

# Kent Provider Agreement

(known as the “Kent Provider Agreement” or the “Agreement”)

**For the Provision of  
Free Early Education and Childcare  
for Children Aged Nine Months  
to Four Years Old**

**With Effect from 1 April 2024**

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## 1. Introduction

Welcome to the Kent Provider Agreement for Free Early Education and Childcare for children from nine months up to four-year-olds in Kent with effect from 1 April 2024.

This Agreement is designed to explain Free Early Education and Childcare in Kent and applies to the 15-hour entitlement for the most disadvantaged two-year-olds (Free For Two Funding), the 15-hour entitlement for parents of three- and four-year-olds (The Universal Entitlement) and the 15/30- hours entitlement for working parents of children aged nine months up to four years old (The Working Parent Entitlement). We have sought to be as flexible as possible to support providers to deliver places whilst trying to ensure the long-term sustainability of their business.

In September 2018 KCC set up an education services company - The Education People - which encompasses The Early Years & Childcare Service previously provided directly by KCC. KCC has delegated its administrative responsibilities under Section 1 and 2 of the Childcare Act 2016 and Sections 6, 7, 7a, 9a, 12 and 13 of the Childcare Act 2006 to The Education People. These acts place a duty on all Local Authorities to improve outcomes for young children, to ameliorate the impact of inequalities between them and secure sufficient childcare to allow parents<sup>1</sup> to work.

This Agreement therefore serves as a formal contract between KCC and the childcare providers within KCC's geographical boundaries who are contracted by KCC to provide Free Early Education and Childcare in accordance with KCC's duties. Management Information (MI) functions will continue to be operated by KCC and not The Education People.

KCC has a key role in shaping the childcare market in Kent and our aim is for Kent to be a place where families thrive, and all children learn and develop well from their earliest years so that they are ready to succeed at school, have excellent foundations for learning and are equipped well for achievement in life, no matter what their background. The early years are a critical time of learning and development for children to get the best start in life which will be aided by working with providers from the maintained, private, voluntary, and independent school (MPVI) sectors to create a strong, sustainable, and diverse childcare market that meets the needs of parents.

Free Early Education and Childcare can be delivered through a range of private and voluntary sector providers including childminders, childminders as part of a childminder agency, maintained schools with a nursery class, school or Local Authority run nursery provision, academies, and independent schools.

Section 9 of the Childcare Act 2006 gives KCC powers to ensure that any provider (except the governing bodies of maintained schools) with whom they enter into a financial agreement, meets the needs of the requirements imposed on them. It allows KCC to withdraw funding on the recommendation of The Education People if providers fail to meet the contractual conditions contained within this Agreement.

KCC acting via The Education People reserves the right to unilaterally vary this Agreement to reflect changes in legislation and departmental guidelines. References to legislation in this regard will be to legislation as amended and/or in place from time to time, without express change in the Kent Provider Agreement.

The Education People, KCC and providers **must** have due regard to the Data Protection Legislation regarding the use and storage of personal or special category (formerly known as sensitive) data.

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<sup>1</sup> Please note the reference to parents throughout this document means those with parental responsibilities for the children as understood by The Children Act 1989. It includes legal guardians, or anyone with or legally granted parental responsibility for a child.

For the purposes of this Agreement, **Data Protection Legislation** comprises all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended from and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications).

KCC will comply with its obligations under the Freedom of Information Act and will ensure that its staff and customers are aware of their rights under the legislation.

## 2. Legal Framework and Statutory Guidance

The following frameworks and legislation underpin this provider agreement:

- Childcare Act 2006
- Childcare Act 2016
- Early Education and Childcare, statutory guidance for Local Authorities January 2024
- Early Years Entitlements: Operational guidance June 2018
- Equality Act 2010
- Schools Admissions Code 2021
- Statutory Framework for the Early Years Foundation Stage for Childminders, published 8 December 2023, effective 4 January 2024
- Statutory Framework for the Early Years Foundation Stage for group and school-based providers, published 8 December 2023, effective 4 January 2024
- Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 as amended by The Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2018 (SI 2018/146)
- The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016
- Special Educational Needs and Disability Code of Practice: 0-25 years (January 2015)
- Data Protection Legislation.

## 3. Key Kent County Council (KCC) Responsibilities

- 3.1 KCC **must** secure a Free Early Education and Childcare place as required by law (also known as Free Entitlement(s)) for every eligible child in its area and will work with The Education People to do so.
- 3.2 KCC, acting through The Education People, shall work in conjunction with providers to agree how to deliver Free Entitlement places.
- 3.3 KCC, acting through The Education People, shall be clear about its 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.
- 3.4 KCC, acting through The Education People, **must** contribute to safeguarding and promote the welfare of children and young people in its area.

## 4. Key Provider Responsibilities

- 4.1 Providers **must** at all times comply with the law (including but not limited to all relevant legislation in respect of the provision and supply of services under this Agreement, and the Data Protection Legislation and the payment of all taxes) together with those

additional requirements laid out at section 12.2.

- 4.2 Providers should deliver whichever of the Free Entitlements they choose to deliver 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 providers 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 Entitlement should receive the same quality and access to provision as those whose parents choose to pay for additional services.
- 4.3 Providers **must** follow the Early Years Foundation Stage (EYFS), 'Working Together to Safeguard Children' guidance, 'Prevent duty guidance for England and Wales', Ofsted<sup>2</sup> Education Inspection Framework (EIF) and each provider **must** have policies and procedures in place that follow Kent Safeguarding Children Multi-Agency Partnership (KSCMP) arrangements for recognising, responding, reporting, and recording suspected or actual abuse.
- 4.4 Providers **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 (SENIF) and Disability Access Fund (DAF) to deliver effective support, whilst making information available about their SEND offer to parents. Providers should be clear and transparent about the use of the SEN Inclusion Fund through regular and timely discussions with the SENIF Monitoring and Support Officers. Please see section 9.4 for how the SEND Local Offer should be published.
- 4.5 Providers **must** ensure they submit timely and accurate information, including, but not limited to, funding claims under all the Free Early Education and Childcare entitlements, census data, statutory requirements for information, data required by the Department for Education (DfE) or other relevant parties, Parental Declarations, and invoices. Failure to do so may result in inaccurate, delayed, or suspended funding.
- 4.6 Providers **must** update their details with the Kent Children and Families Information Service (KCFIS) at least three times a year, before the end of the spring, summer, and autumn terms.
- 4.7 Providers **must** be registered on the Early Years Register with Ofsted or a childminding agency and MI to receive payments for Free Early Education and Childcare.
- 4.8 Providers **must** first be registered with MI for each of the Free Early Education and Childcare types of entitlement they are proposing to deliver under this Agreement pursuant to Part A (Free Places) of the statutory guidance Early Education and Childcare (applies from 1 April 2024) otherwise they will not be permitted to supply any of those services on behalf of KCC.
- 4.9 Providers with websites **must** ensure that their details are kept up to date.
- 4.10 Providers **must** contact MI regarding any changes to their registration such as management/staff, telephone number, email address, setting address, name change, bank details and new Ofsted registration.

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<sup>2</sup> References to Ofsted in this document, also relate to the Independent Schools Inspectorate (ISI), where applicable.

## 5. Safeguarding

- 5.1 KCC, acting through The Education People, has an overarching responsibility to ensure the welfare of all children and young people in Kent in accordance with the 2006 and 2016 Children Acts and 'Working Together to Safeguard Children' 2023 guidance.
- 5.2 Providers **must** follow the EYFS safeguarding and welfare requirements (section 3) and have due regard to the 'Working Together to Safeguard Children' guidance, and the 'Prevent duty guidance for England and Wales'. All schools are required to have regard to the Government's 'Keeping Children Safe in Education' statutory guidance. To safeguard children online, providers should refer to the UK Council for Internet Safety (UKCIS) 'Safeguarding Children and Protecting Professionals in Early Years Settings: online safety considerations'.
- 5.3 Providers **must** ensure that they are alert to any issues of concern in the child's life and **must** have and implement a policy and procedures to safeguard children which are in line with the most up-to-date guidance and procedures from the Kent Safeguarding Children Multi-Agency Partnership (KSCMP). This **must** include an explanation of the action to be taken when there are safeguarding concerns about a child and in the event of an allegation being made against a member of staff. The policy **must** also cover the use of mobile phones and cameras in the setting.
- 5.4 Providers **must** have a lead practitioner who is designated to take lead responsibility for safeguarding children within each early years setting and who **must** liaise with local statutory children's services as appropriate. The lead **must** provide support, advice, and guidance to staff on an ongoing basis, and on any specific safeguarding issue as required. The lead **must** also satisfactorily complete appropriate child protection training, and the provider **must** retain such training records for inspection by The Education People acting on behalf of KCC.
- 5.5 All staff **must** have satisfactorily completed safeguarding training that enables them to understand their safeguarding policy and procedures, have up-to-date knowledge of safeguarding issues, and recognise signs of potential abuse and neglect and respond in a timely and appropriate way. The training **must** also include content which enables staff to follow procedures specific to KSCMP arrangements. The provider **must** retain all such training records for inspection by The Education People acting on behalf of KCC.

