

Kent Provider Agreement

**For the provision of
Free Early Education and Childcare
for two, three and four year olds**

With effect from 1 October 2018

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1. Introduction

Welcome to the Kent Provider Agreement for Free Early Education and Childcare for two, three and four year olds in Kent with effect from 1 October 2018.

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 (The Two Year Old Entitlement), the 15 hour entitlement for parents of three and four year olds (The Universal Entitlement) and the 30 hours entitlement for working parents of three and four year olds (The Extended Entitlement). 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 Kent County Council (KCC) set up an education services company – The Education People - which encompasses The Early Years and Childcare Service previously provided directly by KCC. KCC has delegated its administrative responsibilities under Section 2 of the Childcare Act 2016 and Sections 6, 7, 7a, 9, 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 parents¹ to work. This Agreement therefore serves as a formal contract between KCC, Management Information (MI) and The Education People and Kent's childcare providers within KCC geographical boundaries in accordance with KCC's duties. MI continues to operate within KCC and is therefore not part of The Education People.

The acts give us 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 providers (except the governing bodies of maintained schools) with whom they enter into a financial agreement, meet 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 the agreement to reflect changes in legislation and departmental guidelines. References to legislation in this regard will be to legislation as amended 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 Act 2018 and the General Data Protection Regulations (GDPR) 2018 regarding the use and storage of personal data.

¹ Please note the reference to parents throughout this document includes carers, legal guardians, or anyone with parental responsibility for a child

The Education People and 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 June 2018
- Early years entitlements: Operational guidance June 2018
- Equality Act 2010
- Schools admissions code 2014
- Statutory Framework for the Early Years Foundation Stage 2017
- Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
- The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016
- Special educational needs and disability code of practice: 0-25 years 2015
- Data Protection Act 2018

3. Key KCC and The Education People responsibilities

- 3.1 KCC must secure a Free Entitlement place for every eligible child in their area and will work with The Education People to do so.
- 3.2 KCC acting through The Education People shall work in partnership with providers to agree how to deliver Free Entitlement places.
- 3.3 KCC acting through The Education People shall be clear about their role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations to providers.
- 3.4 KCC acting through The Education People must contribute to safeguarding and promote the welfare of children and young people in their area.

4. Key Provider Responsibilities

- 4.1 Providers must comply with all relevant legislation, including but not limited to that relating to data protection, and insurance requirements.
- 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' 2018 guidance, Ofsted² Inspection framework and Annex 1 of 'Inspecting safeguarding in early years, education and skills settings' (August 2016), and each provider

² References to Ofsted in this document, also relate to the Independent Schools Inspectorate (ISI), where applicable

must have policies and procedures in place that link to KCC's guidance for recognising, responding, reporting and recording suspected or actual abuse.

- 4.4 The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN inclusion fund (SENIF) and Disability Access Fund (DAF) to deliver effective support, whilst making information available about their SEND offer to parents.
- 4.5 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.
- 4.6 Providers must be registered with Ofsted or a childminding agency and MI to receive payments for Free Early Education.
- 4.7 Providers with websites, must ensure that their details are kept up to date.

5. Safeguarding

- 5.1 KCC, acting through The Education People will ensure the welfare of all children and young people in Kent in accordance with the 1989 and 2004 Children Acts and 'Working Together to Safeguard Children' 2018 guidance.
- 5.2 Providers must have due regard to Annex 1 of 'Inspecting safeguarding in early years, education and skills settings' (August 2016) and must follow the EYFS welfare requirements and have regard to the 'Working Together to Safeguard Children' 2018 guidance. They 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 local guidance and procedures. 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. All relevant provider 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. The provider must retain such training records for inspection by The Education People acting on behalf of KCC.
- 5.3 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. This 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.

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 and 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 for the most disadvantaged two year olds and universally 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. The Extended Entitlement for children of working parents is an additional 15 hours free, also over no fewer than 38 weeks and up to 52 weeks per year. Providers must publish the days and times that they offer free places, known as their 'pattern of delivery' and advise parents that entitlement to a Free Early Education 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 using shared premises, must not offer parents more than 15 or 30 hours per week.

- 6.3 Providers must check original copies of documentation to confirm a child has reached the eligible age on initial registration for all Free Early Education.
- 6.4 The Birth Certificate Number or Passport Number for the child must be recorded together with details of who saw it and the date it was seen.
- 6.5 Providers are not required to keep a copy of the birth certificate but in cases where this is done, the provider must ensure that the data is stored strictly in accordance with the provisions of the Data Protection Act 2018.

