

**Early Education and Childcare
Provider Directory and Funding Agreement
01 April 2025 - 31 March 2030**

Between

The Mayor and Burgess of the London Borough of Havering

And

[PROVIDER NAME AND OFSTED URN]



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PARTIES

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HAVERING** of Havering of Town Hall, Main Road, Romford, Essex RM1 3BB (“the **Council**” which expression shall include its successors in title and permitted assignees); and
- (2) **[PROVIDER NAME]** whose registered company number is [] and situated at **[ADDRESS]** (“the **Provider**”)

each a **Party** and together the **Parties**.

BACKGROUND

- (A) This Early Education and Childcare Directory and Funding Agreement has been prepared in line with the Department for Education Model Agreement Template and is subject to the Department for Education Statutory Guidance.
- (B) The Agreement aims to ensure that public funding is used for the purpose it is intended, processes are fair and transparent, and providers and the Council comply with relevant legislation.
- (C) The Providers of this Agreement are Ofsted (Office for Standards in Education, Children's Services and Skills) registered Providers of early education and childcare funded from nine months old to four years old in London Borough of Havering on the Havering Directory of Providers.
- (D) In accordance with Section 7 of the Childcare Act 2006 the Council has agreed to make payment to the Provider to enable it provide Early Education Entitlement for children between the ages of from 9 months old to four years old.
- (E) The funding is provided under the framework of the Statutory Guidance for local authorities on the delivery of “early education and childcare for local authorities” (“the Statutory Guidance”) and any further guidance issued from time to time.
- (F) The Council is required to keep an up to date Directory for all providers providing childcare within the London Borough of Havering who are eligible to claim funding for the provision of free Early Education and Childcare places. For the avoidance of doubt, only early years providers who deliver the early years foundation stage (EYFS) and are either registered with Ofsted and the Independent Schools Inspectorate (ISI) as early years providers, or are schools taking children aged two and over and therefore exempt from registration with Ofsted as early years providers will be eligible to apply for funding, depending on their overall inspection outcome
- (G) The Council has agreed to pay the Dedicated Schools Grant “the Grant” to the Provider to assist it in carrying out the delivery of the commission early education and childcare funded places.
- (H) This Early Education and Childcare Directory and Funding Agreement sets out the terms and conditions on which the Grant is made by the Council to the Provider.
- (I) These terms and conditions are intended to ensure that the Grant is used for the purpose for which it is awarded.

- (J) These Early Education and Childcare Funding Terms and Conditions govern the terms on which The London Borough of Havering will provide funding to Early Education and Childcare Providers.
- (K) For each of the registered provisions that they wish to deliver early education and childcare places, the Provider must complete a separate Provider Declaration form and confirm they comply with the conditions of funding outlined in this Early Education and Childcare Directory and Funding Agreement for delivery of the early education and childcare places at that provision.

IT IS AGREED as follows:

1. AGREED TERMS AND DEFINITIONS

1.1 The following terms shall have the following meaning in this Agreement:

Academy: means the proprietor, within the meaning given by section 579(1) of the Education Act 1996, of an Academy within the meaning given by that section including all academy schools with nurseries in the London Borough of Havering.

Agreement: means this Grant agreement comprising the Agreement, attached schedules and any other documents listed within this Agreement as applying to this Agreement.

Bribery Act: means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Commencement Date: means 1st day of April 2025.

DfE: means the Department for Education.

Family Information Service Directory: (FSD) means the electronic database and public facing website of Ofsted registered providers maintained by the Council. This information is regularly updated through information received directly from Ofsted and by providers themselves, providers must regularly log in and keep their information up to date including hours of operation, funded spaces, school pick up/drop off (if provided) and SEND Local Offer information.

Early Education and Childcare Operational Provider Guide: means the current Havering guidance for providers on the provision of free early education places from 9 months to year olds.

Early Years Foundation Stage (EYFS): means the statutory standards and curriculum framework that all early years providers must meet for children from birth to five years.

Governing Body: means the governing body of the Provider including its directors or trustees.

Grant: means the amount to be paid to the Provider in accordance with this Provider Agreement known as Early Education and Childcare Directory and Funding Agreement.

Grant Period: means the period for which the Grant is awarded starting on the Commencement Date of 1 April 2025 and ending on 31 March 2030.

Guidance: means any applicable guidance or directions with which the Provider is bound to comply. Statutory Guidance Early education and childcare set out duties pursuant to section 2 of the Childcare Act 2016 and sections 6, 7, 7A, 9A, 12 and 13 of the Childcare Act 2006. Local authorities must have regard to this guidance when seeking to discharge those duties.

Intellectual Property Rights: means all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.

Know-How: means information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Ofsted: means the Office for Standards in Education, Children’s Services and Skills.

Ofsted Judgements Grades: are:

- Outstanding: A standard equivalent to an Outstanding Inspection Judgement issued by Ofsted following an inspection.
- Good: A standard equivalent to a Good Inspection Judgement issued by Ofsted following an inspection.
- Met: The inspection judgement is that the provider continues to meet the requirements for registration.
- Effective: The childminder agency is effective overall.
- Requires Improvement: A standard equivalent to a Requires Improvement Inspection Judgement issued by Ofsted following an inspection
- Inadequate: A standard equivalent to an inadequate Inspection Judgement issued by Ofsted following an inspection.
- Not Effective: The childminder agency is not effective.
- Not met: the inspection judgement is that the provider does not meet the requirements for registration.

Prohibited Act: means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council or its members, a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (c) an offence:

- (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
- (ii) under legislation or common law concerning fraudulent acts; or
- (iii) defrauding, attempting to defraud or conspiring to defraud the Council; or
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

Operational Provider Guide: means the Early Education and Childcare Operational Provider Guide which is available on the Havering Education Service, Early Years Resource Page via www.HES.org.uk

Provider Ofsted Grade Table: means the Providers and Childminder Agencies with the relevant Ofsted grade as set out in Schedule 3 that are eligible to deliver funded early education and childcare places.

One Term: for school nurseries, means 39 weeks and for early year providers, means 38 weeks.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.2 a reference to one gender shall include a reference to the other genders;
- 1.2.3 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.4 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.5 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.6 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.7 the word 'including' shall be understood as meaning 'including without limitation'.

2. TERM

2.1 This Agreement shall commence on the Commencement Date and shall expire on the 31st day of March 2030 unless terminated in accordance with the terms and conditions of this Agreement as set out in the Termination section.

3. SERVICES

3.1 The Provider shall commence the provision of the Services on the Commencement Date and shall thereafter continue to provide the Services throughout the Term in accordance with the terms of this Agreement.

- 3.2 The Provider shall at all times during the Term perform the Services under this Agreement in accordance with:
- 3.2.1. all applicable Law and Guidance;
 - 3.2.2. the Required Professional Standard;
 - 3.2.3. the Services Specification;
 - 3.2.4. the Performance Levels;
 - 3.2.5. all relevant rules, codes, policies, procedures and standards of the Councils which may be referred to in the Services Specification; and
 - 3.2.6. the Provider's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 3.2.1 to 3.2.5.

4 Staff

- 4.1 If the Council reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Provider:
- 4.1.1 refuse admission to the relevant person(s) to the Council's premises;
 - 4.1.2 direct the Provider to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 4.1.3 require that the Provider replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Council to the person removed is surrendered;
- and the Provider shall comply with any such notice.
- 4.2 The Provider shall:
- 4.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
 - 4.2.2 if requested, provide the Council with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Council's premises in connection with the Agreement; and
 - 4.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Council.

5 Assignment and sub-contracting

- 5.1 The Provider shall not without the written consent of the Council assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Council may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal.
- 5.2 Where the Provider enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall:

5.2.1 ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Provider to the sub-contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice.

5.2.2 remain responsible to the Council for the performance of its obligations under the Agreement notwithstanding the appointment of any sub-contractor and be responsible for the acts omissions and neglects of its sub-contractors; and

5.2.3 impose obligations on its sub-contractor in the same terms as those imposed on it pursuant to this Agreement and shall procure that the sub-contractor complies with such terms.

5.3 Where the Council has consented to the placing of sub-contracts, the Provider shall, and where requested by the Council in writing, send copies of each sub-contract, to the Council as soon as is reasonably practicable.

5.4 The Council shall be entitled to novate (and the Provider shall be deemed to consent to any such novation) the Agreement to any other body which substantially performs any of the functions that previously had been performed by the Council.

6 Intellectual Property Rights

6.1 All intellectual property rights in any materials provided by the Council to the Provider for the purposes of this Agreement shall remain the exclusive property of the Council. The Council hereby grants the Provider a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Provider to perform its obligations under the Agreement.

6.2 In the absence of prior written agreement by the Council to the contrary, all intellectual property rights created by the Provider or Staff:

6.2.1 in the course of performing the Services; or

6.2.2 exclusively for the purpose of performing the Services,

shall vest in the Council absolutely on creation.

6.3 The Provider shall indemnify and keep indemnified the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any intellectual property right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Council's acts or omissions.

