)
- that a child may be able to continue to take-up their free place for a limited period known as the grace period after the parent falls out of eligibility for the working parent entitlements to enable them to seek new employment and regain eligibility
- that a child is only entitled to start their free place the term after the child has turned the relevant age and the child's parent(s) have met the eligibility criteria (set out in the legal annex) and (if applicable) received a valid eligibility code
- if they choose not to take up their child's right to a place in a state-funded school reception class in the September following their child's fourth birthday they can continue to take up their child's free place at a private, voluntary or independent childcare provider or in a school nursery class (if the school allow this) until either their child takes up a place in a state-funded reception class or their child reaches compulsory school age (the term following the child's fifth birthday)
- that a place in a school nursery does not guarantee admission to the school and parents must apply for a place at the school if they want their child to transfer to the reception class
- that they cannot take the free hours once their child is taking up a full time place in a state-funded school reception class or an independent school reception class that is funded by the local authority
- how to find childcare and free places in their area
- how to assess the quality of that provision
- how any of their personal data or data about their child will be used
- of the local authority complaints procedure if they are not satisfied that their child has received their free place or with any aspect of the way they have received it
- how parents can find more information about the complete government's childcare offer and what parents may be entitled to by linking where suitable to government-owned websites. For example, this could be done by linking to the [Childcare Choices website](#)

Local authorities **should** also:

C.6 Ensure that parents are aware of the local authority procedures to check eligibility for free places for disadvantaged 2-year-olds, to check and verify eligibility for free entitlements for foster children.

C.7 Ensure that published childcare provider information is updated as frequently as appropriate – and at least termly as set out in regulations - to ensure the integrity of the

information and as deemed necessary according to its nature and content. This may include:

- updating provider vacancy rates on a frequent basis to ensure that they remain current
- keeping the provider's Ofsted registration status current
- keeping the provider's Ofsted inspection judgements up to date

C.8 Ensure, wherever practicable, that information about those providers who are not registered with Ofsted but who have given their consent is collected and published.

C.9 Ensure that they publish their information in a way that best suits parents' and other users' needs and aligns with local and central government's aspirations for increasing transparency and open data standards. This means that it should:

- take account of the Freedom of Information Act and accompanying [Code of Practice](#) - as far as is reasonably practicable, data should be published in a re-usable and machine-readable format based on open standards
- consider how technical standards and principles for publishing open data that are available in guidance, such as the [Open Standards principles](#), and the [Local Government Transparency Code](#), could be applied
- consider signposting the data it publishes to a platform such as [Data.gov.uk](#) where it can be aggregated

C.10 When processing and publishing information ensure that publication is compliant with the provisions of the Data Protection Act 2018 and the General Data Protection Regulations (GDPR), and have due regard to all information sharing principles set out under the legislation. Where personal information is processed, it will need to be kept up to date and local authorities will need to ensure that the rights of their data subjects under the legislation are observed. Further information on data protection is available in the [Information Commissioner's guidance](#). Certain providers may request via Ofsted that their details be kept anonymous and local authorities **must** ensure they comply with those requests.

C.11 Where information is held which identifies individuals, whether childminders or parents, local authorities should ensure that the information is held securely and that robust systems are in place to limit access to appropriate members of staff only.

C.12 Provide a brokerage service for parents needing further support to find the childcare that is suitable for their needs, including for parents of children with special educational needs or a disability.

C.13 Signpost parents to the Family Information Service so that they are made aware of the wider range of relevant services for young children, including wraparound childcare. This should include services for children and young people up to age 19 where a child or parent is disabled.

C.14 Ensure that parents of children with special educational needs or a disability are able to access relevant information about childcare quickly and easily. This may involve linking to or incorporating key information from the local authority's Local Offer for children and young people with Special Educational Needs and Disabilities with the information on childcare published by the Family Information Service, and vice versa.

C.15 Consider how the information published on childcare could also signpost or refer users to wider services for parents or children, such as child and adolescent mental health services, employment services or the local family hub.

