

**Nottinghamshire County Council**

**PROVIDER AGREEMENT for  
FUNDED EARLY YEARS PROVISION  
2024-2027**

## Contents (Index refers to section numbers, not page numbers)

### Guidance Notes

#### Background

1. [Duration of Agreement](#)
2. [Key LA Responsibilities](#)
3. [Key Provider Responsibilities](#)
4. [Safeguarding](#)
5. [Eligibility](#)
6. [Flexibility](#)
7. [Partnership Working](#)
8. [Special Educational Needs and Disabilities](#)
9. [Meeting the needs of disadvantaged children](#)
10. [Quality](#)
11. [Business Planning: Payments and Funding](#)
12. [Compliance and Audits](#)
13. [Charging Parents/Carers](#)
14. [Termination of Agreement and Suspension or Withdrawal of Funding](#)
15. [Appeals by Providers](#)
16. [Complaints Process for Parents](#)
17. [Complaints Process for Providers](#)

#### Provider Agreement Declaration

### **Appendices**

[Annex A – Local Authority Terms: Safeguarding](#)

[Annex B – Eligibility & Information to parents](#)

[Annex C – Eligibility checking service](#)

[Annex D – Local Authority Terms – Notice periods](#)

[Annex E – Local Authority Terms – Disability Access Fund \(DAF\) & Inclusion funding](#)

[Annex F – Local Authority Terms – Disadvantage](#)

[Annex G – Local Authority terms – Payments and Funding](#)

[Annex H – Local Authority terms – Compliance and Audits](#)

[Annex I – Local Authority Terms – Charging and Invoice examples](#)

[Annex J – Local Authority terms – Flowchart and termination of agreement and suspension or withdrawal of funding](#)

[Annex K – Other Local Authority terms](#)

K1 - Insurance

K2 - Compliance with Law

K3 - Changes in Law

K4 - Freedom of Information

K5 - Data Protection

K6 - Confidentiality

K7 - Disputes

K8 - Definitions and Interpretation

## **Guidance Notes**

This Provider Agreement has been prepared in line with the Department for Education Model Agreement 2024 and [Department for Education Statutory Guidance](#) and [Early Years Entitlements: DfE operational guidance for local authorities and providers](#) which should be read alongside this Agreement.

\* National Guidance documents may be amended during the life of this Provider Agreement. The web links provided will take providers to the main DfE webpage which will direct you to the latest version of the guidance.

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

The Agreement aims to ensure that public funding is used for the purpose it is intended, processes are fair and transparent, and providers and the local authority comply with relevant legislation.

The Agreement applies to all Ofsted registered Providers of childcare and early education for funded early years children in Nottinghamshire who have registered with Early Childhood Services to draw down funding.

## **BACKGROUND**

In exercising its duty under section 2 of the Childcare Act 2016 and sections 6, 7, 7A, 9A, 12 and 13 of the Childcare Act 2006, 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. the 15 hour entitlement for the most disadvantaged 2-year-olds (‘disadvantaged 2-year-olds entitlement’)
- II. the 15 hour entitlement for parents of 3- and 4-year-olds (the ‘universal entitlement’)
- III. the working parent entitlements, which include:
  - a. the 30 hour entitlement for eligible working parents of 3- and 4-year-olds
  - b. the introduction of new entitlements for eligible working parents:
    - i. from April 2024, the 15 hour entitlement for children aged 2 years of eligible working parents
    - ii. from September 2024, the 15 hour entitlement for children aged 9 months of eligible working parents
    - iii. from September 2025, the 30 hour entitlement for children aged 9 months of eligible working parents

The Agreement applies to the following early years providers:

- I. an early years provider other than a childminder registered on the Ofsted Early Years Register
- II. a childminder registered on the Ofsted Early Years Register
- III. a childminder or childcare provider registered with a childminder agency which is itself registered with Ofsted
- IV. schools taking children age 2 and over which are exempt from registration with Ofsted as an early years provider

## **1. DURATION OF AGREEMENT**

- 1.1. This Agreement shall commence on 1st April 2024 to 31st March 2027 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.
- 1.3. This Agreement will terminate where an early years setting has been deregistered by Ofsted.

## **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) and other vulnerable groups of children, 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:
- a. Comply with all relevant legislation and insurance requirements;
  - b. 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;
  - c. 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.
  - d. Have arrangements in place to meet the needs of children with special educational needs and/or disabilities (SEND) giving regard to SEND Code of Practice 2014, the Equality Act 2010 and the Children and Families Act, 2014. 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. Providers should utilise the SEND inclusion fund and have systems in place to allow them to collect necessary information about Disability Living Allowance to enable them to access the Disability Access Fund
  - e. Have arrangements in place to meet the needs of groups of children deemed otherwise vulnerable
  - f. Provide the Local Authority with relevant data and information as and when requested regarding attendance and transitional arrangements for children.
  - g. Provide the Local Authority with relevant data and information as and when requested regarding sufficiency of places offered and current vacancies, as well as their listing on <https://www.nottshelpyourself.org.uk>.

### **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 which make this clear, and the 'Working together to safeguard children' guidance sets these out in detail.
- 4.2 The provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. Providers must also take into account the government's statutory guidance '[Working Together to Safeguard Children](#)' and '[Prevent duty guidance for England and Wales](#)'. A lead practitioner must take responsibility for safeguarding, and providers must train all staff to understand their safeguarding policy and procedures and ensure that all staff have up to date knowledge of safeguarding issues. Training made available by the provider must enable staff to identify signs of possible abuse and neglect at the earliest opportunity, and to respond in a timely and appropriate way.

[See annex A - Local Authority Terms - Safeguarding](#)

### **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 K4. If copies are not retained, the Provider shall acknowledge on the Parent declaration that it has seen originals of the identification.

5.2 Eligibility of children is summarised in the table in 5.3 below, with eligibility criteria detailed in the [legal annex of DFE Statutory Guidance Early education and childcare \(applies from 1 April 2024\)](#).

5.3

Early Years Entitlements			Sep-2023	Apr-2024	Sep-2024	Sep-2025
Current Entitlements	Disadvantaged 2 year olds	Apply with Local Authority	15 hours	15 hours	15 hours	15 hours
	All 3 and 4 year olds	No application code needed	15 hours	15 hours	15 hours	15 hours
	3 and 4 year olds of working parents	Apply via Childcare Choices	30 hours	30 hours	30 hours	30 hours
New Working Families Entitlements	2 year olds of working parents	Apply via Childcare Choices from 2 <sup>nd</sup> January 2024		15 hours	15 hours	30 hours
	9 month olds of working parents	Apply via Childcare Choices – date to be confirmed			15 hours	30 hours

[See Annex B - Eligibility](#)

#### 5.4 2-year-olds of families receiving some additional forms of financial support (disadvantaged)

A child will be entitled to the funded hours from the term after both:

- I. the child has attained the age of 2
- II. the child or parent meets the eligibility criteria.

