

Notice of KEY Executive Decision

Subject Heading:	Implementation of Havering Early years directory and funding agreement 2020-2025
Cabinet Member:	Councillor Robert Benham: Deputy Leader of the Council, Cabinet Member for Education, Children & Families
SLT Lead:	Tim Aldridge, Director Children's Services
Report Author and contact details:	Pooneeta Mahadeo School Organisation Manager pooneeta.mahadeo@havering.gov.uk Tel: 01708 431092
Policy context:	Local authorities are required to have due regard to this model agreement in the exercise of their duty under s7 (1) of the Childcare Act 2006 and regulation 39 of the Childcare (Early years Provision Free of Charge) (Extended Entitlement) Regulations 2016.
Financial summary:	Local authorities are allocated funding for early years provision through the Early Years Block of the Dedicated Schools Grant (DSG). For 2019/20, the allocation to Havering including funding allocations made for EYPP (Early years Pupil Premium) and DAF (Disability Access Fund) is £18,980,883. Providers receive funding for the free entitlement to early years provision based on locally agreed hourly base rates and supplements for deprivation.

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Reason decision is Key	Expenditure of £500,000 or more Significant impact across the borough
Date notice given of intended decision:	August 2019
Relevant OSC:	Children & Learning Overview and Scrutiny
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Place an X in the [] as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

- To approve and implement the Havering Early years directory and funding agreement from 1 April 2020 - Appendix 1
- Authorise the completion of agreements with each child care provider providing nursery places in Havering.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3, Section 2.5 gives the relevant Cabinet Member authority to make this decision, namely powers (j) To consider and recommend plans in respect of the portfolio allocated. And (q) To agree minor matters and urgent or routine policy matters.

STATEMENT OF THE REASONS FOR THE DECISION

1. Havering Council, the Local Authority, has a statutory duty to secure sufficient nursery education for two, three and four year olds in a diverse range of high quality provision in order to meet parental choice. In order to achieve this, the Council works alongside all childcare providers from the Maintained, Private, Voluntary and Independent (PVI) sector including preschools, nurseries and childminders.
2. The Government provides grant funding to Local Authorities to cover the costs of free nursery places for two, three and four year olds.
3. This agreement is designed to explain the financial arrangements for making payments to childcare providers in respect of the free places that they provide. It is also written to present Havering's directory and funding agreement alongside the Central Government's Early Education Statutory Guidance for Local Authorities for the delivery of free early education for two, three and four year olds and to secure sufficient childcare.
4. The agreement applies to the 15 hour entitlement for the most disadvantaged two-year-olds, the 15 hour entitlement for parents of three-and four-year-olds (the universal entitlement) and the 30 hours entitlement for working parents of three-and-four-year-olds (the extended entitlement).
5. The agreement has been developed in partnership with early years providers and local authorities. It is intended to bring greater consistency to provider agreements across all local authorities and all types of providers.
6. This agreement is for:
 - Early years providers who are referred to as 'providers' and include:
 - Early years providers and childminders registered on the Ofsted Early Years Register;
 - Childminders registered with a childminder agency that is registered with Ofsted;
 - Independent Schools and Maintained and Academies taking children age two and over and which are exempt from registration with Ofsted as an

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- early years provider.
- Independent Schools and Maintained and Academies taking children age two and over and which are exempt from registration with Ofsted as an early years provider.
7. The DfE launched a model agreement in March 2017, updated in June 2018 which sets out the department's expectations on what should be included in agreements between local authorities and providers (provider agreements) and refers to early years provision free of charge (sections 7 and 7A of the Childcare Act 2006) and free childcare (section 2 of the Childcare Act 2016) as the 'free entitlement(s)' or 'free hours' or a 'free place'. The department expects the standard headings and wording provided in Section 2 of the model agreement to be used in all provider agreements with further detail to set out local level process where indicated.
- Havering's Early Years Directory and Funding Agreement builds on the guidance issued by the DfE and is intended to enable providers and the Local Authority to understand their respective roles and to ensure that the Early Years Free early education delivers the best outcomes for children and their families.
8. The DfE recommends that local authorities should develop their provider agreements in line with their own legal advice, however the department recommends that local authorities include the following provisions :
- A right to unilaterally vary the agreement to reflect changes in legislation and departmental guidance
 - A clause stating that references to legislation will be to that legislation as amended from time to time, without express change in the model agreement and/or provider agreement
 - Freedom of information provisions.
 - Termination and enforcement clauses to cover all enforcement stages up to and including termination of the agreement. The local authority should also make clear that they do not waive the right to act if they do not act immediately (a slower evidence based approach may be required on occasion).
 - An obligation to comply with all relevant legislation.
 - Provisions for dealing with data protection and confidentiality.
 - An obligation to take out and maintain adequate levels of insurance
 - Provisions dealing with how funding must be accounted for and recorded for audit purposes.
 - A clear process for resolving any disputes.
9. Local authorities should ensure every provider agreement is clear and transparent.
10. Local authorities must secure a free entitlement place for every eligible child in their area
11. The local authority should work in partnership with providers to agree how to deliver free entitlement places.

