

Early Education Funding PROVIDER GUIDANCE



www.milton-keynes.gov.uk/children-young-people-families/30-free-childcare-information

Effective from
1st September 2017



Contents Page

Introduction	2
- Key Local Authority Responsibilities	2
- Key Provider Responsibilities	4
- Legal Framework and Statutory Guidance	5
- Safeguarding	5
- Definitions	6
Eligibility	7
- General Information	7
- Two Year Olds	8
- Three and Four Year Olds	9
- The Grace Period	11
Flexibility	12
Quality	14
SEND	16
- Disability Access Fund (DAF)	16
- Partnership Working	17
Social Mobility & Disadvantage	18
British Values	18
Charging	19
Funding	21
- Payments	22
Compliance	23
Termination and Withdrawal of Funding	24
Complaints and Appeals Process	25
Data Protection – General Information	26
Provider Agreement	26
Annex 1: Data Protection	27
Annex 2: Equality	30
Annex 3: EEF Provider Agreement	32 – 37

INTRODUCTION

Welcome to the Milton Keynes Early Education Provider Guidance. This document is your guide to the standards for offering early learning for eligible two, three and four year olds.

Details of Providers offering this entitlement will be listed on the Milton Keynes Directory of Providers. This enables parents/carers to identify where their children can access Funded Early Education. Providers are responsible for ensuring information contained on this Directory is accurate and up to date.

This guidance is effective from 1st September 2017 and replaces all previous guidance documents provided by the local authority.

KEY LOCAL AUTHORITY RESPONSIBILITIES

- Local authorities must secure a free entitlement place for every eligible child in their area.
- The local authority should work in partnership with providers to agree how to deliver free entitlement places.
- The local authority should be clear about their role and the support on offer locally to meet the needs of children with special education needs and/or disabilities (SEND) as well as their expectations of providers.
- Actively promote fundamental British Values and not promote views or theories as facts which are contrary to established scientific or historical evidence and explanations.
- For providers less than 'good', take any measures identified in a report from Ofsted to improve the overall effectiveness of the provision. This may include participation in training or other quality improvement programmes which have been identified as necessary to address concerns raised in the Ofsted inspection report.
- The local authority must contribute to the safeguarding and promote the welfare of children and young people in their area.

KEY PROVIDER RESPONSIBILITIES

- The provider must comply with all relevant legislation and insurance requirements.
- The provider should deliver the free entitlement consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the provider should be clear and communicate to parents details about the days and times that they offer free places, along with their services and charges. Those children accessing the free entitlements should receive the same quality and access to provision.
- The provider must follow the EYFS and have clear safeguarding policies and procedures in place that link to the local authority's guidance for recognising, responding, reporting and recording suspected or actual abuse.
- The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Provider should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.
- **Planning Guidance:** All providers should have appropriate planning permission in place where required. In the case of childminders, this may be applicable if you work with an assistant, another registered childminder or care for more than 6 different children within a 24 hour period. For guidance and clarification, you should contact the local planning department on 01908 252358 or planning.enquiries@milton-keynes.gov.uk
- **Environmental Health:** All providers must comply with environmental health legislation and should register to receive and a Safer Food Better Business Pack.
Contact 01908 254489 or 252201 or EHFST@milton-keynes.gov.uk
- **Continuity of Education:** Providers must support the local authority to ensure parents/carers apply for a school place on time. To ensure children have opportunity to access local high quality education provision.

LEGAL FRAMEWORK AND STATUTORY GUIDANCE

The following frameworks and legislation underpin this guidance:

- Early Education and childcare, Statutory guidance for Local Authorities 2017
- Childcare Act 2006
- Childcare Act 2016
- Equality Act 2010
- School admissions code 2014
- Statutory framework for the early years foundation stage 2014
- Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
- The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016
- Special educational needs and disability code of practice: 0 to 25 years 2015
- Data Protection Act 1998

SAFEGUARDING

Providers must ensure children are kept safe. If a professional working with children has concerns regarding the well-being of the child and their family a referral must be made to the Multi Agency Safeguarding Hub (MASH) on 01908 253169 or 01908 253170 and any other relevant professionals.

The Local Authority Designated Officer (LADO) must also be notified of any concerns. Further details of the LADO role and contact details are can found at: <https://www.milton-keynes.gov.uk/children-young-people-families/children-s-social-care/the-role-of-the-lado-local-authority-designated-officer>

Providers must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect.

A lead practitioner in settings and schools (Designated Safeguarding Lead) must take responsibility for safeguarding. In a childminding setting the childminder is the DSL. All staff must have training to identify signs of abuse and neglect.

The DSL should update their training every two years. All other staff should update their training every three years, plus an annual update. This can be in the form of a staff meeting where safeguarding is the main focus, keeping updated on documents and procedures, etc.

Providers must have regard to “Working Together to Safeguard Children” 2015 guidance.

