

September 2015

**NORTHUMBERLAND  
COUNTY COUNCIL**

LOCAL CODE OF PRACTICE  
EARLY YEARS FUNDED FREE ENTITLEMENT FOR  
TWO, THREE AND FOUR YEAR OLD EDUCATION

Guidance for the delivery of Free Entitlement for Two, Three and Four  
Year Olds

## Northumberland Local Code of Practice Free Entitlement for two, three and four Year Olds

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## Section 1 Introduction

- 1.1 All children who meet the prescribed criteria are able to take up high quality early education, regardless of their parents' ability to pay; benefiting their social, physical and mental development and helping to prepare them for school. Evidence shows that regular good quality early education has lasting benefits for children.
- 1.2 This guide aims to help those Providers delivering the free entitlement for two, three and four year olds to understand the process in relation to:
  - a) The list of approved Providers delivering the free entitlement
  - b) The financial arrangements for making payments for the free places provided.
- 1.3 This document does not provide guidance on how Providers operate their private businesses, including charges for provision over and above a child's early education place.

## Section 2 Glossary of Terms

DfE	Department of Education
EHCP	Education, Health and Care Plan
EYFS	Early Years Foundation Stage
EYPP	Early Years Pupil Premium
EYSFF	Early Years Single Funding Formula
FOI	Freedom of Information Act 2000
IDACI	Income Deprivation Affecting Children Index
LAC	Looked After Child
NLCoP	Northumberland Local Code of Practice (for Providers)
SEN	Special Education Needs

## Section 3 Eligibility of children

- 3.1 Children eligible (Appendix A) to receive the two year old free entitlement funding are able to do so from the start of term following their second birthday.  
All children are eligible to receive the three and four year old free entitlement funding from the start of the term following their third birthday and fourth birthdays respectively.

3.2 Eligibility dates are as follows

<b>Children born in the period</b>	<b>Eligible from the start of the term on or following</b>
1 <sup>st</sup> April –31 <sup>st</sup> August	1 <sup>st</sup> September
1 <sup>st</sup> Sept – 31 <sup>st</sup> December	1 <sup>st</sup> January
1 <sup>st</sup> Jan – 31 <sup>st</sup> March	1 <sup>st</sup> April

3.3 Two, three and four year old children moving to England from another country can access a place on the same basis as any other child in the Authority area, provided they meet the relevant eligibility criteria for their age.

3.4 Providers are asked to give priority to Looked After Children (LAC) when allocating places and when reviewing their admissions policy.

## **Section 4 Flexibility**

Children are able to take up their full entitlement to early education at times that best support their learning, and at times which fit with the needs of parents.

4.1 Providers can offer flexible packages of early education subject to the following standards:

- a) No session longer than 10 hours
- b) No session shorter than 2.5 hours
- c) Not before 7am or after 7pm
- d) Maximum two Providers at any one time

4.2 Parents will be informed of their entitlement of 570 hours of provision in a year of which they can take up as much or as little as they wish.

4.3 The national minimum standards of flexibility require that parents can expect at least 3 hours per day over 5 days of the week or 5 hours per day over 3 days of the week.

4.4 Providers may choose to offer a 'stretched entitlement' which allows parents to take up patterns of hours which stretch their child's entitlement by taking fewer hours per week over more weeks in the year.

4.5 Local partnership arrangements between two settings may be incorporated to support the delivery of a flexible offer to enable parents wishing to access their free entitlement at a Provider that is typically open fewer weeks of the year, or hours of the week.

- 4.6 All funded Providers must make their admissions policy available to parents and to the Authority.

### **Providers not delivering the Full Entitlement**

- 4.7 There is an expectation that every Provider will offer the full 15 hours entitlement, however there are cases where Providers are unable to open for 15 hours a week or the full 38 weeks a year (e.g. independent schools open only 34 weeks of the year). Parents may choose a reduced entitlement at these Providers if they wish however, if the Authority funds the full entitlement at a different Provider; it is not under any obligation to offer the rest of the child's free entitlement elsewhere in these circumstances. In these circumstances providers may choose to offer more than 15 hours per week over fewer weeks to ensure children receive their full annual entitlement of 570 hours. Where Providers offer a reduced or enhanced entitlement which is more or less than 38 week it must be in agreement with the Authority. Funding will only be provided for the actual hours delivered.

### **Staggered intake**

- 4.8 It is recognised that there are logistical issues in relation to the intake of large numbers of children at the same time as each other, especially at the beginning of the autumn term. Nevertheless settings receiving funding have a statutory obligation to offer the full 15 hours per week over the full 38 weeks to all eligible two, three and four year olds.
- 4.9 Providers must agree an alternative delivery model with the Authority if unable to meet the core offer.
- 4.10 Where, for practical reasons, a Provider wishes to offer a staggered intake, they must be aware that parents need not accept the situation. In such cases written agreement must be sought from the parent in advance of the start of the term before depriving a child of their free entitlement. In cases where parents agree to a staggered intake, but would be financially disadvantaged by having to pay for childcare, the Provider has an obligation to reimburse the parent for their childcare costs.

### **Compulsory School Age**

- 4.11 In accordance with the School Admissions Code parents can take up a place for their child in a maintained school reception class from the September following their child's fourth birthday. Where parents wish to defer their child's entry to school until the term after their 5th birthday, their children will continue to be able to access their free entitlement at their chosen provision, until they reach compulsory school age. Parents must discuss this course of action with the head teacher of the receiving school.

