

Establishing Early Years Provision

Guidance for Maintained Schools and Academies April 2024



Growing a place of opportunity and ambition

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Introduction

This guide is for maintained schools and academies considering options for offering funded early years places either through formally lowering their age range or, where appropriate, by using their Governors' community powers (S27 of the Education Act 2002). It also includes information on where to find relevant statutory requirements, funding, and the processes you will need to follow.

Every child is entitled to a **universal** offer of 15 hours funded early education from the term after their **3rd birthday**. There is also an **extended** entitlement of 30 hours for eligible 3- and 4- year-olds from working families. This may be accessed in a range of provisions, including schools.

Following the government budget announcement (March 2023), from April 2024 2-year-old children **where both parents are working** will also eligible for 15 hours funded early education. Some parents can also apply for funded early education if they are in receipt of certain income related benefits. Please see information on Bright Futures for 2-year-olds here: Funded early education for two-year-olds – Slough Borough Council

From September 2025, this offer will be extended to 30 hours funded early education.

We have provided brief guidance in this document for schools considering including these younger children. There are many recognised benefits in schools offering early years provision including:

- in maintained schools, and where academies choose, children will be taught by a 'school teacher' as defined by section 122 of the Education Act 2002, ideally specialising in Early Years
- improved transitions staff and children have time to get to know each other well
- parents may be more likely to choose to educate their children within their local community from the outset
- where offered, extended (wrap around) care supports parents who are training or returning to work
- childcare on site can benefit school staff, and aid recruitment and retention
- sharing of resources and expertise across a distinct phase of education

However, early years provision must be carefully planned to make sure that it's right for your school. Areas that will need careful consideration include:

- assessing demand for new provision
- offering flexibility to meet families' needs

- what else is available locally could you end up competing for applications?
- the financial viability of your model
- accommodation for the nursery (and funds for any adaptations/resources)
- the effect on other age groups (e.g., will you mix reception and nursery together?)
- additional requirements if merging with a pre-school e.g. TUPE Transfer of Undertakings (Protection of Employment) 2006 4
- Community and Voluntary Schools should consider whether offering early years
 places under their governors' community powers may be a better option than formal
 age range extension.

2 - Formally extending a school's lower age range

(Please follow the section below as relevant to your category of school)

2.1 School Organisation (For Maintained Schools)

Any proposed age range extension at Community, Voluntary Aided and Voluntary Controlled Schools must follow a statutory process that will be carried out by the Local Authority, see the DfE document: Making significant changes ('prescribed alterations') to maintained schools (publishing.service.gov.uk).

Maintained schools wishing to create a nursery class should have an initial informal discussion with us to ensure that we are able to support the proposal. This will be determined by factors including:

- sufficiency of places in the area
- confirmation that the space identified for the nursery is suitable, and is surplus to requirement (e.g., not required for future school growth)
- that it presents no adverse effect on other early years provision in the locality
- that the school is Ofsted Good or Outstanding, unless a specific exception is agreed
- New provision or closures may require that a statutory process is followed, the latest guidance published by the DfE can be found here:

https://www.gov.uk/government/publications/school-organisation-maintained-schools

2.2 Education & Skills Funding Agency (For Academies)

There are two routes:

'Fast Track' and 'Full Business Case'.

To qualify for the Fast Track route the Academy must:

- be rated as 'good' or 'outstanding' following its last inspection by Ofsted
- have a most recent Progress 8 score of at least the national average
- be in good financial health
- have the capacity to make the change without jeopardising the academy's performance 5
- be able to provide evidence that the LA, and where a school is designated as having a religious character, the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), do not object to the proposed change

For both full business case proposals and fast track applications, the academy trust will need to demonstrate that a fair and open local consultation has been undertaken with all those who could be affected by the proposed change, and that the academy trust has considered all responses received. Please send details of your proposal to the Early Education team who will provide a statement (see Annex 1) that you can include in your submission as evidence of consultation.

