

# Guidance for Headteachers and Governors

**Admission of two and three year olds to school**  
Updated 2018



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This guidance applies to maintained schools including Voluntary Aided, and Voluntary Controlled schools. Academies and Free schools should ensure that early years provision meets the requirements of the Early Years Foundation Stage and all relevant regulatory frameworks.

## 1. Context

**1.1** The government has expressed its intention to see more early years provision being made available in schools in the future. Schools are also being encouraged to be open from 8am to 6pm to provide care which wraps around education in order to help working parents.

**1.2** The local authority has a statutory duty to ensure the availability of sufficient early years places for all three and four year olds and for eligible two year olds. Places in schools are part of that picture, although in North Yorkshire a significant proportion of early education and care is provided through the private and voluntary sector. The local authority works with and supports all types of providers in order to meet its statutory duty.

**1.3** A number of schools which don't currently have nursery or foundation stage classes or other registered early years provision may wish to consider options for early years provision as part of the school. Some schools see early years provision on site as a means of attracting children from the local area (and occasionally beyond) who might then choose to continue their education at the school. In other cases there is insufficient alternative early years provision locally and schools are responding to unmet demand from parents.

**1.4** The following information lays out the current position in respect of the admission of two, three and four year olds to school and provides guidance to heads and governors considering such a move.

## 2. Statutory school age and the duty to provide school places

**2.1** The local authority has a legal responsibility to provide a place in a school reception class for all children at the start of the academic year after the child's fourth birthday although parents may delay entry until the start of the term after the child's fifth birthday.

**2.2** It also has a responsibility to secure adequate early years provision for all three and four year olds and some two year olds, some of which may be provided in schools.



### 3. Ways in which early years provision can be made in schools

- Direct School provision (Model A)
- Governor-run pre-school provision under Section 27 of the Education Act 2002 ‘Community Provision Powers’ (Model B)
- Shared-site arrangement with a private, voluntary or independent (PVI) sector provider (Model C)

<b>Model A Direct School Provision</b> <b>Key features:</b> <ul style="list-style-type: none"> <li>• Early-years children on school roll</li> <li>• Delivered by staff with Qualified Teacher Status (QTS)</li> </ul>	This requires the school age range to be lowered: <ul style="list-style-type: none"> <li>• through a governor-led non-statutory process for VC and VA Schools OR</li> <li>• through a Local Authority-led statutory process for Community Schools which is likely to take 2 terms</li> </ul>
<b>Examples:</b> <ul style="list-style-type: none"> <li>• Nursery class for 2 year olds</li> <li>• Nursery classes for 2, 3 and 4 year olds</li> <li>• Nursery classes for 3 and 4 year olds</li> <li>• Foundation Stage class for 2, 3 and 4 year olds and Reception-aged children</li> <li>• Foundation Stage class with 3 and 4 year olds and Reception-aged children</li> <li>• Foundation Stage class with 3 and 4 year olds and Reception-aged and KS1 children</li> </ul>	<ul style="list-style-type: none"> <li>• EY provision under the governance of the Governing Body and the leadership of the Headteacher</li> <li>• Children on school roll</li> <li>• EY provision inspected under school inspection</li> <li>• Funding claimed by termly process via Provider Portal (information also needs to be included on the termly school census)</li> <li>• Children funded according to universal base rates for 2,3 and 4 year olds plus relevant supplements</li> <li>• Children are eligible for free school meal</li> <li>• Adult:child ratio 1:13 for 3 and 4 year olds; 1:4 for 2 year olds</li> <li>• School classes for 3 and 4 year olds must be staffed by staff with QTS and appropriately qualified and experienced assistants. There is no QTS requirement for classes of 2 year olds but the provision must be made under the direction and supervision of a QTS to meet the requirements of the specified work act</li> </ul>

<b>Model B Governor run pre-school provision under Section 27 of the Education Act 2002 ‘Community Provision Powers’</b> <b>Key features:</b> <ul style="list-style-type: none"> <li>• Early-years children on the early-years register and not on the school roll</li> <li>• Delivered by Early Years practitioners</li> </ul>	This does not require the school age range to be lowered as the early years children are not on the school roll, however you need to consult the Local Authority
<b>Examples:</b> <ul style="list-style-type: none"> <li>• Governor-run Early Years Provision for 2, 3 and 4 year olds</li> <li>• Governor-run Early Years Provision for 3 and 4 year olds</li> </ul>	<ul style="list-style-type: none"> <li>• EY provision under the governance of the Governing Body and the leadership of the Headteacher</li> <li>• Children the early-years register and not on the school roll</li> <li>• EY provision inspected under school inspection</li> <li>• Funding claimed by termly process via Provider Portal (information should not be included on the termly school census)</li> <li>• Children funded according to universal base rates for 2,3 and 4 year olds plus relevant supplements</li> <li>• Children not eligible for free school meal</li> <li>• Adult:child ratio 1: 8 for 3 and 4 year olds; 1:4 for 2 year olds with early years practitioners</li> <li>• Early years practitioners with qualifications and ratios to meet EYFS requirements</li> </ul>

