

Report of the Head of Learning Systems

Report to the Chief Officer, Learning Improvement

Date: March 2018

Subject: 2018/19 FEEE Rates and Contracts



Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

In line with the guidance the local authority has consulted providers on the proposed rates and contractual arrangements for free early education entitlement (FEEE) for 2018/19 and this report sets out the outcome of that consultation and the rates and contractual changes subsequently determined.

Recommendations

The Chief Officer, Learning Improvement is recommended to approve the breakdown of the Free Early Education Entitlement as follows:

For 3 & 4 Year Old funding - of the £4.81 per eligible child per hour allocated to Leeds City Council by the DfE:

- Universal base rate - £4.25 (increase of £0.05 from 2017/18)
- Deprivation supplement - £0.31 (no change)
- SEN inclusion fund - £0.05 (reduction of £0.01 from 2017/18)
- Centrally retained - £0.20 (reduction of £0.04 from 2017/18)

For 2 Year old funding: £5.10 per hour (increased by £0.05 from 2017/18)

In addition the Chief Officer, Learning Improvement is recommended to approve the changes to the contractual arrangements with providers as follows:

- Replace the current 80/20 termly payments to providers with monthly payments from September 2018
- Remove the 5% rule from provider contracts
- Remove the existing priority for maintained (school) nurseries to receive priority for funding payments where a parent splits their FEEE across providers

Purpose of this report

- 1.1 To communicate the outcome of the consultation and confirm the determined rates for funding the free early education entitlement to providers and amendments to the contracts between Leeds City Council and FEEE Providers.

2 Background information

- 2.1 Local authorities will continue to receive funding via the Early Years National Funding Formula in April 2018 to fund the Free Early Education Entitlement for 2, 3 and 4 year olds.
- 2.2 A consultation with providers commenced 5th February 2018. The consultation was sent to all providers in Leeds setting out proposals for the rates that would come into force from April 2018, alongside proposed changes to the contract for the funding between the Local Authority and providers. This consultation closed on 21st February 2018.
- 2.3 There were 49 respondents, the majority from private nurseries, and responses were also received from childminders and school nurseries.
- 2.4 Schools forum was consulted in February on changes to local early years funding formulae in line with regulations, although the final decision rests with the local authority. This paper sets out the determined Early Years funding rates and changes to be implemented to the LA / Provider contracts for FEEE following consultation with providers.

3 Main issues

3.1 Funding for two-year olds

- 3.1.1 This continues to be allocated by the government on a formulaic basis and they are not proposing any changes. The census on which the funding allocation is determined by the DfE takes place in January. Typically this is a low point for numbers of children in provision and during the year the numbers of children is frequently higher. A contingency fund will therefore be held centrally to enable any increase in numbers of children to be funded at the same rate. The fund will not be used for any other purpose and any surplus will roll forward into the next financial year.
- 3.1.2 The rate proposed for 2 Year olds by the Local Authority is £5.10 per hour, an increase of £0.05 on the 2017/18 rate.
- 3.1.3 All providers who responded to the consultation supported the proposal.

3.2 Centrally retained funding

- 3.2.1 In order to ensure that the maximum amount of funding reaches providers, the DfE has allowed the local authority to retain from the overall allocation no more than 7% in 2017/18 and no more than 5% from 2018/19 onwards. This retained funding may not be used to administer the payments to providers, although it can be used for the eligibility checks that are required, and a wide range of central services or services in-kind.

3.2.2 The Local Authority retained only 5% in Leeds in 2017/18. For 2018/19 the central retention will reduce to 4% as some of the initial startup and development support will reduce now that the 30 hours offer has been in place for two terms. The centrally retained funding will provide for a contingency fund in the event that the take up numbers exceed the numbers in the January census which determine the level of funding we receive from central government. Additionally the centrally retained funding will cover some costs in relation to marketing, eligibility checking, as well as supporting services in relation to capacity building, family support, placement work and Early Years Inclusion. The DfE will be monitoring local authority compliance with this.