Please refer to the DfE publication, <u>Making significant changes to an academy: January 2024</u> (applies from April 2024) (publishing.service.gov.uk)

3 - Statutory Framework for the Early Years Foundation Stage

Schools should refer to the <u>Statutory framework for the early years foundation stage for group and school providers</u> for details on relevant legal requirements including staffing ratios, areas of learning and early learning goals; and premises requirements. Where referred to within this guide we will use 'EYFS'.

You will also find the <u>Early years entitlements</u>: <u>local authority funding operational guide 2024 to 2025 - GOV.UK (www.gov.uk)</u> helpful in your planning.

4 - Class size and Staffing

These are determined by the EYFS (Section 3 Safeguarding and Welfare Requirements) which states: 'staffing arrangements must meet the needs of all children and ensure their safety.

Providers must ensure that children are adequately supervised, including whilst eating and decide how to deploy staff to ensure children's needs are met'. Requirements differ by sector so check that you are referring to the relevant section for your type of provision regarding staff qualifications and adult to child ratios.

Academies may therefore choose a 1:13 staffing model for their nursery class with a qualified teacher or else a 1:8 ratio without. This also applies to governor-run (community powers) provision in maintained schools i.e., where the age range has not formally been extended.

For 2-year-olds the staffing ratio is currently 1:5 in all settings.

The EYFS requires that staffing for nursery classes in maintained schools must include a school teacher, as defined by section 122 of the Education Act 2002. We are advised by the Teaching Regulation Agency (an executive agency of the DfE) that EYTS and EYPS qualifications do not meet this requirement.

The EYFS expects the teacher to be working with children for the vast majority of the time. Where they need to be absent for short periods of time, the provider will need to ensure that quality and safety is maintained. You will therefore need to consider your staffing arrangements for breaks and lunchtime should the nursery children be staying all day.

Some schools may choose to mix their reception classes with groups of younger children (nursery pupils, non-pupils or younger children from a registered provider), in which case they must determine ratios within mixed groups, guided by all relevant ratio requirements and by the needs of individual children within the group.

In exercising this discretion, the school must comply with the statutory requirements relating to the education of children of compulsory school age and infant class sizes.

Schools' partner providers must meet the relevant ratio requirements for their provision. (EYFS 3.39). In many early years settings children are not grouped in ways that directly reflect the requirements of the EYFS. In such circumstances it may not always be straightforward to apply the ratio requirements. Providers should use their professional judgement in deciding which staffing arrangements are most appropriate for their specific circumstances.

In all circumstances, the provider is responsible for ensuring that the legal requirements are met and in order to meet the needs of individual children it may be appropriate to exceed the minimum requirements.

Proposals for classes that mix nursery with reception age must also conform to the School Admissions (Infant Class Size) Regulations 2012. These limit the size of infant classes to 30 pupils per school teacher (where the majority will attain the age of 5 during the school year). See the following tables for some suggested examples of mixed class staffing requirements. These will apply to both academies (where the class is led by a qualified teacher) and maintained schools Minimum Staffing Levels in mixed age classes If more than 50% of the total class are reception age:

Number of children per session

If more than 50% of the total class are reception age:

Number of children per session	Teachers per session	Early Years support staff per session
Up to 15	1	1
16 - 30	1	1
31 – 45	2	1

If more than 50% of the class are nursery age:

Number of children per	Teachers per session	Early Years support staff per
session		session
Up to 13	1	1
14 - 26	1	1
27 - 39	1	2

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40 - 52	2	2
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For more detailed guidance on full and relevant staff qualifications and training use the DfE qualifications finder. <u>Early years qualification requirements and standards - GOV.UK (www.gov.uk)</u>

Other considerations:

- All staff should be entitled to a programme of professional development that will enhance their early years qualifications and expertise.
- Vertical classes may present challenges as well as opportunities for planning and provision.
- All staff need to be committed to the principle that early years 'is an outdoor job' and daily working outdoors is a statutory part of the EYFS.
- Additional staffing may be needed to support the learning opportunities for the full age range indoor and out.
- Additional staffing may be needed to support children with special educational needs in line with the requirements of the SEND Code of Practice.
- Additional adults should be able to take on the role of Key Person as required. This
 includes meeting and greeting children and their parents at the beginning and end of
 sessions, supporting liaison with parents to discuss any observations of children's
 learning, contributing to reviews of the progress made by children with special
 educational needs
- Additional adults have a responsibility to assist the teacher in setting up resources and equipment inside and outside at the beginning and end of sessions. Schools should include this non-contact time within paid contracted hours.

