



Nottinghamshire County Council

**PROVIDER AGREEMENT for
FUNDED EARLY YEARS PROVISION
2018 - 2021**

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Guidance Notes

This Provider Agreement has been prepared in line with the Department for Education Model Agreement 2018.

This Agreement is made between Nottinghamshire County Council (“the Local Authority”) and the Provider named at the end of this Agreement.

The Agreement applies to all Providers on the Nottinghamshire Directory of Providers of Early Education.

BACKGROUND

In exercising its duty under s7(1) of the Childcare Act 2006 and regulation 39 of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016, the Local Authority has developed this Agreement (which is based on the requirements in the Department for Education Model Agreement) to document the provision of funded childcare in Nottinghamshire for:

- (i) 15 hours for the most disadvantaged two year olds and the universal entitlement of 15 hours for all three and four year olds; and
- (ii) Working parents of three and four year olds who are entitled to an additional 15 hours on top of the universal entitlement – 30 hours total, the extended entitlement.

The Agreement applies to the following early years providers:

- (i) Early years providers other than a childminder registered on the Ofsted Early Years Register;
- (ii) Childminders registered on the Ofsted early years register;
- (iii) Childminders registered with a childminder agency that is registered with Ofsted;
- (iv) Schools and academies who provide early years services for 2, 3 and/or 4 year olds;
- (v) Independent schools and academies taking children age two and over and which are exempt from registration with Ofsted as an early years provider.

1 DURATION OF AGREEMENT

- 1.1. This Agreement shall commence on 1st September 2018 to 31st August 2021 and thereafter shall continue on a rolling yearly basis unless terminated in accordance with the terms of this Agreement.
- 1.2. The Council may terminate this Agreement at the end of any school term by serving written notice on the Provider at least a term prior to the proposed termination date.

2 KEY LOCAL AUTHORITY RESPONSIBILITIES

2.1 The Local Authority shall:

- (i) secure a funded entitlement place for every eligible child in their area;
- (ii) work in partnership with providers to agree how to deliver funded entitlement places;
- (iii) be clear about its role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations of Providers; and

- (iv) contribute to the safeguarding and promote the welfare of children and young people in their area.

3 KEY PROVIDER RESPONSIBILITIES

3.1 The Provider shall:

- (i) Comply with all relevant legislation and insurance requirements;
- (ii) Deliver the funded entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the Provider should be clear and communicate to parents details about the days and times that they offer funded places, along with their services and charges. Those children accessing the funded entitlements should receive the same quality and access to provision;
- (iii) Follow the Early Years Foundation Stage (EYFS) and have clear safeguarding policies and procedures in place that link to the Local Authority's guidance for recognising, responding, reporting and recording suspected or actual abuse.
- (iv) Have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN Inclusion Fund and Disability Access Fund (where applicable / eligible) to deliver effective support, whilst making information available about their SEND offer to parents. Providers will be required to report progress of SEND children each term using the BetterStart module of the Provider Portal

4 SAFEGUARDING

4.1 The Local Authority has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area and shall comply with its requirements under the 1989 and 2004 Children Acts.

4.2 Further to paragraph 3.1(iii), the Provider shall ensure a lead practitioner must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. The Provider shall have regard to the 'Working Together to Safeguard Children' 2015 guidance. In addition, the Provider shall:

- (i) ensure their employees are suitable for working with children, are recruited in line with a Safe Recruitment policy, ensuring that all those involved in the appointment of staff have undertaken safer recruitment training
- (ii) identify a Deputy Safeguarding Lead in the event of the Safeguarding Lead being absent
- (iii) make sure that training is available to all staff with minimum 3 yearly updates in line with NCSB requirements
- (iv) make sure systems are in place for managing any allegations made against adults working with children

4.3 The Provider shall adhere to Nottinghamshire Safeguarding Children's Board, or its successor, Safeguarding Children Procedures as detailed on the website,

<http://cms.nottinghamshire.gov.uk/home/learningandwork/caringforchildren/socialcareandhealth/nscb.htm>

- 4.4 The Provider shall make a referral to the Disclosure and Barring Service where a member of staff is dismissed where they have harmed a child or put a child at risk of harm.
- 4.5 The Provider shall comply with the Local Authority's Early Help Processes to ensure that the individual needs of children, particularly those most vulnerable, are identified early and are appropriately met. Further information can be found in the Pathway to Provision guidance available on the Council's website: <http://www.nottinghamshire.gov.uk/caring/childrenstrust/pathway-to-provision>
- 4.6 The Local Authority will use the early years portal or a secure email address to transmit any sensitive or child level data to providers. Providers must also use a secure email address for the transmission of such data to the Local Authority.

"In any business, where your email is full of important and sensitive information about accounts, transactions and children, setting up a secure email address is critical. You don't have to set up your own virtual private network or encryption system to ensure the security of your emails. Most major email clients, including both Google and Microsoft, offer secure, encrypted systems and you can ensure your account's security and privacy with a few simple changes to your security settings."

