



Northumberland
County Council

Northumberland Local Code of Practice
April 2024

Early Years Funded Free Entitlement for
Early Education and Childcare



Early Years
Northumberland

Northumberland Local Code of Practice (NLCoP)

Free Early Years Entitlement

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Section 1 – Introduction

- 1.1 Providers must agree with and sign up to this Northumberland Local Code of Practice (NLCoP) to be placed on the Approved Provider list and receive associated funding.
- 1.2 Under the Childcare Act 2006 and Childcare Act 2016, English local authorities have a statutory duty to secure early years provision free of charge. Regulations made under Section 7 of the 2006 Act also sets out the type and amount of free provision and the children who benefit from free provision and how these duties should be discharged.
- 1.3 All children who meet the prescribed criteria can take up high quality early education, regardless of their parents/carers ability to pay; benefiting their social, physical and mental development and helping to prepare them for school. Evidence shows that regular good quality early education has lasting benefits for children.
- 1.4 This guide aims to help those Providers delivering free entitlements to understand the process in relation to:
 - a) The list of approved providers delivering the free entitlement
 - b) The financial arrangements for making payments for the free places provided
- 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 free entitlement.

Section 2 - Glossary of Terms

DAF	Disability Access Fund
DLA	Disability Living Allowance
DfE	Department of Education
EHCP	Education, Health and Care Plan
EYFS	Early Years Foundation Stage
EYPP	Early Years Pupil Premium
EYSFF	Early Years Single Funding Formula
FOI	Freedom of Information Act 2000
IDACI	Income Deprivation Affecting
LAC	Looked After Child
NLCoP	Northumberland Local Code of Practice (for Providers)
SEN	Special Educational Needs

Section 3 - Eligibility of Children

- 3.1 Children eligible (Appendix A) to receive the disadvantaged two-year-old free entitlement funding can do so for 570 hours, over at least 38 weeks of the year, from the start of the term following their second birthday.
- 3.2 Children eligible (Appendix A) to receive the working parents/careers' entitlement can receive 570 or 1140 hours, over at least 38 weeks of the year, from the start of the term following their eligibility beginning.
- 3.3 All 3 and 4 year old children are eligible to receive 570 hours universal free entitlement funding, over at least 38 weeks of the year, from the start of the term following their third birthday.
- 3.4 The provider should check original copies of documentation to confirm a child has reached the eligible age on initial registration for all free entitlements. The provider can retain paper or digital copies of documentation to enable Northumberland County Council (“the 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. Please refer to the data protection guidance set out from paragraph 5.42 of this Code of Practice.
- 3.5 Providers with children eligible to working parent entitlements MUST collect an eligibility code, which is the child’s unique 11-digit number from HMRC.
- 3.6 Providers with children where households meet the eligibility for 15 hours for disadvantage 2 year old entitlement MUST check eligibility via the Wizard before offering a place.
- 3.7 From April 2024, there may be some circumstances where households meet the eligibility criteria for both the disadvantaged 2 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.
- 3.8 A provider MUST acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from the Authority of the validity of the of all eligibility codes. The provider should use the parental declaration form which asks the parent for the necessary information and consents.
- 3.9 The Authority will confirm the validity of eligibility codes via the summary of checks within Wizard accounts to allow Providers to offer funded places for eligible children.
- 3.10 The Authority offers an eligibility checking service through a secure portal ‘The Wizard’ <https://earlyyears.northumberland.gov.uk/eligibilitychecker/>. The Wizard offers instant responses to accurately inputted information, including start and end dates when funding is available.

3.11 Thereafter, the Authority will complete audit checks to review the validity of eligibility codes for children who qualify for working families funded childcare. Results will be updated regularly and will be show in Wizard within summary of checks made (as a minimum in line with the dates as listed in table A below). This will allow providers to independently manage eligibility to funded childcare including when children enter grace periods and eligibility ends.

Please note: A parent can only access their entitlement to the additional hours the term after their eligibility has been established i.e. a parent who is confirmed eligible in October cannot access their additional hours until the following January.

TABLE A		
Date Parent Receives Ineligible Decision On Reconfirmation	LA (Local Authority) Audit Date	Grace Period End Date
1 st January – 10 th February	11 th February	31 st March
11 th February – 31 st March	1 st April	31 st August
1 st April – 26 th May	27 th May	31 st August
27 th May – 31 st August	1 st September	31 st December
1 st September – 21 st October	22 nd October	31 st December
22 nd October – 31 st December	1 st January	31 st March

The Grace Period

3.12 A child will enter the grace period when the child’s parents/carers 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.

3.13 The Authority 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 December 2023”.

3.14 Providers can track code dates via the summary of checks module in the Wizard.

3.15 Eligibility dates are as follows:

Children born in the period/eligibility established (30 hours)	Eligible from the start of the term on or following
1 st April – 31 st August	1 st September
1 st September – 31 st December	1 st January
1 st January – 31 st March	1 st April

3.16 Children moving to England from another country can access a place on the same basis as any other child in the Authority area, provided they meet the relevant eligibility criteria for their age.

3.17 Providers are asked to give priority to Looked After Children (LAC) when allocating places and when reviewing their admissions policy.

Section 4 - Flexibility

Children can take up their full entitlement to early education at times that best support their learning and at times which fit with the needs of parents/carers.

