

# Early Years Free Entitlement (EYFE) for Two (where agreed) Three and Four Year Olds 2019 - 2020 Provider Agreement September 2019

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## **1. Introduction**

**1.1.** This agreement is based on the [DfE 'Model Agreement; Early Years Provision Free of Charge and Free Childcare' June 2018](#). Early years childcare providers ('providers') **must follow** this agreement if they are funded by Brighton & Hove City Council ('BHCC') to provide the Early Years Free Entitlement ('EYFE') for two, three and four year olds.

**1.2.** This agreement applies to the 15 hour entitlement for eligible two year olds, the 15 hour entitlement for three and four year olds (the universal entitlement) and the 30 hour entitlement of three and four year olds whose parents are working (the extended entitlement).

**1.3.** The following frameworks and legislation underpin this agreement:

- [Early Education and Childcare, Statutory Guidance for Local Authorities 2018](#)
- [Early Education and Childcare, Operational Guidance for Local Authorities and Providers 2018](#)
- [Childcare Act 2006 \(as amended\)](#)
- [Childcare Act 2016](#)
- [Equality Act 2010](#)
- [School Admissions Code 2014](#)
- [Statutory Framework for the Early Years Foundation Stage \(EYFS\) 2017](#)
- [Local Authority, \(Duty to Secure Early Years Provision Free of Charge\) Regulations 2014](#)
- [The Childcare \(Early Years Provision Free of Charge\) \(Extended Entitlement\) Regulations 2016](#)
- [Special Educational Needs and Disability \(SEND\) code of practice: 0 to 25 years 2015](#)
- [Data Protection Act 2018](#)

**1.4** Providers must have completed their **Annual Core Offer, Providing the Early Years Free Entitlement (EYFE) 2019/20** via the Synergy Provider Portal. In doing so, providers confirm that they will offer EYFE in accordance with this agreement.

**1.5** Providers will not be funded for providing EYFE unless the Annual Core Offer is in place and approved by BHCC.

## **2. Key Responsibilities**

### **Brighton & Hove City Council:**

**2.1.** Must secure a free entitlement place for every eligible child in their area.

**2.2.** Will work in partnership with providers to agree how to deliver free entitlement places.

**2.3.** Will be clear about their role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations of providers.

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- 2.4. Must contribute to the safeguarding and promote the welfare of children in their area.
- 2.5. Will store and manage data in accordance with the Data Protection Act 2018 as outlined in the [BHCC privacy notice](#)

**Early Years and Childcare Providers offering EYFE:**

- 2.6. Must comply with all relevant legislation and insurance requirements.
- 2.7. Should deliver the free entitlements consistently to all parents, whether in receipt of the universal or the extended entitlement regardless of whether they choose 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 EYFE, along with their optional services and charges. Children accessing the free entitlements should receive the same quality and access to provision as those whose parents opt to pay for additional services.
- 2.8. Must follow the EYFS and have clear safeguarding policies and procedures in place that link to BHCC guidance for recognising, responding, reporting and recording suspected or actual abuse.
- 2.9. Must have arrangements in place to support children with SEND. These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEND additional support fund and Disability Access Fund (see section 7 below) to deliver effective support, whilst making information available about their SEND offer to parents.

### **3. Safeguarding**

- 3.1. BHCC has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. It has a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the [‘Working together to safeguard children’ 2018 guidance](#) sets these out in detail.
- 3.2. Providers must ensure that children are kept safe. A lead practitioner must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. If a professional working with a child has concerns regarding their or their family’s well-being they must make a referral to the [Front Door For Families](#) on 01273 290400 or complete the on-line form [‘Tell us if you are worried about a child’](#). Providers must give BHCC a copy of their safeguarding policy upon request and ensure that their policy is comprehensive, up to date, and complies with all relevant legislation and codes of practice, including [‘Working together to safeguard children’ 2018 guidance](#) and [the Brighton & Hove Safeguarding Children Partnership \(BHSCP\)](#).

### **4. Eligibility**

- 4.1. BHCC must ensure that a child has a free entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlements.
- 4.2. Providers should check original copies of documentation e.g. birth certificate, passport, to confirm that a child has reached the eligible age on initial registration for all free

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entitlements. Providers should retain paper or digital copies of documentation to enable BHCC to carry out audits and fraud investigations. Where a provider retains a copy of documentation this must be stored securely and deleted in accordance with the Data Protection Act 2018. Providers should refer to the data privacy guidance set out in **Appendix 1: Parental EYFE Declaration, part 6.**

**4.3.** DfE have produced a [Privacy Notice Template](#) ('Privacy Notice: suggested text for pupils') for providers to give to parents to explain how their information will be used. Early years providers will need to change it to be appropriate to their provision.