5 ELIGIBILITY

- 5.1 The Provider shall check original copies of documentation to confirm a child has reached the eligible age on initial registration for all funded entitlements. The Provider can retain paper or digital copies of documentation to enable the Local Authority to carry out audits and fraud investigations. Where a Provider retains a copy of documentation this must be dealt with in accordance with the requirements set out in clause 23. If copies are not retained, the Provider shall acknowledge on the Parent declaration that it has seen originals of the identification.
- 5.2 The Provider shall offer places to eligible two-year-olds on the understanding that the child remains eligible until they become eligible for the universal entitlement for three- and four-year-olds.
- 5.3 The Local Authority shall ensure that a child has a funded entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the funded entitlements.
- 5.4 Alongside the 30 hours eligibility code, which is the child's unique 11-digit number, and original copies of documentation (see paragraph 5.1), a Provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from the Local Authority of the validity of the parent's 30 hours eligibility code. The Provider shall use the parental declaration form at Annex A which asks the parent for the necessary information and consents.
- 5.5 Once the Provider has received written consent from the parent, they shall verify the 30 hours eligibility code with the Local Authority.
- 5.6 The Local Authority shall confirm the validity of 30 hours eligibility codes to allow the Provider to offer 30 hours places for eligible three- and four-year-olds.

The Local Authority will provide a validity checking service to the Provider to enable them to verify the 30 hours eligibility code swiftly and efficiently.

5.7 The Eligibility Checking Service (ECS), allows the Local Authority to make instant checks for code validity. The Local Authority shall provide the following validity checking service for Providers:

- (i) The Provider portal contains a Provider ECS check and re-check facility which displays children’s eligibility status and validity periods to both Providers and Local Authority staff. In addition to this, beginning and mid-term audit reports are sent in line with DFE requirements to enable providers to see which children need to reconfirm their codes for continuation of funding (see 5.7 (ii) below).
- (ii) The Local Authority shall complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours funded childcare at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as listed at table A below). The Local Authority shall notify a Provider where a parent has fallen out of eligibility and inform them of the grace period end date.

Table A

Date Parent receives ineligible decision on confirmation:	LA audit date:	Grace Period End date:
1 Jan-10 Feb	11 February	31 March
11 Feb-31 Mar	1 April	31 August
1 April-26 May	27 May	31 August
27 May-31 Aug	1 September	31 December
1 Sep-21 Oct	22 October	31 December
22 Oct-31 Dec	1 January	31 March

6 THE GRACE PERIOD

- 6.1 A child will enter the grace period when the child’s parents cease to meet the eligibility criteria set out in the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016, as determined by HMRC or a First Tier Tribunal in the case of an appeal.
- 6.2 The Local Authority can use the ECS (see paragraph 5.7) to access information about whether a child has ceased to meet the eligibility criteria and entered the grace period. The grace period end date will automatically be applied to eligibility codes.
- 6.3 The Local Authority shall continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory Guidance for Local Authorities February 2018.
- 6.4 The Local Authority shall provide the following arrangements for informing Providers of a child’s grace period: A report shall be issued via the Provider portal on (at least) a half termly basis naming children coming to the end of a grace period.

7 NOTICE PERIODS

7.1 When parents choose to change their child's funded place partway through a term, the Provider is permitted to request that the parent gives 4 weeks' notice before transferring places. This should be clearly written within the Provider's own contract agreement and agreed and signed by the parent before the funded place commences. However, this must be waived where the parent chooses to leave in the exceptional circumstances listed below:

- (i) a safeguarding concern
- (ii) family moving house
- (iii) change in child's primary carer
- (iv) change in parental employment status i.e. new job/unemployment
- (v) health and safety concerns i.e. child with long term sickness/child protection

7.2 A Provider cannot charge a parent for leaving a place with no notice unless the Provider has a signed private contractual agreement in place which states this.

8 FLEXIBILITY

8.1. Provision must be offered within the national parameters on flexibility, as listed below, and in Section A2 of Early Education and Childcare statutory guidance for local authorities 2018 (see Annex B).

- (i) No session to be longer than 10 hours;
- (ii) no minimum session length (subject to the requirements of registration on the Ofsted Early Years Register);
- (iii) not before 6.00am or after 8.00pm;
- (iv) a maximum of two sites in a single day.

8.2 The Provider shall work with the Local Authority and share information about the times and periods at which they are able to offer funded entitlements to support the Local Authority to secure sufficient stretched and flexible places to meet parental demand in the Local Authority. The Provider shall also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting.