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12. The local authority should be clear about their role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations of providers.
13. The local authority must contribute to the safeguarding and promote the welfare of children and young people in their area.

OTHER OPTIONS CONSIDERED AND REJECTED

No other options to consider.

PRE-DECISION CONSULTATION

At the Early Years Provider Reference Group (EYPRG) Meeting on 15 May 2019 all Representatives were informed the current directory and funding agreement 2017 – 2020 is due to expire end of March 2020

The directory and funding agreement 2017 – 2020 was sent to all Early Years Provider Reference Representative on 14 June 2019 to respond by 5 July 2019 to give their feedback on the agreement.

No comments were received by any EYPRG representatives.

All internal early years colleagues responded to the agreement with the following points as listed below and have been included in the draft directory and funding agreement 2020 - 2025:


- *Ofsted judgements are updated to take into consideration childminder agency outcomes and childminder outcomes have also been updated.*
- *Providers should demonstrate how they are developing children's understanding of the importance of being physically healthy, eating a balanced diet and maintaining a healthy lifestyle.*
- *Provider must have a robust system in place to demonstrate their commitment to safer recruitment practices.*
- *Where a provider has been awarded a nationally or locally recognised quality mark (standardised by Havering), the Local Authority will ensure that this information is made clear to parents and carers via the Family Information Service Directory*
- *The complaints process section has been updated with the link to the corporate complaints policy.*

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

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Name: Pooneeta Mahadeo

Designation: School Organisation Manager

Signature: 

Date: 22/10/2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Authority must secure, so far as is reasonably practicable, that the provision of childcare (whether or not by them) is sufficient to meet the requirements of parents in their area who require childcare in order to enable them–

- (a) to take up, or remain in, work, or
- (b) to undertake education or training which could reasonably be expected to assist them to obtain work. (section 6 Childcare Act 2006)

Under section 7 Childcare Act 2006 the Authority must ensure that free early years provision is available and have regard to any guidance from the Secretary of State.

The Secretary of State has provided guidance including a template model agreement with providers. The Guidance states that they expect all the standard headings and wording in section 2 of the Guidance to be used in all agreements with providers subject to modifications for local processes. Recommendations are made within the guidance regarding inclusion of supplementary clauses, including for example provisions relating to confidentiality, data protection, freedom of information, audit and dispute resolution,

The proposed updated Havering Early Years Funding Agreement complies with the standard heading requirements of the model agreement, includes modifications for local processes and incorporates supplementary clauses as recommended within the Secretary of State's guidance.

FINANCIAL IMPLICATIONS AND RISKS

The Local Authority has a statutory duty to secure sufficient nursery education for two, three and four year olds in a diverse range of high quality provision in order to meet parental choice. The funding agreement is designed to explain the financial arrangements for making payments to childcare providers in respect of the free places that they provide.

The funding to local authorities from central government for the free entitlement for eligible 2, 3 and 4 year olds through the Early Years Block of the DSG is calculated on the basis of a basic hourly rate and factors for additional needs, based on measures of free school meals, English as an additional language and disability living allowance claims. An area cost adjustment is applied to each of these factors to reflect variations in local costs. The funding to LAs is based on the latest January census and adjusted for the following January census to capture growth. The allocation to Havering in 2019-20 is £18,980,883, including funding for the Early Years Pupil Premium (EYPP) and the Disability Access Fund (DAF).

All providers in Havering are paid a local universal base rate of funding (i.e. no differential rates for settings of different types) which is currently £4.80 per hour plus supplements for deprivation. These rates are applied to both the universal 15 hour and the additional 15, 30 hour offer for working parents. For 2 year olds the rate is £5.60

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per hour. The EYPP and DAF provide an additional £302.10 and £615.00 per annum respectively to providers for eligible children.

The funding allocated to Havering providers currently ranges from £691.20 per year to a childminder with a low number of hours of childcare to £334,382.90 per year to a provider with the highest number of hours.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no direct human resources implications arising from the any of the recommendations made in this report.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The EqHIA is included as Appendix 2.

BACKGROUND PAPERS

Model Agreement - Early years provision free of charge and free childcare – DfE guidance.

Appendix 1 – Early Education and Childcare Provider Directory and Funding Agreement 2020-25

Appendix 2 - EqHIA

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____