7 Governance and Records

7.1 The Provider shall:

7.1.1 attend progress meetings with the Council at the frequency and times specified by the Council and shall ensure that its representatives are suitably qualified to attend such meetings; and

7.1.2 submit progress reports to the Council at the times and in the format specified by the Council.

7.2 The Provider shall keep and maintain until six (6) years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Council. The Provider shall on request afford the Council or its representatives such access to those records as may be reasonably requested by the Council in connection with the Agreement.

8 Confidentiality, Transparency and Publicity

8.1 For the purposes of this Clause 8, **Disclosing Party** shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and **Recipient** shall mean the Party which receives or obtains directly or indirectly Confidential Information.

8.2 Except to the extent set out in this Clause 8 or where disclosure is expressly permitted elsewhere in this Agreement, the Recipient shall:

8.2.1 treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);

8.2.2 not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Agreement or without obtaining the owner's prior written consent;

8.2.3 not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Agreement; and

8.2.4 immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

8.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

8.3.1 the Recipient is required to disclose the Confidential Information by Law, provided that Clause 9 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs; or

8.3.2 the need for such disclosure arises out of or in connection with:

8.3.2.1 any legal challenge or potential legal challenge against a Party arising out of or in connection with this Agreement; or

8.3.2.2 the purpose of the examination and certification of the either Party's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6 (1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Council is making use of any Services provided under this Agreement.

- 8.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or the Relevant Authority requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 8.5 Subject to this clause 8, either Party may only disclose the Confidential Information of the other Party on a confidential basis to:
- 8.5.1 its personnel who are directly involved in the provision or receipt of the Services (as the case may be) and need to know the Confidential Information to enable performance by the respective Party of its obligations under this Agreement; and
 - 8.5.2 its professional advisers for the purposes of obtaining advice in relation to this Agreement.

Where a Party discloses the Confidential Information of the other Party pursuant to this clause 8.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.

- 8.6 The Council may disclose the Confidential Information of the Provider:
- 8.6.1 strictly on a confidential basis for the purpose of audit; or
 - 8.6.2 to a proposed Successor Body.
- 8.7 Nothing in this clause 8 shall prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of intellectual property rights.
- 8.8 The Provider shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Council.

9 Freedom of Information

- 9.1 The Provider acknowledges that the Council is subject to the requirements of the FOIA and the EIR and shall:
- 9.1.1 provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and the EIR;
 - 9.1.2 transfer to the Council any Request for Information relating to this Agreement that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
 - 9.1.3 provide the Council with a copy of all Information belonging to the Council requested in the Request for Information which is in its possession or control in the form that

the Council requires within five (5) Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information; and

9.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Council.

9.2 The Provider acknowledges that the Council may be required under the FOIA and the EIR to disclose Information concerning the Provider or the Services (including commercially sensitive information) without consulting or obtaining consent from the Provider. In these circumstances the Council shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Provider advance notice, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.

9.3 Notwithstanding any other provision in the Agreement, the Council shall be responsible for determining in its absolute discretion whether any Information relating to the Provider or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

10 Data Protection

10.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Controller and the Provider is the Processor. The only processing that the Provider is authorised to do is listed in Schedule 4 by the Council and may not be determined by the Provider.

10.2 The Provider shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.

10.3 The Provider shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Council, include:

10.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;

10.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

10.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

10.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

10.4 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

10.4.1 process that Personal Data only in accordance with Schedule 4, unless the Provider is required to do otherwise by Law. If it is so required the Provider shall promptly notify the Council before processing the Personal Data unless prohibited by Law;

10.4.2 ensure that it has in place Protective Measures, which have been reviewed and approved by the Council as appropriate to protect against a Data Loss Event having taken account of the:

10.4.2.1 nature of the data to be protected;

10.4.2.2 harm that might result from a Data Loss Event;

10.4.2.3 state of technological development; and

10.4.2.4 cost of implementing any measures;

10.4.3 ensure that :

10.4.3.1 the Staff do not process Personal Data except in accordance with this Agreement (and in particular Schedule 4);

10.4.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:

10.4.3.3 are aware of and comply with the Provider's duties under this clause;

10.4.3.4 are subject to appropriate confidentiality undertakings with the Provider or any Sub-processor;

10.4.3.5 are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and

10.4.3.6 have undergone adequate training in the use, care, protection and handling of Personal Data; and

10.4.4 not transfer Personal Data outside of the UK unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:

10.4.4.1 the Council or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or DPA section 75) as determined by the Council;

10.4.4.2 the Data Subject has enforceable rights and effective legal remedies;

10.4.4.3 the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and

10.4.4.4 the Provider complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;

10.4.5 at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the Agreement unless the Provider is required by Law to retain the Personal Data.

10.5 Subject to clause 10.6, the Provider shall notify the Council immediately if it:

10.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);

10.5.2 receives a request to rectify, block or erase any Personal Data;

10.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

10.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

10.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

10.5.6 becomes aware of a Data Loss Event.

10.6 The Provider's obligation to notify under clause 10.5 shall include the provision of further information to the Council in phases, as details become available.

10.7 Taking into account the nature of the processing, the Provider shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 10.5 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:

10.7.1 the Council with full details and copies of the complaint, communication or request;

10.7.2 such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

10.7.3 the Council, at its request, with any Personal Data it holds in relation to a Data Subject;

10.7.4 assistance as requested by the Council following any Data Loss Event;

10.7.5 assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.

10.8 The Provider shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Provider employs fewer than two hundred and fifty (250) staff, unless:

10.8.1 the Council determines that the processing is not occasional;

10.8.2 the Council determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR (as supplemented by sections 10 and 11 of the DPA); and

10.8.3 the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

10.9 The Provider shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.

10.10 The Provider shall designate a Data Protection Officer if required by the Data Protection Legislation.

10.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Provider must:

10.11.1 notify the Council in writing of the intended Sub-processor and processing;

10.11.2 obtain the written consent of the Council;

10.11.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 10 such that they apply to the Sub-processor; and

10.11.4 provide the Council with such information regarding the Sub-processor as the Council may reasonably require.

10.12 The Provider shall remain fully liable for all acts or omissions of any Sub-processor.

10.13 The Council may, at any time on not less than thirty (30) Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

10.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on not less than 30 Working Days' notice to the Provider amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

11 Insurance and Liability and

11.1 Nothing in this Agreement shall limit or exclude the Provider's or the Council's liability for:

11.1.1 death or personal injury caused by its negligence, or the negligence of its personnel, agents or sub-contractors;

11.1.2 fraud or fraudulent misrepresentation;

11.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and

11.1.4 any other liability which cannot be limited or excluded by applicable Law.

11.2 The Provider shall indemnify and keep indemnified the Council against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this agreement, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its employees or of any of its representatives or sub-contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of this agreement or applicable law by the Council or its representatives (excluding any Staff).

11.3 Nothing in this Agreement shall limit or exclude:

11.3.1 the Provider's liability under clause 6.3 (IPR) and clause 15.3 (Prevention of Fraud and Corruption), and no amounts awarded or agreed to be paid under those clauses shall count towards the cap on the Provider's liability.

11.4 Subject to clauses 11.1 and 11.2, neither Party shall have any liability to the other Party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any indirect or consequential loss arising under or in connection with this Agreement.

11.5 Notwithstanding the provisions of clause 11.3 but subject always to clause 11.4, the Provider assumes responsibility for the following losses which may be recoverable by the Council:

11.5.1 the Council's additional operational and administrative costs and expenses arising from a Default;

11.5.2 the Council's wasted expenditure or charges reasonably incurred by the Council arising from a Default;

11.5.3 any compensation or interest paid to a third party by the Council arising from a Default;

11.5.4 any loss or corruption to or alteration of any Council Data; and

11.5.5 any fines, expenses or other losses suffered or incurred by the Council arising from a breach by the Provider of any Law.

11.6 Nothing in this Agreement shall be taken as in any way reducing or affecting a general duty to mitigate loss suffered by a Party.

11.7 The Provider shall at its own cost effect and maintain with reputable insurance companies such policies of insurance as follows:

a) Public and Product liability insurance: £ 20 million for each and every claim;

b) Professional indemnity insurance: £ 1 million in the aggregate;

c) Employer's liability insurance: £ 10 million for each and every claim.

“the **Required Insurances**”.