8.3 The parties shall use the following process for children receiving funded entitlement at multiple providers:

- (i) The Provider shall submit a headcount return via the Provider portal;
- (ii) The Local Authority shall review the headcount return and resolve any double claims issues prior to payment;
- (iii) The Provider shall retain copies of all parent declaration forms (Annex A) which record the information where hours are attended at different providers and provide the basis for claims made. Copies shall be retained for as long as the child is in the Provider setting and until the forms are no longer required to fulfil the

purposes for which they were originally submitted (whichever is the later);

- (iv) The parent declaration form (Annex A) also contains details of who the parent chooses as the main childcare provider for the purposes of the Disability Access Fund.

9 PARTNERSHIP WORKING

- 9.1 The Local Authority shall support the following partnerships:
 - (i) Local Authority and Provider;
 - (ii) The Provider working with other providers, including childminders, schools and organisations;
 - (iii) The Providers and parents;
 - (iv) Local Authority and parents.
- 9.2 The Local Authority shall promote partnership working between different types of providers, including childminders, across all sectors and encourage more providers to offer flexible provision, alongside other providers.
- 9.3 The Provider shall work in partnership with parents and must gain consent from parents to share information about a child should the provider have a concern. Consent should be recorded on the Parental Declaration Form at Annex A. Information to be shared relates to any safeguarding concerns, the Integrated Review for two-year olds and BetterStart data for any children in receipt of two year old and/or any supplementary funding. The Local Authority would also expect the provider to share this information with the parent, where appropriate.
- 9.4 The Provider shall work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting.
- 9.5 The Provider shall discuss and work closely with parents to agree how a child's overall care will work in practice when their free entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.

10. SPECIAL EDUCATIONAL NEEDS AND DISABILITIES

- 10.1 The Local Authority shall strategically plan support for children with special educational needs and/or disabilities (SEND) to meet the needs of all children in their local area as per the Special Educational Needs and Disability code of practice: 0 to 25 years (May 2015).
- 10.2. The Provider shall ensure owners, all staff members, and management committees or Trustees are aware of their duties in relation to the SEND Code of Practice 2015 and the Equality Act 2010.
- 10.3. The Local Authority shall be clear and transparent about the support on offer in their area, through their SEND Local Offer, so parents and providers can access that support.
- 10.4. The Provider shall be clear and transparent about the SEND support on offer at their setting and make information on the Nottinghamshire Local Offer for

SEND available to support parents to choose the right setting for their child with SEND.

10.5. Disability Access Fund (DAF) for all early years providers.

- (i) Eligible children are those accessing their universal 15 hours entitlement aged 3 and 4 years and in receipt of Disability Living Allowance.
- (ii) 4 year olds in primary reception classes are not eligible for DAF funding.
- (iii) The payment is paid once each year to the provider nominated by the parent. The fund is to be used to meet the individual needs of the child.
- (iv) DAF can be claimed in addition to Early Years Inclusion Funding.
- (v) Providers will be expected to report progress of children accessing the DAF each term using the BetterStart module of the Provider Portal.

10.6 SEND Early Years Inclusion Fund – for Private, Voluntary and Independent (PVI) providers only.

- (i) PVI providers may submit applications for a 2, 3 or 4 year old child with SEN who is accessing a funded place and they meet the criteria set out in the application pack for the SEN Early Years Inclusion Fund. The pack also includes applications to meet the needs of children with physical disabilities. Funding is awarded by a panel as a contribution towards meeting the needs of SEN children attending their funded early years place.
- (ii) Providers will be expected to report progress of children accessing the Inclusion Fund each term using the BetterStart module of the Provider Portal.

11. **SOCIAL MOBILITY AND DISADVANTAGE**

- 11.1 The Local Authority shall promote equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to funded places and working with parents to give each child support to fulfil their potential.
- 11.2 The Provider shall ensure that they obtain parent data via the Parental Declaration form to enable NCC to identify children eligible for disadvantage and deprivation supplements, including Early Years Pupil Premium (EYPP).
- 11.3 Children eligible for EYPP are those aged 3 and 4 who meet the current economic criteria for free school meals and/or are looked after by the local authority.
- 11.4 Deprivation funding is available to support providers to engage in multi-agency planning around the needs of children known to social care, i.e. CIN (child in need) or CPP (child on a protection plan).
- 11.5 Providers will be expected to report progress of eligible children accessing the Deprivation and/or EYPP funding each term using the BetterStart module of the Provider Portal

12. **QUALITY**

- 12.1 The EYFS statutory framework is mandatory for all schools that provide early year's provision and Ofsted-registered early years providers in England. The EYFS sets the standards that all early year's providers must meet to ensure that children learn and develop well and are kept healthy and safe.
- 12.2 Ofsted are the sole arbiter of quality for all free 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.
- 12.3 The Local Authority has a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.
- 12.4 Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of Early Education and Childcare Statutory Guidance for Local authorities March 2018 and the EYFS statutory framework (Annex B).