DEFINITIONS

In this guide the following words shall have the following meanings:

Eligible Children	The children who meet Milton Keynes Council's funding criteria as set out in the Eligibility section of this guidance
Funded Early Education ("free hours")	Is the provision by the Provider of early education to Eligible Children in accordance with the terms of this guidance
Early Education Funding	Such funding payable by Milton Keynes Council to the Provider for the provision of early education in accordance with the terms of this guidance.
Provider	The person or the place registered on the local authority Directory of Providers where Eligible Children can access Funded Early Education. This includes Pre Schools, Day Nurseries, Childminders, Independent Schools, Maintained Nursery Schools, Maintained Schools and Academies.
Block	A period of time related to three Funding Blocks, starting and ending on fixed dates. These fixed start dates are 1 st January, 1 st April and 1 st September. There are three Blocks a year that run consecutively
Funded Session	This is the provision by the Provider of Funded Early Education between specified times on a single day

ELIGIBILITY

GENERAL INFORMATION

- The provider should check original copies of documentation to confirm a child has reached the eligible age on initial registration for all free entitlements. The provider can retain paper or original copies of documentation to enable the local authority to carry out audits and fraud investigations. Where a provider retains a copy of documentation this must be stored securely and deleted when there is no longer a good reason to keep the data.
- The local authority must ensure that a child has a free entitlement place no later than the beginning of the term following the child and parent meeting the eligibility criteria for the free entitlements.
- Alongside the 30 hour eligibility code, a provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from the local authority of the validity of the parent's 30 hour eligibility code. This written consent form is part of the Parental Contract which all funded children's parents must sign at the beginning of the Block in which their eligibility starts.
- Once a provider has received a signed Parental Contract each Funding Block, they should verify the 30 hours eligibility code on the Provider Portal, before entering the 30 hour code on the Block Actuals.
- The eligibility checker on the Provider Portal will confirm the eligibility of the 30 hour eligibility code to allow a provider to offer the 30 hours places for the eligible three or four year old.
- All parents have to sign a Parental Contract, therefore they will be liable for false claims. Consequently, providers will be liable for false claims and may lose out on funding if they have failed to obtain a signed contract.

Two year olds

A child is eligible if:

- They are looked after by the local authority
- They meet the criteria for Free School Meals (see next paragraph)
- They have a current statement of Special Educational Need or Education, Health and Care Plan
- They are entitled to Disability Living Allowance
- They are no longer looked after by the local authority as a result of an adoption order, a special guardianship or residence order, or child arrangement order
- The family receives Working Tax Credits **and** have an annual gross income of no more than £16,190 per year
- Child is living in England where the family has no recourse to public funds

Children are eligible to receive Free School Meals if their parents are in receipt of any of the following benefits:

- Income Support
- Income-based Job Seekers' Allowance
- Income-related Employment and Support Allowance
- National Asylum Seekers Support (NASS)
- The Guarantee element of State Pension Credit
- Child Tax Credit only, and have an annual gross income of no more than £16,190
- Working Tax Credit 'run on'

Free entitlement begins the Block after the child's second birthday:

A child born between:	Will be eligible for a free place from:
1 January – 31 March	Block 1 – 1 April (following 2 nd birthday)
1 April – 31 August	Block 2 – 1 September (following 2 nd birthday)
1 September – 31 December	Block 3 – 1 January (following 2 nd birthday)

- Eligible Children will remain eligible until the term after their third Birthday when they will transfer to the three and four year old funding that is currently available to all three and four year olds.
- Children will remain eligible even if there is a change in household circumstances or looked after status, after they have been accepted onto the Two Year Old funding scheme.
- Two year olds who become eligible after the beginning of the term following their second birthday must be found a place by the start of the next term.

- Eligible Children moving into Milton Keynes from another area or country can access the Two Year Old Funding Scheme at any point during the Block.

Three and four year olds

Universal entitlement

- Every three and four year old is eligible for 570 hours of free early education. Funding is available from the Block following their third birthday until they enter school, unless formal deferred entry is agreed. If children have a deferred entry, they continue to be entitled to claim funding at a Provider until the end of the school term in which their fifth birthday falls.
- When a child starts school they may be phased into the school gradually. If a child continues to attend another provider during this transition period, they can claim funding at both providers for a maximum of four weeks.
- Childminders are not able to claim for their own children

Extended entitlement

A three or four year old child of a working family may be eligible for 1140 hours of free childcare. If the eligibility criteria are met, the child would be entitled to 570 free hours from the universal entitlement and a further 570 free hours through the extended entitlement.

A child will be eligible if:

- The parents/parent earn or expect to earn the equivalent to 16 hours at National Minimum or Living Wage over the coming three months (whether you are in paid employment, self-employed or on zero hours contract)
- This equates to £120 a week (or c. £6,000 a year) for each parent over 25 years old or £112.80 a week (or c. £5,800 a year) for each parent between 21 and 24 years old.
- The parent (and their partner where applicable) should be seeking the free childcare to enable them to work.
- Where one or both parents are on maternity, paternity, shared parental or adoption leave, or if they are on statutory sick leave.
- Where one parent meets the income criteria and the other is unable to work because they are disabled, have caring responsibilities or have been assessed as having limited capability to 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.
- If a non-EEA national, the parent must have recourse to public funds.

Parents must check their eligibility for the extended entitlement through the Government's online childcare service. Funding is available from the Block following their third birthday until the child reaches compulsory school age or they become ineligible.