## Section 5 Quality

- 5.1 Evidence shows that higher quality provision has greater developmental benefits for children, particularly for the most disadvantaged children.
- 5.2 Providers should deliver the full Early Years Foundation Stage (EYFS) and be registered with Ofsted as early years Providers under the Childcare Act.
- 5.3 The decision to fund a Provider to deliver early education places is based on the Provider's Ofsted inspection judgement and a safeguarding and welfare requirements audit;

### **The Authority will as far as possible:**

- 5.4 Fund places for two, three and four year old children attending any Provider rated 'good' or 'outstanding' by Ofsted.
- 5.5 Fund places for three and four year old children attending any Provider rated 'satisfactory/requires improvement'.
- 5.6 Only fund two year old children in 'satisfactory/requires improvement' Providers where the Authority deems there is not sufficient local 'good' or 'outstanding' provision.
- 5.7 Fund new Providers registered with Ofsted until their first full Ofsted inspection judgement is published.
- 5.8 Secure alternative provision and reallocate funding, as soon as it is practicable, for children who are already receiving their funded entitlement at a Provider that is rated 'inadequate' by Ofsted.
- 5.9 Only fund providers of the appropriate level of quality, unless it is necessary to do so to ensure sufficiency of accessible places to meet the Authorities statutory duty.
- 5.10 Consider/investigate allegations and, where appropriate deny or withdraw funding from any Providers whom it 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 promote fundamental British Values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
  - Is promoting as fact views or theories which are contrary to established scientific or historical evidence and explanations.

5.11 Secure information, advice and training for early years childcare providers:

- Judged less than 'good' by Ofsted in their most recent inspection report;
- Newly registered providers on the Early Years Register who have not yet had an inspection report published;

On:

- Meeting the requirements of the EYFS;
- Meeting the needs of children with special educational needs and disabilities, vulnerable and disadvantaged children; and
- Effective safeguarding and child protection.

5.12 Take appropriate action to improve the quality of provision at an Authority maintained school which has been judged by Ofsted to require significant improvement or has been placed in special measures.

**The Authority requires all funded Providers to:**

- 5.13 Engage with the Authority and relevant partner agencies by seeking information and guidance when needed and acting on any resulting advice which supports improved outcomes for children.
- 5.14 Provide evidence of successfully attending all relevant training in line with the EYFS requirements. Training is available through Northumberland's Early Years SLA as well as various other sources.
- 5.15 Obtain necessary consents from parents on enrolment for sharing of information with appropriate agencies.
- 5.16 Submit progress data for funded children to the Authority in order to demonstrate progress against the EYFS framework.
- 5.17 Monitor children's attendance to funded education places and encourage good attendance, reporting reduced or non-attendance to the Authority as appropriate, following the guidance provided in the document provided in appendix D.
- 5.18 Share appropriate information on two year olds and cooperate with health colleagues to carry out the integrated two year old check effectively.
- 5.19 Support transition arrangements by sharing individual children's progress data with receiving Providers.
- 5.20 Provide early education and childcare places in accordance with this NLCoP and all statutory requirements, including, but not limited to, the requirements set out in Section 7 of the Childcare Act 2006. They will deliver the Early Years Foundation Stage in accordance with good practice and with all due skill, care and attention.

- 5.21 Inform the Authority of any change in circumstances that will or may cause the Provider to be unable to deliver the service, including but not limited to being served by Ofsted a welfare requirements notice under regulation 10 of the Early Years Foundation Stage (Welfare Requirements) Regulations 2012 and escalating tariff, issued with a caution or fail to comply with the terms of a statutory notice or any condition imposed on the Provider by Ofsted.
- 5.22 Not transfer, assign or sub-contract, directly or indirectly any of its rights or obligations under this Agreement, except with the written consent of the Authority. Where the Authority agrees to the Provider sub-contracting the performance of any of its obligations, this shall not relieve the Provider from any of its obligations or liabilities to the Council.
- 5.23 Inform the Authority immediately of the outcome of any inspection by Ofsted and engage with the Authority to improve any particular concerns raised by Ofsted about the use of the Early Years Pupil Premium to support their disadvantaged children (see 6.15).

**Funded Providers judged by Ofsted as ‘satisfactory’, ‘requires improvement’, ‘met’ or providers with no judgment as yet must:**

- 5.24 Fully engage with the Authority to enable them to carry out their duties and functions by regularly monitoring the provision.
- 5.25 Promptly act on any advice which supports:
- a) addressing concerns raised by Ofsted at inspection and
  - b) improved outcomes for children.

**Type of Free Provision**

- 5.26 Early years Providers prescribed in the regulations are Providers who are under a duty (set out in section 40 of the 2006 Act) to deliver the EYFS (established under section 39 of the 2006 Act). These Providers are either a) registered on the Ofsted Early Years Register (as required by section 34(1) of the 2006 Act) or b) are schools which are exempt from registration on the Ofsted Early Years Register (pursuant to section 34(2) of the 2006 Act). Section 34(2) covers maintained schools, approved non-maintained special schools and independent schools.



5.27 The definition of childcare as set out in Section 20 of the Childcare Act 2006 specifically excludes care provided for a child by:

- a parent or step-parent of the child;
- a person with parental responsibility for the child;
- a relative of the child;
- a person who is a local authority foster parent in relation to the child;
- a person who is a foster parent with whom the child has been placed by a voluntary organisation;
- a person who fosters the child privately;
- “relative”, in relation to a child, means a grandparent, aunt, uncle, brother or sister, whether of the full blood or half blood or by marriage or civil partnership.

Early education funding therefore cannot be claimed by childminders providing childcare in relation to the list above, even if they are claiming for other children. Where the Authority is made aware of such practice all funding received will be reclaimed and the provider will be removed from the directory of approved providers.

