

Notice of KEY Executive Decision

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| Subject Heading: | Implementation of Havering Early Education and Childcare Provider Directory and Funding Agreement 2025-2030 |
| Decision Maker: | Tara Geere, Director of Starting Well |
| Cabinet Member: | Councillor Oscar Ford – Cabinet Member for Children & Young People |
| ELT Lead: | Tara Geere, Director of Starting Well |
| Report Author and contact details: | Pooneeta Mahadeo School Organisation Manager Pooneeta.mahadeo@havering.gov.uk Tel: 01708 431092 |
| Policy context: | Local authorities must follow this model agreement when carrying out their duties. This is set in section 7(1) of the Childcare Act 2006 and regulation 49 of the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 . Local authorities should ensure that every provider agreement is clear and transparent. |
| Financial summary: | Local authorities are allocated funding for early years provision through the Early Years Block of the Dedicated Schools Grant (DSG). For 2025/26, the allocation to Havering including funding allocations made for EYPP (Early Years Pupil Premium) and DAF (Disability Access Fund) is £47,819,350. Providers receive funding for the free entitlement |

Key Executive Decision

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| | to early years provision based on locally agreed hourly base rates and supplements for deprivation. |
| Reason decision is Key | Expenditure of £500,000 or more. Significant impact across the borough |
| Date notice given of intended decision: | 30/12/2024 |
| Relevant Overview & Scrutiny Committee: | People |
| 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

People - Supporting our residents to stay safe and well X

Place - A great place to live, work and enjoy

Resources - Enabling a resident-focused and resilient Council

Place an X as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

- To approve and implement the Havering Early Education and Childcare Provider Directory and Funding Agreement from 1 April 2025 – Appendix 1
- Authorise the execution of agreements with each child care provider providing funded Early years places in Havering.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Council's Constitution

3.3.3 Scheme – Powers common to all Strategic Directors

1. General

- 1.1. To take any steps necessary for proper management and administration of allocated portfolios.

4. Contracts

4. 2. To award all contracts with a total contract value of below £1,000,000 other than contracts covered by Contract Procedure Rule 16.3.

STATEMENT OF THE REASONS FOR THE DECISION

1. Havering Council, the Local Authority, has a statutory duty to secure early years provision free of charge and sufficient childcare in their area for working parents 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 early years and childcare provision for children aged from 9 months and 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 years and childcare places for children aged from 9 months and 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

Key Executive Decision

three-and-four-year-olds (the extended entitlement). It also applies to the following working parent entitlements:

- from April 2024, the 15 hour entitlement for children of eligible working parents from the age of 2
 - from September 2024, the 15 hour entitlement for children of eligible working parents from the age of 9 months
 - from September 2025, the 30 hour entitlement for children of eligible working parents from the age of 9 months
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 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 has developed the model agreement for local authorities to use in their provider agreements to improve consistency.
- 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 tailor their provider agreements to local processes as appropriate, however the department recommends that local authorities include the following provisions:
- a right to unilaterally vary the agreement to reflect changes in legislation and guidance from the Department for Education (DfE)
 - a clause stating that references to legislation will apply to the legislation as amended, without significant changes to the agreement
 - freedom of information (FOI) provisions
 - termination and enforcement clauses that cover all stages
 - an obligation to comply with all relevant legislation
 - a clause regarding the use of personal and sensitive data in compliance with the Data Protection Act 2018

Key Executive Decision

- an obligation for providers to take out and maintain adequate levels of insurance
 - funding obligations, including how funding must be accounted 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 place for every eligible child in their area.
11. The local authority should work in partnership with providers to agree how to deliver places.
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

The draft funding agreement was sent to all internal officers who responded with the following points listed below:

- Providers delivering funded places must complete an annual Local Authority Safeguarding Audit
- The terms of learning and development, leadership and management and Safeguarding procedures
- Information about supporting SEND provision in planning process
- Requirements of updating the Family Services Directory

These points have all been reviewed and updated in the agreement.

All providers have been informed of the new agreement through the provider session held in September 2024 of when the document will be issued.

Key Executive Decision

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

Name: Pooneeta Mahadeo

Designation: School Organisation Manager

Signature: P.Mahadeo

Date: 16/01/2025

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Under section 6 of the Childcare Act 2006 (“the Act”), the Council 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.

Furthermore, section 7 of the Act requires the Council to ensure that free early years provision is available and have regard to any guidance from the Secretary of State.