**4.4.** Children can start their EYFE from the term after their second (for eligible two year olds) or third (all children) birthday, see below:

<b>Child's birthday falls between</b>	<b>They can start their EYFE from</b>
1 January and 31 March	The beginning of term on or after 1 April
1 April and 31 August	The beginning of term on or after 1 September
1 September and 31 December	The beginning of term on or after 1 January

**EYFE for Two Year Olds**

**4.5.** Parents should contact the Family Information Service (FIS) to check eligibility from the beginning of the term during which their child turns two. Eligibility criteria for EYFE for two year olds and information regarding how parents can check are on the FIS webpage [www.brighton-hove.gov.uk/twos](http://www.brighton-hove.gov.uk/twos)

**4.6.** FIS will send eligible parents a letter confirming their eligibility with a unique reference number. The date indicated on the eligibility letter is the date from which the child can start their EYFE. Parents must show the letter to the provider who should take a copy for their records.

**4.7.** Children are eligible for their EYFE **from the date indicated on the eligibility letter.** If the child is already attending the early years setting prior to the parent receiving their eligibility letter, the EYFE payment to the provider will not be backdated by BHCC. Providers must make it clear to parents that they are liable for any fees until the start date on their eligibility letter from FIS.

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

**30 Hours Extended Entitlement for Working Parents of Three and Four Year Olds**

**4.9.** Eligibility criteria for 30 hours extended entitlement and information regarding how parents can check are available on the FIS webpage [Childcare and Childcare Funding](#) and can also be found on the government's [Childcare Choices](#) website.

**4.10.** Parents must check eligibility for the extended entitlement at the government's website [The Childcare Service](#), and from here they will be sent their child's unique 11 digit eligibility code. The only exception to this is children in foster care (see 4.12 below); the foster parent should apply directly to the responsible local authority.

**4.11.** A child will be entitled to the extended entitlement from **the term after** both of the



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following conditions are satisfied: (1) the child has attained the age of three; (2) the child's parent has a current positive determination of eligibility from HMRC. If a parent has a child who will be three before the start of the following term but forgets to apply, they will have to wait until the **start of that following** term to claim their extended entitlement. BHCC cannot backdate funding claims where a parent has not applied for their code in time.

**4.12.** Children in foster care will also be eligible for the extended entitlement, providing they meet criteria (1) above and meet two additional criteria: that this is consistent with the child's care plan and the foster parent is taking up paid employment outside their fostering role. There is separate information for [foster parents and social workers](#).

**4.13.** Alongside the eligibility code and original copies of documentation (see 4.2), a provider must acquire written consent from, or on behalf of, the parent to be able to verify and receive future notifications from BHCC of the validity of the parent's eligibility code.

**4.14.** Once a provider has received written consent from the parent, they must verify the eligibility code via the on-line portal.

**4.15.** Thereafter, BHCC will complete audit checks to review the validity of eligibility codes for children who qualify for the extended entitlement at six fixed points in the year, both at half-term and at the end of term across the year (in line with the dates listed in the table below). BHCC will notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date. Providers can view this information in their provider portal and can check, at any time, the validity of any code.

**4.16.** BHCC will also check via the Eligibility Checking Service (ECS) whether codes given to BHCC providers have been checked by other local authorities and liaise to reduce the risk of a parent accessing more than the maximum entitlement of 1140 hours per year.

<b>Date parent receives ineligible decision on reconfirmation:</b>	<b>BHCC audit date:</b>	<b>Grace Period End date:</b>
1 January – 10 February	11 February	31 March
11 February – 31 March	1 April	31 August
1 April – 26 May	27 May	31 August
27 May – 31 August	1 September	31 December
1 September – 21 October	22 October	31 December
22 October – 31 December	1 January	31 March

### **The Grace Period**

**4.17.** A child will enter the grace period when the child's parent(s) 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.

**4.18.** BHCC will access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the ECS. The grace period end date will automatically be applied to eligibility codes.

**4.19.** BHCC will continue to fund a place for a child who enters the grace period as set out in the [Early Education and Childcare Statutory guidance for Local Authorities 2018](#).