- 4.1 Providers can offer flexible packages of early education subject to the following standards:
 - a) No session longer than 10 hours
 - b) No minimum session length (subject to the requirements of registration on the Ofsted Early Years Register)
 - c) Not before 6.00am or after 8.00pm
 - d) Maximum of two sites in a single day, (this can include provisions with separate Ofsted registrations on the same site)
- 4.2 Parents/carers should be informed of their entitlement of 570 or 1140 hours of provision in a year of which they can take up as much or as little as they wish.
- 4.3 To ensure children can take up their entitlement in continuous blocks, providers should avoid artificial breaks being created throughout the day, for example over a lunch period.
- 4.4 Providers may choose to offer a 'stretched entitlement' which allows parents/carers to take up patterns of hours which stretch their child's entitlement by taking fewer hours per week over more weeks in the year.
- 4.5 Local partnership arrangements between settings may be incorporated to support the delivery of a flexible offer to enable parents/carers to access free hours to meet their needs and the needs of their child.
- 4.6 All funded providers must make their admissions policy available to parents/carers and to the Authority. Providers are free to set their own criteria for the admission of children, providing they comply with all relevant legislation in respect of equalities and non-discrimination. Parents/carers should not have to reserve a place each term.

Providers not delivering the Full Entitlement

- 4.7 There is an expectation that every provider will offer the full hours of a child's entitlement, however, there are cases where providers are unable to open for 15 or 30 hours a week or the full 38 weeks a year (e.g. independent schools open only 34 weeks of the year).

Parents/carers may choose to reduce their child's entitlement if they wish, however, if the Authority funds the full entitlement at a different provider, it is not under any obligation to offer the rest of the child's free entitlement elsewhere in these circumstances. Where providers offer a reduced entitlement which is less than 38 weeks it must be agreed with the Authority.

Staggered intake

- 4.8 It is recognised that there are logistical issues in relation to the intake of large numbers of children at the same time as each other, especially at the beginning of the autumn term. Nevertheless, settings receiving funding have a statutory obligation to offer the full 15 or 30 hours per week over the full 38 weeks to all eligible children.
- 4.9 Providers must agree an alternative delivery model with the Authority if unable to meet the core offer.
- 4.10 Where, for practical reasons, a provider wishes to offer a staggered intake, they must be aware that parents/carers need not accept the situation. In such cases, written agreement must be sought from the /carer in advance of the start of the term before depriving a child of their free entitlement. In cases where parents/carers agree to a staggered intake but would be financially disadvantaged by having to pay for childcare, the provider has an obligation to reimburse the parent/carer for their childcare costs.

Compulsory School Age

- 4.11 In accordance with the School Admissions Code, parents/carers can take up a place for their child in a maintained school reception class from the September following their child's fourth birthday. Where parents/carers wish to defer their child's entry to school until the term after their fifth birthday, their child will continue to be able to access their free entitlement at their chosen provision, until they reach compulsory school age. Parents/carers must discuss this course of action with the head teacher at the receiving school.

Section 5 - Quality

- 5.1 Evidence shows that higher quality provision has greater developmental benefits for children, particularly for the most disadvantaged children.
- 5.2 Providers should deliver the full Early Years Foundation Stage (EYFS) and be registered with Ofsted as an early years provider.
- 5.3 The decision to fund a provider to deliver early education places, is based solely on the provider's Ofsted inspection judgement. No separate assessments of the quality of the provider will be made by the Authority.

The Authority will as far as possible:

- 5.4 Fund places for eligible disadvantaged 2 year olds attending any provider rated 'good' or 'outstanding' by Ofsted or at any childminder registered with a childminder agency judged 'effective' by Ofsted, if a parent wants their child to take up their free place at that provider and the provider is willing to accept the Local Authority funding and any other Local Authority requirements.
- 5.5 Fund places for children eligible for the universal or working parent entitlements at any provider judged 'requires improvement' or better by Ofsted or at any childminder or childcare provider registered with a childminder agency judged 'effective' by Ofsted, if a parent wants their child to take up their free place at that provider and the provider is willing to accept the local authority funding and any other local authority requirements.
- 5.6 Fund places for children eligible for a free place at new Providers registered with Ofsted until the provider's first full Ofsted inspection judgement is published or at a childminder or childcare provider registered with an agency until the agency's first full Ofsted inspection judgement is published, if a parent wants their child to take up their free place at that provider and the provider is willing to accept the local authority funding and any other local authority requirements.
- 5.7 Secure alternative provision and reallocate funding, as soon as it is practicable for children who are already receiving their funded entitlement at a provider that is rated 'inadequate' by Ofsted.
- 5.8 Only fund providers who the Authority deems to provide an appropriate level of quality unless it is necessary to do so to ensure sufficiency of accessible places to meet the Authority's statutory duty.
- 5.9 Consider/investigate allegations and where appropriate, deny or withdraw funding from any providers whom it has reasonable grounds to believe:
 - is not meeting the standards within the Education (Independent School Standards)

Regulations 2014 in relation to the spiritual, moral, social and cultural development of pupils

- is not actively promoting fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs, or
- is promoting as fact, views or theories which are contrary to established scientific or historical evidence and explanations

5.10 Secure information, advice and training for early years childcare providers:

- Judged less than 'good' by Ofsted in their most recent inspection report
- Newly registered providers on the Early Years register who have not yet had an inspection report published

To cover the following areas:

- Meeting the requirements of the EYFS
- Meeting the needs of children with special educational needs and disabilities, vulnerable and disadvantaged children and
- Effective safeguarding and child protection.

5.11 Take appropriate action to improve the quality of provision at an Authority maintained school which has been judged by Ofsted to require significant improvement or has been placed in special measures.

- Reserves the right to unilaterally vary this agreement to reflect changes in legislation and guidance from the Department for Education (DfE), references to legislation will apply as amended, without significant changes to the agreement.

The Authority requires all funded Providers to:

5.12 Comply with all relevant legislation and insurance requirements.

5.13 Deliver the free entitlements consistently to all parents/carers, 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/carers details about the days and times that they offer free places, along with their services and charges. Those children accessing the free entitlements should receive the same quality and access to provision as those paying for provision.