Three and four year old entitlements begin the block after the child's 3rd birthday:

A child born between:	Will be eligible for a free place from:
1 January – 31 March	Block 1 – 1 April (following 3 rd birthday)
1 April – 31 August	Block 2 – 1 September (following 3 rd birthday)
1 September – 31 December	Block 3 – 1 January (following 3 rd birthday)

- Eligible children of working parents will continue to be entitled to free early education place as part of the universal entitlement until they enter school or they become ineligible.
- Milton Keynes Council will audit the codes of resident children in receipt of the extended entitlement at 6 predefined dates in the year to ensure the child has not become ineligible.
- Once a child becomes ineligible MKC will inform the provider and the child will enter a '**Grace Period**'. During this '**Grace Period**' the child will continue to be funded for the extra 570 hours until the specified grace period end date arrives.

The Grace Period

The grace period enables parents to retain their childcare place for a short period if they become ineligible for 30 hours. The grace period checking dates are:

Validity End Date	LA 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

- Parents reconfirm their eligibility around every three months depending on when they first applied for 30 hours. There will be three dates attached to each code (only the local authority and provider sees these dates).
- The 'validity start date' is the date on which the parent has applied and been issued a code. The 'validity end date' is the parent's 'deadline' for reconfirming. Their 'grace period' date is the last date on which they should receive their 30 hours place.
- The ECS will automatically assign grace period end dates to every eligibility code. When local authorities undertake their audits, they will inform providers which children are in their grace period and for how long.

FLEXIBILITY

- Children should be able to take up their full entitlement to early education at times that best support their development, learning and at times which fit with parental needs. Providers can deliver their own model of flexibility using the following principles

Childcare Session	Quantity
Minimum length	No minimum (<i>subject to requirements on the Ofsted Early Years Register</i>)
Maximum length	10 hours
Time of Delivery	6.00 am to 8.00pm
Weeks of childcare	38 weeks – 52 weeks
Childcare days	Up to 7 days a week

- Providers have total autonomy to decide how they offer childcare places in line with the parameters outlined above. Providers are not required to be open for minimum of 38 weeks and are not required to offer 30 hours in order to receive funding for the delivery of universal free places.
- The extended entitlement for working parents awards eligible children access to up to 1140 hours of free childcare over a 52 week period. How the free childcare hours are used is the responsibility of the parent. Therefore parents have the freedom to decide when, where and how many hours they access to suit their needs. The free childcare hours can also be accessed outside of school term dates and at weekends.
- The provider should work with the local authority and share information about the times and periods at which they are able to offer free entitlements to support the local authority to secure sufficient stretched and flexible places to meet parental demand in the local area. The provider should also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting.
- Research has shown that continuous provision is in the best interests of a child, hence it is encouraged that providers attempt to offer the provision hours in continuous blocks with no artificial breaks throughout the day.
- It is possible for children to claim their funding from more than one provider. If considering more than two providers, parents should be encouraged to consider the impact on the continuity of care for the child when accessing the free entitlement at multiple providers.

- The provider should discuss and work closely with parents to agree how a child's overall care will work in practice when their free entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.
- A child is able to access entitlement across two providers, though no more than two sites in one day, however, **BOTH** need to provide the same offer i.e. both term time only **or** both stretched.
- When using more than one provider, if a parent ceases to meet the eligibility criteria for the 30 hours entitlement, the parent must choose which provider they will continue to take up their child's universal 15 hours entitlement as long as the child meets the age criteria.

QUALITY

- 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. The evidence also shows that high quality provision at age two brings benefits to children's development. 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.
- The Early Years Foundation Stage (EYFS) statutory framework is mandatory for all early years providers in England. The EYFS sets the standards that all early years providers and schools 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.
- The learning goals in the EYFS are clear that a provider is 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'. A provider who wishes 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.
- Providers must ensure that the statutory Two Year Progress Check is undertaken to support the early identification of a child's need. Providers must meet the needs of disabled children or those who have a Special Educational Need. The provider should request parents shared the Two Year Old Progress Check if it has been undertaken elsewhere and also request to see the Two Year Old Development Check undertaken by their Health Visitor.
- The decision to fund a provider to deliver early education places will solely be based on the provider's most recent Ofsted inspection judgement.
- A provider with an Ofsted inspection of 'Met' will be funded until their Ofsted quality inspection judgement is published.
- A provider delivering the Two Year Old entitlement must be rated, 'Good' or 'Outstanding' by Ofsted. Only 'Satisfactory/Requires Improvement' providers will be funded where there is not sufficient, accessible 'Good' or 'Outstanding' provision and the provider is willing to accept the local authority requirements.

