



# **Establishing Early Years Provision in Schools**

**Guidance for Maintained, Voluntary  
and Foundation Schools and  
Academies\***

Updated February 2021

\*<https://www.gov.uk/types-of-school>

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## 1 Introduction

This guide is for maintained schools and academies considering lowering their age range to admit nursery children, or establishing early years provision under their Governors' community powers (S27 of the Education Act 2002).

It also includes information on where to find relevant statutory requirements, the processes you will need to follow, and funding details.

Every child is entitled to universal free part-time early years education from the term after their 3<sup>rd</sup> birthday. There is also an extended 30 hour entitlement for eligible 3 and 4 year olds from working families. This may be accessed in a range of provisions, including schools.

Some 2 year old children are also eligible for free part-time early education, and 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, nursery provision may not be right for every school.

Areas that will need careful consideration include:

- assessing demand for new provision
- flexibility to match families' needs
- jeopardising viability of other provision - potentially ending 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 an existing Pre-School e.g. TUPE – Transfer of Undertakings (Protection of Employment) 2006

Schools should consider whether offering early years places under their governors' community powers may be a better option than formal age range extension. A table setting out the key differences between governor-run and school nursery provision is at **Annex 2 and** some of these aspects are covered in more detail later in this guide.

## **2 Formally extending a school's lower age range**

### **2.1 School Organisation (For Maintained Schools)**

A proposed age range extension of maintained schools may need to follow a statutory process- see the DfE document: [Making Prescribed Alterations to Maintained Schools - Statutory Guidance](#).

Maintained schools wishing to create a nursery class should informally discuss the proposal with the Council to ensure that we are able to support it. This will be determined by factors including:

- evidence of demand for the proposed provision
- 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 by the Local Authority
- that any merger extends or secures the existing scope of the replaced provision

All LA Maintained, Voluntary Controlled and Voluntary Aided schools can extend their lower age range by up to 2 years without the need to follow a formal statutory process. However, there are still some important principles to cover and these are outlined in section 4 of the DfE guidance (link above).

Governing Bodies are asked to liaise with the Local Authority regarding how their proposal aligns with wider place planning and should also consult other interested parties as described in the DfE document before making a final decision. We can also provide information regarding sufficiency of places to help you with planning your consultation.

### **2.2 Education & Skills Funding Agency (For Academies)**

Academies rated as 'good' or 'outstanding' at their last Ofsted inspection, that are in good financial health, have the capacity to make the change, and have evidence to show that the LA, and (where appropriate) the trustees of the school and the diocese or relevant diocesan board, do not object to the proposed change, can

propose to change the age range of their school by up to two years through the Education Skills and Funding Agency (ESFA) fast track process. Other proposals including any that are contentious i.e. where the LA, neighbouring schools or early years providers object, will require a full business case. Please refer to the DfE publication, [Making Significant Changes to an Existing Academy](#) for more detail.

For all significant change enquiries and proposals, academy trusts will need to contact the ESFA, via an enquiry form, at least three months prior to the proposed change coming into effect.

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. If alterations to the building are required the Academy Trust must gain consent from the owner of the building. If it is purely an age-range change the Academy Trust should send details of the proposal to the following people in the Local Authority Children and Families Directorate:

Ceri Morgan (Assistant Director) [ceri.morgan@herefordshire.gov.uk](mailto:ceri.morgan@herefordshire.gov.uk)

Emily Garner (EY Lead Advisor) [emily.garner@herefordshire.gov.uk](mailto:emily.garner@herefordshire.gov.uk)

### **3 Statutory Framework for the Early Years Foundation Stage**

Schools should refer to the [Early Years Foundation Stage Statutory Framework](#) 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 [Early Years Entitlements Operational Guidance](#) 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 and decide how to deploy staff to ensure children's needs are met'.

Requirements differ by sector/type of school so you must ensure that you are referring to the relevant section of the EYFS Statutory Framework for your type of provision regarding staff qualifications and adult to child ratios. Nursery classes in 2-11/3-11 Maintained Schools must have a qualified teacher (as defined by Section

122 of the Education Act 2002) at all times, whereas Academies can choose a 1:13 staffing model for their nursery class with a qualified teacher or else a 1:8 ratio with a minimum Level 3 full and relevant qualification. This also applies to governor-run (community powers) provision in maintained schools where the age range has not formally been extended (i.e. school remains 4-11/5-11).