C.16 Consider whether other information on childcare (which is not listed in Schedule 1 to the 2007 Regulations but which is of help to parents) could be published, such as promoting the availability of wraparound childcare in their area, and signposting to where childcare providers work in partnership with others to offer more wraparound services for parents.

C.17 Consider how the information provided to parents under Schedule 2 could be used to support awareness and provision of assistance via Early Help services, as set out in the [2023 Working Together to Safeguard Children](#) guidance.

Local authorities are encouraged to:

C.18 Be clear on what is included as part of the wraparound care offer when communicating with parents.

C.19 Ensure that eligible parents are aware they will be able to use Tax-Free Childcare and the childcare element of Universal Credit against payment for registered childcare, including school-aged childcare.

Part D: Information to childcare providers

Outcome

Availability of information, advice and training is focused on childcare providers, including wraparound childcare identified as needing to improve the quality of their provision and should promote high-quality provision. Local authorities have a power to impose reasonable charges when securing information, advice and training.

Local authorities **are required** by [section 13 of the Childcare Providers \(Information, Advice and Training\) Regulations 2014](#) to:

D.1 Secure information, advice and training for providers in their area set out in D.2 on the following matters:

- meeting the requirements of the Early Years Foundation Stage
- meeting the needs of children with special educational needs and disabilities, vulnerable and disadvantaged children, looked after children
- effective safeguarding and child protection

D.2 Secure information, advice and training on the matters set out in D.1 for the following providers:

- those registered on the Ofsted Early Years Register who are judged less than 'good' by Ofsted in their most recent inspection report
- newly registered providers on the Ofsted Early Years Register who have not yet had an inspection report published
- those on Part A (the compulsory part) of the Ofsted General Childcare Register who are assessed by Ofsted as not having met the requirements of registration or the requirements relating to their activities²³

Local authorities **have the power** to:

D.3 Provide information, advice and training for all early years and childcare providers (including employees and prospective providers). Local authorities may provide information, advice and training if this is requested by the provider. Local authorities are able to offer support to settings regardless of their latest Ofsted judgement if there is

²³ The requirements are those prescribed for the purposes of section 59 of the Childcare Act 2006 and are found at regulation 6 of, and Schedule 3 to, the Childcare (General Childcare Register) Regulations 2008 (SI 2008/975).

evidence of need but can only require it is taken up if the setting is judged less than good.

For all state funded schools inspected after 2 September 2024, this means those inspection outcomes in the early years provision.

Local authorities are **encouraged** to:

D.4 Offer business support to early years and wraparound providers, and where necessary, additional support for providers setting up and expanding early years or wraparound provision;

D.5 Ensure that schools, and other childcare providers know who the designated school-aged childcare lead is in the local authority, and have access to information about providers in their local area.

D.6 Promote the use of Tax-Free Childcare and Universal Credit childcare for early years and wraparound provision and encourage providers to sign up to accept both.

Part E: Legal annex and other relevant information

Summary of the key provisions in the Childcare Act 2006 relating to early education and childcare

- Sections 1 to 5 require local authorities and their partners to improve the outcomes of all children under 5 and reduce inequalities.
- Section 6 requires local authorities to secure sufficient childcare for working parents, or parents who are studying or training for employment, so far as reasonably practicable.
- Section 7²⁴ places a duty on local authorities in accordance with regulations to secure free early years provision of the prescribed description for each young child in their area who is under compulsory school age and is of the prescribed description.
- Section 7A²⁵ allows regulations to be made about how local authorities should discharge their duty under section 7.
- Section 8 enables local authorities to assist others to provide childcare (including free early years provision) including giving them financial assistance.
- Section 9 applies where local authorities make arrangements for the provision of childcare with providers (other than the governing body of a maintained school, because local authorities have other powers in relation to maintained schools) - it requires local authorities to exercise their functions with a view to securing that the provider meets any requirements imposed by the arrangements and enables the local authority to require the repayment of any funding provided.
- Section 9A allows regulations to be made which prescribe the requirements local authorities may or may not impose when they make arrangements with providers.
- Section 12 places a duty on local authorities to provide information, advice and assistance to parents about childcare in the area.
- Section 13 places a duty on local authorities to secure the provision of information, advice and training to childcare providers and childcare workers.

