

Proposed changes to the Leeds City Council Agreement for Providers of Free Early Education Entitlement (FEEE) for 2, 3 and 4 year olds from April 2018 to March 2019

Leeds City Council is proposing changes to the Agreement between the Council and providers regarding FEEE funding.

At this stage, we seek your feedback on the below proposed changes. Please send your comments on these by email to FEEEQueries@leeds.gov.uk by **21st February 2018**.

The consultation was sent to a total of 879 Childcare settings operating in Leeds.

- 150 School and Academy Nurseries
- 729 Private, Voluntary and Independent (PVI) settings (Day Nurseries, Childminders and Children's Centres)

We had a total of 49 responses, from the following:

- 6 School and Academy Nurseries
- 43 PVI Settings
 - 19 Childminders
 - 23 Day Nurseries
 - 1 Children's Centre

1. **Payment frequency** (clause 2.105 of 2017 Agreement).

Leeds City Council plans to start monthly payments from April 2018 for all providers in line with the statutory guidance.

The Department for Education's, Early Education and Childcare, Statutory Guidance, dated March 2017 states:-

A4.13 Local authorities should pay all providers, particularly childminders, monthly and are expected to do so from September 2018. If a provider requests and the local authority agree an existing alternative sustainable method of payment may be continued.

Monthly payments would be in place of the current arrangement where Providers receive two payments per term; an 80% advance payment and a final 20% balancing payment. This has led to Leeds City Council having to recoup monies from Providers where there has been an overestimate or discrepancies between child attendances at settings. Overpayments would be significantly reduced by monthly payments, as providers will be able to adjust figures to ensure accurate payments.

The payment system used by Leeds City Council does not allow different types of payments for different provider types, as such the Council is proposing all providers are paid Monthly from April 2018.

The majority of responses were in favour of the monthly payments. A number of concerns were raised about the impact on business planning if payments did not continue to be paid at 80% in advance. Concern was also raised about the impact of monthly payments on term time only providers. We can confirm that there will be 12 payments per year under the monthly payment arrangements.

There were concerns raised about increased administration costs, increased time spent on administration processes and whether providers will have to input headcount onto the portal more than once per term. The proposed changes **will not require** a full headcount every month, this will remain once per term. Providers will only need to notify the Council after headcount of changes to the children in the setting, by starter and leaver forms and amending the claim for 'total hours'. This will then adjust the monthly payment amount for the following month. Starter and leaver forms will be introduced for any children starting or leaving after headcount date.

We are currently working with the service supplier (Servelec) about how the FEEE portal can be adapted to accommodate the change to monthly payments. We will be producing a new guide as part of the new contract and the Family Information Service will continue to support providers with this process.

To enable all providers to appropriately plan for the introduction of monthly payments and for comprehensive guidance to be produced for all providers we will continue with the termly 80/20 payment for April – August and will introduce monthly payments from September 2018.

2. 5% rule (clause 2.99 of the 2017 Agreement)

Leeds City Council proposes that funding is paid using the child's start and end date at a setting. This would mean the 5% rule was removed.

Currently, providers are required to provide a place to any eligible FEEE child who joins after the headcount date but they do not receive funding unless the claim is 5% or more of their total funding allocation. Similarly if a child leaves after the headcount date and the provider has no prior knowledge they retain the funding.

By introducing monthly payments and removing the 5% rule, Providers would be paid for children on their roll and would not be expected to self-fund places, as the funding would follow the child.

All providers who responded to the consultation agreed to the removal of the 5% rule.

Concerns were raised about the impact that allowing mid-term change of providers would have on the provider's notice periods. The conditions on notice periods remains the same - it is between the provider and the parents to agree whether the funding pays for the notice period or whether the parent pays the provider directly.

3. School or Academies having a priority on funding (clause 2.47 of the 2017 Agreement)

Leeds City Council proposes removing the clause that provides for a school or academy provider to have priority in allocation of the FEEE funding over a private, voluntary or independent (PVI) provider.

It will be the parents' decision as to how the funding is allocated between two providers when their child accesses two sites. Where the parent chooses the private provider to have the allocation, the School or Academy will be able to charge the parent for the hours at their site.

If a provider only offers the 15 hours universal entitlement, the parent cannot opt to have their 15 hours additional entitlement at this provider, therefore the parent can only choose to access additional hours at providers signed up to deliver the additional entitlement.

The overwhelming response was that this change was fair and favoured by most respondents.

For clarification, this change applies to all ages and all elements of available FEEE funding; Universal Entitlement (15 hours), Extended Entitlement (30 hours), EYPP and DAF. Deprivation Uplift is not included as this is determined by setting level.

4. Flexibility

Leeds City Council proposes adding in a clause that allows for recoupment of FEEE funding in individual cases if on audit, it is established that a Provider has been claiming more hours for the child than the child regularly attends

This would not mean funding would be recouped if the child was absent due to illness, away on a holiday (for 3 weeks or under), or if a parent occasionally collects a child early or drops off a child late.