The recommendations within this report are compatible with the above statutory duties.

The Secretary of State has provided guidance including a ‘model agreement template’. The proposed updated Havering Early Years Funding Agreement (at Appendix 1) 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

Background

The Local Authority has a statutory duty to secure sufficient education and childcare places for children aged 9 months, two, three and four year olds in a diverse range of high quality provision in order to meet parental choice. The “Havering Early Education and Childcare Provider Directory and Funding Agreement” (D&FA) is designed to explain the expectations, operationally, regulatory and financial for making payments to childcare providers in respect of the free places that they provide.

The D&FA and the arrangements within the document has been designed in compliance with the statutory guidance provided by the Department for Education (DfE) under the Childcare Act 2006 and associated regulations, particularly the recent Childcare (Free of Charge for Working Parents) (England) Regulations 2024.

The funding is derived from the Early Years Block of the Dedicated Schools Grant (DSG) for eligible children, covering nine months old to two year olds, two year olds, three year olds and four year olds.

The DfE Early Years Operational Guidance for 2025-2026 outlines the principles for distributing this funding, including a universal hourly rate supplemented by deprivation and additional needs factors, as well as measures for area cost adjustments.

Key Executive Decision

Central Government Allocations

For 2025–2026, Havering's DSG allocation for Early Years is £47.819 million, inclusive of provisions for:

- Early Years Pupil Premium (EYPP),
- Disability Access Fund (DAF), and
- Adjustments for growth captured through the January censuses.

As part of the Havering's annual budget cycle, the funding arrangements is reviewed in line with the updated DfE Early Years Operational Guidance. There is stakeholder engagement; via presentations, consultation, EYPRG, Schools Forum, leading to the final arrangements being included in the appropriate council approval board, e.g. Cabinet, lead member, etc.

Funding

As part of the process of funding providers, the D&FA is a pre-requisite to any provider who wishes to be eligible for the LA's DSG Early Years funding from the DfE. The D&FA sets out the expectations to all providers, and ensures that the same standards are in place, which is aligned with the DfE's expectations.

A key aspect of the D&FA is that providers are obliged to follow the LA process for claiming the funding, which is compliant and mapped to the DfE requirements, therefore ensuring that the LA is able to submit the data to the DfE and ensures that any funding adjustments are correctly recorded and reflected to the DfE.

The LA's allocation is contingent on census accuracy and may be subject to adjustments if participation rates fluctuate. A robust framework has been developed to ensure compliance with the DfE's statutory and operational guidelines, mitigating financial and legal risks.

The LA conducts payments for the free entitlement monthly and the process is laid out in the D&FA.

Assurance

The D&FA has a set standard of minimum expectations, which is compliant with our duties as an LA. The D&FA ensures that the LA can fund providers to deliver funded places from 1 April 2025.

The D&FA ensures that we deliver our obligations in respect of this grant and provides assurance to the S151 Officer, and ultimately the DfE that the LA has been in adherence to the statutory requirements.

The current agreement for all providers ends at the end of March 2025, and should the new agreement not be in place, then the LA will not be in a position to provide any funding from the Early Years block, and this may have an adverse impact to the LA by the DfE and other associated central government bodies.

Key Executive Decision

The D&FA supports the Council's duty to secure sufficient high-quality childcare provision, promoting educational outcomes and supporting working families in Havering.

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 EHIA is included as Appendix 2.

Key Executive Decision

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

Positive Impact on Child Health and Wellbeing

The agreement supports early education and childcare providers in delivering high-quality services, which can positively impact children's health and wellbeing. By ensuring that providers meet specific standards, the agreement helps create a safe and nurturing environment for children.

Support for Disadvantaged Children

The agreement includes provisions for supporting disadvantaged children, which can help address health inequalities and promote social inclusion.

Special Educational Needs and Disabilities (SEND)

The agreement outlines responsibilities for supporting children with special educational needs and disabilities, ensuring they receive appropriate care and support.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The agreement encourages early education and childcare providers to adopt sustainable practices in their operations. This includes reducing waste, conserving energy, and promoting recycling within their facilities. Additionally, it supports the creation and maintenance of green spaces within childcare settings. These spaces provide children with opportunities to engage with nature, which can have positive effects on their physical and mental wellbeing.

BACKGROUND PAPERS

None

APPENDICES

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

Appendix 2 - EHIA

Key Executive Decision

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 Committee Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____