



Dated 1 January 2015

HAMPSHIRE COUNTY COUNCIL

EARLY YEARS EDUCATION PAYMENT FUNDING TERMS AND CONDITIONS

FINAL VERSION – 1.0

Schedules:

1. Delivery of Free Early Years Education
2. Early Years Education Funding Rate and Payment Schedule
3. Privacy Notice
4. Requirement of Early Years Education Payment
5. Procedure to Withdraw/Suspend Early Years Education Payment
6. Information for parents/carers on the Provider Special Educational Needs and Disabilities (SEND) Local Offer
7. Early Education and Childcare - Complaints Procedure

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PARTIES

- (1) **HAMPSHIRE COUNTY COUNCIL** of, The Castle, Winchester, Hampshire SO23 8UJ (the '**Funder**').
- (2) The Approved Early Years Education Provider (the '**Provider**').

BACKGROUND

- (A) The Funder has agreed to pay the Early Years Education Payment to the Provider to assist it in carrying out the Free Early Years Provision.
- (B) This Document sets out the terms and conditions on which the Early Years Education Payment is made by the Funder to the Provider.
- (C) These terms and conditions are intended to ensure that the Early Years Education Payment is used for the purpose for which it is awarded.

AGREED TERMS

1. DEFINITION AND INTERPRETATION

In these Terms and Conditions the following terms shall have the following meanings:

Agreement: means, this document together with any schedule attached. The Schedules form part of the Terms, any reference to the Early Years Payment Funding Terms and Conditions includes the Schedules. If there is inconsistency between any of the clauses of this document and the Schedules, the provisions in the Schedules shall prevail.

Commencement Date: 1 January 2015

Compliance Review: means the review undertaken by the Council to ensure that early years education is delivered in accordance with these terms and conditions. <http://www3.hants.gov.uk/childrens-services/childcare/providers/eye-eyeff.htm>

Deprivation Funding: means the element of Early Years Single Funding Formula (EYSFF) funding applied to claimed children where a child's home address is from an area of identified deprivation as indicated by the Index of Deprivation Affecting Child Index (IDACI).

DfE Eligibility Criteria for two year olds: means the criteria used to determine eligibility for a funded 2 year old place as described by DfE and published on the SfYC webpages. <http://www3.hants.gov.uk/childrens-services/childcare/providers/eye-eyeff/2yo-offer.htm>

Early Years Foundation Stage (EYFS): means the statutory framework for the delivery of Early Years Education.

Early Years Education Payment: means the hourly rate as determined by the Early Years Single Funding Formula (EYSFF) to be paid to the Provider in accordance with these terms and conditions.

Early Years Education Payment Period: means the period for which the Early Years Education Payment is awarded.

Early Years Single Funding Formula (EYSFF): The Council's mechanism to determine the hourly rate of the early year funding payment as defined by the Early Years Education and Childcare Statutory Guidance for local authorities published by the Department for Education.

External Team Around the Setting (ETAS): means the meeting of the Provider and representatives of SFYC to review, discuss and "action plan" matters of quality improvement and/or other issues/concern as defined by OFSTED or in compliance with these terms and conditions.

Early Years Education (EYE) Manager: means the individual who has been nominated to represent the Funder.

Early Years Pupil Premium (EYPP): means additional funding expected to be introduced in April 2015 to support disadvantaged children receiving their free 3 year old or 4 year old EYE entitlement.

Free Early Years Provision: means the delivery of Early Years Education free of charge described in 0.

Funder: means Hampshire County Council (the Council) through its representatives of Services for Young Children

Funding: means the Early Years Education Payment provided by Hampshire County Council to the Provider after accepting the Provider's headcount claim for the relevant period.

Fundamental British values: means democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. The promotion of fundamental British values will be reflected in the EYFS and exemplified in an age-appropriate way through practice guidance.

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

Headcount: means the prescribed headcount date and process used to claim early years education funding by the Provider in order to receive the payment of Funding. Claims are made by hard copy form or online data entry

Improvement Support Programme: means the Council's published development and learning support to Providers who receive

“inadequate” or “requires improvement” outcomes from their latest OFSTED inspection.

Local Development Team (LDT): means the Services for Young Children local support team of SFYC Officers and Commissioned Services. One of eight teams serving Basingstoke, Eastleigh and Winchester, East Hants, Gosport and Fareham, Hart and Rushmoor, Havant, New Forest and Test Valley.

OFSTED: means Office for Standards in Education or independent inspection body approved by the Secretary of State.

Maintained Provision: means a local authority school with a nursery unit, a local authority nursery school or local authority school.

Privacy Notice: means the required notice from the Funder that Providers display to inform parents of the purpose for data collection and how the Funder uses the information provided; and the notice required to be given to staff to inform them of the purpose of data collection for the EYSFF.

