

Somerset Local Provider Agreement

**For the provision of the Early Years
Entitlement for two, three and four
year olds**

November 2021

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Section 1: Overview

- 1.1 This local agreement sets out the terms and conditions that early years providers agree to when delivering funded early education places for eligible 2, 3 and 4 year old children in Somerset. It applies to the early years entitlement for eligible two years olds, the universal entitlement for three and four year olds and the extended entitlement for eligible working parents of three and four year olds.
- 1.2 The agreement complies with the Department for Education Early education and childcare [Statutory Guidance](#) for local authorities effective from 1st September 2018 (updated February 2019) and has regard to the [Model Agreement published June 2018](#) It also takes into account the Early education and childcare [Operational Guidance](#) published June 2018 which provides guidance on how the entitlements should be delivered. This agreement is effective from 1st November 2021 and supersedes all previous agreements.

Contractual Provider Agreement

- 1.3 By offering and claiming the early years entitlement in Somerset, Early Years providers are agreeing to the terms and conditions set out in all sections of this document. Early Years Providers **must** comply and adhere to the requirements in this provider agreement and sign the annual provider agreement form with Somerset County Council. This is sent via the Early Years and School's portal.

Legal Framework and Statutory Guidance

- 1.4 The following frameworks and legislation underpin this Local Provider Agreement and providers must be able to demonstrate compliance with all relevant legislation as amended from time to time without express change to this agreement:
 - Early education and childcare. Statutory guidance for local authorities 2018
 - Statutory framework for the Early Years Foundation stage September 2021
 - Childcare Act 2016
 - Childcare Act 2006
 - Equality Act 2010
 - School admissions code September 2021
 - Special educational needs and disability code of practice:0 to 25 years 2014
 - Data Protection Act 2018
 - Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
 - The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016This list is not exhaustive. It is the responsibility of the provider to ensure compliance with all relevant legislation, frameworks and guidance and to

keep up to date with all relevant changes.

Somerset County Council reserves the right to unilaterally vary this agreement to reflect changes in legislation and departmental guidance. Providers should also take note that Somerset County Council, as a Local Authority, is required by statute to comply with various requirements, such as the Freedom of Information Act 2000. Providers that are placed on Somerset County Council's Directory do so in the knowledge that they may from time to time be required to provide information to comply with a Freedom of Information request. Any information provided may be subject to release.

Information, advice and guidance for providers

- 1.5 The Early Years Team offer support and advice to early years and childcare providers to enable them to deliver high quality provision.

www.somerset.gov.uk/eycontacts Email: EarlyYearsTeam@somerset.gov.uk

Single Funding Formula

- 1.6 The government funding that applies to all providers delivering the Early Years Entitlement to eligible two, three and four year olds comes from the Early Years Single Funding Formula via the Dedicated Schools Grant. The funding is based on the number of children attending your setting and the entitlement hours they claim at census. The amount of funding a provider receives will be based on a basic hourly rate plus deprivation if appropriate. Rates are reviewed and agreed annually by Schools Forum following recommendations made by the Early Years Partnership.
- 1.7 Before the beginning of each financial year, you will receive a provisional funding estimate detailing how much Early Years Entitlement funding you will receive for that year, based on the hours claimed in the previous year. New providers attention is drawn to the requirements set out at paragraphs 2.5 and 2.6.
- 1.8 The funding formula is reviewed on an annual basis and rates may be adjusted.
- 1.9 If you falsify any information given to the Local Authority your setting will immediately be removed from Directory. (Please see Sections 10 and 11).

Section 2: Eligibility requirements for membership on the Directory of Providers

- 2.1 Early years providers need to comply with the terms and conditions of this Local

Provider Agreement to be included on the Directory of Providers. They are responsible for ensuring that they understand the funding process and administration and will be required to confirm this by completing the required online confirmation form. Failure to complete by the required date will result in funding being withheld.

- 2.2 Providers must register to use the Early Years and Schools Funding Portal. Log in details will be sent to applicants via email and if a provider has not registered on the portal within 3 months they will automatically be removed from the Directory.
- 2.3 Providers must complete the online application form at www.somerset.gov.uk/eye and provide the necessary supporting evidence to join the Directory of Providers.

All providers must submit the completed application form to the Entitlements team with:

- A copy of their prospectus/information they make available to parents and a copy of their latest fees policy. Guidance on fees policies can be downloaded from www.somerset.gov.uk/eyeprovider
 - A copy of their Ofsted registration certificate.
- 2.4 All providers or where they are registered with a Childminder Agency, the Agency, must be registered with Ofsted or with the Independent School's Inspectorate (ISI) and must be open to inspection by Ofsted or ISI as required. Provision on domestic premises must be registered on the Ofsted Early Years Register. Whenever inspected, the provider or their agency must have been found to be delivering early years provision to the minimum level of 'requires improvement' or above.
- 2.5 If a childminder registered with a Childminder Agency wishes to apply to join the Directory of Providers, they must include a signed statement from the Agency that endorses the application. The Agency must confirm that the Childminder's practice is of the quality required to deliver the entitlements.
- 2.6 Settings newly registered with Ofsted must complete an application form to join Somerset's Directory of Providers. The Local Authority may request additional information and documentation from the provider to assist with provider's eligibility for inclusion on to the Directory. Funding will be made available to the provider by the Local Authority following receipt of written confirmation that the provider has been included on the Directory. The Local Authority Entitlements Team will confirm in writing the date when the funding is to commence. A provider should not offer funded places **before** this date, as they will not be able to claim. Once the newly registered setting is included on the 'Directory' they will be able to take funded two year olds from the date that they were included up until their first Ofsted inspection. They must receive a minimum of a 'Good' outcome from Ofsted to remain in receipt of funding for two year olds.

If your setting is currently rated “requires improvement” you can only register on the Directory to offer entitlement funding for 3 and 4 year old children, settings rated ‘inadequate’ will not be permitted to join the Directory.

- 2.7 The provider must comply with all relevant legislation and insurance requirements. It is strongly recommended that all voluntary committees/trustees take out trustees and officers’ financial liability and professional indemnity cover in addition to their public liability insurance and/or legal expenses cover.
- 2.8 The provider must deliver the funded entitlements consistently to all parents, whether in receipt of funding for two-year olds, the universal or extended entitlement hours and regardless of whether they opt to pay for optional services or consumables. The provider must be clear and communicate to parents’ details about the days and times that they offer funded places, along with their services and charges. Those children accessing funded entitlements should receive the same quality and access to provision as fee paying children.
- 2.9 The provider must follow the Early Years Foundation Stage Framework (EYFS) 2021, learning and development and welfare requirements. Wraparound care provision must meet welfare requirements for the EYFS and have due regard to the learning and development requirements.
- 2.10 Providers must keep accurate registers of attendance in respect of children in their care. This must be a daily record which includes their hours of attendance. Registers must include legal name and record the start and finish time of the child attending the session.
- 2.11 Providers must be registered with the Information Commissioners Office (ICO) as data processors and data controllers.
- 2.12 Providers must be able to supply satisfactory evidence of compliance with this Provider Agreement if requested by the Local Authority. Failure to provide satisfactory evidence will result in the provider being removed from the Directory and entitlement payments being stopped.
- 2.13 Providers must inform the Entitlements Team in writing of any changes affecting their Ofsted registration and any change in their contact details. In the event of a change of ownership, providers must notify the Entitlements Team in advance of the change.
- 2.14 Childminders cannot claim early years entitlement funding for their own children or closely related children. The definition of “relative” is set out in Section 18(8) (c) of the Childcare Act 2006: *“relative” in relation to a child, means a grandparent, aunt, uncle, brother or sister, whether of full blood or half blood or by marriage or civil partnership.*
- 2.15 Providers are responsible for ensuring that information held by the Local Authority about their setting is up to date. Providers must comply with

requests for information and data for LA and DfE surveys. Failure to do so could result in payments being withheld and / or removal from the Directory.