2 year olds who meet both the disadvantage and the working families eligibility criteria will only be eligible for 15 hours until September 2025. They will not be able to claim 30 hours funding under both criteria simultaneously. See 9.3 & 9.4 below.

- a. The Provider shall offer places to eligible disadvantaged 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.
- b. 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.
- c. In line with statutory guidance, only Providers who are judged as 'Good' or 'Outstanding' are able to provide funded places for eligible disadvantaged 2 year olds unless the Council assesses a childcare sufficiency need in a locality

#### 5.5 Universal Entitlement for 3 and 4 Year Olds

The LA will secure funded places offering 570 hours a year over no fewer than 38 weeks of the year and up to 52 weeks of the year, for every eligible child in their area from the relevant date, as set out in Annex B, until the child reaches compulsory school age (the beginning of the term following their fifth birthday).

- a. The Provider shall offer places to all 3 and 4 year olds on the understanding that the child remains eligible until they reach statutory school age.
- b. Eligible children who have already been admitted to primary school and are attending a maintained school reception class will not be funded from Early Years but through Schools payment processes.
- c. In line with statutory guidance, only Providers who are judged as 'Good', 'Outstanding' or 'Requires Improvement' are able to provide funded places for eligible 3 and 4 year olds unless the Council assesses a childcare sufficiency need in a locality.

#### 5.6 Working Parent entitlements

- a. Where feasible the Provider shall offer places to eligible children from working households on the understanding that the child remains eligible until they reach statutory school age.
- b. Ensure that parents are aware that if they cease to meet the eligibility criteria and the grace period has expired, children aged 3 and 4 can continue to take up the 15 hour universal entitlement, provided they have not exceeded the number of hours as set out at [A1.10 of](#)

[Statutory Guidance](#). If the parent has been taking up the funded hours at more than one provider, the local authority should continue to fund 15 hours at the provider of the parent's choice. Local authorities should make parents aware of the disadvantaged 2-year-old entitlement and encourage them to check their eligibility for this entitlement. Falling out of eligibility for the working parent entitlement will not necessarily make a 2-year-old child eligible for the disadvantaged entitlement..

- c. Eligible children who have already been admitted to primary school and are attending a maintained school reception class will not be funded from Early Years but through Schools payment processes.
- d. 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 B which asks the parent for the necessary information and consents.
- e. Once the Provider has received written consent from the parent, they shall verify the 30 hours eligibility code with the Local Authority.
- f. The local authority will confirm the validity of eligibility codes to allow providers to offer funded places for eligible children aged 9 months and above. The local authority will provide a validity checking service to providers to enable them to verify the eligibility code. The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity.

[See Annex C - Eligibility Checking Service](#)

## **6. FLEXIBILITY**

- 6.1. Provision must be offered within the national parameters on flexibility, as listed below, and in A2.4 of [Early Education and Childcare Statutory guidance for Local Authorities](#)
  - a. No session to be longer than 10 hours;
  - b. no minimum session length (subject to the requirements of registration on the Ofsted Early Years Register);
  - c. not before 6.00am or after 8.00pm;
  - d. a maximum of two sites in a single day.
- 6.2 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.
- 6.3 Maintained and Academy Schools are advised to publish their nursery admissions policy with particular regard to points of entry for nursery children during the school year. Maintained and Academy schools are funded on the basis of children present on the Schools' Census, so if a child is admitted after census week, the funding will not be paid to the school for that term.

[See Annex D – Local Authority Terms – Notice periods](#)

## **7. PARTNERSHIP WORKING**

- 7.1 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.
- 7.2 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.
- 7.3 The provider 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.

- 7.4 Partnership Work with Parents – 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 in Annex B. Information to be shared relates to any safeguarding concerns, the Integrated Review for two-year olds and progress tracking 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.
- I. The Provider will ensure that all parents accessing their funded place, complete and sign the Parental Declaration forms which will be made available to the Council for audit purposes.
  - II. The Provider shall work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting.
  - III. The Provider shall discuss and work closely with parents to agree how a child’s overall care will work in practice when their funded entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.

## **8. SPECIAL EDUCATIONAL NEEDS AND DISABILITIES**

- 8.1 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
- 8.2 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 2014, the Equality Act 2010 and the Children and Families Act, 2014.
- 8.3 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.
- 8.4 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. Providers as asked to include this information in their setting information on the Notts Help Yourself website <https://www.nottshelpyourself.org.uk>.

[See Annex E – Local Authority Terms – Disability Access Fund \(DAF\) & Inclusion](#)

## **9. MEETING THE NEEDS OF DISADVANTAGED CHILDREN**

- 9.1 The local authority 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.
- 9.2 The provider should ensure that they have identified the disadvantaged children in their setting. The provider should identify locally available funding streams or support. This includes EYPP, deprivation fund, DAF, inclusion funding. [Supplementary Funding Table](#).
- 9.3 From April 2024, there may be some circumstances where households meet the eligibility criteria for both the disadvantaged two-year-old entitlement and the working parent entitlement. In these circumstances, the childcare should be provided under the disadvantaged 2-year-old entitlement. The child will remain on the disadvantage entitlement until they become eligible for the universal entitlement for 3- and 4-year-olds or 30 hours funded childcare for 3- and 4-year-olds if they meet the eligibility criteria. Therefore, households will not lose eligibility for their 15 hours funded early education, as is currently the case for the disadvantage entitlement.
- 9.4 From September 2025, when the working parent entitlement increases to 30 hours, where households meet the eligibility criteria for both 2-year-old entitlements, they should be recorded as taking up 15 hours of the disadvantage entitlement and 15 hours of the working parent entitlement. They will need to reconfirm eligibility every 3 months for the working parent entitlement and from September 2025, they will not be defaulted automatically onto the disadvantage entitlement should they lose eligibility for the working parent entitlement.

[See Annex F – Local Authority Terms – Disadvantage](#)

## **10. QUALITY**

- 10.1 The Early Years Foundation Stage (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.

