



Department  
for Education

# **Free childcare for eligible working parents for children aged from 9 months and above in foster care**

**February 2024**

# Contents

Introduction	3
Key considerations	4
Process	4
Checking Eligibility	5
Stage 1: The Foster Parent(s) apply	5
Stage 2: The responsible LA confirms eligibility	5
Designated Person	5
Evidence	6
Stage 3: Responsible LA issues a code to Parents	6
Stage 4: Provider Checking and Payment	7
Stage 5: Reconfirmation	7
Appeals process	8

## Introduction

Children in foster care<sup>1</sup> will be eligible for free childcare where the foster parents meet certain eligibility criteria, giving foster families the same support as other families where it is right for the child. Children in foster care will be able to receive free childcare, if the following criteria are met:

- Agreement from the responsible local authority that the foster parent engaging in paid work outside their role as a foster parent is consistent with the child's care plan. The agreement that the foster parents can take up the free childcare entitlement should be recorded and the care plan for the child should be updated as appropriate.
- That, in single parent foster families, the foster parent engages in paid work outside their role as a foster parent, although there is no minimum income requirement.
- And in 2 parent foster families, either both partners engage in paid work outside their role as a foster parent (although there is no minimum income requirement for either foster parent) or one partner engages in paid work and the other partner receives certain qualifying benefits<sup>2</sup>.
- If one partner is not a foster parent, then that partner must be in qualifying paid work and earn a minimum of the equivalent to 16 hours at national minimum, unless they are receiving certain qualifying benefits<sup>3</sup>. The Eligibility Checking System (ECS) is unable to perform the additional eligibility checks required so the Department has developed a parallel application process that uses existing delivery arrangements wherever possible. If one partner is not a foster parent, then that partner must be in qualifying paid work and earn a minimum of the equivalent to 16 hours at national minimum, unless they are receiving certain qualifying benefits<sup>4</sup>.

---

<sup>1</sup> 2-year-olds who are looked after by the local authority are eligible for a free early education place regardless of their parent's circumstances.

<sup>2</sup> These are limited capability for work or work-related activity under regulation 39 or 40 of the Universal Credit Regulations 2013 (or NI equivalent) or receives one of the benefits specified in regulation 11A of the Childcare (Free of Charge for Working Parents) (England) Regulations 2022.

<sup>3</sup> These are limited capability for work or work-related activity under regulation 39 or 40 of the Universal Credit Regulations 2013 (or NI equivalent) or receives one of the benefits specified in regulation 11A of the Childcare (Free of Charge for Working Parents) (England) Regulations 2022.

<sup>4</sup> These are limited capability for work or work-related activity under regulation 39 or 40 of the Universal Credit Regulations 2013 (or NI equivalent) or receives one of the benefits specified in regulation 11A of the Childcare (Free of Charge for Working Parents) (England) Regulations 2022.

The Eligibility Checking System (ECS) is unable to perform the additional eligibility checks required so the Department has developed a parallel application process that uses existing delivery arrangements wherever possible. The application form will be completed by the foster parent and be counter-signed by a designated person determined by the responsible local authority to confirm eligibility. Foster parents will be required to reconfirm their eligibility every 3 months to mirror the existing process and support the work enabling objective of the policy.

## Key considerations

Throughout this section, we use the terminology ‘responsible local authority’ for the English authority who is looking after the child and is therefore the child’s corporate parent. Where the local authority looking after the child is in Wales, Scotland or Northern Ireland, the ‘responsible local authority’ is the English local authority in whose area the child is currently living<sup>5</sup>. The ‘funding local authority’ is the local authority in which the child is taking up their place and who is paying the provider. They may not be the same local authority.

