

Suffolk Agreement for List of Provider Members

**Early years provision of funded
childcare**

2024-2025

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Section 1: Overview

1.1. This agreement adheres closely to the model agreement from the Department for Education (DfE) which sets out the department's expectations regarding what should be included in agreements between local authorities and providers (provider agreements) and refers to early years provision (sections 7 and 7A of the Childcare Act 2006) and funded childcare (section 2 of the Childcare Act 2016) as the 'funded entitlement(s)' or 'funded hours' or a 'funded place'.

1.2. The agreement applies to the:

- 15 hour entitlement for the most disadvantaged two year olds (disadvantaged/non-economic 2 year olds entitlement)
- 15 hour entitlement for parents of 3 and 4 year olds (the universal entitlement)
- working parent entitlements, which include:
- 30 hour entitlement for eligible working parents of 3 and 4 year olds
- introduction of new entitlements for eligible working parents:
 - From April 2024, the 15 hour entitlement for children aged 2 years of working parents
 - From September 2024, the 15 hour entitlement for children aged 9 months of eligible working parents
 - From September 2025, the 30 hour entitlement for children aged 9 months to 4 years of eligible working parents

1.3. The DfE model agreement on which this is based was developed in partnership with early years providers and local authorities. It is intended to bring greater consistency to provider agreements across all local authorities and all types of providers.

1.4. The department expects the standard headings and wording provided in Section 2 to be used in all provider agreements. Local authorities then include further detail to set out local level process where indicated.

1.5. This document does not provide guidance on how providers operate their private businesses, including charges for provision over and above a child's funded hours. Local authorities should 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 funded place.

1.6. This agreement will be kept under review and updated as necessary.

Who is the agreement for?

1.7. This agreement is for:

- Suffolk County Council referred to as SCC.
- Early years providers who are referred to as 'providers' and include:
 - Early years providers and childminders registered on the Ofsted Early Years Register;
 - Childminders registered with a childminder agency that is registered with Ofsted;
 - Schools taking children aged two and over which are exempt from registration as an early years provider.

Supplementary provisions

1.8. This agreement sets out the department's expectations. what should be included in provider agreements for delivery of the funded entitlements. It is not otherwise intended to replace, supersede or negate the requirements or expectations set out in legislation, other published statutory guidance and government advice and using this agreement does not prevent SCC from exercising its statutory powers to include other requirements.

1.9. SCC and providers must comply with all relevant legal obligations.

1.10. SCC has developed the provider agreement in line with SCC legal advice, and includes the following provisions:

- A right to unilaterally vary the agreement to reflect changes in legislation and guidance from the Department for Education (DfE)
- References to legislation will apply to that legislation as amended, without significant changes to the provider agreement.
- Freedom of Information (FOI) provisions.
- Termination and enforcement clauses, to cover all enforcement stages up to and including termination of the agreement. SCC does not waive the right to act if it does not act immediately (a slower evidence based approach may be required on occasion).
- An obligation to comply with all relevant legislation.
- Provisions for dealing with data protection and confidentiality.
- An obligation to take out and maintain adequate levels of insurance.
- Provisions dealing with how funding must be accounted for and recorded for audit purposes.
- A clear process for resolving any disputes.

1.11. SCC cannot impose requirements which subject the quality of the early years provision, or services provided by a childminder agency, to a quality assessment process by SCC; or require the provider to attend any training or other quality improvement program, other than any training or quality improvement program identified in an early years provision inspection report.

Legal framework and statutory guidance

1.12. The following frameworks and legislation underpin this agreement:

- Department for Education (DfE) Early Education and childcare, Statutory guidance for Local Authorities (April 2024)
- Childcare Act 2006
- Childcare Act 2016
- Equality Act 2010
- School admissions code 221
- Early Years foundation stage statutory framework for group and school based providers (January 2024)
- Early Years foundation stage statutory framework for childminders (January 2024)
- Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2018
- The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2022
- Special educational needs and disability code of practice: 0 to 25 years 2015
- Data Protection Act 2018

Section 2: Provider agreement requirements

2.1. SCC is required to have due regard to the DfE model agreement in the exercise of their duty under s7(1) of the Childcare Act 2006 and regulation 39 of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016.