5.14 Follow the EYFS and have clear safeguarding policies and procedures in place that link to the Strategic Safeguarding Partnership (SSP) and the Authority's guidance for recognising, responding, reporting and recording suspected or actual abuse.

- 5.15 Engage with the Authority and relevant partner agencies by seeking information and guidance when needed and acting on any resulting advice which supports improved outcomes for children.
- 5.16 Provide evidence of successfully attending all relevant training in line with the EYFS requirements. Training is available through Northumberland's Early Years SLA as well as various other sources.
- 5.17 Obtain necessary consents from parents/carers on enrolment for sharing of information with appropriate agencies.
- 5.18 Monitor children's attendance to funded education places and encourage good attendance, reporting reduced or non-attendance to the Authority as appropriate, following the guidance provided in the document at Appendix D.
- 5.19 Share appropriate information on 2 year olds and cooperate with health colleagues to carry out the integrated 2 year old review effectively.
- 5.20 Work in partnership with parents/carers and other providers to improve provision and outcomes for children in their setting. Support transition arrangements by sharing individual children's progress data with receiving providers via the School Readiness Passport.
- 5.21 Provide early education and childcare places in accordance with the NLCoP and all statutory requirements, including but not limited to, the requirements set out in the Childcare Act 2006 and Childcare Act 2016. Deliver the Early Years Foundation Stage in accordance with good practice and with all due skill, care and attention.
- 5.22 Inform the Authority promptly of any change in circumstances that will or may cause the provider to be unable to deliver the service.
- 5.23 Not transfer, assign or sub-contract, directly or indirectly any of its rights or obligations under the NLCoP, except with the written consent of the Authority. Where the Authority agrees to the provider sub-contracting the performance of any of its obligations, this shall not relieve the provider from any of its obligations or liabilities to the Authority.
- 5.24 Inform the Authority immediately of the outcome of any inspection by Ofsted and engage with the Authority to improve any concerns raised by Ofsted about the use of the Early Years Pupil Premium to support their disadvantaged children (see 6.17).

Funded Providers judged by Ofsted as: 'requires improvement', 'met', 'inadequate' or Providers with no judgment yet must:

5.25 Fully engage with the Authority to enable them to carry out their duties and functions by regularly monitoring the provision.

5.26 Promptly act on any advice which supports:

- a) addressing concerns raised by Ofsted at inspection
- b) improved outcomes for children

Type of Free Provision

5.27 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). These providers are either:

- a) on the Ofsted Early Years Register (as required by section 34(1) of the 2006 Act), or
- b) are schools which are exempt from registration on the Ofsted Early Years Register (pursuant to section 34(2) of the 2006 Act). Section 34(2) covers maintained schools, approved non-maintained special schools and independent schools.

5.28 The definition of childcare as set out in Section 20 of the Childcare Act 2006 specifically excludes care provided for a child by a parent/stepparent/foster carer (or any other relative including grandparents/carers, aunts and uncles etc.). Early education funding therefore cannot be claimed by childminders providing childcare for a relative, even if they are claiming for other children. **Childminders MUST not claim early education funding for relatives.** Where the Authority is made aware of such practice, all funding received will be reclaimed and the provider will be removed from the NLCoP.

5.29 The Early Years Foundation Stage (under Exemptions from Learning and Development Requirements) Regulations 2008, allow the Secretary of State, in certain circumstances, to grant exemptions to providers from all or part of the elements contained within the Learning and Development requirements, as set out in the EYFS. It also enables providers to exempt individual children from all or part of the learning and development requirements in certain circumstances.

5.30 The Authority will fund providers who have exemptions from the EYFS Learning and Development requirements if a parent wants their child to attend that provider.

5.31 The Authority will fund providers for children who have exemptions from the EYFS Learning and Development requirements.

5.32 The Authority will fund childminder agencies that are registered with Ofsted subject to the funding arrangements agreed between individual childminders the given Agency and the Authority.

Inclusion and SEN

- 5.33 Children with additional needs benefit from the highest possible care and education to enable them to achieve their full potential. For this reason, providers must have regard to the most recent Special Educational Needs Code of Practice and effectively meet the requirements of children with special educational needs (SEN) and disabilities.
- 5.34 Providers must have regard to the SEN requirements within the EYFS and act on them appropriately.
- 5.35 Providers should have regard to the Authority's guidance on early years inclusive practice and should give priority to children with additional needs when allocating places and when reviewing their admissions policy.

Safeguarding Children

- 5.36 Safeguarding and child protection is everyone's responsibility and the Authority recognises the importance of a professional approach to this by all providers and their staff. There are legal requirements in this area of work and providers must comply with these as well as Northumberland Guidance on Safeguarding Children for Early Years and Childcare Providers. <https://www.proceduresonline.com/nesubregion/index.html>
- 5.37 Funded providers must have clear safeguarding policies and procedures that clearly link to Northumberland guidance for recognising, responding, reporting and recording suspected or actual abuse.

Equality

- 5.38 The Equality Act 2010 outlaws' discrimination, harassment and victimisation and covers statutory and non-statutory early years organisations and provision. It applies to several "protected characteristics" including sex, race, disability, religion or belief and sexual orientation. The provider shall ensure compliance with the Act.
- 5.39 The principles of equity and justice underpinning the law should be applied as good practice by all funded providers.

Data Protection

- 5.40 The Data Protection Act 1998 puts in place certain safeguards regarding the use of personal data by organisations, including the Department for Education (DfE), local authorities and early years providers. The Act gives rights to those (known as data subjects) about whom data is held, such as pupils/children, their parents/carers and teachers. This includes the right to know the types of data being held, why it is being held and to whom it may be communicated.
- 5.41 Providers must comply in full with their obligations arising under the Data Protection Act 1998 (and their obligations arising under The General Data Protection Regulation (GDPR))

(Regulation (EU) 2016/679), which will replace the Data Protection Act 1998 with effect from 25 May 2018).

