

# **Free Early Education for two, three & four year olds**

**Provider Agreement**  
July 2017 with addendum



**SURREY**

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# 1: Overview

1.1 This provider agreement is based on the DfE Model Agreement: Early years provision free of charge and free childcare. Early years providers must follow this agreement if they are funded by Surrey County Council to provide the Early Years Free Entitlement for two, three and four year olds.

1.2. This agreement applies to the 15 hour entitlement for the most disadvantaged two year olds, (known in Surrey as FEET), the 15 hour entitlement for parents of three and four year olds (the universal entitlement) and the 30 hours entitlement for working parents of three and four year olds (the extended entitlement).

1.3. The following frameworks and legislation underpin this agreement:

- Early Education and Childcare Statutory guidance for Local Authorities 2017
- Early Education and Childcare Operational Guidance for Local Authorities and Providers 2017
- Childcare Act 2006
- Childcare Act 2016
- Equality Act 2010
- School Admissions Code 2014
- Statutory framework for the Early Years Foundation Stage (EYFS) 2017
- 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 (SEND) code of practice 0 to 25 years 2015
- Data Protection Act 1998

1.4 This agreement is not intended to replace, supersede or negate the requirements or expectations set out in legislation, other published statutory guidance and government advice, which may be amended from time to time, without express change in this provider agreement.

1.5 This document does not provide guidance on how providers operate their private businesses, including charges for provision over and above a child's free hours. Surrey County should not intervene where parents choose to purchase additional hours of provision or additional services providing that this does not affect the parent's ability to take up their child's free place.

**Providers offering the free entitlement must sign and return the Provider Agreement signature page to Surrey County Council. In doing so, providers confirm that they will be offering the free entitlement in accordance with this provider agreement. Signature will be via the Early Education Portal.**

1.6 This model agreement will be kept under review and updated as necessary.

1.7 This provider agreement is for

- Surrey County Council
- Early years providers who are referred to as 'providers' and include:
- Private, voluntary and independent early years providers and childminders registered on the Ofsted Early Years Register;
- Childminders registered with a childminder agency that is registered with Ofsted;

- School, nurseries or classes funded by Surrey County Council
- Independent Schools, Academies and Free schools taking children age two and over and which are exempt from registration with Ofsted as an early years provider.

1.8 The local authority cannot impose requirements which subject the early years provision, or services provided by the childminder agency, to a quality assessment process by the local authority; or require the provider to attend any training or other quality improvement programme, other than any training or quality improvement programme identified in an early years provision inspection report.

## 2: Key Responsibilities

### **Key local authority responsibilities**

- 2.1. Surrey County Council must secure a free entitlement place for every eligible child in their area.
- 2.2. Surrey County Council will work in partnership with providers to agree how to deliver free entitlement places.
- 2.3. Surrey County Council will be clear about their role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations of providers.
- 2.4. Surrey County Council must contribute to safeguarding and promoting the welfare of children and young people in their area.

### **Key provider responsibilities**

- 2.5. The provider must comply with all relevant legislation and insurance requirements.
- 2.6. The provider should deliver the free entitlements 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.
- 2.7. 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.
- 2.8. 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. Providers should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.

## 3: Safeguarding

3.1. Surrey County Council has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the Working Together to Safeguard Children 2015 guidance sets these out in detail.

3.2. The provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A lead practitioner must take responsibility for safeguarding and all staff must have

training to identify signs of abuse and neglect. The provider must have regard to Working Together to Safeguard Children 2015 guidance.

## 4: Eligibility

4.1. The provider should check original copies of documentation (birth certificate or passport) to confirm a child has reached the eligible age on initial registration for all free entitlements. The provider must retain paper or digital copies of documentation to enable Surrey County Council to carry out audits and fraud investigations. Retained copies of documentation must be stored securely and deleted when there is no longer a good reason to keep the data. Please refer to the data privacy guidance set out in the Supporting Information document: Parent declaration.

4.2. The provider should offer places to eligible two-year-olds on the understanding that the child remains eligible until they become eligible for the universal entitlement for three- and four-year-olds.

4.3. Surrey County Council must ensure that a child has a free entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlements.

4.4. Alongside the 30 hours eligibility code, which is the child's unique 11-digit number, and original copies of documentation the provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from Surrey County Council of the validity of the parent's 30 hours eligibility code.

4.5. Once a provider has received written consent from the parent, they should verify the 30 hours eligibility code with Surrey County Council.