<b>Model C Shared-site arrangement with a private, voluntary or independent (PVI) provider</b> <b>Key features:</b> <ul style="list-style-type: none"> <li>• Early-years children on the early-years register and not on the school roll</li> <li>• Delivered by Early Years practitioners</li> <li>• School leases premises to the PVI setting</li> </ul>	This does not require the school age range to be lowered as the early years children are not on the school roll, however you need to consult the Local Authority, seeking advice from Strategic Planning Team to set up the childcare licence agreement.
<b>Examples:</b> <ul style="list-style-type: none"> <li>• Shared site delivery of early years provision for 2, 3 and 4 year olds by a PVI provider</li> </ul>	<ul style="list-style-type: none"> <li>• PVI provider operates separately under a childcare licence or lease agreement.</li> <li>• Management and governance by a business owner or community committee.</li> <li>• Separate Ofsted registration</li> <li>• Separate Ofsted inspection</li> <li>• Children funded according to universal base rates for 2,3 and 4 year olds plus relevant supplements</li> <li>• Adult:child ratio 1: 8 for 3 and 4 year olds; 1:4 for 2 year olds with early years practitioners</li> <li>• Early years practitioners with qualifications and ratios to meet EYFS requirements</li> </ul>

**3.1** If schools ‘incorporate’ a PVI provider to operate under school governance, formal transitions to new arrangements will need to be made – particularly if the provider has previously operated on-site under a lease or licence agreement; or under a Pre-school Learning Alliance constitution. TUPE arrangements for staff may need to be negotiated; and Governors may need to take over the functions of the charitable status of a group.

**3.2** It is important to take advice from HR regarding the Transfer of Undertakings (Protection of Employment) Regulations 2006, which protects the entitlement of employees who transfer to your organisation to the same terms and conditions, and continuity of employment. Under a TUPE transfer you will also take over all rights and obligations arising from those contracts of employment, such as unfair dismissal, equal pay and discrimination claims. If an employee is dismissed because of the transfer, their dismissal is automatically unfair, unless the employer can show an ‘economic, technical or organisational’ reason entailing a change in the workforce.



## 4. Making changes to the age range of a school

**4.1** Most primary schools in North Yorkshire are established to serve pupils aged 4-11. This means they do not have an established nursery or foundation stage class. Schools which are established to serve pupils aged 4-11 are not permitted to admit pupils into school before the age of four other than inviting them as visitors to attend a limited number of transition sessions during the term before they start school. These sessions should be staffed and meet quality and insurance requirements as described in this guidance.

**4.2** This does not apply to maintained nursery schools which are permitted to accept two and three year olds without the need for statutory processes.

**4.3** Since April 2007, for age range changes that are expected to be in place for more than 2 years (as these are considered permanent increases), **Community schools will need to ask the Local Authority (LA) to put forward a statutory proposal** to change the age range of a school. **For**

**Voluntary Controlled, Voluntary Aided and Foundation schools, the Governing body or LA can propose a change of age range by following the non-statutory process.**

**4.4** Schools are expected to work with the local authority when making any changes in order to support coherent planning of provision across an area. They are expected to undertake appropriate informal consultation with parents before making decisions about significant changes and where the proposed change is likely to have an impact on other local providers to also to consult with them. For Voluntary Controlled and Voluntary Aided schools, Diocesan officers must also be informed.

**4.5** Where a proposed age range change would also require an expansion of the school's premises, the LA or governing body must also ensure that they act in accordance with the requirements relating to proposals for the enlargement of premises.

*\*Currently there is no funding available from North Yorkshire County Council to build or extend premises to create a nursery class. However, if a school has suitable surplus accommodation and funds to adapt please*



*contact the Strategic Planning Team on 01609 532232 at an early stage for a discussion. Any surplus building capacity would need to be considered against the forecasts of population growth and housing development to ensure*

*this space would not be needed in the next few years for pupils of mainstream school age.*

**4.6** For community schools the LA would follow the process as detailed below.

### Community Schools: Statutory processes for prescribed alterations to change age range

Stage	Description	Timescales	Comments
	Informal consultation by the school	4 weeks in term time	Recommended good practice
Stage 1	Publication (statutory proposal/notice)		Decision to publish made by the County Council's Executive
Stage 2	Representation (formal consultation)	Must be at least 4 weeks	As prescribed in the 'Prescribed Alteration' regulations.
Stage 3	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator	Any appeal to the adjudicator must be made within 4 weeks of the decision
Stage 4	Implementation	No prescribed timescale	However it must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker

This statutory process is likely to take a minimum of two terms. Schools should consult with the Strategic Planning Team on 01609 532232 before starting any consultation.