- 11.8 Each Party shall, during the term of this Agreement do nothing to invalidate any insurance policy relating to the Required Insurances and use its reasonable endeavours to procure that the terms of such policies are not altered in such a way as to have a material adverse effect on the benefit of such policies as they were at the Commencement Date.
- 11.9 Following a written request of the Council (acting reasonably) for the same, the Provider shall provide the Council with:
- 11.9.1 copies of all insurance policies relating to the Required Insurances (or a broker's verification of insurance) and the Council shall be entitled to inspect such insurance policies at reasonable times during ordinary business hours; and
- 11.9.2 evidence that the premiums payable under the insurance policies relating to the Required Insurances have been paid and that the insurances are in full force and effect.
- 11.10 Without prejudice to the Council's other rights under this Agreement, if, for whatever reason, the Provider fails to give effect to and maintain the Required Insurances, the Council may make alternative arrangements to keep such insurance in force and may recover the costs of such arrangements from the Provider.
- 11.11 The Council shall immediately notify the Provider of any claims or potential claims of which it becomes aware in relation to any risk covered by any of the Required Insurances and for which it reasonably believes that the Provider is responsible and shall provide the Provider with all information and assistance it may reasonably require in order for the Provider to effectively manage such claim.

12 Force Majeure

- 12.1 Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two (2) months, either Party may terminate the Agreement by written notice to the other Party.

13 Termination

- 13.1 The Council may terminate the Agreement at any time by notice in writing to the Provider to take effect on any date falling at least One Term later than the date of service of the relevant notice.
- 13.2 Without prejudice to any other right or remedy it might have, the Council may terminate the Agreement by written notice to the Provider with immediate effect if:

- 13.2.1 the Provider (without prejudice to clause 13.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
- 13.2.2 the Provider repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
- 13.2.3 the Provider commits a Default provided that if the Default is capable of remedy, the Council may only terminate this Agreement if the Provider has failed to remedy such Default with twenty-eight (28) days of receipt of notice from the Council;
- 13.2.4 the Provider undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
- 13.2.5 the Provider breaches any of the provisions of clauses 4, 8, 9, 8 and 14;
- 13.2.6 the Provider becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Provider (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Provider's assets or business, or if the Provider makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 13.2.6) in consequence of debt in any jurisdiction; or
- 13.2.7 any of the terms within clause 17 within Schedule 1 (Specification) apply.
- 13.3 The Provider shall notify the Council as soon as practicable of any change of control as referred to in clause 13.2.4 or any potential such change of control.
- 13.4 The Provider may terminate the Agreement by written notice to the Council if the Council has not paid any undisputed amounts within ninety (90) days of them falling due.
- 13.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights and obligations of the Parties under this clause and clauses 6 (Intellectual Property Rights), 7 (Governance and Records), 8 (Confidentiality, Transparency and Publicity), 9 (Freedom of Information), 10 (Data Protection), 11 (Liability and Insurance) and this clause 133 (Termination) or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 13.6 Upon termination or expiry of the Agreement, the Provider shall:
- 13.6.1 give all reasonable assistance to the Council and any incoming provider/supplier of the Services; and
- 13.6.2 return all requested documents, information and data to the Council as soon as reasonably practicable.

14 Compliance

- 14.1 The Provider shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Council shall promptly notify the Provider of any health and safety hazards which may exist or arise at the Council's premises and which may affect the Provider in the performance of its obligations under the Agreement.
- 14.2 The Provider shall:
- 14.2.1 comply with all the Council's health and safety measures while on the Council's premises; and
 - 14.2.2 notify the Council immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Council's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 14.3 The Provider shall:
- 14.3.1 perform its obligations under the Agreement in accordance with all applicable equality law and the Council's equality and diversity policy as provided to the Provider from time to time; and
 - 14.3.2 take all reasonable steps to secure the observance of clause 14.3.1 by all Staff.
- 14.4 The Provider shall supply the Services in accordance with the Council's environmental policy as provided to the Provider from time to time.

15 Prevention of Fraud and Corruption

- 15.1 The Provider shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.
- 15.2 The Provider shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Provider (including its shareholders, members and directors) in connection with the Agreement and shall notify the Council immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- 15.3 If the Provider or the Staff engages in conduct prohibited by clause 15.1 or commits fraud in relation to the Agreement or any other contract with the Council, the Council may:
- 15.3.1 terminate the Agreement and recover from the Provider the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Agreement; and/ or

15.3.2 recover in full from the Provider any other loss sustained by the Council in consequence of any breach of this clause 15.

16 Dispute Resolution

- 16.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
- 16.2 If the dispute cannot be resolved by the Parties within one (1) month of being escalated as referred to in clause 16.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the **Mediator**) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 16.3 If the Parties fail to appoint a Mediator within one (1) month, or fail to enter into a written agreement resolving the dispute within one (1) month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

17 General

- 17.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 17.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 17.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 17.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 17.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 17.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

- 17.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 17.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

18 Notices

- 18.1 Any notice or other communication given to a Party under or in connection with this Agreement must be in writing marked for the attention of the Party's Representative and must be delivered by hand, or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case), or sent by email to an email account that is currently in use if the recipient and sender have agreed that notices may be sent to and received at that email account. Any notice or communication is deemed to have been received:
- 18.1.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; or
- 18.1.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; or
- 18.1.3 if sent by email at the time of receipt of the email if it is received within normal working hours, or at the start of the next Working Day's normal working hours if it is received outside normal working hours.
- 18.2 This clause 18 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

19 Governing Law and Jurisdiction

- 19.1 The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, are governed by English law and are subject to the exclusive jurisdiction of the English courts to which the Parties submit.

SCHEDULE 1 – SPECIFICATION

- 3.1 This Agreement must be read in conjunction with the Early Years Foundation Stage AgreeStatutory Framework, Operational Provider Guide, forms published during the agreement period and any other guide or documentation relating to early years education and childcare provision, which is provided to the Provider during the term of this Agreement.
- 3.2 An "Approved Provider", known as the "Provider" is one of the following:

- An early years provider or childminder registered on the Ofsted Early Years Register
- A day care provision which is registered with Ofsted or, if based in a Local Authority primary school, has an Ofsted registration jointly with the school.
- Independent Schools, Free Schools and Academies approved by the Department for Education (DfE).
- A childminder agency which is registered with Ofsted

3.3 This document is for Providers and childminder agencies delivering the provisions of the:

- 15 hours entitlement for working parents of nine months olds to two years olds (the Under Twos offer) from September 2025 this offer will increase to 30 hours
- 15 hour entitlement for the disadvantaged two year olds (the disadvantaged two year olds offer)
- 15 hour entitlement for parents of three and four year olds (the universal offer)
- 30 hours entitlement for working parents of three and four year olds (the extended entitlement offer)

3.4 The following frameworks and legislation which are available on the Havering Education Service, Early Years Resource Page via www.HES.org.uk , underpin this agreement and the Council and the Provider shall comply with such frameworks and legislation and all other relevant legislation:

- Early Education and Childcare, Statutory Guidance for Local Authorities 2024
- Childcare Act 2006
- Childcare Act 2016
- Equality Act 2010
- School Admissions Code 2014
- Statutory framework for the early years foundation stage 2024 for Childminders
- Statutory framework for the early years foundation stage 2024 for Group Based Providers
- Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
- The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016
- Special Educational Needs and Disability Code of Practice: 0 to 25 years 2015
- Data Protection Act 2018

4. KEY RESPONSIBILITIES

Council Responsibilities

- 4.1 The Council must secure a free place for every eligible child in their area.
- 4.2 The Council should work in partnership with providers to agree how to deliver free entitlement places.
- 4.3 The Council 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.
- 4.4 The Council must contribute to the safeguarding and promote the welfare of children and

young people in their area.

Provider Responsibilities

- 4.5 The provider must comply with all relevant legislation and insurance requirements, and the Required Insurances including taking out and maintaining the minimum levels of insurance.
- 4.6 The provider should deliver the early years entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the Provider should be clear and communicate to parents details about the days and times that they offer funded places, along with their services and charges. Those children accessing the early years entitlements should receive the same quality and access to provision as children not using the early years entitlements.
- 4.7
- 4.8 The Provider must follow the EYFS and have clear safeguarding policies and procedures in place in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A Designated Safeguarding Lead must be appointed to take responsibility for safeguarding and to ensure that all staff have appropriate training to identify signs of abuse and neglect. Each provider will be asked to complete a Safeguarding audit to be returned to the Council. Providers delivering funded places must complete an annual Local Authority Safeguarding Audit in conjunction with their allocated Education Officer.
- 4.9 The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the special education needs inclusion fund ("SENIF") and disability access fund ("DAF") this is to support disabled children's access to the entitlements from 9 months onwards to 4 year olds in delivering effective support, whilst making information available about their SEND offer to parents.
- 4.10 The Provider agrees to use any early education and childcare payment received from the Council for the delivery of the free early education and childcare provision in accordance with the terms and conditions set out in below:
- 4.11 The Provider shall during the Agreement period:
- Provide childcare
 - Provide Early Education places to eligible two year olds and under three or four year old children from within the administrative boundary of the London Borough of Havering in accordance with this Agreement. ("Services")
 - Claim Early Years Pupil Premium (EYPP) funding for those children who may be eligible for the criteria to support and improve the education they provide.
 - Have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.