4.6. Surrey County Council will confirm the validity of 30 hours eligibility codes to allow providers to offer 30 hours places for eligible three- and four-year-olds. Surrey County Council will provide a validity checking service to providers to enable them to verify the 30 hours eligibility code. For details of how Surrey County Council will carry out these checks please see the additional/supporting information.

4.7. Thereafter, Surrey County Council will complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours free childcare at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as listed at table A below). It is Surrey County Council's responsibility to notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date.

**Table A:**

<b>Date Parent receives ineligible decision on reconfirmation:</b>	<b>Surrey County Council audit date:</b>	<b>Grace Period End date:</b>
1 Jan – 10 Feb	11 Feb	31 March
11 Feb – 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

## 5: The Grace Period

5.1. A child will enter the grace period when the child's parents cease to meet the eligibility criteria set out in The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016, as determined by HMRC or a First Tier Tribunal in the case of an appeal.

5.2. Surrey County Council will be able to access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.

5.3. Surrey County Council should continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory guidance for Local Authorities 2017

5.4 Surrey County Council will notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date, following the audit checks as set out in Table A above.

## 6: Flexibility

6.1. Providers should offer parents their free entitlement:

Up to 15 or 30\* hours a week for 38 weeks a year which equates to 570 or 1140\* hours a year if stretched and offered all year round.

\*(for three and four year olds eligible for 30 hours extended entitlement)

6.2. Surrey County Council encourages providers to offer flexible packages of free entitlement, subject to the following standards:

- No session to be longer than 10 hours
- No minimum session length (subject to requirements of registration on the Ofsted Early Years Register)
- Not before 6:00am or after 8:00pm
- A maximum of two sites in a single day

Providers should be aware that free entitlement places can be delivered:

- Over up to 52 weeks of the year
- Outside of maintained school term times
- At weekends

6.3. Providers should ensure that children are able to take up their free hours in continuous blocks and avoid artificial breaks being created throughout the day, for example over the lunch period.

6.4. Providers should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as free entitlement funding. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of hours is convenient for parents' working hours.

6.5. The provider should work with Surrey County Council and share information about the times and periods at which they are able to offer free entitlements to support Surrey County Council to secure sufficient stretched and flexible places to meet parental demand in Surrey. 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.

6.6. A child's parents may choose to access their free entitlement at more than one provider or on more than one site.

6.7. Parents should complete either a registration or declaration form at each provider where they intend to take their funded hours and claim these hours through the Free Early Education Portal.

## 7: Partnership working

7.1. Partnerships will be supported by Surrey County Council on four levels between:

- Surrey County Council and providers
- Providers working with other providers, including childminders, schools and organisations
- Providers and parents
- Surrey County Council and parents

7.2. Surrey County Council promotes partnership working between different types of providers, including childminders, across all sectors and encourages more providers to offer flexible provision, alongside other providers.

7.3. The provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting. An interactive toolkit has been developed to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring.

7.4. 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.

## 8: Special educational needs and disabilities

8.1. Surrey County Council strategically plans support for children with special educational needs and/or disabilities (SEND) to meet the needs of all children in the local area as per the Special Educational Needs and Disability (SEND) code of practice 0 to 25 years 2015.

8.2. The 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.

8.3. Surrey County Council must be clear and transparent about the support on offer in their area, through their Local Offer, so parents and providers can access that support.

8.4. The 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.

## 9: Social mobility and disadvantage

9.1. Surrey County Council promotes equality and inclusion, particularly for disadvantaged 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.

9.2. The provider should ensure that they have identified the disadvantaged children in their setting as part of the process for checking EYPP eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.

## 10: Quality

10.1 The Early Years Foundation Stage (EYFS) statutory framework is mandatory for all schools that provide early years provision and Ofsted- registered early years providers in England. The EYFS sets the standards that all early years' providers must meet to ensure that children learn and develop well and are kept healthy and safe.

10.1 Ofsted are the sole arbiter of quality for all free entitlements and Ofsted, inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.

10.2 Surrey County Council will fund places for two, three and four year old children at any provider judged 'good' or 'outstanding' by Ofsted or at any childminder 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 Surrey County Council's funding requirements as set out in this agreement.

10.3 Surrey County Council will fund places for three- and four-year-old children at any provider judged 'satisfactory' (prior to 2014) or 'requires improvement' by Ofsted or at any childminder 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 Surrey County Council's funding requirements as set out in this agreement.

10.4 Surrey County Council will only fund places for two-year-old children in 'satisfactory' or 'requires improvement' providers where there is not sufficient, accessible 'good' or 'outstanding' provision.

