west sussex county council | Children first | Early Years and Childcare Right from the start

DfE Q&A

What has changed?

The Department for Education (DfE) has updated the statutory guidance, with the following changes:

- The updated guidance puts **transparency** at the heart of how the entitlement should be passed on to parents. The DfE expect providers to publish their charges on their websites, or, where they do not have any website, on local authority Family Information Services. The objective of this measure is that all costs should be clear to parents upfront. The DfE are exempting childminders and providers caring for 10 or fewer children. They are aware that for some providers this will require changes, which is why they are asking that providers have their charges published on their websites by **January 2026**.
- The guidance also sets out that the DfE expect providers to break their invoices down into
    - the Early Years Funded Entitlement hours (with no charge);
    - additional private paid hours;
    - food charges;
    - non-food consumables charges;
    - and activities charges.

  This is so that parents can see that they have received their entitlement hours completely free of charge, in accordance with legislation, and can easily understand what is and is not included in those entitlement hours. These invoice changes should also be introduced by **January 2026**.
- The statutory guidance further clarifies that the 15 or 30 hours **must** be accessible free of charge to parents; that is, that whilst providers **can** charge for extras there **must not be any mandatory charges** for parents in relation to the free hours. This is in line with the recent High Court judgment,
- The guidance makes clear that providers should be mindful of the impact of charges on families, particularly the most disadvantaged. Any additional charges (for consumables, meals and snacks, extra activities, and additional hours) **must** be **voluntary** for parents. Additional services should be on the basis of parental choice and a willingness to meet the charges.

- Children who do not participate in optional activities **must** continue to receive provision that complies with the EYFS. Providers **must** ensure they offer reasonable alternatives to parents that enable them to access the entitlements for free if they wish.
- The DfE have also clarified the things that providers can and cannot charge parents for, more clearly defining “consumables”.

The DfE have also made an update to clarify existing expectations around flexibility in the statutory guidance. This clarifies that this relates to parents accessing entitlement hours and that there should be no artificial breaks in how entitlement hours are offered to parents, with an example provided outlining how offering entitlement hours for 10am-12pm and 1-3pm with only private paid hours available in between creates an artificial break. Providers should work with parents to ensure that as far as possible the pattern of the entitlement hours are convenient for parents’ working hours. 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.

Are the DfE seeking to stop providers from charging?

The DfE have stated that they ‘are not seeking to stop providers from being able to charge for voluntary extras. However, we are updating the statutory guidance in line with the recent High Court judgment, to ensure it accurately reflects the underpinning legislation and to help support clarity and consistency for parents and providers around charging.’

The DfE expects many providers will continue to charge for things like food and know many parents prefer to purchase food provided onsite. The DfE will not *encourage* parents to opt out, but **must** make clear that any charges cannot be mandatory, as reaffirmed by the court.

When do I need to implement these changes?

The changes to the statutory guidance will come into force **from 1 April 2025**.

Websites and invoices:

Providers **must** have listed additional charges clearly and upfront on websites and invoices by **January 2026**. The DfE understand that providers may require some time to update their systems to be able to itemise these charges for parents, but are clear that they want parents to be able to easily understand what any additional charges cover, and to be able to see that the entitlements are provided free of charge.

Are providers still able to make charges?

The guidance makes clear that providers **can** charge parents for additional hours, consumables and extra services, but these charges **must** be **voluntary.** The children

who do not participate in optional activities **must** continue to receive provision that complies with the EYFS. Providers **must** ensure that they offer reasonable alternatives to parents that enable them to access the entitlements for free if they wish.

I provide food for the children and do not allow packed lunches. Can I charge for meals?

A nursery remains fully able to charge parents for a meal provided to a child. But if the parent is unable or unwilling to pay that sum, the nursery **must** make arrangements under which the child can eat food provided by the parents or alternatively waive the cost for the family.

The changes to the statutory guidance relating to additional charging will not prevent settings from being able to charge parents for the provision of food. The DfE does not actively encourage parents to opt out, and knows many parents prefer to purchase food provided onsite. However, the DfE **must** make clear that any charges cannot be mandatory, in line with the underpinning entitlements legislation.

But what about choking risks and allergies?

The DfE has stated the following:

There is a requirement within the EYFS that states: 'Before a child is admitted to the setting the providers **must** obtain information about any special dietary requirement, preferences, and food allergies that the child has'. From September 2025 the requirements around safer eating will be strengthened and in addition will require that all settings **must** have ongoing discussion with parents regularly and where appropriate health professionals to develop allergy action plans for managing any known allergies and intolerances. Providers will also be required to ensure that all staff are aware of symptoms and treatments for allergies and anaphylaxis. The DfE encourages settings to refer to the NHS advice on food allergies to support these arrangements.

There is already a requirement that children **must** always be within sight and hearing of a member of staff whilst eating. From September 2025 this requirement will be strengthened so that where possible, a member of staff should sit facing children whilst they eat so they can make sure children are eating in a way to prevent choking and so they can prevent food sharing and be aware of any unexpected allergic reactions.

These requirements do not and should not prevent settings from allowing parents to bring in their own packed lunches or snacks. However, settings may choose to produce a 'packed lunch policy' regarding what food is permitted. Nurseries are free to set their own packed lunch policy, but this **must** comply with equality legislation. A packed lunch policy is to ensure all children are being offered healthy and nutritious

food, to avoid choking risks, and to help prevent allergic reactions for children who may have airborne food allergies.

For full information and requirements settings should refer to the EYFS, including the strengthened requirements which come into force from September 2025.

Can we charge for “general extras”?

The DfE are clear that they expect providers to be transparent in their charging arrangements, and expect providers to itemise their invoices, in order to make their charging arrangements clear and easy to understand for parents.

As per the recent High Court judgment, any mandatory charges in connection with the Early Years Funded Entitlement hours are inconsistent with the legislation. The statutory guidance makes clear that providers can charge for certain consumables, food and additional activities but these charges **must** be voluntary for the parents.