Registering to deliver Early Education and Childcare places

4.12 Providers wishing to deliver early education and childcare places must:

- Meet the Ofsted requirements for registration before applying to delivery early education and childcare places.
- Be registered with the London Borough of Havering for inclusion on the Family Information Services Directory of registered providers www.havering.gov.uk/fsd
- Complete a Provider details form, which is available at www.hes.org.uk.
- Meet the Council administration requirements for child level data collections; provide data collections to ensure the Council can pay providers in-line with the early education and childcare statutory delivery requirements.

4.13 The Provider must ensure that:

- Early Education places are delivered completely free of charge;
- Early Education places are provided flexibly in a pattern which meets the needs of parents where places are available;
- The Early Education Funding provided is used in accordance with this Agreement.
- The needs of disabled children and children with special educational needs are met
- Children will be kept safe.

4.14 The Provider:

- Must comply with all relevant legislation and insurance requirements
- Should deliver the free entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the provider should be clear and communicate to parents details about the days and times that they offer free places, along with their services and charges. Those children accessing the free entitlements should receive the same quality and access to provision.
- Must follow the EYFS and have clear safeguarding policies and procedures in place that link to the Council's guidance for recognising, responding, reporting and recording suspected or actual abuse.
- Must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.
- 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

5. SAFEGUARDING

- 5.1 The Council has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the 'Working Together to Safeguard Children' 2023 guidance sets these out in detail.
- 5.2 The Provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A Designated Safeguarding Lead must be appointed to take responsibility for safeguarding and to ensure that all staff have appropriate training to identify signs of abuse and neglect. Each provider will be asked to complete a Safeguarding audit to be returned to the Council. The Provider must have regard to 'Working Together to Safeguard Children' 2023 guidance.
- 5.3 The Provider must display the contact details for the Local Authority Designated Officer (LADO) on the premises at all times and keep the contact details updated when amended by the Local Authority.
- 5.4 The provider must have a robust system in place to demonstrate their commitment to safer recruitment practices.

6. ELIGIBILITY

- 6.1 The Provider should check original copies of documentation to confirm a child has reached relevant age on initial registration for all free entitlements. The Provider can retain paper or digital copies of documentation to enable the Council to carry out audits and fraud investigations. Where a provider retains a copy of documentation this must be stored securely and deleted when there is no longer a good reason to keep the data. Please refer to the data privacy guidance set out in Parental declaration.
- 6.2 The Provider should offer disadvantaged two year old places on the understanding that the child remains eligible until they become eligible for the universal entitlement for three- and four-year-olds.
- 6.3 The Council must ensure that a child has a free entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlements.
- 6.4 Alongside the working parents eligibility code, which is the child's unique 11-digit number, and original copies of documentation (see 6.1), a Provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from the Council of the validity of the parent's eligibility code.
- 6.5 Once a Provider has received written consent from the parent, they should verify the eligibility code with the Council.
- 6.6 The Council will confirm the validity of eligibility codes to allow Providers to offer free places for eligible children aged 9 months and above. The Council will provide a validity checking service to Providers to enable them to verify the eligibility code. The Eligibility Checking Service (ECS) allows all Councils to make instant checks for code validity. Providers should check the codes are valid once received from a parent via the system.
- 6.7 Thereafter, the Council should complete audit checks to review the validity of eligibility codes for children who qualify for the working parent entitlement at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as

listed at table A below). It is the Council's responsibility to notify a Provider where a parent has fallen out of eligibility and inform them of the grace period end date.

Table A: Audit and Grace Period Dates

Date Parent receives ineligible decision on reconfirmation:	LA audit date:	Grace Period End date:
1 Jan – 10 Feb	11 February	31 March
11 Feb – 31 March	1 April	31 August
1 April – 26 May	27 May	31 August
27 May – 31 August	1 September	31 December
1 September – 21 October	22 October	31 December
22 October – 31 December	1 January	31 March

6.8 Table 1 Eligibility birth dates

The table below shows the age that children have to be to become eligible for the early years entitlement each term:

Two year olds

A child born on or between	Will become eligible for a funded place from
1 April and 31 August	1 September from their second birthday
1 September and 31 December	1 January from their second birthday
1 January and 31 March	1 April from their second birthday

Three and four year olds

A child born on or between	Will become eligible for a funded place from
1 April and 31 August	1 September from their third birthday
1 September and 31 December	1 January from their third birthday
1 January and 31 March	1 April from their third birthday

Children aged from 9 months to two year olds

A child born on or between	Will become eligible for a funded place from
1 April and 31 August	1 September after from they are nine months old
1 September and 31 December	1 January after from they are nine months old
1 January and 31 March	1 April after from they are nine months old

6.9 Admission to reception commences from the September following the child's fourth

birthday. Parents can request a deferred entry to school until later in the school year or until the child reaches compulsory schools age (the term after the fifth birthday). It is the Provider's responsibility to check a child's eligibility for early years and childcare funding whilst the Provider continues to provide that child with an early years and childcare place and to inform that child's parents if the funding is no longer available.

6.10 The Council must ensure that a child has a free entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlements.

6.11 Providers should refer to the Operational Provider Guide for the eligibility criteria and relevant application processes for all early education and childcare offers.

7. THE GRACE PERIOD

7.1 A child will enter the grace period when the child's parents cease to meet the eligibility criteria set out in the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 as determined by HMRC (or where the child is in foster care, the responsible Council) or a First Tier Tribunal in the case of an appeal.

7.2 The Council will be able to access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.

7.3 The Council should continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory Guidance for Local Authorities 2024.

7.4 The Council will ensure regular checks of children's grace periods are made and shared with providers via an online system or by direct provider update via secure email. See grace period dates in table A above.

8. FLEXIBILITY

The early education and childcare framework for delivery

8.1 Early education and childcare sessions must meet the requirements of section A2 of the Early Education and Childcare Statutory Guidance for local authorities ensuring:

- No session is longer than 10 hours
- No minimum session length is stated (subject to the requirements of registration on the Ofsted Early Years Register)
- No session before 6:00am or after 8.00pm
- Funding may be taken at a maximum of two sites in a single day

8.2 Types of early education and childcare offers:

- Universal offer – up to 570 hours; this can be taken as a single term time offer or a stretched offer or a mixed offer at more than one provider
- Extended offer – up to 1,140 hours; this can be taken as a single term time offer, or stretched offer or a mixed offer at more than one provider

8.3 The Provider should work with the Council and share information about the times and periods at which they are able to offer free entitlements to support the Council to secure sufficient stretched and flexible places to meet parental demand. The Provider should

make information about their early education and childcare offers and admissions criteria available to parents at the point that they make an enquiry for funding.

- 8.4 Where a parent makes a claim to use their free entitlement at more than one provision, the Council will ensure that no over claim of funding is made by the parent. Where a claim for more funding than the parent is entitled to is made, the Council will seek to gain agreement for how the funding is split from the providers concerned in the first instance. Providers should refer back to their parental agreements to ensure that the correct funding allocation was made.
- 8.5 Where a funding dispute remains, the parent shall be offered the choice as to allocation of overall funding between providers. Should the Council not be able to confirm with the parent how they want the funding to be split within a reasonable timeframe, the Council will decide at its discretion the allocation of funding between the providers. Each provider will be notified of the funding allocation outcome. Any shortfall between provision and funding will become a private matter between the parent and the Provider concerned.
- 8.6 Where it is reasonably practicable, providers should ensure that children are able to take up their free hours in continuous blocks and avoid artificial breaks being created throughout the day, for example, over the lunch period.

9. PARTNERSHIP WORKING

- 9.1 The Council supports partnership working between:
- i. Council and providers
 - ii. Providers working with other providers, including childminders, schools and organisations
 - iii. Providers and parents
 - iv. Local Authorities and parents
 - v. Council and Early Years Provider Reference Group
- 9.2 The Council should promote partnership working between different types of providers, including childminders, across all sectors and encourage more providers to offer flexible provision, alongside other providers.
- 9.3 The Provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their provision. An [interactive toolkit](#) has been developed to help providers set up or join a partnership, maximise the benefits of working together and tackle the challenges joint working can bring.
- 9.4 The Provider should discuss and work closely with parents to agree how a child's overall care will work in practice when their free entitlement is split across different providers, such as at a maintained provision and childminder, to ensure a smooth transition for the child.
- 9.5 The Early Years Provider Reference Group (EYPRG) is a formally constituted sub-group of the Havering Schools Funding Forum. Schools Forums were established under section 47A of the Schools Standards and Framework Act (as amended by the Education Act 2002). All Local Authorities (LAs) are required to establish a Schools Forum. The Schools Forum acts as a consultative body advising LAs on matters relating to the funding arrangements for schools and other non-school based pupil provision.
- 9.6 Providers who meet the national or local requirements for recognised quality marks will be made visible on the Council's Family Information Services Directory.