- Milton Keynes Council will fund places for three and four year-old children at any provider judged 'satisfactory' (prior to 2014) or 'requires improvement' by Ofsted if the provider is willing to accept Milton Keynes Council's requirements in the Provider Guidance.
- Milton Keynes Council **can** refuse to fund a provider if it has reasonable grounds to believe that the provider is unable to meet any of their requirements set out in the Provider Guidance. Providers must ensure they action any measures identified in a report from Ofsted to improve the overall effectiveness of the provision.
- Milton Keynes Council will fund places for two, three and four year old children at new providers registered with Ofsted until the provider's first full Ofsted inspection judgement is published and the provider is willing to accept Milton Keynes Council's requirements in the Provider Guidance.
- Where a provider is rated 'Inadequate' by Ofsted Milton Keynes Council will consider the decision to withdraw funding on a case by case basis. The decision will be the responsibility of the Head of Delivery for Setting and School Effectiveness and will be reviewed against the needs of the children attending the provision and the grounds for the Ofsted judgement. No new funded children will be admitted to the provision. Milton Keynes Council has a statutory duty to secure alternative provision as soon as practicable for the current funded children in a setting.
- Milton Keynes Council will consider any information published by Ofsted about a provider, including the recent history about childcare provision at a particular address. This may include, for example, where Milton Keynes Council has concerns that a provider judged 'inadequate' by Ofsted may have re-registered their setting with Ofsted to avoid making the quality improvements identified by Ofsted, or a provider using the same location, employing at least one member of the Leadership Team, as one previously closed down or rated 'inadequate' by Ofsted.

SEND

- A provider must ensure owners and all staff members are aware of their duties in relation to the SEND Code of Practice and the Equality Act 2010.
- Milton Keynes Council will be clear and transparent about the support on offer in their area, through the Local Offer, so parents and providers can access the support. To view the Milton Keynes full Local Offer please go to: <https://www.milton-keynes.gov.uk/schools-and-lifelong-learning/special-educational-needs/send-local-offer/further-information-on-the-send-local-offer>
- A provider should be clear and transparent about the SEND support on offer at their setting and make information available about their offer to support parents to choose the right setting for their child with SEND.
- A provider should ensure they have a strong multi-agency focus by securing local partnerships between all joint working professionals including education, health and social care.

DISABILITY ACCESS FUND (DAF)

This is a new funding measure for early years providers to support children with SEND.

- The DAF aids access to early year places by, for example, supporting providers in making reasonable adjustments to their settings, purchasing specialist equipment and/or seeking specialised training that would support providers to meet a child's needs.
- Four year olds in Maintained Schools Reception Classes are NOT eligible for DAF.

Eligibility

Three and four year olds will be eligible for DAF if the child is in receipt of child disability living allowance (DLA) and the child is eligible and receives 3 and 4 year old free early education.

Entitlement for providers

- Providers who have eligible children will be entitled to £615 per financial year. This will be paid in a one-off payment and is not based on an hourly rate, it is an additional entitlement.
- A child does not have to take up the full funded hours of early education to receive the DAF.

- For a child who accesses two providers for their free entitlement, a parent will need to indicate on their Parental Contract which provider they wish the DAF to be paid to, it can't be split over two providers.
- Once the yearly amount has been paid to a provider, if the child leaves their setting, they retain the funding, it doesn't have to be repaid to Milton Keynes Council and it doesn't follow the child to their new setting. The new provider wouldn't be able to claim the DAF for the child until the next financial year.
- Where a child accesses a provider in a local authority different to the one in which they live, the provider's local authority is responsible for checking the child's eligibility and for funding the DAF.

Identifying eligible children

- A provider is responsible for identifying eligible children.
- Providers are encouraged to speak to their parents in order to find out who is eligible for DAF.
- Parents of children qualifying for DLA will be required to provide documented evidence of this entitlement and providers will need to send Milton Keynes Council a copy of the evidence along with the application form to apply for the funding.

PARTNERSHIP WORKING

- The local authority will promote partnership working between different types of providers, including childminders, across all sectors and encouraging more providers to offer flexible provision, alongside other providers.
- The provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting.
- The provider should 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.

An interactive toolkit has been developed to help providers to set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring. The toolkit can be found by clicking on this link: <http://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>

SOCIAL MOBILITY AND DISADVANTAGE

- Milton Keynes Council will promote equality and inclusion, particularly for disadvantage families, looked after children and children in need by removing barriers of access to free places and working with parents to give each child support to fulfil their potential.
- A provider should ensure that they have identified the disadvantaged children in their setting as part of the process for checking Early Years Pupil Premium (EYPP) eligibility. A provider will also use EYPP and any locally available funding streams eg Deprivation Funding or support to improve outcomes for this group.
- A provider will ensure the impact and outcomes of EYPP spending on each eligible child can be evidenced to Milton Keynes Council and for the purposes of their Ofsted inspection.

BRITISH VALUES

Milton Keynes Council will investigate concerns about early years providers that do not actively promote fundamental British values, or which promote views or theories as fact which are contrary to established scientific or historical evidence and explanations.

Early education places cannot be secured at a provider who MKC 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 fact views or theories which are contrary to established scientific or historical evidence and explanations.

Where Milton Keynes Council has reasonable grounds to believe that one or more of the criteria set out above applies, funding will be withdrawn.

CHARGING

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

- The provider can charge for:
 - Meals
 - Snacks
 - Consumables – nappies, sun cream, etc.
 - Trips

These should form part of a free entitlement place and must be voluntary for the parent.