5 - Accommodation

There is limited funding available from the Local Authority to adapt premises in a nursery class. If you are in an area identified as having one of the highest shortfalls in early years provision, we may be able to offer financial support towards your project.

If you have suitable surplus accommodation and funds to adapt it, we ask that you liaise with us at an early stage to confirm that the proposal does not conflict with any expected or possible future development of the school or any known covenants on future use of that area.

If you have a 'spare' classroom because intake has been low, we look at forecasts of population growth and housing development to make sure that your intake will not need to increase again in the next few years.

Please refer to requirements detailed within the EYFS as there are some early years requirements you will need to be particularly aware of e.g., preparation of food, nappy changing, an area where staff may talk to parents and/or carers confidentially.

6 - Nursery Admissions

All schools administer their own nursery admissions. All provisions should make clear to parents that a place in the nursery does not guarantee a place in the main school.

6.1 Maintained schools:

Maintained community and VC schools with an age range including nursery must follow the Slough Borough Council Admissions Policy. The Early Education Team will agree with you annually the number of part-time places you will offer (known as a Published Admission Number) and the school should then admit to that number if there is demand for places.

Nursery admissions will be three times a year admitting from the start of term, until the published number is reached. Places must always be offered for the full free universal entitlement of 15 hours per week or 570 hours per year if you are able to offer places more flexibly.

Schools may agree requests for children to attend fewer hours but are not obliged to and will need to bear in mind that any agreed partial attendances will mean place funding will only reflect the actual hours taken up. The policy supports the 30 hour offer if you choose to include this

6.2 Academies.

VA, and Governor-run provision:

Governor-run provision, Academies and other own admission authority schools (e.g. Aided Schools, Free Schools) are responsible for devising their own nursery admissions policy or may adopt the Slough model with suitable amendments - we are happy to advise further on this.

Each academic year we will ask you to confirm how many nursery places you will be offering, which helps with our statutory early years sufficiency of places planning and will be included in our Pupil Place Plan.

7 - Financial Planning and Funding

With careful planning a nursery can be financially viable without using wider school budgets. Keep in mind that eligibility cohorts mean your nursery roll is likely to build throughout the course of the academic year and you should expect some unfilled places at least in the autumn term.

Some schools offer chargeable sessions on an ad hoc basis to bring in extra income and cover staff costs, particularly at the start of the academic year when numbers eligible for a free place are lower.

Your business planning should include initial start-up costs, ongoing staff and running costs; and any income from place funding, purchased places and extra charged for services (remember these extras must remain optional for children only taking up their free entitlement).

Maintained schools are required to submit a budget plan demonstrating the viability of the planned nursery provision to the school's Education Finance Service (EFS) adviser in advance of making a significant change such as introducing nursery places.

Where maintained schools are following a statutory age range extension process, the EFS adviser will also contribute to the report and recommendation to the final Decision Maker. For further detail please call your EFS finance adviser tel:, or e mail

7.1 Accessing place funding

All schools will need to register with the Early Education Funding team to access place funding.

Academies and Governor-run provision are covered by the Provider Funding Agreement. Joining the scheme will give you access to the Council's funding portal to confirm attendance and this is completed once a term, with a later adjustment headcount to record any changes.

Providers in the funding scheme are issued an indicative budget for the financial year, based on 15 hours per nursery pupil at £6.27 per hour for 3s and 4s or £9.15 per hour for funded 2s (2024/25 rates).

An interim payment is made by the start of each term based on 60% of your predicted claim. An adjustment payment is then made after receipt of headcount data. Additional payments for Early Years Pupil Premium, Deprivation Supplement, SEN Inclusion Fund and Disability Access Fund where applicable will also be made through your headcount task on the portal. Nursery place funding is dependent on pupil information provided through the Local Authority's portal. It is therefore important that the school keeps these records up to date.