Partnership with Parents

Provider must:

- 9.10 Make sure that admission procedures and administrative processes underpinning the free entitlement are clear, transparent, inclusive and equitable.
- 9.11 Enable vulnerable two-year-olds receiving the Early Years Entitlement to continue in the provision as a funded three- and four-year-old if their parents wish for them to do so, without being required to take up additional hours that would be paid for. Vulnerable two-year-olds would be defined as children who have been referred to the provision by the local authority.
- 9.12 Actively engage with parents to seek views about the way in which services are delivered and where flexibility can be offered, consider how this might be done to meet identified needs.
- 9.13 Monitor the take-up and achievement of different groups, examine the reasons for discrepancies and revise their approach when necessary.
- 9.14 Distribute to parents any information / publicity about the Early Years Entitlement provided by the local authority.

10. SPECIAL EDUCATIONAL NEEDS AND DISABILITIES

- 10.1 The Council will support provisions in planning for children with special educational needs and/or disabilities (SEND) in their local area as per the [Special Educational Needs and Disability code of practice: 0 to 25 years](#). The Council promotes an inclusive approach to its work. Each provider is allocated an Area Special Educational Needs Coordinator (SENCo) to support the provider to effectively meet the individual needs of a child with SEND.
- 10.2 Providers should plan support for children with SEND as per the SEND code of practice. This includes a written policy for Special Educational Needs and to make 'reasonable adjustments' in preparation for children who have a disability; and that a provider must not directly discriminate by treating a child with disabilities 'less favourably'.
- 10.3 The Provider must ensure managers and all staff members are aware of their duties in relation to the SEND Code of Practice 2014 and the Equality Act 2010.
- 10.4 The Council must be clear and transparent about the support on offer in their area, through their Local Offer, so parents and providers can access that support.
- 10.5 The Provider should be clear and transparent about the SEND support on offer at their provision and make information available and publish details of their offer of support for children with SEND, including on their own websites to support parents to choose the right provision for their child with SEND.
- 10.6 The Havering Local Offer provides, in one place, information advice and guidance about services available for children and young people in Havering who have SEND. The provider MUST provide their Local Offer information on their profiles for parents/carers to access.

11. SUPPORTING DISADVANTAGE CHILDREN

- 11.1 The Council promotes equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to free places and working with parents to give each child support to fulfil their potential.
- 11.2 The Provider should ensure that they have identified the disadvantaged children in their provision as part of the process for checking Early Years Pupil Premium (EYPP) eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.
- 11.3 The Provider should ensure that they have identified any disadvantaged children in their provision as part of the admission process and make reference to those children in receipt of the Disadvantage Two Year Old offer (2YO), Disability Access Funding (DAF) , Early Years Pupil Premium (EYPP) and SEN Inclusion Funding
- 11.4 The Provider should carry out a termly review of progress on the learning and development outcomes for children with SEND who have been identified for SEN Inclusion Funding. Reviews should include parent/carers, children and appropriate agencies where possible.
- 11.5 From April 2024, there may be some circumstances where households meet the eligibility criteria for both the disadvantaged two-year-old entitlement and the working parent entitlement. In these circumstances, the childcare should be provided under the disadvantaged 2-year-old entitlement. The child will remain on the disadvantage entitlement until they become eligible for the universal entitlement for 3- and 4-year-olds or 30 hours free childcare for 3- and 4-year-olds if they meet the eligibility criteria. Therefore, households will not lose eligibility for their 15 hours free early education, as is currently the case for the disadvantage entitlement. From September 2025, when the working parent entitlement increases to 30 hours, where households meet the eligibility criteria for both 2-year-old entitlements, they should be recorded as taking up 15 hours of the disadvantage entitlement and 15 hours of the working parent entitlement. They will need to reconfirm eligibility every 3 months for the working parent entitlement and from September 2025, they will not be defaulted automatically onto the disadvantage entitlement should they lose eligibility for the working parent entitlement.

12. QUALITY

- 12.1 The [Early Years Foundation Stage \(EYFS\) statutory framework](#) is mandatory for all schools that provide early years provision and early years providers registered with Ofsted or an Ofsted registered Childminder Agency in England. The EYFS sets the standards that all early years providers must meet to ensure that children learn and develop well and are kept healthy and safe.
- 12.2 Each provider will be allocated an Education Officer (based within the Council's Early Years Quality Assurance Team) who will quality assure the provision in terms of learning and development, leadership and management and Safeguarding procedures. In signing this agreement you are agreeing to:
- At least one on-site visit for the purposes of Quality Assurance annually, from the Council's Early Years Quality Assurance Team
 - Receive information from the Havering Early Years Quality Assurance Team about training/managers' briefings/Safeguarding etc.

- Receive updates from the Havering Early Years Quality Assurance Team on new legislation and national or local developments

12.3 Ofsted are the sole arbiter of quality for all early education and childcare entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision. Childminder agencies (CMAs) are organisations that can register and quality assure childminders as an alternative to registering with Ofsted.

12.4 Local authorities have a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.

12.5 Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of Early Education and Childcare Statutory Guidance for Local Authorities and the EYFS statutory framework.

12.6 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.

13. BUSINESS PLANNING

13.1 Early education and childcare providers are paid monthly based on the participation of eligible children at the provisions who have signed this agreement. Details of the payment schedule will be published to each provider, and the Council will endeavour to conduct payments by the tenth of each month for the months spanning the term.

13.2 In order to ensure a timely payment process, the Council requires all providers to submit data and documents, where applicable, as per the prescribed submission dates published in the Operational Provider Guide, including but not limited to:

Estimates (Optional)

13.3 In order to ensure accuracy of the early education and childcare provider monthly payments, early education and childcare providers are required to:

- at least annually, but not more than termly, providers are required to submit indicative overall termly data to support the preparation of provider budgets and confirm average monthly early education and childcare payments based on the estimation of hours as confirmed by the Provider for under twos, two, three and four year old funding claims. This will be via the current mode, of Estimates in EYAM, as outlined in the Operational Provider Guide.
- ensure they make on times and accurate data submissions as required by the Council as outlined in the Operational Provider Guide.

13.4 Education Finance will confirm the arrangements for submission of the indicative termly claim and, where applicable, any other requirements for individual providers to submit additional data during the course of the financial year to account for any change of circumstance for the Provider.

13.5 In March prior to the start of each new financial year, the indicative data submitted by providers will be used to baseline the early education and childcare funding providers

will receive and the corresponding monthly payment schedule and indicative payment dates.

- 13.6 Should a Provider not fulfil the requirements of the Estimates exercise, then the Council will conduct a payment at the final month of the term, for any termly claim that a Provider submits as part of the First and Second Census Claims.

First Census Claims (Compulsory once per term)

- 13.7 Providers are required to submit child level data, at least once per term as applicable, for eligible children as follows:

- 1st claim census of child level funding data for children at the start of term that the provider wishes to make a funding claim for including the data submissions as applicable for.
- Early Years Pupil Premium (EYPP) and/or the /Disability Access Fund (DAF)

Second Census Funding Transfer Claims (Compulsory once per term)

- 13.8 Providers are required to submit child level data, at least once per term as applicable, for eligible children as follows:

- 2nd claim census of child level census data for children who join the provision, increase hours, decrease hours or leave the provision after the closure of the 1st term census claim. Including the data submissions as applicable for late claims for the term.
- Early Years Pupil Premium (EYPP) and or/the Disability Access Fund (DAF)

- 13.9 Providers must submit queries related to the closure of first and second census claim submissions during the term in which any issue arises as per the published deadlines in the Operational Provider Guide. Providers cannot retrospectively be funded for children missed from first or second census claims and the Council cannot back date payments to previous financial years.

- 13.10 The Provider should accurately complete and submit termly census first and second claim data and other necessary data returns by the agreed date to support the Council to make payment.

- 13.11 First and second claim census data submissions will be used as a validation tool for the provider data submitted on the budget calculator. Any discrepancies in funded hours will either be made as a credit (payment made to the Provider; this is an underpayment) or raised as an invoice (payment owed to the Council; this is an overpayment) to the Provider during the next available monthly payment run. Where a childminder is only funded for one term and they have been over paid, they will be required to make a payment to the Council; payment details will be sent to the childminder directly in these circumstances.

Department for Education Early Years Census (annually)

- 13.12 Providers are required to submit child and provider level data at least once in January (spring term) of each year to allow the Council to make an accurate claim for funding to the Council for early education and childcare funding. However depending in the DfE requirement this may change.

13.13 The January census submission is made up of two parts:

- Establishment level data
- Child level data

The Council will confirm the process for the child and establishment data collection in the autumn term each year to allow them to account for any amendments as required by the DfE.

Early Education and Childcare Provider Closures

13.14 Providers who experience unexpected or planned closure (i.e. premises not available, polling days, INSET day etc.) during the early education and childcare funding period must inform:

- Ofsted on every occasion of closure, regardless of the duration, as soon as possible on 0300 123 1231.
- Early Years Admissions on every occasion of closure, regardless of duration as soon as possible on 01708 433954 and by email at earlyyearsadmissions@haverling.gov.uk.

13.15 All instances of closure will be treated on a case by case basis for funding. Further details on the requirements that may affect funding is in the Operational Provider Guide. The Council reserves the right to withdraw or adjust funding.