Safeguarding and Prevent

- 2.16 Providers **must** meet the statutory requirements of the Early Years Foundation Stage.
- 2.17 Providers **must** implement clear safeguarding and child protection policies and procedures for responding to and reporting suspected or actual abuse and neglect in line with guidance and procedures of the Somerset Safeguarding Children Partnership. The email address for the Education Safeguarding Service in Somerset is ess@somerset.gov.uk
- 2.18 Providers **must** comply with the statutory guidance and legislative framework e.g. 'Working Together to Safeguard Children 2020, and to the 'Prevent duty guidance for England and Wales'. The Designated Safeguarding Lead (DSL) should be named in the safeguarding policy and is responsible for liaison with local children's services and with the Somerset Safeguarding Children Partnership. However, the registered provider – Childminder; Owner; Committee or Governing Body must take responsibility for safeguarding and ensure that all staff have appropriate training. All providers must have a Designated Safeguarding Lead (DSL).
- 2.19 It is recommended that providers refer to the DfE "Keeping children safe in education" guidance for schools and colleges as good practice.
- 2.20 Providers have a legal responsibility to ensure that each member of their staff team is suitable to work with children and not disqualified from working in childcare.

Unexplained Absences

- 2.21 In the event of unexplained and unplanned absences, for example if there is a break in the child's normal attendance pattern with no explanation, it is recommended that the provider contacts the family and ascertains the reason for non-attendance and shares any concerns. A contact log should be kept of attempts to make contact. This procedure should be included in your safeguarding policies. If you have any concerns, please report these to Somerset Direct on **0300 123 2224**.
- 2.22 Providers should contact the Entitlements team to discuss if funding should be reduced if a child is not accessing their agreed entitlement hours for prolonged periods i.e., for three consecutive weeks.
- 2.23 A Consultation Safeguarding Line **0300 123 3078** is staffed by qualified Social Workers who will provide support to professionals if they are unsure whether or not they need to make a referral to Children's Social Care. It is not a short cut to access Children's Social Care; it is a support/advice service. If the Social Worker establishes that a referral should be made, they will transfer the call to Somerset Direct.

British Values

- 2.24 The Local Authority will not fund providers who do not actively promote fundamental British values or if they promote as evidence-based, views or theories which are contrary to established scientific or historical evidence and explanations. The rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs must be observed.
- 2.25 Providers that are identified after investigation from the Local Authority as not actively promoting fundamental British values, or which promote views or theories as fact which are contrary to established scientific or historical evidence and explanations will be removed from the directory, and payments will be stopped.
- 2.26 Independent providers that are identified after investigation as not meeting the independent school standard in relation to the spiritual, moral, social and cultural development of pupils will be removed from the directory, and payments will be stopped.
- 2.27 The Department for Education has produced prevent duty guidance at:
<https://www.gov.uk/government/publications/prevent-duty-guidance>
- For Somerset's prevent duty procedures please see:
<https://www.somerset.gov.uk/social-care-and-health/prevent-in-somerset/>

Early Help

- 2.28 Providers must ensure that they follow the guidance, called "**Effective support for children and families in Somerset**" (2019), contains the thresholds of support and referral for professionals in children's services. The guidance can be found by visiting: www.somerset.gov.uk/sscbthresholds
- 2.29 The provider should discuss and work closely with parents to agree how a child's overall care will work in practice when their funded entitlement is split across different providers especially in times of transitions. Providers should have effective communication when sharing care with another provider and agree what proportion of the universal/extended entitlement is claimed prior to submitting a claim.

Special Educational Needs and Disabilities

- 2.30 All providers must have regard to the SEND Code of Practice and are expected to identify a named SENCo.
- 2.31 To enable settings to meet children's needs as part of this graduated approach, a proportion of the Early Years Single Funding Formula (EYSFF) includes notional SEND funding allocated based on per pupil funding and deprivation. For a few children with more complex needs requiring multi-agency support, settings can apply for additional High Needs top up funding following the guidance in the "Early Years Foundation Stage High Needs

Guidance and Audit Criteria” document. This is available on the Area SENCo resources page: <http://www.supportservicesforeducation.co.uk/Page/2058>

- 2.32 The provider should be clear and transparent about the SEND support on offer at their setting and make information available about their offer to support parents to choose the right setting for their child with SEND. Providers must ensure that they publish and keep their “Local Offer” up to date. Providers are required to publish what they offer as part of Somerset County Council’s “Local Offer”.

Disability Access Fund

- 2.33 Disability Access Fund is available for children who receive the Early Years Entitlement for three or four year olds and meet the additional eligibility criteria. Eligible families must apply for the Disability Access Fund online at [Disability Access Fund \(somerset.gov.uk\)](http://www.somerset.gov.uk)

Parents with children who qualify for funding from the Disability Access Fund must nominate which provider they wish the money to be paid to. As long as an Early Years Entitlement claim has been paid to that setting, the funding will be paid for the year. If an Early Years Entitlement claim has not been received from the nominated provider, the Disability Access Fund will not be paid until an entitlement claim has been received and paid to one provider only for the year.

- 2.34 The provider should liaise with the parent, and the SENCo to decide how the funding should be spent to support the child. The Disability Access Fund can be used for training, resources and other forms of support but should not be used to pay for hours attended.
- 2.35 The funding for the Disability Access Fund will not be reclaimed if the child leaves the setting within the year and the provider does not need to transfer the funding to the new setting.

Quality

- 2.36 All schools that provide early years provision and Ofsted-registered early years providers in England must follow the Early Years Foundation Stage (EYFS) 2021.
- 2.37 Providers must contact the Entitlements Team if they have exemptions from the EYFS learning and development requirements but wish to claim for a funded child.
- 2.38 Ofsted are the sole arbiter of quality for EYFS and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.
- 2.39 Providers that receive a ‘requires improvement’ or ‘inadequate’ judgement from Ofsted will be referred to Somerset’s Early Years Quality Improvement Group. Providers that are referred will be notified of this.

- 2.40 Providers with a 'requires improvement' outcome **must** improve by their next inspection date to at least a "good" outcome, insufficient evidence of improvement may result in removal from the Directory (See 10.5). If a consecutive "requirement improvement" outcome is received the setting will be referred to Somerset's Early Years Quality Improvement Group for a decision to be made regarding delivery of entitlement funding.
- 2.41 Providers referred to the Early Years Quality Improvement Group will be required to put in place a Quality Improvement Plan and review this regularly. A provider may be removed from the Directory if they do not submit this within 6 weeks of being notified to complete. (See Section 11 Suspension/Removal from the Directory).
- 2.42 **Providers given an 'Inadequate' outcome by Ofsted must inform the Early Years Team immediately. Parents must be kept fully informed at all stages by the provider.** Once the Ofsted inspections report/monitoring letter has been received, the provider must provide a copy to all parents of children who attend the setting.
- The provider will be referred to the Early Years Quality Improvement Group and must produce a Quality Improvement Action Plan outlining how the issues raised at inspection will be addressed.
- The provider must implement the actions in the Quality Improvement Plan and ensure improvement within 3 months. Non-compliance may result in withdrawal of funding and removal from Somerset's Directory of Providers.
- 2.43 The Early Years Quality Improvement Group can recommend that funding is withdrawn immediately if an 'inadequate' judgment from Ofsted indicates that children are at significant risk of harm. Written notice will be given to the provider in the event of intended removal from the Directory.
- 2.44 All providers on the Directory with a current "requires improvement" or "inadequate" outcome from Ofsted, or where there are safeguarding concerns must accept that representatives of Somerset County Council or personnel assigned by Somerset County Council may visit (either announced or unannounced) to ensure that the provider is addressing the concerns raised by Ofsted. All providers must ensure that they ask to see an ID Badge before allowing them entry. Providers should not permit entry to anyone claiming to represent Somerset County Council who is not able to provide an appropriate ID Badge. These visit reports will be shared with a Service Manager from the Local Authority.
- 2.45 If Ofsted cancels a provider's registration or take steps to prosecute, the provider must inform the Entitlements team immediately. If this occurs, the provider will then be removed from the Directory, and funding will cease. The Local Authority may also seek recovery of funding already paid to the provider either in whole, or in part.