5.28 The Early Years Foundation Stage (under Exemptions from Learning and Development Requirements) Regulations 2008 allow the Secretary of State, in certain circumstances, to grant exemptions to Providers from all or part of the elements contained within the Learning and Development requirements, as set out in the EYFS. It also enables Providers to exempt individual children from all or part of the learning and development requirements in certain circumstances.

5.29 The Authority will fund Providers who have exemptions from the EYFS Learning and Development requirements if a parent wants their child to attend that Provider.

5.30 The Authority will fund Providers for children who have exemptions from the EYFS Learning and Development requirements.

5.31 The Authority will fund childminder agencies that are registered with Ofsted subject to the funding arrangements agreed between individual childminders the given Agency and the Authority.

### **Inclusion and SEN**

5.32 Children with additional needs benefit from the highest possible care and education in order to enable them to achieve their full potential. For this reason Providers must have regard to the most recent Special Educational Needs Code of Practice and effectively meet the requirements of children with special educational needs (SEN) and disabilities.

- 5.33 Providers must have regard to the SEN requirements within the EYFS and act on them appropriately.
- 5.34 Providers should have regard to the Authority's policy on Early Years Inclusive Practice (The Northumberland Early Years Inclusion Toolkit) and should give priority to children with additional needs when allocating places and when reviewing their admissions policy.

### **Safeguarding Children**

- 5.35 Safeguarding and child protection is everyone's responsibility and the Authority recognises the importance of a professional approach to this by all Providers and their staff. There are legal requirements in this area of work and Providers must comply with these as well as Northumberland Guidance on Safeguarding Children for Early Years and Childcare Providers, available from <http://www.northumberland.gov.uk/default.aspx?page=1926>.
- 5.36 Funded Providers must have clear safeguarding policies and procedures that clearly link to Northumberland guidance for recognising, responding, reporting and recording suspected or actual abuse.

### **Equality**

- 5.37 The Equality Act 2010 outlaws discrimination, harassment and victimisation and covers statutory and non-statutory early year's organisations and provision. It applies to a number of "protected characteristics" including sex, race, disability, religion or belief and sexual orientation.
- 5.38 The principles of equity and justice underpinning the law should be applied as good practice by all funded Providers.

## **Section 6 Funding and Finance Arrangement**

The free entitlement is FREE. No other fees are to be charged by Providers as a condition of children accessing their place. Such fees might include paying for meals, optional extra activities or additional hours of provision over and above the funded hours.

- 6.1 Funded Providers must renew their commitment to the NLCoP annually and return a signed copy of the Provider Agreement to County Hall in order to remain on the list of approved Providers.
- 6.2 Each Provider is allocated a Unique Reference Number (URN) by the Authority. Maintained nurseries use their Department for Education (DfE) number. This supports the process of identification used to calculate free entitlement funding.

- 6.3 If, as a funded Provider, you fail to meet any of the conditions set out in NLCoP it may be deemed necessary for you to repay the whole or part of any funding that has been paid in respect of the provision.
- 6.4 Providers must complete and return all funding documentation relating to the annual early years census to the Authority on time, thereby enabling the Authority to meet its statutory obligations to the DfE.
- 6.5 The requirements outlined in this document apply to the person with whom the Authority makes the arrangements to deliver early education places i.e. individual childminders or Childminder Agencies.

### Funding Periods and Payments

- 6.6 Free entitlement funding for two, three and four year old children is split into six periods per year, three full terms, for which deadline dates are communicated during the previous period.

Periods 1 & 2 (Autumn term), Periods 3 & 4 (Spring term), Periods 5 & 6 (Summer term)

Funding will be paid for up to a maximum of 570 hours per year.

- 6.7 The Authority will make payments to Providers in 3 stages each period:
- Stage 1: 50% payments will be made at the beginning of the term after the 1st deadline date. This payment will be based on estimated numbers and will also contain all reconciliations from the previous term for eligible two year old that started after headcount date.
  - Stage 2: balance payments will be made mid-term after the 2<sup>nd</sup> deadline date.
  - Stage 3: Early Years Pupil Premium payments will be made for all eligible children whose details are submitted along with a funding breakdown.
- 6.8 Provided that, in the Authority's reasonable opinion, the information in the completed Headcount Form, is correct and accurate, and the Headcount Forms are returned by the due by dates specified. The Authority shall, in respect of each Term, fund the Provider as calculated in accordance with the Early Years Single Funding Formula, for the relevant Term within thirty (30) days of such deadline.
- 6.9 If the Provider fails to submit the headcount forms by the deadline specified the Authority cannot guarantee payment. Any headcount forms received for previous terms or claims made for payments from previous financial years (1st April – 31st March) will not be considered.
- 6.10 Providers are reminded that parents have a statutory right to insist upon access to 15 hours free entitlement for 38 weeks. Should a setting reduce the entitlement from 38 weeks, then funding from the Authority will be granted on a pro-rata basis.

- 6.11 Providers may be unable to offer 38 weeks of free entitlement but can claim for the number of weeks open between 33 and 38 weeks. Where Providers choose to increase to 38 weeks of opening, funding will be amended at the start of a period to reflect this.
- 6.12 If a Provider intends to claim funding for less than 38 weeks then parents must be made aware of this and the potential consequences i.e. parents cannot claim missed hours at a later date.
- 6.13 If a Provider closes for any reason, i.e. for training, it is their responsibility to ensure that the free entitlement is offered at an alternative time in compensation.
- 6.14 The hours of funding claimed must reflect the entitlement provided and must not include setting up and clearing away times.
- 6.15 It will be agreed locally with childminder agencies and each childminder registered with each agency whether funding is paid directly to the childminders or is routed to the childminder through the agency.
- 6.16 Any funding paid to childminders registered with an agency to deliver early education places must not be retained by the agency. Any payments due to the agency by the childminder must not be deducted from the amount funded by the Authority without prior agreement in writing from the childminder.

