

## Early Years Entitlement: Conditions of access preventing a child from taking up their free entitlement

### Legislation

As laid out in the *'Early education and childcare: Statutory guidance for Local Authorities, March 2017'* Local Authorities (LAs) are required by legislation to secure free places offering 570 hours a year over no fewer than 38 weeks and up to 52 weeks of the year for all eligible 2, 3 and 4 year olds in their area. From September 2017, LAs are also required to secure an additional 570 hours of free places for all qualifying 3 and 4 year olds.

Local authorities are required by legislation to limit the requirements that they place on any FEEE provider, to those which ensure (amongst others) that **"places are delivered completely free of charge to parents"**.<sup>1</sup>

LAs can refuse to fund providers if they have reasonable grounds to believe that the provider is unable to meet any of the local authority terms of funding.

### Common issues

During the FEEE Contract compliance checks it was noted that many providers have been attaching conditions of access to the FEEE places they are offering. These conditions range from requiring parents/carers:

- to purchase additional sessions or hours in order to access their FEEE hours;
- to purchase a nursery/school uniform;
- to pay a deposit, registration or membership fee to secure their place.

Where these practices have been found FEEE providers will be given a reasonable time to remedy this to ensure that they are compliant.

To clarify the requirements, Providers must ensure that they are:

- **Not charging parents "top-up" fees** (the difference between a provider's usual fee and the funding they receive from the local authority to deliver free places).
- **Not requiring parents to pay a registration or membership fee** as a condition of taking up their child's **free** place.<sup>2</sup>
- **Refunding any deposit to secure their child's free FEEE place**, in full to parents within a reasonable time scale (recommended as the end of the first month of attendance).<sup>3</sup>

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<sup>1</sup> Full details of the scope of requirements LAs can and cannot place on providers can be found in *'Early education and childcare: Statutory guidance for Local Authorities, March 2017'*

<https://www.gov.uk/government/publications/early-education-and-childcare--2>

<sup>2</sup> Applicable when child is only taking up their FEEE hours and not buying any additional hours or services.

- **Not attaching any compulsory charges for additional items or services** for parents to pay in order to access their publicly funded place.

## Frequently asked Questions

### 1. We have been charging for a lunch session for parents who take up two FEEE sessions in a day, how do we ensure we comply without becoming unsustainable?

We encourage providers to respond to their communities needs in terms of the delivery patterns that are offered, however you will need to ensure that the FEEE hours are delivered completely free to parents.

If you have been offering families to access their FEEE sessions over fewer days using a traditional AM/PM pattern with a paid lunchtime session, you may have inadvertently been attaching conditions of access to your free places.

As you will see from the table below, this delivery model requires Child B to pay for 2 lunch sessions in order to access their 15 free hours, whereas Child A is not forced to pay anything.

<b>Table 1.</b>	FEEE AM session 8.45-11.45		Paid lunch session 11.45- 12.45	FEEE PM session 12.45-3.45
Monday	Child A	Child B	Child B	Child B
Tuesday	Child A	Child B	Child B	Child B
Wednesday	Child A	Child B		
Thursday	Child A			
Friday	Child A			

An alternative delivery pattern brings the AM/PM sessions closer together and enables parents to choose to buy additional sessions at the start or end of the day, removing the condition of access:

<sup>3</sup> Applicable when child is only taking up their FEEE hours and not buying any additional hours or services.

Table 2:	Paid Breakfast club 7.30-8.45	FEEE AM session 8.45-11.45		FEEE PM session 11.45-2.45	Paid Tea time session 2.45-4.30
Monday	Child B	Child A	Child B	Child B	Child B
Tuesday	Child B	Child A	Child B	Child B	Child B
Wednesday	Child B	Child A	Child B		
Thursday		Child A			
Friday		Child A			

## 2. We currently charge all children for a lunch meal / snacks

Any charges for a lunch meal must be voluntary and parents should be given the option of providing their packed lunch for their child.

If you are delivering the free entitlement over the lunch period you can:

1. Provide and fund lunches for all children
2. Require families to bring a packed lunch for their child
3. Provide an offer of a lunch time meal that families can choose to pay for, but ensure that parents know they have the option of bringing a packed lunch;
4. Offer some funded lunches (for example for children who would be eligible for free school meals), some paid for lunches, whilst still offering families the choice to bring a packed lunch.

## 3. Children are required to wear uniforms at our nursery, are we allowed to do this? .

The DfE is clear that:

“You should use government funding for childcare to provide 15 or 30 hours a week of high-quality, flexible early education and childcare.

You shouldn't use this funding to cover the cost of consumable items, such as drinks, meals or nappies, or additional services, such as baby yoga, music lessons and school trips.

You can charge parents for additional items or services, but you mustn't make this compulsory for any parents taking up a publicly funded place for their child.”

DfE Website 1st December 2016

<https://www.gov.uk/government/publications/early-years-business-sustainability-guides-for-providers/extra-sources-of-income-for-early-years-providers> February 2017

Therefore, any uniform must be voluntary or provided free of charge.

#### **4. We charge an administrative fee / membership fee for every registered child**

As with the answer to the question above, you are not able to attach compulsory charges to a FEEE place as they must be delivered completely free of charge to parents.

However, you can offer voluntary membership of your community setting as long as parents who do not pay are not penalized.

For families accessing paid provision in addition to their FEEE hours, settings are able to place conditions on the paid for hours.

#### **5. We require all parents to provide a cash deposit to secure a place**

If you feel that you need to ask for a cash deposit you will need to ensure that it is refunded within a reasonable time scale. This refund and timescale should be included in your charging policy and in your information for parents.

It is recommended that a reasonable time scale is by the end of the first month of attendance.<sup>4</sup>

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<sup>4</sup> Applicable when child is only taking up their FEEE hours and not buying any additional hours or services.