



Free Early Education Entitlement Agreement:

**Early years provision free of charge and
free childcare**

August 2019

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Section 1: Overview

- 1.1. This agreement is based on a model agreement from the Department for Education that sets out the department's expectations on what should be included in agreements between local authorities and providers (provider agreements) and refers to early years provision free of charge (sections 7 and 7A of the Childcare Act 2006) and free childcare (section 2 of the Childcare Act 2016) as the 'free entitlement(s)' or 'free hours' or a 'free place'.
- 1.2. This agreement applies to the 15 hour entitlement for the most disadvantaged two-year-olds, the 15 hour entitlement for parents of three- and four-year-olds (the universal entitlement) and the 30 hours entitlement for working parents of three- and four-year-olds (the extended entitlement).
- 1.3. This document does not provide guidance on how providers operate their private businesses, including charges for provision over and above a child's free hours. Local authorities should not intervene where parents choose to purchase additional hours of provision or additional services providing that this does not affect the parent's ability to take up their child's free place.
- 1.4. This agreement is for:
 - Early years providers who are referred to as 'providers' and include:
 - Early years providers and childminders registered on the Ofsted Early Years Register;
 - Childminders registered with a childminder agency that is registered with Ofsted;
 - Independent Schools and Academies taking children age two and over and which are exempt from registration with Ofsted as an early years provider.
- 1.5. The parental declaration at Annex A is for:
 - Early years providers, as set out above
 - Parents

Supplementary provisions

- 1.6. Islington Council and providers must comply with all relevant legal obligations.
- 1.7. Islington Council has a right to unilaterally vary this agreement to reflect changes in legislation and departmental guidance.
- 1.8. Reference to legislation will be to that legislation as amended from time to time, without express change in this provider agreement.
- 1.9. Free Early Education funding may be subject to Freedom of Information requests.

Legal framework and statutory guidance

1.10. The following frameworks and legislation underpin this model agreement:

- Early Education and childcare, Statutory guidance for Local Authorities 2017
- Childcare Act 2006
- Childcare Act 2016
- Equality Act 2010
- School admissions code 2014
- Statutory framework for the early years foundation stage 2014
- Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
- The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016
- Special educational needs and disability code of practice: 0 to 25 years 2015
- Data Protection Act 2018

Section 2: Key responsibilities

Key provider responsibilities

- 2.1. The provider must comply with all relevant legislation and insurance requirements.
- 2.2. The provider should deliver the free entitlements consistently to all parents, 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 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.
- 2.3. The provider must follow the EYFS and have clear safeguarding policies and procedures in place that link to the local authority's guidance for recognising, responding, reporting and recording suspected or actual abuse.
- 2.4. The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.
- 2.5. The provider must make sure that they obtain signed Parental Declaration forms for all children accessing FEEE.

Safeguarding

- 2.6. Islington Council has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the 'Working together to safeguard children' 2018 guidance¹ sets these out in detail.
- 2.7. The provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A lead practitioner must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. The provider must have regard to 'Working Together to safeguard Children' 2018 guidance.

Eligibility

- 2.8. 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 the local authority to

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf

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 privacy guidance set out in Annex A: Parent declaration, part 5.

- 2.9. The provider should offer places to eligible two-year-olds on the understanding that the child remains eligible until they become eligible for the universal entitlement for three- and four-year-olds.
- 2.10. Islington Council must ensure that a child has a free entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlements.
- 2.11. Alongside the 30 hours eligibility code, which is the child’s unique 11-digit number, and original copies of documentation (see 2.8), a provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from the local authority of the validity of the parent’s 30 hours eligibility code.
- 2.12. Once a provider has received written consent from the parent, they should verify the 30 hours eligibility code with Islington Council.
- 2.13. Islington Council will confirm the validity of 30 hours eligibility codes to allow providers to offer 30 hours places for eligible three- and four-year-olds. Islington Council will provide a validity checking service to providers to enable them to verify the 30 hours eligibility code. The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity.
- 2.14. Thereafter, Islington Council will complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours free childcare at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as listed at table A below). Islington Council will notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date. It is the provider’s responsibility to inform parents of their grace period end date.

