

Provider Agreement 2024-25

(incorporating the Local Code of
Practice)

Terms and Conditions for
providing early years
entitlement places
in Nottingham City

People
Directorate

Early Years
Team



Foreword

Nottingham City Council values the partnership with all childcare and early years providers and we acknowledge the continuing challenges to the sector with difficulties recruiting quality staff, significant increases in the national minimum wage and business-related costs, which we know are significant to the sector. Please be reassured that we will keep you updated on any national changes to the funding of early years entitlement places, as well as any other funding opportunities from central government, that may become available over the course of the year.

The key areas of importance for the 2024/25 Provider Agreement are:

- Information on the new working parent entitlements in Section 3;
- Opening and closing **dates for the Headcount Portal** for each term, found in Table 6 on page 28;
- Detail on **how payments are calculated**, found on pages 28/29;
- The **current hourly rates** for early years entitlement places, supplements and EYPP funding, found at clauses 6.16 – 6.19, alongside the **dates for payment**, noted in Table 7 on page 29;
- Details of **how collective overpayments of early years entitlements funding will be managed**, found at clauses 6.45 - 6.46 on page 30.
- Clauses 2.9 and 6.13, referring to not using funding for debt incurred by parents or for the lack of notice of leaving funded places.
- Ensuring that up to date Parent Declaration Forms are being used for new children each term

The Nottingham City Early Years Team supports the provision of early years entitlement places for eligible children. This document outlines the terms and conditions for provider's delivering early years entitlement places in the City, in line with the latest statutory guidance. It is imperative that you familiarise yourself with this document so that you are aware what is expected of you and what you should expect from Nottingham City Council as your local authority. If you are unsure of your position, please seek independent legal advice.

Signing the Annual Provider Agreement confirms your adherence to the terms and conditions of the funding, without which funding cannot be processed and you will not be listed on the Directory of Providers (DoP).

A Support Worker or Manager from the Early Years Team will always be available to provide advice, guidance and challenge. As stated at clause 5.13, please notify us if you are having an Ofsted inspection to enable a member of the team to be present at feedback, if possible (for group-based settings).

Based on evidence of effective Continuous Professional Development opportunities that lead to better outcomes for children, we continue to offer training packages linked to the EYFS, at no, or low, cost and we hope that you will continue to take full advantage of these opportunities.

We look forward to working with you throughout the coming year.



Kathryn Bouchlaghem, Head of Service - Early Years

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<p>Please note that a ‘Further Information and Example Documentation’ Pack is available to complement this Provider Agreement and support the delivery of early years entitlement places locally.</p> <p>Please note, all this documentation has been updated for 2024/25, so please ensure you use the latest versions of these documents.</p>	

Please note that throughout this document, **the sections in bold refer to the statements required by the Model Agreement, provided by the Department for Education.** The term Local Authority, abbreviated to LA, refers to Nottingham City Council and is used interchangeably throughout.

Please note that whilst national guidance refers to 'free entitlement places', Nottingham City refer to these as 'early years entitlement places', which is the terminology used in this Agreement. The hours of these early years entitlement places must be offered at no cost to the parent.

Section 1: Introduction

- 1.1 **Nottingham City Council must secure an early years entitlement place for every eligible child in the LA area.** To support this duty, Nottingham City offers childcare providers and schools the opportunity to offer early years entitlement places to eligible children and to secure quality, these early years entitlement places must be delivered by either;
 - Early Years Providers other than a childminder registered on the Ofsted Early Years Register
 - A childminder registered on the Ofsted Early Years Register
 - A childminder or childcare provider registered with a Childminder Agency which is itself registered with Ofsted
 - Schools taking children aged 2 and over and which therefore are exempt from registration with Ofsted as early years providers
- 1.2 **All providers who wish to offer early years entitlement places must comply with all relevant legislation and insurance requirements** and agree to these terms and conditions in order to be included on the Directory of Providers (DoP) and claim the early years entitlement funding (as per the arrangements LA's are permitted to attach to the delivery of early years provision, under Section 9 of the Childcare Act 2006).
- 1.3 To support the administration and delivery of early years entitlement funding for eligible children, Nottingham City Council is required to have regard to a range of guidance, including the Early Education and Childcare, Statutory Guidance 2024, which is reflected in the detail of this Provider Agreement, which also incorporates the local Code of Practice for the delivery of these places.
- 1.4 This agreement covers the 1st April 2024 – 31st March 2025 funding period.
- 1.5 In addition, the following frameworks and legislation also underpin this agreement:
 - Childcare Act 2006 & 2016
 - Equality Act 2010
 - School Admissions Code 2021
 - School and Early Years Finance (England) Regulations 2023 (S.I. 2023/59)
 - Statutory Framework for the Early Years Foundation Stage 2024
 - LA (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2018 (S.I. 2018/146)
 - The Childcare (Free of Charge for Working Parents) (England) Regulations 2022
 - Special Educational Needs and Disability Code of Practice 0 to 25 years 2015
 - UK General Data Protection Regulation and the Data Protection Act 2018.
- 1.6 Nottingham City Council has the right to 'unilaterally vary' the agreement to reflect changes in legislation and departmental guidance. References to legislation will be to that legislation as amended from time to time, without express change in the Provider Agreement.

Section 2: The Early Years Entitlements

- 2.1 This Provider Agreement relates to the following early years entitlements:
- The 15 hour entitlement for the most disadvantaged 2 year olds ('disadvantaged 2 year olds entitlement')
 - The 15 hour entitlement for parents of 3 and 4 year olds (the 'universal entitlement')
 - The working parent entitlements, which include:
 - The 30 hour entitlement for eligible working parents of 3 and 4 year olds
 - The introduction of new entitlements for eligible working parents:
 - From April 2024, the 15 hour entitlement for children aged 2 of eligible working parents
 - From September 2024, the 15 hour entitlement for children aged 9 - 23 months of eligible working parents
- 2.2 All families with eligible children must be offered their early years entitlement place with no conditions of access and it must be completely free to the parent at the point of delivery.
- 2.3 Early years entitlement places for eligible children are a minimum of 570 hours per year, which must be taken over no fewer than 38 weeks in any year, for up to 15 hours per week. For the 30 hour working parent entitlement for 3 and 4 year olds, this increases to 1,140 hours per year, which must be taken over no fewer than 38 weeks in any year, for up to 30 hours per week.
- 2.4 Parents can 'stretch' their early years entitlement hours, which means taking fewer hours per week over more than 38 weeks, subject to the maximum number of hours a year (570 or 1,1140 hours) not being exceeded. In this circumstance, the funded hours per term per child may vary, but Table 2 illustrates the maximum entitlement per funding period that can be claimed per child. Providers should note that whilst their annual payment will be correct, the payment over the term could be above or below actual hours accessed that term where the parent stretches their offer. Financial planning and accounting should take account of this. Refer to Section 6: Finance for more details.
- 2.5 The early years entitlement hours cannot be condensed and the maximum early years entitlement that can be claimed within any one week must not exceed 15 or 30 hours, depending on which entitlement the child is accessing.
- 2.6 **Providers should deliver the early years entitlements consistently to all parents so that eligible children accessing them will receive the same quality and access to provision, regardless of whether they opt to pay for additional hours, services, meals or consumables. This means that providers should be clear and communicate to parents' details about the days and times that they offer early years entitlement places, along with their services and charges.**
- 2.7 **Providers should publish and make information available about their offer and admissions criteria to parents at the point the child first accesses provision at their setting to ensure parents understand which hours/sessions can be taken as early years entitlement 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 pattern of hours are convenient for parents' working hours.**

Table 1 – Funding Periods

The funding periods are:

Autumn Term:	1 st September – 31 st December
Spring Term:	1 st January – 31 st March
Summer Term:	1 st April – 31 st August

Table 2 – Maximum Entitlement per Funding Period

For funding purposes, the maximum entitlement per funding period, per eligible child accessing any 15 hour early years entitlement, is as follows:

Autumn Term	Maximum of 210 hours	[14 weeks x 15 hours]
Spring Term	Maximum of 180 hours	[12 weeks x 15 hours]
Summer Term	Maximum of 180 hours	[12 weeks x 15 hours]

For funding purposes, the maximum entitlement per funding period, per eligible 3 and 4 year old child accessing the 30 hour entitlement, is as follows:

Autumn Term	Maximum of 420 hours	[14 weeks x 30 hours]
Spring Term	Maximum of 360 hours	[12 weeks x 30 hours]
Summer Term	Maximum of 360 hours	[12 weeks x 30 hours]

Charging

- 2.8 **The early years entitlements funding is intended to deliver 15 or 30 hours a week of free (to the parent), high quality, flexible childcare. It is not intended to cover the cost of meals, other consumables, additional hours or additional services.**
- 2.9 **Providers cannot:**
- **Charge parents ‘top up fees’ (any difference between a provider’s normal charge to parents and the funding they receive from the LA to deliver early years entitlement places)**
 - **Require parents to pay a registration fee as a condition of taking up their child’s early years entitlement place**
 - **Impose conditions of access (parents must not be obligated to pay lunch time charges to secure early years entitlement provision)**
 - **Use funding to cover debts incurred by the parent or for lack of notice of leaving for the early years entitlement hours/sessions.**
- 2.10 **Providers can charge for meals and snacks as part of an early years 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 mindful of the impact of additional charges, especially on the most disadvantaged parents. Where parents are unable to pay for meals and consumables, providers who choose to offer the early years entitlements are responsible for setting 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.**

- 2.11 **Providers should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their early years entitlement hours complete free of charge and understand fees paid for additional hours. Providers will ensure receipts contain their full details so that they can be identified as coming from a specific provider.** Example invoice structures can be found in the 'Further Information and Example Documentation' pack.
- 2.12 Parents may choose to purchase additional hours at the same provider where they access their early years entitlement. **Nottingham City Council should not intervene where parents choose to purchase additional hours of provision or additional services, provided that this is not a condition of accessing the early years entitlements.**
- 2.13 **Providers can charge parents a refundable deposit to give providers certainty that a parent will take up the early years entitlements place, but should refund the deposit in full to parents within a reasonable timescale.** At the time of paying the deposit, the provider should make it clear to the parents any circumstances under which the deposit would not be refunded, for example, if the parent fails to take up their early years entitlement place without sufficient notice.