Section 3: Administering the Early Years Entitlement – Provider responsibilities

Flexibility

- 3.1 Providers can offer the universal entitlement up to 570 hours per year for eligible two, three and four year olds, up to a maximum of 15 hours per week over a minimum of 38 weeks. Providers can also offer up to an additional 570 hours per year, up to a maximum of 15 hours per week over a minimum of 38 weeks for eligible working parents of three and four year olds if the family have received successful confirmation from the government's childcare service.
- 3.2 Providers should arrange the Early Years Entitlement hours flexibly to meet the needs of parents, where practicable. Parental need and likely demand must be balanced against a sustainable business model for providers.
- 3.3 The entitlement to a funded early years place does not offer a guarantee of a place at any one provider or a particular pattern of provision. Parents should be able to access an offer that most closely meets their needs, however, they may not always be able to access the full entitlement at the times they want and at their first choice of provider.
- 3.4 Providers should check and update their information held on Somerset's Local Offer website (should they choose to advertise here) particularly when they are able to offer the entitlements to support the Local Authority's duty with regards to sufficiency of places. This can be done using a link on their Local Offer webpage.
- 3.5 The entitlement can be "stretched" over more than 38 weeks, with less than the maximum weekly hours being taken per week to enable the entitlement to be used more flexibly to suit family needs, for example spreading the entitlement over more weeks allows parents to use some of the hours in the holiday periods.
- 3.6 Providers should make it clear in their documentation to parents that taking up the 'stretched offer' will mean that less than 15 hours a week can be claimed.
- 3.7 Parents can take up their funded place with more than one provider, up to the allowed maximum of **two sites per day** and **no more than three** providers in any one week.
- 3.8 The delivery of the entitlements will be dependent on a provider's capacity and available vacancies and subject to the following standards: -
 - No minimum session length (providers can set their own)
 - No session to be longer than 10 hours in a day
 - Not before 6:00am or after 8:00pm
 - A maximum of two sites in a single day
 - A maximum of 3 providers at any one time

- 3.9 It is the provider's responsibility to consider how they deliver the entitlement hours. Where reasonably practicable, children should be able to take their entitlement hours in continuous blocks and avoid artificial breaks being created throughout the day, for example over the lunch period.
- 3.10 Parents can take up as many funded hours per week as they wish, up to the maximum of 15 or where applicable 30. However, no provider is expected to meet every parent's demand.
- 3.11 Providers must clearly set out their offer for parents and review this with them at least annually so that parents can decide how they wish to use their entitlement hours for the year ahead.

Administration / records

- 3.12 Providers must ensure that any information given to parents such as prospectus, fees policy, booklets or leaflets must contain details regarding accessing the Early Years Entitlement in Somerset.
- 3.13 Providers must have a written fees policy that includes debt management. This must clearly state all charges and how funded hours will be shown on parents' bills. This must state that hours, not monetary value, will be deducted for the entitlement.
- 3.14 The provider must check original copies of documentation to confirm a child has reached the eligible age on initial registration for all funded entitlements.
- 3.15 Child registration forms with a copy of appropriate legal documentation (birth certificate/passport) must be returned by the stipulated due date before the local authority will release funding to the provider for each eligible child. The documents must be sent to the Entitlements Team via secure email. Please save the Child Registration form and legal documentation for each child on one pdf and email to eyfunding@somerset.gov.uk . Other formats will not be accepted.
- 3.16 All records relating to the early years entitlement must be kept by providers for six years plus the current year.
- 3.17 If a provider becomes aware that a child has had a change of name, the provider must send a copy of the legal documentation that supports this change to the Local Authority in order to ensure that records are kept up to date. Please send this to the Entitlements team as soon as the change is identified.
- 3.18 Providers must inform the Local Authority when a child in respect of whom funding has been paid, leaves their provision and submit an adjustment where necessary. This must be done via the entitlement claim on the Early years and School's portal
- 3.19 Where providers are aware that parents are moving address then they should advise parents to complete the online change of address form on www.somerset.gov.uk/eye, download a copy of the form from this webpage or

obtain the form from the Entitlements Team. This is important as if the current address is not held the Local Authority may not be able to pass on information such as applying for a school place.

- 3.20 The provider that the child attends, not the home postcode, will determine which Local Authority funds the provision for eligible two, three and four year old children. Where a child attends and claims funding in a setting in Somerset and in another county, the local authorities concerned will share data and will calculate how the funding will be allocated. Providers must ensure that this information is included on the Parent's Declaration form.
- 3.21 In the unlikely event that a provider receives information via the Early Years and School's Portal about a child that does not attend their setting, the provider must inform the Entitlements team immediately and maintain confidentiality. The local authority will apply and follow data protection procedures in such cases.
- 3.22 Providers must ensure that parents clearly identify on their Parent's Declaration form which hours they are claiming under the universal entitlement and if applicable, which hours under the extended entitlement.
- 3.23 Providers must ensure that they claim accurately for all children. Hours claimed in the universal box will be treated as universal hours and any hours in the extended entitlement box will be treated as extended hours. The Local Authority will not be able to swap hours. **It is the provider's responsibility to ensure that the correct hours are recorded and claimed.**
- 3.24 It is the parent's responsibility to decide on the number of hours claimed at each provider up to the maximum entitlement for each funding period. Conditions cannot be placed on the entitlement by providers, and the monetary difference between the fee-paying rate and the local authority funded rate cannot be charged to parents.
- 3.25 If a child attends and claims at more than one provider at the same time and the claim doesn't exceed the maximum entitlement for that year or the maximum per week, each provider will be paid the number of hours they have claimed.
- 3.26 Before claiming providers must communicate with each other to avoid over-claims and ensure that the parent informs them of other providers being used to access the entitlement on the Parent's Declaration form each funding period.
- 3.27 If a child attends and claims at more than one provider at the same time and the **claim exceeds** the maximum entitlement for the year, or the maximum per week, the entitlement will be allocated to each provider in proportion to the number of hours claimed in that funding period.
- 3.28 In cases where a child leaves a provision part way through a funding period and then starts at another provision and there is an overclaim, the provider the child attended first will be paid and then any remaining hours will be paid

to the provider they moved to. For example: Fred is at provider 'A' until 10 February. He leaves and moves to provider 'B' on 13 February. Provider 'A' will have priority of any hours and if there are hours remaining, they will be paid to provider 'B'.

- 3.29 Eligibility for inclusion on the Directory and for receipt of the Early Years Entitlement cannot automatically be transferred between one childcare premises and another premises and cannot be sold as an asset of the provider's business. All providers must inform the Entitlements Team of any changes in circumstances, such as intended changes of ownership or a move to other premises, at least 30 days in advance of the change.

Providers must obtain all relevant official approvals to any intended change, such as approval from Ofsted, well in advance of the change and must provide the Entitlements team with details of such approvals. Any failure to comply with this requirement may result in payment being delayed until such a time as the Local Authority can satisfy itself that the proposed change is not significant.

- 3.30 If the Local Authority considers that the proposed change is significant, such that the provider is judged to be establishing a new provision, the provider will be expected to establish that the new provision meets the conditions for registrations included in this Agreement in its own right and will need to apply to go on the Directory as a new provision.
- 3.31 If closure is planned, providers must inform the Entitlements team in writing at least one funding period in advance. The early years entitlement can be claimed up until the point of closure. Providers must ensure that all adjustments are submitted, and any monies owed are returned to the Local Authority upon closure.
- 3.32 All providers must return full and accurate census information by the given dates. Academies and schools must inform the Entitlements team if they are including early years children on the school census return instead of the early years census.
- 3.33 The provider must maintain accurate financial and non-financial records relating to entitlement places and must give the Local Authority access on reasonable notice to all financial and non-financial records relating to entitlement places funded under the provider agreement, subject to confidentiality restrictions.
- 3.34 In submitting funding claims to the Local Authority, providers understand that these will be checked by the Local Authority and may result in an audit of the claims and accounts by SWAP Internal Audit Services. Providers must agree to cooperate fully with such an audit.
- 3.35 Providers may be audited at any time by SWAP Internal Audit Services or a body commissioned on behalf of Somerset County Council and must share any paperwork to support the audit process. Providers will be given advance notice of an audit and will receive a written report that includes an assurance

rating after the visit. Actions identified must be completed within the specified times to remain on the Directory.