²⁴ As this was substituted by section 1(2) of the Education Act 2011

²⁵ Section 87 of the Children and Families Act 2014 - Discharge of authority's duty to secure free early years provision - inserted sections 7A and 9A into the Childcare Act 2006

- Section 13A makes provision for information relating to tax credits and social security information to be supplied to the Secretary of State, and to local authorities, for use for the purpose of determining eligibility for free of charge early years provision and funding for free early years provision. Section 13B deals with the unauthorised disclosure of this information.
- Section 20 defines early years provision as the provision of childcare for a young child and section 18 defines the meaning of childcare.
- Sections 39 to 48 establish the early years foundation stage (EYFS).
- Sections 31 to 38 and 49 to 98G set out the childcare and early years regulation framework.
- Section 99 allows for the collection of information about young children.

The Childcare Act 2006 provides that local authorities must have regard to any guidance given by the Secretary of State, when discharging:

- The duty to secure sufficient childcare for working parents and those studying or training to assist them to obtain work - section 6(3);
- The duty to secure prescribed early years provision free of charge – section 7(3);
- The power of a local authority in relation to the provision of childcare – section 8(6);
- The duty to establish and maintain a service providing information, advice and assistance for parents – section 12(7); and
- The duty to secure the provision of information, advice and training to childcare providers – section 13(5).

Summary of the key provisions in the Childcare Act 2016

- Section 1 places a duty on the Secretary of State to secure childcare free of charge for qualifying children of working parents for, or for a period equivalent to, 30 hours over 38 weeks of the year.
- Section 1(2) and regulations made under section 1(2) define a qualifying child.
- Section 1(4) enables the Secretary of State to make regulations about when a person is to be regarded as another person's partner, what constitutes paid work and the circumstances in which a person is or is not to be regarded as in paid work.

- Section 1(5) confers a power on HMRC to check and determine eligibility for the free childcare.
- Section 1(6) requires the Secretary of State to take account of any free provision provided to the child under section 7 of the Childcare Act 2006 for the purposes of determining whether the duty under section 1(1) has been discharged.
- Section 1(8) says that childcare has the meaning given by section 18 of the Childcare Act 2006 and enables the Secretary of State to set out in regulations when a child is considered to be in England for the purposes of the free childcare entitlement.
- Section 2 allows the Secretary of State to make regulations about how the discharge of the duty to secure free childcare.
- Section 2(2) sets out a non-exhaustive list of what the regulations may provide for in particular to require English local authorities to secure the free childcare (section 2(2)(a)) and to have regard to any guidance issued by the Secretary of State when securing the free childcare (section 2(2)(k)).
- Part II of the School Standards and Framework Act (1998) sets the legal framework for the provision of financial assistance by local authorities to maintained schools and private, voluntary and independent childcare providers. Section 3(2) extends the framework to include the provision of financial assistance to settings delivering the free childcare.
- Section 5 amends section 12 of the Childcare Act 2006 enabling regulations to be made to require local authorities to publish information about childcare in their area at prescribed intervals and in a prescribed manner.

Regulations made under the Childcare Act 2006

[The Local Authority \(Duty to Secure Early Years Provision Free of Charge\) Regulations 2014 \(S.I. 2014/2147\)](#) are made under section 7 of the Childcare Act 2006. They identify children who should benefit from free early years provision, the type and amount of free early years provision and how local authorities should discharge their duty to secure free early years provision.

Regulations made under the Childcare Act 2016

The Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (the '2022 Regulations') came into force on 1 December 2022. They revoked and replaced provision in the earlier regulations (the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016). Part 6 of the 2022 Regulations sets out that local authorities must secure that childcare is made available free of charge, the type and

amount of free childcare and how local authorities must discharge the duty to secure free childcare.