The EYFS requires that staffing for nursery classes in Maintained, Voluntary and Foundation Schools must be led by a qualified teacher (as defined by Section 122 of the Education Act 2002), and at least one other member of staff must hold a full and relevant Level 3 qualification. The EYFS expects the qualified 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.

The staff must all have the correct full and relevant qualifications to be counted in ratios, and the teacher must have a UK-recognized teaching qualification:  
<https://www.gov.uk/guidance/early-years-qualifications-finder>

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 and maintained schools.

### **Minimum staffing levels in classes that mix nursery and reception:**

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

No. of children per session	Teachers per session	Early years support workers 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**:

No. of children per session	Teachers per session	Early years support workers per session
Up to 13	1	1
14-26	1	1
27-39	1	2
40-52	2	2

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 currently no capital funding available from the Local Authority to build or extend premises to create a nursery class.

However, Herefordshire is able to offer capital loans to local authority maintained schools. Schools are expected to contribute from their balances and the maximum loan available is determined by the length of the loan and the annual repayment which is limited to 2% of the school's national funding formula allocation. If you require such a loan you must allow three months for approval prior to formally committing any expenditure.

Academies should apply to the Education and Skills Funding Agency to determine whether a comparable loan is available.

If you have suitable surplus accommodation and funds to adapt it, we would 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 restricting the future use of that area. If you have a 'spare' classroom because intake has been low for a few years, we would 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:**

Published Admission Numbers (PANs) are not set for nursery places in maintained schools. The number of places the school chooses to offer will be dependent on meeting the EYFS Statutory Framework requirements for staffing ratios and qualifications, and the correct available indoor floor space for the different age groups. 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 Herefordshire model with suitable amendments - we are happy to advise further on this. The policy must meet the requirements of public law. The annual school census will ask you to confirm how many nursery places you offer, which helps with our statutory early years sufficiency of places planning. We may also request evidence that you are able to accommodate the number stated, and that you are complying with the EYFS statutory requirements as above.

## **7 Financial planning**

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 startup 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).

It is essential that the school considers how it is to provide for staff redundancy costs in the event that the nursery is not successful as any losses will have to be funded from the school budget. It is recommended that governors consider carefully the nursery business plan to ensure the viability of the nursery. Most governing bodies will have suitably qualified financial governors who will be able to offer advice and assess the business case. In the lack of such expertise, the school will need to purchase such advice from a local business advisor or accounting practice.

It is the governors' responsibility and risk to make sure the nursery business case is viable and it is not something the LA is able to advise on.

## **7.1 Accessing place funding**

All schools will need to register with the council's Nursery Education Funding (NEF) Team and sign up to the Herefordshire NEF Provider Agreement in order to claim the early years free entitlement funding. Please contact [earlyyears@herefordshire.gov.uk](mailto:earlyyears@herefordshire.gov.uk) in the first instance. An account will be created for the school on the Council's funding portal to confirm attendance numbers and to provide information for the family Information Service and Childcare Directory. The attendance headcount is completed once a term, with a later adjustment to record any changes.

Additional payments for [Early Years Pupil Premium](#), Deprivation Supplement, Rurality Supplement and Disability Access Fund where applicable will also be made through your headcount on the portal.

Nursery place funding is dependent on pupil information provided through the portal. It is therefore important that the school keeps these records up to date.

## **8 Quality, safeguarding and curriculum (also see Annex 3)**

All providers must follow the standards for learning development and care as set out in the Early Years Foundation Stage Statutory Framework (EYFS).

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 Handbooks. 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](#), and any additional guidance from Herefordshire Safeguarding Children and Young People in Herefordshire Partnership.