Section 3: Eligibility Criteria for the Early Years Entitlement Places

Table 3 – Age Eligibility for Early Years Entitlement Places

A child will be entitled to the relevant early years entitlement place when they have attained the relevant age and the child or parent has met any additional criteria. Age eligibility to establish when a child is entitled to access an early years entitlement place is based on their date of birth (***please note that the entitlement for children aged 9 – 23 months is not effective until 1st September 2024***)

For a child born between:	They will be eligible for an early years entitlement place from:
1 st September and 31 st December	1 st January or beginning of the Spring Term following their turning 9 months old, 2 nd or 3 rd birthday
1 st January and 31 st March	1 st April or beginning of the Summer Term following their turning 9 months old, 2 nd or 3 rd birthday
1 st April and 31 st August	1 st September or beginning of the Autumn Term following their turning 9 months old, 2 nd or 3 rd birthday

* Children will receive early years entitlements funding up until the term after their 5th birthday (e.g. – If a child turns 5 in the Summer Term, they will receive funding until the end of the Summer Term).

* If a child is attending a Reception Class in School, they will no longer be entitled to early years entitlements funding, with the exception of the child accessing a place at an Independent School where they are not charging for Reception places.

- 3.1 **Nottingham City Council must ensure that a child has an early years entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the early years entitlements.**

- 3.2 **Providers should check original copies of documentation to confirm a child has reached the relevant age on initial registration for all early years entitlements. The provider can retain paper or digital copies of documentation to enable Nottingham City 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.**
- 3.3 Providers must 'see' evidence, such as an eligibility letter for the disadvantaged 2 year old entitlement or a valid eligibility code for the working parent entitlements, to enable them to confirm the parents meet the eligibility criteria before an early years entitlement place is offered. Should a parent apply for the relevant eligibility checks after their child has been attending an early years entitlement place with a provider and they are found to be eligible, funding cannot be backdated. Equally, should a parent be found to be ineligible after starting a place, Nottingham City Council cannot fund the ineligible early years entitlement hours that have already been offered.

Eligibility Criteria for Disadvantaged 2 Year Old Children

- 3.4 An early years entitlement place for a disadvantaged 2 year old child is not a universal entitlement. A child will be entitled to this early years entitlement hours from the term after both:
- The child has attained the age of 2 and
 - The child or parent meets the eligibility criteria (as stated at 3.6 and 3.7)
- 3.5 Disadvantaged 2 year olds are eligible for 15 hours of early years entitlement provision (per week, for 38 weeks per year, or 570 hours per year) if the parent(s) claim one of the following benefits:
- Income Support
 - Income-based Jobseeker's Allowance (JSA)
 - Income-related Employment and Support Allowance (ESA)
 - Tax Credits and they have an annual income of up to £16,190 a year before tax
 - The guaranteed element of State Pension Credit
 - Working Tax Credit 4-week run on (the payment you get when you stop qualifying for Working Tax Credit)
 - Universal Credit – if a parent is entitled to Universal Credit and they have an annual net earned income equivalent to and not exceeding £15,400, assessed on up to three of the parent's most recent Universal Credit assessment periods
 - Support under Part 6 of the Immigration and Asylum Act 1999 (support for asylum seekers)
- 3.6 Disadvantaged 2 year olds are eligible for 15 hours of early years entitlement provision (per week, for 38 weeks per year, or 570 hours per year) if the child:
- Is looked after by a LA
 - Has a statement of special education needs made under section 324 of the Education Act 1996
 - Has an Education, Health and Care Plan (EHCP) prepared under section 37 of the Children and Families Act 2014
 - Is in receipt of Disability Living Allowance under section 71 of the Social Security and Contributions and Benefits Act 1992
 - Is no longer looked after by a LA as a result of an adoption order, a special guardianship order or a child arrangement order which relates to either or both of the following;
 - With whom the child is to live
 - When the child is to live with any person

- 3.7 Providers should be aware that there is no legislation currently in place with regard to the disadvantaged 2 year old entitlement being extended to households with 'no recourse to public funds' immigration status. These households may still be eligible to access an early years entitlement place and further guidance on how to assess eligibility can be found in the guidance [Accessing Eligibility for Families with No Recourse to Public Funds](#)
- 3.8 To check eligibility, parents must apply through the Families Information Service (FIS) to see if they meet the eligibility criteria. The link is:
https://www.asklion.co.uk/kb5/nottingham/directory/advice.page?id=1C3qNYA_meE
- 3.9 Providers should encourage and, if necessary, assist, parents to apply for an eligibility check online. The information the parent needs to provide is:
- Full name, gender and date of birth of the child
 - Full name, address and date of birth of the child's parent
 - National Insurance number or National Asylum Seeker Service (NASS) number unless the child is in the care of the LA.
- 3.10 If eligible, parents will be issued an eligibility letter to confirm the eligibility criteria has been met and an early years entitlement place can be offered. Please also refer to clause 3.3.
- 3.11 **Providers should offer disadvantaged 2 year old places on the understanding that the child remains eligible until they become eligible for the universal entitlement for 3 and 4 year olds.** The early years entitlement place must therefore remain, even if the family no longer meet the criteria at a later date due to a change in the family circumstances. No reconfirmation is required once the child is eligible.
- 3.12 **From April 2024, there may be some circumstances where households meet eligibility criteria for both the disadvantaged 2 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 disadvantaged entitlement until they become eligible for the universal entitlement for 3 and 4 year olds, or the extended entitlement for 3 and 4 year olds if they meet the eligibility criteria.**

Eligibility Criteria for 3 and 4 Year Olds - The Universal Entitlement

- 3.13 All 3 and 4 year olds are eligible for 15 hours of early years entitlement provision (per week, for 38 weeks per year, or 570 hours per year), from the start of the term after the child's 3rd birthday, as illustrated in Table 3.
- 3.14 There are no additional eligibility criteria for the universal entitlement, other than the child's date of birth, and no reconfirmation is required.

Eligibility Criteria for Working Parent Entitlements

- 3.15 The following eligibility criteria for working parent entitlements applies to:
- The 30 hour entitlement for eligible working parents of 3 and 4 year olds (30 hours per week, 38 weeks per year or 1,140 hours per year)
 - The 15 hour entitlement for children aged 2 of eligible working parents (from 1st April 2024 – 15 hours per week, 38 weeks per year or 570 hours per year)
 - The 15 hour entitlement for children aged 9 – 23 months of eligible working parents (from 1st September 2024 – 15 hours per week, 38 weeks per year or 570 hours per year)

- 3.16 A child will be entitled to the relevant working parent entitlement, from the term after:
- The child has attained the relevant age, as detailed in Table 3 and is under compulsory school age and
 - The child's parent has a current positive determination of eligibility from HMRC (ie, a valid eligibility code)
- 3.17 The child's parent(s) will need to meet the following eligibility criteria:
- The parent of the child (and their partner where applicable) should be seeking the early years entitlement place to enable them to work
 - The parent of the child (and their partner where applicable) should also be in qualifying paid work. Each parent or the single parent in a lone parent household will need to expect to earn the equivalent of 16 hours at the national minimum wage rate over the forthcoming quarter
 - Where one or both parents are on certain forms of family leave from work (including maternity, paternity or shared parental leave) or in receipt of certain forms of statutory pay in connection with sickness or parenting, they are treated as though they meet the minimum income requirement. This will apply for the 31 days before they return to work for those parents on family leave in relation to the child in the early years entitlement place
 - Where one parent (in a couple household) is in receipt, or could be entitled to be in receipt, of specific benefits related to caring, incapacity for work or limited capability for work, they are treated as though they are in paid work
 - Where a parent is in a 'start-up period' (ie they are newly self-employed), they do not need to demonstrate that they meet the income criteria for 12 months in order to qualify for the working parent entitlement

If either or each parent's income exceeds £100,000, they will not be eligible for the working parent entitlement.

- 3.18 A child's parent must apply for the working parent entitlements through the Government's online Childcare Service (www.childcarechoices.gov.uk). If eligible, parents will be issued an 11-digit eligibility code unique to that child. If not eligible, parents can access the review and appeals process managed by HMRC if they disagree with the eligibility outcome.
- 3.19 Eligibility for the working parent entitlements is determined by HMRC through this online application. The only exception to this is children in foster care.

Eligibility Codes and Reconfirmation

- 3.20 Before a child can take up the working parent entitlement, the eligibility code, original copies of documentation (parent's National Insurance Number and the child's date of birth) and the parent's written consent must be obtained by the provider to enable them to verify the eligibility code with the LA. To gain written consent, an example Parent Declaration Form can be found in the 'Further Information and Example Documentation' Pack.
- 3.21 Nottingham City Council will provide a validity checking service to enable providers to verify eligibility codes swiftly and efficiently. Once written consent is received, providers should promptly verify the eligibility code via the Capita Headcount Portal.
- 3.22 As stated at clause 3.3, a working parent entitlement place should not be offered to the parent until the eligibility code has been validated. A parent can reserve this place with a childcare provider before their code is validated, but the code must be validated via the Department's Eligibility Checking System before the child can actually take up their early years entitlement place.

- 3.23 The 'validity start date' is the date on which the parent has been made eligible by HMRC and been issued with a code. The 'validity end date' is the parent's 'deadline' for reconfirming and the date their code becomes invalid if they do not re-confirm or are found to be ineligible (after which they will then be in the 'grace period').
- 3.24 In the event that an eligibility code cannot be validated through the Capita Headcount Portal, the parent will need to contact HMRC directly to access support.
- 3.25 Parents should apply for their eligibility code during the term that their child turns the relevant age so that funding can begin at the start of the following term. Parents can get an eligibility code before their child turns the relevant age, but they can only start claiming their early years entitlement place the term after their child's age relevant birthday, or the term following the date the eligibility code was issued (whichever is later).
- 3.26 If a child is accessing the universal entitlement of 15 hours for 3 and 4 year olds, and the parent becomes eligible for the 30 hour entitlement part way through the term, the parent can start claiming their additional hours the term following the date on which they received their code and had it validated.
- 3.27 Funding for the working parent entitlements will not start half-way through a term unless the child reached the relevant age and the date the eligibility code was issued was prior to the start of the funding period (1st January, 1st April or 1st September).
- 3.28 Parents accessing the working parent entitlements will have to re-confirm their eligibility every 3 months to HMRC. Parents should receive reminders from HMRC in the weeks prior to their re-confirmation deadline, but should not rely on this.
- 3.29 Where the parent's circumstances have changed or they do not re-confirm their eligibility and are therefore no longer eligible, they will enter the 'grace period'.