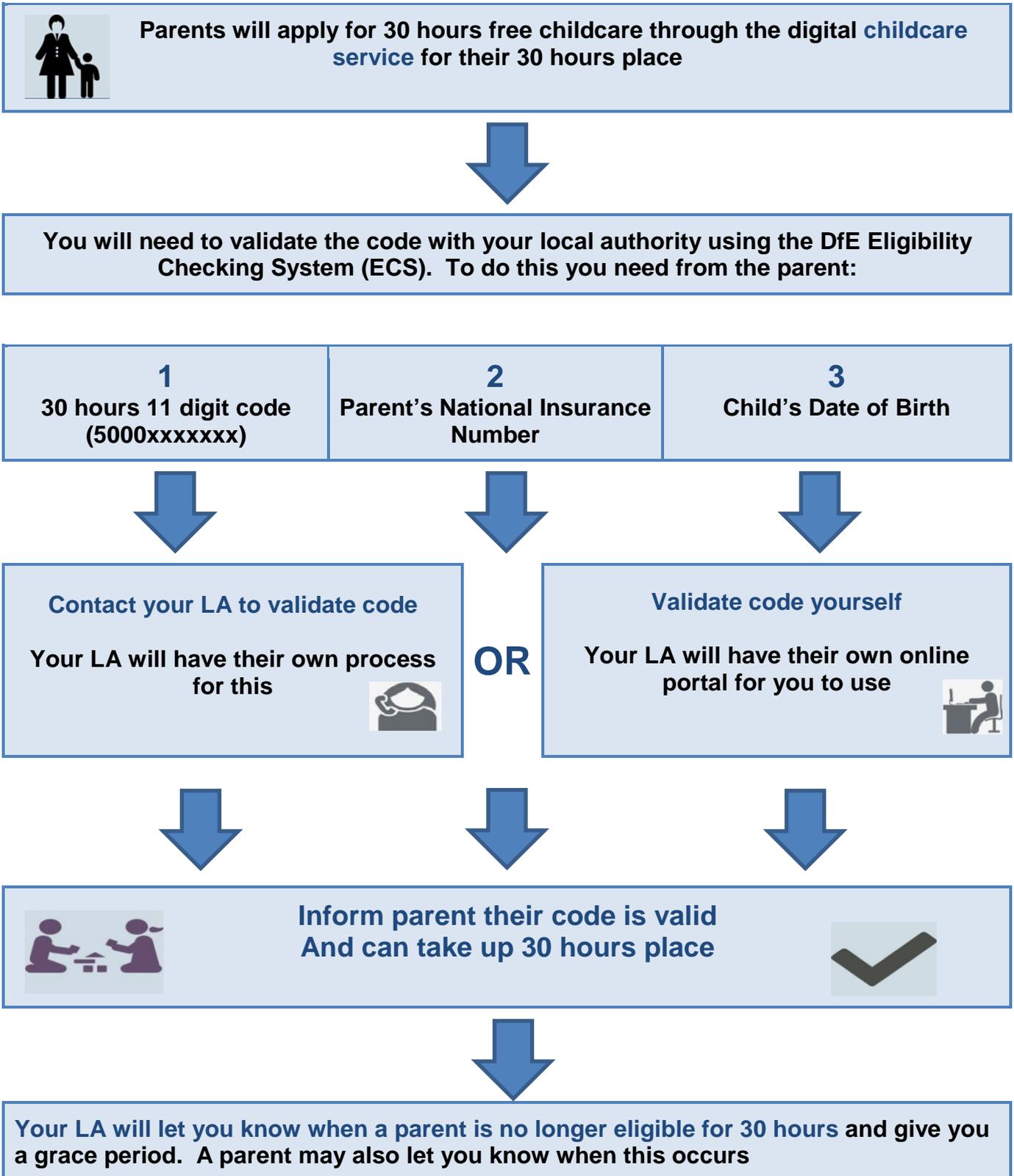
**4.20.** BHCC will notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date, following the audit check dates as set out in the table above. It is good practice for a provider to notify parents within five working days if they have fallen out of eligibility.

**4.21.** Children **must not start** an extended entitlement place at new a setting during their grace period. This includes where a parent falls into their grace period before the child has started their extended entitlement, and where a parent falls into their grace period while their child is in an extended entitlement place and the parent seeks to move the child to a different provider. There are exceptional circumstances where a child may be able to change providers during their grace period, as outlined in the [Operational Guidance](#).

4.22.

**Flow Chart for 30 hours extended entitlement checking process**

**DfE Provider Guide to checking validity of 30 hours eligibility codes**



## **5. Flexibility**

**5.1.** Providers should offer parents their full entitlement of EYFE (providing they have space available) which is:

- 15 or 30\* hours a week for 38 weeks a year, or
- 570 or 1140\* hours a year if stretched and offered all year round  
\*(for three and four year olds eligible for 30 hours extended entitlement)

**5.2.** BHCC encourages providers to offer flexible packages of EYFE, subject to the following standards:

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

**5.3.** Providers should ensure that, where it is reasonably practicable, children are able to take up their EYFE in continuous blocks and avoid artificial breaks being created throughout the day, for example over the lunch period.

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

**5.5.** A parent may choose to have fewer EYFE hours for their child. Providers may offer to increase gradually the hours for the child as they settle into the setting or get older, but they must make it clear to the parent where this will not be possible, for example if there are no sessions available if and when the parent wants to increase the hours.

**5.6.** Providers may enable parents to stretch their child's EYFE by taking fewer hours a week over more weeks of the year.

**5.7.** Providers should work with BHCC and share information about the times and periods at which they are able to offer EYFE, to support BHCC to secure sufficient stretched and flexible places to meet parental demand in the city. Providers should show BHCC that they can offer parents the option of accessing their EYFE '**stand-alone**' without the need to purchase any additional hours through submission of their **Annual Core Offer**.

**5.8.** Providers should make information about their EYFE offer and admissions criteria available to parents (through publicity materials, website, for example) at the **point the child first accesses provision** at their setting.

**5.9.** Providers should make parents aware of notice periods if the parent wishes to remove their child from their setting. Providers can only claim funding when the child attends; EYFE will not be paid by BHCC for any notice periods if a child has left a setting.

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**5.10.** Providers should ensure that notice periods are reasonable for parents if they wish to withdraw their child from EYFE. A reasonable notice period is not more than one month. Providers should make parents aware of notice periods.