6.6 Two year olds (The Two Year Old Entitlement)

- 6.6.1 Free Early Education for two year olds in Kent is known as the Free for Two Scheme (FF2). This is **not** a universal offer – parents/providers must apply at www.kent.gov.uk/freefor2. 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 – if a parent is entitled to Universal Credit and they have an annual net earned income equivalent to and not exceeding £15,400, assessed on up to three of the parent's most recent Universal Credit assessment periods. Further guidance on checking eligibility is set out below³
 - Tax credits and they have an annual income of under £16,190 before tax
 - The guaranteed element of State Pension Credit
 - Support through Part 6 of the Immigration and Asylum Act
 - The Working Tax Credit 4-week run on (the payment parents receive when they stop qualifying for Working Tax Credit).
- 6.6.2 A child can also receive Free Early Education and Childcare if any of the following apply:
- The child is looked after by a LA
 - The child has a current statement of special education needs (SEN) or an education, health and care (EHC) plan
 - The child is in receipt of Disability Living Allowance (DLA)
 - The child is no longer looked after by the LA, as a result of an adoption order, a special guardianship order or a child arrangement order

³ The earned income threshold applies for places starting in the summer term of 2018 (on or after 1st April 2018), or any subsequent term.

6.6.3 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 April 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)

6.6.4 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.

6.6.5 Providers must advise parents that there is a rolling programme for two year olds and children can be admitted appropriately throughout the term.

6.6.6 Providers must advise parents of MI procedures for checking eligibility for Free Early Education places for two year olds, and any implications for the use of their personal data.

6.6.7 If a child has previously been accessing their Free Early Education at a provider outside Kent and now wishes to claim at a Kent setting, MI, will contact the other local authority (LA) 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 in order for MI to do this. If the other LA confirms the child was accessing a funded place, MI will honour this and fund them at a Kent provider.

6.6.8 If a child has had their eligibility confirmed by another LA but has **not** accessed a funded place, MI will need to carry out an eligibility check. An application would need to be submitted in the normal way in order for MI to do this.

6.7 Three and Four year olds (The Universal Entitlement)

6.7.1 Free Early Education for three and four year olds is a universal offer 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 roll at a school.

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 third birthday (after April 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)

6.7.2 In order to submit a claim for the term, providers must be open and offering funding during the **designated headcount week**. Providers must also ensure that children are in attendance during the designated headcount week of the academic term unless they are known to be ill or on holiday. Providers must not make a settling in period a condition of a child taking up their

place. Children must be able to access their full entitlement within their funded year. Failure to complete a headcount submission within the designated week, and not informing MI beforehand, will result in providers not receiving their funding. Amendments to an incorrect headcount submission will result in a fee being applied.

6.7.3 Children in Kent, start primary school the September following their fourth birthday. Therefore, once on school roll they are funded through the school and providers cannot claim Free Early Education.

6.7.4 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.

6.8 Three and four year olds of working parents (The Extended Entitlement)

6.8.1 The Extended Entitlement is also described as, in line with government policy, '30 Hours of Free Childcare'. Parents must apply for The Extended Entitlement through the Government's online Childcare Service **not** 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.

6.8.2 Unlike The Universal Entitlement, which only has an age criterion, parents also need to meet income requirements in order to qualify for The Extended Entitlement. Parents should be encouraged to apply to HMRC the term before their child meets the age criterion in order to ensure they can access a place at the start of the term **after** their child's third birthday. If not, they will need to wait until the following term to access their 30 hour place.

6.8.3 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.

6.8.4 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 fallen out of eligibility and where a child is no longer eligible to receive The Extended Entitlement. (see below):

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

6.8.5 In order to offer a place to a child, providers must validate the code with MI's KELS1 30 hour checker⁴. 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.

6.8.6 Before providers can verify the code they **must have written consent** from or on behalf of the parent. This written consent will allow the provider to receive confirmation and future

⁴ This may be subject to change as the Synergy FIS Provider portal is developed

notifications from MI of the validity of the parent's code. Providers should use the Parental Declaration Form for this purpose.