## 6. Eligibility

- 6.1 KCC, working with The Education People, is keen to ensure that all children who meet the prescribed criteria are able to take up a free place benefitting their social, physical and cognitive development and outcomes by helping to prepare them for school. Evidence shows that attending high-quality early education has a lasting impact on social and behavioural outcomes. The entitlements make childcare more affordable for parents and enable parents to work or increase their working hours if they wish to do so.
- 6.2 Free Early Education and Childcare for the most disadvantaged two-year-olds (Free For Two Funding) and the Universal Entitlement for all three- and four-year-olds, is based on a core offer of 570 hours a year over no fewer than 38 weeks and up to 52 weeks per year. This equates to 15 hours a week or fewer for those children who stretch their entitlement over more than 38 weeks per year. The Working Parent Entitlement for children of working parents is up to 1140 hours a year (see table under section 6.9.1) and is also over no fewer than 38 weeks and up to 52 weeks per year. This equates to up to 30 hours a week or fewer for those children who stretch their entitlement over more than 38 weeks per year. The maximum hours that any child can access across all the



entitlements is 30 hours over 38 weeks or less hours if stretched.

6.3 Providers **must** publish the days and times on which they offer free places, known as their 'pattern of delivery' and advise parents that entitlement to a Free Early Education and Childcare place does not offer a guarantee of a place at any one provider or a particular pattern of delivery. Providers who are open for fewer than 38 weeks per year, for example, because they are an independent school or using shared premises, **must not** offer parents more than 15 or 30 hours per week.

6.4 Providers **must** check original copies of documentation to confirm a child has reached the eligible age on initial registration for all Free Early Education and Childcare.

6.5 The birth certificate number or passport number for the child **must** be recorded on the Parental Declaration form together with details of the person who saw the original document and the date it was seen. Providers **must** check that the identification paperwork matches with the details provided. Any discrepancies **must** be reported to The Education People.

6.6 Providers are not obliged to keep a copy of the birth certificate or passport but, in cases where this is done, it can be used by KCC, including for audits and fraud investigations. The provider **must** ensure that the data is stored strictly in accordance with the provisions of the Data Protection Legislation.

## 6.7 Free For Two (FF2) Funding - Disadvantaged Two-Year-Olds

6.7.1 Free Early Education and Childcare up to 15 hours per week for the most disadvantaged two-year-olds in Kent is known as the Free For Two (FF2) scheme. This is **not** a universal offer – parents **must** apply at [Free childcare - Kent County Council](#). Providers **must** advise parents that a child's eligibility is based on whether the family receive one of the following benefits or credits:

- Income Support
- income-based Job Seeker's Allowance (JSA)
- income-related Employment and Support Allowance (ESA)
- Universal Credit and the household income is £15,400 a year or less after tax, not including benefit payments
- the guaranteed element of State Pension Credit
- Child Tax Credit, Working Tax Credit (or both), and the household income is £16,190 a year or less before tax
- The Working Tax Credit 4-week run on (the payment parents receive when they stop qualifying for Working Tax Credit)

6.7.2 A child can also receive Free Early Education and Childcare if any of the following apply:

- the child is under the care of the Local Authority
- the child has a current Education, Health and Care (EHC) plan
- the child is in receipt of Disability Living Allowance (DLA)
- the child is no longer under the care of the Local Authority, as a result of an adoption order, a special guardianship order or a child arrangement order.

6.7.3 Two-year-old children can also take up a Free Early Education and Childcare place if their parent(s) are non-UK citizen(s) who cannot claim benefits and their immigration status says they have 'no recourse to public funds', they live in England and their household income is no more than:

- £26,500 for families outside of London with one child
- £34,500 for families within London with one child

- £30,600 for families outside of London with two or more children
- £38,600 for families within London with two or more children.

*Families cannot have more than £16,000 in saving or investments.*

6.7.4 Providers are encouraged to ask all parents of two-year-olds whether they meet any of the above FF2 criteria and parents should complete the online application form accordingly.

6.7.5 Providers should advise parents that a child's date of birth **must** fall into the eligible date ranges as follows:

A child born in the period	Will become eligible for a free place
1 January to 31 March (inclusive)	The start of term 5 following their second birthday (after Easter holiday)
1 April to 31 August (inclusive)	The start of term 1 following their second birthday (after summer holiday)
1 September to 31 December (inclusive)	The start of term 3 following their second birthday (after Christmas/New Year holiday)

6.7.6 Providers **must** ensure parents are aware that they cannot be accepted under the terms of the FF2 scheme and take up a FF2 place without proof of confirmation of eligibility.

6.7.7 Providers **must** ensure that parents are aware that once they have taken up a place, eligible two-year-olds remain entitled to this place until the three-year-old Universal Entitlement starts, even if their circumstances change.

6.7.8 Providers **must** advise parents that the FF2 scheme is a rolling programme and eligible children can start in a FF2 place at any point during the term, in accordance with the eligibility confirmed start date.

6.7.9 If a child has previously been accessing their two-year-old entitlement with a provider located outside Kent and now wishes to attend a Kent setting, MI will contact the other Local Authority to confirm the child's eligibility. Providers will need the child's name, date of birth and name of the setting the child was attending outside Kent in order for MI to do this. If the other Local Authority confirms the child was accessing a funded place, MI will honour this and, assuming everything is in order, fund the child at a Kent provider. A FF2 application would still need to be submitted through Kent in order for the provider to make a claim.

6.7.10 If a child has had their eligibility confirmed by another Local Authority but has **not** accessed a funded place, MI will need to carry out an eligibility check. A FF2 application would need to be submitted through Kent in order for MI to do this.

## 6.8 The Universal Entitlement - Three- and Four-Year-Olds

6.8.1 Free Early Education and Childcare for three- and four-year-olds is a universal offer of up to 15 hours per week that takes effect from the beginning of the term following the child's third birthday. Providers should advise parents that a child's date of birth **must** fall into the eligibility date ranges as shown below and that the child remains eligible until they reach compulsory school age at the beginning of the term following their fifth birthday, unless on a school roll/holding a place at a school.



<b>A child born in the period</b>	<b>Will become eligible for a free place</b>
1 January to 31 March (inclusive)	The start of term 5 following their third birthday (after Easter holiday)
1 April to 31 August (inclusive)	The start of term 1 following their third birthday (after summer holiday)
1 September to 31 December (inclusive)	The start of term 3 following their third birthday (after Christmas/New Year holiday)

6.8.2 Children in Kent start primary school the September following their fourth birthday. Therefore, once a child is on a school roll/holding a place at a school, that child is funded through the school, so providers cannot claim Free Early Education and Childcare funding.

6.8.3 If a child attends an independent school offering the Universal Entitlement, this can still be claimed until the child reaches compulsory school age at the beginning of the term following their fifth birthday.

## 6.9 The Working Parent Entitlement - Nine Months up to Four Years Old

6.9.1 Parents who are working and earning the equivalent of 16 hours per week at national minimum or living wage and under £100,000 adjusted net income per year could be entitled to up to 1140 hours a year over no fewer than 38 weeks and up to 52 weeks per year, in line with the date and age criterion specified below:

<b>Effective date</b>	<b>Age</b>	<b>Total weekly hours</b>	<b>Total yearly hours</b>
From 1 April 2024	2-year-olds	15	570
	3- and 4-year-olds	30 <i>*15 hours from universal entitlement</i>	1140 <i>*570 hours from universal entitlement</i>
From 1 September 2024	9 months and above	15	570
	2-year-olds	15	570
	3- and 4-year-olds	30 <i>*15 hours from universal entitlement</i>	1140 <i>*570 hours from universal entitlement</i>
From 1 September 2025	9 months and above	30	1140
	2-year-olds	30	1140
	3- and 4-year-olds	30 <i>*15 hours from universal entitlement</i>	1140 <i>*570 hours from universal entitlement</i>

6.9.2 Providers should advise parents that a child’s date of birth **must** fall into the eligibility date ranges as shown below:

**Nine-month-olds and above**

Child born in the period	A child turns 9 months in the period	Will become eligible for a free place
1 April - 30 June (inclusive)	1 January – 31 March (inclusive)	The start of term 5 - summer terms (after Easter holiday)
1 July - 30 November (inclusive)	1 April - 31 August (inclusive)	The start of term 1 - autumn terms (after summer holiday)
1 December - 31 March (inclusive)	1 September to 31 December (inclusive)	The start of term 3 - spring terms (after Christmas/New Year holiday)

**Two to four-year-olds**

A child born in the period	Will become eligible for a free place
1 January to 31 March (inclusive)	The start of term 5 following their second birthday (after Easter holiday)
1 April to 31 August (inclusive)	The start of term 1 following their second birthday (after summer holiday)
1 September to 31 December (inclusive)	The start of term 3 following their second birthday (after Christmas/New Year holiday)

6.9.3 Parents **must** apply for The Working Parent Entitlement through the Government’s online Childcare Service, **not** through either KCC or their provider. Eligibility for the additional free hours is determined by HMRC through this online application. HMRC will issue an 11-digit eligibility code and providers and MI are responsible for checking the validity of the parent’s code. The only exception to this is children in foster care, see section 6.10.