5.42 The Authority accepts no liability for any breach by the provider of the above data protection legislation. The provider agrees that they shall be responsible for and shall indemnify and hold harmless the Authority from all claims, losses, damages, costs (including legal costs) expenses and liabilities arising from any breach by the provider of this data protection legislation.

5.43 Providers should note that information about whether a child is in receipt of Disability Living Allowance is sensitive personal data which should be handled appropriately. Providers are asked to pay note to advice from the ICO on holding personal data including sensitive personal data available at:

<https://ico.org.uk/for-organisations/guide-to-data-protection/principle-3-adequacy/>

Section 6 – Funding and Finance Arrangement

The funded entitlement is **FREE**. No other fees are to be charged by providers as a condition of children accessing their place. Such fees might include paying for meals, optional extra activities or additional hours of provision over and above the funded hours.

- 6.1 Funded providers must renew their commitment to the NLCoP when required to remain on the list of approved Providers.
- 6.2 Each provider is allocated a Unique Reference Number (URN) by the Authority. Maintained nurseries use their Department for Education (DfE) number. This supports the process of identification used to calculate free entitlement funding.
- 6.3 If, as a funded provider, you fail to meet any of the conditions set out in NLCoP, it may be deemed necessary for you to repay the whole or part of any funding that has been paid in respect of the provision.
- 6.4 Providers must complete and return all funding documentation on time, thereby enabling the Authority to meet its statutory obligations to the DfE.
- 6.5 The requirements outlined in this document apply to the person with whom the Authority makes the arrangements to deliver early education places i.e. individual childminders or Childminder Agencies.

Funding Periods and Payments

- 6.6 Free entitlement funding for eligible children is split into six periods per year, three full terms, for which deadline dates are communicated during the previous period.

Periods 1 and 2 (autumn term), periods 3 and 4 (spring term), periods 5 and 6 (summer term). Providers can choose to be paid monthly or termly.

- 6.7 The Authority will make termly payments to providers in 2 stages each period:
 - Stage 1 - up to 85% interim payments will be made at the beginning of the term after the 1st deadline date.
 - Stage 2 - final balance payments will be made at the end of term after the 2nd deadline date.

The Authority will also make monthly payments in regular 4 weekly instalments at 25% with a final balancing payment at the end of term. Providers can choose to be paid monthly if they prefer.

- 6.8 Provided that, in the Authority's reasonable opinion, the information in the completed Headcount Form, is correct and accurate and the Headcount Forms are returned by the due dates specified, the Authority shall, in respect of each term, fund the Provider as calculated in accordance with the Early Years Single Funding Formula, for the relevant term.

- 6.9 If the Provider fails to submit the Headcount Forms by the deadline specified the Authority cannot guarantee payment and an administration charge of £50 may be applied. Any headcount forms received for previous terms or claims made for payments from previous financial years (1st April – 31st March will not be considered).
- 6.10 Providers may be unable to offer 38 weeks of free entitlement but can claim for the number of weeks open between 33 and 38 weeks. Where providers choose to increase to 38 weeks of opening, funding will be amended at the start of a period to reflect this.
- 6.11 If a provider intends to claim funding for less than 38 weeks then parents/carers must be made aware of this and the potential consequences.
- 6.12 If a provider closes for any reason, i.e. for bank holidays or training, it is their responsibility to ensure that the free entitlement is offered at an alternative time in compensation. On rare occasions where severe weather or acts of God are concerned, Early Years providers must follow their own policies which should be made available and accessible to parents/carers. Providers should work with parents/carers and offer hours at an alternative time if possible.
- 6.13 The hours of funding claimed must reflect the entitlement provided and must not include setting up and clearing away times.
- 6.14 It will be agreed locally with childminder agencies and each childminder registered with each agency whether funding is paid directly to the childminders or is routed to the childminder through the agency.
- 6.15 Any funding paid to childminders registered with an agency to deliver early education places must not be retained by the agency. Any payments due to the agency by the childminder must not be deducted from the amount funded by the Authority without prior agreement in writing from the childminder.

Early Years Single Funding Formula (EYSFF)

- 6.16 There are common arrangements for the funding of the free entitlement for eligible children for all providers. The formula for funding may change with effect from April annually following consultation with providers of the free entitlement to develop the EYSFF which must be adopted.

The core principles for developing the formula are to:

- Support effective and efficient distribution of resources at local level
- Preserve diversity and choice in the market
- Support the narrowing of attainment gaps
- Recognise the additional costs associated with children from deprived backgrounds
- Be clear and transparent

Each setting will receive before 31st March each year, a budget share based on the estimated pupil numbers which will show how the formula for the forthcoming financial year will allocate the funding for EYSFF.

Early Years Pupil Premium (EYPP)

6.17 Providers will be paid the Early Years Pupil Premium (EYPP) in respect of their disadvantaged children. Early Years providers are expected to use this additional funding to boost disadvantaged children's attainment. Providers can use the parental declaration form which asks parents/carers for the necessary information.

Disability Access Fund (DAF)

6.18 All children who are in receipt of child Disability Living Allowance and are receiving the free entitlement are eligible for the Disability Access Fund (DAF). DAF is paid to the child's early years setting as a fixed annual rate per eligible child. Children in receipt of DAF will be eligible where they take up any period of free entitlement.

6.19 Providers are responsible for identifying eligible children and should speak to parents/carers to find out if they are eligible for the DAF.

6.20 The Authority will require a copy of the child's disability living allowance (DLA) award letter. Providers should obtain a copy from eligible parents/carers and provide it to the Authority as proof of eligibility. Providers can use the parental declaration form which asks parents/carers for the necessary information.