When supporting foster parents, local authorities should be aware of the following:

- Accessing free childcare will **not** be appropriate for every child in foster care. It is to enable those foster parents who are working outside of fostering to access this service where it is right for the child.
- We are not expecting or requiring foster parents to work outside fostering unless they choose to do so and this decision is supported by the fostering service. There is no requirement on the type of work or number of hours that a foster parent must work in order to access the free hours and there is no minimum earnings limit (although they must be engaging in paid work) but they cannot have a net adjusted income of more than £100,000 a year.
- The child in foster care does **not** have to take up the full free hours.
- 2-year-olds in foster care are eligible for the 15-hour free entitlement for disadvantaged 2 year-olds regardless of the working status of their foster parents<sup>6</sup>.
- All 3 and 4-year olds (including those in foster care) are eligible for the universal 15 hours free hours regardless of the working status of their foster parents.
- If circumstances change and a child in foster care ceases to be eligible for the free hours for working parents, the responsible local authority should assess the child’s needs for early years provision as part of the care plan.

## Process

We expect responsible local authorities to establish that foster parents are engaging in paid work outside their role as a foster parent and that this is consistent with the child’s care plan. Local authorities have the flexibility to develop local policies and processes for

---

<sup>5</sup> See the definition of “responsible local authority” in regulation 4(1) of the Childcare (Free of Charge for Working Parents) (England) Regulations 2022.

<sup>6</sup> [Help paying for childcare: Free education and childcare for 2-year-olds - GOV.UK \(www.gov.uk\)](https://www.gov.uk/help-paying-for-childcare-free-education-and-childcare-for-2-year-olds)

establishing the eligibility of children in foster care but any process that is introduced should be proportionate, flexible and aligned with existing processes as far as possible. This guidance is intended to help authorities develop approaches that fit their circumstances.

If a local authority receives a request from a foster family living in England but where the local authority who is the corporate parent is in Wales, Scotland or Northern Ireland, the English local authority for the area where the child is currently living will be responsible local authority and assess the child's eligibility.

## Checking Eligibility

### Stage 1: The Foster Parent(s) apply

Foster parents and social workers start discussions, as the child approaches the relevant age or when a foster parent decides to take up additional work. We would expect these to happen as part of the usual supervision meetings and review process.

The foster parent should complete an application form, the template form is in annex A – but local authorities can [download](#) an editable version from gov.uk. Local authorities may wish to add suitable local information (such as their contact details) before making this available to foster parents. However, the information requested should not be altered as this is needed to ensure parity with the working parent entitlements for other children and compliance with regulations and for generation of the child's eligibility code.

Once the form has been completed and signed by the foster parents, this will be the declaration as required by regulations.

### Stage 2: The responsible LA confirms eligibility

The responsible authority will set their own local process for checking foster parents meet the eligibility criteria, which should be clear and made available to all foster parents. The local authority should set out:

- The role of the designated person
- Who is currently the designated person and how to contact them
- What evidence the foster parents should be expected to provide
- How the foster parent should pass the form to the local authority
- How/if that evidence will be stored once form is completed and approved
- The timeframe by which the designated person should respond to any application (not longer than 4 weeks from receipt of application)

## Designated Person

The designated person is an individual identified by the responsible local authority who must be able to confirm that the foster parents are working outside their role as a foster parent and that this is consistent with the child's care plan. Local authorities have flexibility to set this locally to reflect existing local practices. This could be:

- Child's social worker
- Supervising social worker
- Independent Reviewing Officer (person appointed by the responsible local authority to protect the child's interests throughout the care planning process)

In some cases, the responsible authority may consider it appropriate for the foster parent to sign the application form and not require a second signature by the designated person. This must be agreed between the foster parent and the local authority before the application is made and the decision should be recorded. The foster parent must inform the child's social worker when they start the application process. In this case the signed form will need to be sent directly to the contact within the local authority who is responsible for issuing the codes.

## Evidence

The level of evidence required will depend on how local authorities want to operate and who is fulfilling the role of designated person in the local authority. Local authorities should make clear to foster parents what evidence will be required – this could be covered on the application form.

