

# Mainstream Guidance

*Incorporating nursery provision into your free  
school application*

Winter/Spring 2021

**New  
Schools  
Network**

*This guidance is based on the Department for Education's most recent mainstream free school wave – wave 14. The deadline for wave 14 applications was on the 11<sup>th</sup> November 2019.*

*The criteria for free school applicants are subject to change with each free school wave and local authority led presumption competitions. As a result, applicants using this guidance should be aware of potential changes in criteria for the application route they are applying to. New Schools Network will endeavour to update our guidance to reflect the latest Department for Education's criteria.*

## Introduction

The DfE expects that all proposals for primary and all-through free schools will include a nursery. It is important that applicant groups make a strong case for the proposed nursery provision in their proposal and provide details about how it will be run. If groups decide not to set up a nursery as part of a primary or all-through proposal, they must provide a strong rationale as to why it would not be appropriate in this instance, for instance, if there is already sufficient high quality nursery provision in the area.

There are different approaches to running a nursery as part of a school. The approach you choose will affect how the nursery operates. You will need to make decisions about how your nursery will be managed and explain this in your free school application. This guidance is intended to provide an overview of the key considerations around nursery provision in the application stage.

## Nursery funding

### Revenue funding

Free schools do not receive funding under the free school programme for nursery places. To receive funding for nursery places, free schools should register with their local authority. The local authority will provide funding for the free entitlement, where appropriate.

All 3 and 4 year olds, and the most deprived 2 year olds, are entitled to up to 570 hours of free nursery provision per year as a universal entitlement, often offered as 15 hours of free nursery provision per week during term time. Taking 15 hours a week would cover 38 weeks of the year. Parents wishing to extend the funding over more weeks can opt to receive less than 15 hours per

week free nursery provision. The funding is available from the term after the child's 3rd birthday. Some 3 and 4 year olds are entitled to an additional 15 hours of free nursery provision a week, dependent on their parents meeting certain criteria. Information about eligibility for this can be found [here](#). Revenue funding for free early education is provided by the local authority using each local authority's single early years funding formula. It is important that groups proposing a nursery as part of a free school application contact their local authority. Local authorities are required to fund schools that deliver this free entitlement provision, but groups proposing free schools should check at an early stage with the local authority to find out how much they could receive. This will be important in developing the financial plans mentioned below.

On top of the LA funded 15 hour universal entitlement and the additional 15 hours for working families, groups may elect to offer a range of other provision for children. This could be extra hours of nursery support in addition to the government entitlements. The cost of these would not be funded by the LA and you can charge families separately. You need to be careful that costs for the basic entitlement is covered initially and that any additional activity will also be financially viable. To demonstrate your understanding of this you may wish to consider a subsidiary company to run the nursery provision or this may need you to enter into a service contract with an external provider for this additional activity. Whichever you choose you must be prepared to demonstrate that you have thought of the financial implications and that the income from the number of children you support will cover the outgoings. There should be no assumption of subsidy from the mainstream provision and this includes staffing.

If your nursery will target disadvantaged families your finance plan must set out how you will balance parent and state funded places. You should also consider what your offer will be for children whose families are not eligible for 30 hours a week. In section G of the application you will need to outline your charging policy and demonstrate that you have robust plans for how you will manage the session and finances associated with additional hours that parents can pay for. Your charging policy should also be clear about what else you will charge for. All childcare providers can charge for meals, consumables and additional activities that may include trips.

### In the application

- Applicant groups should represent both income and expenditure associated with nursery provision within the financial template. Income associated with nursery places should be represented in 'other income' and associated expenditure should be represented in 'other expenditure'.

- Groups must ensure that the nursery provision is not dependent on income from the main school in order to be financially viable. The DfE expects that the school and the nursery should each be financially viable without reliance on cross-subsidy.
- Groups must have plans as to how the nursery sessions will be financially managed, including any finances related to additional hours that parents can pay for.
- Groups should explain the assumptions behind the figures entered into the financial template both in terms of income and expenditure, within the assumptions and rationale column.