13. **BUSINESS PLANNING**

- 13.1 The Local Authority has established the process as shown in the table in Annex C to support payment and delivery of funded entitlements, Headcounts take place once per term with two amendment opportunities.
- 13.2 The headcount portal is open for Providers to enter/amend and submit their data as indicated in the "Task opens" rows.
- 13.3 The Provider should submit their data prior to the date when the Local Authority extract the data shown in the "Task closes" rows.
- 13.4 Following appropriate checks, the Local Authority calculates payments to Providers on the dates shown in the "Payment" rows.
- 13.5 To comply with DFE requirements that the LA makes monthly payments to childminders, there will be between 12 and 15 payments made during the year. Other providers may request to receive between 6 and 9 payments per year to give a larger payment at the beginning of each term, to help with cash-flow.
- 13.6 The provider must submit data within two weeks of the date a task is set on the provider portal. This includes headcount, BetterStart and Self Update tasks. Any payments will be upheld should this deadline not be met. This deadline is to ensure that the Local Authority can meet payment dates and the submission of reports for the Department for Education, the Local Authority etc.
- 13.7 The Local Authority shall not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of free entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the Local Authority as a result of the lateness and local authorities will ensure charges are clearly communicated to providers. The Local Authority shall notify Providers in writing in advance of any charges it proposes to implement for the late or incomplete submission of information.

- 13.8. The Local Authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers. The Local Authority has the following audit arrangements and requirements:
- (i) The Provider shall maintain parent / Provider contracts and parental declaration forms for each claimed child, and retain these for audit purposes;
 - (ii) The Local Authority will undertake random audit checks each term to ensure that the Provider is fully compliant with this Agreement. The Providers shall comply with all statutory financial regulations that govern their legal status (as applicable) (for example Charities Commission, Companies Act, HMRC).
- 13.9. The Provider shall ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of the Local Authority. Failure to do so may result in inaccurate, delayed or suspended funding.
- 13.10. The Provider shall maintain accurate financial and non-financial records relating to funded entitlement places and shall give the Local Authority access on reasonable notice to all financial and non-financial records relating to funded entitlement places funded under the provider agreement, subject to confidentiality restrictions.

14. **CHARGING**

- 14.1 Government funding is intended to cover the cost to deliver 15 or 30 hours a week of funded, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or additional services.
- 14.2 The Provider can charge for meals and snacks as part of a funded entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and yoga. These charges must be voluntary for the parent. Where parents are unable or unwilling to pay for meals and consumables, providers who choose to offer the funded entitlements are responsible for setting their own policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals.
- 14.3 The Provider should deliver the funded entitlements consistently so that all children accessing any of the funded entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
- 14.4 The Local Authority shall not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to take up their child's funded place. The Provider shall be completely transparent about any additional charges.
- 14.5 The Provider shall publish their admissions criteria and ensure parents understand which hours/sessions can be taken as funded provision. Not all providers will be able to offer fully flexible places, but the Provider shall work with parents to ensure that as far as possible the pattern of hours are convenient for parents' working hours.
- 14.6 The Provider can charge parents a deposit to secure their child's funded place but shall refund the deposit in full to parents within a reasonable time

scale (which shall be after the child has been included as attending the Provider setting and recorded in their headcount return).

- 14.7 The Provider cannot charge parents “top-up” fees (the difference between a provider’s usual fee and the funding they receive from the local authority to deliver funded places) or require parents to pay a registration fee as a condition of taking up their child’s funded place.
- 14.8 The Provider shall ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their funded entitlement completely free of charge and understand fees paid for additional hours. The Provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider. The Provider shall not represent the funded entitlement to parents on any invoice as a monetary subsidy or discounted place.

15. **FUNDING**

- 15.1 The Local Authority shall pay all providers, particularly childminders, monthly by September 2018 unless a provider requests and the Local Authority agrees to continue an existing alternative sustainable method of payment.
- 15.2 In order to support the Local Authority to make payments the Provider shall:
- (i) accurately complete and submit headcount and other necessary data returns by the agreed date;
 - (ii) respond immediately to Local Authority queries in respect of such data (including any double claim queries)
- 15.3 The arrangements set out in clause 13.1 shall apply in respect of the Local Authority’s local funding process and timetable.

16. **COMPLIANCE**

- 16.1 The Local Authority can carry out checks and/or audits on the Provider to ensure compliance with the requirements of delivering the funded entitlements.
- 16.2 Each year the Local Authority will review approximately 10% of providers in receipt of funding, to ensure compliance with the provider agreement. This puts necessary checks in place to ensure providers are correctly claiming their funding and that parents are clear about their entitlement.
- 16.3 Generally 10 working days’ notice will be given to providers of a compliance review.
- 16.4 Settings selected for a compliance visits will be combination of a random sample and a number of those who have meet the following criteria:
- (i) Complaints from parents
 - (ii) Ofsted reports
 - (iii) RAG rating
 - (iv) Annual conversation visit
 - (v) Non-signature of Provider Agreements
 - (vi) Late invoicing

(vii) Non-use of Portal

(viii) In receipt of other LA funding, i.e. SEN funding.