**5.11.** A parent may choose to have any of the free entitlements at more than one provider or on more than one site, (although not more than two sites in one day, see 5.2 above). Providers should work in partnership with other providers and parents to ensure continuity of care and effective transitional arrangements to support children's learning and wellbeing (for example sharing child development records and the two year progress check). Where a child is attending more than one setting providers must ensure that they work together to confirm that there is clarity and agreement regarding the EYFE claim.

**5.12.** Where a child is accessing their EYFE at more than one provider or at more than one site (either term-time or 'stretched' or a mixture of both), funding must be **claimed** (by each provider) on a term-time only basis, and 'self-stretch' if required. (See BHCC guidance 'claiming stretched funding via Synergy' on BHCC webpages).

## **6. Partnership Working**

**6.1.** BHCC supports partnership working on four levels between:

- BHCC and providers
- Providers working with other providers, including childminders, schools and organisations
- Providers and parents
- BHCC and parents

**6.2.** BHCC encourages partnership working between different types of early years providers, including childminders, across all sectors and encourages providers to offer flexible provision, alongside other providers.

**6.3.** Providers should work in partnership with parents and other providers to improve provision and outcomes for children in their setting. An [interactive toolkit](#) has been developed to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring.

**6.4** Providers should discuss and work closely with parents to agree how a child's overall care will work in practice when their EYFE is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.

## **7. Special Educational Needs and Disabilities (SEND)**

**7.1.** Providers must provide BHCC with their inclusion policy upon request and must ensure that they meet the needs of children with SEND. They must have regard to the [Special Educational Needs and Disability Code of Practice 0 – 25 years](#) and the [Equality Act 2010](#).

**7.2.** BHCC's [Local Offer](#) details the support on offer to children with SEND who live in

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Brighton & Hove, and how parents and providers can access support.

**7.3.** Providers 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.

**7.4.** Providers should work with Brighton & Hove Inclusion Support Service (BHISS) to ensure that individual children's needs are met. In addition providers may be required to resubmit their inclusion policy for approval by BHCC when there is any change to statutory or to other local requirements.

**7.5** Providers should collect information from parents about their eligibility for Disability Living Allowance and therefore for the Disability Access Fund (DAF) on the Parental EYFE Declaration Form (Appendix 1). The DAF is a one-off annual payment of £615 for three and four year olds to help them access their EYFE. If a child changes setting during the academic year the DAF will remain with the original setting. Providers should refer to separate DAF guidance available on our webpage [Providing the EYFE for Two, Three and Four Year Olds](#).

## **8. Equalities, Social Mobility and Disadvantage**

**8.1.** Providers must ensure that they act in accordance with the [Equality Act 2010](#) which outlaws discrimination, harassment and victimisation. The Act applies to a number of 'protected characteristics' including sex, race, disability, religion or belief and sexual orientation. In addition, providers should apply the principles of equality and justice in delivering EYFE. In order to assist BHCC in meeting its public sector equality duty, providers must ensure that parents complete equalities monitoring information as requested by BHCC (see Appendix 1 Parental Declaration form).

### **Early Years Pupil Premium (EYPP)**

**8.2.** Providers should ensure that they have identified the disadvantaged children in their setting as part of the process for checking EYPP eligibility, including working with parents of children eligible because they are looked after or have left the care of the local authority through adoption or special guardianship. They will also use EYPP to improve outcomes for these children. Further information about EYPP can be found on our webpage [Early Years Pupil Premium](#).

### **Statutory Two Year Progress Check**

**8.3.** Providers must ensure that the statutory two year progress check is carried out in accordance with the [Statutory Framework for the Early Years Foundation Stage \(EYFS\) 2017](#).

### **English as an Additional Language**

**8.4.** Support for English as an additional language (EAL) is available, as assessed by the [Ethnic Minority Achievement Service \(EMAS\)](#), again depending on the child's needs. Providers should work with EMAS to ensure that children's individual needs are met.

## **9. Quality**

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

**9.2.** In order to provide **EYFE for two, three and four year olds** providers must deliver the full Early Years Foundation Stage (EYFS)<sup>1</sup> and be registered with Ofsted as an early years provider or be a maintained school taking children aged two and over and therefore exempt from registration with Ofsted as an early years provider.

**9.3.** BHCC will fund places for two, three and four year old children at any provider judged 'good' or 'outstanding' by Ofsted and the provider is willing to accept BHCC funding requirements as set out in this agreement.

**9.4.** BHCC will fund places for three and four year old children at any provider judged 'requires improvement' by Ofsted. The provider must work with BHCC to address actions highlighted in the Ofsted report in order to meet funding requirements as set out in this agreement.

**9.5.** BHCC will only fund places for two-year-old children where a setting is rated 'requires improvement' where there is not sufficient, accessible 'good' or 'outstanding' provision, and where it is satisfied that there are no concerns regarding children's welfare or safeguarding.

**9.6.** BHCC will fund places for two, three and four year old children at new providers registered with Ofsted until the provider's first full Ofsted inspection judgement is published and the provider is willing to accept BHCC requirements as set out in this agreement. Following publication of their Ofsted inspection judgement the conditions in paragraphs 9.3, 9.4, 9.5 and 9.12 will apply.