14. CHARGING

14.1 Government funding is intended to deliver 15 or 30 hours a week of free, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or additional services.

14.2 The Provider can charge for meals and snacks as part of a free entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and musical tuition. Providers should be particularly mindful of the impact of additional charges on the most disadvantaged parents. Where parents are unable to pay for meals and consumables, Providers who choose to offer the free entitlements are responsible for provision their own policy on providing parents, with options for alternatives to additional charges, including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals.

14.3 The Provider should deliver the free entitlements consistently so that all eligible children accessing them will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.

14.4 The Council should not intervene where parents choose to purchase additional hours of provision or additional services, providing this is not a condition of accessing the free entitlement. The Provider should be completely transparent about any additional charges.

14.5 The Provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as free provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible, the patterns of hours are convenient for parents' working hours.

14.6 The Provider can charge parents a deposit to secure their child's free place however, this

must be refunded in full to parents within **four** weeks of the child starting at the provision. The deposit cannot be used as part payment towards additional childcare costs.

- 14.7 The Provider cannot charge parents “top-up” fees (the difference between a Provider’s normal charge to parents and the funding they receive from the Council to deliver free early education and childcare places), or require parents to pay a registration fee as a condition of taking up their child’s early education and childcare funded place.
- 14.8 The Provider should ensure their invoices and receipts are clear, transparent and itemised allowing parents to see that they have received their free entitlement completely free of charge, and understand fees paid for additional hours. The Provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider. The Council suggests that all providers should identify their Ofsted registration number and the full name of the child on any invoice to avoid miss-use of the invoice and confusion.
- 14.9 The Provider should not show the free entitlement as a monetary subsidy on an invoice or receipt but as free at the point of delivery.
- 14.10 Providers may stipulate a maximum of four weeks’ notice for children accessing early education and childcare offers. The Council takes no responsibility for loss of income to a Provider who has failed to verify whether a parent is in breach of contract before providing a childcare place.

15. FUNDING

Early Years National Funding Formula:

- 15.1 The Council should pay all providers, particularly childminders, monthly unless a provider requests and the Council agrees to continue an alternative sustainable method of payment.
- 15.2 The Provider should accurately complete and submit headcount and other necessary data returns by the agreed date to support the Council to make payment, as per paragraph 13.10 of this Agreement.
- 15.3 The Early Years National Funding Formula (EYNFF) from central government standardises nationally the distribution of funding for the early education and childcare entitlements to local authorities. The Council follows a prescribed formula as per the DfE regulations to fund providers in the local authority. The local authority agrees the allocation of funding annually, in adherence to the DfE regulations.
- 15.4 Funding is allocated as follows:

9 months to Two year olds (Under Twos) – Working Parents:

- All providers will be paid a universal base rate for eligible children

Two year olds: – Working Parents:

- All providers will be paid a universal base rate for eligible children

Two year olds Disadvantage

- All providers will be paid a universal base rate for eligible children, which is inclusive of deprivation cost.

Three and Four year olds:

- All providers will be paid a universal base rate for three and four year olds accessing both the universal and extended offer, if the child meets eligible for the extended offer.
- All providers will be paid a supplement rate (e.g. for deprivation; this will vary based on the deprivation area that the child lives in)

The funding rates are published annually in the Operational Provider Guide.

Early Years Pupil Premium

- 15.5 The Early Years Pupil Premium (EYPP) gives providers extra funding to support children who may be eligible to narrow the achievement gap.
- 15.6 Providers will receive this payment alongside their early education and childcare payment via submission at two termly census points. Providers will be eligible for this enhanced payment if their funded children's parents receive and /or meet one of the eligibility criteria as published in the Operational Provider Guide.

Disability Access Funding

- 15.7 Children claiming Early Years (nursery) funding, will be eligible for Disability Access Funding (DAF) if they are in receipt of a current claim for Disability Living Allowance (DLA), and, if they receive early education and childcare funding. An annual lump sum payment is payable per eligible child. The payment is not transferrable.
- 15.8 Four year olds in a reception class will not be eligible for this funding.

Early Years (SEN) Inclusion Funding

- 15.9 The Early Years Inclusion Fund is for early years providers to help them support the needs of individual children with lower level or emerging SEN. The fund should be used as a contribution towards providing additional resources and support where a provider is unable to meet the costs from their own funds, and is not necessarily expected to cover full costs.
- 15.10 Providers must utilise the SEN inclusion fund to support children with SEND to progress towards their planned outcomes identified through the child's SEND plan.

16. COMPLIANCE

- 16.1 The Council will carry out checks and/ or audits on providers to ensure compliance with the requirements of delivering the free entitlements.
- 16.2 The Provider shall keep a satisfactory standard of records, (e.g. supporting documentation, registers of attendance, copy of evidence of child's date of birth (i.e. child's birth or passport) and parental agreements to support its Early Education Funding Claim in order to ensure satisfactory audit trails and retain such supporting documentation for a minimum period of six years plus the current year.

- 16.3 The Provider must retain a copy of a child's eligibility codes of their entitlement email supplied to them by the parent.
- 16.4 Where a Provider is claiming Early Years Pupil Premium for a child adopted from care, or a child on a special guardianship order, the provider shall keep a record of the adoption order reference number, or the special guardianship reference number for audit purposes.
- 16.5 Where a Provider is claiming Disability Access Fund for a child in receipt of Disability Living Allowance, the provider shall keep a record of the **DLA** reference number, or the **equivalent** reference for audit purposes.
- 16.6 The Provider must keep financial accounts of the receipt and use of the Early Education Funding and work within the audit and record keeping arrangements as laid out in the Operational Provider Guide.
- 16.7 The Provider agrees to:
- Be audited by officers from the Council to ensure Early Education funding is being used to provide the Early Education Entitlement to eligible children;
 - Allow access to all financial records, documents and other materials relating to the use of the funding and provide such assistance with their interpretation as shall be required. The Council will provide reasonable notice of any such inspection;
 - Make available upon request, a signed copy of the parental declaration agreement entered into with each parent. A copy of which should be retained by the Provider for 6 years plus the current year from the date the parental declaration agreement is entered into.
- 16.8 The Provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of the Council. Failure to do so may result in inaccurate, delayed or suspended funding.
- 16.9 The Provider should maintain accurate financial and non-financial records relating to free entitlement places and should give the Council access on reasonable notice to all financial and non-financial records relating to free entitlement places funded under the provider agreement, subject to confidentiality restrictions.

Auditing the early education and childcare funding

- 16.10 The Council will conduct periodic reviews of early and late census data collections and provider funding data. This will include, but is not limited to, attendance registers, sample invoices and admissions arrangements, on the funding entitlement offers, EYPP and DAF claims.
- 16.11 Providers may be required annually to confirm as part of the Council financial audit, that the early education and childcare funding paid to them has been used for the delivery of early education and childcare as per the requirements of the Early Education and childcare Statutory Guidance for Local Authorities 2024. The Council will confirm the process for the annual audit of the early education and childcare funding and corresponding documentation in the Operational Provider Guide.

Data submissions

- 16.12 The Council should not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of early education and childcare places. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the Council as a result of the lateness and Council will ensure charges are clearly communicated to providers.
- 16.13 Any advance or irregular payments made at the Providers request, if agreed, will be made by the Council at a charge of £85 per transaction per provision that the payment is made for.
- 16.14 Providers are required to make child and provider level data submissions via the appropriately advised Management Information System (MIS). Late data submissions outside of the published deadlines may result in reduced or cancelled payments to the provider.
- 16.15 Providers will be informed in advance if they are required to submit any additional data outside of the current published requests. Any additional data requests will ensure the least possible administrative burden for providers.
- 16.16 The Provider must use associated forms to ensure on time early education and childcare payments can be made. Documentation and data arriving late will result in a delay to the next early education and childcare payment.

17. TERMINATION AND WITHDRAWAL OF FUNDING

- 17.1 The Council may terminate this Agreement forthwith and withdraw funding by serving notice in writing upon the Provider or childminder agency where:
- (a) the Provider's registration with Ofsted or childminder agency is suspended or terminated; or
 - (b) the Provider or childminder agency is in breach of any statutory requirements; or
 - (c) the Provider or childminder agency is in breach of any safeguarding requirement; or
 - (d) the Provider or childminder agency is no longer eligible to provide funded places as set out in the Provider Ofsted Grade Table.
- 17.2 Where the Council has undertaken an investigation in accordance with procedures outlined in clause 16 (Compliance) above and has identified that the Provider has not adhered to the provisions of this Agreement or complied with legislation and published statutory guidance, the Council may terminate this Agreement forthwith with immediate effect and withdraw funding.
- 17.3 The Council may terminate this Agreement forthwith and withdraw funding by serving notice in writing upon the Provider as required by regulation 7 (Termination of the arrangements) of the Council, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 and regulation 37 ([Arrangements between local authorities and early years providers: termination\) of The 15 Childcare \(Early Years Provision Free of Charge\) \(Extended Entitlement\) Regulations 2016.](#)
- 17.4 The Council may terminate this Agreement and withdraw funding in accordance with the provisions of Supplementary Provision Clause 6 (Improvement Process).