The Grace Period

- 3.30 **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 LA) or a First Tier Tribunal in the case of an appeal.**
- 3.31 The grace period date is the last date on which parents should receive their working parent early years entitlement place after falling out of eligibility. **The grace period end date will automatically be applied to eligibility codes.** The parent can continue to access their working parent early years entitlement place until their grace period end date, as shown in Table 4, and **Nottingham City 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 LA's, 2024.** This ensures continuity of a place for the child, parent and provider, giving the parent time to find alternative employment and re-confirm their eligibility before the grace period ends.
- 3.32 A parent can take up a working parent entitlement place in their grace period if their eligibility code is valid on the termly deadline (31st August, 31st December or 31st March), even if they fall out of eligibility in the period after the termly deadline but before a provider's term start date.

- 3.33 Children should not start a new working parent entitlement place at a provider during the grace period. This includes:
- Where a parent falls into their grace period before the child has started a place
 - Where a parent falls into their grace period whilst their child is in a place, and the parent seeks to move the child to a different provider.
- 3.34 If the parent does not re-confirm their eligibility by the end of the grace period, their working parent early years entitlement place and funding will cease. If the child is 3 or 4, then they will then be able to access the 3 and 4 year old universal entitlement (15 hours) only.
- 3.35 A grace period will not continue beyond the age that a child has reached compulsory school age.
- 3.36 **Nottingham City 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 Portal’s Eligibility Checking System.** Providers can also check which parents are due to reconfirm their eligibility or are operating in their grace period via the Expiration Dashboard in the Headcount Portal.
- 3.37 **Nottingham City Council should complete audit checks to review the validity of eligibility codes for children who qualify for the working parent entitlements 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 given in Table 4).**
- 3.38 **It is Nottingham City Council’s responsibility to notify providers where a parent has fallen out of eligibility and inform them of the grace period end date. Providers will be notified via the Portal.** HMRC directly links to the Capita Portal and will be refreshed daily. Providers can check all parents coming up to their reconfirmation dates and those operating in the grace period, by using the Expiration Dashboard. Red = in grace period, Amber = due for re-check and Green = code up to date.

Table 4 – Grace Period Dates and LA Audit Dates

Date parent receives ineligible decision on reconfirmation	LA Audit Date	Grace Period end date
1 January – 10 February	11 February	31 March
11 February – 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

Eligibility for Working Parent Entitlements for Children in Foster Care

- 3.39 A child in Foster Care is entitled to the early years entitlements if the child has attained the relevant age, is under compulsory school age and the following criteria are met:
- The LA is satisfied that the foster parent engaging in paid work other than as a foster parent is consistent with the child's care plan,
 - That, in single foster parent families, the foster parent holds additional paid employment outside of their role as a foster carer
 - In 2-foster-parent families, both partners hold additional paid employment outside of their role as a foster carer or one partner is working and the other has a limited capacity for work
- 3.40 The foster parent does not have to meet the minimum income requirement and they should not expect their adjusted net income to exceed £100,000 per year.
- 3.41 The process for children in Foster Care is managed by the LA, not HMRC. The Child's Social Worker needs to initiate this process where appropriate. If successful, the Foster Parent will receive an eligibility code starting '400' and providers must validate this in the same way as any other eligibility code, prior to the child taking up a working parent entitlement place.
- 3.42 Foster parents accessing the working parent entitlements will have to re-confirm their eligibility every 3 months but this reconfirmation will be with the LA rather than HMRC and as for all working parent entitlements, where circumstances have changed or eligibility is not reconfirmed and therefore the foster parent is no longer eligible, they will enter the 'grace period'.
- 3.43 Foster parents who are unhappy about decisions made by the LA should seek resolution through their Social Worker or through the LA complaints process.

Early Years Pupil Premium (EYPP)

- 3.44 **Nottingham City Council should promote equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to places and working with parents to give each child support to fulfil their potential.**
- 3.45 **The provider should ensure that they have identified the disadvantaged children in their setting 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.**
- 3.46 Ofsted are responsible for monitoring the impact of EYPP funding.
- 3.47 In order for the LA to undertake EYPP checks with the Department for Work and Pensions (DWP), providers can request potentially eligible parents complete the Parent/Provider Agreement giving their name, Date of Birth and National Insurance number. An example Agreement can be found in the 'Further Information and Example Documentation' Pack.
- 3.48 Providers will enter these details on the Early Years Provider Portal against the child's name and the Early Years Team will submit the parent details to the DWP and the Eligibility Checking Service will check if the family meet the EYPP eligibility criteria.

3.49 Providers will be informed on a termly basis which children attracted EYPP funding. Funding will be calculated termly, based on the number of hours attended for a child whose family is confirmed as eligible.

Eligibility Criteria for Early Years Pupil Premium Funding

3.50 Any child accessing an early years entitlement place may attract EYPP funding if their family are in receipt of at least 1 of the following:

- Income Support
- Income-based Jobseeker's Allowance
- Income-related Employment and Support Allowance
- Support under part VI of the Immigration and Asylum Act 1999
- The guaranteed element of State Pension Credit
- Child Tax Credit (provided they're not also entitled to Working Tax Credit and have an annual gross income of no more than £16,190)
- Working Tax Credit run-on, which is paid for 4 weeks after they stop qualifying for Working Tax Credit
- Universal Credit (the household income must be less than £7,400 a year after tax, not including any benefits the family receives)

3.51 They may also attract funding if the child is:

- Currently being looked after by a LA in England or Wales
- Has left care in England or Wales through:
 - An adoption order
 - A special guardianship order
 - A child arrangement order

Possible Use of Your EYPP Allocation

3.52 The Early Years Team provide a range of Evidence Based training courses. These have been developed in conjunction with Early Years practitioners using previous research and evaluation, which includes Ofsted inspection feedback and trends as well as EYFSP data linked to Nottingham City. To accommodate all learning styles, the courses are delivered in a variety of ways including online and blended learning as well as face to face. They range from bite sized or half day sessions to specialised Networks and conferences, offering a wealth of CPD opportunities for your staff. More information on these CPD opportunities can be accessed at <https://www.nottinghamcity.gov.uk/earlyyears/section-pages/cpd-training/>

3.53 In the event of closure, Providers will need to gain approval from Nottingham City Council for permission to dispose of, or transfer, assets purchased with any funding given by the LA. This includes equipment that has been bought with EYPP money. If the equipment was purchased for a specific child, who is still accessing early years provision but at a different setting, this piece of equipment should ideally be offered and gifted to this setting to continue supporting the child in the first instance. Alternatively, it is hoped that such equipment would be transferred in good faith to another setting rather than sold. If neither of these options are taken and the setting has received permission from the LA to dispose of the assets then the equipment can be disposed of or sold by the setting.

Section 4: Flexibility

- 4.1 It is expected that the early years entitlements are delivered in a way which is useful for parents and meets their needs and in a way that maximises and safeguards child development.
- 4.2 In addition to the requirements under 'Charging' in Section 2, providers also should ensure that all parents receive full information about:
- The range of early years entitlement hours and their admissions criteria
 - All charges and fees payable for additional hours and services on offer by the provider. It should be made clear to parents that these services are optional
 - Details of bills and invoices, which should clearly show that the early years entitlement hours are delivered at no charge to the parent and then show fees and charges relating to additional hours and services that parents have decided to take for their children
 - Other services in their area if they can't meet the parents needs or details of the Families Information Service
 - The providers' complaints procedure.
- 4.3 **The provider should work with the LA and share information about the times and periods at which they are able to offer the early years entitlements to support the LA to secure sufficient stretched and flexible places to meet parental demand in the LA area.**
- 4.4 Where a child receives their early years entitlement at more than one setting, the parent needs to indicate on the Parent/Provider Agreement how many hours per week they claim their early years entitlement place at each setting. For working parents of 3 and 4 year olds accessing the 30 hour entitlement, their Parent/Provider Agreement should state at which setting they wish to claim the universal entitlement (15 hours) should they fall out of eligibility (an example Parent/Provider Agreement can be found in the 'Further Information and Example Documentation' Pack). Parents in receipt of Disability Access Funding for their child, should also indicate which setting they wish to receive this funding if the child accesses their early years entitlement at more than one setting. This funding can only be paid in full to one setting each year.
- 4.5 Where a child has appeared on more than one settings headcount, double claims will be checked.

Partnership Working

- 4.6 **The LA should work in partnership with providers to agree how to deliver places and partnerships should be supported by LA's on four levels between;**
- LA's and providers
 - Providers working with other providers, including childminders, schools and organisations
 - Providers and parents
 - LA's and parents.
- 4.7 **The LA promotes partnership working between different types of providers, including childminders, across all sectors and encourages more providers to offer flexible provision, alongside other providers.**
- 4.8 **Providers should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting. 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. This toolkit can be accessed at:**
- <https://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>

- 4.9 **Providers should discuss and work closely with parents to agree how a child's overall care will work in practice when their early years entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.**

Patterns of Delivery

- 4.10 **Provision must be offered within the national parameters on flexibility as set out in Section A2 of the Early Education and Childcare Statutory Guidance for LA's:**
- No session to be longer than 10 hours
 - No minimum session length (subject to the requirements of registration on the Ofsted Early Years Register)
 - Not before 6.00am or after 8.00pm
 - A maximum of two sites in a single day
- 4.11 Nottingham City Council will not fund any early years entitlement hours outside these parameters.
- 4.12 Providers need to decide which delivery model will best meet the needs of the families and communities they serve and which makes sound sustainable business sense for them as a provider.
- 4.13 Providers can deliver early years entitlement places:
- Over up to 52 weeks of the year if the parent is stretching their child's entitlement
 - Outside of maintained school term times
 - At weekends
- 4.14 There is no requirement that early years entitlement places must be taken, or delivered, on particular days of the week or at particular times of the day.
- 4.15 There is no requirement for providers to be open for at least 38 weeks of the year, or that providers must offer all the early years entitlements, in order to receive funding.
- 4.16 Providers can only claim for the weeks that they are open to deliver the early years entitlements.
- 4.17 If a provider is not delivering the full early years entitlement hours, they should inform parents in writing, explain what they can offer and what the full entitlement is.
- 4.18 Providers can choose not to deliver early years entitlement places.
- 4.19 Children should be able to take up their early years entitlement place as part of continuous provision and providers should avoid artificial breaks in the day wherever possible. For example, lunchtime should form part of the entitlement hours where the child is attending a morning and afternoon session.
- 4.20 Providers should have a written agreement with all parents that take up an early years entitlement place. A sample Parent/Provider Agreement can be found in the 'Further Information and Example Documentation' Pack. Providers may choose to have a further separate agreement for those parents who also choose to pay for additional hours, meals and/or optional activities.