6.9.4 Parents should be encouraged to apply to HMRC the term before their child meets the age criterion to ensure they can access a place at the start of the term **after** the child turns nine months, second/third birthday. If not, they will need to wait until the following term to access their 15/30-hour place.

6.9.5 KCC, acting with The Education People, **must** ensure that a child has a place no later than the beginning of the term following the child and parent meeting the eligibility criteria for their place, provided that the code remains valid on:

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

6.9.6 Providers are encouraged to ask all parents of two-year-olds whether they have previously applied for FF2 funding or if they meet the eligibility criteria (section 6.7.1-3) as well as asking whether they meet The Working Parent Entitlement criteria. Parents cannot access both FF2 funding and The Working Parent Entitlement at the same time. If a parent has previously applied and/or is eligible under both entitlements, providers should claim FF2 funding for that child.

- 6.9.7 In order to offer a place to a child, providers **must** validate the code with MI's Working Parent Entitlement checker on Kelsi<sup>3</sup>. To do this, providers will need the 11-digit code, the National Insurance number of the parent who made the application to HMRC and the child's date of birth. On successful validation of the code, providers will be able to inform parents and confirm the child's place.
- 6.9.8 Before providers can verify the code, they **must** have written consent from or on behalf of the parent to do so. This written consent will allow the provider to receive confirmation and future notifications from MI of the validity of the parent's code. Providers should use the Parental Declaration form for this purpose.
- 6.9.9 Parents may receive an eligibility code before their child reaches the age criterion. The child can only start claiming the term following the child turning nine months, second/third birthday, see points 6.9.1 and 6.9.2.
- 6.9.10 If a child is taking up the 15 hours Universal Entitlement and the parent becomes eligible for The Working Parent Entitlement partway through the term, the parent can claim The Working Parent Entitlement hours the term following the date on which they receive their code.
- 6.9.11 MI will complete an audit of eligibility codes at six fixed points in the year, both at half-term and before the start of the next term. Providers will be informed of any codes that have become ineligible and where a child is no longer eligible to receive The Working Parent Entitlement (see below):

Audit	LA audit date	Suggested LA audit window
Spring: Mid-term	11 February	11 – 18 February
Summer: Start of term	1 April	24 March – 1 April
Summer: Mid-term	27 May	27 May – 2 June
Autumn: Start of term	1 September	24 August – 1 September
Autumn: Mid-term	22 October	22 October – 29 October
Spring: Start of term	1 January	24 December – 6 January

- 6.9.12 Parents cannot claim once a child has reached compulsory school age (the term following their fifth birthday). Due to the three-monthly cycles of reconfirmation, and to allow for those children who do not reach compulsory school age until after their child turns five, some parents may still have a code after their child reaches compulsory school age. It is therefore important that providers check the age of the child as well as the code.
- 6.9.13 Providers can offer The Working Parent Entitlement hours only. This could be relevant to a child taking their universal hours at an alternative provider.
- 6.9.14 Children in Kent start primary school the September following their fourth birthday. Therefore, once on a school roll/holding a place at a school they are funded through the school and providers cannot claim the working parent hours or indeed any Free Early Education and Childcare entitlements.
- 6.9.15 If a child attends an independent school offering The Working Parent Entitlement, this can still be claimed until the child reaches compulsory school age at the beginning of the term following their fifth birthday.

<sup>3</sup> This may be subject to change as the Synergy FIS Portal is updated.

## 6.10 The Working Parent Entitlement for Children in Foster Care - Nine Months up to Four Years Old

- 6.10.1 Children in foster care may be eligible for The Working Parent Entitlement, providing they meet the age criteria and two additional criteria: that this is consistent with the child's care plan and the foster parent is taking up paid employment outside of their fostering role. Foster carers **must** speak to the child's social worker and complete a Working Parent Entitlement application form for foster children; this can be found on The Working Parent Entitlements page on Kelsi.
- 6.10.2 When a child is placed with their prospective adoptive parent(s), the prospective adopter(s) will have parental responsibility for the child and is/are therefore able to apply directly to HMRC for The Working Parent Entitlement. They **must** meet the eligibility criteria in the same way as non-foster parents.
- 6.10.3 MI will generate an eligibility code for a successful foster carer's application where the designated person has confirmed the additional criteria has been met.
- 6.10.4 Providers **must** validate the foster carer's code in the same way as other codes to offer a Working Parent Entitlement place to a foster child.

## 6.11 The Grace Period (for The Working Parent Entitlement Only)

- 6.11.1 The Grace Period enables parents to retain their child's place for a short period if they become ineligible, for example, a parent loses their job, or the parent fails to reconfirm their code.
- 6.11.2 A child will enter the Grace Period when their parent(s) cease to meet the 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.
- 6.11.3 MI will use the Government's Eligibility Checking System (ECS) to access information about whether a child has ceased to meet the eligibility criteria and entered the Grace Period. The Grace Period end date will automatically be applied to eligibility codes.
- 6.11.4 As soon after the audit check date as is reasonably possible, MI will contact providers to notify them of which parents have fallen out of eligibility and inform them of the Grace Period end date.
- 6.11.5 MI will continue to fund a place for a child who enters the Grace Period at their current setting, until the Grace Period end date.
- 6.11.6 If a child ceases to be a foster child and the parent has a special guardianship or adoption order, MI will continue to fund a place for a child who enters the Grace Period at their current setting, until the Grace Period end date.
- 6.11.7 Children **must** not start a new Working Parent Entitlement place at a provider during the Grace Period. This includes the following scenarios:
- where a parent falls into their Grace Period before the child has started a Working Parent Entitlement place

- where a parent falls into their Grace Period whilst their child is in a Working Parent Entitlement place, and the parent seeks to move the child to a different provider.

6.11.8 MI will consider extending the Grace Period for a short time in very exceptional circumstances if the parent has been forced to leave their home and paid employment, for example, where the parent is a victim of domestic abuse or other serious crime.

6.11.9 MI will ensure parents are aware there is a review and appeals process managed by HMRC if they disagree with the eligibility outcome as determined by HMRC.

6.11.10 Providers **must** make parents aware that if they cease to meet the eligibility criteria and the Grace Period has expired, parents will be liable to pay if their child is aged from nine months to two-years-old if they wish to continue to attend the setting. Three- and four-year-old children can continue to take up their Universal Entitlement to 15 hours Free Early Education (or its equivalent if the entitlement is being stretched) provided they have not exceeded 570 hours of The Universal Entitlement.

6.11.11 For those three- and four-year-old children whose Working Parent Entitlement provision is split with more than one provider, parents are to be advised to use the Grace Period time to discuss with providers which one will be their 15-hour place provider when those children revert back to The Universal Entitlement. Failure to do so may result in MI splitting the funding fairly between all settings.

## 6.12 Early Years Pupil Premium (EYPP) - Nine Months up to Four Years Old

6.12.1 EYPP is **not** a universal offer so providers **must** apply on behalf of the parent using the online application form via the Kelsi website.

6.12.2 Before providers can submit an application for EYPP they **must** have written consent from or on behalf of the parent to do so. Providers should use the Parental Declaration form for this purpose.

6.12.3 The parent needs to be claiming one of the benefits or credits listed below:

### Economic Criteria:

- Income Support
- income-based Jobseeker's Allowance (JSA)
- income-related Employment and Support Allowance (ESA)
- support under part six of the Immigration and Asylum Act 1999
- the guaranteed element of State Pension Credit
- Child Tax Credit (provided they are not also entitled to Working Tax Credit and have an annual gross income of no more than £16,190)
- Working Tax Credit run on (which is paid for four weeks after they stop qualifying for Working Tax Credit)
- Universal Credit - the household income must be less than £7,400 a year after tax not including any benefits.

### EYPP Other Criteria:

- children who are currently being looked after by a Local Authority in England or Wales
- children who have left the care of a Local Authority as a result of an adoption order

in England or Wales

- children who have left the care of a Local Authority as a result of a special guardianship order in England or Wales
- children who have left the care of a Local Authority as a result of a child arrangements order in England or Wales.