Eligibility for disadvantaged and universal entitlements

3- and 4-year-olds and disadvantaged 2-year-olds (who meet the eligibility criteria below) are entitled to 15 hours of free early years provision from the start of the term beginning on or following the date set out below:

- Children born in the period 1 January to 31 March: 1 April following the child's third birthday, or second birthday, as applicable.
- Children born in the period 1 April to 31 August: 1 September following the child's third birthday, or second birthday, as applicable.
- Children born in the period 1 September to 31 December: 1 January following the child's third birthday, or second birthday, as applicable.

These dates are consistent with those used for determining the start of compulsory education.

Disadvantaged 2-year-olds are eligible for 15 hours of free early years provision if:

- The parent(s) claim one of the following benefits:
 - Income Support
 - income-based Jobseeker's Allowance (JSA)
 - income-related Employment and Support Allowance (ESA)
 - Universal Credit – if a parent is entitled to Universal Credit and they have an annual net earned income not exceeding £15,400, assessed on up to three of the parent's most recent Universal Credit assessment periods.
 - tax credits and they have an annual income of up to £16,190 before tax
 - the guaranteed element of State Pension Credit

- support under Part 6 of the Immigration and Asylum Act 1999 (support for asylum seekers)²⁶
- the Working Tax Credit 4-week run on (the payment you get when you stop qualifying for Working Tax Credit)
- the child has a statement of special educational needs made under section 324 of the Education Act 1996;
- the child has an Education, Health and Care plan prepared under section 37 of the Children and Families Act 2014;
- the child is in receipt of Disability Living Allowance under section 71 of the Social Security and Contributions and Benefits Act 1992;
- the child is looked after by a local authority (under section 22(1) of the Children Act 1989) or by a local authority in Wales within the meaning given by section 74(1) of the Social Services and Well-being (Wales) Act 2014
- the child is no longer looked after by a local authority as a result of an adoption order, a special guardianship order or a child arrangements order (within the meaning of section 8(1) of the Children Act 1989 or section 74(1) of the Social Services and Well-being (Wales) Act 2014) which relates to either or both of the following:
 - with whom the child is to live;
 - when the child is to live with any person.

The [Department for Education's eligibility checking system](#) provides a mechanism for local authorities to verify whether children meet the eligibility criteria based on parental receipt of benefits (including Universal Credit).

²⁶ Following consultation in 2022, the disadvantaged 2-year-old entitlement was extended to households with 'no recourse to public funds' immigration status. There is currently no legislation in place but further guidance on how to assess eligibility can be found here: [Free early education for 2-year-olds - accessing eligibility for families with no recourse to public funds \(publishing.service.gov.uk\)](#)

Eligibility for working parents entitlements

A child is entitled to free early years provision if the child has attained the relevant age (as set out in paragraph A1.10), is under compulsory school age and the child's parent(s) meets the eligibility criteria set out below:

- the parent of the child (and their partner where applicable) should be seeking the free childcare to enable them to work;
- the parent of the child (and their partner where applicable) should also be in qualifying paid work. The definition of qualifying paid work is set out in regulations 16 and 17 of the 2022 Regulations, and the minimum income requirement is in regulation 18. Each parent or the single parent in a lone parent household will need to expect to earn the equivalent of 16 hours at the national minimum wage rate over the forthcoming quarter;
- where one or both parents are on certain forms of family leave from work (including maternity, paternity or shared parental leave) or in receipt of certain forms of statutory pay in connection with sickness or parenting, they are treated as though they meet the minimum income requirement. This only applies for specified periods for those parents on family leave that was started because of the birth or adoption of the child in free childcare.
- where one parent (in a couple household) is in receipt or could be entitled to be in receipt of specific benefits related to caring, incapacity for work or limited capability for work that they are treated as though they are in paid work;
- where a parent is in a 'start-up period' (i.e. they are newly self-employed), they do not need to demonstrate that they meet the income criteria for 12 months in order to qualify for the working parent entitlement.
- if either or each parent's adjusted net income exceeds £100,000, they will not be eligible for the working parent entitlement.