Section 5: Quality

- 5.1 **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 with 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.**
- 5.2 **Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of the Early Education and Childcare Statutory Guidance for Local Authorities 2024 and the EYFS statutory framework.** Nottingham City Council is clear and consistent in its expectations of continuous quality improvement and as far as possible, early years entitlement places will be delivered by providers who have achieved an overall rating of 'outstanding' or 'good' in their most recent Ofsted inspection report.
- 5.3 LA's are required by legislation to deliver the early years entitlements through the provider types listed at clause 1.1.
- 5.4 The LA should fund places for eligible disadvantaged 2 year olds at any provider judged 'good' or 'outstanding' by Ofsted or at any childminder or childcare provider registered with a Childminder Agency judged 'effective' by Ofsted. LA's should only fund 'requires improvement' providers where there is not sufficient, accessible 'good' or 'outstanding' provision.
- 5.5 The LA should fund places for children eligible for the universal or working parent entitlements at any provider judged 'requires improvement' or better by Ofsted or at any childminder or childcare provider registered with a Childminder Agency judged 'effective' by Ofsted.
- 5.6 The LA should fund places for children eligible for an early years entitlement place at new providers registered with Ofsted until the provider's first full Ofsted inspection judgement is published or at a childminder or childcare provider registered with an agency until the agency's first full Ofsted inspection judgement is published. Providers with an Ofsted judgement of 'not met' will not be funded.
- 5.7 In the case of childminders attached to a Childminder Agency, the childminder wishing to deliver early years entitlement places will be operating under an Agency, which complies with the DfE requirement, and the Agency must have an 'Effective' Ofsted grade. If the Childminder Agency notifies the LA that, in the opinion of the Agency, the provision of a particular childminder is not of a satisfactory quality, the LA is not required to fund that childminder.
- 5.8 In the case of Childminder Agencies receiving a second consecutive 'ineffective' inspection judgement, LA's should continue to fund a Childminder Agency's providers if the Agency has assessed them as being of acceptable quality and Ofsted has not identified any concerns about the Agency's assessment arrangements.
- 5.9 Following the publication of the Ofsted inspection judgement, providers not meeting the quality requirements outlined in this section, could have their funding suspended/withdrawn by the LA. A requirement of funding in such circumstances will be the participation in the LA's Provider Support Framework (PSF), quality improvement process and engaging in support from the LA's Early Years Team.

- 5.10 The provider must ensure the setting has, at all times, a 'Designated Safeguarding Person' who is trained and must continue to access training regarding these matters. For further reading on supporting and promoting effective safeguarding and welfare of children and young people please follow the GOV.UK link to 'Information Sharing Advice for Safeguarding Practitioners' - <https://www.gov.uk/government/publications/safeguarding-practitioners-information-sharing-advice>
- 5.11 The provider must agree to Nottingham City Council's staff accessing the setting by mutual consent.
- 5.12 **Ofsted are the sole arbiter of quality for all the early years 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 are organisations that can register and quality assure childminders as an alternative to registering with Ofsted.** References to a provider's Ofsted inspection judgement in this Agreement should be read to include the inspection judgement of an independent inspectorate approved by the Secretary of State for Education.
- 5.13 When inspected by Ofsted the provider should inform the Early Years Team of the date and time of the Ofsted feedback to enable a member of the team to be present if possible (with the exception of childminders).
- 5.14 **LA's 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.**

Providers with an Ofsted Enforcement Action

In this section, the Ofsted enforcement actions referred to are as follows:

- Requires Improvement (RI) or Inadequate Ofsted Grade
- Welfare Requirements Notice (WRN)
- Ofsted Registration Suspension
- Cancellation of Registration

Provider with Requires Improvement or Inadequate Ofsted Grade or a Welfare Requirements Notice

- 5.15 If a provider receives a 'Requires Improvement' or 'Inadequate' Ofsted grade or are issued with a WRN, funding will not be automatically withdrawn. Nottingham City Council and the provider will work together to follow the procedures detailed below. However; if at any time Nottingham City Council believes that children are at risk within the setting, it may immediately take action to suspend funding and the provider will co-operate with Nottingham City Council's reasonable instructions in connection with transferring children and families to other providers, if required, and, where appropriate.
- 5.16 For providers in receipt of early years entitlement funding, the following actions will apply if they receive an Ofsted grade of 'Requires Improvement' or 'Inadequate' or WRN;
The provider will:
- Inform the LA of the Ofsted judgement following inspection
 - Provide the LA with a copy of the relevant notice and/or inspection report when received from Ofsted
 - Devise and share with the LA an action plan clearly demonstrating how the Ofsted actions/recommendations will be fulfilled and the timelines
 - Meet with the LA to monitor and review the action plan within the timelines specified by the LA

Providers who have had their registration suspended by Ofsted

- 5.17 If a provider has their registration suspended by Ofsted, funding will be suspended until such point Ofsted lift the suspension. The provider will co-operate with Nottingham City Council's reasonable instructions in connection with transferring children and families other providers.

The provider will:

- Notify the LA of the suspension
- Provide the LA with the notice to suspend and associated actions
- Devise and share with the LA an action plan clearly demonstrating how the Ofsted actions will be fulfilled and the associated timelines
- Meet with the LA to monitor and review the action plan within the timelines specified by the LA.

At the point Ofsted lift the suspension on registration, the provider must notify the LA and provide a copy of the relevant Ofsted notification. Once received, the LA will contact the provider in writing to outline the process for reinstating funding. This will be based on individual provider circumstances with regards to any additional actions imposed by Ofsted.

Providers who have had their registration cancelled by Ofsted by emergency order or by issuing a notice to cancel – Notification of Intention (NOI) followed by Notification of Decision (NOD)

- 5.18 Where a provider has had their registration cancelled by Ofsted by emergency order, funding will be immediately withdrawn. The provider will co-operate with Nottingham City Council's reasonable instructions in connection with transferring children and families to other providers.

If the provider receives a NOI (following complaint or inspection), funding will not be automatically withdrawn. However, if at any time Nottingham City Council believes that children are at risk within the setting, immediate arrangements will be made to suspend funding and the provider will co-operate with Nottingham City Council's reasonable instructions in connection with transferring children and families to other providers, if required, and, where appropriate.

The provider will:

- Notify the LA of NOI
- Provide the LA with the relevant notice when received from Ofsted
- Devise and share with the LA an action plan clearly demonstrating how the Ofsted actions will be fulfilled and the timelines
- Meet with the LA to monitor and review the action plan within the timelines specified by the LA

If following a NOI a provider receives a NOD, funding will be suspended and the provider will co-operate with Nottingham City Council's reasonable instructions in connection with transferring children and families to other providers.

- 5.19 The Early Years Team provides challenge, advice and intervention to 'lower' quality providers in order to support the development of the EYFS provision. The following link to the PSF page on the Early Years Website gives more information on the support structure and associated processes: <https://www.nottinghamcity.gov.uk/earlyyears/section-pages/the-early-years-foundation-stage-statutory-framework-and-quality-improvement/provider-support-framework/>

Special Educational Needs and Disabilities (SEND)

- 5.20 **Providers must have arrangements in place to support children with SEND. Providers should be clear and transparent about the SEND support on offer at their setting and make information available about their offer to support parents in choosing the right setting for their child with SEND. The provider's arrangements should include a clear approach to identifying and responding to SEND and providers should utilise the SEN Inclusion Fund and Disability Access Funding to deliver effective support and make information available about their SEND offer to parents.** Information about the Early Years SEND Fund and Disability Access Fund (DAF), whose eligibility criteria has been extended to any child accessing early years entitlements from April 2024, alongside more information on all aspects of the Local Offer for childcare provision, can be found at <https://www.nottinghamcity.gov.uk/earlyyears/section-pages/equality-and-inclusion/>
- 5.21 Providers receiving early education funding must have regard to the Special Educational Needs and Disability Code of Practice: 0-25 years 2015 (SENDCoP). **Providers must ensure owners and all staff members are aware of their duties in relation to the SEND CoP and the Equality Act 2010.**
- 5.22 Providers have a duty and responsibility to ensure that a named SEND Co-ordinator (SENCO) is in place and trained. It is recommended by the DfE that the SENCO holds a Level 3 in Childcare (https://assets.publishing.service.gov.uk/media/622894808fa8f526d8531647/The_Role_of_the_Early_Years_SENCO.pdf)
- 5.23 Where a provider identifies a child as having SEND they must work in partnership with parents to establish the support the child's needs (5.37 page 86 SENDCoP 2015).
- 5.24 The Children and Families Act 2014 requires the LA, schools and early years settings to publish information about the provision and support available to meet the needs of children with SEND in the local area. **The LA should be clear about their role and the support on offer locally to meet the needs of children with SEND as well as their expectations of providers, must strategically plan support for children with SEND to meet the needs of all children in the local area as per the SEND Code of Practice: 0 to 25 years and be clear and transparent about the support on offer in their area, through the local offer, so parents and providers can access that support.** To fulfil this requirement the LA, settings and other partners co-developed Provision Maps for early years settings to provide a framework for early years provision in settings across the city to meet the needs of children with SEND. The LA's SEND Pathway can be accessed at <https://www.nottinghamcity.gov.uk/earlyyears/section-pages/equality-and-inclusion/>
- 5.25 Nottingham City Council advise appropriate attendance at the Early Years SENCO Networks. For further information on the Networks, go to <https://www.nottinghamcity.gov.uk/earlyyears/section-pages/cpd-training/>

Safeguarding

- 5.26 **Nottingham City 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' guidance sets these out in detail.**