### **4.7 Voluntary Aided, Voluntary Controlled and Foundation Schools: Changes of age range that can be made outside of the statutory process**

For Voluntary aided, voluntary controlled and foundation schools, the Governing body does not need to follow a statutory process but are expected to consult.

Before making any changes **governing bodies** should ensure that:

- they have consulted with the LA to ensure the proposal is aligned with local place planning arrangements
- they have secured any necessary funding;
- they have identified suitable accommodation and sites;
- they have secured planning permission and/or agreement on the transfer of land where necessary (including approval from the Secretary of State for change

to the use of playing field land under Section 77 (1) of the SSFA 1998

- they have the consent of the site trustees or other land owner where the land is not owned by the governing body;
- they have the consent of the relevant religious authority (as required); and
- the admissions authority is content for the published admissions number (PAN) to be changed where this forms part of the expansion plans, in accordance with the Schools Admission Code.

#### **4.8 Community Schools, Voluntary Aided, Voluntary Controlled and Foundation Schools**

The department **expects** that in making these changes LA's and governing bodies will:

- liaise with the LA and trustees/diocese (as appropriate) to ensure that, a proposal is aligned with wider place planning/organisational arrangements, and that any necessary consents have been gained;
- not undermine the quality of education provided or the financial viability of other 'good' and 'outstanding' schools in the local area; or
- not create additional places in a local planning area where there is already surplus capacity in schools rated as 'good' or 'outstanding' and
- ensure open and fair consultation with parents and other interested parties to gauge demand for their proposed changes and to provide them with sufficient opportunities to give their views.

**4.9** Once a decision on the change has been made, the proposer (i.e. LA or governing body) is responsible for making arrangements for the necessary changes to be made to the school's record in the department's Edubase. <http://www.education.gov.uk/edubase/home.xhtml#system>

These changes must be made no later than the date of implementation or the change.

**4.10** Please refer to the following guidance when considering making changes to the age range of a school. Making 'prescribed alterations' to maintained schools. Statutory Guidance for Proposers and Decision-makers, April 2016. <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

**4.11** It is expected that schools will take advice from the LA about the requirements for such provision in terms of quality assurance, suitability of accommodation and staffing requirements before raising expectations with parents. Schools will need to take advice from the LA before admitting any pupils in the younger age range. If they do not they may find themselves in difficulty as pupils may not be funded and the school may not be insured.

If you would like further advice and guidance regarding the statutory or non- statutory process, please contact the Strategic Planning Team 01609 533182.

#### **4.12 Age Range Changes - Academies**

Academies rated as 'good' or 'outstanding' at their last Ofsted inspection can propose to change the age range of their school by up to two years (including adding nursery provision) by following the fast-track process to the RSC.

**4.13** Only in very limited circumstances will the Regional Schools Commissioner approve a proposal from a school rated as any other category.

**4.14** Any age range change which could be considered contentious, or which will set a precedent for schools in their local area, will require the Academy Trust to submit a full business case.

**4.15** Where proposals are likely to have a significant impact on other local provision a full business case will usually be required to provide evidence that the education of children in the area, as a whole will not be compromised.

**4.16** The addition or removal of a relevant age group must be consulted on in accordance with the Schools Admission Code.

**4.17** The consultation process on a significant change should run for a minimum of four weeks.

**4.18** Please refer to the following guidance when considering making changes to the age range of an academy school 'Making significant changes to an open academy', March 2016.

<https://www.gov.uk/government/collections/academies-funding-payments-and-compliance>

#### **4.19 Who should be consulted and how?**

For both full business case proposals and fast track applications the academy trust will need to confirm that a fair and open local consultation has been undertaken, with all those who could be affected by the proposed change and that the proposal takes account of all responses received.

**4.20** The LA will hold important contextual information on the requirement for places locally, and must be consulted in all cases. The RSC (or the Secretary of State as appropriate) will need to be satisfied that the LA has been consulted, and will consider any reasonable objections from them.

## **5. Admission arrangements**

**5.1** Children are admitted to reception classes by the admissions authority following agreed criteria and admission arrangements. In the case of community and Voluntary Controlled schools the local authority is the admissions authority and is the only body which can allocate a place in a reception class. A place will not be offered unless the parent has completed a common application form.