- 17.5 The Council may terminate this Agreement and withdraw funding in reliance on any other right of termination provided for in the Agreement.
- 17.6 In the event that the Provider's registration with Ofsted is suspended or terminated, the Council may require the Provider to repay any funding which may have been paid to them which relates to the period after the date the Provider's registration with Ofsted was suspended or terminated. This may require the Provider to repay all of the funding paid to the Provider for the term in which Ofsted registration ceases.
- 17.7 The Provider may terminate this Agreement by serving written notice of at least 3 months (one term) upon the Council.

18. APPEALS PROCESS

- 18.1 A provider may appeal against the withdrawal of funding within 15 working days of the date of the written notification of withdrawal. Any appeal received outside this timeframe will only be considered in exceptional circumstances.
- 18.2 The Provider's appeal must be received by the Council writing. The Council will acknowledge receipt of the appeal in writing.

First Stage

- 18.3 The appeal will be considered in the first instance by the Council's Head of Education Provision and Inclusion and a full response will be made within 20 working days of the date of receipt of the appeal.

Second Stage

- 18.4 If the original decision to withdraw funding is upheld, the Provider may make a second stage appeal against the decision. This must be made within 15 working days from the date of the written notification of the decision and sent to the Council's Assistant Director, Education. A full response will be made within ten working days and may result in a hearing being held. The decision of the second stage appeal is final
- 18.5 First Stage Appeals should be sent to:
Head of Education, Provision and Inclusion, London Borough of Havering, Town Hall Main Road, Romford, RM1 3BB
- 18.6 Second stage appeals should be sent to:
Assistant Director for Education London Borough of Havering, Town Hall Main Road, Romford, RM1 3BB

19. COMPLAINTS PROCESS

- 19.1 The Provider should ensure they have a complaints procedure in place that is published and accessible for parents who are not satisfied their child has received their free entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for local authorities.
- 19.2 The Council has a duty to investigate any complaints received from parents and providers related to the maladministration of the early education and childcare offers and will act upon them.
- 19.3 For parents who are not able to resolve any concerns directly with their provider in the first instance, or, where the parent is not satisfied that their child has received their free

entitlement in accordance with the legislation, they may raise their complaints via the Council's complaint form at: <https://www.havering.gov.uk/complaints>

- 19.4 The Council will seek to resolve complaints at the earliest opportunity. Where possible, every attempt will be made to deal with any issues quickly.
- 19.5 Complaints information is available at https://www.havering.gov.uk/info/20047/consultations_complaints_and_feedback/208/complaints/2
- 19.6 The corporate complaints policy is available at https://www.havering.gov.uk/downloads/file/562/corporate_complaints_procedure

20. SUPPLEMENTARY PROVISIONS

- 20.1 The Supplementary Provisions Clauses at Appendix 1 of this Agreement shall apply to this Agreement

21. VARIATION

- 21.1 The Council may at its sole discretion vary this Agreement without securing the consent of the Provider where a variation is required to reflect any changes to legislation or government guidance. The parties agree that such variation shall be made by the Council serving written notice of the details of such variation upon the Provider and the variation to the Agreement shall be deemed to take effect upon the date such notice is served.

APPENDIX 1 SUPPLEMENTARY PROVISIONS CLAUSES

1. Improvement Process

- 1.1 Subject to the clause 2 below, in the event that the Provider fails to:
- 1.1.1. comply with any of the provisions set out in this Agreement; or
 - 1.1.2. observe any obligation under this Agreement; or
 - 1.1.3. comply with legislation or guidance including statutory guidance; or
 - 1.1.4. provide information reasonably requested by the Local Authority within a reasonable timescale to support its monitoring of this Agreement, or in ensuring proper use of public funds,

then without prejudice to any other right (including that of immediate termination) it may have within this Agreement, the Local Authority may choose to issue an improvement notice to the Provider.

- 1.2. The improvement notice shall specify the breach, what must be done to remedy the breach and the timescale within which the breach must be remedied. If the breach is not remedied within the timescale specified, this may result in a termination of this Agreement with the Provider on giving 14 days written notice to them of the timescale of cancellation of funding. The Provider in such instances shall repay to the Local Authority all the funding paid to the Provider for the period after the improvement notice was issued.

2. OFSTED Grade Changes

- 2.1 Following notification to the Local Authority via the OFSTED Feed download of confirmation of a new OFSTED grade after an inspection, the Local Authority will review the grade and determine whether or not the provider can continue to be funded to deliver

early education and childcare offers. The outcome received will determine next steps as follows:

Outstanding, Good or Effective Grades

- 2.2 Providers or childminder agencies with a good or outstanding grade will continue to be funded to deliver the early education and childcare to eligible children of the disadvantage two year olds (up to 15 hours), universal three and four year old offer (up to 15 hours) and working families offer from 9 months olds to four year olds.

Requires Improvement Grade

- 2.3 Providers or childminder agencies with a Requires Improvement grade will not be funded to deliver early education and childcare from 9 months old onwards to two year olds, but continue to deliver the universal and extended entitlement working families for three and four year olds. Subject to Supplementary clause 2.4 below, The Council will suspend funding provided under this agreement in relation to early education and childcare from 9 months old onwards to two year old provision and will follow the process set out at supplementary clauses 2.3, 2.4, 2.5 and 2.6 below (Notice to Improve Process).
- 2.4 Existing children may continue to be funded at Local Authority discretion, this will be confirmed in writing if funding will be allocated, however no new children including siblings, will be funded.

Inadequate, Not Met or Not Effective Grades

- 2.5 Providers or childminder agencies with an inadequate, not met or not effective grades will not be funded to deliver the early education and childcare to eligible children of the disadvantage two year olds (up to 15 hours), universal three and four year old offer (up to 15 hours) and working families offer from 9 months old to four year olds. The Council will suspend all funding provided under this agreement and will follow the Notice to Improve Process.

Notice to Improve Process

- 2.6 A Notice to Improve (NTI) will be issued to the Provider or childminder agencies with details of:
- 2.6.1 the breach against the Directory and Funding Agreement and Statutory Guidance;
 - 2.6.2 whether (and which) existing children will continue to be funded;
 - 2.6.3 the required improvement actions for the provider;
 - 2.6.4 if relevant, how successful achievement of the action will be measured;
 - 2.6.5 the date by which each action to improve must have been carried out and/ or achieved.
- 2.7 The Provider or childminder agencies acknowledges and notes that if the Provider has met the criteria for funding to be suspended as a result of receiving a Requires Improvement or an Inadequate, Not Met or Not Effective Ofsted grade, the Council will:
- 2.7.1 write to the parents of all relevant funded children advising them of the inadequate not met or not effective grade received by the Provider and next steps for funding allocation; and

2.7.2 will offer the relevant parents brokered support to change provider if they wish.

Sample letters sent to providers, childminder agencies and parents when a NTI is issued are available on the Early Years Resources Page available at www.HES.org.uk

- 2.8 Following Ofsted re-inspection of the Provider or childminder agencies, if the Provider or childminder agencies achieves a grade of Requires Improvement (3 years and above), Good or Outstanding, suspension of funding will be reinstated as applicable to the funding delivery parameters. (For the avoidance of doubt, if the Council had not upon suspension of funding agreed to continue funding a previously funded child during the period of suspension but that child has remained at the provision during the suspension period, funding for that child will not be backdated in the event of such funding reinstatement to the Provider or childminder agencies.)

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SCHEDULE 2 - LIST OF RELEVANT DOCUMENTS

All documents below are available on the Havering Education Service – Early Years Resource Page www.HES.org.uk

1. EARLY EDUCATION AND CHILDCARE OPERATIONAL PROVIDER GUIDE
2. EARLY EDUCATION AND CHILDCARE, STATUTORY GUIDANCE FOR LOCAL AUTHORITIES 2024
3. CHILDCARE ACT 2006
4. CHILDCARE ACT 2016
5. EQUALITY ACT 2010
6. SCHOOL ADMISSIONS CODE 2014
7. STATUTORY FRAMEWORK FOR THE EARLY YEARS FOUNDATION STAGE FOR CHILDMINDERS 2024
8. STATUTORY FRAMEWORK FOR THE EARLY YEARS FOUNDATION STAGE FOR GROUP BASED PROVIDERS 2024
9. LOCAL AUTHORITY, (DUTY TO SECURE EARLY YEARS PROVISION FREE OF CHARGE) REGULATIONS 2014
10. THE CHILDCARE (EARLY YEARS PROVISION FREE OF CHARGE) (EXTENDED ENTITLEMENT) REGULATIONS 2016
11. SPECIAL EDUCATIONAL NEEDS AND DISABILITY CODE OF PRACTICE: 0 TO 25 YEARS 2015
12. DATA PROTECTION ACT 1998
13. WORKING TOGETHER TO SAFEGUARD CHILDREN' GUIDANCE 2023
14. NEW CHILD REGISTRATION AND PARENTAL DECLARATION
15. GUIDANCE EARLY YEARS PARENT GUIDE

SCHEDULE 3 – Provider Ofsted Grades

Providers and Childminder Agencies with the following Ofsted grade are eligible to deliver funded early education and childcare places:

Ofsted Grade	Can deliver early education and childcare places for
Outstanding	From 9 months old to four years old
Good	From 9 months old to four years old
Awaiting Inspection	From 9 months old to four years old
Met	From 9 months old to four years old
Effective	From 9 months old to four years old
Requires Improvement	Three and four years only
Not met	Cannot deliver funded places
Not effective	Cannot deliver funded places
Inadequate	Cannot deliver funded places
Significant improvement or special measures	Cannot deliver funded places

Ofsted are updating the regulations now to reflect the recent Ofsted reforms on the removal of Overall Effectiveness judgements (also referred to as Single Headline Grades) for state schools. As the Ofsted outcome directly affects LA duties and powers on funding the different Early Years entitlements, the removal of OE judgements needs to be accurately reflected in legislation.