Key local authority responsibilities

2.2. SCC must secure a funded entitlement place for every eligible child in their area.

2.3. SCC will work in partnership with providers to agree how to deliver funded entitlement places.

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

2.5. SCC must contribute to the safeguarding and promote the welfare of children and young people in its area.

Key provider responsibilities

2.6. The provider must comply with all relevant legislation and insurance requirements.

2.7. The provider should deliver the funded entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the provider should 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 the funded entitlements should receive the same quality and access to provision.

2.8. The provider must follow the EYFS and have clear safeguarding policies and procedures in place that link to SCC guidance for recognising, responding, reporting, and recording suspected or actual abuse. For more details see the link:

www.suffolkscb.org.uk/

2.9. The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN High Needs Funding, Inclusion Funding and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.

Safeguarding

2.10. SCC has overarching responsibility for safeguarding and promoting the welfare of all children and young people in its 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' guidance¹.

2.11. The provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A lead practitioner must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. The provider must have regard to 'Working Together to safeguard Children' guidance.

<https://www.gov.uk/government/publications/early-education-and-childcare-->

1. [Working together to safeguard children - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/early-education-and-childcare--)

2.12. The provider must complete and return an annual Early Years Safeguarding Self-Assessment as outlined in the early years and childcare section of the Suffolk Safeguarding Partnership <https://suffolksp.org.uk/working-with-children-and-adults/children/early-years-and-childcare/>

Eligibility

2.13. For all funded entitlements the provider should check original copies of documentation to confirm a child has reached the relevant age on initial registration for all free entitlements. The provider can retain paper or digital copies of documentation to enable the local authority to carry out audits and fraud investigations. Where a provider retains a copy of documentation this must be stored securely and deleted when there is no longer a good reason to keep the data. SCC does not require providers to retain copies of date of birth documents, reference numbers are adequate for proof of eligibility. Please refer to the data privacy guidance set out in Annex A: Parent declaration, part 6.

2.14. The provider should offer disadvantaged 2 year old places on the understanding that the child remains eligible until they become eligible for the universal entitlement for three and four year olds. Once a child is eligible for disadvantaged 2 year old funding they remain eligible regardless of any changes to the parents' personal/economic circumstances.

2.15. SCC must ensure that a child has a funded entitlement place no later than the beginning of the term following the child's birthday and the parent meeting the eligibility criteria for the funded entitlement.

2.16. Alongside the eligibility code, which is the child's unique 11-digit number, and recorded date of birth evidence, a provider must acquire written consent by completion of a SCC Parent Authorisation Form (PAF) from, or on behalf of, the parent to be able to receive confirmation and future notifications from SCC of the validity of the parent's eligibility code via the provider portal.

2.17. Once a provider has received written consent from the parent, they should verify the eligibility code with SCC through the Provider Portal Expanded/Extended Hours Checker. Guidance on doing this can be found here: [Expanded/Extended Hours Checker Guidance – Suffolk Learning](#)

2.18. SCC will confirm the validity of eligibility codes to allow providers to offer funded places for eligible children aged 9 months (from September 2024) and above. SCC uses the Provider Portal to provide a validity checking service to providers to enable them to verify eligibility codes. The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity.

2.19. Thereafter, SCC will complete audit checks via the Provider Portal to review the validity of eligibility codes for children who qualify for the working parent entitlement. The Provider Portal informs the provider where a parent has fallen out of eligibility and will inform them of the grace period end date. See 2.22 for SCC process.

The Grace Period

2.20. A child will enter the grace period when the child's parents cease to meet the eligibility criteria set out in the Childcare (Free of charge for Working Parent) (England) Regulations 2022, as determined by HMRC (or where the child is in foster care, the responsible local authority) or a First Tier Tribunal in the case of an appeal.

2.21. SCC will access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.

2.22. SCC will continue to fund a place for a child who enters the grace period as set out in the DfE Early Education and Childcare Statutory guidance for Local Authorities 2023.