Prohibited Act: means:

- (a) offering, giving or agreeing to give to any servant of the Funder any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance under these terms and conditions or any other contract with the Funder; or
 - (ii) showing or not showing favour or disfavour to any person in relation to these terms and conditions or any other contract with the Funder;
- (b) entering into this Agreement or any other contract with the Funder where a commission has been paid or has been agreed to be paid by the Provider or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Funder;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Funder; or

- (d) defrauding or attempting to defraud or conspiring to defraud the Funder.

Provider: means the early years and childcare organisation who has been accepted by the Funder as an approved Early Years Education Provider and issued with a Unique Reference Number to enable Early Years Education Funding payment to be made. A provider will be allocated with a Unique Reference Number if they are approved and are one of the following:

- (a) an early years provider other than a childminder registered on the OFSTED Early Years Register; or
- (b) a childminder registered on the OFSTED Early Years Register; or
- (c) a childminder registered with a childminder agency which is registered with OFSTED¹; or
- (d) a childminder agency which is registered with OFSTED¹; or
- (e) a school taking children aged three² and over and therefore exempt from registration with OFSTED as an early years provider.

SEND Local Offer: means the Provider's published information about services available for children and young people from birth to 25 who have special educational needs and/or disabilities (SEND)

Services for Young Children (SFYC): means the section of the Council's Children's Services Department whose work aims to raise the quality of provision and improve outcomes for young children through a range of services for early years and childcare Providers and their families/carers.

Standard offer: means offering the early years education entitlement of up to 15 hours per week over any 38 weeks of the year. There is no requirement for Providers to deliver early years education places in line with Hampshire's maintained school term dates.

Stretched offer: means offering the early years education entitlement of less than 15 hours per week and over more than 38 weeks.

Terms and Conditions: means this document together with any schedule attached. The Schedules form part of the Terms, any

¹ It will be determined and agreed locally whether childminders registered with a childminder agency are funded directly or through the childminder agency.

² Rising 3's are children who are registered pupils at a school and have not reached the age of three, but will do so before the end of their first term at the school. There are three cut off dates for the end of a school term: 31 August, 31 December and 31 March. Schools are currently required to register provision for 2 year olds who are not rising threes separately with Ofsted.

reference to the Early Years Education Payment Funding Terms and Conditions includes the Schedules.

2 Year Old Offer: The free early years education entitlement for children aged 2 who meet the Department for Education (DfE) published Eligibility Criteria and have been approved by the Funder as eligible.

2. PURPOSE AND USE OF THE EARLY YEARS EDUCATION PAYMENT

- 2.1. The Provider shall use the Early Years Education Payment for the delivery of the Free Early Years Provision and in accordance with the terms and conditions set out in this document.
- 2.2. The Provider shall not make any significant change to the Free Early Years provision which may affect the Funding, or its compliance with the Terms and Conditions of this Agreement without the Funder's prior written agreement. In the event of any liabilities arising at the closure, removal, or suspension of the Free Early Years provision, including (but not limited to) any redundancy liabilities for staff employed by the Provider to deliver the Free Early Years provision, these liabilities must be managed and paid for by the Provider through other resources available to the Provider and not through the Early Years Education funding.
- 2.3. Providers in receipt of deprivation funding that has been applied to the Early Years Education Payment must be able to demonstrate when requested how this funding was used. The types of expenditure activity that it could be used are, for example the following, although this list is not, an exhaustive list:
 - (a) staffing to support individual children;
 - (b) staffing to support dialogue and discussion with parents;
 - (c) resources to support individual children;
 - (d) individual staff training to support an area of need identified for one or more children at the Provider – i.e. – attachment, identified SEN need, toileting, child development, speech delay;
 - (e) whole staff training to meet a broad need as identified for a number of vulnerable children – i.e. attachment;
 - (f) provision of external specialist support;
 - (g) staff release to liaise with specialist provision or other professional team or support agency;
 - (h) staff release to support childcare voucher and working tax credit claiming;
 - (i) research materials for staff development;

- (j) provision for outdoor resources;
- (k) transition activities – staffing costs to support activities taking place;
- (l) focussed activities or interventions for individuals and groups related to priority needs – such as service families needs, speech and language;
- (m) meals and additional snacks.