- 6.8.7 Parents may receive an eligibility code before their child is three. The child can only start claiming the term following their third birthday.
- 6.8.8 If a child is taking up 15 hours universal Free Early Education and the parent becomes eligible for the 30 hours part way through the term, the parent can claim The Extended Entitlement hours the term following the date on which they receive their code.
- 6.8.9 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 a while 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.
- 6.8.10 A parent cannot take the additional extended free hours once their child is taking up a full-time place in a state-funded school reception class.
- 6.8.11 If a child attends an Independent school offering The Extended Entitlement, this can still be claimed until the child reaches compulsory school age at the beginning of the term following their fifth birthday.
- 6.8.12 On successful validation of the code, providers will be able to inform parents and confirm the child's place.
- 6.8.13 From September 2018, children in foster care will also be eligible for The Extended 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 carer's must speak to the child's social worker and complete a 30 hour application form for foster children, this can be found on the KELSI 30 hour page.
- 6.8.14 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.
- 6.8.15 Providers must validate the foster carer's code in the same way as other codes to offer a 30 hour place to a foster child.

7. The Grace Period (for The Extended Entitlement only)

- 7.1 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.
- 7.2 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.
- 7.3 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.

- 7.4 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.
- 7.5 MI will continue to fund a place for a child at their current setting, who enters the Grace Period until the Grace Period end date.
- 7.6 Children should not start a new 30 hours place at a provider during the Grace Period. This includes in the following scenarios:
- Where a parent falls into their Grace Period before the child has started a 30 hour place;
 - Where a parent falls into their Grace Period whilst their child is in a 30 hours place, and the parent seeks to move the child to a different provider
- 7.7 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.
- 7.8 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.
- 7.9 Providers must make parents aware that if they cease to meet the eligibility criteria and the Grace Period has expired, they can continue to take up their child's 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.
- 7.10 Parents who split their 30 hours provision with more than one provider are advised to use the Grace Period time to discuss with providers which one will be their 15 hour place provider when they revert back to The Universal Entitlement. Failure to do so may result in MI splitting the funding fairly between all settings.

8. Flexibility

- 8.1 KCC acting through The Education People wants to ensure that children are able to take up their full entitlement to Free Early Education at times that best support their learning and development, and at times which fit with the needs of parents to enable them 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 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.
- 8.2 The Education People will encourage effective partnership 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 6.00am or finishing after 8.00pm
 - children accessing no more than two sites in a single day

- 8.3 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.
- 8.4 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 6.00am and 8.00pm.
- 8.5 The Education People will provide information for both providers and parents to explain there is no requirement for providers to offer 30 hours in order to receive funding to deliver universal Free Early Education and that providers are free to choose not to deliver Free Early Education places at all.
- 8.6 Where a child is accessing Free Early Education at more than one provider, a Parental Declaration Form must be completed by the parents at both settings to show the total number of universal and/or extended hours the child will be accessing at each provision.
- 8.7 Providers must share information with The Education People about the times and periods at which they are able to offer Free Early Education to support KCC acting through The Education People to secure sufficient stretched and flexible places to meet parental demand.
- 8.8 Providers must ensure that their patterns of hours, during which free places are offered are clear and accessible for parents. Providers must publish their standalone 15 and 30 hour patterns to enable parents to make an informed decision on where to access their entitlement.
- 8.9 Providers should have a written agreement with all parents that take up a Free Early Education place. The Parental Declaration Form can be such an agreement, but this **must be signed** by parents **before** providers claim funding for the child⁵. Any fees should be clearly set out in a Fee Structure that shows how Free Early Education is delivered and any additional charges for optional activities outside the Free Entitlement.
- 8.10 Free Early Education 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 hours. Bank Holidays **cannot** form part of the Free Early Education hours and providers **cannot** include inset/training days in their funded pattern. If a funded day falls on a bank holiday, an alternative session must be offered.
- 8.11 Where providers' premises are used for polling stations, every effort should be made to offer alternative sessions, but providers will not be penalized 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.
- 8.12 Where providers are unable to offer 38 weeks of funding 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 (Extended Entitlement) over fewer number of weeks.

⁵ No payment will be made to the provider unless the parental declaration has been completed and dated by the person for legal responsibility for the named child. The provider must not sign the declaration.