- 10.2 Ofsted are the sole arbiter of quality for all funded entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision. Childminder agencies (CMAs) are organisations that can register and quality assure childminders as an alternative to registering with Ofsted.
- 10.3 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.
- 10.4 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](#) and the [EYFS statutory framework](#)

## **11. BUSINESS PLANNING: PAYMENTS AND FUNDING**

- 11.1 The local authority should clearly set out the documentation that they need to receive from providers to support payment and delivery of the funded entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate headcount and census returns.
- 11.2 The Local Authority shall pay all providers, particularly childminders, monthly unless a provider requests and the Local Authority agrees to continue an existing alternative sustainable method of payment.
- In order to support the Local Authority to make payments the Provider shall:
- ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices and sufficiency tasks, as per the financial guidelines of the Local Authority. Failure to do so may result in penalty charges, inaccurate, delayed or suspended funding.
  - maintain accurate financial and non-financial records relating to funded entitlement places and supplementary funding 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.
  - The Local Authority is permitted by DfE to charge providers financial penalties when providing late or incomplete information. However, the Local Authority shall not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of funded 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. Decisions regarding charging will be made at the Provider Support Group. 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.
  - The Council will endeavour to ensure that none of the funding paid to childminders registered with an agency to deliver funded places is retained by the agency.

[See Annex G – Local Authority Terms – Payments and Funding](#)

## **12. COMPLIANCE AND AUDITS**

The Local Authority can carry out checks and/or audits on the Provider to ensure compliance with the requirements of delivering the funded entitlements, however, the local authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.

[See Annex H – Local Authority Terms – Compliance and Audits](#)

## **13. CHARGING PARENTS/CARERS**

- 13.1 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.
- 13.2 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 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 funded 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.

- 13.3 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.
- 13.4 The Local Authority shall not intervene where parents choose to purchase additional hours of provision or additional services, provided that this is not a condition of accessing the funded entitlement. The Provider shall be completely transparent with parents about any additional charges.
- 13.5 The Provider shall publish their admissions criteria and additional charge details 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.
- 13.6 The Provider can charge parents a deposit to secure their child's funded place but shall refund this element of the deposit 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).
- 13.7 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.
- 13.8 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.
- 13.9 Additional charges are permitted in the following 4 categories and should be made clear to parents in advance of accepting a funded place, being detailed on a separate information sheet provided as part of the acceptance terms of the funded place:
- a. Extra hours attended over and above the entitlement hours,
  - b. Meals and snacks,
  - c. Consumables such as nappies, suncream etc.
  - d. Additional services such as Forest Schools, yoga, drumming, other specific tuition (providers should give details of how often these things occur e.g. once a week etc.)
- 13.10 The Provider shall ensure that all parents complete and sign the parental declaration Form for each child, and the Provider is required to retain copies of all completed parent declaration forms (Annex B). 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) and according to NCC's data processing schedules.

[See Annex I – Local Authority Terms – Charging and Invoice example](#)

#### **14. TERMINATION OF AGREEMENT AND SUSPENSION OR WITHDRAWAL OF FUNDING**

- 14.1 The Local Authority aims to secure the best possible outcomes for children in Nottinghamshire. Suspension of registration or de-registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in suspension or withdrawal of funding and the termination of the Agreement

[See Annex J – Local Authority Terms – flowchart and termination of agreement and suspension or withdrawal of funding](#)

#### **15. APPEALS BY PROVIDERS**

- 15.1 A Provider may be denied approval to offer the funded entitlements or have their agreement terminated, funding withdrawn or suspended (in whole or part) in accordance with section 14 & Annex J. The Provider can appeal by referring the matter to the disputes resolution procedure at clause K7, starting from the escalation point in clause K7.1.4.

#### **16. COMPLAINTS PROCESS FOR PARENTS**

- 16.1 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

- 16.2 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.
- 16.3 The Local Authority's complaints procedure can be found here:  
[www.nottinghamshire.gov.uk/theCouncil/contact/comments/](http://www.nottinghamshire.gov.uk/theCouncil/contact/comments/).

## 17. COMPLAINTS PROCESS FOR PROVIDERS

- 17.1 Providers cannot complain about decisions made by the Council in relation to funding or this Agreement, however if they wish to complain about a service matter, they are invited in the first instance to contact the Early Years Strategic Manager in writing to [earlychildhoodservices@nottscc.gov.uk](mailto:earlychildhoodservices@nottscc.gov.uk).
- 17.2 If the issue cannot be resolved through discussion with the service, Providers are invited to make a formal complaint at <http://www.nottinghamshire.gov.uk/contact-and-complaints/complaints/complaint-comment-compliment>.
- 17.3 If Providers are unable to access the online complaints form they can make a complaint through the following routes:
- Telephone: 0300 500 80 80
  - Email: [complaints@nottscc.gov.uk](mailto:complaints@nottscc.gov.uk)
  - Write to: Complaints and Information Team, County Hall, West Bridgford, Nottingham, NG2 7QP.

## Nottinghamshire Early Years Provider Agreement Provider Declaration 2024-2027

please complete online at <https://consult.nottinghamshire.gov.uk/schools/90cf6b66>

If you are unable to complete online then please send your declaration to

Email: [earlychildhoodservices@nottscc.gov.uk](mailto:earlychildhoodservices@nottscc.gov.uk)

Address:

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

- a. 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 for the duration of this agreement. I understand that failure to do so could result in the termination of this agreement and subsequent withdrawal of early years funding, and removal from the Nottinghamshire register of funded Providers of Early Education.
- b. I agree to make a commitment to sharing and engaging with Notts Safeguarding, SEND training and pathways, including the local offer.

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

## Annex A – Local Authority Terms: Safeguarding

- A1. Further to paragraph 3.1.c, 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' 2023 guidance. In addition, the Provider shall:
- 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
  - identify a Deputy Safeguarding Lead in the event of the Safeguarding Lead being absent
  - make sure that training is available to all staff with updates in line with Nottinghamshire Safeguarding Children's Partnership (NSCP) requirements and in accordance with Nottinghamshire County Council's Safeguarding Training Pathway
  - make sure systems are in place for managing any allegations made against adults working with children
- A2. The Provider shall adhere to the Nottinghamshire Safeguarding Children's Partnership (NSCP) Safeguarding Children Procedures as detailed on the website: [Welcome to the Interagency Safeguarding Children Procedures \(proceduresonline.com\)](https://www.nottinghamshire.gov.uk/caring/childrenstrust/pathway-to-provision)
- A3. 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.
- A4. 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>
- A5. The Local Authority will use the early years and schools portals 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.
- A6. The provider must agree to make a commitment to sharing and engaging with Notts Safeguarding, SEND training and pathways, including the local offer. Click Link to [Notts Safeguarding Training Pathway](#)
- A7. There is an expectation that any supplementary funding received is communicated to setting managers if setting managers are not directly involved in claiming for funding or in receipt of remittance advices issued by NCC.