**9.7.** BHCC will fund providers with exemptions from the EYFS if a parent wants their child to take up their EYFE at an exempt provider and the provider is willing to accept BHCC requirements as set out in this agreement.

**9.8.** BHCC will fund individual children who have exemptions from the EYFS.

**9.9.** BHCC is not required to fund places at providers who do not meet the quality standards set out above but may choose to do so to ensure sufficiency of EYFE places.

**9.10.** BHCC will rely solely on the Ofsted inspection judgement of the provider as the benchmark of quality.

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

**9.12.** BHCC will fund providers with an Ofsted inspection judgement of 'met' until their Ofsted

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<sup>1</sup> Early years providers prescribed in the regulations are providers who are under a duty (set out in section 40 of the Childcare Act 2006) to deliver the EYFS (established under section 39 of the 2006 Act).

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quality inspection judgement is published. BHCC will not fund providers with an Ofsted inspection judgement of 'not met'.

**9.13.** BHCC will secure alternative provision and withdraw funding from a provider, as soon as is practicable, when Ofsted publish an inspection judgement of 'inadequate'. When withdrawing funding, BHCC will take into account the continuity of care for children who are already receiving their EYFE at a provider and the Ofsted report and monitoring information about the provider. If funding is withdrawn providers will not be able to offer EYFE again until they have had a new Ofsted inspection judgement which is not inadequate. In this situation providers **must** let any parent who has a child on their waiting list know that they will not be able to take their EYFE at the setting.

**9.14.** BHCC will not withdraw funding from providers until the provider's Ofsted inspection judgement is published.

**9.15.** BHCC will consider any information published by Ofsted about a provider including the recent history about childcare provision by a particular provider or childcare provision at a particular address. This may include, for example, where BHCC has concerns that a provider judged 'inadequate' by Ofsted may have re-registered their setting with Ofsted to avoid making the quality improvements identified by Ofsted.

## **10. Funding**

### **EYFE for Three and Four Year Olds**

**10.1.** BHCC funds EYFE for three and four year olds in accordance with the [Early Years National Funding Formula](#).

BHCC's local funding formula for 2019/20 is set out here [Early Years Single Funding Formula \(EYSFF\)](#). Details of the BHCC formula and the funding rates are sent to providers in March and are available on our webpage [Providing the EYFE for Two, Three and Four Year Olds](#).

**10.2.** BHCC issues each provider an indicative budget at the beginning of the financial year which broadly reflects anticipated participation. Individual budgets can be adjusted within the financial year to reflect participation based on actual (headcount) and estimated EYFE hours submitted by providers via the on-line provider portal.

### **EYFE for Eligible Two Year Olds**

**10.3.** The hourly rate for EYFE for eligible two year olds for 2019/20 is £5.20 per hour.

### **Payment of EYFE Funding**

**10.4.** Payment by BHCC is made to providers each term in two instalments.

**10.5.** The first instalment is based on the total **estimated EYFE** hours for that term. The estimate for EYFE for three and four year olds, is based on actual EYFE hours at the provider in the same term the previous year; the estimate for EYFE for two year olds is based on information providers give to BHCC the previous term about eligible children attending or starting with them. The payment is 75% of the total estimated EYFE hours and is made at the beginning of each term.

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**10.6.** The second instalment is based on **actual EYFE** hours provided to BHCC through the on-line provider portal in the termly headcount. This balancing payment is made after half term, enabling any adjustments to be made, for example if actual hours differ from the estimate.

**10.7.** Where a provider is in a 'recovery' position following the termly headcount (i.e. they have overestimated their claim for that term at its start) BHCC will inform the provider as soon as possible how the funding over claim will be recovered and will liaise with BHCC's Corporate Collection Team as appropriate. Where possible, BHCC will recover over-claims from the next funding payment due. BHCC will not normally make estimate payments to a provider where the amount they owe from the previous term exceeds their estimate.

**10.8.** If BHCC are notified by the Corporate Collection Team of continued outstanding debt relating to recovery of EYFE funding, any funding claims from that provider (estimate or balancing) will be suspended until the outstanding debt is cleared.

**10.9.** BHCC will only pay funding for the extended entitlement for three and four year olds from the start of the term after both of the following conditions are satisfied (1) the child's has attained the age of three (2) the child's parent has a current positive verification of eligibility from HMRC. If a child is taking up their universal entitlement and a parent becomes eligible for the extended entitlement part way through a term, the provider can start claiming funding for additional hours the term following the date on which the parent received their verified code.

**10.10.** All providers must use the on-line provider portal to provide BHCC with information regarding children's attendance and EYFE hours. Up to date guidance is forwarded each term from BHCC which providers must follow.

### **Change of Attendance**

**10.11.** Providers must notify BHCC as soon as possible of any change to a child's EYFE attendance, i.e. joining, leaving or changing hours. This must be done via the on-line provider portal 'adjustments' section, following guidance from BHCC.

**10.12.** Providers must return any remaining EYFE funding to BHCC when a child leaves their setting before the end of term.