**5.2** Admission to nursery or a foundation stage class is managed by the governing body of the school in line with the agreed oversubscription criteria. This does not guarantee a place at the same school in the Reception class.

**5.3** Outside of the above arrangements it is still possible for an individual child to be admitted exceptionally outside of its chronological age group and there are a number of schools where this has previously been agreed. However this must be agreed with the local authority in line with published guidance. Such judgements will take account of the child's level of social and educational development and other individual factors.

**5.4** The School Admissions Code requires school admission authorities to provide for the admission of all children in the September following their fourth birthday. However, a child is not required to start school until they have reached compulsory school age following their fifth birthday. For summer born children this is almost a full school year after the point at which they could first be admitted.

In recognition of the fact that some parents will feel their child is simply not ready to start school in the September following their fourth birthday, there is flexibility in the admissions code. Parents can request that their child attends part-time until they reach compulsory school age, or that the date their child is admitted to school is deferred until later in the same academic year. In addition, paragraph 2.17 of the admissions code enables a parent to request that their child is admitted outside of their normal age group.

## 6. Insurance

The following insurance guidance only applies to Council maintained schools (including Voluntary Aided, Voluntary Controlled and Foundation Schools).

Academies and free schools should ensure that any early years provision is covered by their own insurance arrangements. The Council can assist with this insurance arrangement but this will incur a charge.

**6.1** The Council's insurance policies will only insure schools that operate and manage their own early years provision. This includes schools that operate a nursery or foundation stage class or a school registered early years provision, which is managed by the Governing Body or a sub-committee of the Governing Body. The local authority's Insurance will not cover private companies or individuals that operate pre-school provision on the school site, schools will need to make sure that these companies/individuals have their own insurance arrangements in place.

**6.2** There are issues associated with the insurance of children attending school other than for the school's normal purpose. In general terms it is the school's responsibility to ensure that they are appropriately insured for any activity that takes place outside that for which they are established.

**6.3** The local authority's insurance will apply where attendance of younger children is lawful and where schools have the capacity to take on these children. Schools that operate a nursery or foundation stage class, or a school registered early years provision, which is managed by the Governing Body or a sub-committee of the Governing Body will need to have addressed and be able to evidence that the following are in place:

- Appropriate legal status. In order to be included under the Council's Insurance the School and Governors need to be in charge of and operate the provision.
- Ofsted Registration as required by current legislation.
- Financial viability of offering the provision
- Appropriate safeguarding policies and procedures - updated and appropriately referenced for a younger age group
- Correct, adequate and relevant supervision ratios of pupils to staff - trained, qualified and experienced in the care of children of this age
- Staff have DBS Clearances
- Appropriate indoor and outdoor environments for the new school age range which have been assessed by CYPS Health and Safety
- Risk assessments relevant for the younger age group

- Appropriate accessible intimate care arrangements
- Medical and Healthcare arrangements are in place
- Children are looked after in an age appropriate manner
- Age-appropriate equipment and resources
- The school is following the Early Years Foundation Stage

**6.4** Local authority advisors must be confident that these conditions are being met in order for the Council's Insurance policies to apply.

Schools must notify the Insurance and Risk Management Section in advance of making early years provision.

**6.5** Providing the property for the nursery or foundation stage class or school registered early years provision being offered is within the existing school property then it will be covered under the local authority's property insurance. If new buildings are being procured, then you will need to advise the Insurance and Risk Management Section.

**6.6** The Balance of Risks policy will apply to this activity, but please note that outside toys and items will need to be securely locked away when not in use and the school is closed/unattended. This policy is based on pupil numbers, so the number of funded 2, 3 and 4 year olds will be taken into account when calculating the school's premium.

**6.7** Nursery or foundation stage class pupils can be covered under the School Journey and Personal Accident for Pupils on Site policy, but the school needs to advise the Insurance and Risk Management Section and ensure that they declare the number children that they wish to be covered for the year.

## 7. Staffing

**7.1** Schools must staff early years provision according to the ratios required for the youngest children in the group. For two year olds this is one adult to four children. Staffing requirements need to be considered in the context of the school geography, layout, access to outdoor provision, etc. in order to ensure that the needs of all children can be met at all times. The starting point has to be the quality of educational provision for the whole class but particularly for the youngest child.

**7.2** For a maintained school nursery, a school teacher must lead the class. A school teacher is somebody who holds qualified teacher status (QTS), as defined by the Education Act 2002. Nursery classes must meet an adult: child ratio of 1:13. A person with early years teacher status (EYTS) would be able to fill the position of the second adult in a class of 14+ children, but would not be eligible to lead the class.