## Annex B – Eligibility & Information to parents

- B1. Full eligibility criteria can be found in Part E: Legal annex and other relevant information of [DFE Statutory Guidance Early education and childcare \(applies from 1 April 2024\)](#).
- B2. The relevant dates (in relation to the age criterion) and entitlement to funded hours are summarised in [Early-years-providers-2024-funding-and-childcare-entitlements](#),
- B3. Parents can find information about all entitlements on the Childcare Choices Website.
- B4. Parents can find childcare and early education provision through the Notts Help Yourself website. Providers are asked to include this information in their setting information on the Notts Help Yourself website <https://www.nottshelpyourself.org.uk> and are required to review and update their listing termly.
- B5. Funding applications should be supported by completion of a signed Parent Declaration form for each child which is to be held by all providers. The exception to this can be 3 or 4 year olds who are claiming universal hours only at schools or academies, as they are deemed to be 'on roll' at the school and will have completed a separate enrolment/admissions form at the school. All children claiming disadvantaged 2 year old funding, working parent entitlements or DAF should have a completed and signed parent declaration which is held at the setting or school. This form gives the school/setting parental consent to check eligibility for the non-universal entitlements.
- B6. All forms are available to download from <http://www.nottinghamshire.gov.uk/care/early-years-and-childcare/childcare-providers/free-childcare-providers-information>
- [Parental Declaration Form](#)

## Annex C – Eligibility checking service

- C1. 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:
- C2. 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 reporting facility is provided in line with DFE requirements to enable providers to see which children need to reconfirm their codes for continuation of funding.
- C3. 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 in the table below). The Local Authority shall provide a self service portal report for providers to identify where a parent has fallen out of eligibility and inform them of the grace period end date after the LA audit date below.

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

## Annex C – Eligibility checking service (continued)

- C4. The provider has a duty of care to parents to inform them as soon as possible if the extended funding cannot be claimed or will cease in the following circumstances:
- if the Provider Portal shows the ‘eligible from’ date on the code is not before 31<sup>st</sup> March, 31<sup>st</sup> August or 31<sup>st</sup> December prior to commencing a place in the following term, or
  - if the code has expired and the child is starting a new setting in the grace period where the extended hours cannot be used, or
  - if the grace period has expired, or
  - any other circumstance where the Local Authority has made the Provider aware that the child’s funding is less than they were expecting.
- C5. THE GRACE PERIOD** 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 local authority) or a First Tier Tribunal in the case of an appeal.
- C6. The Local Authority can use the Eligibility Checking Service (ECS) (see 5.6.f) 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.
- C7. 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](#)
- C8. The Local Authority shall provide the following arrangements for informing Providers of a child’s grace period: A self service report is made available for providers to run at any time naming children coming to the end of a grace period.

## Annex D – Local Authority Terms – Notice periods

### D NOTICE PERIODS

- D1. It is advisable for providers to remind parents at least 4 calendar weeks prior to the start of a new term, to give notice, if they wish to move their funded sessions to a new provider in the following term.
- D2. 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 calendar weeks' notice in respect of funded hours 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:
- a. a safeguarding concern
  - b. family moving house
  - c. change in child's primary carer
  - d. change in parental employment status i.e. new job/unemployment
  - e. health and safety concerns i.e. child with long term sickness/child protection
  - f. Deregistration of the Provider by Ofsted.
- D3. 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. If a provider wishes to specify a longer notice period than 4 calendar weeks, they should differentiate between notice periods for funded hours and non-funded hours in their contractual agreement with parents.

### Annex E – Local Authority Terms – DAF & Inclusion funding

- E1. [Disability Access Fund \(DAF\)](#) for all early years providers (including schools).
- a. Eligible children are those accessing their universal 15 hours entitlement and in receipt of Disability Living Allowance.
  - b. 4 year olds in primary reception classes are not eligible for DAF funding.
  - c. 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.
  - d. DAF can be claimed in addition to Early Years Inclusion Funding for eligible children.
  - e. Providers can use the funding to help with staffing costs, training, assessments and specialist equipment.

- f. Providers will be expected to report progress of children accessing the DAF each term.
- g. Providers will be expected to have evidence of expenditure for all DAF supplementary funding for audit purposes.

### E2. SEND Early Years Inclusion Fund – for Private, Voluntary and Independent (PVI) providers only.

- a. PVI providers may submit applications for a 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.
- b. Providers will be expected to report progress of children accessing the Inclusion Fund each term.
- c. Funding can be used in conjunction with DAF funding.
- d. Providers can apply for funding to help with staffing costs, training, assessments and specialist equipment.
- e. Providers will be expected to have evidence of expenditure for all Early Years Inclusion funding for audit purposes.

### Annex F – Local Authority Terms – Disadvantage

- F1. The Provider shall ensure that they obtain parent data and consent via the Parental Declaration form and submit via provider portal headcounts to enable NCC to identify children eligible for disadvantage and deprivation supplements, including EYPP.
- F2. Children eligible for EYPP are those children who meet the current economic criteria for free school meals and/or are looked after by the local authority, or who have left care through an adoption, special guardianship or child arrangements order.
- F3. Deprivation funding in Nottinghamshire is available to support PVI providers to engage in multi-agency planning around the needs of children known to social care, i.e. Child in need or a Child on a protection plan and Children who are looked after.
- F4. Providers will be expected to report progress of eligible children accessing the [Deprivation Fund](#) each term.
- F5. Providers will be expected to have evidence of expenditure for all Deprivation and EYPP supplementary funding.

## Annex G – Local Authority Terms – payments and funding

- G1. Payment Schedules are updated each financial year and are available to download from <http://www.nottinghamshire.gov.uk/care/early-years-and-childcare/childcare-providers/free-childcare-providers-information>
- G2. The provider must submit data by the closing date of a task set on the provider portal. Any payments may be withheld 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.
- (i) respond immediately to Local Authority queries in respect of such data (including any double claim queries)
  - (ii) Maintained and Academy schools should ensure that their schools census returns are complete and that they have included all children on the census for whom they are expecting funding. Academies are responsible for submitting their own data via Collect direct to DFE. The LA cannot submit or amend census data on an Academy's behalf.
  - (iii) ensure that any queries regarding payment of funding are raised during the term in which the query arises. The LA cannot guarantee to pay funding in a subsequent term if the provider has not made us aware of any omissions. Funding statement reports/funding dashboard of the provider portal should be checked by the provider during the term in which the funding is claimed.
  - (iv)
    - a. The Local Authority has established the process as shown in the table in Annex G1 to support payment and delivery of funded entitlements, Headcounts take place once per term with two amendment opportunities.
    - b. The data processing schedules are updated each financial year and includes information regarding how to use the Headcount Portal so that the Council can calculate payments to providers. [Data Processing Schedules](http://www.nottinghamshire.gov.uk/care/early-years-and-childcare/childcare-providers/free-childcare-providers-information) are available to download from <http://www.nottinghamshire.gov.uk/care/early-years-and-childcare/childcare-providers/free-childcare-providers-information>

## Annex G – Local Authority Terms – payments and funding (continued)

- c. To comply with DFE requirements that the LA makes monthly payments to PVI providers including childminders, there will be between 12 and 15 payments made during the year. Nottinghamshire has implemented payment processes so all providers can be paid monthly. 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. Providers may make a request in writing to the Local Authority if they require payments less frequently than monthly.
  - d. Maintained schools and academies will not be paid monthly, instead they will be paid using existing Schools Finance processes.
- G3. The parties shall use the following process for children receiving funded entitlement at multiple providers:
- a. The Provider shall submit a headcount return and sufficiency return via the Provider portal;
  - b. The Local Authority shall review the headcount return and resolve any double claims issues prior to payment;
  - c. The Provider shall retain copies of all parent declaration forms (Annex B) 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) in accordance with NCC's data processing schedules (G.2.iv.b.).
  - d. The parent declaration form (Annex B) also contains details of who the parent chooses as the main childcare provider for the purposes of the Disability Access Fund.