- Children should be able to take up their free hours as part of continuous provision and a provider should avoid artificial breaks in the day wherever possible. This means that the lunchtime hour/session should form part of the free provision where a child is attending a morning and afternoon session.
- Free School Meals: Where a child is attending an academy, maintained nursery school or nursery class before and after lunch a child may be eligible for free school meals. To qualify the parents must be in receipt of specified benefits. The school is required to provide a free school meal to eligible children wishing to take up their entitlement. Where a child would qualify for Free School Meals but chooses to take up their free entitlement in a PVI setting, the meal will not be funded by the local authority.
- Where parents are unable or unwilling to pay the additional charges, providers who choose to offer the free entitlement are responsible for setting their own WRITTEN Policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals.
- The provider cannot charge parents “top-up” fees (the difference between a provider’s usual fee and the funding they receive from the local authority) or require parents to pay a registration fee as a condition of taking up their child’s free place.
- **3 & 4 YEAR OLD CHILDREN ONLY**: Providers can charge parents a deposit to secure their child’s free place but should refund the deposit in full to parents within a calendar month of the child taking up their place. The purpose of the deposit is to give providers a certainty that a parent will take up a place. It should be made clear to a parent by a provider that if a parent fails to take up their place, a provider is not obliged to refund the deposit.

- The provider should deliver the free entitlement consistently so that all children accessing any of the free entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
- A provider can choose to allow a parent to purchase additional hours of provision or additional services, providing that this does not affect a parent's ability to take up their child's free place. The provider should be transparent about any additional charges.
- Providers should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their free entitlement completely free of charge and understand what is being charged for any additional hours. The provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.
- Providers should publish their Admissions Criteria and ensure parents understand which hours/sessions can be taken as their 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 patterns of hours are convenient for parents' working hours.
- An eligible child should claim funding from the local authority where the provider operates.
- In order to claim funding a child must attend for a minimum of 63% of the agreed free entitlement hours for the term; exceptions to this will be at the local authority's discretion.
- Providers must ensure that funding is spent during the Block for which it has been allocated and for the benefit of the funded children for that Block. However, in some circumstances it may be justified for the provider to use the funding outside of the allocated Block.

FUNDING

Funding is determined using the local Early Years Single Funding Formula (EYSFF). The rates for 2017/18 are:

Two Year Old Funding	£ 5.30 per hour – all providers
Three & Four Year Old Funding	£ 4.42 per hour – Independent Schools, Pre Schools, Day Nurseries, Childminders, Maintained Nursery Classes
	£ 4.61 per hour – Maintained Nursery Schools

- In order to claim funding providers will be expected to present information to the local authority via the Provider Portal. All information must be submitted to Milton Keynes Council by the dates specified on the Annual Timeline. Failure to do so will result in monthly payments being withheld or delayed.
- At specific times providers will be asked to update information from the Children and Families Information Team and from time to time requested to distribute information to parents published by Milton Keynes Council.
- If a child claiming the free entitlement leaves/joins after headcount day, the provider must inform MKC immediately, using the Post Headcount form. Funding cannot be used to pay for arrears built up outside of the free entitlement. Funding can be claimed by a provider when a child informs them they are leaving their setting, until the end of their contracted notice period.
- If a child is excluded from a provider for non-payment of fees, the child cannot be excluded for the flexible free entitlement hours. The only hours that can be stopped are the extra hours being charged for independently by the Provider.

PAYMENTS

- Payments are made to providers in three funding Blocks.
- Initial payments will be based upon the estimated number of children and hours to be attended during that Block.
- The final payment in each Block is based upon actual attendance for the term. The final payment will reconcile any over or under estimations within the initial payments.
- All funding payments are made on a monthly basis on or around the 26th of each calendar month.
- Further payments may be made on submission of new claims through the Post Headcount form. The deadline for Post Headcount requests for payment is the last day of each block.
- Any overpayments of Block funding or Post Headcounts will automatically be deducted by Milton Keynes Council from future payments. A provider will be notified by the Early Years Placement Officer of any such deductions.

Calculating Initial Payments:

1. Parent completes and returns Parental Contract to Provider
2. Provider completes and submits Estimates during preceding Block
3. MKC makes monthly payments and the Provider Portal is updated.

Calculating the Final Block Payment:

1. Provider completes and submits Actuals data on a set date in each Block.
2. MKC will calculate the final payment of each Block and the Provider Portal will be updated.

COMPLIANCE

Providers will fill in the requisite forms correctly and return them by the date required. Milton Keynes Council reserves the right to carry out spot check audits to ensure compliance with the Early Education Funding Guidance to detect false claims. Providers must maintain all attendance and finance records for a period of six years.

When requested, providers must have at the audit copies of:

- children's attendance registers for the identified funding Block
- Parental Contracts for the identified funding Block
- bank statements for the identified funding Block
- two to three samples of invoices/charges to parents, if applicable
- records of Income and Expenditure for the identified funding Block;
- Documentation to prove the current status of the setting eg. Registered Charity, Incorporated Company, Private Owner, Social Enterprise
- copy of current Business Plan
- copies of accounts
- proposed budget for the year; and
- any other evidence that can be reasonably requested.