- 3.36 Providers with a 'no' or 'partial' assurance rating will receive a follow up visit from the Local Authority to support with addressing any issues identified in audits. Failure to make improvements may result in removal from the Directory.
- 3.37 The provider must ensure they submit timely and accurate information, including, but not limited to, claim data, census data, parental declarations and invoices, as per the financial guidelines of Somerset County Council. Failure to do so may result in inaccurate, delayed or suspended funding.

Children who leave without giving notice

- 3.38 The Local Authority will fund the early years entitlement for a standard notice period of up to a maximum of 4 weeks from the last day of attendance as long as this is stated in the provider's policy. When a child leaves a provision without giving notice and starts a new provision within the maximum four-week period, the hours will be allocated to each provider in proportion. **Each provider can charge the parent for any remaining hours that they have not been paid for.** Providers may be required to provide a copy of the parent's contract which clearly sets out the notice period. The contract must be signed and dated.
- 3.39 The Local Authority may request a copy of the provider's attendance register at any time. The provider must retain the original register and send the Local Authority a copy only.
- 3.40 The Local Authority may request a copy of the provider's written fees policy and accounts at any time. This must be provided within 14 days.

Section 4: Charging

- 4.1 The Early Years Entitlement (EYE) hours must be free to parents at the point of delivery. In each funding period providers must deduct hours not the monetary value from invoices. This method ensures that families are not being charged "top up" for their funded hours. Whatever hours are claimed and paid for within the funding period, the same number of hours must be deducted from the invoices for the same timeframe.
- 4.2 Families must not be charged for the monetary difference between the funded rate and the fee-paying rate. Providers must ensure that they are completely transparent about any additional charges. Providers can charge for meals, snacks, consumables such as nappies, wipes and sun cream, and for additional services such as trips, specialist tuition, pick up and drop-offs, swimming, and yoga. These charges must be voluntary for the parent, and not as a condition of taking up a place. All service charges must be clearly itemised on invoices and fees policies.

- 4.3 Where parents are unable or unwilling to pay for meals, consumables, and additional services, an alternative should be offered to parents. Providers are responsible for setting their own policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals. Please be mindful of the impact of additional charges on the most disadvantaged parents.
- 4.4 Providers must deliver the entitlements consistently so that all children accessing any of the entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for additional hours, services, meals or consumables.
- 4.5 The Local Authority will not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to take up their child's early years entitlement place.
- 4.6 Providers must publish their admissions criteria and ensure parents understand which hours/sessions can be taken as early years entitlement provision. It is the providers' responsibility to set their admissions and fees policies. Providers cannot place conditions on accessing entitlement places on parents in their admissions policies.
- 4.7 Parents should not be charged if the provider is not able to offer a service due to planned closure. If the setting is open but it is parental choice not to access the setting, then they can be charged or entitlement hours claimed as long as this is stated in the provider's fees policy. It is recommended that providers consider spreading their costs across the year so that parents are not charged for bank holidays, or INSET training days.
- 4.8 Providers cannot charge a registration fee or booking fee to parents accessing only their early years entitlement place.
- 4.9 Providers must also ensure that receipts and invoices contain their full business details so that they can be identified as coming from a specific provider.
- 4.10 Invoices must be issued for all children regardless of whether fees are due or whether there is a nil balance.
- 4.11 Providers should be mindful of the impact of additional charges on the most disadvantaged families. The Early Years Pupil Premium provides additional funding to providers to support disadvantaged three and four year olds (See Section 10).
- 4.12 In exceptional circumstances where a child is off for a significant period because of illness e.g. more than four weeks, funding may still be claimed subject to agreement from the Entitlements team.

Section 5: Claiming the Early Years Entitlement – Estimates, Actuals and Adjustments

FUNDING PERIOD		
Period name	Period start	Period end
Autumn	01 September	31 December
Spring	01 January	31 March
Summer	01 April	31 August

Documentation

- 5.1 Funding will **not** be paid for any child until a signed Child Registration form and appropriate legal documentation (birth certificate/passport) has been received by the Entitlements team from each setting that the child attends. This must be received by the stipulated due date for the funding period. It is strongly recommended that documentation is sent in well in advance of the deadline. These can also be sent in before the child is of eligible age. These documents must be sent as a PDF by secure email to eyfunding@somerset.gov.uk **No other formats will be accepted.**
- 5.2 Providers will be notified that a claim is available on the Early Years and Schools Portal via email to any registered portal user for that setting. The Parent's Declaration form is available to download from www.somerset.gov.uk/eyeprovider
- 5.3 All documentation and forms relating to the Early Years Entitlement must be returned by the stipulated due date to the Entitlements team. Payment will not be guaranteed against any forms received after the given due date.
- 5.4 Having verified a completed estimate form, during the first part of the funding period, the Local Authority will make a payment of 90% of the verified hours to the provider. If providers are continually overpaid for example in three consecutive funding periods, due to over estimation, or issues identified by auditors, the Local Authority will reduce the percentage of funding paid based on the estimate form to 70%.

Parent's Declaration Forms

- 5.5 Providers must ensure that all claims are accurate, and that the Parent's Declaration forms have been completed and signed by the parent/main carer and all copies must have the hours fully completed. Providers must ensure that the parent/main carer signs any changes made to the Parent's Declaration forms.
- 5.6 Parent's Declaration forms may be requested at any time however, in an over-claiming situation forms not received or incomplete will result in non-payment.
- 5.7 Parent's Declaration forms will be requested from a selection of providers in each funding period. Failure to submit an appropriate or incomplete form will result in non-payment for that child.

- 5.8 If any discrepancies relating to child data arise between the Actual claim and the Parent's Declaration form, the Entitlements Team will contact the parent/main carer for clarification. Following confirmation from the parent of the hours the funding will be paid to the provider.
- 5.9 The information on the Parent's Declaration Forms and Actual/Adjustment claim must match. **It is the responsibility of the provider to check this before they are sent to the Entitlements Team.**

If there is a discrepancy between the hours claimed on the Actual/Adjustment claim and the Parent's Declaration Form, the lower figure will be paid. **If the hours claimed for a child have been left blank on either the Actual/Adjustment or Parent's Declaration Form, no hours will be funded, even if the other form is completed in full.** Any discrepancies identified either via audit or by other means will result in over-claims being reclaimed either from future payments or by requesting the money back.

Actuals

- 5.10 Funding will be paid directly into the providers bank accounts and these accounts must be in the name of the business, which must also match the name as registered with Ofsted or the Independent Schools Inspectorate. Funding cannot be paid to the accounts of private individuals, except for childminders.
- 5.11 Funding is paid directly to schools for children attending school-run provision or reception classes.
- 5.12 If a childminder is registered with a Childminder Agency the funding will be paid direct to the childminder rather than through the agency.
- 5.13 Once all completed Actual or Adjustment forms have been verified and processed, the Local Authority will pay the balance of the claim to the provider. Failure to submit an Actual or Adjustment claim (where no actual has been received) will result in the Local Authority reclaiming the 90% funding paid to the provider during the first part of the funding period. In the event that the provider does not make the repayment, the Local Authority will deduct the amount from future funding and may impose sanctions as stated in the section on over claims of funding.
- 5.14 If the Local Authority makes an overpayment to the provider, the Local Authority will reclaim the overpayment from the provider. The Local Authority will work with the provider to agree arrangements to repay the overpayment. If the provider does not repay the monies outstanding, the Local Authority will deduct the amount from future funding and may decide to remove the provider from the Directory and pursue recovering the funds.
- 5.15 The Provider shall not assign, transfer or sub-contract the burden or benefit of the Agreement in whole or in part, nor pay to any other person any part of the Early Years Entitlement payment.
- 5.16 Funding will not be issued for any late submissions of 'Actual' forms.

- 5.17 All providers must submit entitlement claims electronically via the Early Years and School's Portal by the stipulated deadlines.