## Annex H – Local Authority Terms – compliance and audits

- H1. Each year the Local Authority will review a sample 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.
- H2. The Local Authority will undertake 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).
- H3. Generally 10 working days' notice will be given to providers of a compliance review.
- H4. Settings selected for a compliance visits will be identified from a combination of a random sample and a number of those who have come to the attention of the Council which could include, but is not limited to, the following reasons:
- a. Complaints from parents
  - b. Ofsted reports
  - c. RAG rating
  - d. Annual conversation visit
  - e. Non-signature of Provider Agreements
  - f. Late invoicing
  - g. Non-use of Portal
  - h. In receipt of other LA funding, i.e. supplementary funding
- H5. The Local Authority will not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.
- H6. The audit may include a site visit, to examine the following documentation, which providers should have available upon request. Documentation and actions shown in table H11.

## Annex H – Local Authority Terms – compliance and audits (continued)

- H7. 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. Failure to meet this will result in a referral to provider support (see flowchart in Annex J).
- H8. Findings from audits may result in Providers having to return funding to the Local Authority if it is found that payments have been made for children who are not accessing their full entitlements or where supplementary funding has not been used for the purpose it was intended.
- H9. The Council will ensure that providers are not penalised for short term absences of children, for example sickness, arriving late or leaving early, or a family emergency through withdrawing funding, but use discretion where absence is recurring or for extended periods taking into account the reason for the absence and the impact on the provider.
- H10. The Council will ensure that providers are not penalised through withdrawal of funding for short term closures of a setting, for example, as a result of local or national elections or damage to the premises. This also includes notifiable incidents to Ofsted – where a childminder cannot care for the children due to health. See [Childcare: significant events to notify Ofsted about](#) and also [People connected with Ofsted-registered childcare guidance](#) This will be reviewed on a case by case basis when ECS are notified by the provider/childminder.

Notifications should be sent to  
earlychildhoodservices@nottsc.gov.uk as well as Ofsted.

## **H11. Actions providers need to take to ensure audit compliance**

<u>Compliance audits</u>	
Actions to be taken by provider if any problem is identified during compliance audits.	
<b>Documentation item</b>	<b>Examples of Provider Action following audit</b>
I. Attendance registers and Signing In and Out Sheets for the agreed term (Autumn, Spring or Summer).	Ensure that registers in whatever form, accurately record attendance of children.
II. Signed parent declaration forms for every child for which the funding is claimed, for the agreed term (Autumn, Spring or Summer).	Provider to ensure a fully completed up to date parent declaration form is held for all funded children, including a signature to say that the DOB of the child has been checked (this can be a check as part of the provider's own admission/registration process, with a confirming counter signature on the parent declaration form). Forms can be amended if session times changed, as long as the change is initialled and dated.
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 child for which funding is claimed for the agreed term (Autumn, Spring or Summer).	Providers should hold a record of the 2yo funding code from NCC's application system, or hold a copy of a confirmation letter/email from another LA, or in the case of working families entitlement the code issued by HMRC (record on parent declaration form).
V. Current Insurance Certificate and Schedule, showing minimum levels of cover i.e. £10m employer and £5m public liability cover.	Provide copy if requested
VI. Documentation to support any short term absences (where applicable).	Keep a log or other record of the reasons given by parents for short term absences. Children are expected to attend most funded sessions claimed within a term. Funding should not be claimed for absent children whose parents are wanting to hold a place open, so a valid reason for absence is necessary. Providers should work with parents in a flexible way to facilitate their child's attendance when the current pattern of attendance is proving difficult; Providers should inform parents that funding is granted for children who attend and suggest an alternative pattern of provision e.g. reducing no. of sessions if parents find it difficult to send the child for a whole week.
VII. Staff rotas for any week of any term selected for scrutiny in the compliance audit.	Provide copy if requested
VIII. A copy of the fees/charges.	Provide copies if requested. Invoices and fees information should show funded hours as zero charge. Information regarding how any additional charges have been calculated should be made clear on invoices and/or fees sheet/website. Refer to clause 13.9.
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 all early years supplementary funding received during the period being reviewed.	Early Childhood Services will provide a form where settings can record evidence of expenditure which should be provided if requested.
XII. Evidence of staff qualifications.	Provide evidence if requested
XIII. Access to Policy and procedural documents for the provision.	Provide documents if requested



## Annex I – Local Authority Terms – Charging and Invoice examples

I.1 Invoices and information to parents should be clear and transparent regarding any additional service charges.

### Example:

*It is suggested that providers give information about their fees like any other service, e.g. getting a quote for a bathroom where a customer knows that all labour is included, and a particular type of bath, sink, vanity unit, taps etc. as standard. If a customer wants any extras they can expect to pay £x for those extras on top of the standard price. A customer would not agree to go ahead with a new bathroom if they did not know the price and what is included in that price.*

The same principle applies to extra services over and above the funded entitlement. Be clear about what your additional charges cover so that parents can make an informed choice before commencing the place.

Parents can expect the 15 or 30 hours to be funded including basic equipment, such as stationery, paints, toiletries etc., but can expect to pay for extras as detailed in the table in Annex I. If they don't want the extras, the provider should be able to provide options for alternatives to additional charges as in clause 13.2.