Table A:

Date Parent receives ineligible decision on reconfirmation:	LA audit date:	Grace Period End date:
1 Jan – 10 Feb	11 February	31 March
11 Feb – 31 March	1 April	31 August
1 April – 26 May	27 May	31 August
27 May – 31 August	1 September	31 December
1 September – 21 October	22 October	31 December
22 October – 31 December	1 January	31 March

The Grace Period

- 2.15. A child will enter the grace period when the child's parents 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.
- 2.16. Local Authorities will be able to access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.
- 2.17. Islington Council 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 2017.
- 2.18. Providers should remind parents to recheck their codes prior to the validity end date.

Flexibility

- 2.19. Provision must be offered within the national parameters on flexibility as set out in Section A2 of Early Education and Childcare Statutory guidance for Local Authorities.
- 2.20. The provider should work with Islington Council and share information about the times and periods at which they are able to offer free entitlements to support the Council to secure sufficient stretched and flexible places to meet parental demand in the local authority. The provider should also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting.
- 2.21. Where a child receives their free entitlement at more than one provider, the local authority will split the funding fairly between the providers.

Partnership working

- 2.22. The provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting. An interactive toolkit² has been developed to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring.
- 2.23. The provider should discuss and work closely with parents to agree how a child's overall care will work in practice when their free entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.

² <https://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>

Special educational needs and disabilities

- 2.24. Islington Council strategically plans support for children with special educational needs and/or disabilities (SEND) to meet the needs of all children in their local area as per the Special Educational Needs and Disability code of practice: 0 to 25 years³ (January 2015).
- 2.25. The provider must ensure owners and all staff members are aware of their duties in relation to the SEND Code of Practice and the Equality Act 2010.
- 2.26. Islington Council is clear and transparent about the support on offer in their area, through their Local Offer⁴, so parents and providers can access that support. The provider should be clear and transparent about the SEND support on offer at their setting and make information available about their offer to support parents to choose the right setting for their child with SEND.

Social mobility and disadvantage

- 2.27. Islington Council promotes equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to free places and working with parents to give each child support to fulfil their potential.
- 2.28. The provider should ensure that they have identified the disadvantaged children in their setting as part of the process for checking EYPP eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.

Quality

- 2.29. The Early Years Foundation Stage (EYFS) statutory framework is mandatory for all schools that provide early years provision and Ofsted-registered early years providers in England. The EYFS sets the standards that all early years providers must meet to ensure that children learn and develop well and are kept healthy and safe.
- 2.30. Ofsted are the sole arbiter of quality for all free entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.
- 2.31. Local authorities have a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.

³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf

⁴ www.islington.gov.uk/localoffer

2.32. Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of Early Education and Childcare Statutory Guidance for Local Authorities and the EYFS statutory framework.

Business planning

2.33. The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of their local authority. Failure to do so may result in inaccurate, delayed or suspended funding. The headteacher/Ofsted-registered person is responsible for having final oversight of and validating all data submissions.

2.34. Providers will be charged a notional £100 for each late or incorrect headcount or census submission provided through the termly portal. Consideration will be given for the first occurrence. Further consideration will be given in exceptional circumstances, e.g. technical issues.

2.35. The provider should maintain accurate financial and non-financial records relating to free entitlement places and should give the local authority access on reasonable notice to all financial and non-financial records relating to free entitlement places funded under the provider agreement, subject to confidentiality restrictions.

Charging

2.36. Government funding is intended to cover the cost to deliver 15 or 30 hours a week of free, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or additional services. The provider can charge for meals and snacks as part of a free entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and yoga. **These charges must be voluntary for the parent.** Where parents are unable or unwilling to pay for meals and consumables, providers who choose to offer the free entitlements are responsible for setting their own policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals. Providers should be particularly mindful of the impact of additional charges on the most disadvantaged parents.

2.37. The provider should deliver the free entitlements consistently so that all children accessing any of the free entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.

2.38. Islington Council will not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to take up their child's free place. The provider should be completely transparent about any additional charges.