9. Partnership Working

- 9.1 KCC acting through The Education People will support in principle partnerships 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 and parents
 - The Education People, KCC and parents
- 9.2 Providers should aim to work in partnership with parents and other providers, to improve provision and outcomes for children in their settings. When a Free Entitlement is split across different providers they should work closely with families to agree how a child's overall care will work in practice. The document Transitions – 30 hours of Free Childcare is available on KELSI to support this.
- 9.3 An interactive toolkit has been developed by the Family and Childcare Trust to help providers set up or join a partnership, maximising the benefits of working together and tackling the challenges joint working can bring. More details can be found at:

<https://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>

10. Special Educational Needs and Disabilities

- 10.1 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).
- 10.2 The Education People and KCC will provide information to all providers in the maintained, private, voluntary and independent sectors about KCC's Local Offer which sets out comprehensive information about provision to be available in Kent across education, health and social care for children and young people in Kent who have SEND, including those who do not have Education, Health and Care plans.
- 10.3 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.
- 10.4 Providers must publish details and be clear and transparent about the SEND support on offer at their setting and make information available to support parents to choose the right setting for their child with SEND.
- 10.5 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>

- 10.6 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.

11. Social Mobility and Disadvantage

- 11.1 KCC acting with The Education People promotes equality and inclusion, particularly for disadvantaged families, looked after children and children in need by aiming to remove barriers of access to Free Early Education places and working with parents to give each child support to fulfil their potential.
- 11.2 Providers should ensure they have identified the disadvantaged children in their setting as part of the process for checking EYPP eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.
- 11.3 Further information is available on KELSI at:

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

12. Quality

- 12.1 It is the Government's stated intention that, as far as possible, Free Early Education 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. Ofsted are the sole arbiter of quality for all Free Entitlements and Ofsted and the inspectorates of independent schools have regards to the EYFS in carrying out inspections and report on the quality and standards of provision.
- 12.2 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.
- 12.3 To secure quality, providers must:
- comply with the Statutory Framework for the EYFS 2017
 - adhere to the Special Educational Needs and Disability (SEND) Code of Practice: 0 to 25 years (January 2015)
 - complete the Early Years Foundation Stage Profile and take part in the moderation process led by The Education People and KCC, where appropriate
 - comply with other legal obligations including Kent & Medway Safeguarding Procedures, Employment Law, Anti-Discriminatory legislation, Health and Safety legislation, Data Collection regulations and Duty of Care
 - review progress for children aged between two and three and provide their parents with a short-written summary of their child's development in the prime area. The progress check should identify the child's strengths and any areas where the child's progress is less than expected

12.4 Two, three and four year olds

12.4.1 KCC acting with The Education People 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 judgement is published. Providers are strongly encouraged to engage with The Education

People quality improvement programme in order to ensure a 'good' judgement 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 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
- KCC acting on the recommendations of The Education People will consider continuing to fund children already on a provider's roll at the time of a first published Ofsted inadequate judgement taking into account the child's need, the Statutory Guidelines in place from time to time as well as continuity of care

12.4.2 KCC acting with the Education People 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 before further placements can be made. 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 providers who do not actively promote fundamental British Values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs; or if promoting as evidence-based, views or theories which are contrary to established scientific or historical evidence or explanations
- fund any *new* children on the provider's roll following an inadequate judgement (see section 17)

12.4.3 Providers with an Ofsted inspection judgement 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. Providers receiving a 'not met' judgement in the report 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.

12.4.4 Providers must notify their parents on receipt of a published inadequate Ofsted report judgement, in line with Ofsted guidelines.

12.5 Two year olds

KCC acting through The Education People 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

12.6 Three and four year olds

12.6.1 KCC acting with The Education People will:

- fund providers rated 'requires improvement' by Ofsted⁶ or any childminder registered with a childminder agency judged 'effective' by Ofsted if a parent wants their child to take up

⁶ For schools inspected by the Independent Schools Inspectorate the relevant inspection judgement is 'sound'

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 the LA funding and any other LA requirements
- fund individual children who have exemptions from the EYFS
- fund providers with an Ofsted inspection judgement of met until their Ofsted quality inspection judgement is published

13. Business Planning

13.1 The Education People will provide advice, support and guidance to providers. This support will encourage providers to take a sustainable business approach to planning.

13.2 Providers must:

- comply with legislation which might include the auditing and submission of accounts, the passing of information to the Charity Commission (where appropriate) and the regular submission of 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 answer phone message
- send all personal and sensitive personal information about children via a secure email system such as EGRESS or by recorded delivery⁷
- 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 the appropriate Public Liability Insurance with a recommended minimum indemnity of £5m for each and every claim, which must be prominently displayed at all times in the setting
- comply with the Data Protection Act 2018 and register and continue to maintain the correct registration with the Information Commissioners Office

14. Charging

14.1 Providers should be aware 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.

14.2 KCC has a duty to ensure that Free Early Education places are delivered completely free and The Education People will administer this on KCC's behalf. Providers must not charge parents a fee for their child's Free Early Education place.