[guidance-for-ey-settings-who-wish-to-make-additional-charges](#)

[fees-and-invoices-guidance-for-providers-](#)

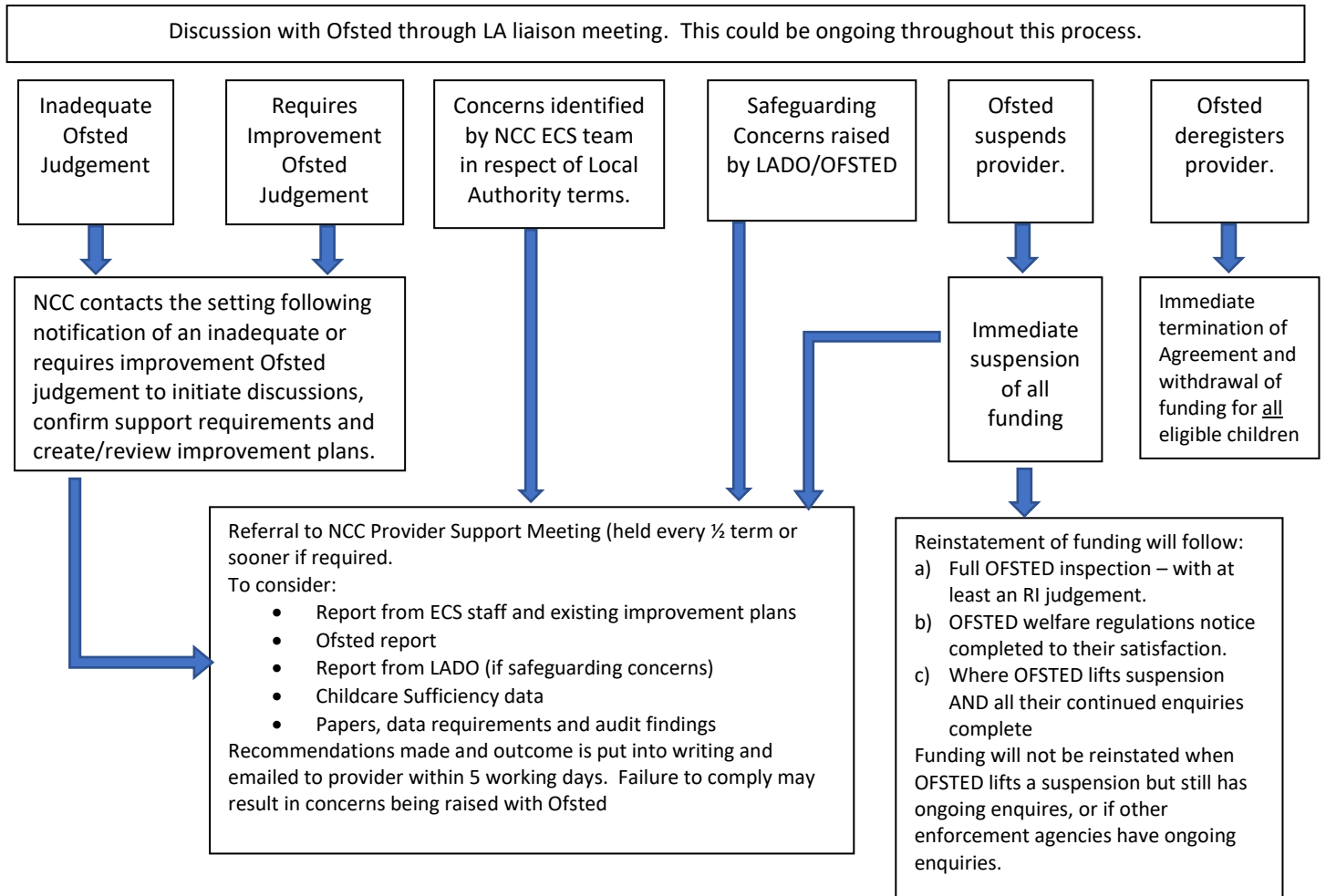
## Annex I – Local Authority Terms – Charging and Invoice examples (continued)

An invoice issued by a provider should ideally contain:

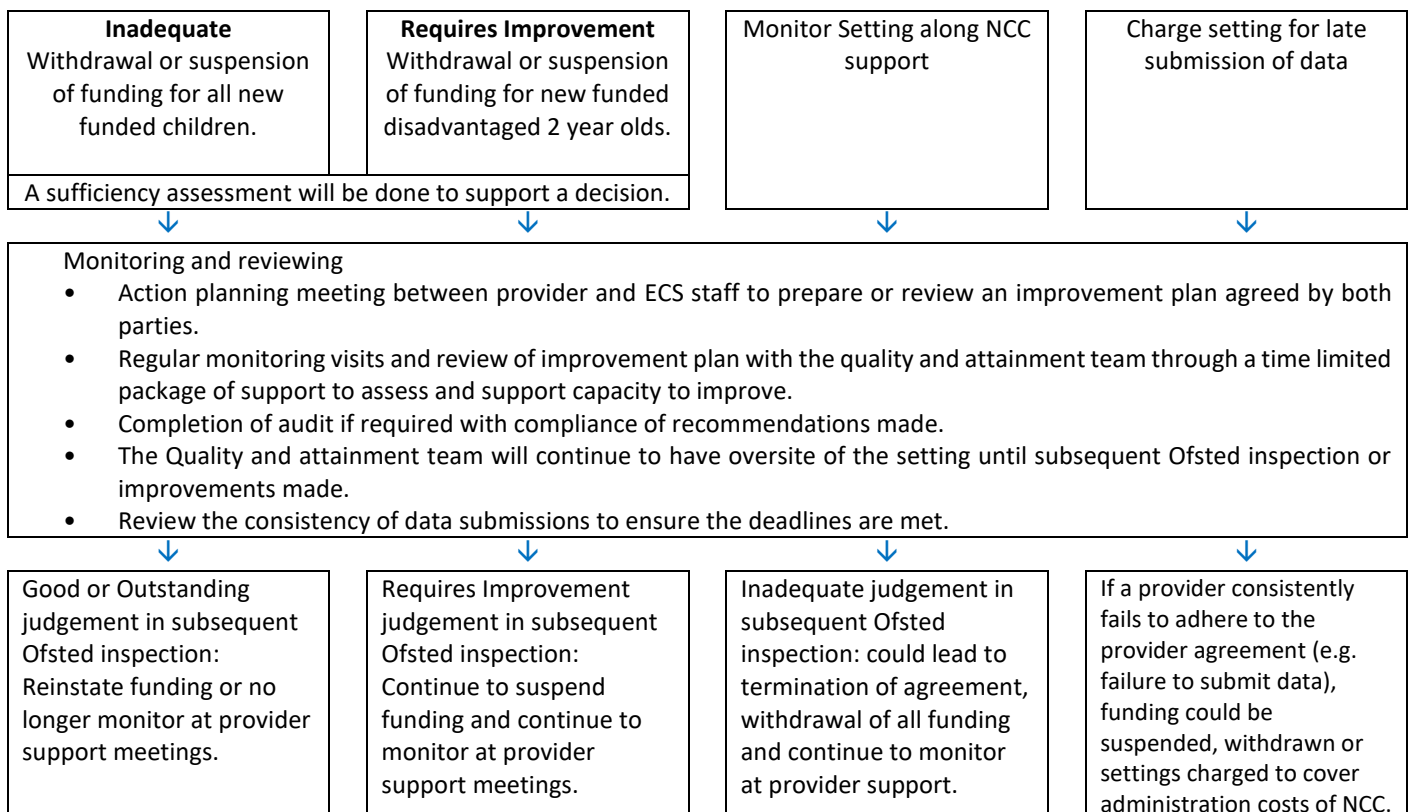
Invoice item	Example
Setting details	Name and address of setting
A clear indication that it is an invoice including date of issue in respect of either parent or child names	INVOICE 05/09/2024 Ms A Smith
The time period of the itemised charges	Childcare for period 5th – 30th September for 4 weeks
Show the funded hours as free or zero cost and how many hours of the entitlement are taken	<ul style="list-style-type: none"> <li>• 15 funded hours – £0</li> <li>• 30 funded hours stretched over 52 weeks = 22 hours per week funded</li> </ul> Cost £0
Type of additional service charge	8 extra sessions/lunch club sessions @ £5 per session (Tues/Thurs) Cost £40
Instruction on how to pay	BACS 00-00-00 12345678 Payment due by 15 <sup>th</sup> of each month
Either itemise additional service charges on the invoice, or  if charges on the invoice are not itemised, signpost to a separate sheet/website which shows the detail of how the additional charges are attributed.	<ul style="list-style-type: none"> <li>• Extra hours attended over and above the entitlement hours @ £x per hour/session</li> <li>• Meals and snacks £x per day or week</li> <li>• Consumables such as nappies, suncream £x per day or week</li> <li>• Additional services such as Forest Schools, yoga, drumming, other specific tuition etc. and how often they typically occur</li> </ul>
Settings can set daily rate of Additional Service Charge and apply it to all children, providing there is an accompanying description of what that service charge covers and what the alternative is if the parent does not want to buy the extras.	

