

Subject: Important Information - Updated DfE Guidance on Charging

Dear Provider,

Why Am I receiving this email?

- To provide you with an update on the charging rules following the publication of the new Statutory Guidance on Friday 21 February 2025.
- The updated guidance puts transparency at the heart of how the entitlements should be passed on to parents, including that all costs should be clear to parents upfront.
- Although the new guidance only comes in effect on the 1 April 2025, the existing guidance and legislation which has been in place since 2017 has always stated that parents must be given the option to opt out of any charges for additional hours, or services such as meals and consumables, and that settings must not impose mandatory charges or conditions on parents accessing the funded entitlements

What does the new guidance say?

- Parents must be able to opt out of paying for chargeable extras and the associated consumable or activity for their child, in all cases.
- Providers who choose to offer the funded entitlements are responsible for setting a policy on providing parents with options for alternatives to additional charges. This policy must offer reasonable alternatives that allow parents to access the entitlement hours with no additional charges, including allowing parents to supply their own meals and consumables, or waiving the cost of these items.
- Providers should work with parents to ensure that as far as possible the pattern of the entitlement hours are convenient for parents' working hours, though "not all providers will be able to offer fully flexible places".
- Children are able to take up their funded hours in continuous blocks if they wish to and there should be no artificial breaks in the patterns of how entitlement hours are offered to parents, e.g. offering entitlement hours for

10am-12pm and 1-3pm with only private paid hours available in between. It is unreasonable to expect working parents to collect their child during this time, meaning they have no option but to pay for the hour in between.

- Children who do not participate in optional activities must continue to receive provision that complies with the EYFS.
- A copy of the new statutory guidance can be found here [Early education and childcare \(effective from 1 April 2025\) - GOV.UK](#) – please refer to the Charging Section A1.32 -A1.44
- A copy of FAQ's that the DfE have produced is also attached for information.

Why has the guidance been updated?

- The DfE have updated the guidance following the recent High Court case between Bournemouth, Christchurch & Poole (BCP) Council and the Local Government Ombudsman (LGO). The High Court report was published on the 7 February 2025 and can be found [online](#)
- In this case, a nursery was offering the 'free' hours before 09:00 and after 15:00 without the need to pay additional charges. The nursery allowed parents to claim the 'funded' hours between their 'core' hours of 09:00-15:00, but if parents wanted to access their 'core' hours they were charged an hourly rate for consumables.
- BCP Council did not support the original parental complaint because they argued the nursery had an alternative 'free' model that enabled parents to access their funded entitlement hours without the need to pay any additional charges.
- The parent therefore lodged a complaint with the LGO. The LGO found BCP Council to be at fault for not upholding the parental complaint. The council was ordered to pay the parent compensation.
- BCP Council subsequently lodged a legal challenge against the LGO on the basis that the LGO had misinterpreted the guidance and legislation on charging.
- The High Court ruled in favour of the LGO and agreed that BCP Council failed to ensure the nursery was not imposing mandatory charges on parents. The High Court also agreed that although the nursery allowed parents to access 'free' hours outside of their 'core' hours, this was not a reasonable alternative as parents who needed childcare between 09:00-15:00 had no option but to pay the consumables charge.

- The High Court ruling makes clear that mandatory charges are not permitted in connection with the funded entitlements.
- The High Court ruling also makes clear that "if a nursery elects to accept payment under the FEEE scheme for an hour's childcare, the statutory scheme imposes a duty on the local authority to ensure that parents have the ability to access that FEEE funded hour of childcare without being required to pay any additional sums to the nursery" (paragraph 67).

What do I need to do?