**10.13.** Providers will only receive adjustment funding for any EYFE change of attendance that has been notified to BHCC **during the term in which it takes place.**

**10.14.** Providers must notify BHCC if a child is absent for a period of more than three weeks. EYFE funding will not be withdrawn if there is a legitimate reason for the child's absence.

### **Additional Support**

**10.15.** Additional funding support for inclusion of children with SEND may be available for EYFE hours, as assessed by Brighton and Hove Inclusion Support Service (BHISS).

## **11. Reporting**

### **Headcount and Census**

**11.1** Providers must submit termly headcount information regarding actual attendance to support payment and delivery of EYFE. For 2019/20 headcount dates will (provisionally) be:

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- 3<sup>rd</sup> October 2019
- 16<sup>th</sup> January 2020
- 14<sup>th</sup> May 2020

**11.2.** All providers are required to make their termly headcount submissions via the on-line provider portal, following guidance from BHCC. Providers should claim for eligible children attending with them during headcount week each term.

**11.3.** BHCC reports annually to the DfE regarding take up of EYFE in the January census. Providers must submit timely and accurate headcount and census returns, including required census information about their setting, for example opening hours, qualifications of staff.

**11.4.** Providers must comply with all BHCC deadlines for required information including but not limited to headcount data, census data and parental declarations. **Failure to do so may result in inaccurate, delayed or suspended EYFE funding.** BHCC reserves the right to charge providers for providing late or incomplete information which leads to additional administration in processing EYFE. Any charges will be reasonable and proportionate to the inconvenience or costs incurred by BHCC.

**11.5.** Providers should maintain accurate financial and non-financial records relating to EYFE places and should give BHCC access on reasonable notice to all financial and non-financial records relating to EYFE places funded under this provider agreement.

## **12. Charging**

**12.1.** Government funding is intended to cover the cost to deliver 15 or 30 hours a week of free, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or additional services.

**12.2.** Providers can charge for meals and snacks as part of an EYFE place and they can also charge for consumables such as nappies or sun cream and for services such as trips and musical tuition. Parents should therefore expect 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 EYFE 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. Providers should be particularly mindful of the impact of additional charges on the most disadvantaged parents.

**12.3.** Providers should deliver the EYFE 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. Parents should not have to reserve a place each term.

**12.4.** BHCC 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 EYFE. Providers should be completely transparent about any additional charges.

**12.5.** Providers can charge parents a deposit to secure their child's EYFE but should refund the deposit in full to parents within a reasonable time scale following the child starting at the setting. Provider should make arrangements regarding deposits clear to parents.

**12.6.** Providers **cannot** charge parents 'top-up' fees (any difference between a provider's usual fee and the funding they receive from BHCC to deliver EYFE) or require parents to pay a registration fee as a condition of taking up their child's EYFE.

**12.7.** Providers should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their EYFE completely free of charge and understand fees paid for additional hours, services, meals or consumables. Providers should also ensure that invoices and receipts contain their full details so that they can be identified as coming from a specific provider.

### **13. Admissions**

**13.1.** Providers can set their own criteria for the admission of children, providing they comply with relevant equalities and non-discriminatory legislation.

**13.2** Providers should ensure that their admissions information is clear and accessible for parents, and publish the number of stand-alone 15 and 30 hour places they offer (if there is any limit on these) to enable parents to make an informed decision on where to access their EYFE.

**13.3.** Providers should ensure that they are clear and transparent about which hours/sessions can be taken as EYFE and this should be consistent for all parents taking up EYFE.

### **14. Compliance**

**14.1.** BHCC reserves the right to carry out spot check audits to ensure compliance with this provider agreement and to detect false claims. Providers must maintain all attendance and finance records for a period of six years.

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

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

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

**14.4.** Providers must comply with all environmental health legislation.

**14.5.** Providers should give BHCC and parents at least one month's notice in writing if they decide to stop offering EYFE.

**14.6.** If a setting closes part way through a funding period, BHCC requires providers to pay back unused EYFE funding to enable children to access their EYFE elsewhere.

**14.7.** Failure to pay back BHCC any monies owed within given deadlines will result in BHCC implementing its corporate debt recovery policy.

## **15. Termination and Withdrawal of Funding**

**15.1.** Before agreeing to fund a provider BHCC will consider any information published by Ofsted about that provider, including the recent history about childcare provision at a particular provider or childcare provision at a particular address.

**15.2.** Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in the termination of this agreement and withdrawal of EYFE funding.

**15.3.** BHCC may withdraw funding where there are concerns regarding a provider's financial viability; it also reserves the right to make payments in arrears rather than in advance. BHCC may also make payments in monthly installments.

**15.4.** BHCC may refuse to fund a provider if there are reasonable grounds to believe that they will not be able to meet all the terms and conditions of providing EYFE as set out in this agreement and in **section A3** of the Statutory Guidance: [Early Education and childcare, Statutory guidance for Local Authorities 2018](#).

**15.5.** BHCC will not waive the right to act to terminate or withdraw funding if it does not act immediately.

**15.6.** If funding is terminated or withdrawn the name of the provider will be removed from the FIS directory of childcare providers offering EYFE in Brighton & Hove.