**Annex J – Local authority terms – Flowchart: termination of agreement and suspension or withdrawal of funding**

**Nottinghamshire County Council Early Years Provider Agreement Decision Making Process (Early Education and Childcare, Statutory Guidance for Local Authorities, DfE)**



**Possible Outcomes following Provider Support meeting**



Ofsted judgement/action or other situation	Possible action in respect of funded children of all ages (with some exceptions for vulnerable 2yr olds where specifically stated)
Inadequate Ofsted judgement	Suspension of funding for <u>new children</u> .
	In exceptional cases, funding will only be suspended for existing vulnerable 2 year olds dependent on the detail contained within the Ofsted report, engagement of the provider in support offered by the LA and childcare sufficiency need.
	ECS will carry out a Sufficiency Audit
	<b>Funding will continue/be reinstated if any of the following can be evidenced</b>
	<p>Sufficiency audit indicates sufficiency need.</p> <p>Where the provider can evidence the following prior to the inadequate judgement, funding will continue for:</p> <ul style="list-style-type: none"> <li>• Children on waiting list who have paid a deposit, or</li> <li>• Children attending with a signed and dated parent declaration form, or</li> <li>• Children not previously funded who can be evidenced as already attending will be deemed an existing child.</li> </ul> <p>Evidence provided by setting that welfare requirements actions have been met. Provider support panel will confirm if what has been provided meets the requirements.</p>
Requires Improvement Ofsted judgement	<p>Funding is maintained for all children including new children with the exception of new funded vulnerable 2 year olds (unless sufficiency need).</p> <p>Working families entitlements will continue to be funded.</p>
Safeguarding concerns raised by LADO	<ul style="list-style-type: none"> <li>• No further action following LA investigation.</li> <li>• Ongoing monitoring and support.</li> <li>• Suspension of funding for all or new funded children.</li> <li>• Withdrawal of funding for all or new funded children.</li> </ul>
Ofsted suspension or continuing investigations by Ofsted (or other enforcement agencies)	Suspension of funding for all children
Ofsted deregistration	Withdrawal of funding for all children
Failure to submit data as specified in the Provider Agreement	Suspension of funding for all or <u>new</u> children
	Charging Early Years Providers who fail to submit data returns.

## Annex J – Local authority terms – termination of agreement and suspension or withdrawal of funding

- J.1 In accordance with regulation 7 of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 (2014 Regulations) this Agreement may be terminated and funding suspended or withdrawn by the Local Authority if:
- I. In the case of early years provision for eligible 2 year olds (as prescribed in regulation 3(2) of the 2014 Regulations) (other than provision by an early years childminder registered with an early years childminder agency), the overall effectiveness of the provision ceases to meet the grade of “good” or better in the most recent early years provision inspection report published in respect of the provision;
  - II. in the case of early years provision for eligible 3 year olds (as prescribed in regulation 3(3) of the 2014 Regulations) (other than provision by an early years childminder registered with an early years childminder agency) the overall effectiveness of the provision ceases to meet the grade of “requires improvement” or better in the most recent early years provision inspection report published in respect of the provision;
  - III. in the case of a childminder registered with an early years childminder agency, where the agency has notified the Local Authority that in the reasonable opinion of the agency, the provision by an early years childminder registered with the agency has ceased to be of satisfactory quality.

J.2 In accordance with regulation 37 of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (2016 Regulations) funding may be suspended or withdrawn and this Agreement may be terminated by the Local Authority if:

- J.2.1 in the case of early years provision (as prescribed in regulation 36(2)(a) of the 2016 Regulations) (other than provision by an early years childminder registered with an early years childminder agency), the overall effectiveness of the provision ceases to meet the grade of “requires improvement” or better in the most recent early years provision inspection report published in respect of the provision;
- J.2.2 in the case of early years provision (as prescribed in regulation 36(2)(b) of the 2016 Regulations (i.e. a provider who is yet to be graded) (other than provision by an early years childminder registered with an early years childminder agency), an early years provision inspection report is subsequently published in respect of the provision and the overall effectiveness of the provision is not awarded a grade of “requires improvement” or better and an early years inspection report has not yet been published in respect of that provision;
- J.2.3 in the case of a childminder registered with an early years childminder agency, where:
- J.2.3.1 the childminder ceases to meet the grade of “effective” in a published early years childminder agency inspection report; or
  - J.2.3.2 an early years childminder agency inspection report is published in respect of the agency and the childminder is not awarded a grade of “effective”; or
  - J.2.3.3 where the agency has notified the Local Authority that in the reasonable opinion of the agency, the provision by the childminder registered with the agency has ceased to be of satisfactory quality.