Headcount

6.21 Headcount takes place once each period via a secure online portal. Guidelines on completion and deadlines dates are provided by the Authority via this portal.

6.22 Providers are required to inform the Authority as soon as possible when a child arrives or leaves their setting during the period for which funding has been claimed. If a provider receives a request for a child to take up their free entitlement either before or after the headcount date, the child must be admitted if there is a place available within existing staffing ratios.

6.23 Where a current fee-paying parent establishes their eligibility for disadvantaged 2 year old entitlement part way through a term, they MUST be given their remaining entitlement for that term free. This should be effective from the day the provider is made aware of their entitlement (sight of official confirmation letter) and not postponed until the next term or headcount date. This funding can be claimed on the end of term headcount for disadvantaged 2 year olds.

6.24 The Provider from which a child proposes to move is entitled to a 4 week notice period from the date the request is received. This should be made clear to parents/carers in admission policies and induction documentation.

6.25 Providers are required to pass on funding they have received for children, should such a request be received from a provider where a child has moved either before or after the headcount date. This should be done directly between providers and a transfer date and payment agreed without the involvement of the Authority. Where providers cannot agree a

transfer and payment date, the Authority will decide and adjust funding at the next payment. This is not applicable when children move in or out of County, 6.22 therefore applies.

6.26 Parents/carers can access as little or as much of the free entitlement as they choose. Free hours cannot be banked and transferred between terms; therefore parents/carers must maximise the hours available to them in each period. Providers should ensure that once each period parents/carers declare with the Authority via the method outlined in headcount guidance documents:

- All hours attended by their child at all settings, including at a school (all hours must be declared on the form, not just the eligible funded hours)
- If a child is attending 2 providers for more than 15 or 30 hours per week which setting receives the funding.

Sharing of Funding

6.27 When a child attends more than one setting to receive their free entitlement, the parent should indicate via headcount process how they wish the funding to be split between the settings, regardless of the provision type.

Charging

6.28 Government funding is intended to cover the cost to deliver 15 or 30 hours per week of free, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or services. Parents/carers cannot be charged for any part of the minimum free entitlement either directly or indirectly. This must be considered when calculating invoices or bills as providers must not charge any top-up fees.

6.29 Providers can charge a refundable deposit to parents/carers wishing to access the extended entitlement for working parents/carers. The purpose of the deposit is to give providers certainty that a parent will take up the place. Deposits should be refunded to parents/carers by the end of the week following headcount date. It should be made clear to parents/carers that if they fail to take up their place, the provider is not obliged to refund the deposit.

6.30 It is the responsibility of the provider to decide with the parent/carer to pay for any additional costs over and above their free entitlement of 15 or 30 hours. Providers must ensure that parents/carers are clearly aware, prior to them taking up the free place, of any charges that will be payable in respect of additional optional services provided and they should be reasonable and proportionate i.e. lunch and snacks if parents/carers are not required to pay as a condition of taking up their free entitlement.

6.31 Parents/carers MUST also be clearly billed so they can easily understand and see:

- the free entitlement hours and
- fees for any additional hours or services

The free entitlement should not be presented to parents/carers as a monetary subsidy but as being a free place (see example Appendix C). Any setting failing to invoice parents/carers in a manner consistent with the example in Appendix C, or who levies charges as a condition of the free hours, will automatically be in breach of this NLCOP. Providers should recognise that in these circumstances they will be liable to refund parents/carers and or the Authority any money received in this unauthorised way, and this could also result in immediate termination of their approved provider status.

6.32 Some parents/carers buy additional hours from the provider where they access their free entitlement. The rates that providers charge for these additional privately funded hours are a matter for them to decide, not the Authority. Parents/carers who do choose to take up additional services should not be charged any more for those services than parents/carers of children who are not accessing a free place. All arrangements for charging for additional services should be clear and transparent.

6.33 Maintained schools should provide free school meals for children who attend early years provision both before and after lunch and whose parents/carers are in receipt of specified benefits.

Inclusion and SEN

6.34 The Authority has an inclusive approach to its work and provides support to families and providers to meet the individual needs of all children. It works to promote an inclusive ethos, environment and practice, enabling access for all children to the free entitlement.

6.35 Inclusion funding for children in receipt of funded early years entitlements is awarded based upon a successful application to the Early Years Inclusion Panel. Each child will be awarded funding according to what is deemed most appropriate to meet their needs. Settings should contact their Early Years Inclusion Consultant to discuss any potential applications.

Repayments

6.36 Providers must undertake to repay on demand any payment of funding if that payment was for provision which did not meet the Authority's conditions and requirements or was made incorrectly due to an administrative error.

6.37 Where debt is owed by a provider to the Authority, the debt will be deducted from any future free entitlement funding payment.

Audit and Spot Checks

6.38 The Authority reserves the right to make unannounced visits to private, voluntary and independent providers on a regular basis to verify the accuracy of information received in respect of the free entitlement. Accurate registers must be retained for at least 6 years. Providers must cooperate with the Authority.

- 6.39 Providers must ensure that the previous terms' registers and copies of invoices to parents/carers who receive the free entitlement, and additional services, are always kept on site for these checks to be carried out.
- 6.40 Providers should be aware that the information about each child, the details of claims submitted for payment of funding, and the actual payments made, may be subject to an audit check to ensure the validity of each claim.
- 6.41 Providers must have sight of birth certificates for all children receiving the funded entitlement to ensure they are eligible according to their birthday. They should also keep (for a period of 6 years) signed documentation to prove a member of staff has seen a birth certificate and the child is eligible by age.

Change of details

- 6.42 The Authority must be informed, in writing, of any changes to a registered provider's details e.g. change of premises, ownership, leader, management, committee members, office holders or payment details. Ofsted and the Authority must be informed immediately should a setting close, and the registration certificate returned to Ofsted, as it is a legal document. The Authority will judge if these changes require a new agreement.