2.39. The provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as free provision. Not all providers will be able to

offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of hours are convenient for parents' working hours.

- 2.40. The provider can charge parents a deposit to secure their child's free place but should refund the deposit in full to parents within a reasonable time scale. Islington Council recommends that you do not charge a deposit as these families are often the most disadvantaged. If you do charge a deposit, we recommend that it is minimal, and refunded within one month.
- 2.41. The provider cannot charge 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) or require parents to pay a registration fee as a condition of taking up their child's free place.
- 2.42. The provider should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their free entitlement completely free of charge and understand fees paid for additional hours. The provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.

Funding

- 2.43. The provider should accurately complete and submit headcount and other necessary data returns by the agreed date to support the local authority to make payment.
- 2.44. All child-level data is shared with Islington Council through the Capita ONE system, which is a secure database. This is where data is collected for all FEEE payments. Timetables are issued to all providers, shortly before the start of the financial year, which set out the funding process per term, and the information includes:
- the headcount day
 - the dates of birth for eligibility per age group, for two, three and four year olds
 - the payment dates; each term consists of an initial pre-headcount payment, and a post-headcount balancing payment

Each term, the provider is issued with a detailed user guide, which sets out the requirements on them, in order to claim their termly funding, and how to advise Islington Council of any change in circumstances.

Three and four year olds are eligible according to their date of birth for the universal offer and also according to their family's income for the extended offer. Eligibility for a two-year-old is assessed online by the parent or guardian using the Citizen Portal, or via receipt of a Golden Ticket directly from the Council. In order for a two-year-old to access free early education, the parent or guardian must provide evidence of their child's eligibility to the provider, either in the form of a letter from the council, or a confirmation email on the parent's online Citizen Portal account.

2.45. Islington Council offers an enhanced hourly rate to group providers (not childminders) of early education for two year olds that can demonstrate their commitment to high quality provision by signing up to the local authority's specific standards. We often refer to this as a 'quality supplement'. This does not apply to childminders as they receive a separate 'small setting' supplement.

Providers with FEEE two year olds are invited to comply with the following non-statutory requirements:

- Employ a graduate with a full and relevant early years qualification⁵ at level 6 or above to lead practice for two year olds (non-domestic settings only), and provide evidence of the qualification.
- Provide continuity for children through guaranteed seamless progression to a three and four-year-old place at the same setting during the same hours, should parents wish to take it up
- Ensure all families in receipt of FEEE register with Bright Start Islington and access appropriate services and activities

2.46. In addition to the higher rate, in return for compliance with the specific standards set out above providers will receive support from the Local Authority to further develop and embed good quality practice.

Compliance

2.47. Islington Council will carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the free entitlements.

2.48. Monitoring arrangements for FEEE for two, three and four year olds are set out in Annex B. Our principle is to minimise the burden on providers in the monitoring process and we therefore will carry out this monitoring visit in conjunction with other scheduled visits, wherever possible.

Termination and withdrawal of funding

2.49. Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in the termination of the arrangement and withdrawal of funding.

2.50. Islington Council may terminate this agreement and any free early education entitlement funding payments as soon as it is practicable, by giving the provider written notice, under the relevant circumstances and in particular when:

- the registration with Ofsted is withdrawn; or

⁵ <https://www.gov.uk/guidance/early-years-qualifications-finder>

- Ofsted rates the provision to be less than “Good” or “Outstanding” and the provider does not co-operate and commit to working with Islington Council to effect the necessary improvement; or
- the provider does not address the local authority safeguarding requirements to ensure that children are kept safe;
- The provider does not actively promote fundamental British values or if they promote views of theories as facts which are contrary to established scientific or historical evidence and explanations;
- the provider ceases to meet the requirements outlined in this agreement;
- the provider becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due.

Appeals process

- 2.51. A provider may be denied approval to offer the free entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision.
- 2.52. Providers have the right to appeal against the Council’s decision to terminate the agreement and / or to withdraw the funding.
- 2.53. Appeals must be made in writing to the Head of Early Years and Childcare, Children’s Services, 4th Floor 222 Upper Street, London N1 1XR; no later than 14 days from the receipt of the Council’s decision letter. The provider will receive the appeal decision in writing within 14 days. The appeal decision is final.