16.5 The audit will include a site visit, to examine the following documentation, which providers should have available on the day of the visit:

(i) Attendance registers and Signing In and Out Sheets for the agreed term (Autumn, Spring or Summer)

(ii) Signed parent declaration forms for every child for which the funding is claimed, for the agreed term (Autumn, Spring or Summer)

(iii) Evidence of confirmation of ID (i.e. birth certificate, NHS 'red book', passport) for every child for which the funding is claimed, for the agreed term (Autumn, Spring or Summer)

(iv) Evidence of eligibility for every 2 year old child for which funding is claimed for the agreed term (Autumn, Spring or Summer)

(v) Current Insurance Certificate and Schedule, showing minimum levels of cover i.e. £10m employer and £5m public liability cover.

(vi) Documentation to support any short term absences (where applicable).

(vii) Staff rotas for the census week of the three terms and the week prior to the visit.

(viii) A copy of the fees/charges.

(ix) Copies of invoices to parents, upon request (these will be randomly selected).

(x) Copy of funded places publicity material given to parents/carers

(xi) Evidence of expenditure in respect of Early Years Pupil Premium funding received during the period being reviewed

(xii) Evidence of staff qualifications

(xiii) Access to Policy and procedural documents for the provision

16.6 After the review, the findings will be shared with the provider, including any recommendations for any changes in practice required, to ensure compliance with the provider agreement. This would include details of any funding that needs to be returned to the Local Authority and details of any follow-up support to address any issues identified.

17. TERMINATION OF AGREEMENT AND WITHDRAWAL OF FUNDING

17.1 Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in the termination of the arrangement and withdrawal of funding.

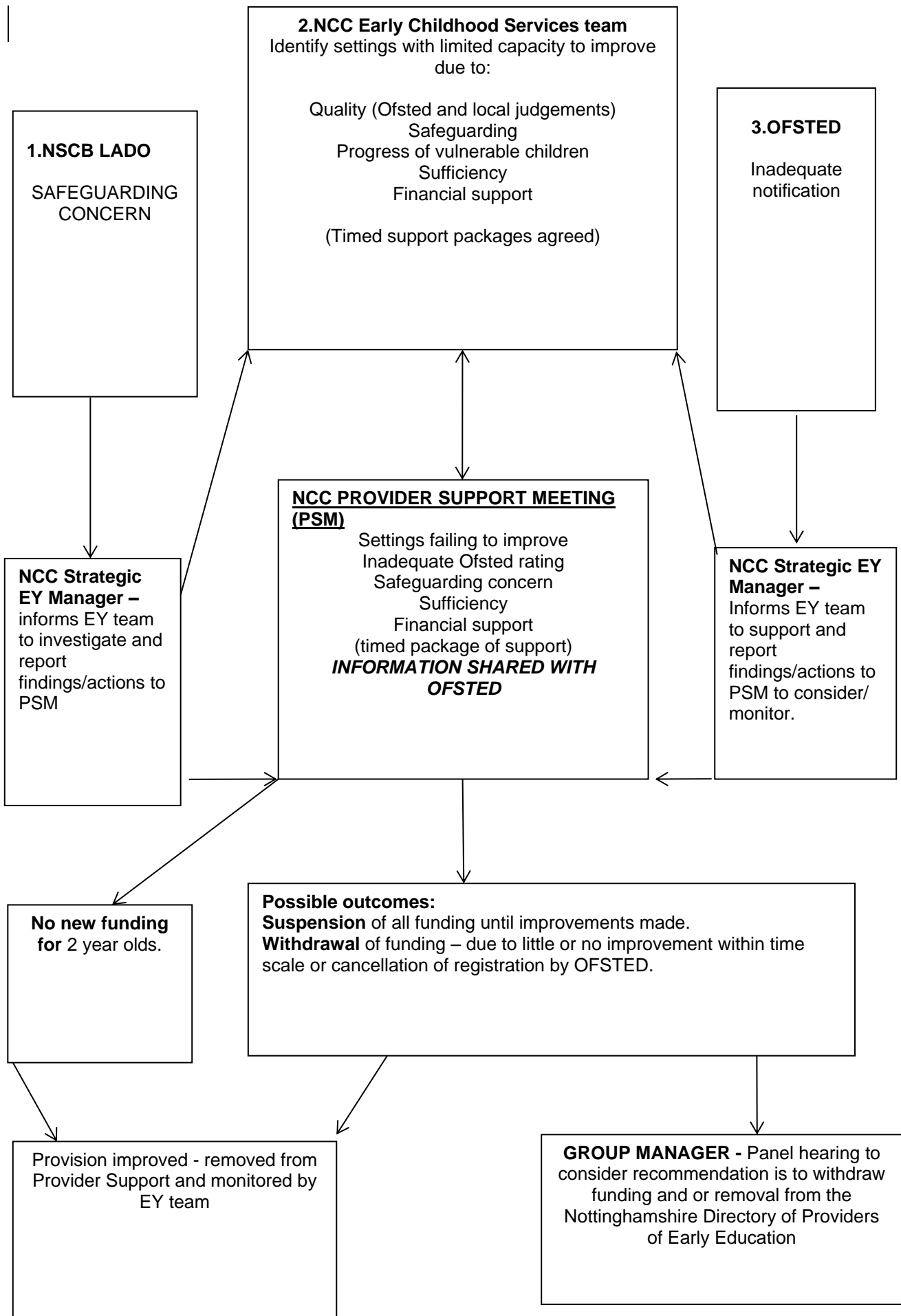
17.2 Where the Provider is at risk of having funding withdrawn they shall be referred to the Local Authority's Early Years Provider Support Group who shall assess the situation and where possible, identify support for the Provider to improve their practice. This will include setting clear milestones with timescales for action / improvements to be achieved. If the Provider