14.3 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, in which case they should ensure that prices are fair, transparent and clearly communicated to parents.

⁷ The Information Commissioners Office (ICO) has the power to issue monetary penalty notices, for serious breaches of the Data Protection Act 2018

- 14.4 Providers should ensure that parents are aware that the EYPP provides additional funding to providers to support disadvantaged three and four year olds in early years settings.
- 14.5 The Education People will not intervene or arbitrate where parents choose to purchase additional hours or additional services, providing this does not affect the parents' ability to take up their child's free place.
- 14.6 Providers may 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, such as music and extra-curricular activities. Parents should therefore be expected to pay for these, although these charges must be voluntary for the parent. Where parents are unable or unwilling to pay for meals and consumables, providers who choose to offer Free Entitlements are responsible for setting their own policy on how to respond, with options including allowing parents to supply their own meals or nappies or waiving or reducing the cost of meals and snacks. Providers should be particularly mindful of the impact of additional charges on the most disadvantaged parents.
- 14.7 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 make their charges clear in a Fee Structure and ensure that parents are aware of any charges for additional services before they take up their free place.
- 14.8 Providers can charge a deposit to parents of three and four year old children 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.
- 14.9 Providers cannot charge parents "top-up" fees (the 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.
- 14.10 Providers should ensure their invoices and receipts are clear, transparent and itemised, allowing parents and The Education People and/or KCC to see that they have received their Free Entitlement completely free of charge and understand fees paid for additional hours or services. The provider will also ensure that invoices and receipts contain their full details so that they can be identified as coming from a specific provider.
- 14.11 Maintained Nurseries must provide free school meals for children who attend both before and after lunch and whose parents are in receipt of specified benefits.

15. Funding

- 15.1 KCC (including MI), acting with The Education People 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 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.

15.2 Two, three and four-year olds

- a child's date of birth must be within the published eligible date ranges for the academic period (spring, summer, autumn). As KCC, including MI is unable to fund children before they are in the eligible date of birth range, we will have to reclaim funding if the child is subsequently found to be too young
- 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
- childminders cannot claim funding for their own children, step-children or a related child
- children can access a free place at no more than two sites per day. The combined claims must not be greater than 15 hours per week for The Universal Entitlement and 30 hours a week for The Extended Entitlement. Where claims are received in excess of these hours, no setting will be paid the funding for that child's place until the over allocation issue is resolved
- providers must ensure parents complete and sign a Parental Declaration form confirming the hours they wish to claim and whether they have already claimed at another setting for the current term. Without this MI will be unable to process a claim
- 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 the Kent Children & Families Information Service (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
- KCC, including MI acting with The Education People will fund any child attending a Kent setting regardless of where they live
- MI will work with providers on a cross-border arrangement where parents wish to take up their child's hours, including The Extended Entitlement at a setting outside of Kent
- Providers should acknowledge and accept that in respect of any unpaid sums due to KCC from the relevant provider(s), KCC shall be entitled to offset any amounts due to it from a provider against any fees properly due and owing to the provider
- Late submission of any return for two, three and four year olds will result in non-payment of funding, if the provider has not informed MI in advance
- Any alterations to a provider's submission for funding for two, three and four year olds will be subject to a fee. Full details are available on KELSI. Providers must note that these charges must not be passed onto parents
- Providers must submit the annual DfE Early Years Census to MI by the deadline, failure to do so will result in all funding being withheld until it is received
- 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
- 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 2016' and guidance on 'School teachers' pay and conditions'

- To support providers in managing a changing workforce we will from January 2019 be asking providers to declare their eligibility for the qualified leadership supplement termly (we shall continue to ask childminders to declare their eligibility annually in February)
 - The timescales we will be asking for declarations will be as follows:
 - February 2019- to inform the April 2019 funding rate
 - June 2019
 - November 2019

15.3 Further funding criteria for two year olds

- providers must be in receipt of an 'eligibility confirmed' email before accepting a child under the terms of the FF2 scheme. Payment cannot be backdated if eligibility has not been confirmed when applying under the economic criteria
- 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
- payment will be made in accordance with the FF2 Provider Payment Schedule. This can be found on KELSI
- at the start of a new term parents can move their child and sign a new Parental Declaration form with the new setting. Any previous Parental Declaration will then be void