2.23. The SCC Provider Portal will continue to allow providers to claim for children in the grace period if they have previously claimed expanded/extended hours funding with the provider. Children cannot claim expanded/extended hours for the first time with a provider if their code has expired and they are in their grace period.

Flexibility

2.24. Provision must be offered within the national parameters on flexibility as set out in Section A2 of DfE Early Education and Childcare Statutory guidance for Local Authorities. [Early education and childcare - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/early-education-and-childcare)

2.25. The provider should work with SCC and share information about the times and periods at which they are able to offer funded entitlements to support the local authority to secure sufficient stretched and flexible places to meet parental demand in Suffolk. The provider should also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting.

2.26. Where parents would like to take up their funded entitlement at multiple providers, all involved providers will need to make sure that the SCC Parent Authorisation Form (PAF) has been completed fully by the parents and includes details of the hours taken at each setting.

When multiple providers' claims total more than the maximum number of available hours per week (15 universal and 15 extended) this will be treated as an overclaim. If this happens all the hours will be removed from each of the providers' claims. The providers will be notified of this by email. To resolve an overclaim, the providers will then need to find out from the parents the number of hours from their entitlement they wish to claim at each setting and contact the other providers involved to confirm this. The providers will be able to resubmit their claims with the correct number of hours on the additional headcount task later in the term.

Partnership working

2.27. Partnerships will be supported by SCC on four levels between:

- i. SCC and providers
- ii. Providers working with other providers, including childminders, schools and other organisations
- iii. Providers and parents
- iv. SCC and parents

2.28. SCC 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.

2.29. The provider should work in partnership with parents, carers, and other providers to improve provision and outcomes for children in their setting. An interactive toolkit² 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.

2.30. 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, such as at a maintained setting and childminder, to ensure a smooth transition for the child.

²<https://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>

Special educational needs and disabilities

2.31. SCC will strategically plan support for children with special educational needs and/or disabilities (SEND) to meet the needs of all children in its local area as per the Special Educational Needs and Disability code of practice: 0 to 25 years³ (January 2015).

2.32. The provider must ensure owners and all staff members are aware of their duties in relation to the SEND Code of Practice and the Equality Act 2010.

2.33. SCC will be clear and transparent about the support on offer, through its Local Offer, so parents and providers can access that support.

2.34. 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.

³<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

Supporting disadvantaged children

2.35. SCC promotes equality and inclusion, particularly for disadvantaged families, children in care and children in need by removing barriers of access to funded places and working with parents to give each child support to fulfil their potential.

2.36. The provider should ensure that they have identified the disadvantaged children in

their setting. They will use EYPP and any locally available funding streams or support to improve outcomes for this group.

2.37. From April 2024, there may be some circumstances where households meet the eligibility criteria for both the disadvantaged two-year-old entitlement and the working parent entitlement. In these circumstances, the childcare should be provided under the disadvantaged 2-year-old entitlement. The child will remain on the disadvantage entitlement until they become eligible for the universal entitlement for 3- and 4-year-olds or 30 hours free childcare for 3- and 4-year-olds if they meet the eligibility criteria. Therefore, households will not lose eligibility for their 15 hours free early education, as is currently the case for the disadvantage entitlement. From September 2025, when the working parent entitlement increases to 30 hours, where households meet the eligibility criteria for both 2-year-old entitlements, they should be recorded as taking up 15 hours of the disadvantage entitlement and 15 hours of the working parent entitlement. They will need to reconfirm eligibility every 3 months for the working parent entitlement and from September 2025, they will not be defaulted automatically onto the disadvantage entitlement should they lose eligibility for the working parent entitlement.

Quality

2.38. The Early Years Foundation Stage (EYFS) statutory framework is mandatory for all schools that provide early years provision and early years providers registered with Ofsted or with an Ofsted registered Childminder Agency 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.

2.39. Ofsted is the sole arbiter of quality for all funded entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.

2.40. SCC has a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.

2.41. Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of DfE Early Education and Childcare Statutory Guidance for Local Authorities and the EYFS statutory framework. For more information see Suffolk Agreement List of Providers Members Sections (Section F).