**7.3** Statutory Guidance for the Early Years Foundation stage states that: *"Reception classes in maintained schools are subject to infant class size legislation. The School Standards and Framework Act 1998 (as amended by the Education Act 2002) limits the size of infant classes to 30 pupils per school teacher. 'School teachers' do not include teaching assistants, higher level teaching assistants or other support staff. Consequently, in a normal teaching session, a school must employ sufficient school teachers to enable it to teach its infant classes in groups of no more than 30 per school teacher"*

Reception classes in maintained schools cannot be led by someone with 'Early Years Teacher' status, or other statuses. 'Early Years Teacher' status is non-statutory and as such does not confer 'school teacher' status on its holder.

**7.4** In a mixed key stage class where the majority of children in a class are 5, 6 or 7 by the end of the year (reception and year 1), the basic legal required staffing ratio is 1:30, the member of staff must be a qualified teacher. This member of staff needs sufficient knowledge of child development and the early years curriculum. Good practice would suggest that an additional adult would also be required. This person should be level 3 qualified with a relevant early years qualification and experience. Staffing at the highest level should be considered in order to offer provision across the age range and meet children's personal care needs.



**7.5** In the case of an early years 'foundation stage unit' where the majority of children will be under 5 by the end of the year the staffing ratio is 1:13 and the starting point for staffing is a qualified teacher. Maintained school nursery class ratios and qualifications will apply in these cases, i.e. at least one adult for every 13 children aged three or over - one of whom must have QTS. If the numbers in the unit are between 13-26 there must be at least two adults, one of whom has QT status the other qualified at Level 3 and so on. If two year olds were to be admitted to a 'Foundation Stage Unit', the quality and content of provision must meet their developmental needs, and the appropriate staffing ratios be in place.

**7.6** It is important to be aware of the impact and potential for placing staff under stress when expecting a teacher to cope with the full range of needs of children who may be a year younger than the usual age of entry to a class. It is recommended that a staff mentor is appointed to provide advice and support for the class teacher where the Headteacher cannot do this. Existing staff may need additional training and on-going professional development to take on this role.

**7.7** Schools need to be aware that a failure to ensure appropriate staffing and provision to meet the needs of all children can leave the school vulnerable in respect of Ofsted inspection.

## 8. Securing Quality Provision

**8.1** Please make reference to the main document 'Quality First, Guidance on providing for children in the Early Years Foundation Stage', when considering the quality of provision for three and four year old children. Much of the content provides generic guidance for all young children accessing early years provision.

The document can be accessed through 'Fronter' and found in the Early Years room. Link: <https://fronter.com/northyorks/main.phtml>

**8.2** However, when considering whether to admit children as young as two years of age into the school, it is important to remember that two year olds are not small three and four year olds. Two year olds are at a qualitatively different point in their development. As such, whilst they may enjoy playing with much that is available for three year olds, some provision is unlikely to be suitable for such young children. Two year olds are likely to approach play resources in a very different way from the three and four year olds e.g. to support their schematic explorations.

**8.3** Provision and routines for two year olds must be developmentally appropriate. The environment must be flexible as well as dependable. They need plenty of open space, including direct and on-going access to the outdoors, because play is very physical and involves a lot of movement. Two year olds are just emerging from the baby stage and their learning continues to be sensory.

Their understanding is centred on their own immediate needs and they are not yet at the point of developing the concept of sharing. It

is therefore important that sufficient resources are available to meet the needs of all children. Two year olds are just developing their independence and often have a drive 'to do it for myself'. This is important for their learning and development and will need to be balanced with the fact that they are unlikely to be able to manage all their dressing, undressing and hygiene routines without a lot of support. Meal and snack times will also need to be unhurried.

They need to know what to expect and find security in returning to their favourite spaces or keeping personal items/comforters close at hand. They thrive in a peaceful environment, not only needing open areas but enclosed, attractive, quiet spaces in which to withdraw and relax, possibly sleep. Unhurried time is essential, with close, warm care and attention provided by adults who know the children very well.

### **8.4** Points for further consideration - what do two year olds need?

- Adults that have an excellent understanding of child development - The level of development of some children accessing two year old funding may be lower than that developmentally typical for their age. In order to ensure high quality inclusive provision and practice, resources and routines and approaches may need to be adapted further.
- High quality interaction and support - A ratio of 1 adult to four children is expected. (Please see p.19 Statutory EYFS Framework for information regarding qualifications).
- The care of a key person that knows them very well. Two year olds need a huge amount of emotional support. Secure attachments are key to strong emotional health and well-being. Caring adults need to make the time to become

familiar with two year olds as individuals to understand their needs, interests, fascinations, personal world and routines.