- 5.27 **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 recognising, responding, reporting and recording suspected or actual abuse and neglect. A lead practitioner must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. The provider must have regard to 'Working Together to Safeguard Children' guidance.**
- 5.28 Providers must be alert to any issues or concerns with regard to the safeguarding of children in their setting.
- 5.29 Providers are subject to the Prevent Duty (December 2023) and should understand these requirements as part of their wider safeguarding and welfare responsibilities. In line with statutory guidance, LA's should not fund providers who do not actively promote fundamental British values or if they promote as evidence-based, views or theories which are contrary to established scientific or historical evidence and explanations. The LA will respond to concerns regarding fundamental British values, following advice from Ofsted.
- 5.30 Failure to comply with these sets of guidance could result in funding being suspended or withdrawn.
- 5.31 Nottingham City Council advise management attendance at the Designated Safeguarding Lead (DSL) Networks. For further information on the Networks, go to <https://www.nottinghamcity.gov.uk/earlyyears/section-pages/cpd-training/>

Nottingham City Safeguarding Children Partnership

- 5.32 Nottingham City Safeguarding Children Partnership (NCSCP) is the forum for agreeing how services, agencies, organisations and the community safeguard children and improve their wellbeing. The NCSCP, through its partner agencies, organisations and the community, is working to secure the best possible outcomes for children and young people by protecting them from all forms of abuse and neglect. This is achieved by providing the procedures to be followed in relation to safeguarding children and young people, in addition to support, advice, information and training.
- 5.33 Providers must notify agencies with statutory responsibilities immediately should they have any concerns regarding a child's safety or welfare.
- 5.34 Providers must record as part of the registration process, the parents full name; date of birth; address and information of any other person with parental responsibility for a child.
- 5.35 Providers must record the names of all adults who may be collecting children, who are significant adults in a child's life.
- 5.36 Providers must ensure all staff and volunteers have police and suitable persons checks within the terms of arrangements currently in force via Disclosure Barring Service (DBS) guidelines.
- 5.37 Providers must have and implement a policy and procedure to safeguard children.
- 5.38 Providers must have a Designated Safeguarding Lead (DSL) for every session where childcare is provided (Childminders are the DSL).

- 5.39 Providers must ensure that DSL's complete their safeguarding and child protection training and update it every 2 years. All other staff are required to complete their safeguarding and child protection training and update it every 3 years.
- 5.40 Providers must notify the Local Authority Designated Officer (LADO) within one working day, in accordance with the LADO process, should they have any concerns or allegations about staff who work in any capacity within their organisation.

- Visit the NCSCP website for safeguarding information and resources
<https://www.nottinghamcity.gov.uk/ncscp>

Section 6: Finance

This section sets out the documentation that Nottingham City Council need to receive from providers to support the delivery of the early years entitlements.

Providers Registering for Funding

- 6.1 The following procedures are for providers wishing to receive funding for disadvantaged 2 year olds, the 3 & 4 year old universal entitlement and any of the working parent entitlements and be placed on the Nottingham City's Directory of Providers (DoP).
- 6.2 The DoP is the list of all providers within Nottingham City that are eligible to claim funding for delivery of the early years entitlements. Nottingham City Council is required to keep this list. Only providers who appear on this DoP can claim the funding for the early years entitlements.
- 6.3 Current Ofsted grades will determine the registration pathway required in order to be placed on the DoP (see Table 5 on page 24).
- 6.4 Early years provision is defined in Section 20 of the 2006 Act as the provision of childcare for a young child. A 'provider' in the private, voluntary and independent sector is defined as a:
- Day Nursery
 - Playgroup and Preschool
 - Nursery Unit in an Independent School
 - Childminder
- 6.5 'Childcare' as defined in Section 18 of the 2006 Act, specifically excluded care provided for a child by a parent, step-parent, foster parent (or other relative) or by a person who fosters the child privately or has parental responsibility for the child. Early years provision by a childminder for a related child does not count as childcare in legal terms and early years entitlements funding cannot be claimed by, or spent on, childminders providing childcare for their own child or a related child, even if they are claiming for other children.

- 6.6 To be included on the Nottingham City DoP and comply with legislation on which providers can deliver the early years entitlements, providers must be:
- Offering the early years entitlements at premises within the Nottingham City LA area
 - Early Years Providers other than a childminder registered on the Ofsted Early Years Register
 - A childminder registered on the Ofsted Early Years Register
 - A childminder or childcare provider registered with a Childminder Agency which is itself registered with Ofsted
 - Schools taking children aged 2 and over and which therefore are exempt from registration with Ofsted as early years providers
- 6.7 Nannies and home carers are exempt from the requirement to register as a childminder under The Childcare (Exemptions from Registration) Order 2003 if they provide childcare for no more than 2 families in the parent's homes. They are currently not permitted to register on the Early Years Register and cannot therefore receive funding for early years entitlements places.
- 6.8 To receive early years entitlements funding, providers must meet the quality judgements as outlined in Section 5.
- 6.9 Failure to meet the requirements in this Agreement may result in the provider being removed from the DoP.
- 6.10 Section 8 of this Agreement outlines the Appeals Procedure if a providers' application to register for funding is declined.

Table 5 - Process for Providers to Register for Funding, by Ofsted Grade

Providers graded by Ofsted as 'Good' or 'Outstanding' or 'Newly Registered'

Provider completes registration form and submits to Early Years Team as instructed <https://www.nottinghamcity.gov.uk/media/5aiozdmk/registering-interest-to-provide-funded-places.pdf>

Early Years Team provides support and advice in regard to the early years entitlements, funding procedures and paperwork and the requirements contained within this Provider Agreement

Provider completes and signs the Provider Declaration Form, Portal User Form and BACs form and returns to documents to the Early Years Funding Co-ordinator

Provider added to DoP and to the Families Information Service (FIS) funded provider list

Providers graded as 'Requires Improvement' (claiming disadvantaged 2 year old entitlement funding only)

Provider completes registration form and submits to Early Years Team as instructed <https://www.nottinghamcity.gov.uk/media/5aiozdmk/registering-interest-to-provide-funded-places.pdf>

Provider participates in Nottingham City Council's Provider Support Framework process (see Section 5 - Quality)

Early Years Team provides support and advice in regard to the early years entitlements, funding procedures and paperwork and the requirements contained within this Provider Agreement

Provider completes and signs the Provider Declaration Form, Portal User Form and BACs form and returns the documents to the Early Years Funding Co-ordinator

Provider added to DoP and to the FIS funded provider list

Providers graded as 'Inadequate'

Providers graded by Ofsted as inadequate are unable to register to receive early years entitlement funding until Ofsted has re-inspected them and the provider has achieved a 'Good' or above grade.

Funding the Early Years Entitlements for Eligible Children

- 6.11 Funding for the early years entitlements should be provided on a fair and transparent basis to providers in order to support sustainability and promote good practice, especially in relation to quality and flexibility. Funding should follow the child, rather than support empty places.
- 6.12 Funding will not be backdated for any early years entitlement places.
- 6.13 The key points in ensuring providers are funded on a fair and transparent basis are:
- Children must be counted on a termly basis in order to support participation-led funding
 - LA's will supply providers with an indicative budget at the start of the financial year which broadly reflects anticipated funding. Throughout the year, payments reflect actual participation, alongside a termly report on the portal to reflect actual levels of participation within the financial year.
 - When a child attends more than one childcare provider for their early years entitlement, Nottingham City Council should fund all providers on a pro-rata basis according to the number of hours attended
 - Providers should not be penalised for children booked in for an early years entitlement session but then unexpectedly are absent for a single session or short period
 - Providers cannot claim for the hours that the child does not attend for extended periods of absence (more than 2 weeks) unless the absence is authorised and in agreement with Nottingham City Council
 - Providers cannot claim funding for lack of notice, administration or registration fees for the early years entitlement hours or impose unreasonable conditions and/or financial penalties which could create a barrier to accessing an early years entitlement place
 - Providers must ensure that parents read and sign the Parent/Provider Agreement at registration of a new place. The Agreement should be reviewed and agreed on a termly basis and an example Agreement can be found in the 'Further Information and Example Documentation' Pack
 - Providers will be required, to make available upon request by Nottingham City Council, documents of accounts relating to the early years entitlement places, including attendance registers; parental invoices; and signed Parent/Provider Agreements
 - Nottingham City Council takes no responsibility for loss of income from a provider who has failed to verify whether a parent is in breach of their Parent/Provider Agreement before providing an early years entitlement place.
 - Funding for the early years entitlements cannot be claimed by childminders providing childcare for their own, or a related, child, even if they are claiming for other children.
- 6.14 The Nottingham City Council approach to funding for recurring or extended periods of authorised or unauthorised absence is outlined on page 31.

Early Years Funding Formula & Local Hourly Rates

- 6.15 The Schools and Early Years Finance (England) Regulations set out the framework for early years funding. These regulations are updated annually for each financial year. To fund early years entitlement places, LA's are required by legislation to use a locally-determined, transparent formulae to set the funding rates for all types of provider. Any proposed changes to the formulae must be consulted on locally.

- 6.16 Funding for the working parent entitlement for children aged 9 -23 months (a new cohort of children from September 2024 onwards) will be made available using a single hourly base rate, with no supplements. For the 2024-25 financial year, the hourly funding rate for this entitlement is £10.76 per hour.
- 6.17 Funding for the disadvantaged 2 year old entitlement will be made available using a single hourly base rate, with no supplements. For the 2024-25 financial year, the hourly funding rate for this entitlement is £8.31 per hour.
- 6.18 Funding for the working parent entitlement for 2 year olds (a new cohort of children from April 2024 onwards) will be made available using a single hourly base rate, with no supplements. For the 2024-25 financial year, the hourly funding rate for this entitlement is £7.63 per hour.
- 6.19 Funding for the 3 and 4 year old universal entitlement and the working parent entitlement for 30 hours will both be made available using a single hourly base rate, plus a deprivation supplement for eligible children, which is a mandatory supplement under the statutory guidance. For the 2024-25 financial year, the hourly base rate funding for all 3 and 4 year old children is £5.16 per hour. The deprivation supplement applies to both universal and extended hours and is paid at £1.00 per hour per child, if the family attract Early Years Pupil Premium (EYPP) Funding.