Providers must maintain a specific, non-personal bank account, which is dual signatory unless a sole-trader.

If the funding received for the free entitlement exceeds the amount the provider would normally charge, the provider can keep the excess. However Milton Keynes Council will examine financial records to determine how the excess is spent. Providers must contact Milton Keynes Council upon receipt of any payment for ineligible children.

Any change of circumstance or organisation, including name, must be reported to MKC, as the provider may need to re-apply for inclusion in the Milton Keynes Directory of Providers, which may result in a change of funding arrangements.

TERMINATION AND WITHDRAWAL OF FUNDING

This process can be instigated following a provider's routine Ofsted Inspection or an Ofsted Re-inspection following a complaint:

1. Outstanding/Good / Satisfactory/Requires Improvement

1. Milton Keynes Council will continue to fund places for three and four year old children attending any provider rated Satisfactory/Requires improvement if the provider is willing to accept Milton Keynes Council's requirements in the provider guidance
2. If the provider is in receipt of two year old funding there will be a review of the sufficiency of alternative Good and Outstanding provision in the area. Milton Keynes Council will consider the decision to withdraw funding on a case by case basis. Milton Keynes Council may continue to fund places for entitled two year olds if the provider is willing to accept Milton Keynes Council's requirements. The decision will be the responsibility of the Head of Delivery for Setting and School Effectiveness.
3. Milton Keynes Council will fund providers with an Ofsted inspection of 'met' until their Ofsted quality inspection judgement is published.

2. When an Ofsted Grading drops to Inadequate

Where a provider is rated 'Inadequate' by Ofsted Milton Keynes Council will consider the decision to withdraw funding on a case by case basis. The decision will be the responsibility of the Head of Delivery for Setting and School Effectiveness and will be reviewed against the needs of the children attending the provision and the grounds for the Ofsted judgement. No new children will be admitted to the provision.

COMPLAINTS AND APPEAL PROCESS

Advice on how to complain to the council is available on the website:

<https://www.milton-keynes.gov.uk/your-council-and-elections/comments-compliments-and-complaints>

Alternatively you can contact Milton Keynes Council on: 01908 691691.

All providers should have a complaints procedure in place that is published and accessible for parents. This should be shared with parents from the time that their child is eligible to receive the free entitlement.

Where there has been a decision not to provide funding or withdraw funding from a Provider a written explanation will be provided, the Provider has the right to appeal the decision. A parent also has the right to complain if they are not satisfied that their child has received their free entitlement in accordance with the legislation or the guidance in this document.

The Provider should do this by putting their reason for appeal in writing, addressing it to the Assistant Director, Children and Families; Education, Effectiveness and Participation. This should be done within seven days of receiving notification that funding is to be withdrawn.

The Corporate Director for People will consider the appeal against the information provided in conjunction with the Head of Delivery for Setting and School Effectiveness and the Head of Delivery for Setting and School Sufficiency and Access. This will be done within 10 working days.

The provider will be informed of the final decision.

A provider who is not satisfied with the Milton Keynes Council process and feels that maladministration has occurred, may make a complaint to the Local Authority Ombudsman on 0845 602 1983 or email www.lgo.org.uk after the full appeals process with Milton Keynes Council has been exhausted.

DATA PROTECTION

It is vital that those who collect and use personal data maintain the confidence of those who provide it; by ensuring full compliance with the requirements of the Data Protection Act 1998, this will be achieved.

Any Provider who decides how and why personal data (which could include copies of passports or birth certificates) is processed (data controllers), must comply with the rules of good information handling, known as the data protection principles, and the other requirements of the Data Protection Act. Processing occurs when any operation or set of operations is carried out on personal data.

Annex 1 details some of the key data protection rules and principles that must be achieved. Failure to meet all the rules and principles outlined in the Act (<http://www.opsi.gov.uk/acts/acts1998/19980029.htm>) could lead to the information commissioner taking enforcement action. It could also lead to an individual seeking compensation through the courts.

PROVIDER AGREEMENT

The Provider Agreement has been drawn up to ensure Milton Keynes Council and Providers improve outcomes for children.

If a Provider fails to adhere to any aspect of the Provider Agreement or fails to adhere to any other rules or procedures that it must abide by (for example Ofsted standards), then funding may be withdrawn. If Milton Keynes Council decides not to provide funding, a written explanation will be provided.

However, Milton Keynes Council seeks to work with providers to ensure that at all times they have the appropriate support and guidance needed to deliver on the necessary commitments, and to ensure that any likely breach is resolved as soon as possible.

All Providers must acknowledge receipt of this Provider Agreement and adhere to the requirements.

All Providers must sign and return the Provider Agreement, at Annex 3, by the 1st August 2017.

The Provider Agreement will remain in force until 31 August 2018.

Annex 1: Key data protection rules and principles

The Data Protection Act 1998 regulates the processing of information relating to a living individual. This includes obtaining, holding, using or disclosing such information. It covers manual filing systems and records as well as computerised ones, card indexes and microfiche.