6.12.4 MI will check for eligibility under the economic criteria via the Eligibility Checking Service (ECS) and advise providers of the outcome by email.

6.12.5 For those children who have left the care of a Local Authority, providers **must** email MI at [miearlyyears@kent.gov.uk](mailto:miearlyyears@kent.gov.uk) to confirm that evidence of the above criteria has been seen for eligibility to be confirmed.

6.12.6 For children who are currently looked after by a Local Authority, all applications will be sent to Virtual School Kent (VSK). VSK will verify eligibility and will arrange for EYPP payments to be made for these children.

## 6.13 Disability Access Fund (DAF) - Nine Months up to Four Years Old

6.13.1 To be eligible for DAF funding, the child **must** be in receipt of Disability Living Allowance (DLA).

6.13.2 To apply for DAF funding providers **must** download the relevant application form from the Kelsi website for the child's age. The form **must** be completed with the parents and sent to MI with a copy of the latest DLA awards notice. The awards notice needs to cover the term in which the application is made.

## 7. Flexibility

7.1 KCC wants to ensure that children are able to take up their full entitlement to Free Early Education and Childcare at times that best support their learning and development, and at times which fit with the needs of parents to enable parents to work or increase their hours of work if they wish to do so. Evidence shows that continuous provision is in the best interests of the child. Where it is reasonably practicable to do so, KCC, acting through The Education People, will 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 or midway through a morning or afternoon session.

7.2 KCC encourages effective cooperation and working between providers from all sectors to ensure maximum flexibility for parents and their children. Providers will be encouraged to offer flexible packages of free hours with:

- no session longer than 10 hours
- no minimum session length (subject to the requirements of registration on the Ofsted Early Years Register)
- no session commencing before 6am or finishing after 8pm
- children accessing no more than two sites in a single day.

7.3 Although parents can split their Free Entitlement between multiple providers, continuity of care is important for the child. Providers should be mindful of the impact that multiple provision could have on a child's learning, development, and wellbeing.

7.4 The Education People will provide information for both providers and parents to explain there is no requirement that free places **must** be taken on or delivered on particular days



of the week or at particular times of the day, providing they are between the hours of 6am and 8pm.

- 7.5 The Education People will provide information for both providers and parents to explain there is no requirement for providers to offer The Working Parent Entitlement in order to receive funding to deliver Universal Free Early Education and Childcare, and that providers are free to choose not to deliver Free Early Education and Childcare places at all.
- 7.6 Where a child is accessing Free Early Education and Childcare at more than one provider, a Parental Declaration form **must** be completed by the parents at all settings to show the total number of Universal and/or The Working Parent Entitlement hours the child will be accessing at each provision. Providers should liaise with each other to ensure they are not exceeding the hours available for each entitlement.
- 7.7 Providers **must** share information with The Education People about the times and periods at which they are able to offer Free Early Education and Childcare to support KCC to secure sufficient stretched and flexible places to meet parental demand.
- 7.8 Providers **must** ensure that their patterns of hours, during which their completely free places are offered, are clear and accessible for parents. Providers **must** publish their standalone completely free 15- and 30-hour patterns and state how many completely free places they have, to enable parents to make an informed decision on where to access their entitlement. Providers **must** ensure that all parents, including disadvantaged families, have fair access to a free place, which **must** be delivered completely free.
- 7.9 Providers should have a written agreement with all parents that take up a Free Early Education and Childcare place. The Parental Declaration form can be such an agreement, but this **must be signed** by parents **before** providers claim funding for the child<sup>4</sup>. Any fees should be clearly set out in a Fee Structure that shows how Free Early Education and Childcare is delivered and any additional charges for optional activities outside the Free Entitlement. If a provider is found to have claimed funding without the parent completing a signed Parental Declaration form, KCC (including MI), acting with The Education People will request the funding to be returned.
- 7.10 Free Early Education and Childcare can be offered over 38 weeks or up to 52 weeks as a 'stretched' offer whereby fewer weekly hours are spread over more weeks to produce the same annualised total entitlement for Free Early Education and Childcare hours. Free Early Education and Childcare can be offered at weekends. Bank holidays can form part of the Free Early Education and Childcare hours if the provider is open, and children can access their Free Early Education and Childcare hours at this time. Providers **cannot** include inset/training days in their funded pattern. If a funded day falls on a bank holiday and the provider is closed, an alternative session **must** be offered in lieu. Evidence of offered sessions should be kept for compliance purposes.
- 7.11 Providers wishing to stretch the Free Early Education and Childcare hours outside of the Synergy patterns of 38/48-weeks **must** track children's hours to ensure children receive their full entitlement. A tracking tool is available on [Kelsi](#).
- 7.12 Where providers are unable to offer 38 weeks of funding either due to being an independent school or there are restrictions on site to prevent them opening for the full

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<sup>4</sup> No payment will be made to the provider unless the Parental Declaration has been completed and dated by the person with legal responsibility for the named child. The provider **must not** sign the Parental Declaration.

38 weeks, they **must** ensure that parents are aware that they cannot access their full entitlement with them. Providers **must** not offer more than 15 hours (Universal Entitlement) or 30 hours (The Working Parent Entitlement) over a fewer number of weeks.

7.13 Where providers' premises are used as polling stations, every effort should be made to offer alternative sessions, but providers will not be penalised financially if they are unable to do so. Other closures due to circumstances beyond a provider's control should be notified to MI and The Education People otherwise funding may need to be returned. Providers should be mindful of the impact on parents if they choose to close and should be confident, they can still provide the total number of hours parents agreed with the provider in their Parental Declaration.

## 8. Partnership Working

8.1 KCC, acting through The Education People will, in principle, support cooperation and collaboration between:

- The Education People, KCC and providers
- providers working with other providers, including childminders, schools and organisations through local delivery partnerships and system leadership in collaborations
- providers, parents, carers and families
- The Education People, KCC and parents.

8.2 Providers should aim to work in close cooperation with parents, carers and families and alongside other providers to improve provision of services and outcomes for children in their settings. When a Free Entitlement is split across different providers, those providers should work closely with families to agree how a child's overall care will work in practice in the best interests of the child.

## 9. Special Educational Needs and Disabilities

9.1 KCC, acting with The Education People strategically plans to support children with special educational needs and/or disabilities (SEND) so that the needs of all children in their local area are met in accordance with the Special Educational Needs and Disability Code of Practice: 0-25 years (January 2015).

9.2 The Education People and KCC will provide information to all providers in the maintained, private, voluntary and independent sectors about KCC's Local Offer ([Send Information Hub](#)) which sets out comprehensive information about provisions to be available in Kent across education and health and social care for children and young people in Kent who have SEND, including those who do not have an EHC plan.

9.3 Providers **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.

9.4 Providers **must** publish details and be clear and transparent about the SEND support on offer at their setting and make such information available to support parents to choose the right setting for their child with SEND. Providers should add a general description about their Local Offer and also provide more specific information in their responses to 12 Local Offer questions on their Kent Directory record. Providers should [log in](#) to the directory record which would have been created for that provider by the Kent CFIS Team. Please email [KentCFIS@theeducationpeople.org](mailto:KentCFIS@theeducationpeople.org) for any support with accessing

or updating a directory record. A FREE [e-learning module](#) to support providers with producing their Local Offer is available on The Education People website.

- 9.5 Providers **must** identify children who qualify for the Early Years Pupil Premium (EYPP) and the Disability Access Fund (DAF) and promote these to parents. Further information can be found on Kelsi at:

<http://www.kelsi.org.uk/early-years/equality-and-inclusion/early-years-pupil-premium>  
<http://www.kelsi.org.uk/early-years/equality-and-inclusion/disability-access-fund-daf>

- 9.6 Providers **must** be aware of the process for submitting a headcount when a child accesses a Specialist Nursery Intervention placement. Further information can be found on Kelsi through the following [link](#)

- 9.7 Providers should aim to ensure an effective multi-agency focus by securing local partnerships between all joint working professionals including education, health, and social care.

## 10. Social Mobility and Disadvantage

- 10.1 KCC, acting with The Education People, promotes equality and inclusion, particularly for disadvantaged families, children in care and children in need, by aiming to remove barriers for access to Free Early Education and Childcare places and working with parents to give each child support to fulfil their potential.

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

## 11. Quality

- 11.1 It is the Government's stated intention that, as far as possible, Free Early Education and Childcare places are delivered by providers who have achieved an overall rating of 'good' or 'outstanding' in their most recent Ofsted inspection report, or 'good' or 'excellent' in their ISI report, such terms to be used as applicable to the provider by the inspecting body. Ofsted is the sole arbiter of quality for all Free Entitlements and Ofsted and the inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.