- Personal space to store personal belongings.
- Uninterrupted time and space to learn - Adults will need to adjust provision, activities, group sizes and sessions - two years olds are often not able or unwilling to join in group times.
- ‘Child sized places’ for 1 on 1 moments - between children and children/adults and children.
- Floor space and designated areas indoors and out where they can run and crawl developing strength and coordination and practicing early skills. (A large number of tables and chairs are not necessary).
- Easy access to outdoor provision that meets their need to explore their world physically and through their senses
- Resources that are not only open ended, but also reflect the world that they know and are familiar with as a two year old.
- Malleable and heuristic materials must be available every day.
- Furniture and bathroom facilities of an appropriate size.
- Carpeted areas so that resources are at floor level - not on tables.
- Sleep areas - cots won't be required; instead provide sleep mats or cosy nests.

- Quiet, cosy areas - bean bags and cushions.
- Shielded areas enclosed from pathways.
- Adults that re-adjust their expectation for a wide range of everyday behaviours.
- Private space and time for personal intimate care routines, with their key person.
- Individualised transition and settling routines - separation from parents can be much harder for such young children. A great deal of time is needed for younger children to become familiar with the practitioners and the environment.

**8.5** Premises and equipment must be organised in a way that meets the needs of very young children. Schools must meet the following indoor space requirements:

- Children under two years: 3.5 m<sup>2</sup> per child.
- Two year olds: 2.5 m<sup>2</sup> per child.
- Children aged three to five years: 2.3 m<sup>2</sup> per child.

Schools must provide access to an outdoor play area or, if that is not possible, ensure that outdoor activities are planned and taken on a daily basis (unless circumstances make this inappropriate, for example unsafe weather conditions). Providers must follow their legal responsibilities under the Equality Act 2010 (for example, the provisions on reasonable adjustments).

## 9. Making Provision for Children with Special Educational Needs and/or Disabilities (SEND)

**9.1** The Equalities Act 2010 states a person can be defined as disabled if they have ‘a physical or mental impairment that has a substantial and long term adverse effect on their ability to carry out normal day to day activities.’ It also states that no person should be treated less favourably by reason of their disability. This includes children. For children under the age of six a special educational need can be regarded as a disability even if there is no diagnosis of condition

**9.2** Please make reference to the main documents ‘SEND Mainstream Guidance; Supporting children and young people who have special educational needs and disabilities (SEND) in mainstream schools and settings’ and ‘SEND Guidance – Early Years; Supporting children 0 – 5 years who have special educational needs and disabilities (SEND) for schools, settings and childminders’ when considering the provision for two, three and four year old children who have SEND,

These documents can be accessed on the local offer website using the following link

<http://www.northyorks.gov.uk/article/28840/SEND---specialist-support-and-provision-in-North-Yorkshire>

**9.2** Provision and routines for children with SEND must be developmentally appropriate. It may be useful at this stage to consider when a child would be regarded as having a special educational need (SEN).

A child can be considered to have SEN if their attainment is significantly below age related expectations in one or more of the aspects of the EYFS. Their need will also fall into one or more of the categories of SEND as defined in the SEND code of practice; January 2015.

Another factor that needs to be taken into consideration when deciding whether a child has SEN is progress. Is the child making good or better progress? Is the gap between their attainment and that of their peers closing?

Chronological Age	4 – 5 years	3 – 4 years	2 – 3 years
Assessed stage of development	40 – 60 months	30 – 50 months	22 – 36 months
Provision – <b>Universal</b> ; refer to ‘Quality First, Guidance on providing for children in the Early Years Foundation Stage’ - page 16			
Assessed stage of development	30 – 50 months	22 – 36 months	16 – 26 months
Provision – <b>Universal plus</b> ; As above plus differentiation and or short term interventions			
Assessed stage of development	22 – 36 months or below	16 – 26 months or below	8 – 20 months or below
Provision – <b>SEN support</b> ; children with this level of delay need provision that is ‘ <b>additional to</b> ’ and ‘ <b>different from</b> ’ the above. (SEND code of practice; January 2015)			



Has the rate of progress the child is making improved? If the answer to any of these questions is yes then the provision that the school is making for that child is meeting their needs. The school, setting or childminder should continue to provide this level of support and use their Assess, Plan, Do, Review to continue to monitor the child's progress.

**9.3** When a child is identified as having a special educational need there is a typically expected level of intervention that an educational setting must provide. This relates to the **graduated approach** to meeting the needs of children with SEND. The 'graduated approach' is defined in the SEND code of practice; January 2015 (page 280). The documents specified in paragraph 10.1 explain the duties of educational settings in relation to the code. Schools, settings and childminders have access to a wide range of resources to support them with meeting the needs of children who require SEN support. Some of these resources are identified in the SEND Mainstream Guidance documents. Training is available through Smart Solutions. Other early years resources are available on Fronter and can be found using the following link

<https://fronter.com/northyorks/main.phtml>

or CYPS info

<http://cyps.northyorks.gov.uk/index.aspx?articleid=13434>

Another source of support for providing high quality provision for children with SEND can be found in section 9 of this document and all the support documents available for meeting the needs of two year olds.