Adjustments

- 5.18 All providers on the Directory should have the opportunity to increase or decrease their claim by the end of the funding period via an 'Adjustment' form. It is good business practice to record any adjustments as they happen and complete the adjustment form when it becomes available.
- 5.19 Adjustment forms are sent out by the Entitlements team via the Early Years and School's Portal and need to be returned by the stipulated due date but can be returned at any time up to that date. **Please do not wait until the stipulated due date.**
- 5.20 Where providers are using an Adjustment form to increase the number of hours claimed, a new Parent's Declaration Form must be completed and signed. It should be noted that any hours claimed on another provider's Actual form will take precedence if they have claimed appropriately.
- 5.21 **No payment will be made for Adjustment forms received after the deadline date save in exceptional circumstances as specified in paragraph 5.22.**
- 5.22 Only in exceptional circumstances will late submission of adjustment or estimate forms be considered. The definition of exceptional circumstances includes Childminder bereavement, extreme weather conditions, fire in the premises, long term childminder sickness and unplanned long-term closures. Lost portal passwords and short-term staffing issues are not considered exceptional circumstances. It is the provider's responsibility to provide evidence of exceptional circumstances which is satisfactory to the Local Authority and adjustment or estimate forms which are submitted late will not be considered until satisfactory evidence has been provided.
- 5.23 In the event where a setting is closing and has an entitlement debt, late documentation may be received subject to agreement from a Local Authority Senior Manager. These exceptional circumstances will be considered on an individual basis, and these must be submitted in writing to the Entitlements team clearly detailing the exceptional circumstance. This must be submitted before the end of the next funding period.
- 5.24 Providers are responsible for ensuring adjustment forms are completed accurately and that all required documentation is correct, signed and submitted by the deadline date. **Adjustment forms and documentation will not be checked by the Local Authority for errors before deadline dates.**
- 5.25 Where a child has not accessed the number of hours that was claimed on the Actual form, it is the provider's responsibility to complete an Adjustment Form and decrease the number of hours claimed for that funding period. Multiple adjustment forms can be submitted. The Adjustment form must be received by the stipulated due date.

Over claims of funding

5.26 If it is discovered that an Adjustment form has not been submitted, where a claim should be reduced, the appropriate entitlement hours will be reclaimed from the provider and will be subject to the following sanctions:

Stage 1/first occurrence-	Warning letter sent to provider by Entitlements team
Stage 2/second occurrence-	Estimate reduced to 70% for next 3 funding periods and referral for business support from the Early Years Team.
Stage 3/ third occurrence -	Removal from directory*

*Please see later sections of this agreement about removal from directory, and appealing removal decisions.

The above sanctions will apply over a period of two consecutive years starting from the date of the warning letter and restarting from any stage above.

5.27 Where a Provider has over claimed on one or more occasion, or a claim has been submitted where it could reasonably be assumed that the Provider would/should have knowledge that they have over claimed when submitting their documentation to the Local Authority, that provider may be removed from the directory without notice and all funding stopped.

Section 6: Universal Entitlement for three and four year olds

6.1 All three and four year olds are entitled to 570 hours per year of universal funded early years provision for up to six funding periods before they reach statutory school age (the beginning of the funding period following the child's fifth birthday).

Children become eligible the funding period after their third birthday and remain eligible until the end of the funding period before they start school or until the end of the funding period of their fifth birthday (visit www.somerset.gov.uk/eye for more information).

The "Stretched" Offer

6.2 Providers may choose to offer parents a "stretched" offer by using their 570 hours across the whole year. The year will start from the funding period after the child's 3rd birthday and 4th birthday, and if applicable the child's 2nd birthday. For children who are four years of age in the Autumn or Spring funding period, the hours will be limited.

Providers should make it clear in their documentation to parents that taking up the "stretched" offer will mean that fewer than 15 hours a week can be claimed. The stretched offer reduces the number of hours per week and allows parents to spread their entitlement over more weeks so that they can use some of their hours in the holiday periods if they wish.

Providers and parents must be aware that the entitlement hours cannot be

compressed i.e. a parent cannot take more than 15 or 30 hours per week over fewer than 38 weeks of the year. However, a parent can choose a provider that is open for fewer than 38 weeks of the year and therefore receive 15 or 30 hours a week during fewer weeks.

An example of how the entitlement can be stretched is as follows:

47 weeks at 12 hours per week = 564
(the remaining 6 hours entitlement is available) = 570

49 weeks at 11.5 hours per week = 563.5
(the remaining 6.5 hours entitlement is available) = 570

50 weeks at 11.4 hours per week = 570 (full entitlement used)

51 weeks at 11 hours per week = 561 (the remaining 9 hours will be available) = 570

Somerset County Council recommended stretched offer model

If you are offering the “stretched” offer the entitlement hours could be annualised over 12 months which will allow the same number of entitlement hours to be accessed each month. The maximum number of hours available each month would be 47.50 hours per child (570 hours divided by 12 months = 47.50 hours).

If the hours are annualised equally over 12 months the maximum claim each funding period is as follows: -

Autumn Funding: Period 4 months - 190 hours.

Spring Funding: Period 3 months - 142.50 hours

Summer Funding: Period 5 months - 237.50 hours

This is because the hours deducted from the parent’s invoice must match the hours claimed. This will be checked when an auditor visits.

The “stretched” offer can continue to be taken in the same way for eligible two year olds and three years olds, but for some four year old children the offer will be limited before they start school in September.

This means that if a child turns four in the Autumn funding period, from the following Spring funding period they will receive 8/12ths (380hours) of their 570 hours allocation to use until the end of August, as most children start school in September.

If a child becomes four in the Spring funding period they will receive 5/12ths (237.5 hours) of their 570 hours allocation to use in the summer funding period.

- 6.3 Children are entitled to start school on a full-time basis in the September following their fourth birthday. When a child is due to start school, the school may be running a staggered entry system. With regards to funding that child,

if the child appears on the school census return then funding will not be available for any other type of provision within that funding period, therefore the parent will need to pay for the services provided. If the child doesn't appear on the school census return, then funding will be paid at the setting until the date that the child starts school. Once the child starts school, funding will not be available from that date at the setting. If the parent has not given notice, in this instance, the Early Years Entitlement will not cover the notice period and the parent will need to pay for the service.

- 6.4 Parents may choose to delay taking up a school place for their child until statutory school age (funding period after fifth birthday) or elect to take the place up on a part-time basis if they feel that their child is not ready for full time attendance.
- 6.5 In cases where parents choose to defer their child's entry to school the child can use their remaining hours in the funding period following deferred entry – this is usually the autumn funding period. If a child is on a school roll attending for at least 15 hours per week by the school census week, no funding is available at the provider. The parent will need to pay for any hours accessed/booked in.

Section 7: Extended Entitlement (30 hours) for eligible three and four year olds

- 7.1 For eligible working families three and four year olds are entitled to an additional 570 funded hours - up to 30 hours per week or 1,140 hours in total (universal + extended) across the year, this will include some children in foster care. Information on the eligibility criteria and how the parent applies can be found at: www.somerset.gov.uk/eye30.
- 7.2 Providers must be registered as offering funded places with the Local Authority to be able to claim the extended entitlement.
- 7.3 The extended entitlement can only be claimed from the funding period following the child's third birthday and with a valid 30 hours code issued by the required date. If a child becomes eligible after the start of a funding period they will not be able to access an extended entitlement place until the following funding period. Please see the table overleaf which explains when the extended entitlement hours can be used from.

Child's third birthday falls between	Parent needs to apply, get a code and present code to childcare provider before	Once a place is confirmed the parent can start to use their extended entitlement hours from
1 September – 31 December	31 December	1 January (Spring)
1 January – 31 March	31 March	1 April (Summer)
1 April – 31 August	31 August	1 September (Autumn)

7.4 Parents (except foster carers) must apply through the government Childcare Service via www.childcarechoices.gov.uk for the extended entitlement. Confirmation of a parent's eligibility is only via an '11' digit eligibility code starting with '50' generated by the Childcare Service.

A temporary code starting with '11' may be issued to some parents who experience difficulties using the service. Parents who experience issues with their application can contact the HMRC helpline directly on **0300 123 4097**.