- 11.2 KCC, acting through The Education People, has a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and effective safeguarding and child protection for providers rated less than 'good' with Ofsted.

- 11.3 To be in receipt of the quality supplementary rate, a setting **must** have a nominated leader with either Qualified Teacher Status (QTS) (as defined by the Department for Education) <https://www.gov.uk/guidance/qualified-teacher-status-qts> or Early Years Professional Status (EYPS) or Early Years Teacher Status (EYTS). The leader **must** be directly employed by the setting and **must** significantly influence the learning of all children within the setting so that the quality of teaching is consistently strong, all children make good progress and develop the key skills needed for the next steps in their learning, including for starting school. The qualified leader may hold a full-time or part-time permanent contract, work at the setting 75% of the total funded hours per week with 50% of these hours spent leading the learning experience by working directly with the children.

11.4 PVI providers who employ a QTS **must** complete and sign a proforma to show how they are meeting the full requirements of QTS in accordance with the 'School Teachers Pay and Conditions document 2020' and guidance on 'School Teachers Pay and Conditions' (valid from 1 September 2020).

11.5 To support providers in managing a changing workforce KCC is asking all providers to complete a Quality Leadership Supplement online survey to declare their eligibility (we shall continue to ask childminders to declare their eligibility annually in February). The timescales for which we are asking for declarations are as follows:

- February to inform the April funding rate
- June to inform the September funding rate
- November to inform the January funding rate.

## 11.6 All Free Early Education and Childcare Entitlements – Ofsted Status

### 11.6.1 KCC will:

- fund places for children attending any provider rated 'good' or 'outstanding' by Ofsted or fund places at any childminder registered with a childminding agency judged 'effective' by Ofsted if a parent wants their child to take up their free place at that provider
- fund providers newly registered with Ofsted until their first full Ofsted inspection report is published. Providers are strongly encouraged to engage with The Education People's quality improvement programme in order to ensure a 'good' report at their first inspection
- 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 where either KCC or The Education People has concerns that a provider judged 'inadequate' by Ofsted may have re-registered their setting to avoid making the improvements identified by Ofsted
- take appropriate action to improve the quality of provision at a Local Authority maintained nursery school which has been judged by Ofsted to require significant improvement or has been placed in special measures
- acting on the recommendations of The Education People, consider continuing to fund children already on a provider's roll at the time of a first published Ofsted inadequate status report, taking into account the child's needs and the statutory guidelines in place at the time, as well as continuity of care.

### 11.6.2 KCC will not:

- fund places at providers who do not meet the quality standards. Providers rated less than 'good' by Ofsted **must** work with The Education People to put strategies in place, make sufficient improvements and attend training as identified in their inspection report to bring them back up to 'good' at their next inspection. A provider choosing not to work with The Education People **must** demonstrate that it is taking adequate steps to improve. Failure to do so may result in the withdrawal of funding
- fund any new children on the provider's roll following an inadequate judgement (see section 17).

11.6.3 Providers with an Ofsted inspection outcome of 'not met' will not normally be added to the Kent Directory, but The Education People will make an assessment in each case based on the Ofsted actions and the individual circumstances and report their findings to

KCC. Providers receiving a 'not met' outcome whilst on the Kent Directory will not be able to claim funding for any new children at their setting whilst Ofsted actions are implemented and embedded.

## 11.7 Free For Two Funding

11.7.1 KCC may elect, at its sole discretion, to fund providers rated 'requires improvement', provided settings can demonstrate rapid improvement against the concerns/actions raised by Ofsted at inspection, to improve the quality of provision.

## 11.8 The Universal Entitlement and The Working Parent Entitlement

11.8.1 KCC will:

- fund providers rated 'requires improvement' by Ofsted<sup>5</sup> or 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
- fund providers with exemptions from the EYFS if a parent wants their child to take up their free place at an exempt provider, and this provider is willing to accept KCC funding and any other KCC requirements
- fund individual children who have exemptions from the EYFS
- fund providers with an Ofsted inspection outcome of 'met' until their Ofsted quality inspection report is published.

## 12. Business Planning

12.1 The Education People will provide advice, support, and guidance to providers on behalf of KCC. This support will encourage providers to take a sustainable business approach to planning.

12.2 Providers **must**:

- further to section 4.1 above, comply with all other relevant legislation in connection with running a business which might include but not be limited to the preparation, auditing and submission of accounts, reports to the Charity Commission (where applicable) and the regular submission of accurate and timely information to bodies such as Companies House and HMRC
- run their business in a legally compliant and professional manner at all times
- use a dedicated business email address, and where applicable, a dedicated Committee email address and professional answerphone message
- send all personal and sensitive personal information about children via a secure email system, or by signed for post
- follow the conditions of capital and revenue grants that are offered and comply with monitoring arrangements for those grants
- follow the conditions and monitoring arrangements of the SEN Inclusion Fund
- have and at all times maintain the appropriate public liability insurance with a minimum indemnity of £5m for each and every claim to include those risks generally applicable to and insurable by the insurance industry in respect of nursery services together with any compulsory insurance. This document **must** be made available for inspection on request
- register and continue to maintain the correct registration with the Information

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<sup>5</sup> For schools inspected by the Independent Schools Inspectorate the relevant inspection judgement is 'sound'.



## 13. Charging

- 13.1 Providers should be aware and accept that by entering into this Agreement that Government funding is intended to cover the cost of delivering 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 charged by providers.
- 13.2 KCC has a duty to ensure that Free Early Education and Childcare places are delivered completely free. Providers **must not** charge parents a fee for their child's Free Early Education and Childcare place. Providers will be responsible for reimbursing any excess charges to the parents under advice if there is any overcharging. Providers will also be responsible for reimbursing any excess charges to the parents under advice to KCC if a complaint is made to KCC or the Local Government and Social Care Ombudsman. Non-compliance may, at KCC's sole discretion, lead to the relevant provider being suspended from the Kent Directory. Providers will be aware the affected overcharged party may also seek their own form of redress, which could lead to a complaint to the Ombudsman or separate legal action.
- 13.3 In the context of both Statutory and Operational Guidance, KCC, acting through The Education People, requires providers to ensure that where it is reasonably practicable and wherever possible, 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. Where this is not reasonably practicable and/or wherever it is not possible in relation to business-critical financial sustainability, providers may choose to make arrangements that ensure their ongoing viability from a business perspective, whilst acknowledging the need to provide the Free Early Education and Childcare places completely free, in which case they **must** ensure that the prices which may be charged are fair, completely transparent, easily identifiable and clearly communicated to parents.
- 13.4 Providers should ensure that parents are aware that the EYPP provides additional funding to providers to support disadvantaged children in early years settings.
- 13.5 Providers should ensure that eligible parents are aware that they are able to use Tax-Free Childcare and the childcare element of Universal Credit against payment for registered childcare, including for school-aged children.
- 13.6 KCC will neither intervene nor arbitrate where parents choose to purchase any additional hours or additional services from a provider, provided that such a purchase is not a condition the provider requires parents to accept at any time in order that a child may access a Free Entitlement place.
- 13.7 Providers 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 specialist tuition. Providers should be mindful of the impact of additional charges on parents, especially the most disadvantaged. Providers who choose to offer the free entitlements are responsible for setting their own policy on providing parents with options for alternatives to additional charges, including allowing parents to supply their own meals or nappies, or waiving or reducing the cost of meals and snacks (see table on page 21).

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<sup>6</sup> The Information Commissioners Office (ICO) has the power to issue monetary penalty notices, for serious breaches of the Data.



- 13.8 Providers **must** be completely transparent about any additional charges when a parent first takes up their child's free place, for example, for those parents opting to purchase additional hours or additional services.
- 13.9 Providers 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 additional hours, services, meals, or consumables. Providers **must** publish their charges clearly in a transparent fee structure and ensure that parents are aware of any charges for additional services before they take up their free place and on an ongoing basis thereafter. In respect of those additional hours, meals and optional activities outside the remit of the Free Early Education and Childcare provision, providers are to have separate agreements with parents setting out in a clear manner for how long the parent has agreed to pay the additional charges, what the additional charges are, the rates of those charges and the circumstances in which the parent can opt out of paying.
- 13.10 Providers can charge a deposit to parents for both The Universal Entitlement and The Working Parent Entitlement to secure their child's free place but **must** refund the deposit in full to parents by the end of half-term or within six weeks, whichever is sooner. The Education People **will not** allow providers to charge deposits to parents of FF2 children.
- 13.11 Providers cannot charge parents 'top-up' fees (**any** difference between their normal charge to parents and the funding they receive from KCC to deliver free places) or require parents to pay a registration fee as a condition of taking up their child's free place.
- 13.12 Providers **must** not attach any notice period conditions to a child's fully funded Free Early Education and Childcare place. A notice period can only be applied to those children accessing additional hours and services, and only for those hours and services outside of the Free Early Education and Childcare. Providers should be mindful that the Parental Declaration is the contract with the parent, and that this Agreement sets out the Terms and Conditions of the child's Free Early Education and Childcare place between KCC and the provider.
- 13.13 Once the Parental Declaration has been signed and the child has attended either headcount week, or for FF2 children a settling in period, then the Free Early Education and Childcare funding is secured until the end of that term. For a FF2 child to be considered as settled they need to have attended **all** hours on the Parental Declaration form for at least one week.
- 13.14 The following table has been provided to support the interpretation of the statutory guidance on consumables. This list is not exhaustive.