However, nationally there have been instances when a Provider has contracted with a Parent to provide a set number of funded hours despite the Provider knowing from the outset that the child will not be accessing that full hour entitlement each week. This means a Parent has been deprived of part of the child's FEE entitlement which could have been used with a second Provider and the Provider has been paid for hours the Parent has no intention of using.

Overall there was support for this change.

Concerns were raised about the impact of this change on

- Funding places for vulnerable children who have sporadic or chaotic attendance and
- Exceptional closures (e.g. setting used as polling station, extreme weather, building being flooded)

We can confirm that funding would continue to be provided in these circumstances.

Concerns were also raised about this change contradicting a Provider's business model in particular the impact of Provider being able to set session times. Providers can continue to designate their own funded session times and dates to parents, however if a parent asks for less hours or days to those stipulated by the business model for the setting, Providers **must** make it clear to the parent (prior to parent signing the contract) that by accessing these sessions, the parent is agreeing to these conditions and accepting that these hours will be claimed by the setting and that the parent will be unable to access these hours elsewhere.

5. Term time only provision and stretched provision

Leeds City Council proposes that all Providers submit claims to the Council on the basis of term time only calculations.

FEEE funding is for 15 or 30 hours per week over 38 weeks per year (April-March) which equates to 570 or 1140 hours annually. The Statutory Guidance contains flexibility provisions so that parents can stretch these hours over 52 weeks. Currently, Providers submit claims to the Council as either term time (being 15 or 30 hours per week over 38 weeks) or stretched (being 11 or 22 hours per week over 51 weeks). The latter calculation only equates of 561 or 1122 hours which risks a parent missing out on the full FEEE entitlement. The parent and Provider may have agreed a stretched pattern that is different to 11 or 22 hours per week over 51 weeks in any event.

Providers will still be able to offer parents a stretched provision, but would have the opportunity to be more flexible for parents, as the precise pattern of a child's attendance would be agreed between the Provider and parent. The Council would have the ability to randomly audit Providers to ensure that the full 570 or 1140 hours per annum is being provided to the parent.

The EY Census requires extended entitlement to be returned as term time only. The reporting of stretched hours is incurring additional administration for both Leeds City Council and Providers, as this information has to be converted to term time for the Census.

This change was supported. For clarification, all claims to LCC will be on a formula for term time only across a financial year (April-March). It will be between the Provider and the parents how the 570 / 1140 annual hours are used. Providers will be required to provide to LCC on audit, how the hours claimed have / will be delivered to the parent during the financial year.

6. Termination and Withdrawal of Funding (clause 2.118 to 2.125 of the 2017 Agreement)

Leeds City Council proposes to provide further clarification in the Agreement about the procedure for terminating or withdrawing funding that will be undertaken by Leeds City Council should a FEEE Provider be judged as “Inadequate”, a 2yr old FEEE Provider be judged as “Requires Improvement” or an inspection judgment of a childminder agency of “not effective”.

It is proposed this would include:-

- provisions for allowing children who are currently placed in the setting to remain funded whilst matters are reviewed;
- that no further FEEE places will be allocated to the provider following the Ofsted notification
- Setting out how Leeds City Council will review the Provider’s individual circumstances and reach a decisions about the continued ability of the specific Provider to continue offering FEEE funded places on a case by case basis

Responses were overwhelming in favour of further clarification. The details will be included in the new contract.

7. Deletion of clauses:

It is also proposed that the following clause will be deleted:

Clause 2.88; requiring providers to ensure that 2 year old FEEE children who attend a morning and afternoon session are provided with a free meal and snacks.

This was not opposed by any respondent.

8. Hourly base rates for 2018-2019

We would like to propose the following changes to the hourly base rates for the financial year 2018/19:

	2017/18 rate	Proposed 2018/19 rate
2 year old children	£5.05	£5.10
3 & 4 year old children	£4.20	£4.25

This increase in the base rate for 3&4 year old FEEE from £4.20 to £4.25 per hour is being achieved by making changes to the other elements of the allocations from central government as follows:

3&4s	Deprivation supplement	SEND Inclusion fund	Centrally retained	Base rate	Total
2017/18 (current)	£0.31	£0.06	£0.24	£4.20	£4.81
2018/19 (proposed)	£0.31	£0.05	£0.20	£4.25	£4.81

The increase in base rate allocation for 2 Year Old FEEE from £5.05p per hour to £5.10p per hour is achieved due to changes in the pattern of uptake and numbers provided via the latest census return.

Overall, the responses to an increase in the base rate were positive.

Numerous providers raised issue about the increase not being enough in line with national living wage, business rates and inflation. The Local Authority takes on board these comments and we continue to highlight to the DfE the pressure caused by the set funding rates they pay to the Local Authority.

We are pleased that we have been able to confirm that Leeds City Council will reduce the central retention from the 3&4 Year Old FEEE funding to 4% of the total funding received from the DfE, which is lower than the 5% level prescribed in the statutory guidance and lower than the proportion retained in 17/18, despite no increase in the funding received from the DfE.