## **9 Special Educational Needs and Disabilities**

Schools are reminded that they must comply with the Children and Families Act (2014) and the current [Special Educational Needs and Disabilities Code of Practice 0 to 25](#) You may also find the [SEND Guide for early years settings](#) 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 2014 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 in order to ensure the detailed implementation of support for children with SEND. This individual should also have the prescribed qualification for SEND Coordinator or relevant experience. Academies are also required to have arrangements in place for meeting children's SEND 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 [www.childcarechoices.gov.uk](http://www.childcarechoices.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 need to be stated in pte's. 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.

Being 2 years old is an important time in a young child's development. You will find this document very useful: [Including two Year Olds in Schools- A briefing for School Leaders](#). 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: <https://www.herefordshire.gov.uk/family-support/childcare>

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 provision February 2017.

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 the [Early Years Inspection Handbook for Ofsted Registered Provision](#).

### **13 Private Pre-School provision on a school site: options for merging**

**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 third 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 Head Teacher 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- as amended) 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 Pre-School 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, an alternative to formal age range extension is to run nursery provision through the Trust. If the school and trustees are directly involved with the running of the preschool and operating 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 LA Early Years team know as soon as you have a formal decision about offering new early years provision. We will update HCC records, the funding team and add you to the Herefordshire Family Information Service database (FIS) to start including your provision on the Childcare Directory. You will be asked to complete a detailed setting database form 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](#) to show the new age range (e.g. 2-11) and that the school now has a nursery class.

## **Annex 1: Useful contacts**

### **1. Herefordshire Early Years Improvement Team:**

For initial enquiries on setting up an early years provision; for advice regarding all aspects of the EYFS and building a quality early years provision; for support for pre-schools considering closure or merger; for advice, support and training information.

[earlyyears@herefordshire.gov.uk](mailto:earlyyears@herefordshire.gov.uk)

### **2. Herefordshire Council Nursery Education Funding (NEF) Team:**

For information on how to apply for nursery funding for 2, 3 and 4 year olds.

[nef@herefordshire.gov.uk](mailto:nef@herefordshire.gov.uk)

### **3. Sufficiency, Planning and Capital Investment Team (schools):**

For advice regarding the impact of the use of space within a school, or assessment of the suitability of existing external buildings, or advice on obtaining landlord consent for building alterations. Please seek advice from: Karen Knight, Sufficiency Planning and Capital Investment Manager (Children and Families Directorate), Herefordshire Council

### **4. Education Skills and Funding Agency:**

For Academies wishing to extend their lower age range

email: [academy.questions@education.gsi.gov.uk](mailto:academy.questions@education.gsi.gov.uk)

### **5. Governor Services mailbox:**

[governorservice@herefordshire.gov.uk](mailto:governorservice@herefordshire.gov.uk)

## Annex 2: Comparison of school organisation options

	Maintained Nursery Schools and Nursery Classes in Maintained, Voluntary and Foundation Schools	Maintained, Voluntary and Foundation School Governor-run (community powers S27) provision	Academies, Free schools and Independent schools
Inspection	Ofsted (as part of main school inspection)	Ofsted (as part of the main school inspection)	Ofsted (as part of main school inspection) or ISI
Ratios and qualifications	<p><b>3 &amp; 4 Year olds</b> Ratio 1:13</p> <ul style="list-style-type: none"> <li>One member of staff must be 'school teacher'</li> <li>At least one other member of staff must hold a relevant L3 qualification**</li> </ul>	<p><b>3 &amp; 4 Year olds</b> If QTS, EYPS or EYT or other suitable L6 qualified member working directly with children then: ratio <b>1:13</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L6</li> <li>At least one other member of staff must have L3</li> </ul> <p>If <b>no</b> listed L6 present, then ratio <b>1:8</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L3</li> <li>At least half of all other staff must hold relevant L2 qualification</li> </ul>	<p><b>3 &amp; 4 Year olds</b> If QTS, EYPS or EYT or other suitable L6 working directly with children then ratio <b>1:13</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L6**</li> <li>At least one other member of staff must have L3**</li> </ul> <p>If no L6 present, then ratio <b>1:8</b></p> <ul style="list-style-type: none"> <li>One member holding relevant L3</li> <li>At least half of all other staff must hold relevant L2</li> </ul>
	<p><b>2 year olds (all sectors)</b> 1:4</p> <ul style="list-style-type: none"> <li>One member of staff holding relevant L3 (in nursery as a whole)</li> <li>At least half of all other staff must hold relevant L2</li> </ul>		
Census	School census	Early years census – children are not registered pupils of the school	<p><b>Academies and Free schools</b></p> <ul style="list-style-type: none"> <li>School census if 2-11 or 3-11 school (children are registered pupils)</li> <li>Early years census if 4-11 or 5-11 school (children not registered pupils)</li> </ul> <p><b>Independent Schools</b></p> <ul style="list-style-type: none"> <li>Early years census</li> </ul>
Indoor space requirements	<b>All sectors</b>	<p>2 year olds – 2.5m<sup>2</sup> per child*</p> <p>3 – 5 year olds – 2.3m<sup>2</sup> per child</p>	