For example, if the child attracts EYPP funding, they could be eligible for a combined £1.68 (£1.00 Deprivation and 68p EYPP) per hour for the universal 15 hours and they could attract the £1.00 per hour per child for the deprivation supplement for any extended hours, but not the additional £0.68 for EYPP, which is payable for the universal 15 hours only as explained below.

Funding for the Early Years Pupil Premium (EYPP)

- 6.20 The DfE hourly funding rate for eligible 3 and 4 year old children is 68p per hour per child for the 2024-25 financial year. Providers could receive EYPP for up to 15 hours per week, up to 38 weeks a year per eligible child (approximately an additional £387.60 per year). This applies to the universal 15 hours only, the rate is nationally set and there is no local discretion over the rate or eligibility criteria.
- 6.21 More information on the EYPP can be found under Section 3.

The Claims and Payment Process

- 6.22 The LA should clearly set out the documentation that they need to receive from providers to support payment and delivery of the early years entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.**

The Parent / Provider Agreement

- 6.23 The PVI sector are required to submit claims for funding by use of the Early Years Provider Portal.
- 6.24 Claims for funding must be supported by a Parent/Provider Agreement, completed and signed by the parent. An example Agreement can be found in the 'Further Information and Example Documentation' Pack.

- 6.25 Providers should complete the Agreement with the parent as soon as the parent accepts the offer of a place, as it sets out the hours and patterns of access to the early years entitlement place that the provider and parent have agreed to for a defined period.
- 6.26 Providers should ensure the Parent/Provider Agreement is completed in full and a copy is retained for auditing purposes.
- 6.27 Providers must ensure that parents are aware that:
- All hours attended by the child must be entered onto the Parent/Provider Agreement
 - The child is only eligible for funding for a maximum of 15 or 30 hours per week, for 38 weeks of the year – 14 weeks in the Autumn Term; 12 weeks in the Spring Term; 12 weeks in the Summer Term
 - If a child is splitting their entitlement across more than one provider, the apportioned hours will be detailed on the Parent/Provider Agreement and funding claimed for and paid accordingly
 - Parents who wish to transfer a claim between providers can only do so at the half term or end of term point. Transfer during a funded term will only be considered in exceptional circumstances e.g. house move; employment move; individual personal circumstances
 - Parents are to be encouraged to complete the Parent/Provider Agreement fully to enable providers to submit claims to check for Disability Access Funding and EYPP eligibility checks, where appropriate.

Data Collection – Headcount

- 6.28 Every year LA's receive funding from Central Government for early years provision. The amount is based on annual census data. Providers are required by legislation to complete the annual early years census and submit their census returns to the LA.
- 6.29 To ensure the funding from Central Government is allocated correctly, an accurate data collection process is required and in Nottingham City this is the Early Years Headcount. Data is collected from the PVI Sector through the Early Years Provider Portal, and from schools through a headcount report, every term about the attendance details of all eligible early years entitlement children. **Providers should accurately complete and submit headcount and other necessary data returns by agreed dates to support Nottingham City Council to make payment.**
- 6.30 Providers are given a secure password to enable them to access the Early Years Portal to submit claims for funding on a termly basis within set deadlines.
- 6.31 Headcount documentation is sent electronically for submission via the Nottingham City Council portal.
- 6.32 There is one headcount each term, with the portal being available as indicated in Table 6. Each term the provider is able to add or amend data for a specific period of time. Any child that starts attending the provision but leaves part way through a term can be funded for split weeks, providing the child's attendance does not exceed the total hours / weeks permissible for that term.
- 6.33 **The provider should ensure they submit timely and accurate information, including but not limited to, headcount data (as per the portal closing deadlines detailed in Table 6), census data, parental declarations and invoices, as per the financial guidelines of their LA. Failure to do so may result in inaccurate, delayed or suspended funding.**

6.34 The LA should not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of the early years entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the LA as a result of the lateness and LA’s will ensure charges are clearly communicated to providers.

6.35 Providers can only claim for the number of weeks and hours that the parent wishes to be claimed and for which the child attends on a regular basis (see page 31 for details on acceptable absences).

Table 6 – Portal Submission Timeline for the 2024/25 Financial Year

Term	Portal opening date	Portal closing date
Summer 2024	25 th March 2024	26 th April 2024
Autumn 2024	2 nd September 2024	27 th September 2024
Spring 2025	6 th January 2025	24 th January 2025

Making Payment

6.36 Following headcount, data is imported into the Early Years Funding Module. The imported data is then ‘cleansed’ to eliminate double entries and crosschecks are carried out with neighbouring LA’s and city providers to ensure children are not funded twice.

6.37 Prior to the actual payment, a report of the database will be sent to individual providers for confirmation that the data held on the system is accurate (Confirmation Report). This report forms the basis of the balance payment. Therefore, it is very important that this data is carefully checked. Providers must inform Nottingham City Council immediately by amending the Confirmation Report, if a parent wishes to increase or decrease the amount of early years entitlement hours. These amendments must be received by the Confirmation Report deadline in order to be included in main payments.

6.38 Any adjustments required after the Confirmation Report stage must be sent using an Adjustment Form by the end of the current term. These will be paid or invoiced as appropriate after main payments around the beginning of the next term.

6.39 The provider must respond immediately to Nottingham City Council queries in respect of data including returning a Confirmation Report.

6.40 Funding is provided for up to 570 hours for eligible children from age 9 – 23 months (from September 2024), disadvantaged 2 year olds, 2 year olds eligible through the working parent entitlement and 3 and 4 year olds accessing the universal entitlement. Funding is provided for up to 1,140 hours per year for the extended entitlement for 3 and 4 year olds. This is generally paid in line with the school term dates for each academic year (equating to 15 or 30 hours per week, 38 weeks per year) but parents can choose to access their entitlement flexibly over fewer hours per week and more weeks per year.

- 6.41 Nottingham City Council operates a monthly payment system for all providers. This works as follows:
- In the Summer Term 2024, we will estimate the total funding for the term (based on the Spring 2024 Terms actual payments). We will pay approximately 75% of the previous terms total sum, less any adjustments, across April, May and June with the balance payment, including supplement funding, being paid in July 2024. There will be no payment in August 2024.
 - In the Autumn Term 2024, we will estimate the total funding for the term (based on the Summer 2024 Terms actual payments). We will pay approximately 75% of the previous terms total sum, less any adjustments, across September, October and November with the balance payment, including supplement funding, being paid in December 2024.
 - In the Spring Term 2025, we will estimate the total funding for the term (based on the Autumn 2024 Terms actual payments). We will pay approximately 75% of the previous terms total sum, less any adjustments, across January and February with the balance payment, including supplement funding, being paid in March 2025.

(Specifically for the 2024-25 financial year, with the new cohorts of children (working parents of 2 year olds eligible from April 2024 and children from 9 – 23 months from September 2024), not being included in provider’s estimate payments, providers are able to receive an additional estimate payment to cover the first operational term. This is a standalone estimate payment for the new cohort of children only and will be 75% of the expected hours for that first operational term, balanced as part of the provider’s normal balance payment at the end of the first operational term. Please note this will not automatically be applied and will only be paid to requesting providers submitting the required information by the specified deadline. For more information, please refer to <https://www.nottinghamcity.gov.uk/earlyyears/section-pages/early-years-funding/expansion-of-the-early-years-entitlements/>)

Although estimates are based on approximately 75% of the previous terms total sum, please note that the Portal System will take into account:

- Any children who had end dates applied during the previous term will not be part of an estimate
- Any children where the System believes the child is no longer age eligible will be not be part of an estimate payment

Furthermore, depending on the age of eligibility, if this term is the term following the child’s age relevant birthday, their estimate payment would automatically be calculated at the hourly rate of the entitlement they are moving onto rather than their previous entitlement’s hourly rate

Table 7 – Payment Schedule for the 2024/25 Financial Year

Term	Estimate payment dates	Balance payment date
Summer 2024	Approx. 1 st of each month April – June 2024	Approx. 15 th July 2024
Autumn 2024	Approx. 1 st of each month Sept – Nov 2024	Approx. 15 th December 2024
Spring 2025	Approx. 1 st of each month Jan – Feb 2025	Approx. 15 th of March 2025

*The approximation dates account for if the 1st or 15th of the month fall on a weekend or bank holiday.
 *Other than claim adjustments, main payments cannot be made outside of the above scheduled dates.

6.42 The LA should pay all providers monthly, particularly childminders, unless a provider requests and the LA agrees to continue an existing alternative sustainable method of payment.

6.43 Providers must be aware that the monthly estimate payments are Government funding and not the provider's money until the term's funding is reconciled with the actual hours the child has received. Any estimate payments made over and above the actual entitlement must be repaid to the LA as requested.

6.44 All funding is paid directly into the providers' bank account via BACS.

6.45 Nottingham City Council will recover any funding where a provider has received more as an estimate payment than the actual take up of the early years entitlement hours. This will reflect the collective position across all the early years entitlements. For example, if your 3 and 4 year old estimate payments were higher than your actual participation, any balance due from other sources (such as funding for eligible 2 year olds) will be considered before issuing a payment/invoice.

6.46 Following each End of Term Report and processing of Adjustment Claims, providers will be made aware of any monies owed to Nottingham City Council in respect of this Agreement. Nottingham City Council will detail any monies owed to and give options for the provider to have these monies off-set against future payments, or have an invoice raised for the amount owed. Providers will have 10 days from the date of this correspondence to inform Nottingham City Council of their preferred option. If the Provider does not reply within the 10 days stated, Nottingham City Council will off-set monies owed against future balance payments in the following term (if no balance payment is due the following term, an invoice will be raised).

Nottingham City Council reserves the right to off-set any amount owed to Nottingham City Council by the provider (including previously owed monies or historical monies or aged debt) against future funding.

6.47 Childminders registered with a Childminder Agency and delivering the early years entitlements can have the associated funding paid directly to them or to them via the Childminder Agency. The funding will be paid to whichever party signs the Provider Agreement. Where the Childminder Agency receives the funding on behalf of the childminder, this must be passed to the childminder in full, with no element retained by the Childminder Agency.

6.48 Nottingham City Council will not fund inaccurate claims. Nottingham City Council cannot accept responsibility for errors arising from incorrect data submitted on the EY Provider Portal. Any such loss will be a matter for resolution between the provider and the parents involved.