7.5 Foster carers apply for the extended entitlement hours via the Local Authority and **not** the government Childcare Service. Confirmation of a foster carer's eligibility is only via an 11-digit eligibility code starting with '400'.

7.6 Children in a maintained/academy/free school reception class are not eligible for the extended entitlement.

7.7 Children attending an independent school reception class can only access their extended entitlement via their reception class place. For example, they cannot access an additional 15 hours as well at another provider.

7.8 Providers must gain written permission from the parent/carer before verifying a 30 hours eligibility code. The following information must be included within the permission (a template is available at www.somerset.gov.uk/eye30provider)

- name of the provider,
- 30 hours eligibility code (the 11 digit number starting 500/11/400);
- child's name and date of birth,
- parent/carer's name, NI number and contact details
- parent's partners' name and NI number and contact details (if appropriate).
- GDPR privacy statement

- 7.9 Each provider must verify a parent's 30 hours eligibility code using the online Early Years and School's Portal before offering an extended entitlement space.
- 7.10 Eligibility codes must be verified in advance of a claim being made with the Entitlements Team. Claims cannot be processed by the Local Authority until codes are verified on the Early Years and Schools Portal. If claims are not verified by the given deadline extended hours claims will not be paid.
- 7.11 Parents can start to access the extended entitlement in the funding period after eligibility is confirmed. For example, a parent applies for and is awarded the extended entitlement in May. The child is already claiming the universal offer, but the parent will not be able to claim the extended entitlement until September subject to the code being valid.
- 7.12 Parents cannot access the extended entitlement immediately if they become eligible after the start of a funding period. For example, if the child is already 3 years old and eligibility is confirmed on the 15th of September, they would need to wait until the beginning of the next funding period (1st January) to claim the extended hours. The parent would need to have reconfirmed their code to maintain eligibility. The universal hours would not be affected as long as the age criteria is met.
- 7.13 The Local Authority regularly reviews the validity of eligibility codes for children using the Early Years & Schools Portal. Providers will be notified where parents have fallen out of eligibility, and the grace period end date via the online dashboard. These show as 'red' on the dashboard.

Providers must check the eligibility dashboard on a regular basis. The eligibility status of a child is colour coded as 'green, amber or red'. If the dashboard is indicating that a parent is no longer eligible for the extended entitlement, providers should notify parents within five working days.

Reconfirming eligibility

- 7.14 It is the parent's responsibility to regularly reconfirm their eligibility for the extended entitlement, usually every 3 months, using their online childcare service account. In most cases, parents will keep the same eligibility code.
- 7.15 If parents are no longer eligible, or fail to successfully reconfirm, the child will be able to receive the extended entitlement funding for a short grace period as long as the provider has already claimed the extended entitlement when the code was eligible.
- 7.16 The Local Authority is responsible for managing the reconfirmation of eligibility **for foster carers only**. In most cases, the foster carer will keep the same '400' eligibility code.
- 7.17 It is recommended that providers check the Early Years and School's Portal 30 hours check dashboard regularly and remind parents with an 'amber' or 'red' status about the importance of reconfirming.

The Grace Period

- 7.18 In respect of children taking up an extended entitlement place, a child will enter the grace period when the child's parents cease to meet the eligibility criteria set out in the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016, as determined by HMRC or a First Tier Tribunal in the case of an appeal.

Date Parent receives ineligible decision on reconfirmation:	Grace Period End date:
1 Jan – 10 Feb	31 March
11 Feb – 31 March	31 August
1 April – 26 May	31 August
27 May – 31 August	31 December
1 September – 21 October	31 December
22 October – 31 December	31 March

- 7.19 The Local Authority will continue to fund a place for a child who enters the grace period as long as the extended entitlement has previously been paid to that provider as set out in the Early Education and Childcare Statutory guidance for Local Authorities. Exception to this is stated in 7.20 below.
- 7.20 Parents will only be able to claim the extended entitlement while they remain eligible. If a parent ceases to be eligible at the end of the grace period, the child will only be eligible for the universal entitlement. Providers must state clearly in fees policies the arrangements for these events, and the fee-paying rate that will be charged if the parent continues to use the additional hours after they cease to be eligible.
- 7.21 The “grace period” set out in this agreement cannot be extended for children, except in very exceptional circumstances where the parent has been forced to become ineligible for the extended entitlement due to serious crime, domestic violence, or sudden exceptional circumstances. The parent, or another appropriate professional must contact the Entitlements team, who will consider the evidence presented.
- 7.22 The Local Authority will not fund an extended entitlement place for a child that has moved to/or started with a provider when they are already in their grace period. Exceptions to this are stated in 7.21 above.

Claiming the Extended Entitlement

- 7.23 Claims submitted for the extended entitlement will be paid to providers in the same way as the universal entitlement and the same conditions and hourly rates apply.
- 7.24 It is the parent's decision as to which proportion of universal hours and extended hours are to be claimed at each provider. The parent must record this by completing the Parent's Declaration form appropriately. The Entitlements team will not exchange the hours recorded on the Parent's Declaration Form, between universal and extended allocation.
- 7.25 Parents should **not** use up all of their universal entitlement hours, then access their extended hours for the rest of the year. This is due to the risk that they may become ineligible in the future and would then need to be charged by providers for the service.
- 7.26 The maximum weekly hours that can be claimed is 15 and up to 570 hours across the funded year. In the summer funding period, the maximum extended hours that can be claimed is 237.5.

Extended Entitlement for Children in Foster Care

- 7.27 Children in foster care who are aged three or four years old will be able to receive the extended entitlement, if the following criteria are met:
- Accessing the extended hours is consistent with the child's care plan;
 - Where this is a single foster parent family, the foster parent holds additional paid employment outside their role as a foster carer;
 - Where there are two foster parents in the same fostering household, both partners hold additional paid employment outside their role as foster carers.
- 7.28 Foster carers must complete an application form and submit evidence of employment for their eligibility to be determined.
- 7.29 Eligibility will only be confirmed once the child's Social Worker has agreed it is consistent with the child's care plan.
- 7.30 The child's Social Worker has been allocated as the 'designated person' for the Local Authority in Somerset.
- 7.31 If a child moves to a new placement, a new application must be completed by the new foster carer.
- 7.32 Applications will only be accepted from the child's foster carer.
- 7.33 Foster carers who wish to appeal against a non-eligible decision by the Local Authority must do so via the Local Authority complaints procedure.
- 7.34 A 'fostered' child cannot start at a new provider if they are already in a grace period. This is because the DFE determines them to not be eligible for the extended entitlement. Exemptions to this may be considered if the child's

Social Worker demonstrates that losing the extended entitlement hours will negatively affect the child's welfare. These will be considered on an individual basis by contacting the Early Years Lead and Primary Adviser in writing.

Section 8: Funding for eligible two year olds

- 8.1 Registered providers that are judged to be 'outstanding or 'good' by Ofsted can offer up to 570 hours per year for eligible two year olds from the funding period after their second birthday. Providers should offer places to eligible two year olds on the understanding that the child remains eligible, even if their circumstances change.
- 8.2 For children who qualify for funding for two year olds, the funding will be available from the date stated on the acceptance letter; this will not be earlier than the first day of the funding period after their second birthday. Please see www.somerset.gov.uk/2YO for eligibility criteria and the online application form.
- 8.3 Providers registered to take eligible two year olds need to sign up to the additional conditions for funding for two year olds as stated on the application form. If you would like to register to accept funded two year olds please email: eyfunding@somerset.gov.uk or call 01823 357039 for more information and an application form.
- 8.4 If a provider has registered to accept funding for eligible two year olds and receives a 'requires improvement' or 'inadequate' rating from Ofsted, no newly funded two year olds will be funded in this setting once the Ofsted report is published.
- 8.5 Where an early years provision is under school governance and the school receives a 'requires improvement' or 'inadequate' rating from Ofsted, the grading of the early years provision on the report will be taken into account when deciding if they can continue to offer funding for two year olds subject to EYQIG approval.