## Capital funding

Subject to approval, capital funding for the nursery element of a free school proposal will be provided by the Education and Skills Funding Agency (ESFA) from the free schools' budget.

### In the application

- When indicating preferred sites for in Section H of the application, groups should consider the space requirements of the nursery. Statutory guidance concerning the recommended space required for a nursery can be found on page 47 in the [mainstream application criteria](#).
- There is no additional budget for furniture, fixtures and equipment for nurseries.
- Nurseries are generally expected to have access to outside space, but not to classroom specification.

## Staffing

### Shared staffing

A group applying for a nursery provision must decide whether the nursery provision will be led by a qualified teacher, and whether the nursery will share staff with the school. Academies and free schools are not required to have nursery staff with Qualified Teacher Status (QTS) but many do. For example, early years and foundation stage specialists may be employed as both nursery and Reception teachers. You should consider how this sharing of expertise could be beneficial in your setting. The new Early Years Teacher qualification (EYP) does not confer QTS.

Other benefits that can stem from shared staffing include the easing of transition into reception and continuity of relationships between school and parents. In the case of an external provider offering the nursery provision, any shared staffing would need to be formalised through a service level agreement. Although a service level agreement with an external provider would not have to be

formalised by application stage, groups should have a very clear idea about how this would work by the time they are offered an interview by DfE.

Groups should refer to the [statutory framework for the Early Years Foundation Stage](#) for staff-to-pupil ratios, in order to meet the needs of all children and ensure their safety. This will be important in determining affordability of the provision, for example a qualified teacher can manage more children than an unqualified person. The ratio for a qualified teacher is 1:13 four years olds, with an attached TA. This would allow a class size of 26. The ratios for unqualified staff and younger children are different.

### In the application

- Applicants should outline nursery staff within the staffing organogram included in section E3, and ensure they have been accounted for in the financial template.

## Shared Management

Shared management between school and nursery provision is common, especially where a nursery is being operated by a school controlled subsidiary. For example, a nursery provision might be managed day to day by a director or, teacher in charge who is responsible to the headteacher of the co-located maintained school.

In the case of an independent nursery provider, it is unlikely that any formal shared management would exist between the school and nursery provision. In this scenario there would be further benefits to a shared governance arrangement, as described below, because of the lack of another formal connection.

### In the application

- In Section E3 any nursery management should be described and any formal relationship between the director/teacher in charge of the nursery and the headteacher of the school also being proposed should be explained.
- Section F3 requires all elements of the proposed school to be covered within the governance structure of the trust, including the nursery. Groups should therefore incorporate the nursery into their organogram, and outline plans as to how the nursery will fit into governance arrangements.

## Methods of managing a nursery

### Directly managed provision

A group proposing a nursery provision can choose to manage the nursery directly as an integrated part of the school. Usually this would be overseen by a dedicated sub-committee of the governing body of the school. Authority would be delegated to the nursery committee by the main board in the usual way.

In certain situations, usually relating to the amount of revenue generated by the nursery provision, a directly managed provision would need to be controlled through a subsidiary company in order for the school to maintain compliance with charity law. This means that as the need for a school run subsidiary is determined on a case-by-case basis, at application stage it is acceptable for groups to stipulate that the nursery provision will be directly managed.

### Independently managed provision

A co-located nursery provision can be operated through an agreement with an independent provider of early years care and education – either a private company or voluntary organisation. The [How to Apply Guide](#) makes it clear that the DfE are happy for applicants groups to stipulate that the nursery proposed as a part of their free school application will be run in this fashion and that the ESFA will still consider committing capital funding in this scenario.<sup>1</sup> Independently managed provision must be registered separately with Ofsted however.