### **Early Years Single Funding Formula (EYSFF)**

- 6.17 There are common arrangements for the funding of the free entitlement for two, three and four year olds for all Providers. The formula for funding may change with effect from April annually following consultation with providers of the free entitlement to develop the EYSFF which must be adopted.

The core principles for developing the formula are to:

- Support effective and efficient distribution of resources at local level;
- Preserve diversity and choice in the market;
- Support the narrowing of achievements gaps;
- Recognise the additional costs associated with children from deprived backgrounds;
- Be clear and transparent.

Each setting will receive, before the 31<sup>st</sup> March each year, a budget share based on the estimated pupil numbers which will show how the formula for the forthcoming financial year will allocate the funding for EYSFF.

### Early Years Pupil Premium (EYPP)

- 6.18 Providers will be paid the Early Year Pupil Premium (EYPP) in respect of their disadvantaged three and four year old children. Early years providers are expected to use this additional funding to boost disadvantaged children's achievement.

### Headcount and Parents/Carer Declaration

- 6.19 Headcount takes place once each period via a secure online portal. Guidelines on completion and deadlines dates are provided by the Authority via this portal.
- 6.20 Providers are required to inform the Authority when a child arrives or leaves their setting during the period for which funding has been claimed. If a Provider receives a request for a child to take up their free entitlement either before or after the headcount date the child must be admitted if there is a place available within existing staffing ratios.
- 6.21 Where a current fee paying parent establishes their eligibility for 2 year old entitlement part way through a term they MUST be given their remanding entitlement for that term free. This should be effective from the day the Provider is made aware of their entitlement (sight of official confirmation letter) and not postponed until the next term or headcount date. This funding can be claimed at the end of term headcount for 2 year olds ONLY.
- 6.22 The Provider from which a child proposes to move is entitled to a 4 week notice period from the date the request is received.
- 6.23 PVI Providers are required to pass on funding they have received for children should such a request be received from a Provider where a child has moved either before or after the headcount date. This should be done directly between Providers and a transfer date and payment agreed without the involvement of the Authority. Where Providers cannot agree a transfer and payment date the Authority will make a decision and adjust funding at the next payment.
- 6.24 The Authority carries out 100% checks of the eligibility of two year olds included on headcount forms. Providers must ensure that they retain a copy of an official two year old entitlement confirmation letter from the Authority (Appendix B). Ineligible two year olds will not be funded in any instance.
- 6.25 Parents can access as little or as much of the free entitlement as they choose. Providers should ensure that once each period parents/carers declare with the Authority via the method outlined in headcount guidance notes:
- All hours attended by their child at all settings, including at a school (all hours must be declared on the form, not just the eligible hours)

- If a child is attending two Providers for more than 15 hours per week which setting receives the funding except where a child is attending a maintained school, in this instance the funding will be allocated by the Authority to the school.

### Sharing of Funding

6.26 Where a child attends more than one setting to receive their free entitlement, the parent should indicate via headcount process how they wish the funding to be split between the settings, except in the case of a child attending a maintained nursery class when the Authority will allocate the funding.

### Top-up Fees

6.27 Parents cannot be charged for any part of the minimum free entitlement either directly or indirectly. This must be taken into account when calculating invoices or bills as Providers must not charge any top-up fees.

6.28 In addition Providers must not charge parents in advance and then refund them at a later date.

6.29 It is the responsibility of the Provider to make arrangements with the parent/carer to pay for any additional costs over and above their free entitlement of 15 hours. Providers must ensure that parents are aware, prior to their taking up the free place, of any charges that will be payable in respect of additional services provided.

6.30 Parents must be clearly billed so they can easily understand and see:

- a) the free entitlement hours and
- b) fees for any additional hours or services.

**The free entitlement should not be represented to parents as a monetary subsidy but as being a free place i.e. 15 hours of free provision (see example Appendix C). Any setting failing to invoice parents in a manner consistent with the example in Appendix C, or who levies charges for the 15 hours i.e. registration fees, will automatically be in breach of this agreement. Providers should recognise that in these circumstances they will be liable to refund parents and or the Authority any money received in this unauthorised way and this could also result in immediate termination of their approved provider status.**

6.31 Some parents buy additional hours from the Provider where they access their free entitlement. The rates that Providers charge for these additional privately funded hours are a matter for them to decide, not the Authority. Parents who do choose to take up additional services should not be charged any more for those services than parents of children who are not accessing a free place. All arrangements for charging for additional services should be clear and transparent.

6.32 Maintained Schools, Free Schools and Academies should provide free school meals (FSM) for children who attend early years provision both before and after lunch and whose parents are in receipt of specified benefits. FSM requirements do not apply to children in the private, voluntary or independent sector.

### **SEN and Inclusion**

6.34 The Authority has an inclusive approach to its work and provides support to families and Providers to meet the individual needs of all children. It works to promote an inclusive ethos, environment and practice, enabling access for all children to the free entitlement. Providers with children with statements of special educational needs or an education, health and care plan (EHCP) can claim the full entitlement even if they attend for less than 15 hours. It must be demonstrated that the Authority has agreed the 'surplus' funding to better support the needs of the child.

6.35 Top – up funding for EYFS is awarded based upon a successful application to the SEN panel. Each child will be awarded top – up funding according to the SEN band deemed most appropriate to meet their needs. Settings should contact their Early Years Inclusion Consultant to discuss any potential applications

### **Repayments**

6.36 Providers must undertake to repay on demand any payment of funding if that payment was for provision which did not meet the Authority's conditions and requirements; or was made incorrectly due to an administrative error.