Complaints process

- 2.54. The provider should ensure they have a complaints procedure in place that is published and accessible for parents who are not satisfied their child has received their free entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities.
- 2.55. Parents are encouraged to raise immediate concerns with their provider.
- 2.56. The provider should resolve parent complaints using their own published complaints process. In most instances it is expected that the provider will be able to respond to the complaint, explain why they are unable to resolve the complaint if indeed they cannot and whether the parent needs to take any further action such as submitting their complaint to them in writing.
- 2.57. If a parent is not satisfied with the outcome of the complaint, the provider should inform the parent that they have the right to contact the Islington council’s Early Years and Childcare Service on fis@islington.gov.uk
- 2.58. The Early Years and Childcare Service will investigate the complaint and inform the parent and the provider of the outcome. Islington Council may recommend actions for

a provider to ensure that the free early education is delivered in line with the Department for Education statutory requirements.

- 2.59. The provider should note this procedure does not duplicate or replace the provider's own complaints procedures nor does it replace any complaints procedures relating to Ofsted or the complaints procedure of Islington Council.
- 2.60. Where matters of a parent's complaint refers to quality of provision, these will be directed to Ofsted.
- 2.61. Matters relating to concerns and issues regarding safeguarding will be directed in accordance with the Local Safeguarding Children Board processes.
- 2.62. If a parent or provider is not satisfied with the way in which their complaint has been dealt with by the local authority or believes the local authority has acted unreasonably, they can make a complaint to the Local Authority Ombudsman. Such complaints will only be considered when the local complaints procedures have been exhausted.

Annex A: Parent Declaration for Free Early Education Entitlement

1. Your child's details

Your chosen provider will need to see your child's birth certificate or passport as proof of their date of birth.

Child's Legal Surname:		Child's Legal Forename(s):	
Name by which the child is known (if different from above):			
Date of Birth:		Gender:	
Address:		Post Code:	
Documentary proof of DoB Type (eg Birth Certificate, Passport):		Document recorded by (name of staff member):	
Date document recorded (dd/mm/yyyy):		30 hours eligibility code:	
Golden Ticket number:		2-year-old eligibility code:	

2. Your details (parents/carers)

Parent / Carer 1	Parent / Carer 2
Legal surname:	Legal surname:
Legal forename:	Legal forename:
Date of birth:	Date of birth:
National Insurance or NASS number (to check if your child can receive additional EYPP funding)	National Insurance or NASS number (to check if your child can receive additional EYPP funding):

3. Early Years Pupil Premium

Additional funding may be available through the Early Years Pupil Premium (EYPP)⁶ which is an additional sum of money paid to early years providers for the provision of extra support for your child. EYPP is used to improve teaching and learning facilities and resources so as to impact positively on your child's progress and development.

Would you like us to check EYPP eligibility for your child?	YES / NO
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Some children are eligible for EYPP funding based on their current or previous looked after status. Please tell us if this is the case.

Has your child ever been in the care of a local authority?	YES / NO
Is your child subject to a Special Guardianship Order or Child Arrangements Order/Residence Order?	YES / NO

4. Disability Access Fund

If your child is 3 or 4, is receiving Disability Living Allowance (DLA)⁷ and is receiving the free entitlement, he or she is eligible for the Disability Access Fund (DAF). DAF is paid to your early years provider. The purpose of DAF is to support providers to make reasonable adjustments and build the capacity of their setting to support children with disabilities.

Does your child receive DLA?	YES / NO
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Please give a copy of your child's DLA eligibility letter to the provider, who will send a copy to Islington Council to claim the funding.

If your child is splitting their free entitlement across two or more providers, please tell us the main setting to pay the DAF to:

⁶ <https://www.gov.uk/guidance/early-years-pupil-premium-guide-for-local-authorities>

⁷ <https://www.gov.uk/disability-living-allowance-children/overview>

5. Provider and attendance details

- You need to agree and complete this Declaration Form with each provider your child attends for their early education entitlement of 15 or 30 hours per week in order to ensure that funding is paid fairly between them.
- Your child can attend a maximum of two sites in a single day and if your child attends more than one provider we will split the funding fairly between the providers.