**15.7.** If funding is withdrawn from a provider but the provider chooses to continue to offer free places to children, the provider **must make it clear and in writing to parents that their child does not have an EYFE place.**

**15.8.** BHCC may suspend payment of EYFE funding to a provider if it has not received all completed documentation as listed in **section 1.4** of this agreement.

## **16. Appeals Process**

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

**16.2.** Providers should write to Caroline Parker, Head of Early Years and Family Support, within ten days of receiving the letter rejecting them or removing them. Providers who wish to appeal against a decision to remove them will be allowed to do so before that removal is effected. If the provider is still unhappy they can write to BHCC's standards and complaints team or email [complaints@brighton-hove.gov.uk](mailto:complaints@brighton-hove.gov.uk) for information on how to do this.

## **17. Complaints Process**

**17.1.** 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 their EYFE in the correct way, as set out in this agreement and in [Early Education and Childcare Statutory guidance for Local Authorities](#).

**17.2.** If a parent is not satisfied that their child has received their EYFE in accordance with the legislation or as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities, and has not been able to resolve their concern directly with their provider, they should contact BHCC Family Information Service at [familyinfo@brighton-hove.gov.uk](mailto:familyinfo@brighton-hove.gov.uk). BHCC will investigate the parent's complaint and will ask the provider to provide information regarding the complaint within a specified timescale.

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

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To be completed by parent/carer of a two, three or four year old child eligible for Early Years Free Entitlement (EYFE) when the child starts their EYFE.

### 1. Child & Parent/ Carer Details

<b>Child's Legal Family Name:</b>															
<b>Child's Legal Forename(s):</b>															
<b>Name by which the child is known</b> (if different from above)															
<b>Child's Date of Birth</b>		<b>D</b>	<b>D</b>	<b>M</b>	<b>M</b>	<b>Y</b>	<b>Y</b>	<b>Gender</b>							
Proof of DoB Type (Birth certificate, Passport):								Recorded by: (staff member & date recorded)							
<b>Two Year Funding E number:</b> (if applicable)		<b>E:</b>		<b>30 hour eligibility code:</b> (if applicable) (eg.50012345678)											
<b>Parent/ Carer one</b>						<b>Parent/ Carer two</b>									
<b>Legal Family Name:</b>						<b>Legal Family Name:</b>									
<b>Legal Forename:</b>						<b>Legal Forename:</b>									
<b>Parental DOB</b>						<b>Parental DOB</b>									
<b>NI or NASS number</b>								<b>NI or NASS number</b>							
<b>Child's home Address:</b>								<b>Postcode</b>							
<b>Child's Ethnic Origin (please tick)</b>															
<b>White</b>						<b>Asian / Asian British</b>									
English/Welsh/Scottish/Northern Irish						Indian									
Irish						Pakistani									
Gypsy or Irish Traveller						Bangladeshi									
Any other white background please describe						Chinese									
<b>Black or Black British</b>						Any other Asian background, please describe									
Black Caribbean						<b>Mixed / Multiple ethnic group</b>									
Black African						White and Black Caribbean									
Other Black						White and Asian									
Any other Black/ Caribbean background, please describe						White and Black African									
						Any other mixed/multiple ethnic background, please describe									
<b>Other</b>															
Arab															
Other ethnic group please describe															

**2. Setting and Attendance details**

- You need to agree and complete a Declaration Form with **each setting** your child attends for their EYFE in order to ensure that funding is paid fairly between them.
- Your child can attend a maximum of two sites in a single day and if your child attends more than one setting we will distribute the funding appropriately between the settings.
- If your child is eligible for the extended 30 hour entitlement and is splitting this between more than one setting, please indicate in the table below where your child is having their universal ('15 hour') entitlement as setting A, and the extended entitlement as setting B

**My child is attending the following setting or settings:**

Setting Name(s) If <b>splitting</b> between more than one setting, please indicate below where your child is having their <b>universal</b> entitlement as <b>setting A</b> , and the <b>extended entitlement</b> as <b>setting B</b>		Please enter the total EYFE hours attended per day					Total number of EYFE <u>hours per week</u>	Number of EYFE <u>weeks per year</u> (e.g. 38, 48, 50, 51,52)
		MON	TUES	WED	THUR	FRI		
A								
B								
<b>Total <u>daily</u> EYFE hours attended</b>								
Start date of EYFE at setting A	<b>D</b>	<b>D</b>	<b>M</b>	<b>M</b>	<b>Y</b>	<b>Y</b>		
Start date of EYFE at setting B	<b>D</b>	<b>D</b>	<b>M</b>	<b>M</b>	<b>Y</b>	<b>Y</b>		

**3. Early Years Pupil Premium (EYPP)**

Additional funding may be available through the Early Years Pupil Premium (EYPP), paid to providers for the provision of extra support for children of families in receipt of certain benefits and children who are looked after or have left the care of the local authority through adoption or special guardianship. EYPP is used to improve teaching and learning facilities and resources so as to impact positively on your child's progress and development. For more information please speak to your childcare provider.