Provision of information to the Authority

- 6.43 The Authority is required to collect information from providers for government and local purposes. As a condition of receiving funding providers must:
- Provide details of the qualifications of their staff to the Authority on request
 - Provide information for entry onto the Families Information Directory
 - Complete the Early Years Census annually and the headcount termly
 - All providers are required to have access to email facilities and provide their address to the Authority for communication.

Section 7- Complaints Procedure

Parents' Concerns

- 7.1 If a parent has a concern regarding the free entitlement, or the provider's pricing policy in relation to the free entitlement, they should contact the provider. The provider should then investigate the concern according to their complaints policy. If the parent feels that the concern has not been resolved according to the terms of the free entitlement, then the parent can inform the Authority of their concerns in writing. The Authority will investigate the complaint and if the provider is not acting in line with this NLCoP then they will be asked to take the appropriate action to comply.
- 7.2 If a parent remains dissatisfied, they may wish to lodge an appeal with the Authority via FIS 0800 023 4440 or 01670 624889.
- 7.3 In the event that a parent is not satisfied with the way in which their appeal has been conducted or believes that the Authority has acted unreasonably, they may make a complaint to The Local Government Ombudsman. More information can be found at: www.lgo.org.uk.

Suspension/removal from or refusal to join the directory of approved Providers

- 7.4 Funded providers will be suspended/removed/refused from the directory of approved providers if they fail to meet the standards and eligibility requirements set out in this NLCoP. Circumstances where the Authority will be entitled to immediately remove a provider are not limited to fraud or an inadequate judgement from OFSTED.
- 7.5 Should there be exceptional circumstances in relation to not meeting standards and eligibility requirements, this would be taken into consideration before final removal is implemented.
- 7.6 Where a provider is at risk of being suspended/removed/refused from the directory of approved providers, a written warning will be issued detailing what needs to be done to rectify the situation.
- 7.7 Where a provider fails to make the necessary changes, a written explanation of the decision to remove/refuse the provider from the directory of approved providers will be sent to the setting. The setting will have the right to appeal against the decision. A provider must notify the Authority that they wish to exercise their right to appeal within 14 days of the date of the notification letter.

- 7.8 The Provider Agreement between the Authority and the provider shall be terminated from the date stated in the notice of removal sent to the provider. The Authority will be entitled to claim any losses and/or damages arising from the provider's breach of the Provider Agreement.
- 7.9 Where the provider is suspended/removed/refused from the directory of approved providers, in accordance with the relevant provisions of this NLCoP, the provider shall not be eligible to be included in the directory of approved providers until the Authority is satisfied that the reason for removal has been addressed and fully resolved.

Dispute resolution

- 7.10 Rejection of an application or curtailment of a Provider Agreement will be notified to the provider in writing, including the reasons for the decision. If the provider disagrees with the reasons given, they have a right to appeal the decision. To appeal they must send a written submission to the Authority within 14 working days of the date of the notification.
- 7.11 The Authority will acknowledge receipt of the appeal letter within 5 working days of receiving it. In the acknowledgement letter, the Authority will give the provider a date, time and location for an appeal hearing.
- 7.12 The Authority will prepare a written report for the appeal panel. The report, along with the provider's evidence, will be sent to the officer who will hear the appeal at least 5 working days in advance of the date of the hearing.
- 7.13 A senior manager not involved in the original decision, will then consider the Authority's reasons and the submission of the appellant. That officer will give their reasons for upholding or dismissing the appeal.
- 7.14 An appellant may wish to put forward their case in person. The hearing will be as informal as possible, and the procedure will be as follows:
- Introductions and procedure
 - The appellant and officer making the original decision will be invited to appear before the senior manager - both at the same time
 - The appellant presents his or her case
 - The Authority representative can ask questions of the appellant
 - The senior manager can ask questions of the appellant
 - The Authority representative presents the Authority's case
 - The appellant asks questions of the Authority representative
 - The senior manager asks questions of the Authority representative
 - Both parties sum up their case and leave
 - The senior manager will decide on the day or may decide to advise both parties later in writing. The senior manager will advise both parties of when they can expect the decision
 - An accurate record of the proceedings must be made therefore a note taker will be provided

7.15 For information on dispute resolution, please contact Northumberland Families Information Service (FIS). They will be able to direct you to the right contact:

Freephone 0800 023 4440

Telephone - 01670 624889

Email - fis@northumberland.gov.uk

Website: <http://fis.northumberland.gov.uk>

Section 8 – Additional Information

Confidentiality, Freedom of Information & Fair Processing

- 8.1 The provider agrees to assist and co-operate with the Authority to enable the Authority to comply with its obligations to disclose information under the Freedom of Information (FOI) Act 2000.
- 8.2 The Authority may be obliged under this Act to disclose provider Information without consulting or obtaining consent from the provider.
- 8.3 The Authority and the provider shall bear their own respective costs in relation to any disclosure under this Act.
- 8.4 The obligations imposed by this Section 8 shall continue to apply after the expiry or termination of the Provider Agreement.

Independent Contractor

- 8.5 This NLCOP and the Provider Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship, a contract of employment or other relationship between the parties other than the contractual relationship expressly provided for in the Provider Agreement.

Changes

- 8.6 The Provider Agreement and this NLCOP may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner unless agreed in writing and signed by both parties.

Entire Agreement

- 8.7 The Provider Agreement and this NLCOP constitutes the entire agreement between the parties relating to the subject matter of the Provider Agreement.
- 8.8 The Provider Agreement and this NLCOP supersedes all prior agreements, arrangements,

negotiations, representations and undertakings, whether written or oral, between the parties and constitutes the entire agreement between the parties relating to the subject matter of the Provider Agreement except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

Force Majeure

Force Majeure refers to a term used in commercial contracts to describe an extraordinary event or circumstance beyond the control of the parties (such as a war, riot, strike, hurricane, flood, earthquake etc.), which prevents one or both parties from fulfilling their obligations under the contract.