**9.4** The graduated approach recognises that, where necessary, increasing specialist expertise may be required to develop strategies to support children with complex and / or significant special educational needs. The terms 'complex' and 'significant' are explained in the SEND Specialist Support and Provision document; (Chapter 4; page 6) which can be found on the local offer website using the link given in paragraph 10.1.

**9.5** Specialist support can be accessed from the Inclusive Education Service (IES) through the Single Point of Access (SPA) process. Schools, settings and childminders complete a Request For Involvement (RFI) form. These forms can be found on the local offer website by following the link in paragraph 10.1.

**9.6** A very few children may require a higher level of support or an Education, Health and Care Plan (EHCP). At this level of need specialists from IES and/ or health and / or social care will be involved. Children who require an EHCP have highly complex and significant needs.

**9.7** Funding may be available for children who have complex and / or significant SEND. This funding is explained in section 13 – Financial Considerations; paragraph 13.6 – SEND funding.

## 10. Health and Safety

**10.1** Schools will need to consult the Health and Safety Risk Management advisor to ensure that the site is fit and managed according to the age range.

**10.2** Risks related to unsuitability of environment for age group

- space, inside and outside to cater for young learners
- storage
- environmental hazards
- including choking risks
- intimate care arrangements – toilets and changing facilities will be needed, with the need for better disposal of potentially clinical waste (e.g. nappies from young children with infections)
- additional risk of very small children being in the school environment, during emergency situations e.g. fire alarms
- times when older and very young children are arriving, departing and using circulation spaces require planned supervision

**10.3** Requirements for health and safety management over and above current provision:

- There would have to be more detailed risk assessments for the management of very young children within the school setting
- Further staff training that may be required, e.g. for additional paediatric trained first aiders, or increased awareness for health needs of very young children.

## 11. Governance

**11.1** It is the expectation that governing bodies will work with the Local Authority and other partners through this period of change. Strategically, governors will be reviewing all provision in their locality and be clear about the expectations of other providers.

**11.2** It is strongly recommended that governors consult with parents, and work together with the Headteacher and staff to ensure they are confident that the needs of all children will be met.

**11.3** Governing bodies will continue to review their admissions policy on an annual basis and take account of all the implications for staff, children and parents as they implement any changes to the age range of pupils on roll. Evidence of any review and adoption of policy will be recorded in the minutes of governing body meetings.



## 12. Financial Considerations

**12.1** Schools should undertake market research to establish the potential number of children who may attend early years provision based at the school. The options available to schools for the delivery of early years provision have different cost implications and Governors should consider the financial implications of each proposal and the impact on the whole school budget.

**12.2** Schools can use their delegated budget to subsidise community focussed extended schools activities which is what a PVI provision run under a sub-committee of the Governing Body would be classed as. (In addition, academies which are part of multi-academy trust are advised to verify any proposed subsidy from their delegated budget with the trust) The school and the Governors would need to verify any proposed subsidy and the Governors would need to satisfy themselves that this was in the interest of the school and that it was not going to create a financial burden that may result in the school going into a deficit position.

**12.3** All schools offering early years provision should have a charging policy. All schools offering early years provision should have a charging policy. Details about what can be charged for is contained in the DFE operational guidance: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/629544/Early\\_years\\_entitlements-operational\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/629544/Early_years_entitlements-operational_guidance.pdf)

For further advice, please contact [BSO@northyorks.gov.uk](mailto:BSO@northyorks.gov.uk)

**12.4** Funding for early years children is calculated on actual attendance on a specified week each term, known as 'headcount / census week'. When considering the proposed opening of any new early years provision, schools should take into consideration when headcount week is, and the impact on funding if they open after this date in the term. It should also be recognised that numbers of children can be more volatile than main school numbers.

**12.5** Once a school has taken the decision to offer early years provision they must ensure the Early Years Funding Team is informed to secure funding.

**12.6** Children with SEND attending EYFS provision and taking up a funded place may be eligible for Element 2 funding (formerly known as Inclusion Funding). The forms and guidance for this can be found by following the following link

<http://cyps.northyorks.gov.uk/index.aspx?articleid=17630>

## 13. Sources of Advice

In the first instance schools wishing to admit 2 and 3 year olds which are not currently established to do so, can explore the issue with their School Improvement Advisor 0-11. If they wish to pursue the proposal they should then contact Andrea Sedgewick, Head of Early Years, Strategic Planning, Education and Skills Service.