6.37 Where debt is owed by a Provider to the Authority and the Provider ignores requests for repayment, the debt will be deducted from any future free entitlement funding payment.

### **Audit and Spot Checks**

6.38 The Authority reserves the right to make unannounced visits to private, voluntary and independent Providers on a regular basis to verify the accuracy of information received in respect of the free entitlement. Accurate registers must be retained for at least 6 years.

6.39 Providers must ensure that the previous terms registers and copies of invoices to parents who receive the free entitlement, and additional services, are kept on site at all times for these checks to be carried out.

6.40 Providers should be aware that the information about each child, the details of claims submitted for payment of funding, and the actual payments made, may be subject to an audit check to ensure the validity of each claim.

6.41 Providers must retain copies of all confirmation letters provided by parents as proof of their eligibility and therefore entitlement to two year old funded education.

6.42 Providers must have sight of birth certificates for all children receiving the funded entitlement to ensure they are eligible according to their birthday. They should also keep (6 years) signed documentation to prove a member of staff has seen a birth certificate and the child is eligible by age.

### Change of details

6.43 The Authority must be informed immediately, in writing, of any changes to a registered Provider's details e.g. change of premises, ownership, leader, office holders or payment details. Ofsted and the Authority must also be informed should a setting close and the registration certificate must be returned to Ofsted as it is a legal document. The Authority will judge which changes will require a new agreement.

### Provision of information to the Authority

6.44 The Authority is required to collect information from Providers for government and local purposes. As a condition of receiving funding Providers must:

- Provide details of their provision for parents to the Families Information Service when requested
- Provide details of the qualifications of their staff to the Authority on request
- Provide information for entry onto the Families Information Directory
- Complete the Early Years Census annually and the headcount termly
- All Providers are required to have access to e-mail facilities and provide their address to the Authority for communication.

## Section 7 Complaints Procedure

### Parent's Concerns

7.1 If a parent has a concern regarding the free entitlement, or the Provider's pricing policy in relation to the free entitlement, they should contact the Provider. The Provider should then investigate the concern according to their complaints policy. If the parent feels that the concern has not been resolved according to the terms of the free entitlement then the parent can inform the Authority of their concerns in writing. The Authority will investigate the complaint and if the Provider is not acting in line with the NLCoP then they will be asked to take the appropriate action to comply.

7.2 If a parent remains dissatisfied they may wish to lodge an appeal with the Authority via FIS 0800 023 4440 or 01670 624889.

7.3 In the event that a parent is not satisfied with the way in which their appeal has been conducted or believes that the Authority has acted unreasonably, they may make a complaint to The Local Government Ombudsman more information can be found at [www.lgo.org.uk](http://www.lgo.org.uk).



## Refusal to join/suspension or removal from the Directory of Approved Providers

- 7.4 Providers can be refused inclusion into the directory of approved providers if they fail to meet the standards and eligibility requirements set out in this NLCOP. Where a Provider is refused inclusion into the directory of approved providers, a written explanation will be issued by the Authority detailing why and what needs to be done to rectify the situation.
- 7.5 Funded Providers could be suspended from the directory of approved providers if they fail to meet the standards and eligibility requirements set out in this NLCOP. In these circumstances the Authority will be entitled to immediately suspend a Provider. Where a Provider is suspended from the directory of approved providers, a written explanation will be issued by the Authority detailing what needs to be done to rectify the situation.
- 7.6 Funded Providers could be removed from the directory of approved providers, whether they have been suspended or not, if they fail to meet the standards and eligibility requirements set out in this NLCOP. Circumstances where the Authority will be entitled to immediately remove a Provider include, but are not limited to, fraud or an inadequate judgement from OFSTED. Should there be exceptional circumstances in relation to not meeting standards and eligibility requirements, this would be taken into consideration before a final decision is taken. A written explanation of the decision will be provided by the Authority. It is the providers responsibility to inform parents.
- 7.7 The Provider will have the right to appeal against the decision to be suspended from or removed from the NLCOP. The Provider must notify the Authority that they wish to exercise their right to appeal within 14 days of the date of the notification letter.
- 7.8 The agreement between the Authority and the Provider shall be terminated from the date stated in the notice of removal sent to the Provider. The Authority will be entitled to claim any losses and/or damages arising from the Providers breach of the agreement.
- 7.9 Where the Provider is suspended or removed from the directory of approved providers, in accordance with the relevant provisions of the Agreement, the Provider shall not be eligible to be re-included in the directory of approved providers until the Authority is satisfied that the reason for removal has been addressed and fully resolved.

## Dispute resolution

- 7.10 Rejection of an application or curtailment of an agreement will be notified to the Provider in writing, including the reasons for the decision. If the Provider disagrees with the reasons given they have a right to appeal the decision. To appeal they must send a written submission to the Authority within 14 working days of the date of the notification.
- 7.11 The Authority will acknowledge receipt of the appeal letter within 5 working days of receiving it. In the acknowledgement letter, the Authority will give the Provider a date, time and location for an appeal hearing.

7.12 The Authority will prepare a written report for the appeal panel. The report, along with the Provider's evidence, will be sent to the officer who will hear the appeal at least 5 working days in advance of the date of the hearing.

7.13 A senior manager not involved in the original decision, will then consider the Authority's reasons and the submission of the appellant. That officer will give their reasons for upholding or dismissing the appeal.