Business planning

2.42. SCC sets out the documentation it needs to receive from providers to support payment and delivery of funded entitlements and the timetable which providers should follow when submitting their documentation. This can be found on the funding page on [2, 3 & 4 Year old funding – Suffolk Learning](#). Information outlining the importance of completing timely and accurate census returns can also be found at this link.

2.43. SCC will not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of funded entitlements. Any charges will be reasonable and proportionate to the inconvenience or costs incurred to SCC as a result of the lateness. An administration charge of £35 is applied to all requests to process funding claims outside of the normal timescales. This

charge will apply to all funding streams. The charge amount will be kept under review. Any change to this will be communicated to providers.

2.44. SCC will not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.

2.45. The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data and census data as per the financial guidelines of SCC. Failure to do so may result in inaccurate, delayed, or suspended funding.

2.46. The provider should maintain accurate financial and non-financial records relating to funded entitlement places and should give SCC access to these records under the provider agreement, subject to confidentiality restriction.

Charging

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

2.48. The provider can charge for meals and snacks as part of a funded entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and musical tuition. Providers should be mindful of the impact of additional charges, especially the most disadvantaged parents. Where parents are unable to pay for meals and consumables, providers who choose to offer the funded entitlements are responsible for setting their own policy on providing parents with options for alternatives to additional charges including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals.

2.49. The provider should deliver the funded entitlements consistently so that all children accessing any of the funded entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.

2.50. SCC 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 funded place. The provider should be completely transparent about any additional charges.

2.51. The provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as funded provision. 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 are convenient for parents' working hours. The SCC PAF form will be taken as evidence of the parent's intention to access the hours claimed for. For parents who choose to 'stretch' their child's entitlement over more than 38 weeks of the year, a 'Stretched Offer Agreement' must be completed and signed by the parent/carer and must be attached to the SCC PAF and available for audit purposes. Any frequent and sustained differences will be explored.

2.52. The provider can charge parents a deposit to secure their child's funded place but should refund the deposit in full to parents within a reasonable time scale. SCC expects that providers will return any funded place deposit, paid by parents/carers once the provider has received payment from SCC for their first funding claim for the child.

2.53. The provider cannot require parents to pay a registration fee as a condition of taking up their child's funded place.

2.54. The provider cannot charge parents "top-up" fees (any difference between a provider's normal charge to parents and the funding they receive from SCC to deliver funded places) or require parents to pay a registration fee as a condition of taking up their child's funded place.

2.55. The provider should ensure their invoices, or alternative appropriate documents, and receipts are clear, transparent, and itemised, allowing parents to see that they have received their funded entitlement completely free of charge and understand fees paid for additional hours. The provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.

Funding

2.56. The provider should accurately complete and submit headcount tasks and other necessary data returns by the agreed date to support SCC to make payments.

Access to the portal and additional funding information and guidance can be accessed from the link below.

[2, 3 & 4 Year old funding – Suffolk Learning](#)

2.57. SCC will pay providers as follows:

Advance payment

SCC will aim to pay this by the end of the first week of each term.

For group providers advance payments will consist of 70% of the previous term's funding in Spring and Summer terms, and 50% in Autumn term.

For childminders do not automatically receive an advance. An advance can be requested by submitting an advance request form. Childminder advance payments will be calculated as 70% of the total predicted claim from information detailed on the form.

Balance payment for Headcount task

This will be paid within 30 working days of the closure of the headcount task for accurately completed claims. Balance payments will include EYPP funding.

Additional Headcount task payment

This will be paid at the end of term.

Providers will be able to claim for children starting with them later in the term using an additional headcount task. This task will be available after half term and will close two weeks before the end of term. The additional task can only be used to claim for children new to the setting who have not claimed their full early education entitlement anywhere else in Suffolk in the same term. It will not be possible to claim for children who join a provider in the last 2 weeks of a term.

Compliance

2.58. SCC can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the funded entitlements. If there are any concerns identified

during an audit SCC may repeat the exercise in subsequent terms.