does not work proactively with the Local Authority to improve practice, fails to demonstrate sufficient quality improvement and/or the concerns are such that the group risk assess it is not safe for children to be in the setting, the Local Authority shall refer the Provider to case conference. At case conference, a decision may be made to suspend and/or withdraw funding and remove the Provider from the Nottinghamshire Directory of Providers of Early Education. The Provider shall have the right to appeal against the removal from the Directory by using the Local Authority's complaints procedure referenced in clause 18.

- 17.3 The Local Authority aims to secure the best possible outcomes for children in Nottinghamshire and the Provider may be removed from the Directory if it:
- (i) Receives an inadequate Ofsted inspection judgement and the Local Authority feels that the Provider does not have either the capacity or the commitment to improve their quality to meet EYFS standards;
 - (ii) (in the case of a childminder registered with an early years childminder agency only), the agency ceases to meet the grade of "effective" in a published early years childminder agency inspection report; or (ii) an early years childminder agency inspection report is published in respect of the agency and the agency is not awarded a grade of "effective";
 - (iii) Fails to act on quality improvement guidance from Ofsted or the Local Authority over a 12 month period;
 - (iv) Fails to correct any breaches of the financial requirements making reparation to parents/carers within 25 working days of notification by the Local Authority;
 - (v) Repeatedly breaches the financial requirements of the funding provided for the funded entitlement, as evidenced by the Early Years Data Management Officers;
 - (vi) Fails to make reasonable adjustments in line with the Equality Act 2010, in order to meet the needs of disabled children;
 - (vii) Does not have a named SENCO;
 - (viii) Is unable to evidence that all staff, including the designated person, have attended at least the Introduction to Safeguarding training (in line with NSCB requirements) and accessed regular refresher training (as a minimum every 3 years) with regard to safeguarding;
 - (ix) Fails to complete required documentation, for example;
 - a. EYFS Profile information;
 - b. Early Years Census;
 - c. A development or action plan or equivalent to address issues raised in any Ofsted inspection report;
 - d. Headcount data;
 - e. Provider (EEF) Agreement signed annually;
 - b. Is suspended by Ofsted more than once in a 12 month period;
 - c. Is deregistered by Ofsted;
 - d. Is not meeting the independent school standard in relation to the spiritual, moral, social and cultural development of pupils;

- e. Is not actively promoting fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs;
- f. or is promoting as fact views or theories which are contrary to established scientific or historical evidence and explanations.

17.4 The following flow chart sets out Provider support and de-registration for the provision of funded places:



- 17.5 The Local Authority does not waive the rights set out in this clause if it does not act immediately, a slower evidence based approach may be required.

18 COMPLAINTS PROCESS

- 18.1 The Local Authority's complaints procedure is available as follows:
www.nottinghamshire.gov.uk/theCouncil/contact/comments/
- 18.2 The Provider shall ensure they have a complaints procedure in place that is published and accessible for parents who are not satisfied their child has received their funded entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for local authorities (Annex B).
- 18.3 If a parent or Provider is not satisfied with the way in which their complaint has been dealt with by the Local Authority or believes the Local Authority has acted unreasonably, they can make a complaint to the Local Authority Ombudsman. Such complaints will only be considered when the local complaints procedures have been exhausted.

19 APPEALS PROCESS

- 19.1 The Provider may be denied approval to offer the funded entitlements or have their funding withdrawn as set out above. The Provider can appeal against that decision.
- 19.2 The Local Authority's appeals process is as follows:
- (i) There is a specific appeals procedure for parents who are not satisfied that their child has received their child's funded entitlement. This includes appeals against maintained early year's provision (in schools). The full details of appeals for parents are available on request.
 - (ii) The initial stage of the appeals process is as set out in the Local Authority complaints process at clause 18.1.
- 19.3 Should the Provider not be satisfied with their treatment under the appeals process they may make an appeal to the Local Authority Ombudsman after the appeal process has been exhausted. No Provider will be removed from the Nottinghamshire Directory of Providers of Early Education until such time as the appeal process has been completed.
- 19.4 Reapplication from settings to be included on the Nottinghamshire Directory of Providers of Early Education will not be considered until all required actions and conditions have been fully carried out.