7.14 An appellant may wish to put forward their case in person. The hearing will be as informal as possible and the procedure will be as follows:

- Introductions and procedure
- The appellant and officer making the original decision will be invited to appear before the senior manager - both at the same time
- The appellant presents his or her case
- The Authority representative can ask questions of the appellant
- The senior manager can ask questions of the appellant
- The Authority representative presents the council's case
- The appellant asks questions of the Authority representative
- The senior manager asks questions of the Authority representative
- Both parties sum up their case and leave
- The senior manager will make a decision on the day or may decide to advise both parties later in writing. The senior manager will advise both parties of when they can expect the decision
- An accurate record of the proceedings must be made therefore a note taker will be provided.

7.15 For information on dispute resolution please contact Linda Vernon, Early Years and School Organisation Manager, Wellbeing and Community Health Services, County Hall, Morpeth, NE61 2EF. Telephone: 01670 623564.  
Email: [linda.vernon@northumberland.gov.uk](mailto:linda.vernon@northumberland.gov.uk).

7.16 For further information, please contact the Families Information Service (FIS). They will be able to direct you to the right contact. FIS is open Monday - Thursday 9am to 5pm and Friday 9am to 4.30pm and is based at County Hall, Morpeth, NE61 2EF. Freephone 0800 023 4440 or telephone: 01670 624889  
email: [fis@northumberland.gov.uk](mailto:fis@northumberland.gov.uk). Website: <http://fis.northumberland.gov.uk>

## **Section 8 Additional Information**

### **Confidentiality & Freedom of Information & Fair Processing**

- 8.1 The Provider agrees to assist and co-operate with the Authority in order to enable the Authority to comply with its obligations to disclose information under Freedom of Information (FOI) Act 2000
- 8.2 The Authority may be obliged under FOI Act to disclose Provider Information without consulting or obtaining consent from the Provider.
- 8.3 The Authority and the Provider shall bear their own respective costs in relation to any disclosure under FOI Act.
- 8.4 The obligations imposed by this Clause 8 shall continue to apply after the expiry or termination of the Agreement.

### **Independent Contractor**

- 8.5 This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship, a contract of employment or other relationship between the parties other than the contractual relationship expressly provided for in the Agreement.

### **Changes**

- 8.6 The Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner unless agreed in writing and signed by both parties.

### **Entire Agreement**

- 8.7 The Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement.
- 8.8 The Agreement supersedes all prior agreements, arrangements, negotiations, representations and undertakings, whether written or oral, between the parties and constitutes the entire agreement between the parties relating to the subject matter of the Agreement except that this Clause shall not exclude liability in respect of any fraudulent misrepresentation.

## Force Majeure

**Force majeure is defined as –** *Coercion or irresistible compulsion. It is used in commercial contracts to describe events that might happen that are entirely outside the control of the parties*

- 8.9 In the event of Force Majeure, the party affected by Force Majeure shall have no liability to the other party for any failure to perform, arising from Force Majeure, subject to that party:
- a) giving the other party written notice that the Force Majeure has occurred, the nature of the Force Majeure, the anticipated duration of the Force Majeure and the steps it proposes to take to minimise the effects of Force Majeure; and
  - b) taking all reasonable steps to minimise the effects of Force Majeure.
- 8.10 If Force Majeure continues for a period in excess of thirty (30) days, the other party may terminate that part of the Agreement affected by the Force Majeure, or the whole of the Agreement, if the whole of the Contract is affected by Force Majeure. Termination of part or whole of the agreement must be given in writing to the party affected by the Force majeure without liability.

## Notices

- 8.11 Notices shall be deemed to have been duly given:
- a) when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
  - b) when sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or
  - c) on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

In each case addressed to the most recent address, e-mail address, or facsimile number notified to the other party. All addressee information will be taken from the Northumberland Families Information Service database.

**Section 9 Provider Agreement Form**

<b>Provider Agreement with effect from 1<sup>st</sup> September 2015</b> <i>(to be completed by Provider/Childminder Agency and returned to Northumberland County Council)</i>		
<b>Provider Details</b>		
Provider Name:		
Provider Address:		
Postcode:		
Telephone:	Mobile:	
Email:	Website:	
Your Contact Person for the free entitlement :		
Designated Person for Safeguarding:		
Deputy Designated Person for Safeguarding:		
<b>All Staff Qualifications - Attach an additional sheet if necessary.</b>		
Please tick the box to show those staff who work directly in delivering the free entitlement. Where appropriate include first aid and safeguarding training under qualifications.		
<input type="checkbox"/>	Name of Staff Member: Job Title Staff Member 1: Qualifications and date:	
<input type="checkbox"/>	Name of Staff Member: Job Title Staff Member 2: Qualifications and date:	
<input type="checkbox"/>	Name of Staff Member: Job Title Staff Member 3: Qualifications and date:	
<input type="checkbox"/>	Name of Staff Member: Job Title Staff Member 4: Qualifications and date:	
<input type="checkbox"/>	Name of Staff Member: Job Title Staff Member 5: Qualifications and date:	
<b>Type of Provision (please tick):</b>		
<input type="checkbox"/> Authority	<input type="checkbox"/> Private	<input type="checkbox"/> Voluntary
<input type="checkbox"/> Independent	<input type="checkbox"/> Childminder	<input type="checkbox"/> Other (please provide details)
Date of registration certificate:		Registration number:
Authority Provider URN:		DfE Number (if school):

### Opening hours and additional services

Hours of Opening			Additional services offered	Charges for additional services
Mon		-		£
Tues		-		£
Wed		-		£
Thurs		-		£
Fri		-		£

Weeks of the year open:

### Model of Free Entitlement Delivery

Free Entitlement offered to parents (*tick as appropriate*)

3 hours a day over 5 days

5 hours day over 3 days

Sessions 3 to 5 hours a day

Sessions 5 to 10 hours a day

Fully flexible

### Signature of Provider and Date

I have carefully read and fully understand the relevant documentation detail within the NLCoP and have drawn it to the attention of all staff working in this area.