- 8.9 In the event of Force Majeure, the party affected by Force Majeure shall have no liability to the other party for any failure to perform, arising from Force Majeure, subject to that party:
- a) giving the other party written notice that the Force Majeure has occurred, the nature of the Force Majeure, the anticipated duration of the Force Majeure and the steps it proposes to take to minimise the effects of Force Majeure; and
 - b) taking all reasonable steps to minimise the effects of Force Majeure

8.10 If Force Majeure continues for a period of more than thirty (30) days, the other party may terminate that part of the Provider Agreement affected by the Force Majeure, or the whole of the Provider Agreement (if the whole of the contract is affected by Force Majeure). Termination of part or whole of the Provider Agreement must be given in writing to the party affected by the Force Majeure without liability.

Notices

- 8.11 Notices shall be deemed to have been duly given:
- a) when delivered
 - b) two working days after posting

In each case addressed to the address of either party listed in the Provider Agreement. It is the responsibility of providers to notify the Authority of any change of address where notices should be served.

Appendix A

Eligibility Criteria

Children benefiting from free early education for disadvantaged 2 year olds

2 year olds are eligible for 15 hours free early education if parents/carers are in receipt of one of the following:

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

Children will also be eligible if any of the following apply:

- They have a current statement of SEN or an Education, Health and Care plan
- They attract Disability Living Allowance
- They are looked after by the Authority
- They have left care through special guardianship or an adoption or residency order

Children benefiting from extended entitlement (30 hours)

The extended free childcare entitlement will be available to parents/carers where both parents/carers are working (or sole parent in a lone parent family) and each parent/carer earns on average:

- a weekly minimum equivalent to 16 hours at national minimum wage (NMW) (for under 25 years old) or national living wage (NLW) (if over 25 years old) and
- less than £100,000 per year

Or

- Both parents/carers are employed but one or both parents/carers is temporarily away from the workplace on parental, maternity, paternity or adoption leave or statutory sick pay, or
- One parent is employed and the other parent has substantial caring responsibilities based on specific benefits received for caring, or
- One parent is employed and one parent is disabled or incapacitated based on receipt of specific benefits.

Please note:

- Parents/carers do not need to work 16 hours per week but your earnings must equal at least 16 hours work at minimum wage/national living wage. A parent/carer will be eligible if they expect (on average) to earn this amount over the coming 3 months.
- For example, for a parent/carer who is on a zero-hours contract, they will qualify if on average they work 2 weeks out of every 3, and when they are working, they get 25 hours of work at the minimum wage.
- 'Parent' means a person who has parental responsibility for the child. In cases where a parent has remarried or is living with a partner, the stepparent or partner must also meet the earning threshold.
- Foster carers are only eligible for the extended entitlement for their own children (if they meet the criteria). They are not eligible for children that they foster.

Appendix B – Sample Invoice

Mr & Mrs Smith

Cherry Avenue
Anytown
Anycounty
AA11 XXX

LITTLE STEPS
NURSERY LTD
Somewhere Street
Anytown
Anycounty
AA12 ZZZ
Tel: 01234 567890

Ofsted Reg: EY111222
Company No: 9996665

Prepared: 01 December
Invoice No: 2013
12345

Thank you for using LITTLE STEPS NURSERY LTD

Here is how we calculated your charges of **£211.50**

		<u>Paid</u>	<u>FREE</u>	<u>Service</u>	<u>Amount</u>
		<u>Hours</u>	<u>EYE</u>		
<u>Bonnie Smith</u>					
Mon	02/12/2013	10.00		8am-6pm	£35.00
Tue	03/12/2013	5.00		1pm-6pm	£19.00
Wed	04/12/2013		10.00	8am-6pm - FREE	£0.00
Thu	05/12/2013	5.00		1pm-6pm - Wrap	£17.50
Thu	05/12/2013		5.00	8am-1pm - FREE	£0.00
Fri	06/12/2013	10.00		8am-6pm	£35.00
Mon	09/12/2013	10.00		8am-6pm	£35.00
Tue	10/12/2013	5.00		1pm-6pm - Wrap	£17.50
Wed	11/12/2013		10.00	8am-6pm - FREE	£0.00
Thu	12/12/2013	5.00		1pm-6pm - Wrap	£17.50

Thu	12/12/2013		5.00	8am-1pm - FREE	£0.00
Fri	13/12/2013		10.00	8am-6pm	£35.00
		Bonnie Smith			
		Totals:	0.00	60.00	30.00
					£211.50

Appendix C

Northumberland Monitoring Attendance Guidance For Funded Early Education Places

Monitoring attendance to promote improved outcomes and safeguarding

Research shows that attendance is a key factor in children's achievement. Our aim is to support children to reach their full potential through accessing as much of their early years entitlement as possible and to establish healthy attendance patterns that will follow a family throughout their child's education.

For children to fully benefit from early education we need to encourage good attendance and to support this it is essential that we tackle poor attendance efficiently and effectively.

Providers need to be aware of potential safeguarding issues surrounding non-attendance and reduced attendance as well as the impact on a child's development and attainment.

There can be good reasons why children's attendance changes but at the same time this can be an indicator for concern. Providers should promote good attendance and must record the attendance of all funded children in a register which meets the requirements of Ofsted and funding audit purposes i.e. a daily record of the names of the children being cared for on the premises, their hours of attendance and the names of each child's key person.