8 - Quality, Safeguarding and Curriculum

All providers must follow the standards for learning development and care as set out in the Early Years Foundation Stage Statutory Framework (EYFS). <u>Early years foundation</u> stage (EYFS) statutory framework - GOV.UK (www.gov.uk)

Early years providers have a duty under section 40 of the Childcare Act 2006 to comply with the welfare requirements of the EYFS. Early years providers must ensure that:

- they are alert to any issues of concern in the child's life
- they have and implement a policy and procedures to safeguard children. This must include an explanation of the action to be taken when there are safeguarding concerns about a child and in the event of an allegation being made against a member of staff.
- The policy must also cover the use of mobile phones, smart watches with recording facilities and cameras in the setting, that staff complete safeguarding training that enables them to understand their safeguarding policy and procedures, have up-todate knowledge of safeguarding issues, and recognise signs of potential abuse and neglect
- they have a practitioner who is designated to take lead responsibility for safeguarding children within each early years setting and who must liaise with local statutory children's services as appropriate. This lead must also complete child protection training

The DfE requires that local authorities 'must not fund the early education entitlement through providers that fail to actively promote fundamental British values, or which promote as evidence-based views or theories that are contrary to established scientific or historical evidence'. This requirement is included in the early education funding provider agreement for academies and governor-run provision.

In most instances in schools Ofsted will inspect Early Years provision using the School Inspection Handbook. Where the early years has a separate Ofsted registration number or where the provision may include children under two years old then Ofsted inspect using the Early Years Inspection Handbook.

All Early Years providers must follow the Safeguarding and Welfare Requirements of the EYFS.

At least one person who has a current paediatric first aid (PFA) certificate must be on the premises and available at all times when children are present and must accompany children on outings. The certificate must be for a full course consistent with the criteria set out in Annex A of the EYFS.

All staff must read and follow the statutory guidance in Keeping Children Safe in Education Good Practice Guidance for early years setting regarding expectations of safeguarding training:

The Slough Safeguarding Partnership recommends that all workers in an early years setting in Slough who have contact with children should undertake the Level 1 – Introduction to Safeguarding' course.

This course covers definitions of categories of abuse and signs and indicators to be aware of that a child may be at risk, explores the requirements of the Early Years Foundation Stage framework and local protocols, procedures and contact details of how to report concerns regarding the safety and welfare of children in Slough.

The Training is delivered by Staff from the Slough Early Education team. They bring experience and knowledge to the training and can answer questions about local processes and practice. The course content is bespoke to Slough; it outlines how the safeguarding system works locally and highlights learning themes from case reviews in the county.

All Designated Safeguarding Lead workers must attend a Slough Level 3 'Designated Safeguarding Lead' course for multi-agency workers as defined in the EYFS 2024

9 - Special Educational Needs and Disabilities

Schools are reminded that they must comply with the Children and Families Act (2014) and the <u>SEND_Code_of_Practice_January_2015.pdf</u> (<u>publishing.service.gov.uk</u>)You may also find the Early Years guide to the SEND Code of practice helpful.

All early years providers are required to have arrangements in place to identify and support children with SEN or disabilities and to promote equality of opportunity for children in their care. These requirements are set out in the EYFS. They must also comply with the Equality Act 2010, including an "anticipatory duty" to be prepared for any disabled child who might attend the setting.

The governing bodies of maintained schools with nursery provision must publish information on their websites about the implementation of the governing body's policy for children with SEND. The information published should be updated annually.

The information required is set out in the Special Educational Needs and Disability Regulations 2015 and includes arrangements for the admission of disabled children, the steps being taken to prevent disabled children from being treated less favourably than others, the facilities provided to enable access to the school for disabled children, and their accessibility plan showing how they plan to improve access over time.

All maintained schools must ensure that there is a qualified teacher designated as the SENCO to ensure the detailed implementation of support for children with SEND. This individual should also have the prescribed qualification for SEN Co-ordination or relevant experience.

Academies are also required to have arrangements in place for meeting children's SEN and to identify a SENCO.