- You must ensure that your current delivery model allows all existing and new parents to opt out of any charges for additional hours, meals, consumables, and enhanced activities.
- If you currently have 2 models of delivery i.e. one that allows parents to claim 'completely free' hours with no additional charges and one that allows parents to claim 'funded' hours with additional charges, you will need to review your delivery model to ensure that all hours being claimed under the FEEE scheme can be accessed without the need to pay additional charges. This is because the High Court ruled that if a nursery accepts payment for any hours under the FEEE scheme, parents must have the ability to access those hours without the need to pay for any extra hours, services, or activities. Therefore, all additional charges must be based on parental choice and a willingness to meet the charges, even if you have a 'completely free' alternative option.
- By January 2026 you must publish the pattern of hours that parents can take the entitlements (i.e. the times within the day, days of the week, term time only and/or stretched over a certain number of weeks in the year) along with a price list of chargeable extras. This information must be published on your websites or, where you do not have a website, we will publish it for you on our Family Information Services website. The DfE have provided a template that providers may wish to use to set out this information which can be found at [Chargeable extras .docx](#)
- By January 2026 you must ensure invoices are broken down separately into:
 - the 'free' entitlement hours at £0.00 cost
 - charges for additional private paid hours
 - food charges
 - non-food consumables charges
 - activities charges

What can I charge for?

- You can continue to charge parents for the following extras in connection with the funded entitlement hours, but these charges must be voluntary for the parent:
 - consumables to be used by the child, such as nappies or sun cream
 - meals and snacks consumed by the child
 - extra optional activities such as events, celebrations, specialist tuition (for example music classes or foreign languages) or other activities that are not directly related or necessary for the effective delivery of the Early Years Foundation Stage (EYFS) statutory framework
- You can also charge parents for any additional, private paid hours according to your usual terms and conditions provided taking up any private paid hours is not a condition of accessing the funded entitlement hours.

What can't I charge for?

- You cannot charge for the following:
 - the supply of or use of any materials, including, but not limited to, craft materials, crayons, paper, books, instruments, toys, or other equipment or learning resources that are necessary for the effective delivery of childcare
 - business running costs, including, but not limited to, rent, staff wages, cleaning materials, insurance, or utility bills such as energy, gas, or water
 - registration fees as a condition of taking up a child's free entitlement place
 - non-refundable deposits as a condition of taking up a child's entitlement place
 - general charges, including but not limited to, non-itemised enrichment charges, sustainability charges, business continuity charges, additional charges, enhanced ratios, hourly rates, or any other supplementary charges on top of the 'free' hours
 - top-up fees (any difference between a provider's normal charge to parents and the funding they receive from the local authority to deliver free places)
- The DfE have asked us to make clear that they are not seeking to stop providers from being able to charge for voluntary extras, but the guidance reaffirms there must be no mandatory charges for parents, in line with the underpinning legislation and the recent [High Court judgment](#).

Expansion Grant Funding

- In December 2024, the Government announced the early years expansion grant, which will provide an additional £75 million of funding to support the sector as it prepares to deliver the final phase of expansion of the working parent entitlement from September 2025. The DfE have published the local authority allocations and guidance today (28 February). The grant is for the financial period 2025-2026 and Lancashire has been allocated a total of £1,816,068 revenue funding (£842,539 for 2 year olds and £973,529 for under 2s). To reflect the needs of providers as they deliver expansion of the new working parent entitlements, the grant is focussed on 2-year-old and under 2s children.
- Local authorities are required to communicate provider funding rates within 6 weeks of DfE's publication of rates, that is by 10 April 2025. Where appropriate, for example, if funding is being provided as a lump sum locally, local authorities should also confirm provider allocations within this timeframe. This gives providers certainty ahead of the September 2025 expansion. Once they have notified providers of allocations, local authorities must pay providers before the end of August 2025, to give providers certainty once they start to incur costs ahead of the September 2025 expansion.
- More information about how Lancashire's allocations and distribution to the sector will follow as soon as possible.
- We also do still have a small allocation of capital funding available now that we have allocated funding from phase 1 applications. Phase 2 applications for capital funding will open in the coming weeks once we have completed the analysis of priority areas for expansion.

We acknowledge and appreciate the challenges the early years sector is under and the additional pressures that this guidance will bring to you, however, as an LA we have a duty to ensure that the regulations are adhered to by all settings. This has been made very clear in the High Court ruling. If you require any support in relation to your models of delivery, please get in touch and we will do our best to help you. Understandably the updated guidance has created a lot of emails and queries from settings so please bear with us if you have not had a response yet to your specific questions.

Kind regards

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