20 INSURANCE

- 20.1 The Provider shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance in respect of public liability, employers liability and professional indemnity with an adequate level of cover (or such cover as required by Law) (the Required Insurances). The cover shall be in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of the agreement, including death or

personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Provider.

20.2 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under the agreement.

21 COMPLIANCE WITH LAW

21.1. The Local Authority and the Provider shall comply with all Laws

21.2 The following frameworks and legislation underpin this agreement:

- (i) Early Education and childcare, Statutory guidance for Local Authorities 2018
- (ii) Childcare Act 2006
- (iii) Childcare Act 2016
- (iv) Equality Act 2010
- (v) School Admissions Code 2014
- (vi) Statutory Framework for the Early Years Foundation Stage 2014
- (vii) Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
- (viii) The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016
- (ix) Special Educational Needs and Disability Code of Practice: 0 to 25 years 2015
- (x) Data Protection Act 2018

22 CHANGES IN LAW

22.1 The Local Authority shall have the right to vary this agreement (and the Provider shall accept such change) where the change is necessary for the Local Authority to comply with any change in Law or guidance issued by the Department for Education.

23 FREEDOM OF INFORMATION

23.1. The Provider acknowledges that the Local Authority is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and shall assist and co-operate with the Local Authority (at the Provider's expense) to enable the Local Authority to comply with these information disclosure requirements.

24. DATA PROTECTION

24.1 The Provider shall (and shall procure that any of its Staff involved in the provision of the services shall) comply with the requirements under the General Data Protection Regulation Legislation set out in Schedule 1 and both Parties shall duly observe all their obligations under the Data Protection Legislation, which arise in connection with this Agreement. The Provider shall complete

and return the Third Party Processing Questionnaire for individuals at paragraph 29.

25. CONFIDENTIALITY

25.1 Subject to clause 25.2, the parties shall keep confidential all matters relating to this agreement and shall use all reasonable endeavours to prevent their Authorised Representative from making any disclosure to any person of any matters relating hereto.

25.2 Clause 25.1 shall not apply to any disclosure of information:

- (i) required by any Law, provided that clause 23.1 shall apply to any disclosures required under the Freedom of Information Act or the Environmental Information Regulations;
- (ii) that is reasonably required by persons engaged by a party in the performance of such party's obligations under this agreement;
- (iii) where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 25.1;
- (iv) by the Local Authority of any document to which it is a party and which the parties to this agreement have agreed contains no Commercially Sensitive Information;
- (v) to enable a determination to be made under clause 26;
- (vi) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- (vii) by the Local Authority to any other department, office or agency of the Government; and by the Local Authority relating to this agreement and in respect of which the Provider has given its prior written consent to disclosure

26. DISPUTES

26.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:

- (i) Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Authorised Representatives shall attempt in good faith to resolve the Dispute;
- (ii) if the Authorised Representatives are for any reason unable to resolve the Dispute within 20 Working Days of service of the Dispute Notice, the Dispute shall be referred to the Group Manager for Early Childhood Services of the Local Authority and the nominated senior officer of the Provider who shall attempt in good faith to resolve it; and
- (iii) if the Group Manager for Early Childhood Services of the Local Authority and the nominated senior officer of the Provider are for any reason unable to resolve the Dispute within 5 Working Days of it being referred to them, the Dispute shall be referred to the Service Director for

Children, Families and Cultural Services of the Local Authority and the Chief Executive of the Provider who shall attempt in good faith to resolve it; and

- (iv) If the Service Director for Children, Families and Cultural Services of the Local Authority and Chief Executive of the Provider are for any reason unable to resolve the Dispute within 5 Working Days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 10 Working Days after the date of the ADR notice.

26.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute.

26.3 If the Dispute is not resolved within 40 Working Days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 40 working Days, or the mediation terminates before the expiration of the said period of 40 Working Days, the Dispute shall be finally resolved by the courts of England and Wales.

27 DEFINITIONS AND INTERPRETATION

The definitions and rules of interpretation in this clause apply in this agreement.

- (i) **Authorised Representative:** the persons respectively designated as such by the Local Authority and the Provider who have day to day management of this agreement.
- (ii) **Commercially Sensitive Information:** the information comprising the information of a commercially sensitive nature relating to the Provider, its intellectual property rights or its business or which the Provider has indicated to the Local Authority that, if disclosed by the Local Authority, would cause the Provider significant commercial disadvantage or material financial loss.
- (iii) **Laws:** any present or future statute, statutory instrument or byelaw, or any present or future regulation, directive, order, code of practice or requirement of any statutory, public, local, UK or European or other competent authority or court of jurisdiction and includes any modification, extension or re-enactment of any of the same in force from time to time and all other instruments, orders (including but not limited to obligations in relation to the environment (including without limitation the Environmental Protection Act 1990 (as amended)), noise pollution and health and safety) and regulations made pursuant to statute.