3. EARLY YEARS EDUCATION PAYMENTS

- 3.1. The Early Years Education Payment funding hourly rate will be calculated according to the Funder's published Early Years Single Funding Formula (Schedule 2).
- 3.2. Subject to clause 11, the Funder shall pay the Early Years Education Payment to the Provider [in three instalments] on approval of submission and approval of an Early Years Education Payment claim in accordance with Schedule 2.
- 3.3. No Early Years Education Payment shall be paid unless and until the Funder is satisfied that such payment will be used for the approved expenditure in the delivery of the Free Early Years Provision.
- 3.4. The Early Years Education Payment shall be paid into a bank account in the name of the Provider which must be an ordinary business bank account. (In the case of a sole trader or partnership the bank account it is recommended the bank account be separate from their personal bank account/s)³.
- 3.5. The Provider shall repay to the Funder any money incorrectly paid to it either as a result of an administrative error or otherwise within 10 working days. This includes (but is not limited to) situations where either an incorrect sum of money has been paid or where Early Years Education Payment monies have been paid in error before all conditions attaching to the Early Years Education Payment have been complied with by the Provider.
- 3.6. The Provider shall repay to the Funder within 20 working days (and without the requirement that the Funder demands such payment first) any Early Years Education Payment monies for children claimed should

³ It is good practice for any business to have a separate bank account for transactions that occur in delivering a particular service/business activity. Where a business account is not available, such as through an independent childminder or a childminder of a childminder agency or a sole trader using their personal bank account, the provider must understand that for any audit purposes it is the personal bank account that will need to be reviewed by the Funder.

the Provider cease trading, be suspended or the agreement terminated during a funding period.

- 3.7. When a child leaves mid funding period, the Provider must calculate balance remaining of the funding for the child from the day the child leaves to the end of the claimed funding period. The Provider when requested to do so, must within 20 days transfer the remaining balance of claimed funding (for the leaving child) to another approved Early Years Education. The Provider must use their Early Years Education Payment hourly rate for the calculation and not that of the new Provider. The Provider must not discount/or reduce in anyway the amount of remaining balance of the funding period to be transferred through such items as notice periods, or other administration fees.
- 3.8. The Provider should not retain Funding for children who cease to attend their setting. If funding has not been claimed by another Provider by the end of the funding period then these funds should be paid back to the Funder.
- 3.9. If the Provider receiving funding is a childminder agency, the full amount of the EYE funding paid to the childminder agency by the Funder must be passed to the childminders delivering the early education places.
- 3.10. Where a child moves mid funding period to a Maintained Provision the Provider must inform the Funder within 20 days of the date the child left the Provider. The Funder will invoice the Provider to return any calculated Funding balance remaining for the child.
- 3.11. Where a child moves mid funding period from a Maintained Provision to a non maintained Provider, the Provider must make an “in period” claim for the child and is not required to seek the Funding balance directly from the maintained provision.
- 3.12. The Provider must ensure that children are not prevented from accessing the free hours claimed. Where a Provider considers there is a justified reason for such exclusion, then, the Provider must first seek agreement from the Funder before any exclusion from the EYE hours.

4. ACCOUNTS AND RECORDS

- 4.1. The Early Years Education Payment shall be shown separately in the Provider's accounts and records.

- 4.2. The Provider shall keep accurate and up-to-date accounts and records of the receipt and expenditure of the Early Years Education Funding Payment received.
- 4.3. The Provider shall keep all invoices, receipts, and accounts and any other relevant documents relating to the claiming and expenditure of the Early Years Education Funding Payment for a period of at least six years following receipt of any Early Years Education Funding Payment to which they relate. These should include claiming and expenditure of EYE funding for any child attending the provider at any time during any funding period. The Funder shall have the right to review, at the Funder's reasonable request, the Provider's accounts and records that relate to the expenditure of the Early Years Education Funding Payment and shall have the right to take copies of such accounts and records.
- 4.4. The Provider shall comply and facilitate the Funder's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Funder.

5. MONITORING AND REPORTING

- 5.1. The Funder may monitor the Provider as follows for example, but not an exhaustive list, in the following ways:
 - (a) Routine sample basis of 10% of provision;
 - (b) Checks and assessment of claims for funding;
 - (c) Early Years Single Funding Formula data collection;
 - (d) New Provider/re registration processes;
 - (e) Parental complaints.
- 5.2. The Provider shall on request provide the Funder, with such further information, explanations and documents as the Funder may reasonably require in order for it to establish that the Early Years Education Payment has been used for the purpose it has been provided for and in accordance with these terms and conditions.
- 5.3. The Provider shall permit any person authorised by the Funder such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Provider's fulfilment of these Terms and Conditions and shall, if so requested, provide the relevant oral or written information required.
- 5.4. The Provider shall permit any person authorised by the Funder for the purpose of monitoring and reporting to visit the Provider at any time

during the period of the agreement to monitor the delivery of the Free Early Years Provision.

- 5.5. The provider must provide information to the Funder when requested, including accurate data to support the Headcount and claim and to determine the early years single funding formula: including times available to parents, scale of fees and charges, sample invoice, early years education parent forms, evidence of registered children and their attendance record, annual census, audited accounts, staff qualifications and training records.