6.49 In the unlikely event that any early years entitlement funding is paid in error by Nottingham City Council, this funding will be recovered in full from the provider.

Claim Adjustments

6.50 Claims can be adjusted at any point during the funded term. If, following an audit, providers are found to have falsely claimed funding, providers will be invoiced to recover the amount.

6.51 Claims cannot be backdated to previous terms. Therefore, it is very important that the claims submitted for funding are accurate and on time.

6.52 Following the balance payment, any inaccuracies must be reported to Nottingham City Council immediately. Evidence of claims will be requested i.e. a copy of the register of attendance for a specified claim. It is at Nottingham City Council's discretion as to the funding of adjustments.

Authorised or Unauthorised Absence

6.53 Providers must maintain accurate attendance registers including a record of notification of absence.

6.54 Providers must make parents aware that they are to contact the setting if the child is unable to attend.

6.55 Providers must notify Nottingham City Council immediately if a parent withdraws their child or the attendance pattern alters in any way. It is in the interest of the provider to ensure that there is a Parent/Provider Agreement in place as this may be taken into consideration if Nottingham City Council seeks to reclaim funding.

6.56 Providers must notify Nottingham City Council immediately if a child is absent (authorised or unauthorised) for more than 2 weeks during one term.

6.57 If the absence is for longer than 2 weeks in one term, funding may be stopped and reinstated following the end of the absence. Nottingham City Council will not fund a place where absence is recurring or for extended periods unless the absence is authorised and in agreement with Nottingham City Council in advance.

6.58 If the parent wishes to take additional week's holiday, they should be made aware that Nottingham City Council would not fund their child's place for this period. The parent will either; need to give up the place or come to an arrangement with the provider.

6.59 Providers will not be penalised for a child's unexplained absence for a session or short period when they have booked to attend the setting. However, where an absence is recurring over an extended period, the provider must make all reasonable efforts to establish a valid reason for the absence and promptly notify Nottingham City Council. A minimum of 85% attendance is expected during a term as set out on the Parent/Provider Agreement. Holiday taken during the term is allowed for up to a maximum of 2 weeks during the term and has to be in agreement with Nottingham City Council. Nottingham City Council will then consider all the known circumstances and use its discretion in deciding whether, and to what extent, it is appropriate to withdraw or reclaim funding in respect of the child.

6.60 Managing Attendance Guidance can be found in the 'Further Information and Example Documentation' Pack.

6.61 Safeguarding concerns; If providers have any thoughts or concerns that a child's absence might be due to, or at risk of, suffering harm they must follow the guidance as stated on the Early Years website and in Section 5.

Table 8 - Rethinking 'Did Not Attend' and Missed Appointments Matter

- An animation to encourage practitioners to identify children as 'was not brought' as opposed to 'did not attend' when they are not presented at medical appointments, was jointly commissioned by the Nottingham City Safeguarding Children Board (NCSCB), Nottingham City Council, and NHS Nottingham City Clinical Commissioning Group.
- The animation is a powerful reminder that children do not take themselves to appointments, and for practitioners to reflect on the impact of missed appointments on a child's wellbeing.
- Watch the *Rethinking 'Did Not Attend'* animation, and share it with colleagues, friends and family:
<https://www.nottinghamcity.gov.uk/earlyyears/safeguarding/pvci-dsl-network/dsl-resources/>

Changes to Provider Details

6.62 The Nottingham City Early Years Team must be informed in writing of any changes to a registered provider's details, for example: change of premises, ownership or payment details. Ofsted and Nottingham City Council must be informed immediately if a provider should close.

Unforeseen and Planned Closures

6.63 For unforeseen closures, early years entitlement funding may be claimed for up to 5 working days in total in any one term/funded period. This is applicable where providers have no choice to close where it would be illegal to remain open e.g. staff sickness, heating malfunction. In the case of severe adverse weather conditions, payments will be made at the discretion of the local authority.

6.64 For any planned closure e.g. staff training and public holidays, the parent must be offered the child's early years entitlement hours at another time that is convenient to both the provider and the parent where reasonably practical.

6.65 Any planned closure e.g. building work/ redecoration, will not be funded for the early years entitlement hours.

Section 7: Auditing & Compliance

- 7.1 **The LA can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the early years entitlements. The LA should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.**
- 7.2 Nottingham City Council will conduct regular audits on all settings on the Directory of Providers (DoP). A selection of providers will be audited on a termly basis to ensure compliance with the requirements of the delivery of the early years entitlements.
- 7.3 **The provider should maintain accurate financial and non-financial records relating to the early years entitlement places and should give Nottingham City Council access on reasonable notice to all financial and non-financial records relating to early years entitlement places funded under this Provider Agreement, subject to confidentiality restrictions.** This includes administrative and financial records, attendance registers and signed Parent/Provider Agreements, which should be retained for a period of 5 years.
- 7.4 Providers will be required to certify with each funding period's headcount, that the conditions and requirements of being in receipt of funding are met, as stated in this Agreement and the DfE's Statutory Guidance 2024.
- 7.5 For their financial audit, providers will be contacted in writing to inform of the meeting date and time and which documents will be required at the audit. Included within the auditing process will be checks to ensure that:
- Funding is being passed on in the form of an early years entitlements place at no cost to parents (showing as 'no charge' on the invoice)
 - Invoices to parents are clear and transparent
 - Parents have adequate information about the early years entitlements
 - Claims for funding are accurate and supported by an up to date signed Parent Agreement
 - The register is accurate for the children claimed for. Providers must keep a daily register clearly stating start time and leave times and relevant absent codes of children in receipt of an early years entitlement place (see page 34).
- 7.6 Following an audit, if it is evident that a fraudulent claim has been made, an invoice will be raised immediately to recover the government funding.
- 7.7 Providers must maintain a specific business bank account for their setting, details of which must be provided to Nottingham City Council with an understanding that Nottingham City Council will only pay funding into this account which must have dual signatory (except where the provider is a sole trader).
- 7.8 It is strongly recommended that owners or a responsible senior representative attend Business Meetings arranged by Nottingham City Council.
- 7.9 Providers must maintain an active internet connection and e-mail address and use good internet practice, so as to facilitate the exchange of information and guidance. Providers must notify the LA immediately of any changes to their email address and ensure at all times, that data relating to child information is password protected and secure in accordance with Data Protection.

Completion of Registers

- 7.10 When completing the register for any early years entitlements children, providers should:
- Fill it in using a pen
 - Clearly indicate who is present on any given day; stating start time and leave times
 - Use consistent codes for non-attendance with an explanation. The following are the codes, not all will be relevant:
 - H - Holiday of 10 days or less
 - F - Holiday of more than 10 days (contact the Early Years Team for advice if a parent is asking for more than 10 days)
 - I - Illness
 - N - No reason supplied for absence/consider 'Was Not Brought' (Table 8 on page 32)
 - L - Late
 - R - Religious observance
 - Y - Provider is unable to open (for example due to poor weather or damage to building).
- 7.11 If it is found that there is an unexplained discrepancy between the attendance registers and the funding claimed, providers may be invoiced to recover the funding.
- 7.12 Providers may also need to record additional information in line with the EYFS.
- 7.13 Managing Attendance Guidance can be found in the 'Further Information and Example Documentation' Pack.

UK General Data Protection Regulation and the Data Protection Act 2018

- 7.14 The above legislation defines the rules which protect the personal data of an individual. Providers need to be aware of the requirements of the law and how this applies to them as a childcare provider.
- 7.15 Every organisation must register when legally required to do so and each organisation must hold records of processing and payment of any fees applicable by the organisation which have been paid to the Information Commissioners Office.
- 7.16 As a person or organisation holding personal data, it is the provider's legal responsibility to ensure that the data protection principles are adhered to and that your organisation has sufficient organisational and technical measures to ensure that the data you hold is secure. Providers must have a data protection policy in place at their setting, which includes details of how it is ensured that data is safeguarded. This should include ensuring that staff are aware of the policy and include training for staff on good data protection practice on an annual basis. A Data Protection Officer should be appointed where there is a legal duty to do so.
- 7.17 For more information, please visit the ICO website www.ico.org.uk
- 7.18 All Parent/Provider Agreements and registers must be kept for a minimum of 5 years in case of an audit (electronic or paper copies). Copies of Birth Certificates and passports do not need to be kept but if they are, they must be kept in a secure place.

Data Protection, Audit and other offences including the Computer Misuse Act 1990

- 7.19 When accessing the data about individual children on the Portal, providers must recognise the privacy of that data and at all times comply with the UK General Data Protection Regulation and the Data Protection Act 2018.
- 7.20 Providers must ensure in particular that the use of the data to which they have access is consistent with the purpose for which access has been granted which is to deliver the early years entitlements for eligible children and that providers do not use the data for any other purpose.
- 7.21 Providers must ensure that data is processed securely and is not subject to any unauthorised use or disclosure. Information must not be retained any longer than the specified retention period.
- 7.22 Unauthorised use of Nottingham City Council systems is prohibited and is an offence of the Computer Misuse Act 1990.
- 7.23 Unauthorised disclosure of personal data knowingly or recklessly to another person is also prohibited and is an offence under Section 170 of the Data Protection Act 2018. There are further offences to the re-identification of de-identified personal data and alteration of personal data to prevent disclosure in sections 17, 172 and 173 of the Data Protection Act 2018.
- 7.24 Regular auditing of the system will be performed and any unauthorised use or breach of the conditions of use will result in access being revoked and could result in disciplinary and legal action.
- 7.25 Unless otherwise required by law, Nottingham City Council and the provider shall keep confidential all matters relating to any agreement made and shall make all reasonable efforts to prevent anyone else from disclosing matters to any other person.