10.5 Surrey County 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 or at a childminder 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 Surrey County Council's funding requirements as set out in this agreement. Following publication of their Ofsted inspection judgement, the conditions in paragraphs 10.2, 10.3, 10.4 and 10.11 will apply.

10.6 Surrey County Council will fund providers with exemptions from 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 Surrey County Council's funding requirements as set out in this agreement.

10.7 Surrey County Council will fund individual children who have exemptions from the EYFS.

10.8 Surrey County Council are not required to fund places at providers who do not meet the quality standards set out at 10.2 and 10.3 above but may choose to do so to ensure sufficiency of free places.



10.9 Surrey County Council will rely solely on the Ofsted inspection judgement of the provider or the childminder agency as the benchmark of quality.

10.10 Surrey County Council will not fund providers who do not actively promote fundamental British values or if they promote views or theories as fact which are contrary to established scientific or historical evidence and explanations.

10.11 Surrey County Council will fund providers with an Ofsted inspection judgement of 'met' until their Ofsted quality inspection judgement is published. Surrey County Council will not fund providers with an Ofsted inspection judgement of 'not met'.

10.12 Surrey County Council will 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 an inspection judgement of a childminder agency of 'not effective'. It is for local authorities to determine an appropriate timeframe for withdrawing funding. When withdrawing funding Surrey County Council will 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 and Ofsted monitoring information about the provider or agency. If funding is withdrawn, providers will not be able to offer free entitlement funding again until they have had an Ofsted inspection judgement which is not inadequate. Surrey County Council will 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.

10.13 Surrey County Council will not withdraw funding from providers or from childminders registered with an agency until the provider's or childminder agency's Ofsted inspection judgement is published.

10.14 Surrey County Council will not fund childminders registered with a childminder agency where the agency has indicated to Surrey County Council that the childminder is not of the appropriate quality unless it is necessary to do so to ensure sufficiency of accessible places. Surrey County Council will also consider any information provided by a childminder agency about the childminder registered with them and the childminder's premises.

10.15. Surrey County Council will 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 Surrey County 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.

10.16. Surrey County Council are required to secure information, advice and training on:

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

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 activities.

## 11: Business planning

11.1. Surrey County Council will clearly set out the documentation that they need to receive from providers to support payment and delivery of free entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.

11.2. Surrey County Council will not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of free entitlements. Any charges applied will be reasonable and proportionate to the inconvenience or costs incurred as a result of the lateness or incomplete claim. Charges for this will be clearly communicated with providers

11.3. Surrey County Council should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.

11.4. The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of their local authority. Failure to do so may result in inaccurate, delayed or suspended funding.

11.5. The provider should maintain accurate financial and non-financial records relating to free entitlement places and should give the local authority access on reasonable notice to all financial and non-financial records relating to free entitlement places funded under the provider agreement, subject to confidentiality restrictions.

## 12: Charging

12.1. 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.

12.2. The provider can charge for meals and snacks as part of a free entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and forest school. These charges must be voluntary for the parent. Where parents are unable or unwilling to pay for meals and consumables, providers who choose to offer the free entitlements are responsible for setting their own policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals.

12.3. The provider should deliver the free entitlements 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.

12.4 Surrey County Council will not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to take up their child's free place. The provider should be completely transparent about any additional charges.

12.5. The provider should publish their admissions criteria and ensure parents understand which hours/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 hours are convenient for parents' working hours.

12.6. The provider can charge parents a refundable deposit to secure their child's free place but should refund the deposit in full to parents once the child's data has been submitted on the initial headcount.

12.7. 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 to deliver free places) or require parents to pay a registration fee as a condition of taking up their child's free place.

12.8. The provider 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 fees paid for 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.

## 13: Funding

13.1. Providers must have completed the Provider Agreement on the Free Early Education Portal.

13.2. Providers will use the Free Early Education Portal to claim free entitlement funding for all eligible children.

13.3. Maintained schools claims will be made through schools finance unless they are a section 27 provision.

13.4. All claims for Free Early Education for Two year olds will be made through the Free Early Education Portal

13.5. Parents will need to complete and sign either an Early Years registration or declaration form which needs to be retained by the provider for a period of seven years.

13.6. Surrey County Council will pay all providers according to the published payment schedule.

13.7. The provider should accurately complete and submit headcount and other necessary data returns by the agreed date to support the local authority to make payment.

13.8. Surrey County Council will set out funding process and timetable so providers are clear about the funding that they will receive and the requirements on them in order to receive it, including funding multiple providers and changes in provider. See supporting document for detail.