These changes will apply for the 2024/25 academic year as an interim position after the removal of OE judgements. The entitlement trigger will need further review to align with the Ofsted inspection report cards. Once further details are available on this we will work with and communicate with the sector.

SCHEDULE 4 - Processing, Personal Data and Data Subjects

1. The Provider shall comply with any further written instructions with respect to processing by the Council.
2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
1. Subject matter of the processing	<p>The processing of personal data is carried out to fulfill the obligations under the Agreement, including:</p> <ul style="list-style-type: none">• Administer funding entitlements for early years childcare services.• Ensure compliance with statutory requirements and funding agreements.• Support operational and quality monitoring processes.• Facilitate communication between the Local Authority and early years providers.

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<p>2. Duration of the processing</p>	<p>The duration of the processing is defined in the Operational Provider Guide, which outlines the periods for which personal data will be processed and retained.</p> <p>Personal data will be retained only for as long as necessary to fulfill the purposes outlined in the funding agreement and to comply with statutory and contractual obligations. This includes:</p> <ul style="list-style-type: none">• Data related to children and families: Retained for [specific period, e.g., 7 years] after the child’s funding ends.• Data related to providers and staff: Retained for [specific period, e.g., the duration of the funding agreement plus 6 years]. <p>Once the retention period has expired, all personal data will be securely deleted or anonymised in accordance with the Local Authority’s data protection policy.</p>
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<p>3. Nature and purposes of the processing</p>	<p>The processing involves collecting, storing, using, sharing, and securely disposing of personal data related to early years providers, their staff, children, and families. This may include both electronic and physical records.</p> <p>Purposes of the Processing:</p> <ol style="list-style-type: none"> 1. Administration of Funding: <ul style="list-style-type: none"> ○ To process funding claims, allocate payments, and ensure the effective delivery of funded early years services. 2. Eligibility Assessment: <ul style="list-style-type: none"> ○ To verify the eligibility of children and families for funded entitlements, such as 9 months onwards for working families entitlement, 2-year-old for low income working families funding and the 30-hour working families entitlement. 3. Compliance Monitoring: <ul style="list-style-type: none"> ○ To ensure providers adhere to the terms of the funding agreement and statutory requirements. 4. Service Quality and Improvement: <ul style="list-style-type: none"> ○ To support operational improvements, provide guidance and training, and monitor the quality of early years provision. 5. Statutory Reporting: <ul style="list-style-type: none"> ○ To fulfill obligations to the Department for Education (DfE) and other regulatory bodies. 6. Communication and Support: <ul style="list-style-type: none"> ○ To maintain effective communication with providers and families regarding funding processes, updates, and relevant services. <p>The processing is carried out in compliance with UK data protection laws and the principles of lawful, fair, and transparent handling of personal data.</p>
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<p>4. Type of Personal Data</p>	<p>The following types of personal data will be processed to fulfill the obligations under the funding agreement:</p> <p>1. Provider Information</p> <ul style="list-style-type: none"> • Name, address, and contact details of the provider. • Ofsted registration details and Unique Reference Numbers (URNs). • Bank account information for payment processing. <p>2. Staff Information</p> <ul style="list-style-type: none"> • Full names, job roles, and contact details. • Qualifications, training records, and employment start dates. • Disclosure and Barring Service (DBS) check outcomes. <p>3. Child Information</p> <ul style="list-style-type: none"> • Name, date of birth, and address. • Eligibility data for funding (e.g., 2-year-old funding, 30-hour entitlement). • Attendance records and additional support needs (if applicable). <p>4. Parent/Guardian Information</p> <ul style="list-style-type: none"> • Names, contact details, and addresses. • National Insurance numbers and other eligibility documentation (if required for funding purposes). <p>5. Financial Data</p> <ul style="list-style-type: none"> • Records of payments made to providers. • Details of funding claims and allocations. <p>6. Special Category Data (processed only when strictly necessary and with appropriate safeguards):</p> <ul style="list-style-type: none"> • Health or disability information related to children, where additional support is required. <p>This data is processed securely and only as necessary to administer funding, monitor compliance, and improve services.</p>
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<p>5. Categories of Data Subject</p>	<p>The processing involves the following categories of data subjects:</p> <p>1. Early Years Providers</p> <ul style="list-style-type: none"> • Individuals or entities managing or operating early years settings, including owners, managers, and administrators. <p>2. Staff Employed by Early Years Providers</p> <ul style="list-style-type: none"> • Employees such as teachers, teaching assistants, childminders, and support staff whose information is necessary for compliance monitoring and service delivery. <p>3. Children</p> <ul style="list-style-type: none"> • Children receiving funded early education and childcare services, including those accessing: <ul style="list-style-type: none"> ○ 9 months onwards – working families entitlement ○ 2-year-old funding – low income families and working families entitlement ○ Universal 15-hour entitlement. ○ 30-hour extended entitlement. <p>4. Parents and Guardians</p> <ul style="list-style-type: none"> • Parents or guardians of children accessing funded services, whose data is required to confirm eligibility and facilitate communication. <p>5. Local Authority Representatives (for internal purposes)</p> <ul style="list-style-type: none"> • Relevant personnel involved in managing funding allocations, monitoring compliance, and supporting providers. <p>This categorisation ensures that only the relevant individuals' data is processed to meet the objectives of the funding agreement and statutory obligations.</p>
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<p>6. Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data</p>	<p>Once the processing is complete, personal data will be handled as follows unless there is a legal or regulatory requirement under UK law to retain the data for a specified period:</p> <ol style="list-style-type: none"> 1. Retention Periods: <ul style="list-style-type: none"> ○ Data will be retained in accordance with the retention schedule outlined in the Operational Provider Guide and the Local Authority’s data protection policy. ○ For example: <ul style="list-style-type: none"> ▪ Child and family data: Retained for [e.g., 7 years] after the child’s funding ends. ▪ Provider and staff data: Retained for [e.g., the duration of the funding agreement plus 6 years]. 2. Secure Destruction: <ul style="list-style-type: none"> ○ Once the retention period expires, personal data will be securely destroyed or anonymised using approved methods, such as: <ul style="list-style-type: none"> ▪ Deletion from electronic systems with confirmation of permanent removal. ▪ Secure shredding or disposal of physical records. 3. Return of Data: <ul style="list-style-type: none"> ○ If requested by the data subject or required by law, relevant data will be returned in a secure and accessible format before destruction. 4. Legal or Regulatory Requirements: <ul style="list-style-type: none"> ○ Where retention is required by law or regulations (e.g., financial records or safeguarding documentation), data will be preserved securely for the specified period and then destroyed appropriately. <p>The Local Authority is committed to ensuring data is processed in compliance with data protection laws, with strict measures in place to safeguard its security throughout its lifecycle.</p>
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PROVIDER DECLARATION

Early Education and Childcare - Provider Directory and Funding Agreement Declaration 01 April 2025 - 31 March 2030

The Provider in signing this Early Education and Childcare Directory and Funding Agreement, agrees to comply with the terms and conditions set out in this Early Years and Childcare, Provider Directory and Funding Agreement and in addition confirms that the named Provision conforms to all the requirements set out in this Early Education and Childcare Provider Directory and Funding Agreement and that this Provision will, whilst registered, ensure all elements are met.

Please complete clearly

I am the person who has legal responsibility and authority to sign this Early Education and Childcare Directory and Funding Agreement for and on behalf of the Provider.

Name of Provision	
Ofsted/DfE Registration Number	
Name:	
Position:	
Provider Address	
Email Address	
Signature:	
Date:	

Once signed by the Council representative, this original form will be returned to the provider as a scanned copy by email using the details provided on this form.

COUNCIL REPRESENTATIVE

Name: Trevor Cook

Position: Assistant Director, Education Services

Signature:	
Date:	

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