<ul style="list-style-type: none"> <li>• I wish my childcare provider to claim EYPP for my child</li> <li>• I confirm my agreement for them to use information supplied by me on this form</li> <li>• I will provide evidence of eligibility where necessary, e.g. copy of the adoption certificate or a copy of the special guardianship/residence order</li> </ul>	
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**4. Disability Access Fund (DAF) Declaration**

If your child is three or four, is receiving [Disability Living Allowance \(DLA\)](#) and is receiving EYFE he or she is eligible for the Disability Access Fund (DAF). DAF is paid to your child's early years provider. The purpose of DAF is to support providers to make reasonable adjustments and build the capacity of their setting to support children with disabilities.

Is your child eligible for and in receipt of Disability Living Allowance (DLA)?	Yes		No	
If your child is splitting their EYFE across two or more providers please nominate the setting where you would like the local authority to pay the DAF				

**5. Parent/Carer/Guardian with legal responsibility declaration:**

- **Declaration:** (name).....
- **Of (address)** .....  
.....
- I confirm that the information I have provided above is accurate and true. I understand and agree to the conditions set out in this document and I authorise the early years/childcare setting named at the beginning of this declaration to claim EYFE funding as agreed above on behalf of my child.
- I understand that Brighton & Hove city council will check the information I provide with neighbouring local authorities to check that I am not over-claiming EYFE for my child
- I agree that the information I have provided can be shared with Brighton & Hove City Council (BHCC) and Department for Education (DfE), who will access information from other government departments to confirm my child’s eligibility for the two year old, or three and four year old extended entitlements and enable this early years/childcare setting to claim Early Years Pupil Premium (EYPP) or Disability Access Fund (DAF) on behalf of my child.
- I understand that their EYFE is a maximum of 15 (or 30 if eligible) hours a week, 38 weeks a year.
- I understand that the EYFE may be stretched across the whole year for a total of 570 (or 1140 if eligible) hours. If my child’s EYFE is stretched this will be for more than 38 weeks a year but for fewer than 15 (or 30 if eligible) hours a week.
- I understand that if my child attends more than one childcare setting (including a maintained school nursery class) their EYFE hours cannot exceed 570 (or 1140 if eligible) hours a year.
- I understand that if my child leaves their early years/childcare setting I must give the setting notice as required by their notice policy, and that I may be charged by the provider if I do not.
- I understand that this form will be made available by my early years/childcare setting to Brighton & Hove City Council (BHCC) upon request.
- I understand that I will have to complete a change of attendance form if my child’s EYFE hours vary from those outlined on this form.

Parent/Carer/Guardian with legal responsibility		Childcare Provider	
Signed		Signed	
Print name		Print name	
Date		Date	

## Appendix 1

# Early Years Free Entitlement (EYFE) Parental Declaration Form 2019/20

### **Privacy Notice**

Brighton & Hove City Council is the data controller for purposes of the Data Protection Act (2018) and the General Data Protection Regulation (EU) 2016/679 ('GDPR') and is registered as a data controller with the Information Commissioner's Office (ICO).

Brighton & Hove City Council is committed to protecting your personal information. As a data controller we have a responsibility to make sure you know why and how your personal information is being collected in accordance with relevant data protection law.

### **Purposes and Lawful Basis of Processing**

We are collecting your data for the purpose of

- checking your eligibility for the early years free entitlements
- enabling us to pay your early years provider for their provision of the early years free entitlement for your child, including any supplementary entitlements
- supporting your child's teaching and learning
- monitoring early years and childcare provision

We have a lawful basis for processing this data as we have a legal obligation under the Childcare Acts 2006 and 2016 (as amended).

We will process special category data regarding your child's ethnicity, disability (where applicable) and this will be done on the basis of Substantial Public Interest: processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued. Data may be used in accordance with the Equality Act 2010.

### **Who we will Share your Data with**

Your data may be shared with Brighton & Hove City Council's departments of Families, Children and Learning, and Finance and Resources in order to process data as outlined above. It will also be shared with the Department for Education as a requirement of their annual census collection.

The council operates shared services with Surrey County Council and East Sussex County Council, and may share your information with one of these partners if necessary to provide these services.

### **How Long we will Hold your Data (Retention)**

We will hold your data for six years following the term after your child's fifth birthday

### **Transferring Data outside the European Economic Area**

Your information is not processed outside the European Economic Area.

### **Your Information Rights**

Under GDPR you have certain rights concerning your information. For further information on your rights visit [our website](#).

### **Further information**

If you would like to discuss this further please contact our Information Governance Team on 01273 295959 or [data.protection@brighton-hove.gov.uk](mailto:data.protection@brighton-hove.gov.uk)

The council also has a Data Protection Officer, who can be contacted via:

<https://www.brighton-hove.gov.uk/dpo>

You can also contact the ICO for further information or to make a complaint:

Information Commissioner's Office

Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Phone: 0303 123 1113 (local rate) or 01625 545 745 if you prefer to use a national rate number

[Email ICO](#)

[Report a concern on the ICO website](#)