I agree to meet the Provider Agreement Conditions in order to receive Northumberland County Council funding.

I understand that non-compliance of the Northumberland Local Code of Practice - Free Entitlement for 2, 3 and 4 Year Olds with Provider Agreement Conditions may result in removal from the Northumberland Directory of approved Providers

I agree to all the conditions outlined within the NLCoP and any subsequent updates I receive.

**Please note that the person signing the Provider Agreement must be the person recorded as the Ofsted 'responsible person', as per the Ofsted registration certificate. If the early years setting is run by a committee, or a governing body it should be either the Chair or Secretary of that responsible body who signs the agreement.**

Signed:

Date:

Print:

Position:

Please return to: Families Information Service, County Hall, Morpeth, NE61 2EF.  
email: [fis@northumberland.gov.uk](mailto:fis@northumberland.gov.uk)

## Appendix A

### Children benefiting from free early education for 2 year olds

**Two-year-olds are eligible for free early education if parents/carers are in receipt of one of the following:**

- Child Tax Credit (but not Working TAX Credit) and have an annual income not over £16,190
- Working Tax Credits and have annual earnings of no more than £16,190 per year
- Income Support
- Income-based Jobseeker's Allowance (JSA)
- Income- related Employment and Support Allowance (ESA)
- The Immigration and Asylum Act 1999
- Guaranteed element of State Pension Credit

Children will also be eligible if any of the following apply:

They have a current statement of SEN or an Education, Health and Care plan;  
they attract Disability Living Allowance;  
they are looked after by the Authority;  
they have left care through special guardianship or an adoption or residency order.

## Appendix B



Dear Parent / Carer

I am pleased to inform you that you are eligible for up to 15 hours a week (570 hours a year) FREE 2 year old childcare, learning and fun for your child from September 2015.

**Child Name:** \_\_\_\_\_ **D.O.B:** \_\_\_\_\_

Please contact your preferred approved childminder, pre-school or nursery as soon as possible to enquire about a place.

A list of approved Northumberland providers can be found at [www.northumberland.gov.uk/freechildcare](http://www.northumberland.gov.uk/freechildcare).

If you require support in finding a place please don't hesitate to contact Northumberland Families Information Service on **0800 023 4440** or **01670 623563**.

The provider you choose **must** have sight of this letter and your child's birth certificate in order to confirm your eligibility and offer you a place.

**Please note:**

If you currently claim Tax Credits to help with your childcare costs you must inform the Tax Credit Office of any change in these costs within 1 month. If you do not report the change, you could be overpaid tax credits which you will have to pay back. You may also have to pay a penalty if you delay reporting any changes.

Yours sincerely

Education Admin Team  
Children's Services



**Appendix C**

**Sample Invoice**

Mr & Mrs Smith  Cherry Avenue Anytown Anycounty AA11 XXX
---

LITTLE STEPS  
NURSERY LTD  
Somewhere Street  
Anytown  
Anycounty  
AA12 ZZZ  
Tel: 01234 567890

Ofsted Reg: EY111222  
Company No: 9996665

Prepared: 01 December 2013  
Invoice No: 12345

Thank you for using LITTLE STEPS NURSERY LTD

Here is how we calculated your charges of **£211.50**

		<u>Paid</u>	<u>FREE</u>	<u>Service</u>	<u>Amount</u>
		<u>Hours</u>	<u>EYE</u>		
<b><u>Bonnie Smith</u></b>					
Mon	02/12/2013	10.00		8am-6pm	£35.00
Tue	03/12/2013	5.00		1pm-6pm	£19.00
Wed	04/12/2013		10.00	8am-6pm - FREE	£0.00
Thu	05/12/2013	5.00		1pm-6pm - Wrap	£17.50
Thu	05/12/2013		5.00	8am-1pm - FREE	£0.00
Fri	06/12/2013	10.00		8am-6pm	£35.00
Mon	09/12/2013	10.00		8am-6pm	£35.00
Tue	10/12/2013	5.00		1pm-6pm - Wrap	£17.50
Wed	11/12/2013		10.00	8am-6pm - FREE	£0.00
Thu	12/12/2013	5.00		1pm-6pm - Wrap	£17.50
Thu	12/12/2013		5.00	8am-1pm - FREE	£0.00
Fri	13/12/2013	10.00		8am-6pm	£35.00
Bonnie Smith					
Totals:		<u>0.00</u>	<u>60.00</u>	<u>30.00</u>	<u>£211.50</u>

## Appendix D

# Northumberland monitoring attendance guidance for early education places for 2's, 3's and 4 year olds.

### Monitoring attendance to promote improved outcomes and safeguarding

Research shows that attendance is an important factor in children's achievement. Our aim is to support children to reach their fully potential through accessing as much of their early years entitlement as possible and to establish healthy attendance patterns that will follow a family throughout their child's education. In order for children to fully benefit from early education we need to encourage good attendance and in order to support this it is essential that we tackle poor attendance efficiently and effectively.

Providers need to be aware of potential safeguarding issues surrounding non-attendance and reduced attendance as well as the impact on a child's development and attainment.