10 - The Extended (30 Hour) Offer

The extended offer for 3- and 4-year-olds supports **working families** and is for 30 hours' funded provision a week, if taking during term time only. It can also be spread over a longer period and split with other childcare provisions – such as attending school nursery for 15 hours a week and having funded provision elsewhere during school holidays. Please see Childcare Choices | 30 Hours Childcare, Tax-Free Childcare and More | Help with Costs | GOV.UK for further information on eligibility.

Schools can decide to include 30 hour funded places in their offer. One 30 hour place = 2 part time equivalents (pte). Your published admission number would to be stated in pte. You could choose to set a ceiling on the proportion of that capacity you would offer as 30-hour places to protect some places for younger children only eligible for the 15 hours.

If you decide to go ahead with the 30-hour offer, you will need to ask parents to apply for their eligibility in plenty of time e.g. by July, November and February for starting nursery the following terms. We advise you to carefully check parents' eligibility codes and the dates these codes come into effect before confirming a 30-hour place.

You will also need to consider how you will manage lunchtime cover for those children who are staying all day. Offering the 30 hours is likely to be attractive to families and help to fill your places more quickly.

11 - Funded 2 Year Olds

If you were judged by Ofsted as Good or Outstanding at your last inspection, you may wish to think about offering funded places from age 2. The Early Years team can advise on potential demand for this in your area and how the scheme works.

Being 2 years old is an important time in a young child's development. You will need to consider and adapt your accommodation to meet the unique needs of 2- year-olds. There will be times when they need calm, quiet spaces whilst at other times they will benefit from mixing with older children. For further information on free places for 2 year olds please follow the link: Funded early education for two-year-olds – Slough Borough Council

EYFS requirements for accommodation (m2 per child) and staffing ratios differ for this younger age group. Schools will need to build in additional staffing costs and the higher grant rate into their financial planning. The DfE document Two Year Olds in Schools: A case study provides 8 examples of how schools established 2 year old provision.

12 - OFSTED Registration

Schools do not need to register nursery provision on the Early Years Register where at least one early years child on the site is a registered pupil. The requirement for this can be

satisfied by Reception children, and they do not need to be in the same room as the nursery children. Ofsted will inspect the early years provision under the school inspection arrangements.

If you are a secondary school, you will need to register the new nursery separately with Ofsted. Please see the Ofsted Factsheet on Registering school-based childcare provision - GOV.UK (www.gov.uk).

Schools that take children younger than two years must register with Ofsted and this provision will then be inspected under the early years inspection arrangements. For further information see Early years inspection handbook - GOV.UK (www.gov.uk) for Ofsted Registered Provision.

13 - 3rd party Pre-School Provision School/Pre-school mergers

Schools with a private or voluntary group on site may decide together that it's the right time to merge and come under one management. There will be times when 3rd party arrangements are no longer viable or appropriate. Increasingly, for example, pre-schools are finding it difficult to maintain a separate governance structure due to lack of committee volunteers.

Transferring the management arrangements to the school's Headteacher and governors is not a quick fix option when pre-schools are experiencing short-term difficulties. The process can take 6 months or more and there are many things to consider. If all are agreed that a merger or transfer is the best option, both parties will need to follow relevant processes and work together to plan the way forward.

The school will need to consider whether it favours an age range extension or governors'/trustees' powers route, and understand the timescales involved in this. You will need to decide whether to maintain or extend the early years offer that the pre-school has delivered and communicate this to those affected by the proposed change.

Any proposed reduction in provision should also be made clear at the time of consultation, explaining the reasons for this. Both the school and the pre-school need to take specialist advice on transfer of staff and employment rights, pay and conditions, including TUPE legislation (Transfer of Undertakings (Protection of Employment) Regulations 2006) where applicable. Under the legislation any redundancy costs that result from the merger must be met by the school.

The pre-school will need to follow any procedures for closure laid down in its Constitution or Governance documents.

Any transfer or disposal of assets needs to meet Charity Commission requirements if the preschool is a registered charity.

14 - The Alternative to Age Range Extension

Schools may decide that extending the school age range is not the right way forward; but can still offer childcare under Governors or Trustees powers.