Items	Chargeable	Rationale
Snacks and drinks	Yes	Parents should also have a choice to bring in their own snacks and drinks in line with the setting's policy on allergies and healthy eating etc.
General play and learning resources (including for craft)	No	A core business expense to enable registration with Ofsted and delivery of the EYFS.
Gardening activities	Not as a general rule	Generally, it does not cost to dig in the garden or run around and play, all of which contributes to the delivery of the EYFS. A

		charge could be considered for a 'one-off purchase or activity', for example, to buy plants. However, consideration <b>must</b> be given to equality of opportunity for any child/ren whose parent/s could not or choose not to pay.
Nappies, nappy sacks, and wipes	Yes	Parents should also be given the choice to provide their own.
Sun cream	Yes	Parents should also be given the choice to provide their own.
Blankets/sheets	No	This is about providing basic care for children.
Trips out	Yes	However, consideration <b>must</b> be given to equality of opportunity for any child/ren whose parent/s could not or choose not to pay.
Online journalling and progress tracker tools	No	Business costs central to tracking and monitoring children's progress.
Toilet rolls, soap, hand gel, paper towels, face cloth etc.	No	Should be supplied by setting to meet Health and Safety law and the requirements of the EYFS.
Cleaning products, washing powder, hygienic gloves, aprons	No	Should be supplied by setting to meet Health and Safety law and the requirements of the EYFS.
Washing machine	No	Not consumable - i.e., not a product that people buy regularly which tends to be quickly used and needs to be replaced often. It is a business expense.
Utilities	No	Business cost.
Salaries e.g. cook, cleaner, maintenance, administration	No	Business cost (cook's salary should be included in cost of meals).
Stationery	No	Business cost.
Insurance	No	Requirement of registration.
Staff training costs	No	Benefit to business and EYFS states 'providers <b>must</b> support staff to undertake appropriate training and professional development opportunities to ensure they offer quality learning and development experiences for children that continually improves' (3.20).
First aid supplies	No	Should be supplied by setting to meet Health and Safety law and the requirements of the EYFS.

**13.15** Providers **must** produce an invoice for those children that are accessing both Free Early Education and Childcare and additional services. Providers **must** ensure their invoices and receipts are clear, completely transparent and itemised, allowing parents and The Education People and/or KCC to see that children have received their Free Entitlement completely free of charge and for the aforementioned to understand the fees paid for additional hours or services. The provider will also ensure that invoices and receipts contain their full business details so that they can be identified as coming from a specific provider.

**13.16** Providers **must** ensure that the Free Early Education and Childcare Entitlement is not represented to parents as a monetary subsidiary in any pricing schedule, invoice or statement issued by them.

13.17 Maintained nurseries **must** provide free school meals (FSM) for children who attend both before and after lunch and whose parents are in receipt of specified benefits. Academies and free schools are required to follow the FSM legislation as if it applied to them by virtue of their funding agreements.

## 14. Delivery of Funding

14.1 KCC will operate fair and transparent funding in line with Government provision and requirements which supports a diverse range of providers to deliver Free Early Education and Childcare places and encourage existing providers to expand and new providers to enter the childcare market. This diversity enables parents to choose a provider that best meets the needs of their child and family circumstances.

14.2 A child's date of birth **must** be within the published eligible date ranges for the funding period (spring, summer, autumn). KCC is unable to fund children before they are in the eligible date of birth range, and funding will have to be reclaimed if a child is subsequently found to be too young.

14.3 Providers **must** see proof of the legal names and date of birth of the child from either the birth certificate or passport to ensure eligibility.

14.4 Childminders cannot claim funding for their own children, stepchildren, or a related child.

14.5 Children **must** be able to access their full entitlement within their funded year unless the setting is not open for the full 38 weeks and this has been communicated to the parent prior to them taking up a place.

14.6 Children cannot access a free place at more than two sites per day. The combined claims **must not** be greater than 15/30 hours per week depending on which entitlement is being claimed for. Where claims are received in excess of these hours, funding will be withheld until the hours are agreed between all settings or sufficient evidence has been provided to MI from all settings. Where all settings have a valid claim to a child's funding, MI will apportion the funds between the relevant providers.

14.7 Providers can submit claims under either a 38-week pattern or 48-week pattern. If a provider is claiming under the 48-week pattern, they **must** not reduce the weekly funded hours to avoid 'capping', the full 12/24 hours per week should be claimed and MI will contact the setting with relevant deductions. If a provider is stretching the entitlements over more than 48 weeks, they **must** calculate and submit claims equivalent to 38 weeks to avoid over or under claiming the Free Early Education and Childcare entitlements.

14.8 Providers **must** ensure parents complete and sign a Parental Declaration form confirming the hours they wish to claim and whether they have or will be claiming any entitlements at another setting for the current term. Without this, KCC will be unable to process a claim and may recall funding for any incomplete Parental Declaration forms where funding has been claimed.

14.9 Subject to the above provision being satisfied, KCC will fund any child attending a Kent setting regardless of where they live.

14.10 MI will work with providers on a cross-border arrangement where parents wish to take up their child's hours, including The Working Parent Entitlement, at a setting outside of, and in Kent.

- 14.11 In the event that providers owe funding back to KCC, providers accept that KCC is entitled to offset any amounts due against any future payments owed to that provider by KCC.
- 14.12 Providers who wish to amend their submission outside of the term will need to inform their Childcare Sufficiency Officer/Childminding Adviser who can raise an appeal to MI on their behalf. If the appeal is approved, a fee may be applied.
- 14.13 Providers **must** submit the annual DfE Early Years Census to MI by the deadline set by MI; failure to do so will result in **all** funding being withheld until it is received.
- 14.14 Further Funding Criteria for Free For Two (FF2) Funding**
- 14.14.1 Providers **must** be given confirmation of eligibility from the parent before accepting a child under the terms of the FF2 scheme. A parent may provide a confirmation email or a voucher code.
- 14.14.2 MI will not process any payments for FF2 children where eligibility has not been confirmed. The funded hours can only be claimed from the start of the week during which eligibility has been confirmed, and after the child has taken up their funded place.
- 14.14.3 Funding is paid for complete weeks only. FF2 funding does not follow a headcount process. Providers can submit FF2 funding claims at any point during the term and a child can increase their funded hours partway through a term. Further details on payment dates can be found on the Kelsi website.
- 14.14.4 If a child moves settings partway through a term, the new setting can make a claim for any remaining funded hours. If the full term's funding has been claimed, the funding will not be transferred. Parents do have a right to appeal and should contact the Kent Children and Families Information Service (KCFIS). The new setting should also contact the previous provision to ask it to transfer the funding before recommending the route of appeal to a parent.
- 14.15 Further Funding Criteria for The Universal Entitlement and The Working Parent Entitlement**
- 14.15.1 Funding is paid for complete weeks only and is based on one claim per term per child for both The Universal Entitlement and The Working Parent Entitlement.
- 14.15.2 The term's funding is based on headcount week. In order to submit a claim for the term, providers **must** be open and offer funding during the **designated headcount week**. Providers **must** also ensure that children are in attendance for their full hours during the designated headcount week of the funding period unless they are known either to be ill or on holiday. Evidence of a child being either ill or on holiday, such as an email or text from the parent, **must** be kept for compliance purposes. If a child does not return to the setting from being ill or on holiday, providers **must** contact MI after headcount so the claim can be reduced before payment is made.
- 14.15.3 If a child starts with a provider but leaves before headcount week, a termly claim cannot be made. If the original provider has a signed Parental Declaration form, the provider can submit an appeal to MI to be funded for the week/s the child attended.
- 14.15.4 Late submission, amendments, or failure to submit a headcount for nine months up to four- years-old, funding claims could result in non-payment of funding and a fee being applied. MI may apply a charge per child and in addition to this may apply an overall

administration charge to cover the time it will take MI to process the late claim. Providers **must** inform MI in advance of submission deadlines of any extenuating circumstances that will prevent them from submitting claims on time. Full details are available on Kelsi. Providers **must** note that these charges **must not** be passed on to parents.