Further details on eligibility criteria, including family leave from work and return to work dates, can be found by using [check you're eligible for free childcare if you're working](#).

Eligibility for working parent entitlements for children in foster care

A child in foster care is entitled to free early years provision if the child has attained the relevant age, is under compulsory school age and the criteria set out below are met:

- that the local authority is satisfied that the foster parent engaging in paid work other than as a foster parent is consistent with the child's care plan, placing the child at the centre of the process and decision making

- that, in single foster parent families, the foster parent holds additional paid employment outside of their role as a foster carer
- and in 2-foster-parent families, both partners hold additional paid employment outside of their role as a foster carer or one partner is working outside their role as a foster carer and the other is on certain forms of family leave from work (including maternity, paternity and shared parental leave) or in receipt of certain forms of statutory pay in connection with sickness or parenting

Type of free early education and free early years provision

Local authorities **must** secure that the prescribed amount of free early years provision is available for each child in their area of the prescribed description from prescribed early years providers.

Early years providers prescribed in the 2014 Regulations are providers to whom section 40 of the 2006 Act applies. Section 40 applies to early years providers, providing early years provision in respect of which they are required by the 2006 Act to be registered under Part 3 of the 2006 Act. These providers are either a) registered on the Ofsted Early Years Register or b) registered with an early years childminder agency.

Section 40 also applies to schools which are exempt from the requirement to register pursuant to section 34(2) of the 2006 Act. Section 34(2) covers maintained schools, approved non-maintained special schools and independent schools, including academies.

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 as evidence-based views or theories which are contrary to established scientific or historical evidence or explanations

Amount of free early education for disadvantaged 2-year-olds and 3- and 4-year-olds

Local authorities **must** secure availability of 570 hours of free provision over **at least 38 weeks** for each eligible disadvantaged 2-year-old and all 3- and 4-year-olds in each 12 month period from the date at which the child's entitlement starts until the child reaches compulsory school age. This works out at 15 hours per week if spread over 38 weeks.

Local authorities **must not** condense the funded early education entitlement into less than 38 weeks.

Amount of free childcare for children of working parents

Local authorities **must** secure availability of 570 hours of free provision over **at least 38 weeks** for each eligible 3- and 4-year-old child in each 12 month period from the date at which the child's entitlement starts when the child becomes eligible until the child reaches compulsory school age. This works out at 15 hours per week if spread over 38 weeks. This is in addition to the 570 hours for all 3-4 year olds.

Local authorities **must** secure availability of 570 hours of free provision over **at least 38 weeks** for each eligible child aged nine months and above in each 12-month period from the date at which the child's entitlement starts when the child becomes eligible. This works out at 15 hours per week if spread over 38 weeks.

From September 2025, local authorities **must** secure availability of 1140 hours of free provision over **at least 38 weeks** for eligible children aged nine months and above in each 12-month period from the date at which the child's entitlement starts when the child becomes eligible until the child reaches compulsory school age. This works out at 30 hours per week if spread over 38 weeks.

Regulation 44 of [The Childcare \(Free of Charge for Working Parents\) \(England\) Regulations 2022](#) provides that local authorities must take into account specified provision available to eligible children under [The Local Authority \(Duty to Secure Early Years Provision Free of Charge\) Regulations 2014](#) when calculating the amount of working parent entitlement available:

- between 1 April 2024 and 31 August 2025, the amount of childcare available to children eligible for the working parent entitlement includes any childcare available under the disadvantaged 2-year-old entitlement - so a child eligible for both these entitlements should receive a total of 570 hours (under the disadvantaged 2-year-old entitlement)
- from 1 September 2025, the amount of childcare available to children eligible for the working parent entitlement includes any childcare available under the disadvantaged 2-year-old entitlement or the universal entitlement for 3-4 year olds - so a child eligible for both should receive 15 hours under disadvantaged 2-year-old or universal entitlements, plus 15 hours under the working parent entitlement

Local authorities **must not** condense the free childcare entitlement into less than 38 weeks.