For maintained schools, Section 27 community powers allow school governors to provide any charitable purpose (such as early education) for the benefit of families of pupils at the school, or families who live or work in the locality of the school.

For Academies, a possible alternative to formal age range extension is to run nursery provision through the Trust. This is not a well-recognized model but may be possible if the school and trustees are directly involved with the running of the preschool and operating it in line with the Trust's Memorandum and Articles of Association. Annex 3 sets out possible management models and partnership working considerations.

15 - Marketing your offer and updating records

Please let the Early Education team know as soon as you have a formal decision about offering new early years provision. We'll update Slough records, the early years team, the funding team and update your information on the <u>Slough Information and Services Guide</u> (<u>sloughfamilyservices.org.uk</u>) to start including your provision on their Directory.

You will be invited to provide more information on the FIS Directory record, and we would suggest you add more than the basic detail as this helps to attract parents looking for provision in your area.

You'll want to start accepting applications in good time, especially if you need to check entitlement or are likely to be oversubscribed. Update your school website as soon as possible to include information about the nursery offer, and how to apply for a place.

If you have gone through a formal age range extension you need to update the DFE website Get Information about Schools - GOV.UK (get-information-schools.service.gov.uk) to show the new age range (e.g. 2- 11) and that the school now has a nursery class.

Annex 1

Information on Consulting the Local Authority

As stated in the DfE guidance, whether applying under the fast track or full business case route, Academy Trusts should include evidence of consultation with the Local Authority when proposing an age range extension.

We would ask for early discussions so that if there are any potential areas for concern these can be worked through with the aim of offering a statement of support to include with your application.

To consult the local authority on your proposal to lower an academy's age we need to know as a minimum:

- When you intend to open your nursery
- What age range you intend to cover
- Where the nursery will be accommodated (include plan if possible), and size of room
- If it will be mixed with reception, or a separate class
- Number of 15-hour places to be offered In addition, if there is already a pre-school on the school site, we need to know:
- If the pre-school has voted for closure/merger at an Extraordinary General meeting (and if not, when this vote will take place)
- Whether staff are to TUPE across
- Ownership arrangements for any premises currently used by the pre-school

Annex 2

2. Including Younger Children into School

During the induction of younger children, parents/carers should be included and involved in settling their child into school. The time this takes will be dependent upon the individual needs of their child.

Staggered starts may be effective to avoid large numbers of new very young children starting nursery at the same time. Staggered starts should not be spread over more than a week or two. However, parents are legally entitled to start their child on the 1st day of term both in reception and nursery provision. Schools should not therefore insist on a staggered start.

Practitioners working with 2-, 3- and 4-year-olds may need further training for this age group with a particular focus on child development.

Younger children will need accommodation, furniture, facilities and resources that are appropriate for their physical size and height (indoors and out). Specific consideration may need to be given to children with particular needs and those with special educational needs and disabilities.

There should be a toilet and a wash basin for every ten children over the age of 2. Although this is no longer a statutory requirement, it is still a Slough recommendation because access to good toilet facilities is so important in building confidence. Toilets should be easily accessible from the EYFS area so that children can be independent in going to the toilet. Some younger children and those with SEND may still be in nappies and adults will need to be trained in the personal / intimate care of young children, following the EYFS Statutory Framework and safeguarding procedures.

Younger children need to be particularly secure in their routines and these should be appropriate to their age and stage of development. Some children may require the use of additional strategies e.g., objects of reference and visual timetables.

Because younger children need greater emotional security, the continuity of all practitioners is very important. Young children need to make secure attachments therefore the key persons need to be consistently deployed to assist children's learning and development. The younger the children, the more appropriate it is that they are taught in small groups, pairs or one-to-one.

Whatever the age of the children, practitioners will need to be aware of those who do not appear to be making progress generally or in a specific aspect of learning. Practitioners should use alternative approaches to teaching and learning capitalising upon a range of differentiation strategies. Practitioners will need to be confident in recognising and

providing appropriately for children who are identified as having special educational needs, drawing on specialist help when necessary, in liaison with the school's SENCo