3.2.3 Providers raised no objections to the principle of retaining 4% in 2018/19.

3.3 **Local Universal Base Rate**

3.3.1 We believe that the base rate should increase from April 2018 for providers, despite the allocation to the Local Authority remaining the same. This is achieved by reducing the centrally retained proportion and also the SEND allocation. Currently the base rate is £4.20 per hour, and it was proposed that we increase this to £4.25 per hour from April 2018.

3.3.2 Some providers raised issue about the increase not being enough in line with national living wage, business rates and inflation. We will continue to highlight to the DfE the pressure caused by the set funding rates they pay to the Local Authority.

3.3.3 With the introduction of the 30 hour offer, there was some concern from providers that they would not be able to offer the funded hours, however there have been limited reports from families stating that they are unable to find a local provider of 30 hours – sufficiency continues to be reviewed.

3.4 **Supplements**

3.4.1 There is a mandatory requirement for a supplement over the base rate for deprivation. There are some discretionary supplements that are permitted, however in Leeds we have only previously used deprivation and propose to continue only with this supplement.

3.4.2 We continue to focus in Leeds on reducing the attainment gap between the most vulnerable families and the most affluent, which can be significant by the time children have reached secondary school age. The importance of the best early start for more vulnerable children remains a priority.

3.4.3 The IDACI was introduced as the method for allocating the deprivation funding in 2017/18 and will continue to be used in 2018/19, with the allocation per child per hour being maintained at £0.31 per hour.

3.5 **SEN Inclusion Fund**

3.5.1 The DfE require the LA to establish a fund for 3 and 4 year olds who take up any number of hours of their free entitlement which is targeted at children with lower

level or emerging SEN. This is in line with our approach locally to support children through funding for inclusion.

- 3.5.2 The rate set for the SEND Inclusion Fund was linked to the FFI Unit allocation paid for SEN – as the SEND Inclusion Fund is for lower level SEND needs, it is important that the funding is also at a lower level than the FFI Unit allocation. Following the High Needs Block review, there was an agreed reduction in the FFI Unit value, therefore we must also reduce the SEND Inclusion Fund payments from £2052 per year to £1800 per year. As such, we proposed to reduce the SEND Inclusion fund supplement from £0.06 to £0.05 per hour.
- 3.5.3 There was some underspend on the allocated SEND Inclusion Fund in 2017/18. For 2018/19, changes will be introduced to the application and allocation process so that providers can apply directly for this funding without the need for a professional referral. In addition, providers can request training, funded through the SEND Inclusion Fund, for their setting to ensure settings are able to meet needs identified.
- 3.5.4 Providers agreed that this amount seemed reasonable and appropriate.

3.6 **Other relevant funding**

- 3.6.5 The Disability Access Fund which is a fixed amount of £615 per annum per child in accordance with national regulations although locally administered, will continue in 2018/19.

3.7 **Contractual changes**

- 3.7.1 A number of contractual changes were proposed, many of them operational in nature. These are all summarised, along with the consultation responses, in Annex A.

3.7.2 Monthly payments and 5% rule

In 2017/18, providers received termly payments for FEEE, with 80% paid at the start of the term based on estimated claims, and the remaining 20% paid at the end of the term with the balance recalculated from estimates using the termly census data.

We proposed to replace the 80/20 payments with monthly payments from April 2018 to reduce the number of over / under payments and to allow funding to more appropriately follow children if they move to other settings, thus removing the need for the 5% rule. The 5% rule meant that providers must allow a parent to claim their free entitlement if the child joined after census date, despite them not receiving funding from the LA for these children, unless the difference would mean a change to the provider's funding of more than 5%.

Some providers responded to the consultation to raise concern about cash flow and budgeting and the potential administrative burden associated with monthly payments. We are confident that there will be limited additional administrative tasks for providers.

We continue to work with Serverlec, our software provider, to ensure that monthly payments can be efficiently and successfully introduced. Due to this and the concern raised by providers that they would like time to plan for the introduction of monthly payments, we will continue with the termly payment arrangement from April – July 2018, introducing monthly payments from September 2018.