Childminders

Early years provision is defined in section 20 of the 2006 Act as the provision of childcare. Childcare, as defined in section 18 of the 2006 Act, specifically excludes care provided for a child by a parent, step-parent, foster parent (or other relative) or by a person who fosters the child privately or has parental responsibility for the child. Early years provision by a childminder (either independently registered with Ofsted or registered with a childminder agency) for a related child does not count as childcare in legal terms.

Government early education and childcare funding cannot be claimed by, or spent on, childminders providing childcare for their own child or a related child, even if they are claiming for other children. However, a local authority can choose to fund the parent providing childcare for their child, but this would have to be from other local authority funds.

Nannies and home-based carers

Nannies and home carers are exempt from the requirement to register as a childminder under the Childcare (Exemptions from Registration) Order 2008 if they provide childcare for no more than 2 families in the parent's homes. They are currently not permitted to register on the Early Years Register and cannot therefore receive free entitlement funding.

Special educational needs

Local authorities must ensure that all providers in the maintained and private, voluntary and independent sectors that they fund for the free entitlements are aware of the

requirement on them to have regard to the [Special Educational Needs and Disability Code of Practice: 0-25](#).

This clearly sets out the details of the legal requirements under the Children and Families Act 2014 for local authorities to publish a Local Offer. The Local Offer must set out in one place, comprehensive information about provision they expect to be available in their area across education, health and social care for children and young people in their area who have SEN or are disabled, including those who do not have EHC plans.

Education, Health and Care plans

Part 3 of the Children and Families Act 2014 contains provisions which set out the statutory framework for identifying and assessing the needs of children and young people with special educational needs (SEN) who require support beyond that which is usually available.

Equality

The Equality Act 2010 offers protection against discrimination, harassment and victimisation and applies to statutory and non-statutory early years organisations and the provision of early years services. It applies to a number of “protected characteristics” including sex, race, disability, religion or belief and sexual orientation.

The Equality Act 2010 sets out the legal obligations for local authorities to plan in advance what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage.

Local authorities and other listed public authorities (which include local authority maintained schools and academies) must comply with the public sector equality duty (found in section 149 of the Equality Act 2010) which sets out the 3 equality needs that they must have due regard to when exercising their functions:

- to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act
- to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- to foster good relations between persons who share a relevant protected characteristic and persons who do not share it

Local authorities and other listed public authorities must also comply with the requirements of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 which places a duty on them to publish information annually to

demonstrate how they are complying with the public sector equality duty and to prepare and publish one or more specific and measurable equality objective every four years.

While private, voluntary and independent settings are not bound by the public sector equality duty which applies to public authorities, the principles of equity and justice underpinning the law should be applied as good practice. Where provision is overseen, coordinated or advised by the local authority or a partnership with local authority membership, the local authority will have responsibility to ensure the duties are fulfilled.

Data Protection

The Data Protection Act 2018 and the GDPR places obligations on data controllers and regulates the processing of information relating to individuals. Local authorities **must** comply with the data protection regulations when processing personal information.

The [Information Commissioner's website](#) has more information about the obligations of organisations such as local authorities and rights of the individuals.

Early years national funding formula

The [School and Early Years Finance \(England\) Regulations 2025 \(S.I. 2025/42\)](#) set out how local authorities must operate their early years national funding formula (EYNFF).

Guidance for local authorities is available in the [local authority funding operational guide](#).

Compulsory school age

Compulsory school age is set out in section 8 of the Education Act 1996 and the Education (Start of Compulsory School Age) Order 1998 (SI 1998/1607).

A child reaches compulsory school age on the prescribed day following their fifth birthday (or on their fifth birthday if it falls on a prescribed day). The prescribed days are 31 March, 31 August and 31 December.