The evidence needs to allow the designated person to be confident that the foster parent(s) are engaging in paid work outside their role as a foster parent (there is no requirement to check the number of hours). This can be done by checking pay slips, a job offer letter or evidence of self-employment (such as tax return). Alternatively, the designated person may contact the social worker (via email or phone call) for confirmation. However, if one partner is not a foster parent, there will need to be a check that the partner is meeting the normal eligibility/income requirements for the working parent entitlements.

## Stage 3: Responsible LA issues a code to Parents

The responsible local authority will issue eligibility codes to foster parents. This is the equivalent of HMRC making a determination of eligibility for the free hours. A foster child will be eligible from the beginning of the term following the child attaining the relevant age and receiving confirmation of eligibility from the local authority.

Once stage 2 is complete and it has been agreed that the foster child should take up a free place, the details will need to be entered on the ECS by the responsible local authority to create a record for the foster child. Further details on creation of records will be available on ECS portal.

Once the 11 digit code has been generated, local authorities should send this to the foster parents, usually via email. The child's social worker should also be informed when the code is issued. Local authorities will want to include further instructions to foster parents about taking the code to their provider to confirm their place and further information on their reconfirmation process. It may be worth clarifying that foster parents can use the code with any provider, even outside the issuing local authority.

## Stage 4: Provider Checking and Payment

Once the foster parent has received the code, the process is the same as for any other parent and child taking up the working parent entitlement. The foster parent contacts a provider to agree a free place, giving them the code to confirm their place.

Local authorities should ensure that providers are aware that codes beginning with 400 are legitimate as well as those which start with 50. The provider will be able to check the eligibility of the code using their local authority portal. Local authorities should ensure that providers are aware that foster parents may not have access to all the documents (such as birth certificates) relating to the children in their care. In this situation, the letter or email from the LA issuing the code can provide evidence of meeting the age criteria.

## Stage 5: Reconfirmation

Foster parents, like all other parents accessing the working parent entitlements, are required to reconfirm their eligibility every 3 months. The exact dates and intervals for children in foster care to reconfirm are set by ECS system when the child's record is created.

However, local authorities are able to determine the exact process and nature of evidence required from foster parents locally. As set out above, this should be clear and transparent and made available to foster parents when they first apply for a free place.

As a minimum, the responsible authority should be satisfied that the placement is still ongoing, that parents working outside of the role as a foster parent and taking up the free hours is still consistent with the child's care plan and the foster parents are still engaging in paid work outside their role as a foster parent. They may approach foster parents (using a simple declaration form) supported by evidence or contact the social workers for a verbal confirmation.

Responsible local authorities will use the ECS report to help identify which of the codes they issued for children in foster care are approaching reconfirmation. At least 4 weeks before the end-date, the responsible local authority should initiate the reconfirmation process. Once they have received confirmation that foster parents are still eligible, they will need to update the child's ECS record.

Funding local authorities will be able to see which children in foster care are accessing 30 hours in their area during the regular audits as they will begin with a '400'. They should include these codes in their normal processes.

However, local authorities should be aware of handling circumstances sensitively if the funding and responsible local authority are different. The responsible authority should be aware that if they have not initiated the reconfirmation process, and the foster child enters their grace period, the funding authority will have contacted the provider, who will then tell foster parents that they are no longer eligible.

## Appeals process

If foster parents are unhappy about the decision made by the local authority, then the foster parents should seek resolution through their social worker or through the local authority complaints process.

If the Local Authority complaints process does not reach a satisfactory conclusion, a request can be made to the Local Government Ombudsman asking them to investigate further. More information on making a complaint to the Local Government Ombudsman is available at <https://www.lgo.org.uk/> or by calling the advice line on 0300 061 0614.





Department  
for Education

© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0, except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third-party copyright information, you will need to obtain permission from the copyright holders concerned.

About this publication:

enquiries <https://www.gov.uk/contact-dfe>

download [www.gov.uk/government/publications](http://www.gov.uk/government/publications)

Follow us on Twitter: [@educationgovuk](https://twitter.com/educationgovuk)

Connect with us on Facebook: [facebook.com/educationgovuk](https://facebook.com/educationgovuk)