- 14.15.5 Providers will be entitled to the number of weeks they are able to offer within their published funding pattern for that term and within the number of weeks published on the PVI calendar, as long as the child is in attendance during headcount week and the provider has a fully completed Parental Declaration form for that term.
- 14.15.6 Providers **must not** make a settling in period or a staggered start a condition of a child taking up their Free Early Education and Childcare place.
- 14.15.7 Children who are having settling in sessions or staggered starts during headcount week are **not** to be included in the headcount submission. Once these children are attending their full hours, they can then be submitted for payment as a late joiner claim.
- 14.15.8 MI will pay funding for the term based on the first claim received at headcount. This funding will not be transferred if a child moves from one setting to another. Parents do have a right to appeal and should contact KCFIS in this instance. Providers should make parents aware that except in exceptional circumstances, movement of children between settings after the designated headcount week will result in them being charged by the new provision. Providers receiving a child from another setting after the designated headcount week should also contact the previous provision to ask if they are willing to transfer the funding before recommending the route of appeal to a parent.
- 14.15.9 The Universal and Working Parent Entitlement hours claimed for a child **must** be based on the hours they actually attend during the designated headcount week and **cannot** be increased until the next term's claim.
- 14.15.10 If a child moves into Kent from another LA or from overseas outside the designated headcount week, funding can be claimed provided the child has not been claiming Free Early Education and Childcare in the current funding period at another setting in Kent.
- 14.15.11 If an eligible Kent child starts at a setting after the designated headcount week, and they have not claimed funding at any other Kent setting in the current funding period, then Free Early Education and Childcare can be claimed.

## 14.16 Further Funding Criteria for Early Years Pupil Premium (EYPP)

- 14.16.1 Providers can start claiming EYPP for eligible children in the term they become eligible for any of the Free Early Education and Childcare Entitlements.
- 14.16.2 EYPP is an additional payment per funded hour. Providers will receive EYPP funding that is proportionate to the number of funded hours that a child is taking up, to a maximum of 1140 hours in the child's funding year in line with each entitlement's yearly total, and the eligible age criteria outlined in section 6.9.1 for The Working Parent Entitlement. This will be paid on a termly basis.
- 14.16.3 EYPP payments are not released until the claims for all the Free Early Education and Childcare Entitlements have been processed for payment, in line with each published payment date.
- 14.16.4 If a child receiving EYPP moves from one provider to another, the new provider is not



eligible to receive EYPP for this child within the same funding term. Funding received by the original provider will not be reclaimed by KCC. The new provider will need to submit an application for the child in the following term.

#### 14.17 Further Funding Criteria for Disability Access Fund (DAF)

14.17.1 DAF is payable as an annual lump sum per eligible child.

14.17.2 DAF payments are not released until the claims for all the Free Early Education and Childcare Entitlements have been processed for payment in line with each published payment date.

14.17.3 The second year DAF payment will be made on the anniversary of the first payment provided that:

- the awards notice covers the second year
- the child is still claiming funded hours at the setting named on the original application.

14.17.4 If a child receiving DAF moves from one provider to another, the new provider is not eligible to receive DAF for this child within the same year. Funding received by the original provider will not be reclaimed by KCC. The new provider is not eligible to receive DAF for this child until the anniversary of the first payment has passed. A new application will need to be completed and sent to MI after this period.

#### 15. Providers Terminating a Child's Free Early Education and Childcare Place

15.1 Providers should have a policy in place to deal with abusive and/or aggressive parents and this should be communicated to parents prior to them taking up a Free Early Education and Childcare place for their child.

15.2 Should the provider exclude a child in line with their policy, they will need to inform MI and The Education People. Funds may need to be returned for the remaining period that the child is no longer able to attend, and this will depend on the circumstances, with the overall final decision for reclaiming the funding being made by MI and The Education People.

15.3 If a child is accessing both Free Early Education and Childcare and additional services and the parent has not paid for the additional services, the provider is able to terminate the additional services in line with their normal contract terms but **must** not terminate the Free Early Education and Childcare hours.

#### 16. Compliance

16.1 Providers **must** respond promptly to requests for paperwork and information from either The Education People or any person authorised by KCC in order to complete the compliance process, including access (on reasonable notice of no less than 48 hours unless there is an emergency in which case a notice period shall be dispensed with at KCC's sole discretion) to provider premises, employees, staff, systems and records for the purpose of auditing, discussing, monitoring and evaluating fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations.

16.2 Failure to complete the compliance process within a designated timeframe – notified to providers when selected for a compliance visit – may result in funding being withheld.



- 16.3 Providers **must** complete registers for all children in the setting in accordance with the requirements of the EYFS and these **must** be completed in ink, if not in an electronic format. Registers should be stored in chronological order and providers are to number them, if on loose leaf.
- 16.4 Once the provider's setting has been signed off as compliant by The Education People any changes to the Free Early Education and Childcare element of the provider's paperwork, such as patterns of delivery and additional charges, **must** be authorised by The Education People on behalf of KCC.
- 16.5 Compliance training is available to new providers, new managers, and other staff new to KCC's compliance process, and to those providers that need to refresh their knowledge. Please contact [Sufficiencyandsustainability@theeducationpeople.org](mailto:Sufficiencyandsustainability@theeducationpeople.org) for more details. Childminders should contact [childminding@theeducationpeople.org](mailto:childminding@theeducationpeople.org)
- 16.6 Providers **must** ensure they submit timely and accurate information, including, but not limited to, nine months, two-, three- and four-year-old funding claims, census data, statutory requirements for information, data required by the DfE or other relevant parties, Parental Declarations, and invoices. Failure to do so may result in inaccurate, delayed, or suspended funding.
- 16.7 Parental Declaration forms and other checks referred to in this provider agreement **must** be fully completed prior to each new headcount week, in order for providers to claim Free Early Education and Childcare. Parental Declaration forms should be completed no longer than 10 weeks before headcount week. Where Parental Declarations do not exist, funding will be reclaimed. Where Parental Declarations have not been fully completed, funding may be reclaimed.
- 16.8 KCC has a duty to ensure value for money and good governance. In respect of any and all compliance, auditing and investigative matters, it is accepted by the provider that KCC and thereby The Education People retain the right to contact parents attending or intending to attend or having previously attended any setting to obtain, verify or audit such information as they may have relevant to this Agreement.

## 17. Termination and Withdrawal of Funding

- 17.1 MI registers private, voluntary, and independent (PVI) sector providers on its Kent Directory to receive funding to deliver Free Early Education and Childcare places. Those providers who do not meet the conditions of the Kent Directory, or who are subsequently found not to meet these conditions, are ineligible to offer Free Early Education and Childcare places and may be subject to suspension and then de-registration. Withdrawal of funding by KCC will take place according to the process described below in section 18.
- 17.2 Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in the termination of this arrangement and withdrawal of funding.
- 17.3 Where a provider is suspended by Ofsted or a childminding agency, any funding paid for the current term will remain in place. In the case of FF2 funding no further applications or new claims will be accepted. For the Universal Entitlement and The Working Parent Entitlement and Childcare no further headcount information will be collected for that term or the next full term until a final decision has been made by Ofsted.
- 17.4 If the decision is made to close the Ofsted registration, the provider will also be closed on

the Kent Directory and no further payments will be made. If the Ofsted suspension is lifted, KCC will continue to fund the provider from the date that the Ofsted suspension is lifted. In cases where Ofsted has suspended or closed a setting mid-term, children will be funded at an alternative provider. Should Ofsted lift the suspension with no further action taken and the parent elects for their child to remain at the new provider, KCC including MI will continue to fund the place for the rest of the term.

- 17.5 KCC will contact all providers who are a part of a childminding agency judged by Ofsted as ineffective and signed up to deliver the Free Early Education and Childcare Entitlement, to arrange for an adviser to visit the setting as part of their assessment to decide next steps.
- 17.6 When withdrawing funding, KCC, acting through The Education People, 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 the Ofsted monitoring information about the provider or agency.
- 17.7 KCC, acting through The Education People, will not withdraw funding from providers or from childminders registered with an agency until the provider's or childminder's agency's Ofsted inspection is published.
- 17.8 KCC, acting through The Education People, will not fund childminders registered with a childminder agency where the agency has indicated to KCC that the childminder is not of the appropriate quality unless it is necessary to do so to ensure sufficiency of accessible places or support parental choice.
- 17.9 KCC, acting through The Education People, will not fund providers who do not actively promote fundamental British values (democracy, the rule of the law, individual liberty and mutual respect and tolerance towards those with different faiths and beliefs) or if they promote as evidence-based those views or theories which are contrary to established scientific or historical evidence and explanations.
- 17.10 Where a provider is reinspected and moves out of 'inadequate' KCC will, subject to the prior recommendation of The Education People, reinstate their funding to deliver Free Early Education and Childcare from the date that the draft Ofsted report is received by The Education People.