School admissions

School admission authorities and local authorities must comply with the School Admissions Code 2021.

Published admission arrangements must make clear to parents that a separate application must be made for any transfer from nursery to primary school, and from infant to junior school.

Admission of children below compulsory school age and deferred entry to school

The [School Admissions Code](#) requires admission authorities to provide for the admission of all children in the September following their fourth birthday. They must make it clear in their admission arrangements that, where they have offered a child a place at a school:

- the child is entitled to a full-time place in the September following their fourth birthday
- the child's parents can defer the date their child is admitted to school until later in the school year, but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which the offer was made
- where the parents wish, the child may attend part-time until later in the school year, but not beyond the point at which they reach compulsory school age

The admission of summer born children outside their normal age group

Parents may request that their child is admitted out of their normal age group. This includes the parents of summer born children (children born from 1 April to 31 August) who decide to delay their child starting school until they reach compulsory age. Parents of summer born children who will start school at compulsory school age may request that their child is admitted to reception rather than year 1 at the point they do start school. Admission authorities must make clear in their admission arrangements the process for requesting admission outside of the normal age group.

Where such a request is made, the admission authority must make a decision on the basis of the circumstances of the case and in the child's best interests. They must also take into account the views of the head teacher of the school concerned, and must set out clearly the reasons for their decision. It can rarely be in the best interests of a child to miss their reception year.

Free school meals

Section 512 of the Education Act 1996, as amended, places a duty on maintained schools, academies, maintained nursery schools and free schools to provide free school meals to pupils of all ages that meet the criteria, including the extended eligibility criteria for those in reception, Years 1 and 2. Free school meals (FSM) requirements do not apply to children in the private, voluntary or independent sector.

In order to qualify for FSM:

- a child must be a registered pupil of a maintained school, free school or academy²⁷;
- if the child is under compulsory school age, the child must be receiving full time education, or if part time, receiving education before and after the lunch break;
- under current criteria, the child's parent must be in receipt of any one or more of the following benefits:
 - income support (IS)
 - income-based jobseeker's allowance (IBJSA)
 - income-related employment and support allowance
 - support under Part 6 of the Immigration and Asylum Act 1999
 - the guaranteed element of State Pension Credit
 - Child Tax Credit (but not Working Tax Credit) and have an annual income not exceeding £16,190, as assessed by Her Majesty's Revenue and Customs
 - Working Tax Credit four-week run-on (the payment someone receives for a further four weeks after they stop qualifying for Working Tax Credit)
 - Universal Credit. From 1 April 2018, if a parent is entitled to Universal Credit, they must have an annual net earned income equivalent to and not exceeding £7,400, assessed on up to 3 of the parent's most recent Universal Credit assessment periods, to be eligible
- a child who is in receipt of a qualifying benefit in their own right is also entitled to FSM. To be eligible to receive free school meals, a pupil or their parent must be in receipt of any of the above listed benefits and must make a claim to the school for FSM. Until the claim is made, the pupil is not eligible for FSM.
- there is a duty (section 512ZB(4A) of the Education Act 1996) to provide FSM for all infants (those children in reception and Years 1 and 2) who are registered pupils in state schools (including academies and free schools)

Looked after children

Looked after children are children who are provided with accommodation by a local authority for more than 24 hours on a voluntary basis or who are under a care order. The

²⁷ FSM are not available to children taking up free provision when the children taking up the free hours are not registered pupils of the school.

child may be living with foster carers, in a residential home or with parents or other relatives. A child who is “looked after” is defined in section 22 of the Children Act 1989.

Local authorities must try to ensure the integration of educational provision, health provision, training and social care provision where it believes this would improve the well-being of the child or young person and/or improve the quality of special educational provision. They must support the child and parent or young person to facilitate development and help them achieve the best educational and other outcomes.

Further information

Other relevant departmental advice and statutory guidance

The [Early years entitlements expansion: system guidance](#) has technical information for local authorities and software suppliers preparing for the early education and childcare entitlements expansions.



Department
for Education

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