The Self Improvement Tool (SIT)

- 8.6 If the parent/carer of an eligible two year old can only find a suitable place at a provider rated 'requires improvement' by Ofsted, they must contact the Entitlements team on 01823 357039 or email eyfunding@somerset.gov.uk to start the Self Improvement Tool process.

(Please see Appendices 1 and 2 for the processes for 'requires improvement' settings to accept funded two-year olds).

- 8.7 Parents cannot access funding for two-year olds at a provider judged 'inadequate' by Ofsted.
- 8.8 Parents cannot access funding for two year olds at a provider rated

'inadequate' by Ofsted

- 8.9 The aim of the SIT process is to support providers in getting to 'good'. Following an Ofsted inspection should a provider continue to be rated 'requires improvement' then the Early Years Quality Improvement Group will decide if a provider can continue to access funding for eligible two-year olds.

Section 9: Early Years Pupil Premium (EYPP)

- 9.1 Providers should ensure that they have identified the disadvantaged children in their setting as part of the process for checking Early Years Pupil Premium (EYPP) eligibility. Providers are encouraged to ask parents to complete an application form when they register. Children must receive the Early Years Entitlement in order to qualify for EYPP. Information on the eligibility criteria for parents and the application form for parents to apply is available at:
<https://www.somerset.gov.uk/education-and-families/early-years-pupil-premium-information-for-parents/>
- 9.2 Children who are looked after by the Local Authority will only receive EYPP if they have a Personal Education Plan (PEP) that is updated every funding period.
- 9.3 The Entitlements Team will process claims from parents for the Early Years Pupil Premium. Applications from parents must be received by the stipulated deadlines. Failure to meet these deadlines will result in the application not being processed in time for the funding period. EYPP will be paid to providers with their Early Years Entitlement payment at the end of the funding period.
- 9.4 Early Years Pupil Premium is only paid against the universal entitlement hours.

Section 10: Termination and withdrawal of funding

- 10.1 Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in removal from the directory and withdrawal of funding with immediate effect.
- 10.2 If a provider's Ofsted registration is suspended or cancelled, the Local Authority may withhold further funding until such time as it receives formal notification from Ofsted that the matter has been resolved.
- 10.3 If the provider decides to appeal against Ofsted's decision to suspend registration and the appeal is successful, the provider may be re-admitted to the Directory pending consideration by the Early Years Lead and Primary Adviser.
- 10.4 Non-compliance with the terms and conditions in this agreement or any serious non-compliance discovered during the audit process, may result in the Local Authority deciding to withhold further funding from the provider and may

also result in the Local Authority deciding to recover payment of the whole, or part of funding already paid to the provider and may result in the provider being removed from the Directory.

- 10.5 A provider may be removed from the Directory if they do not demonstrate that they are delivering sufficient quality early years care as determined by Ofsted inspections.

Reasons for this removal include:

a) two consecutive outcomes that are a combination of ‘requires improvement’ or ‘inadequate’

b) requires improvement outcome and does not show progress against Ofsted’s judgements within one year

c) does not engage in agreed improvement criteria based on Ofsted’s judgements from the Early Years Quality Improvement Group before their next Ofsted Inspection date.

d) do not submit a Quality Improvement Plan within six weeks of receiving notification from the Early Years Quality Improvement Group.

e) or if the Quality Improvement Plan does not adequately reflect the recommended Ofsted actions for improvement.

- 10.6 Please note that a core group, directed by EYQIG will be convened to monitor progress made against the Quality Improvement Plan.

- 10.7 A provider may be removed from the Directory if there is evidence that they do not comply with, or show regard for, the Early Years Foundation Stage statutory framework.

- 10.8 Providers with an ‘inadequate’ judgement from Ofsted that do not implement the actions in the Quality Improvement Plan and ensure improvement within 3 months may be removed from the Directory.

- 10.9 A provider may be withdrawn immediately in the event that an ‘inadequate’ Ofsted judgement indicates that children are at significant risk of harm.

- 10.10 A provider may be denied approval to offer the early years entitlement in Somerset or have their funding withdrawn for reasons of non-compliance with this agreement. The provider can appeal against that decision by following the process set out in the ‘Appeals Process’ section 11.

- 10.11 If a provider wishes to withdraw from offering the early years entitlement in Somerset, they must inform parents in writing, giving them a minimum of a term or three months’ notice (whichever is the longest). They must also email the Entitlements team within three months at eyfunding@somerset.gov.uk stating that they wish to withdraw from the Directory and giving the effective date of the withdrawal. Once notice has been received, if the provider wishes to rescind that notice then they would be required to reapply for entry onto the Directory.

Bankruptcy

- 10.12 A provider must notify the Local Authority if their business becomes insolvent, bankrupt, enters into liquidation, enters into a voluntary arrangement, appoints a receiver or any such event immediately.
- 10.13 If the provider's business becomes insolvent, bankrupt, enters into liquidation, enters into a voluntary arrangement, appoints a receiver or any such similar event, the Local Authority will remove the provider from the Directory (subject to providers right to appeal), withdraw funding and seek to recover overpayments of funding.
- 10.14 The provider must inform all parents/carers of the withdrawal from the Directory.

Section 11: Suspension and removal from the Directory

- 11.1 A provider may be denied approval to offer entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision and make representations.
- 11.2 When a breach of the terms and conditions is identified, the Local Authority will use one or more of the following enforcement actions:
1. Written notice of immediate removal from the directory
 2. Suspend payments to the provider
 3. Written notice to remove from the directory if identified breach is not addressed within the specified timescales
 4. Request an audit or investigation into the breach.

The Local Authority does not waive its right to act if it does not act immediately. A slower evidence-based approach may be required on occasion.

- 11.3 If a provider wishes to appeal against a decision to suspend or remove them from the Directory, they must write within 14 days of the notice being given, providing relevant evidence in support. Appeals must be emailed, for the attention of the Assistant Director for Education Partnerships and Skills, to EarlyYearsTeam@somerset.gov.uk
- 11.4 Somerset County Council will acknowledge receipt of the appeal in writing within 10 working days of its receipt. The appeal panel will meet within one month of the evidence being received.
- 11.5 Any appeal received outside of the 14 day time limit will only be considered in exceptional circumstances.
- 11.6 If the provider does not appeal following a decision to refuse inclusion on the Directory or to remove from the Directory, they will not be entered onto the Directory, or they will be removed from the Directory as appropriate. In the event of a removal from the Directory, the Local Authority will notify Ofsted and will also notify parents in receipt of funding. Providers must have

informed parents prior to the appeal process of the intention to withdraw entitlements funding.

- 11.7 If the Assistant Director Education Partnerships and Skills upholds the original decision, the provider can make a further appeal against the decision. This must be made within 14 days from the date of the written notification. Any such appeal should be made in writing and emailed with supporting documentation and evidence to EarlyYearsTeam@somerset.gov.uk
- 11.8 Somerset County Council will acknowledge the appeal notification within 10 working days and write to the provider giving a date, time and location for an appeal hearing. The provider may bring another person with them to attend the hearing.
- 11.9 The appeal meeting will consist of a panel of 3 Senior staff drawn from the Children's Services Directorate; these staff will have had no prior involvement in the matter under appeal.
- 11.10 One panel member will act as Chair and a Clerk will also be present to record the proceedings.
- 11.11 In the event that the panel uphold the decision to refuse entry on the Directory, no further action is needed.
- 11.12 In the event that the panel uphold the decision to remove from the Directory, the Local Authority will notify Ofsted and the Department for Education of the removal and will also notify affected parents.