Data protection principles

1. Personal data shall be processed fairly and lawfully;
2. Personal data shall be obtained only for lawful purposes;
3. Personal data shall be adequate, relevant and not excessive
4. Personal data shall be accurate and kept up to date.
5. Personal data shall not be kept for longer than is necessary
6. Personal data shall be processed in accordance with the data subjects rights
7. Personal data shall be kept secure
8. Personal data shall not be transferred outside the EC unless adequate protection is available in that country in relation to personal data

Rights of the data subject

Under the Data Protection Act 1998, the individual has:

1. The right of access to his/her personal data upon payment of £10 fee;
2. The right to prevent processing likely to cause damage or distress;
3. The right to prevent use of personal data for direct marketing purposes;
4. The right to have decisions relating to him/her not to be made solely by automatic means;
5. The right to compensation if he/she suffers damage; and
6. Right of redress where data are inaccurate.

Processing personal data

'Processing' is broadly defined and takes place when any operation or set of operations is carried out on personal data. The Act requires that personal data be processed "fairly and lawfully".

Personal data will not be considered to be processed fairly unless certain conditions are met. A data subject must be told the identity of the data controller and why that information is or is to be processed.

Processing may only be carried out where one of the following conditions has been met:

- the individual has given his or her consent to the processing;
- the processing is necessary for the performance of a contract with the individual;
- the processing is required under a legal obligation;
- the processing is necessary to protect the vital interests of the individual;
- the processing is necessary to carry out public functions; and
- the processing is necessary in order to pursue the legitimate interests of the data controller or third parties (unless it could prejudice the interests of the individual).

Processing sensitive data

The Data Protection Act makes specific provision for sensitive personal data. Sensitive data include racial or ethnic origin; political opinions; religious or other beliefs; trade union membership; health; sex life; criminal proceedings or convictions.

Sensitive data can only be processed under strict conditions, which include:

- having the explicit consent of the individual;
- being required by law to process the data for employment purposes;
- needing to process the information in order to protect the vital interests of the data subject or another; and
- dealing with the administration of justice or legal proceedings.

Security

Data controllers must take security measures to safeguard personal data. The 1998 Act requires that data controllers must take appropriate technical or organisational measures to prevent the unauthorised or unlawful processing, or disclosure, of data. Where a controller uses the services of a data processor the security arrangements must be part of a written agreement between the two.

Criminal offences

Notification offences

These are committed where processing is being undertaken by a data controller who has not notified the Commissioner either of the processing being undertaken or of any changes that have been made to that processing. Failure to notify is a strict liability offence.

Procuring and selling offences

It is an offence to obtain, disclose, sell or advertise for sale, or bring about the disclosure of personal data, without the consent of the data controller. It is also an offence to access personal data or to disclose it without proper authorisation. This covers unauthorised access to and disclosure of personal data. There are some exceptions to this.

Enforced subject access offence

Unless one of the limited statutory exceptions applies, it is an offence for a person to ask another person to make a subject access request in order to obtain personal data about that person for specified purposes, such as a precondition to employment.

Other offences

It is an offence to fail to respond to an information notice or to breach an enforcement notice. Unauthorised disclosures by the Commissioner or her staff are forbidden and breach of those provisions is an offence

Disclosure

Staff should not disclose personal information unless they have specific instructions or procedures from their manager permitting the disclosure. This includes email, fax, letter, verbal or allowing an unauthorised person to view data on the VDU.

Annex 2: Equality

The Equality Act 2010 offers protection against discrimination, harassment and victimisation and applies to statutory and non-statutory early year's 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 Act 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 three "equality needs" that they must have due regard to when making decisions:

- 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) Regulations 2011 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.

Annex 3: EEF PROVIDER AGREEMENT

THIS AGREEMENT is made the _____ day of _____ 2017

BETWEEN:-

Milton Keynes Council of the Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3EJ ("the Council")

and

Name of Provider: ("the Provider")	
Ofsted Number:	
Address:	

BACKGROUND

- (A) The purpose of this Agreement is to formalise the relationship between the Council and the Provider with regard to the provision of Two, Three and Four Year Old Early Education Funding for the delivery of free 'Early Education' to qualifying children in Milton Keynes.
- (B) In entering into this Agreement, the Provider is agreeing to comply with all the requirements of the Agreement.
- (C) The Council will view any failure to comply with the terms of this Agreement as a breach of the legal obligations required of the Provider, which may result in a requirement to repay part or the whole of the Early Education Funding or the Provider ceasing to be entitled to receive Two, Three and Four Year Old Early Education Funding, as detailed in this Agreement.
- (D) For the avoidance of doubt the Early Years Provider Guidance shall form part of this Agreement as if it had been repeated here in full.

