**Delivering the new extended free entitlement (EFE) in partnership: procurement and partnership arrangements**

**Procurement and partnership arrangements**

**Schools and partnership working**

Schools will need to take account of some key points in procuring services and working with the private sector:

**Direct provision or buying in?**

Schools considering providing additional services to meet the demand for a flexible and extended 30 hour offer can either provide the service directly themselves or can work with an early education and childcare provider to deliver the service for them. Whilst schools may consider that it is more time and cost effective to work with an existing childcare provider there are still legal requirements to be met.

**Partnering**

A partnership arrangement can include use of premises, staffing arrangements and equipment, as well as joint access to, or commissioning of, training and development. Partnership approaches may outweigh any potential commercial considerations. However, it is still important to set out responsibilities and expectations clearly and to make sure, for example, that adequate insurance cover is in place for all parties. Whilst it is possible for a partnership to procure services, there would need to be a legal entity in place to enter into a contractual relationship with a service provider.

In this section you will also find an exemplar [**Memorandum of Understanding**](http://www.familyandchildcaretrust.org/sites/default/files/Sample%20Memorandum%20of%20Understanding.docx) and an exemplar [**Service Level Agreement**](http://www.familyandchildcaretrust.org/sites/default/files/Sample%20Service%20level%20agreement.docx)**.**

**Maintained schools**

**Hosting a childcare provider**

A school can provide premises and have no involvement in the management or finances of the service. A branding for such a service could be ‘Little Poppets @ Ambridge School’ where Little Poppets is an existing commercial day care provider who uses space at Ambridge School to provide a new branch of their business. The relationship between the school and Little Poppets is a commercial one limited to, and defined by, a lease or licence for use of part of the school estate.

In this case, the school is not commissioning a service (using public money to provide a service) and procurement policies and regulations should not apply, however, this would represent a commercial opportunity and the school should seek to obtain the best return (highest rent) for the premises. Good practice would be for the opportunity to be advertised to gauge the level of interest and offer the opportunity to a range of local businesses.

A formal lease or licence should be agreed between the school and the provider. While a lease is a more formal arrangement, either would be legally binding and should set out the length of the agreement, notice terms on either side and any financial arrangements (rent level, rent review, responsibility for repairs; utility payments) and specify exactly the premises, access arrangements and car parking being offered. The school (and provider) should take legal advice before entering into any agreement.

**Commissioning a provider**

A school can commission a third party to provide day care on its behalf. Where public money is used to buy in a service, procurement rules and processes will apply (see [**Public Service Contracts 2015**](http://www.legislation.gov.uk/uksi/2015/102/contents/made)) and a school would have to have regard to any limitations or restrictions in the local authority’s arrangements for financing schools made under section 48 of the School Standards and Framework Act 1998.

Procurement of a service would have to pay regard to existing government guidance, general duties on local authorities about securing best value (economy, efficiency and effectiveness) together with economic, social and environmental value. It is unlikely that the contract would have to be advertised in the Official Journal of the European Union as it would be a public service concession contract and most likely below the threshold (£164, 176 to end of 2017) for goods and services.

A school which considers it is commissioning a service should contact their local authority’s procurement team for advice and support in managing the procurement process. Some the local authorities, for example, may subscribe to a procurement portal for advertising contracts.

Procurement support also available from: **www. buyways.co.uk**

**Academies**

**Delivery alternatives for academies**

* direct provision, as a charitable activity within the Academy’s objects
* a wholly-owned subsidiary of the Academy Trust - either as a charitable activity within the Academy Trust’s objects, or as a trading activity for profit (again the powers of the charitable trust as they exist in the trust’s articles are sufficient for this purpose); or
* contracting out to an independent provider (which may or may not be a charity; and in which a Trustee/Governor may have an interest).

**Procurement process**

Academies must have regard to the requirements laid out in the Academies Financial Handbook which states that an academy must have ‘a Compulsory Competitive Tendering policy in place and applied’ when procuring goods and services. The general principles of spending public funds apply as described above.