Termination and withdrawal of funding

2.59. Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in the termination of the arrangement and withdrawal of funding.

2.60. SCC will remove settings from the Suffolk List of Providers if they are deemed non-compliant because they do not meet the full List of Providers requirements.

Re-admission will be dependent on the nature of the non-compliance. Full details are contained in section F of the full Suffolk List of Providers terms and conditions.

Appeals process

2.61. A provider may be denied approval to offer the funded entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision by putting their case in writing to the Assistant Director for Education, Skills & Learning at SCC who will consider the appeal.

Complaints process

2.62. The Provider 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 funded entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities. Parents who are not able to resolve such a concern directly with the provider can pursue their complaint by following SCC's corporate complaints process [Compliments and complaints - Suffolk County Council](#)

2.63. If a parent or provider is not satisfied with the way in which their complaint has been dealt with by SCC or believes SCC 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.

Information requirements for childcare provision

2.64. SCC has a legal duty to provide information, advice and assistance to parents/carers, and to update this information at regular intervals (currently at least three times each year). Providers are expected to cooperate with SCC in supplying key information about its provision so that this can be advertised to families by SCC including the council's Family Information Service.

Providers can choose from a range of options as to how their information is displayed and whether this is made available on the website.

2.65. SCC has a legal duty to provide sufficient childcare for all parents of eligible funded children. Providers are expected to cooperate with SCC in providing information that will support the development of places. In return, SCC will provide local data to help providers with business planning and forecasting demand for places.

2.66. SCC has a legal duty to provide a Local Offer including a directory of services and information to support families with children with special needs and disabilities (SEND).

Providers are expected to supply information about their offer to children with SEND to contribute to SCC's Local Offer for families.

Additional Explanatory Notes for Providers

Data Protection

Data from which it is possible to identify children is personal data. Such personal data must be managed in accordance with the requirements of the Data Protection Act 2018 (the Act) Data Controllers must ensure that their data handling rules comply with the Act and that staff understand these. Local authorities should advise providers about their responsibility to hold data in accordance with the Act including the requirement to issue parents with a fair processing notice explaining how their data and data about their child is to be used.

The Act puts in place safeguards regarding the use of personal data by organisations, including the department, local authorities and schools. The Act gives rights to those (known as data subjects) about whom data is held, such as pupils, their parents and teachers. This includes:

- the right to know the types of data being held
- why it is being held
- to whom it may be communicated

A 'privacy notice' is a good way to be able to meet data subjects' rights and therefore the department recommends that these are used to explain to children and staff how their data is being used in the census collections including the school workforce, early years census and school census. The department has drafted template [privacy notices](#) that providers and local authorities may wish to use. However, the template notices will need to be reviewed and, where necessary, amended to reflect business need. Ideally the privacy notice will include [this link](#) to the gov.uk webpage on how the department collects and shares data.

Suffolk County Councils Privacy notice is here www.suffolk.gov.uk/CYPprivacynotice

It is strongly recommended that the privacy notice be included as part of an induction pack for staff and made available to parents via the provider's website, as well as potentially featured on the staff notice board / intranet. They do not need to be issued on an annual basis as long as new children and staff are made aware of the notices and they are readily available electronically or in paper format.

Legal Duties under the Data Protection Act 2018 (the Act): data security

Providers and local authorities have a legal duty under the Act to ensure that personal data is processed securely. Processing is the collection, handling (use), storage, transmission and deletion of data. Further information is available from the [Information Commissioner's Office \(ICO\)](#)

If personal data is not properly safeguarded it could damage your reputation and compromise the safety of individuals. Your responsibility as a data controller / processor extends to those who have access to your data beyond your organisation if working on your behalf, that is, if external IT suppliers can remotely access your information. The '[10 steps to cyber security](#)' and '[Responsible for information](#)' pages provide further guidance and advice. It is vital that all staff with access to personal data understand the importance of protecting it; that they are familiar with your security policy; and that they put security

procedures into practice. It is recommended that you provide appropriate initial and refresher training. Further information on handling data securely is available in this guidance [Data protection in schools - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/data-protection-in-schools)