Section 12: Complaints process about the entitlement – for providers

- 12.1 Providers should contact the Entitlements team with comments and queries about the early years entitlement in the first instance and they will be able to advise on the next steps.
- 12.2 Issues that cannot be resolved by the Entitlements team, or that relate directly to challenges to the contents of this Local Provider Agreement will be referred to the Early Years Lead and Primary Adviser and should expect to receive a response within 7 working days.
- 12.3 If the issue or complaint is not resolved by means of 13.1 or 13.2, then a provider can follow the Local Authority complaints procedure. This is accessible online via <https://www.somerset.gov.uk/our-information/complaints-comments-compliments/>
- 12.4 If a provider is not satisfied with the way in which their complaint has been dealt with by the Local Authority or believes the Local Authority has acted unreasonably, they can make a complaint to the Local Authority Ombudsman. For further information please visit the Local Government Ombudsman website at www.lgo.org.uk

Section 13: Complaints process about the entitlement – for parents

- 13.1 The Provider must ensure they have a written complaints procedure in place that is published and accessible for parents who are not satisfied their child has received their entitlement appropriately. Parents must receive the entitlements as set out in this agreement and in the Early Education and Childcare Statutory guidance for Local Authorities.
- 13.2 Providers must keep a written record of any complaints and their outcome and must report any written complaints about the entitlement within one month of receiving them to the Early Years Lead and Primary Adviser, County Hall, Taunton TA1 4DY or via email to EarlyYearsTeam@somerset.gov.uk
- 13.3 Parents must follow the provider's complaints procedure in the first instance regarding issues with accessing the early years entitlement.
- 13.4 If a complaint is not resolved through a provider's complaints procedure, the parent should then contact the Local Authority via Somerset Direct on 0300 123 2224 or online at:

<https://www.somerset.gov.uk/our-information/complaints-comments-compliments/>

Section 14: Key Local Authority responsibilities

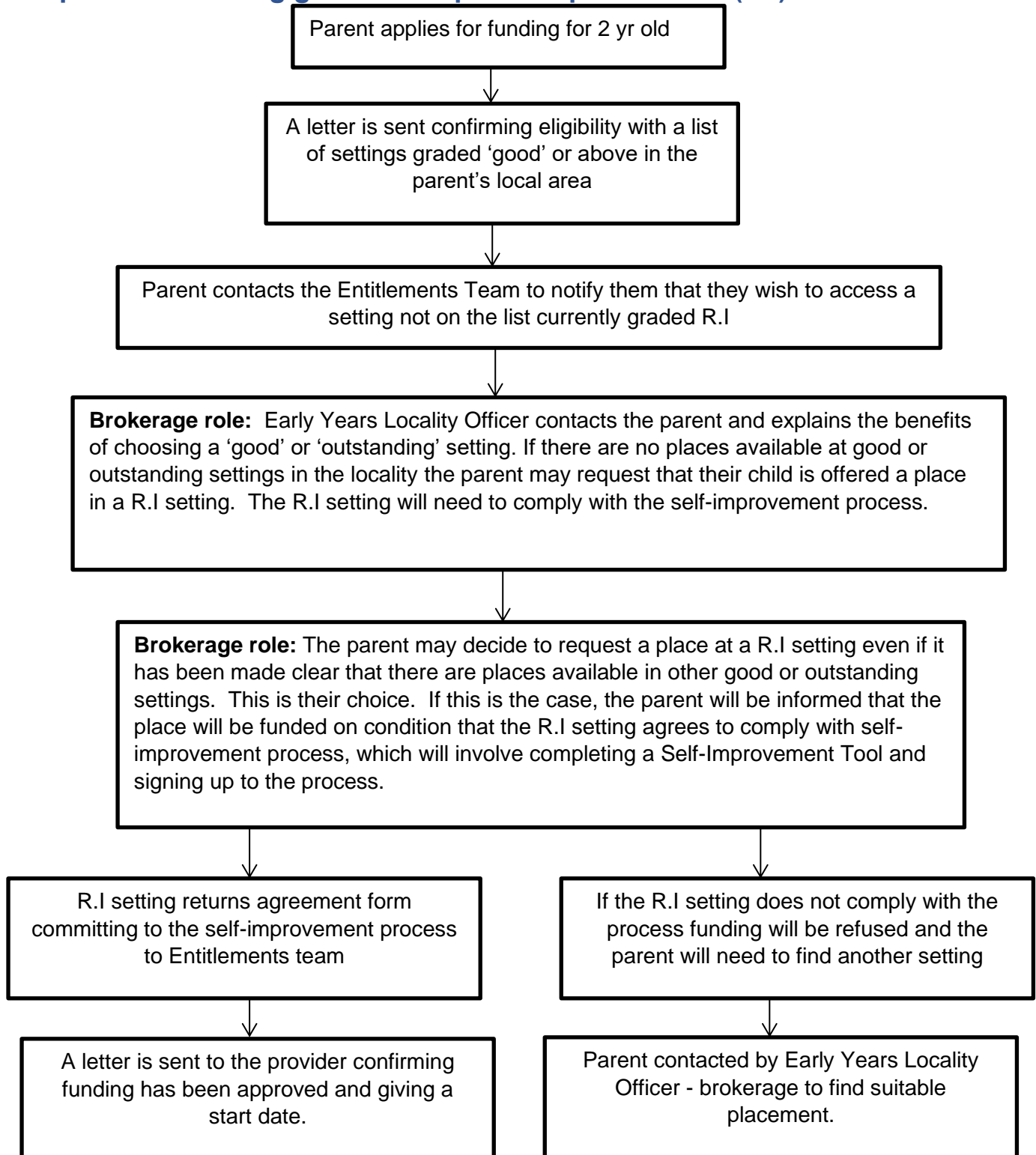
- 14.1 Somerset County Council is required to make sure that there is enough high quality, accessible and affordable early education places for eligible two, three and four year olds that need them.
- 14.2 The Local Authority will work in partnership with providers to deliver funded entitlement places. 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.
- 14.3 The early years entitlement may be delivered by a range of Early Years providers including schools, academies, nursery classes, private and voluntary sector providers, independent schools, childminders and childminders registered with childminder agencies.
- 14.4 The Local Authority must adhere to the Data Protection Act and General Data Protection Regulations regarding information supplied by providers. You can view Somerset County Council's privacy statement at: www.somerset.gov.uk/privacy
- 14.5 The Local Authority will discuss matters relating to the providers registration with Ofsted as necessary.
- 14.6 It is the responsibility of the local authority to maintain the Directory of Somerset Providers who are in receipt of funding to deliver the entitlements.
- 14.7 Somerset County Council has a statutory duty to provide information advice and guidance to parents to enable them to make informed choices about early years providers that best meet their needs and those of their children.

- 14.8 Lead responsibility with the Local Authority for this agreement is the Assistant Director, Education Partnerships and Skills.
- 14.9 Somerset offers 570 universal early years entitlement hours a year for eligible two, three and four year olds, as a maximum of 15 hours per week over a minimum of 38 weeks. In addition, working parents of three and four year olds can apply for an additional 570 hours per year if they meet the criteria. This is called the extended entitlement.
- 14.10 Children in foster care are eligible for the extended entitlement, providing they meet the specified criteria outlined in the annex of the statutory guidance and the foster parent is taking up paid employment outside of their fostering role. The foster parent should apply directly to the local authority to ensure that accessing the additional hours is consistent with the child's care plan.
- 14.11 The Local Authority follows safeguarding legislation and has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have several statutory functions under the 1989 and 2004 Children Acts, which make this clear, and the 'Working together to safeguard children' guidance sets these out in detail.
- 14.12 The Local Authority will promote partnership working between different types of providers, including childminders, across all sectors and encourage more providers to offer flexible provision, alongside other providers.
- 14.13 The Local Authority promotes equality and inclusion removing barriers of access to funded places and working with parents to give each child support to fulfil their potential.
- 14.14 Local Authorities have a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.
- 14.15 The Local Authority should clearly set out the documentation that they need to receive from providers to support payment and delivery of funded entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.
- 14.16 The Local Authority should not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of free entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the Local Authority as a result of the lateness. Somerset's policy is not to charge any penalties as we will not accept late submissions.
- 14.17 The Local Authority should take action over concerns about providers that do not actively promote fundamental British values, or which promote views or

theories as fact which are contrary to established scientific or historical evidence and explanations. We will support providers to uphold British values.

- 14.18 The Local Authority will fund children that have moved to England from abroad as long as they have recourse to public funds. Identity documentation is required.

APPENDIX 1 – Process for parents who request a funded 2-yr old place at a setting graded “Requires Improvement” (R.I)



APPENDIX 2 – Process for R.I settings re: funded two year olds