There can be good reasons why children's attendance changes but at the same time this can be an indicator for concern. Providers should promote good attendance and must record the attendance of all funded children in a register which meets the requirements of Ofsted and funding audit purposes i.e. a daily record of the names of the children being cared for on the premises, their hours of attendance and the names of each child's key person

### Non attendance

- Attendance records of funded children **should** be monitored regularly.
- If the reason for a child's absence is unknown for two consecutive days or more the provider **must** contact the parent or legal guardian to ascertain the reason for non-attendance.
- If you have had no response from parents, the provider **should** contact any known professionals working with the family and/or their local Children's Centre to see if there are any family issues to be aware of that has impacted on attendance. This will also ensure the professional/Children's Centre can offer support to the family if needed.
- If attendance does not improve within two weeks, you **should** send a letter (see template appendix D) to the parent or legal guardian explaining that their place is funded by the local authority and should be accessed. If they do not use their early education place, their place could be at risk of being withdrawn if no reasonable explanation is given i.e. illness, holiday etc. You **must** also inform Early Years Sustainability Officer (EYSO) of non-attendance 01670 622726 at this point.
- **Childcare providers must have regard to the safeguarding of young, vulnerable children and should act appropriately when no reasonable explanation can be obtained from parents about a child's absence. Providers should follow NSCB guidance.**

### Reduced attendance

If children do not attend for the number of hours requested per week this **should** also be monitored.

- The parent or legal guardian **should** be contacted after a two week period of reduced attendance (less than 90%) to discuss if there needs to be a change in their agreed attendance pattern and to ascertain why the attendance pattern has changed.
- The provider **should** contact any known professional involved with the family and/or their local Children's Centre to see if there are any family issues the provider needs to be aware of that has

impacted on attendance. This will also ensure the professionals/Children's Centre can offer support to the family if needed

- If attendance does not improve, you should **send** a letter (see template appendix E) to the parent or legal guardian after a further two weeks explaining the impact reduced attendance has on their child's development and that their hours will be formally reduced to reflect what is being accessed if attendance does not improve to what was originally requested. You **must** also inform Early Years Sustainability Officer (EYSO) of persistent reduced attendance 01670 622726 at this point.

### **Evidence**

In both cases copies of any correspondence **should** be kept and a note should be made on the register. If an audit highlights non-attendance or reduced attendance and no evidence is available to suggest the parent has been contacted, funding may be recouped. Exceptions will be made for children with additional needs

A log **should** be kept to record the date and details of all contact made with parents and professionals/Children's Centre staff (i.e. phone calls and letters) and copies of all letters sent should be kept for evidence.

### **Follow –up**

If a professional/ member of Children's Centre have said they will contact the family ask them to let you know when they have. If you have not had feedback please contact the Children's Centre so you can update your records?

EYSO **must** be informed of any improvements in attendance or decline in attendance and plans to formally withdraw a child's early year entitlement place.

## Flowchart for non-attendance/reduced attendance guidance

### Attendance Issues for all early education funded places:

If a child does not attend for two consecutive sessions and their absence is unknown or their attendance has reduced for over two weeks you must contact the parent/carer to determine the reason for absence/reduced attendance.

### Do I know...?

- Have things changed at home? Has there been a separation? Has there been bereavement /illness
- Do sessions times need changing to meet families' needs?
- Has the child an identified special /additional need?
- Are there older children in the family who are missing school as well?
- Is there an Early Help Assessment (EHA) open? Who is the lead professional? 01670 623169 or [eha@northumberland.gcsx.gov.uk](mailto:eha@northumberland.gcsx.gov.uk)  
Does the child have a named social worker?
- Is there a Children's Centre Family Support Worker is attached to the family?
- Is there a Social Worker for the family?
- Any other relevant professional attached to the family?

### What Next?

- Speak to parents/carers
- If not satisfied with response or you are aware of significant professionals involved with the family contact them to ensure that you have background information
- Identify areas of support and liaise with other agencies including schools if older children in the family. Complete an EHA and hold a Team around the Family (TAF) if appropriate.
- Keep accurate notes of the child's attendance.
- Keep copies of letters sent out to parents.
- Follow up any contact with partners to ensure actions agreed have been carried out –ideally through the EHA/TAF process
- Consider referral into Early Help locality hub with consent
- Ensure EYSO is informed at appropriate points. EYSO will inform Locality Development workers where appropriate.

**If you have had no contact with the parent or explanation from other partners for the absence follow your safeguarding procedures**

**Where neglect or abuse of a child is suspected, you must follow your safeguarding procedures. To learn more about Northumberland Safeguarding Children Board's safeguarding procedures go to:**

**<http://northumberlandlscb.proceduresonline.com/index.htm>**

**To make a referral regarding suspected neglect or abuse contact the relevant Children's Social Care Team**

**<http://www.northumberland.gov.uk/default.aspx?page=3808>**

## Appendix E

### Provider Letterhead

Dear Parent/Carer

We have recently tried to contact you to discuss your child's *reduced/non* (amend as appropriate) attendance and offer any support that you may require in accessing your agreed free funded hours. Please be aware that early education places for 2, 3 and 4 year olds are funded by the Local Authority and we are contractually obliged to monitor attendance.

It is therefore important that we remind you of our obligations, under Northumberland Local Code of Practice for 2, 3 and 4 year olds, to offer the funded *place you are not accessing/hours you are not accessing* (amend as appropriate) to another eligible child.

Should you still wish to access your child's agreed free funded entitlement but feel an alternative day, time or amount of hours would better suit your needs, then I urge you to contact me as soon as possible to discuss alternative arrangements. Whilst we cannot guarantee alternative sessions will be available, we remain committed to working in partnership with parents/carers and will seek to make alternative arrangements, where practicable, to enable your child to receive their free funded entitlement.

As the funding is intended to improve best outcomes for children it is therefore important that you contact me to advise me of whether you still require your agreed amount of free funded entitlement. However, if I do not hear from you within the next two weeks I will assume that you no longer require your child's *full funded place/.....hours* (amend as appropriate) and in which case I will offer *the full place/additional .... hours not being accessed* (amend as appropriate) to another eligible child.

Kind Regards

A Childcare Provider