## **Annex 3: Quality provision**

### **1. Planning and organisation**

Accommodation for children in the EYFS should, wherever possible, have direct access to outdoor provision. This may include Reception and nursery children sharing indoor and outdoor space. Legal requirements for accommodation must be adhered to, according to children's ages.

Outdoor areas for learning should be substantial and designed to be a rich and stimulating environment. Where access is problematic, then careful consideration is needed in planning for outdoor learning including the use of school/community facilities.

Children in the EYFS should experience as few interruptions as possible to their learning in the course of any one day.

Lunch time for children in the EYFS is important for their learning and development. This requires consistent adult support and consideration of where children will eat, so that they have a nurturing environment.

All sessions should be broad and balanced so that children attending morning or afternoon sessions access their curriculum entitlement.

Careful planning is required for the beginning and end of sessions that involve children who are full time and those who are part time.

### **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.

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.

There should be a toilet and a wash basin for every ten children over the age of two. Although this is no longer a statutory requirement, it is still a 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 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.

**Annex 4: Working in partnership with an established early years provider- guidance for schools and pre-schools providing early years and childcare provision on a school site.**

**The benefits of co-located services and working in partnership**

There is excellent research evidence to show the benefits for the school, and in particular good outcomes for children, if the school offers access to a range of extended services - including high quality early years education and childcare provision.

**Who is responsible for early years and childcare provision?**

There are a range of ways, as detailed below, in which schools can provide for early years education, and childcare for all ages. Whichever model is chosen, the services need to meet national quality standards and may need to be separately registered with Ofsted. In many circumstances it will be appropriate for the school to work in partnership with a separately managed organisation such a Pre-School or other childcare provider. The three main options are as follows:

**1. Governor Managed (S27 community powers)**

Benefits	Considerations
<ul style="list-style-type: none"> <li>• Totally under the governing body’s control – directly managed</li> <li>• School’s standards &amp; ethos extends to childcare service</li> <li>• Easier to integrate as a part of the school</li> <li>• No need to set up another legal body</li> <li>• Inspected as part of the school (but separate registration with Ofsted needed if offering childcare for under 2s.)</li> </ul>	<ul style="list-style-type: none"> <li>• Requires head and/or Governor(s) to direct and manage the service so need to allow some time for this</li> <li>• Must ensure cover under the school insurance scheme</li> <li>• Pay and conditions determined by Local Authority job evaluation/national agreement</li> <li>• Will need to complete annual early years census as well as schools census</li> </ul>