For advice about:	Contact:	
<b>School Organisation</b>	<b>Andrea Sedgewick</b> Head of Early Years, Strategic Planning, Education and Skills Service Tel: <b>01609 536488</b> <a href="mailto:andrea.sedgewick@northyorks.gov.uk">andrea.sedgewick@northyorks.gov.uk</a>	
<b>Securing Quality</b>	<b>Ruth Mason</b> Lead Improvement Adviser, Early Years; Education and Skills Service Tel: <b>01609 533496</b> <a href="mailto:ruth.mason@northyorks.gov.uk">ruth.mason@northyorks.gov.uk</a>	
<b>SEND</b>	<b>Alison McCoy and Catherine Hannam</b> Senior Educational Psychologists, Inclusion Service Tel: <b>01609 533697</b> <a href="mailto:Alison.McCoy@northyorks.gov.uk">Alison.McCoy@northyorks.gov.uk</a> or <a href="mailto:Catherine.hannam@northyorks.gov.uk">Catherine.hannam@northyorks.gov.uk</a>	
<b>Health and Safety</b>	<b>Robin Smith</b> Health and Safety Risk Manager (CYPS) Tel: <b>01609 535686</b> <a href="mailto:robin.smith@northyorks.gov.uk">robin.smith@northyorks.gov.uk</a>	
<b>Admissions</b>	<b>William Burchill</b> Lead for Admissions, Strategic Planning Team Tel: <b>01609 532644</b> <a href="mailto:william.burchill@northyorks.gov.uk">william.burchill@northyorks.gov.uk</a>	
<b>Funding</b>	<b>Sally Dunn</b> Head of Schools and Early Years Finance Tel: <b>01609 532308</b> <a href="mailto:sally.dunn@northyorks.gov.uk">sally.dunn@northyorks.gov.uk</a>	<b>Joanne Webster</b> Early Years, Finance Tel: <b>01609 532970</b> <a href="mailto:joanne.webster@northyorks.gov.uk">joanne.webster@northyorks.gov.uk</a>
<b>Insurance</b>	<b>Louise Gigante</b> Tel: <b>01609 532466</b> <a href="mailto:louise.gigante@northyorks.gov.uk">louise.gigante@northyorks.gov.uk</a>	
<b>Governor Support</b>	<b>Alison Johnston</b> Governance Manager Tel: <b>01609 532160</b> <a href="mailto:alison.johnston@northyorks.gov.uk">alison.johnston@northyorks.gov.uk</a>	
<b>HR and Staffing</b>	<b>Susan McGinn</b> Senior Human Resources Adviser Tel: 01609 536921 <a href="mailto:susan.mcginn@northyorks.gov.uk">susan.mcginn@northyorks.gov.uk</a>	
<b>Information about the statutory or non-statutory process</b>	<b>John Lee</b> Strategic Planning Officer Tel: <b>01609 533182</b> <a href="mailto:john.s.lee@northyorks.gov.uk">john.s.lee@northyorks.gov.uk</a>	
<b>Early Years Business Support</b>	<b>Catriona Lowin</b> Early Years Business Support Tel. <b>01609 532823</b> (via Finance Enquiry Service), <a href="mailto:catriona.lowin@northyorks.gov.uk">catriona.lowin@northyorks.gov.uk</a>	

## References:

Quality First: Guidance on providing for children in the Early Years Foundation Stage, NYCC, December 2012

DfE School Organisation: Maintained schools, Guidance for proposers and decision makers, January 2014

Registering School Based Provision, Ofsted Childcare Factsheet, reference: 080291, July 2012

Registration Not Required, Ofsted Childcare Factsheet, reference: 080134, May 2013

DFE advice on re admission of summer born children for local authorities, school admission authorities and parents, July 2013

DFE : Making 'prescribed alterations' to Maintained Schools, Statutory guidance for proposers and decision-makers, April 2016

DFE: Making significant changes to an existing academy, Departmental advice for academy trusts, January 2014.

DFE: Wraparound and holiday childcare. Parent and childcare provider 'rights to request' Guidance for local authority maintained schools, academies and free schools. May 2016

## Contact us

**North Yorkshire County Council, County Hall, Northallerton, North Yorkshire, DL7 8AD**

Our Customer Service Centre is open Monday to Friday 8.00am - 5.30pm

(closed weekends and bank holidays). Tel: **01609 780 780**

email: **[customer.services@northyorks.gov.uk](mailto:customer.services@northyorks.gov.uk)** web: **[www.northyorks.gov.uk](http://www.northyorks.gov.uk)**

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Tel: **01609 780 780** email: **[customer.services@northyorks.gov.uk](mailto:customer.services@northyorks.gov.uk)**