3.7.3 Maintained setting funding priority

Historically, the FEEE contracts have included a provision for LA maintained nurseries to receive priority for funding where a parent accesses more than one setting. Many private nursery settings and childminders have raised concern about the fairness of this, and the DfE guidance encourages parental choice in where they access their funded hours.

The proposal to remove this priority was overwhelmingly supported by the majority of respondents, stating that this was a fair and reasonable proposal.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.4 Although no statutory consultation was required, in line with our local procedures, consultation regarding the locally proposed funding allocations was undertaken with all current early years providers in the city; including schools, children's centres, childminders and private day nurseries. School's Forum were also asked to agree the proposed funding arrangements, although the Local Authority is the final decision maker.

4.1.5 Comments were received from 49 childcare providers and were taken into account when determining the funding allocation and changes to the FEEE provider contract.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An EDCI has been completed with regard to the changes and is attached to this report.

4.3 Council policies and Best Council Plan

4.3.1 Appropriate funding being available to providers will ensure that parents have access to their funded free early education entitlement places. Positive engagement with quality early education helps provide the best early start for children, to enable them to reach their full potential.

4.3.2 The Free Early Education Entitlement contributes towards the key objectives in the Best Council Plan 2015-2020 of building a child friendly city and supporting communities and tackling poverty.

4.4 Resources and value for money

4.4.1 The DfE will allocate the FEEE funding to the local authority using the Early Years funding formulae to determine the funding level.

4.5 **Legal Implications, Access to Information and Call In**

- 4.5.1 The Local Authority is responsible for ensuring that sufficient places are available for 2, 3 and 4 year olds to take up their free early education entitlement should their families choose to. In addition, the Local Authority is required by law to inform the DfE of the locally agreed funding rates for 2, 3 and 4 year old places, and to ensure that this is a universal base rate for all types of provider by 2019 – we have been meeting this requirement since 2017.
- 4.5.2 This is a significant operational decision and as such is not eligible for call in.

4.6 **Risk Management**

- 4.6.1 The allocation of funding from DfE to the Local Authority is based on the January census, which is when numbers of children accessing provision is noticeably low. There is a risk that there is more funding owed to providers than we receive in the initial allocation from the DfE. This risk is being managed by ensuring there is a contingency fund available as part of the 4% centrally retained budget, which will be spent in full or rolled over to the following financial year.

5 **Conclusions**

- 5.1 The Leeds breakdown provides funding in line with the statutory guidance, meeting our requirement for a universal base rate, and retaining centrally just 4% of the funding rather than the 5% permitted.
- 5.2 Providers of free early entitlement have provided feedback to the contracts in place, and these have been considered and, along with the DfE FEEE guidance, have informed the proposals made for contractual changes.
- 5.3 Consultation responses have been taken into consideration, resulting in the universal base rate being increased and the deprivation supplement being reduced, to ensure that more providers receive more of the funding available.

6 **Recommendations**

The Chief Officer, Learning Improvement is recommended to approve the breakdown of the Free Early Education Entitlement as follows:

- 6.1 For 3 & 4 Year Old funding - of the £4.81 per eligible child per hour allocated to Leeds City Council by the DfE:
- Universal base rate - £4.25 (increase of £0.05 from 2017/18)
 - Deprivation supplement - £0.31 (no change)
 - SEN inclusion fund - £0.05 (reduction of £0.01 from 2017/18)
 - Centrally retained - £0.20 (reduction of £0.04 from 2017/18)
- 6.2 For 2 Year old funding: £5.10 per hour (increased by £0.05 from 2017/18)

6.3 The Chief Officer, Learning Improvement is also recommended to approve the changes to the contractual arrangements with providers as follows:

- Replace the current 80/20 termly payments to providers with monthly payments from September 2018
- Remove the 5% rule from provider contracts
- Remove the existing priority for maintained (school) nurseries to receive priority for funding payments where a parent splits their FEEE across providers

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.