## 18. Termination and Withdrawal of Funding Process

- 18.1 On receipt of a published inadequate Ofsted judgement the following will apply:
- a visit will be undertaken by The Education People
  - the provider will be suspended from the Kent Directory and will therefore not be able to claim Free Early Education and Childcare funding for *new* children to the provision
  - existing children who will become or who are already eligible for Free Early Education and Childcare funding, can still be claimed for, to ensure continuity of care. Evidence of attendance may be required to secure the funding.
- 18.2 KCC, acting on the recommendation of The Education People, has the final decision to withdraw funding if there are significant concerns regarding the safeguarding of children.
- 18.3 On receipt of a **second** published inadequate Ofsted judgement the following will apply:
- the provider will be de-registered from the Kent Directory and will be unable to claim Free Early Education and Childcare for *any* children in their care from the next term

following their published judgement

- the provider **must** notify parents of KCC’s decision to withdraw funding using the example letter in Appendix A
- the ability to claim funding will be withdrawn in line with the table below:

<b>Second inadequate Ofsted judgement published</b>	<b>Funding withdrawn</b>
Beginning of term 5 – end of term 5	Beginning of term 1
End of term 5 – end of term 6	Beginning of term 2
Beginning of term 1 – end of term 1	Beginning of term 3
End of term 1 – end of term 2	Beginning of term 4
Beginning of term 3 – end of term 3	Beginning of term 5
End of term 3 – end of term 4	Beginning of term 6

- 18.4 Where KCC receives notification from Ofsted of a decision to cancel the registration of a provision, KCC will withdraw the ability to claim Free Early Education and Childcare funding.
- 18.5 Failure to submit the DfE Early Years Census to MI by the deadline set will result in MI withholding all payments until a completed census is received.
- 18.6 Three consecutive upheld concerns notified to The Education People and KCC by any agency or person that identifies practice that is not fully inclusive or does not meet the requirements of the Equality Act 2010 will result in MI suspending the payment of funds, from the next term’s payment.
- 18.7 Accounting practices indicating deliberate fraud that are notified to The Education People and/or KCC by any agency or person:
- the provider will, at KCC’s discretion, be suspended from the Kent Directory either immediately, or at the end of the term in which the fraudulent practice was confirmed and
  - KCC will seek repayment of any overpayments identified by MI plus any applicable costs and interest.
- 18.8 Poor accounting practices that are notified to The Education People and KCC by any agency or person will result in the provider being suspended from the Kent Directory, at the end of the term in which the advice was given, if the advice was not taken and poor practice continued.
- 18.9 If a provider is found to be in breach of any of the Terms and Conditions of this Agreement, it may be suspended from the Kent Directory and will therefore not be able to claim Free Early Education and Childcare funding for any *new* children seeking to access their setting.
- 18.10 In respect of those children already attending a provider’s setting who will become or who are already eligible for Free Early Education and Childcare, funding may still be claimed for to ensure continuity of care. This is subject to KCC’s sole discretion unless there is evidence of fraud or other serious breaches of the Agreement in which case KCC will not permit further any funding to the affected provider. Evidence of attendance may be required to secure the funding.

## 19. Appeals Process

A provider may appeal against the withdrawal of funding within 15 working days of the date of the

written notification of withdrawal. Any appeal received outside this timeframe will only be considered in exceptional circumstances:

- the appeal **must** be received by The Education People either in writing or by email
- The Education People will acknowledge receipt of the appeal
- the appeal will be considered in the first instance by the Head of Early Years & Childcare and a full response and decision will be made within 20 working days of the date of receipt
- if the original decision to withdraw funding is upheld, the provider can make a second stage appeal against the decision. This second appeal **must** be made within 15 working days from the date of the notification of the decision and the second appeal **must** be sent to the Corporate Director of Children, Young People and Education. Again, a full response will be made within 20 working days and may result in a hearing being held
- the decision of the second stage appeal will be final.

Please write in the first instance to:

**Alex Gamby**

**Assistant Director 0 - 5 and Out of School Provision | The Education People**

**1 Abbey Wood Road**

**Kings Hill**

**West Malling**

**ME19 4YT**

For a second stage appeal please write to:

**Sarah Hammond**

**Corporate Director**

**Children, Young People and Education**

**Sessions House**

**County Hall**

**Maidstone**

**ME14 1XQ**

## **20. Complaints Processes**

### **20.1 Provider Complaints**

**20.1.1** If a childcare provider wishes to make a complaint about the management and/or administration of the Free Early Education and Childcare funding, please find details on the link below:

<http://www.kent.gov.uk/about-the-council/contact-us/complaints-and-feedback#tab7>

### **20.2 Parental Complaints**

**20.2.1** Providers should ensure they have a complaints procedure in place that is published and accessible for parents who are not satisfied their child has received its Free Entitlement in the correct way.

**20.2.2** Providers should make parents aware that KCC has a complaints process if they are not satisfied that their child has received a free place, or with any aspect of the way they have received it. The complaints process can be viewed online (see below). KCFIS will also assist parents who do not have access to the internet who wish to make a complaint.

<http://www.kent.gov.uk/about-the-council/contact-us/complaints-and-feedback#tab7>

## 21. Kent Children and Families Information Services (KCFIS)

21.1 KCC, acting through The Education People, will ensure parents are provided with comprehensive information about their child's entitlement to a Free Early Education and Childcare place and childcare options in their area.

21.2 Providers **must**:

- register with KCFIS and update their details at least three times a year before the end of the spring, summer, and autumn terms
- ensure that parents are aware of MI procedures for checking eligibility for FF2 funding and The Working Parent Entitlement, and any implications for the use of their personal data.

21.3 To enable KCFIS to respond to enquiries providers **must** ensure parents are aware of:

- how they have received their child's full entitlement to either 15 or 30 hours completely free and that the information they receive is clear and transparent
- their admissions and invoicing arrangements which **must** be clear, transparent, inclusive, and equitable
- the right to continue to take up their Free Early Education and Childcare place until their child reaches compulsory school age, if they choose not to take up/hold a place in a state-funded school reception class in the September following their child's fourth birthday
- their entitlement to Free Early Education and Childcare for nine months up to four years old
- how to access a copy of their Parental Declaration form.

## 22. Glossary

Term	Description
Core Offer	570 hours a year over no fewer than 38 weeks
DAF	Disability Access Fund
DfE	Department for Education
DLA	Disability Living Allowance
DWP	Department for Work and Pensions
ECS	Eligibility Checking Service
EHC Plan	Education Health and Care Plan
ESA	Income related Employment and Support Allowance
EYFS	Early Years Foundation Stage
EYPP	Early Years Pupil Premium
EYPS	Early Years Professional Status
EYTS	Early Years Teacher Status
FF2	Free For Two
FSM	Free School Meals
Headcount Week	The designated week for the termly data collection for children from nine months to four years old claiming Free Early Education and Childcare and the hours they are claiming
HMRC	His Majesty's Revenue and Customs
ISI	Independent Schools Inspectorate
JSA	Income-based Jobseeker's Allowance
KCC	Kent County Council
KCFIS	Kent Children and Families Information Service
LA	Local Authority
MI	KCC's Management Information service
NRPF	No Recourse to Public Funds
Ofsted	The Office for Standards in Education, Children's Services & Skills
Provider Payment Schedule	A list of dates showing when payments will be made for FF2 Funding
PVI	Private, Voluntary and Independent Sector
QTS	Qualified Teacher Status
SEND	Special Educational Needs and Disability
SENIF	Special Educational Needs Inclusion Fund
VSK	Virtual School Kent
WTC	Working Tax Credits



## 23. Appendix A

Dear Parent

### **Notice of Withdrawal of Early Years Funding**

Following the publication of the second inadequate Ofsted judgement of (insert provider name), Kent County Council (KCC) has decided to withdraw (insert provider name) from the Kent Directory.

This will result in (insert provider name), no longer being able to offer the Free Early Education and Childcare funding from (insert date).

As a parent of a child at (insert provider name), you may wish to contact Kent Children and Families Information Service on **tel: 03000 41 23 23** for advice on locating an alternative provision.

You will need to notify the alternative provision that your child is transferring from (insert provider name) so that they can make a funding claim on your behalf.

Please be aware that if you choose for your child to remain at (insert provider name), this provider will no longer be able to claim Free Early Education and Childcare funding and may therefore require you to pay the fees for your child(ren).

If you are unsatisfied with this decision, please follow KCC complaints process which can be found at [www.kent.gov.uk/about-the-council/contact-us/complaints-and-feedback#tab7](http://www.kent.gov.uk/about-the-council/contact-us/complaints-and-feedback#tab7)

Yours sincerely

**Alex Gamby**  
**Assistant Director 0 - 5 and Out of School Provision | The Education People**