Section 8: Termination and Withdrawal of Funding

- 8.1 **Suspension of registration by Ofsted or Childminder Agency, or a breach of statutory requirements or safeguarding issues may result in the termination of the arrangement and withdrawal of funding.**
- 8.2 Nottingham City Council may terminate this Agreement forthwith by giving written notice to the Provider in the event that funding is withdrawn and the reason for withdrawing the funding.
- 8.3 The Provider may at any time terminate the Agreement by giving Nottingham City Council a minimum 90 days or a term's notice (whichever is the greater) in writing, where the Provider chooses not to continue to offer free entitlement places.
- 8.4 Where notice is given by the Provider in accordance with clause 8.3, the Provider shall give a minimum 90 days notice to the parents of all eligible children in receipt of the early years entitlements at the Setting to enable them to make alternative arrangements.
- 8.5 In the event of closure the provider must gain approval from Nottingham City Council for permission to dispose of or transfer assets purchased with any funding given by Nottingham City Council.
- 8.6 Nottingham City Council may terminate this Agreement forthwith by written notice in the following circumstances:
- Where the Provider or (as the case may be) any director or proprietor of it, changes its location or composition of staffing in a way which seriously affects the ability of the Provider to provide the free entitlement places (but maternity or paternity leave taken by staff of the Provider under statutory or contractual entitlements shall be disregarded for the purposes of this sub-clause);
 - Or has any director or proprietor (as the case may be) convicted of an offence involving dishonesty;
 - Or becomes bankrupt or makes a composition or arrangement with creditors or has a proposal for voluntary arrangement for a composition of debts or scheme or arrangement approved in accordance with the Insolvency Act 1986;
 - Or has an application made or notice of intention is given under the Insolvency Act 1986 to appoint an administrative receiver or administrator or an administrative receiver or administrator is appointed;
 - Or has a winding-up order made, or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding-up passed;
 - Or has a provisional liquidator, receiver or manager appointed; or has possession taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the floating charge;
 - Or is in circumstances which entitle the Court or a creditor, to appoint, or have appointed, a receiver, a manager, an administrator or administrative receiver or which entitle the Court to make a winding-up order;
 - Or ceases to carry on the whole of its business or threatens to cease the same or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if the Local Authority reasonably believes that any of the events noted in this sub-clause, 8.6 may occur;
 - Or commits a breach of any of its obligation under this Agreement as a result of which the image and reputation of the Local Authority, the Department for Education or the Provider have been seriously adversely affected;
 - Or merges with or is taken over by a company or partnership (unless such merger or takeover has no significant detriment to the performance of the free entitlement hours);
 - Or operates without the insurances required below.

- Where the Provider has committed a material breach of any of its obligations under this Agreement and the material breach is capable of remedy and the Provider shall have failed to remedy it within such period specified in a written notice to the Provider specifying the material breach and requiring its remedy. (A material breach would include but is not limited to any ruling by the Nottingham City Safeguarding Children Partnership, Ofsted or other competent authority that the Provider and/or its staff have been engaged in actions or behaviours that put at risk the safeguarding or welfare of children in its provision, not just those accessing the early years entitlements);
- Or the material breach is not capable of remedy.
- Where the Provider shall (i) have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or for having done or refrained from doing any action in relation to the obtaining for execution of this Agreement or any other agreement with the Local Authority; or (ii) for showing or forbearing to show, favour or disfavour to any person in relation to this Agreement or any other agreement with the Local Authority or if any like acts shall have been done by any person employed by the Provider or acting on the Provider's behalf (whether with or without the knowledge of the Provider); or (iii) if in relation to any contract with the Local Authority the Provider or any person employed by the Provider or acting on the Provider's behalf shall have committed any offence under the Bribery Act 2010 or any amendment of them; or (iv) shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972.
- In the circumstances specified in clause 8.11 following the service of a Notice to Suspend.

Suspension

- 8.7 Without affecting Nottingham City Council's right to terminate for material breach at any time in the circumstances set out above in clause 8.6 it shall have the rights set out in this clause 8.7 and clauses 8.8 to 8.11. If the Provider commits a material breach of its obligations under this Agreement, Nottingham City Council shall be entitled to arrange for a competent person (which may be one of its employees) to carry out an investigation into the material breach.
- 8.8 If Nottingham City Council consider (acting reasonably) that the material breach is of such seriousness or there is a threat to the health, safety or welfare of any eligible children then Nottingham City Council shall be entitled to serve on the Provider a Notice to Suspend.
- 8.9 If Nottingham City Council serves a Notice to Suspend, then the Provider shall cease providing the early years entitlement places from the date specified in the Notice to Suspend. Nottingham City Council will be entitled either to provide some or all of the early years entitlements or employ another Provider to do so on its behalf for as long as the Notice to Suspend is in force, and to divert payment of the early years entitlements funding to any Setting where the replacement early years entitlement hours are being delivered during this period.
- 8.10 Upon issuing a Notice to Suspend, Nottingham City Council will ensure that any investigation is carried out as quickly as reasonably possible. Following investigation, Nottingham City Council will consider, acting reasonably, whether or not the Provider is to resume provision of the suspended early years entitlements.
- 8.11 If Nottingham City Council considers that the Provider is not to resume provision of the early years entitlements, then Nottingham City Council will be entitled to give the Provider notice terminating this Agreement with immediate effect. Nottingham City Council shall be entitled to withhold or divert funding pending the outcome of the investigation.

- 8.12 If Nottingham City Council issues a Provider with a Notice to Suspend or terminate funding for early years entitlement places, they will also contact the parents/carers of children in receipt of early years entitlement places with the Provider to inform them of this decision and provide details for the Families Information Service to support them in finding alternative early years entitlements provision.

Variation

- 8.13 Where any matter is not specifically covered in this Agreement, the Parties will first be guided by the DfE's Early Education and Childcare, Statutory Guidance for Local Authorities 2024 or other relevant guidance to identify the correct position, but Nottingham City Council's decisions will otherwise be final.

Waiver

- 8.14 The failure by either party to enforce at any time or for any period any one or more of the terms and conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce them.

Insurance and Indemnity

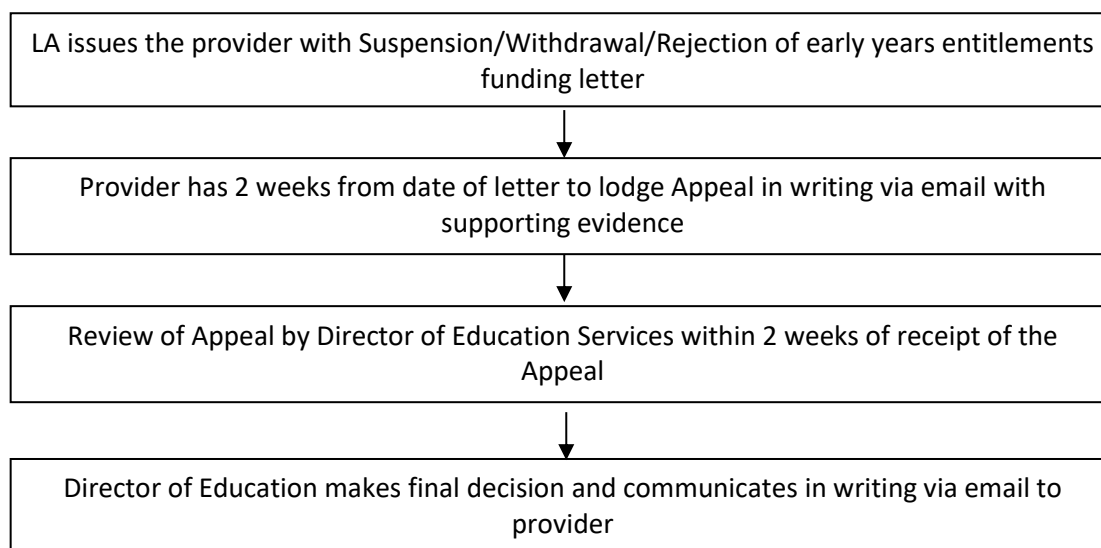
- 8.15 The provider shall be wholly responsible for the safe operation and conduct of the setting and will keep Nottingham City Council indemnified against all claims for losses and damages from third parties (and all associated reasonable costs and expenses) arising from any breach of this Agreement and the provision (or failure to provide) the early years entitlement places and activities it covers except where the claim is as a result of the act or omission of Nottingham City Council.
- 8.16 Nottingham City Council requires the provider to have in place and thereafter maintain the following 2 insurance policies:
- Employers liability insurance with a minimum level of indemnity of £10 million
 - Public liability insurance with a minimum level of indemnity of £5 million

The provider shall produce for inspection to Nottingham City Council documentary evidence to the reasonable satisfaction of Nottingham City Council that the insurance required under this Agreement is being maintained, before entering into this Agreement and any time thereafter, at the request of Nottingham City Council.

Appeals Procedures

- 8.17 **A provider may be denied approval to offer the early years entitlements or have their funding withdrawn.**
- 8.18 **The provider can appeal against that decision.** The LA is required to have a procedure for providers whose funding has been withdrawn despite the provider being of the required quality or awaiting their first Ofsted inspection and should publicise this complaints procedure.
- 8.19 The process for an Appeal is set out in the Flow-Chart below. The decision reached by this process is final.

- 8.20 Appeals should take the form of an email with the subject headed “FAO Director Of Education - Appeal Against Suspension/Withdrawal/Rejection of Early Years Entitlements Funding Decision”, with accompanying documentation and evidence listed as Appendices, and should be sent to: earlyyears@nottinghamcity.gov.uk



Complaints

- 8.21 **Providers 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 early years entitlement hours in the correct way, as set out in this agreement and in Early Education and Childcare Statutory Guidance for LA's.**
- 8.22 Nottingham City Council is committed to providing the best possible services for citizens and customers. The Council's *'Have Your Say'* comments, compliments and complaints process gives providers the chance to tell Nottingham City Council what they think of the services the Council provides. For more information, go to <https://www.nottinghamcity.gov.uk/your-council/contact-us/have-your-say-comments-compliments-and-complaints/>
- 8.23 **If a parent or provider is not satisfied with the way in which their complaint has been dealt with by Nottingham City Council or believes Nottingham City Council has acted unreasonably, they can make a complaint to the LA Ombudsman. Such complaints will only be considered when the local complaints procedures have been exhausted.**

Section 9 - Useful Contacts

Nottingham City Early Years Website:

www.nottinghamcity.gov.uk/earlyyears

Early Years Funding Team:

earlyyears@nottinghamcity.gov.uk

Nottingham City Council Families Information Service:

0800 458 4114

fis@nottinghamcity.gov.uk

Nottinghamshire County Council Families Information Service

0300 500 8080

enquiries@nottscc.gov.uk

Nottinghamshire County Council Funding Team

0115 9772510