Provider	Please enter total free entitlement hours attended per day							Total number of hours per week	Number of weeks per year
	Mon	Tue	Wed	Thur	Fri	Sat	Sun		
A									
B									
C									
Total free hours attended									

6. Parent/Carer/Guardian with legal responsibility declaration

I (Name)

of (Address)

.....

confirm that the information I have provided above is accurate and true. I understand and agree to the conditions set out in this document and I authorise (Name of Provider/s) to claim free entitlement funding as agreed above on behalf of my child.

In collecting your data for the purposes of checking your eligibility for the 2-year-old or 3 & 4-year-old universal and extended free entitlement, Early Years Pupil Premium (EYPP) or Disability Access Fund (DAF), Islington Council is exercising the function of a government department. Islington Council is authorised to collect this data pursuant to Section 13 of the Childcare Act 2006.

Parent/Carer/Guardian with legal responsibility		Childcare Provider	
Signed		Signed	
Print name		Print Name	
Date		Date	

5. Data privacy

The Data Protection Act 2018 (the Act) puts in place certain safeguards regarding the use of personal data by organisations, including the Department for Education, local authorities, schools and other early education providers. The Act gives rights to those about whom data is held (known as data subjects), such as pupils, their parents 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 disclosed

Should you have any concerns relating to how your information or the information relating to your child/ren is being or will be used, please contact your provider or Islington council.

Please note that information about whether a child is in receipt of Disability Living Allowance is, under the Act, Special Category Data which should be handled appropriately. Providers are asked to pay particular note to advice from the Information Commissioner's Office on holding personal data including sensitive personal data available at: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/>

This form is now complete

Annex B: Service monitoring arrangements

Islington Council reserves the right to carry out a visit and/or request documentation in order to monitor the provider's compliance with this agreement. This includes evidence needed for the provider to receive the quality supplement for funded 2 year olds.

Outcomes of the visit will be communicated to the provider where there are areas of concern. The Council may need to undertake a follow up review if there are significant areas where the provider is not meeting the statutory conditions and/or the specific standards (if appropriate).

Annex C: Declaration of Acceptance: conditions of Free Early Education Entitlement funding

This declaration must be signed by the manager / person in charge of the setting and by a representative of the management committee / other accountable body.

Provider name	
EY Registration number	
Email address	
Telephone number	
Weeks open per year	

Free Early Education Entitlement for eligible two year olds

I confirm that the above named provider wishes to receive to offer places and receive funding for eligible two year olds. As a participating provider we will comply with (please tick one or both as appropriate):

the statutory conditions set out in the provider agreement	<input type="checkbox"/>
the specific standards set out at section 2.45 of the provider agreement – to receive an enhanced hourly rate	<input type="checkbox"/>

Free Early Education Entitlement for three and four year olds – universal 15 hours

I confirm that the above named provider wishes to offer places and receive funding for three and four year olds. As a participating provider we will comply with (please tick):

the statutory conditions set out in the provider agreement	<input type="checkbox"/>
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Free Early Education Entitlement for eligible for three and four year olds – extended hours (30 hours free childcare)

I confirm that the above named provider wishes to offer places and receive funding for eligible three and four year olds. As a participating provider we will comply with (please tick):

the statutory conditions set out in the provider agreement	<input type="checkbox"/>
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Local Authority monitoring

I understand that the local authority will monitor the provider's compliance with the statutory conditions, and will monitor compliance with this agreement.

Provider declaration:

I confirm that the above named provider wishes to provide FEEE as outlined above.

Signature of Ofsted registered person	
Name	
Position in organisation	
Date	

Please return signed form to Tim Keating, Early Years Finance Officer, 4th Floor 222 Upper Street, N1 1XR or email to timothy.keating@islington.gov.uk

The Council will confirm in writing whether or not your request to receive early education funding has been accepted.

Please note a Council officer may need to visit your provision in order to confirm you meet the statutory requirements (and the specific standards if applicable) in advance of this confirmation being given.