15.4 Further funding criteria for three and four year olds – Universal and Extended Entitlement

- the funded hours claimed for a child must be based on the hours they attend during the designated headcount week and cannot be increased until the next terms claim
- if a child moves into Kent from another LA or from overseas, outside the termly accounting period and/or headcount week, funding can be claimed provided the child has not been claiming funding in the current academic term at another setting in Kent. This can be claimed as adjustments via the Synergy FIS provider portal
- if an eligible child starts at a setting after headcount week and they have not claimed funding at any other Kent setting in the current academic term then funding can be claimed. Please be aware that funding is paid for complete weeks only

16. Compliance

- 16.1 Providers must respond promptly to requests for paperwork and information from The Education People or any person authorised by KCC, in order to complete the compliance process including reasonable access to its 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. Providers will, in the first instance, be requested to complete a self-evaluation audit.
- 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 should consider numbering if on loose leaf.

- 16.4 Providers must ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices. Failure to do so may result in inaccurate, delayed or suspended funding.
- 16.5 Parental declaration forms and other checks referred to in this provider agreement must be completed in order for providers to claim Free Early Education.

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 places. These 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 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, any funding paid for the current term will remain in place. In the case of two year olds no further applications or new claims will be accepted. For three and four year olds 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. In all cases 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 acting with The Education People may secure alternative provision and withdraw funding from a provider (other than a LA maintained school), as soon as is practicable, when Ofsted publish an inspection judgement grading the provider as 'inadequate' or an inspection judgement of a childminder agency of 'not effective'.
- 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 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 providers 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 the LA 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, views or theories which are contrary to established scientific or historical evidence and explanations.

17.10 Where a provider is re-inspected and moves out of ‘inadequate’ KCC will, subject to the prior recommendation of The Education People, re-instate their funding to deliver Free Early Education from the date of publication of the new inspection report.

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 may be suspended from the Kent Directory and will therefore not be able to claim Free Early Education funding for *new* children to the provision
- Existing children who will become or who are already eligible for Free Early Education 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 with regard to 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 for *any* children in their care
- The Education People will 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:

2 nd inadequate Ofsted judgement published	Funding withdrawn
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 Failure to submit the DfE Early Years Census to MI by the deadline set.

- MI will withhold the Spring term headcount payment

18.5 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.

- MI will suspend payment of funds, from the next terms payment

18.6 Accounting practices indicating deliberate fraud that are notified to The Education People and KCC by any agency or person.

- Depending on the nature and extent of the fraud, the provider may be suspended from the Kent Directory either immediately, or at the end of the term in which the fraudulent practice was confirmed
- KCC will seek repayment of any overpayments identified by MI

18.7 Poor accounting practices that are notified to The Education People and KCC by any agency or person.

- The provider will be 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

19. Appeals process

19.1 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 in writing
- The Education People will acknowledge receipt of the appeal in writing
- The appeal will be considered in the first instance by the Head of Early Years and Childcare and a full response 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 must be made within 15 working days from the date of the written notification of the decision and sent to the Corporate Director of Children, Young People and Education. Again, a full response will be made within ten working days and may result in a hearing being held
- The decision of the second stage appeal is final

Please write in the first instance to:

Alex Gamby
Head of Early Years and Childcare
The Education People
Sessions House
County Road
Maidstone, ME14 1XQ

For a second stage appeal please write to:

Matt Dunkley
Corporate Director, Children Young People and Education
Kent County Council
Sessions House
County Road
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 funding, please find details on the link below:

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 on line (see below). KCFIS will also assist parents who do not have access to the internet who wish to make a complaint.

21. Kent Children and Families Information Services (KCFIS)

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

Providers must:

- update their details with the KCFIS 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 early education places for two year olds and 30 hour places for three and four year olds, and any implications for the use of their personal data

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

- their entitlement to Free Early Education for two, three and four year olds
- how they have received their child's full entitlement to either 15 or 30 hours completely free and that 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 Entitlement place, until their child reaches compulsory school age if they choose not to take up a place in a state-funded school reception class in the September following their child's fourth birthday

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
EHCP	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 2
FSM	Free School Meals
Headcount Week	The designated week for the termly data collection of three and four year old children claiming FEE and the hours they are claiming
HMRC	Her Majesty's Revenue and Customs
KCC	Kent County Council
KCFIS	Kent Children & Families Information Service
JSA	Income-based Jobseeker's Allowance
LA	Local Authority
LADO	Local Authority Designated Officer
MI	Management Information
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
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 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 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

Yours sincerely,

Alex Gamby
Head of Early Years and Childcare
The Education People
Sessions House
County Road
Maidstone, ME14 1XQ