Non-attendance

- Attendance records of funded children **should** be monitored regularly.
- If the reason for a child's absence is unknown for 2 consecutive days or more, the provider **must** contact the parent or legal guardian to ascertain the reason for non-attendance.
- If you have had no response from parents/carers, the provider **should** contact any known professionals working with the family and/or their local Family Hub to see if there are any family issues to be aware of that has impacted on attendance. This will also ensure the professional/Family Hub can offer support to the family if needed.
- If attendance does not improve within 2 weeks, you **should** send a letter (see template appendix D) to the parent or legal guardian explaining that their place is funded by the Authority and should be accessed. If they do not use their early education place, their place could be at risk of being withdrawn if no reasonable explanation is given i.e. illness, holiday etc. You **must** also inform the Early Years Business Manager at earlyyearsteam@northumberland.gov.uk of non-attendance at this point.

- **Childcare Providers must have regard to the safeguarding of young, vulnerable children and should act appropriately when no reasonable explanation can be obtained from parents/carers about a child's absence. Providers should have regard to Northumberland Strategic Safeguarding Partnership (NSSP) safeguarding procedures:**

<https://www.proceduresonline.com/nesubregion/index.html>

Reduced attendance

If children do not attend for the number of hours requested per week this **should** also be monitored.

- The parent or legal guardian **should** be contacted after a 2 week period of reduced attendance (less than 90%), to discuss if there needs to be a change in their agreed attendance pattern and to ascertain why the attendance pattern has changed.
- The provider **should** contact any known professional involved with the family and/or their local Family Hub to see if there are any family issues the provider needs to be aware of that has impacted on attendance. This will also ensure the professionals/Family Hub can offer support to the family if needed
- If attendance does not improve, you should **send** a letter (see template appendix E) to the parent or legal guardian after a further 2 weeks, explaining the impact reduced attendance has on their child's development and that their hours will be formally reduced to reflect what is being accessed if attendance does not improve to what was originally requested. You **must** also inform Early Years Business Manager of persistent reduced attendance earlyyearsteam@northumberland.gov.uk at this point.

Evidence

In both cases, copies of any correspondence **should** be kept and a note should be made on the register. If an audit highlights non-attendance or reduced attendance and no evidence is available to suggest the parent has been contacted, funding may be recouped. Exceptions will be made for children with additional needs.

A log **should** be kept recording the date and details of all contact made with parents/carers and professionals/Family Hub staff (i.e. phone calls and letters) and copies of all letters sent should be kept for evidence.

Follow-up

If a professional/member of Family Hub have said they will contact the family, ask them to let you know when they have. If you have not had feedback, please contact the Family Hub so you can update your records.

The Local Authority Early Years Business Manager **must** be informed of any improvements in attendance or decline in attendance and plans to formally withdraw a child's early year entitlement place.

Flowchart For Non-Attendance/Reduced Attendance Guidance

Attendance Issues For All Early Education Funded Places

If a child does not attend for two consecutive sessions and their absence is unknown or their attendance has reduced for over 2 weeks, you must contact the parent/carer to determine the reason for absence/reduced attendance.

What Next?

Speak to parents/carers
If not satisfied with the response, or you are aware of significant professionals involved with the family, contact them to ensure that you have background information
Identify areas of support and liaise with other agencies including schools if older children in the family
Complete an EHA and hold a Team Around the Family (TAF) if appropriate
Keep accurate notes of the child's attendance
Keep copies of letters sent out to parents/carers
Follow up any contact with partners to ensure actions agreed have been carried out – ideally through the EHA/TAF process
Consider referral into Early Help Locality Hub with consent
Inform Early Years Business Manager earlyyearsteam@northumberland.gov.uk

Do I know...

Have things changed at home? Has there been a separation? Has there been bereavement/illness?
Do sessions times need changing to meet families' needs?
Does the child have an identified special/additional need?
Are there older children in the family who are missing school as well?
Is there an Early Help Assessment (EHA) open? Who is the lead professional?

<https://www.northumberland.gov.uk/Children/Family/Support.aspx>
01670 623169 or eha@northumberland.gov.uk

Does the child have a named Social Worker?
Is there a Family Support Worker attached to the family?
Is there a Social Worker for the family?
Any other relevant professional attached to the family?
[Working Together to Safeguard Children](#)

Where neglect or abuse of a child is suspected, you must follow your safeguarding procedures.

To learn more about Northumberland Strategic Safeguarding Partnership (NSSP) safeguarding procedures go to:

<https://www.proceduresonline.com/nesubregion/index.html>

To make a referral regarding suspected neglect or abuse contact :
Onecall - 01670 536 400

Appendix D – Provider Letterhead

Dear Parent/Carer

We have recently tried to contact you to discuss your child's *reduced/non* (amend as appropriate) attendance and offer any support that you may require in accessing your agreed free funded hours. Please be aware that early education places are funded by the Local Authority, and we are contractually obliged to monitor attendance.

It is therefore important that we remind you of our obligations, under Northumberland Local Code of Practice for early education and childcare, to offer the funded *place you are not accessing/hours you are not accessing* (amend as appropriate) to another eligible child.

Should you still wish to access your child's agreed free funded entitlement but feel an alternative day, time or number of hours would better suit your needs, then I urge you to contact me as soon as possible to discuss alternative arrangements. Whilst we cannot guarantee alternative sessions will be available, we remain committed to working in partnership with parents/carers and will seek to make alternative arrangements, where practicable, to enable your child to receive their free funded entitlement.

As the funding is intended to improve best outcomes for children it is therefore important that you contact me to advise me of whether you still require your agreed amount of free funded entitlement. However, if I do not hear from you within the next 27 weeks, I will assume that you no longer require your child's *full funded place/....hours* (amend as appropriate) and in which case I will offer *the full place/additional hours not being accessed* (amend as appropriate) to another eligible child.

Kind Regards

A Childcare Provider