## 2. Limited Company run as private provider

Benefits	Considerations
<ul style="list-style-type: none"><li>• If independently managed, someone else takes responsibility for set up, management &amp; business risk</li><li>• Pay terms and conditions determined by directors (not LA/national agreements)</li><li>• If the Governors/head set up the company and are directors, then the school has control - consistency of standards &amp; ethos may be easier to maintain (possible conflicts of interest will need to be carefully managed)</li><li>• If non-profit making the organisation may be able to attract external funding – more opportunities if uses Mutual or Charitable Incorporated Organisation, Community Interest Company models</li><li>• The provision will come under the EYFS requirements for group settings.</li></ul>	<ul style="list-style-type: none"><li>• it may not reflect the school ethos or be flexible about types of service offered.</li><li>• If run independently from the school, good partnership working will be needed to ensure effective quality standards</li><li>• Needs to register with Companies House and potentially the Charities Commission and comply with company/charity law, including audit requirements for annual accounts</li><li>• May be subject to corporation tax</li><li>• Grant bidding opportunities may be restricted if the provision isn't registered as a charity.</li><li>• Occupation of school premises by a third party (including if governors form a company) will require negotiation of a lease or licence agreement. This will bring with it associated professional and legal costs.</li><li>• Separate Ofsted registration will be required</li><li>• The third party will require public liability insurance to a minimum of £5m.</li></ul>

### 3. Voluntary/community managed

Benefits	Considerations
<ul style="list-style-type: none"> <li>• Community involvement &amp; shared responsibility for childcare service</li> <li>• May involve head or governors as committee members (possible conflicts of interest will need to be carefully managed)</li> <li>• Strongly recommended the provision is incorporated (registered with the Charity Commission as a Charitable Incorporated Organisation)</li> <li>• Someone else takes responsibility for set up, management &amp; business risk</li> <li>• Pay and conditions set by Committee (not tied to LA/nationally agreements)</li> <li>• May be able to apply for grants and get rates/tax relief</li> </ul>	<ul style="list-style-type: none"> <li>• May not always reflect school ethos or be flexible about services it provides</li> <li>• Committee decisions may not reflect school's wishes</li> <li>• Committees are volunteers who may not have management skills or time and may change regularly</li> <li>• Occupation of school premises by a third party will require a lease or licence agreement – this will bring with it associated professional and legal costs</li> <li>• must be separately registered with Ofsted</li> <li>• The third party will require public liability insurance to a minimum of £5m.</li> <li>• both the school and the provider will need to invest time into effective partnership working.</li> </ul>

### Rents

The level of rent (if any) charged by the Council or school will have a direct bearing on fees that the setting will need to charge and therefore affordability for parents and potentially the sustainability of the provision.

If the provision is not managed by the school, the third party provider will need to have a formal lease/licence agreement which will set out the terms and conditions of occupation including: rent, repair and maintenance responsibilities and all other legal requirements associated with the occupation of the school site.

Guidance for school governors on use of premises, including powers to charge for its use for the provision of extended and community services and also where it is permitted to use delegated school budgets, is contained in section 6 of the [Governors Handbook 2019](#).

If you are an Academy, a Free School or Voluntary Aided school, as general guidance it is recommended that any additional costs such as utilities, cleaning and caretaking are covered. However, the running costs of the provision will affect the level of fees it needs to charge and therefore how affordable/accessible the provision is for families if they are taking up more than their child's free entitlement. Be clear about what extra costs are being incurred by the school e.g. is the building heated anyway – and does this change according to the season/term time?

Whoever is legally responsible, a critical factor is that it is seen as part of the of the school's provision for families. It's helpful if this is reflected in the marketing, website, newsletters and parents' evenings. In addition key contact staff at the school should be able to deal with basic enquiries and have a point of contact with the Pre-School for detailed enquiries to be referred to. A named school staff lead for childcare is highly desirable - in the case of an early years education provision, this would normally be the Early Years Foundation Stage Coordinator

Schools are strongly encouraged to develop written partnership agreements with any early years or childcare provision on site. The form of this agreement will be locally determined depending on local priorities and circumstances but might include the following:

- Shared aims and principles (including quality standards, ethos, play and learning)
- Benefits to children
- Protocols for sharing information about children
- Shared training/publicity/events/fundraising
- Representation from the childcare provision on the governing body of the schools and vice versa
- Key contacts and liaison
- Use of any shared areas and resources – such as car parking

## **Annex 5: 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. Voluntary Aided and Controlled Schools should also consult the Local Authority at an early stage (names of relevant officers below). 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), size of room, access to toilet/changing facilities and outside space available
- If it will be mixed with reception, or a separate class
- Number of 15 hour (funded) 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, and have been consulted on this
- Ownership arrangements for any premises currently used by the Pre-School

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