## Annex J – Local authority terms – termination of agreement and suspension or withdrawal of funding (continued)

- J.2.4 in the case of any early years provision, which:
- J.2.4.1 fails to correct any breaches of the financial requirements making reparation to parents/carers within 25 working days of notification by the Local Authority;
  - J.2.4.2 repeatedly breaches the financial requirements of the funding provided for the funded entitlement, as evidenced by the Early Years Data Officers and Technical Specialists;
  - J.2.4.3 fails to make reasonable adjustments in line with the Equality Act 2010, in order to meet the needs of disabled children;
  - J.2.4.4 is unable to evidence that all staff, including the designated person, have attended at least the Introduction to Safeguarding training (in line with Nottinghamshire Safeguarding Children Board requirements) and accessed regular refresher training (as a minimum every 3 years) with regard to safeguarding;
  - J.2.4.5 fails to complete required documentation, for example;
    - (i) EYFS Profile information;
    - (ii) Early Years Census (PVI/childminders); School Census (Schools and academies)
    - (iii) A development or action plan or equivalent to address issues raised in any Ofsted inspection report;
    - (iv) Headcount data;
    - (v) Provider (EEF) Agreement signed when required;
    - (vi) Evidence of expenditure of supplementary funding during audit visits;
    - (vii) Completed signed Parental Declaration forms during audit visits.

- J.3 Additionally, the Local Authority may (at its absolute discretion depending on the circumstances) terminate this agreement or withdraw all or part of the funding and or remove the Provider from the register of funded providers if the Provider:
- J.3.1 receives an inadequate Ofsted inspection judgement and the Local Authority considers (in its absolute discretion) that the Provider does not have either the capacity or the commitment to improve their Ofsted Rating;
  - J.3.2 receives a second inadequate inspection outcome which will result in a withdrawal of all funding;
  - J.3.3 fails to act on quality improvement guidance from Ofsted or the Local Authority over a 12 month period;
  - J.3.4 Is not meeting the independent school standard in relation to the spiritual, moral, social and cultural development of pupils;
  - J.3.5 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;
  - J.3.6 Or is promoting as fact views or theories which are contrary to established scientific or historical evidence and explanations.

J.4 Where the Provider is at risk of having funding withdrawn or suspended under this clause, the Council may (at its absolute discretion, taking into account the circumstances leading up to this point) apply the process set out in the flow chart above (and as further detailed in clauses J.5 to J.14 below):

## Annex J – Local authority terms – termination of agreement and suspension or withdrawal of funding (continued)

- J.5 The LA will have a range of options to consider for each setting that is referred to the Provider Support Group. Despite having some flexibility, the council adheres to Statutory Guidance which states that councils should 'secure alternative provision and withdraw funding from a provider (other than a local authority maintained school), as soon as is practicable, when Ofsted publish an inspection judgement of the provider of 'inadequate' or an inspection judgement of a childminder agency of 'not effective' " (DfE 2018). The options available to the council vary depending on the age of the child and nature of referral to the Provider Support Group as follows:
- J.6 The Council will not withdraw funding from providers or from childminders registered with an agency until the provider's or childminder agency's Ofsted inspection judgement is published.
- J.7 The Council will determine an appropriate timeframe for withdrawing funding depending on the issues raised and discussed at the Provider Support Group. When withdrawing funding the Council will consider the continuity of care for children who are already receiving their funded hours at a provider or with an agency registered childminder and Ofsted monitoring information about the provider or agency.
- J.8 The Council will not fund childminders registered with a childminder agency where the agency has indicated to the local authority that the childminder is not of the appropriate quality unless it is necessary to do so to ensure sufficiency of accessible places or support parental choice. The Council will also consider any information provided by a childminder agency about the childminder registered with them and the childminder's premises.
- J.9 The Council will consider any information published by Ofsted about a provider or childminder agency including the recent history about childcare provision by a particular provider or agency or childcare provision at a particular address. This may include, for example, where the local authority has concerns that a provider judged "inadequate" by Ofsted may have re-registered their setting with Ofsted to avoid making the quality improvements identified by Ofsted.
- J.10 The Council will consider complaints and allegations made by parents to the Council and will investigate these accordingly
- J.11 The Council reserves the right to withdraw or suspend any or all funding without first applying the process detailed in clause J.4 for example following a suspension from Ofsted and the council is required to act swiftly.
- J.12 Following a decision made by the Council under clause 14 the Provider shall have the right to appeal against the decision(s) by using the procedure referenced in clause 14.1.
- J.13 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.
- J.14 Re-application from Providers in reference to funding being reinstated will not be considered until all required actions and conditions of both clauses 14 and 15 have been fully carried out.

## Annex K– other local authority terms

- K1 INSURANCE**
- K1.1 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 and employer's liability 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.
- K1.2 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under the agreement.
- K2. COMPLIANCE WITH LAW**
- K2.1 The Local Authority and the Provider shall comply with all Laws.
- K2.2 The following frameworks and legislation underpin this agreement:
- (i) Early Education and childcare, Statutory guidance for Local Authorities
  - (ii) Childcare Act 2006
  - (iii) Childcare Act 2016
  - (iv) Equality Act 2010
  - (v) School Admissions Code (updated) 2021
  - (vi) Statutory Framework for the Early Years Foundation Stage
  - (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
  - (x) Children and Families Act, 2014
  - (xi) Data Protection Legislation as detailed further in clause K5.
- K3. CHANGES IN LAW**
- K3.1 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.
- K4. FREEDOM OF INFORMATION**
- K4.1 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.
- K5. DATA PROTECTION**
- K5.1 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.
- K6. CONFIDENTIALITY**
- K6.1 Subject to clause K6.2, the parties shall keep confidential all matters relating to this agreement and shall use all reasonable endeavours to prevent their

<p>Authorised Representative from making any disclosure to any person of any matters relating hereto.</p> <p>K6.2 Clause K6.1 shall not apply to any disclosure of information:</p> <ul style="list-style-type: none"> <li>(i) required by any Law, provided that clause K4.1 shall apply to any disclosures required under the Freedom of Information Act or the Environmental Information Regulations;</li> <li>(ii) that is reasonably required by persons engaged by a party in the performance of such party's obligations under this agreement;</li> <li>(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 K6.1;</li> <li>(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;</li> <li>(v) to enable a determination to be made under clause K7;</li> <li>(vi) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;</li> <li>(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</li> </ul>
<p>K7. <b>DISPUTES</b></p> <p>K7.1 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:</p> <p>K7.1.1 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;</p> <p>K7.1.2 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</p> <p>K7.1.3 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 Commissioning and Resources within the Local Authority and the Chief Executive of the Provider who shall attempt in good faith to resolve it; and</p> <p>K7.1.4 If the Service Director for the Children and Families Department 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.</p> <p>K7.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute.</p>

<p>K7.3 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.</p>
<p>K8. <b>DEFINITIONS AND INTERPRETATION</b></p> <p>K8.1 The definitions and rules of interpretation in this clause apply in this agreement.</p> <ul style="list-style-type: none"> <li>(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.</li> <li>(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.</li> <li>(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.</li> </ul> <p>K8.2 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.</p>