Independently managed provision will not allow for the same formal staffing, management and governance relationships to exist between the school and nursery as directly managed provision, although clear and close links between the school and provider are important to ensuring continuity of education and support during transition. Further information is provided on [Ofsted's website](#).

Regardless of the management of the provision, the Early Years Foundation Stage itself will continue to be statutory and the basis of inspection of early years' settings, including children in nursery and reception classes.

## Evidence of need and offer

---

<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/401507/free-schools-how-to-apply-feb-2015\\_final.pdf#page=11](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/401507/free-schools-how-to-apply-feb-2015_final.pdf#page=11)

There is a presumption by the DfE for wave 13 onwards that all applicants for primary and all-through free schools will include a nursery. Applications including a nursery should show an understanding of the current picture of nursery provision in the local area. Unlike the mainstream element of a free school application, basic need does not apply to nursery provision and cannot be used as evidence of need. In order to evidence the need for a new nursery, groups should contact the local authority to see if it has assessed the sufficiency of early education and childcare in the area. This can inform plans for a nursery if available. In addition, groups should gather evidence of planned take up of places by 2, 3 and 4-year-old children from disadvantaged backgrounds.

## In the application

- In Section C, when outlining the rationale for their proposed free school, groups should also outline and rationalise their vision for the nursery, including:
  - If the nursery will be open year-round or term-time only. To note, the DfE encourages free school applications with nurseries that are open year-round rather than term-time only. This might have implications for any shared staffing contracts and therefore costs where the free school follows the usual school holiday pattern.
  - How many disadvantaged 2, 3 and 4 year-old children are expected to attend.
  - If groups are submitting a primary or all-through free school application but do not intend to include a nursery, they must provide a strong rationale as for why they have made this decision.
- In Section B1, groups should present a clear understanding of the current picture of nursery provision in the local area. Groups should contact the local authority to see any assessments it has made of childcare sufficiency, in order to help inform plans for nursery provision.
- In Section D, groups should gauge the level of demand for a nursery, as well as different types of nursery provision, including year-round provision.
- In Section E1, groups must set out how they will meet the requirements of the [Early Years Foundation Stage \(EYFS\)](#) for nursery and reception classes. In addition to this, groups must:
  - Set out a delivery model for nursery provision and the rationale for this, including whether the provision will be delivered by the school or in partnership with an external provider.
  - Show how the government's commitment to providing 30 hours of free entitlement provision for children of working parents will be delivered, and if the provision will be offered over and above any free entitlement.
  - Show where provision for 2 year olds might be included.

## Governance

Where a nursery provision is not being directly managed by the proposed school, either as a schools controlled subsidiary or through an independent or voluntary provider, the nursery will be governed separately. Overlap between the governing bodies of both institutions is possible, however, and is advantageous in a number of ways. By sharing some governors with a co-located nursery, schools ensure that there is continuity between the two provisions. There is no requirement that co-located schools and nurseries share any governors but the DfE is clear that strong links between the proposed school and nursery are beneficial.

Where the nursery provision that is being proposed is directly managed by the school it is likely that the nursery will be governed via a sub-committee of the school governing body. This helps groups to show clearly that they have understood the distinction between the types of funding available for the nursery and the school and that these budgets will be managed separately.

### In the application

- In section F3, groups must outline a governance structure that covers all elements of the proposed school, including the nursery.

When outlining the chosen governance structure, which will allow for effective decision making and effective support and challenge, applicants should highlight how the governance arrangements of the school and nursery provision will be managed.

## Faith Designation

Nursery provision attached to free schools are able to reflect the ethos of their faith within the nursery, such as through, for example, celebration religious festivals or basing activities off of religious texts. However, schools cannot apply faith criteria for admissions to nursery places. The nursery must also abide by the same requirements in the funding agreement and regulations as apply to the rest of the school, therefore requiring the provision of a broad and balanced curriculum with active promotion of British values in the nursery.

[Click here to provide feedback about this resource](#)