## 14: Compliance

14.1. Surrey County Council reserves the right to carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the free entitlements. Providers must retain all attendance and finance records for a period of seven years.

14.2. Providers must have at the audit, copies of the following documents for the relevant time period:

- Parental registration and declaration forms
- Parental change of attendance forms
- Children's attendance records
- Samples of invoices/charges to parents, if applicable
- Documentation to prove the status of the setting, eg registered charity, incorporated company, private owner
- Any other evidence that can reasonably be requested

14.3. Providers must follow all planning guidance and have appropriate planning permission in place.

14.4. Providers must comply with all environmental health legislation.

14.5. Providers should give Surrey County Council and parents at least one month's notice in writing if they decide to stop offering the free entitlement funding.

14.6. If a setting closes part way through a funding period, Surrey County Council requires providers to pay back unused free entitlement funding to enable children to access their free entitlement elsewhere.

14.7. Failure to pay back Surrey County Council any monies owed within give deadlines will result in Surrey County Council implementing its corporate debt recovery policy.

## 15: Termination and withdrawal of funding

15.1. Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in the termination of the arrangement and withdrawal of funding.

15.2. Surrey County Council may withdraw providers from the List of FEET providers and/or Surrey Directory of Providers if they, or the childminder agency they are registered with:

- Receive an inadequate Ofsted inspection judgement.
- Do not comply with the Statutory framework for the Early years Foundation Stage 2017
- Do not comply with legal requirements such as health and safety
- Commit fraud or misappropriate funds or grants
- Do not return the spring headcount and early years census form by the date given
- Do not comply with the fundamental British values as set out in HM Government Prevent Strategy.

15.3. Surrey County Council will not waive the right to act to terminate or withdraw funding if it does act immediately

15.4. Withdrawal from the List of FEET Providers and/or Directory of Providers means that a provider is not able to claim free entitlement funding for two, three and four year olds.

## 16: Appeals process

16.1. A provider may be denied approval to offer the free entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision.

16.2. Providers who wish to appeal should write to Surrey County Council, within 10 days of receiving the letter rejecting or removing them from the list of providers. They should outline the grounds for appeal linked to the termination list above and give reason why they believe that they are meeting the full terms of compliance. This will then be reviewed by senior managers in line with the full appeals procedure.

## 17: Complaints process

17.1. The Provider should ensure they have a complaints procedure in place that is published and accessible for parents who are not satisfied their child has received their free entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities.

17.2. If a parent is not satisfied that their child has received the Early Years Free Entitlement in accordance with the legislation or as set out in this agreement and in the Early Education and Childcare Statutory guidance for Local Authorities, and has not been able to resolve their concern directly with

their provider, they should contact Surrey County Council at [free.earlyeducation@surreycc.gov.uk](mailto:free.earlyeducation@surreycc.gov.uk) Surrey County Council will investigate the parent's complaint and will ask the provider to provide information regarding the complaint within a specified timescale.

17.3. If a parent or provider is not satisfied with the way in which their complaint has been dealt with by the local authority or believes the local authority has acted unreasonably, they can make a complaint to the Local Authority Ombudsman. Such complaints will only be considered when the local complaints procedures have been exhausted.

### **Addendum to the Free Early Education for 2, 3 & 4 year olds Surrey Provider Agreement July 2017.**

Please read the changes carefully.

If you have any comments or would like to discuss please contact [childcarebusinessadvice@surreycc.gov.uk](mailto:childcarebusinessadvice@surreycc.gov.uk) by 15 October 2017

**The changes will be applied from 16 October 2017**

Current wording

1.1 The provider should check original copies of documentation (birth certificate or passport) to confirm a child has reached the eligible age on initial registration for all free entitlements. The provider must retain paper or digital copies of documentation to enable Surrey County Council to carry out audits and fraud investigations. Retained copies of documentation must be stored securely and deleted when there is no longer a good reason to keep the data. Please refer to the data privacy guidance set out in the Supporting Information document: Parent declaration.

**The addendum will read**

**1.1 The provider should check original copies of documentation (birth certificate or passport) to confirm a child has reached the eligible age on initial registration for all free entitlements. A record of the date and the member of staff who has checked the documentation should be made on the parent declaration form.**

Current wording

6.7 Parents should complete either a registration or declaration form at each provider where they intend to take their funded hours and claim these hours through the Free Early Education Portal.

**The addendum will read**

**6.7 Parents should complete either Surrey County Council registration or declaration forms as appropriate with each provider where they intend to take their funded hours and claim these hours through the Free Early Education Portal**