A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

28. Nottinghamshire Early Years Provider Agreement Provider Declaration

As the representative of the Provider, I will ensure that the Provider will adhere to the requirements set out in the Nottinghamshire Early Years Provider Agreement. I understand that failure to do so could result in the withdrawal of early years funding and removal from the Nottinghamshire Directory of Providers of Early Education.

Please complete all sections in full, in BLOCK CAPITALS

PROVIDER DETAILS (“the Provider”)

NAME OF SETTING:

ADDRESS:

POSTCODE:

EMAIL:

TEL:

NAME OF REGISTERED PERSON:

OFSTED REGISTRATION NUMBER:

I have read and understood the Nottinghamshire Provider Agreement.

Name.....

Date.....

Position.....

THE LOCAL AUTHORITY HEREBY CONFIRMS TO UPHOLD ITS COMMITMENT TO SUPPORTING PROVIDERS OF EARLY EDUCATION AS OUTLINED WITHIN THIS AGREEMENT

PLEASE RETURN THIS FORM TO:

Email: earlychildhoodservices@nottsc.gov.uk

Address:

**Early Childhood Services
Children and Families Department
Nottinghamshire County Council
County Hall
West Bridgford
Nottingham
NG2 7QP**

29. Third Party Processing Questionnaire for Individuals

It is Nottinghamshire County Council's policy to ensure that information assets are protected from all threats, whether internal or external, deliberate or accidental. This is achieved by implementing a combination of technical controls and procedures that are designed to detect, deter and delay security attacks and facilitate investigation.

The purpose of this questionnaire is to ensure that information continues to be adequately protected when stored or processed by third party individuals.

Please read and confirm that all the requirements set out below are met.

<u>Security Controls</u>	
Requirement	Guidance
NCC data needs to be encrypted when stored on a computer.	This can be achieved by setting a password on a Microsoft Office document, or by encrypting the location where files are stored, using something like Bitlocker for Windows 10.
NCC data needs to be encrypted when it is sent over the internet.	<ul style="list-style-type: none"> • Files that are encrypted, such as password protected Microsoft Office documents, can be transmitted using standard email. • Unencrypted files should be sent to NCC using https://CryptShare.nottscc.gov.uk. • Personally identifiable or sensitive information should not be included in the subject line or main body of email messages because they aren't encrypted.
Anti-virus software needs to be installed and kept up to date.	Windows includes a free anti-virus called Windows Defender. Sophos provide a free anti-virus for Apple Macs.
Computer software needs to be kept up to date.	Microsoft Windows and Apple OSX provide updates by default, but this needs to be checked in settings to make sure it is turned on. Other software should also be updated regularly.
NCC data must be protected from other computer users.	NCC data should not be accessible to other users of a computer, such as family or friends. Files should be password protected to prevent this.
Strong passwords need to be used to protect NCC data.	<ul style="list-style-type: none"> • Passwords should be long (12 or more characters) and not based on a single dictionary word. Three random words is a helpful way of creating them. • Passwords for all NCC files can be the same, but the same password should not be used for other systems or personal use. • Passwords should be communicated to NCC by phone or text, rather than by email, if emailing the documents.
If you think some data or files may have got into the wrong hands, you need to let NCC know.	If you suspect that any data has been lost, stolen or accessed by someone who is not authorised, you need to let NCC know. You can either speak to your usual NCC contact, or phone our IT Service Desk direct on 0115 9772010.

Confirmation	
Please tick to confirm that you will abide by IT Security requirements listed above.	Yes, I agree <input type="checkbox"/> No, I don't agree <input type="checkbox"/>
Name of Setting/School:	
Name of person completing form:	
Position:	
Signature of person completing form:	
NCC Contact Name:	IRENE KAKOULLIS (Group Manager, Early Childhood Services)

PLEASE SIGN THIS FORM AND RETURN WITH YOUR PROVIDER AGREEMENT

Annex A

Parent Declaration Form and supporting information



Parent Declaration
Form v2.pdf

[Click link](#)



General
Information for Pare

[Click link](#)



Schedule 1 Data
Processing.pdf

[Click link](#)

Annex B

Early Education and Childcare Statutory Guidance 2018

Early education and childcare - DFE Statutory Guidance for Local Authorities



Early_education_an
d_childcare_-_statut

[Click link to guidance valid until 31st August 2018](#)



Early years
entitlements DFE Sta

[Click link to guidance valid from 1st September 2018](#)

Early years entitlements: DFE operational guidance for local authorities and providers



Early years
entitlements DFE Op

[Click link to operational guidance](#)

Annex C

Payment Schedule 2018/19



Annex C.pdf

[Click link](#)