OPERATIVE PROVISIONS IT IS AGREED AS FOLLOWS:-

1. Definitions

In this Agreement the following words shall have the following meanings:-

- 1.1 "Eligible Children" - the children who meet Milton Keynes Council's funding criteria as set out in Eligibility section of this guidance
- 1.2 "Funded Early Education" - the provision by the Provider of early education to Eligible Children in accordance with the terms of this Agreement.
- 1.3 "Early Education Funding" - such funding payable by the Council to the Provider for the provision of early education in accordance with the terms of this Agreement.
- 1.4 "Provider" – the person and the place registered on the Local Authority Directory of Providers where Eligible Children can access Funded Early Education..
- 1.5 "Block" – A period of time related to three Funding Blocks but starting and ending on fixed dates. These fixed start dates are 1 January, 1 April and 1 September. There are three blocks a year that run consecutively.
- 1.6 "Funded Session" – This is the provision by the Provider of Funded Early Education between specified times on a single day.
- 1.7 "Provider Agreement" - the Agreement for the Two, Three and Four Year Old Funding Scheme produced by Milton Keynes Council (and any subsequent versions of this document).
- 1.8 "Provider Guidance" – Milton Keynes Early Education Funding Provider Guidance to which this Agreement is attached

2. Obligations of the Council

- 2.1 The Council shall pay Two, Three and Four Year Old Early Education Funding to the Provider in accordance with the Provider Guidance, subject to the Provider providing the Funded Early Education in accordance with the terms of this Agreement.

3. Obligations of the Provider

- 3.1 The Provider shall provide the Funded Early Education for Two, Three and Four year olds in accordance with the Provider Guidance and any other reasonable additional requirements of the Council, notified in writing by the Council to the Provider.

- 3.2 The Provider shall conform in all respects with the provisions of the Provider Guidance and all relevant legislation including the provisions of any general or local Act of Parliament and the regulations and by-laws of any local or other statutory authority that may be applicable to the provision of early education or the employment of the Provider's staff.

- 3.3 Without prejudice to any requirements of this Agreement, the Provider must in particular ensure compliance with the following:

- 3.3.1 All Eligible Children are entitled to up to 30 hours of free early education per week, for 38 weeks a year, if taken during normal term times; alternatively up to 22 hours may be taken over the full financial year where a Provider is able to offer the free entitlement on this basis.

- 3.3.2 The Provider shall provide the Funded Early Education:

- a) to an outstanding or good quality; and
- b) in accordance with the curriculum guidance for the Early Years Foundation Stage, and
- c) to a standard acceptable to an Ofsted inspector.
- d) in accordance with the criteria set out in the Flexibility section of this guidance

- 3.3.3 The Provider will be required to submit to an audit of their provision of Funded Early Education, when required by the Council.

- 3.3.4 The Provider shall promote equality of opportunity and shall ensure that it complies with all statutory obligations as regards preventing discrimination on the grounds of colour, race, nationality, cultural or ethnic origin, marital status, gender, age, disability, religion, gender reassignment or sexual orientation.

- 3.4 Failure by the Provider to comply with the terms of this Agreement and any other reasonable additional requirements notified in writing by the

Council to the Provider may result in a requirement to repay the whole or any part of the Two, Three and Four Year Old Early Education Funding or may result in the Provider ceasing to be entitled to receive Two, Three and Four Year Old Early Education Funding.

4. Termination

- 4.1 The Council may terminate this Agreement for any reason on no less than four weeks written notice to the Provider.
- 4.2 Notwithstanding clause 4.1 of this Agreement the Council may terminate this Agreement immediately on written notice to the Provider if:-
- 4.3 The Provider commits a material breach of this Agreement which seriously affects the provision of Funded Early Education, or
- 4.4 A receiving order is made against the Provider or the Provider shall become bankrupt or insolvent or shall compound with or assign in favour of creditors (or being an incorporated company) shall resolve to wind up or be ordered to be wound up or shall carry on business under a receiver.
- 4.5 The Provider may terminate this Agreement for any reason on no less than six weeks written notice to the Council. Such notice shall clearly identify that it relates to this Agreement and shall be sent to the Setting and School Sufficiency and Access Team (Early Years) of the Council at 'Saxon Court Offices, 502 Avebury Boulevard, Central Milton Keynes, MK9 3HS' or to such other person or offices as the Council shall from time to time advise the Provider in writing.

5. General provisions

5.1 Insurance

For the duration of this Agreement, the Provider shall insure against all relevant risks and shall be required to provide written evidence that insurance cover is in place to the Council's required levels which are currently:

- (a) Employer's liability – at least £10,000,000
- (b) Public liability – at least £5,000,000

5.2 Variations

If the Council wishes to vary this Agreement to ensure better service or to harmonise the service with its changing procedures it shall serve a written notice on the Provider to set out the variation and the Provider will be deemed to accept the variation to this Agreement.

5.3 Waivers

No exercise or failure to exercise or delay in exercising any right, power or remedy vested in any party under or pursuant to this Agreement shall constitute a waiver by that party of that or any other right, power or remedy.

5.4 Contracts (Rights of Third Parties) Act 1999

The parties to this Agreement do not intend that any provision is to be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

5.5 Jurisdiction

This Agreement shall be subject to and governed by English Law.

Please complete and sign

I wish to deliver provision for (Please tick as appropriate):

Two, three and four year olds

Two year old provision only

Three and four year old provision only

SIGNED for and on behalf of the PROVIDER

By:-

Authorised signatory for the Provider

Name in full:

Position:

Date:

SIGNED for and on behalf of MILTON KEYNES COUNCIL

By: 

Name in full: Marie Denny

Position: Head of Delivery Setting and School Sufficiency and Access

Date: 01.09.17.