6. ACKNOWLEDGEMENT AND PUBLICITY

- 6.1. The Provider shall acknowledge the Early Years Education Payment in its annual report and accounts, including an acknowledgement of the Funder as the source of the Early Years Education Payment.
- 6.2. The Provider must provide clear and transparent invoicing to parents that clearly shows the hours of Free Early Years Education separately from any chargeable hours and/or other chargeable services agreed with the parent for each invoice period.
- 6.3. The Provider must publish clear information on how the Free Early Years Education is delivered in the setting, as informed to the Funder through the EYSFF process. This must be published in the Provider's prospectus/contract documentation, included in any Provider website or appropriate publication and Hampshire County Council's Family Information Directory. The Provider must inform parents of their child's entitlement and how it can be taken up and how they can engage in the delivery of improved outcomes for their child. Any changes to the delivery of the EYE must be reported to, and agreed by, the Funder prior to any implementation.
- 6.4. The Provider must ensure its published information is clear about fees for any additional hours the parent may wish to have and/or charges for additional services e.g. meals, non Early Years Education services (such as ballet/languages/swimming etc., which must be delivered outside of the Early Years Education times).
- 6.5. The Provider shall acknowledge the support of the Funder in any materials that refer to the Free Early Years Provision and in any written or public presentations about the Free Early Years Provision. Such acknowledgements (where appropriate or as requested by the Funder) shall include the Funder's name and logo (or any future name or logo adopted by the Funder) using the templates provided by the Funder from time to time.

- 6.6. The Provider shall comply with all reasonable requests from the Funder to facilitate visits, provide reports, statistics, photographs and case studies relating to the Free Early Years Provision.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. The Funder and the Provider agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the Funder or the Provider before the Commencement Date or developed by either party during the Early Years Education Payment Period, shall remain the property of that party.
- 7.2. Where the Funder has provided the Provider with any of its Intellectual Property Rights for use in connection with the Free Early Years Provision (including without limitation its name and logo), the Provider shall, on termination of this Agreement, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by the Funder.

8. CONFIDENTIALITY

- 8.1. Subject to clause 9 (Freedom of Information), each party shall during the term of this Agreement and thereafter business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.
- 8.2. The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to business, technical or commercial information which:
- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
 - (b) is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
 - (c) is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the

same to the receiving party without breach of the obligations owed by that party to the disclosing party.

9. FREEDOM OF INFORMATION

- 9.1. The Provider acknowledges that the Funder is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 and shall assist and co-operate with the Funder (at the Provider's expense) to enable the Funder to comply with these information disclosure requirements.
- 9.2. The Provider is required:
- (a) if in receipt of a FOI request, transfer the request for information to the Funder as soon as practicable after receipt and in any event within [two] Working Days of receiving a request for information;
 - (b) to provide the Funder with a copy of all information in its possession or power in the form that the Funder requires within [five] working days (or such other period as the Funder may specify) of the Funder requesting that information; and
 - (c) to provide all necessary assistance as reasonably requested by the Funder to enable the Funder to respond to a request for information within the time for compliance set out in this clause 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004;
 - (d) to understand that any information provided by the Provider to the Funder through payment process for early years education or other funding and other data collection activities or through correspondence or other media are also subject to Freedom of Information legislation.
- 9.3. The Funder shall be responsible for determining at its absolute discretion whether the information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004;
 - (b) is to be disclosed in response to a request for information, and in no event shall the Provider respond directly to a request for information unless expressly authorised to do so by the Funder.
- 9.4. In no event shall the Provider respond directly to a request for information unless expressly authorised to do so by the Funder.
- 9.5. The Provider acknowledges that the Funder may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice

on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose information:

- (a) without consulting with the Provider; or
- (b) following consultation with the Provider and having taken its views into account,

provided always that where clause 9.5(b) applies the Funder shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.

- 9.6. The Provider shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Funder to inspect such records as may be requested from time to time.

10. DATA PROTECTION

- 10.1. The Provider shall (and shall procure that any of its staff involved in connection with the activities under the Agreement shall) comply with any notification requirements under the Data Protection Act 1998 (**DPA**) and both Parties will duly observe all their obligations under the DPA, which arise in connection with the Agreement.
- 10.2. Provider must publish and bring to the attention of users of the Free Early Years Provision the "privacy notice" as set out in Schedule 3.

11. WITHHOLDING, SUSPENDING AND REPAYMENT OF EARLY YEARS EDUCATION PAYMENT

- 11.1. The Funder's intention is that the Early Years Education Payment will be paid to the Provider in full. However, without prejudice to the Funder's other rights and remedies, the Funder may at its discretion, invoke the process within Schedule 5 of these Terms, or withhold or suspend all or part of the payment of the Early Years Education Payment and/or require repayment of all or part of the Early Years Education Payment if:
- (a) the Provider does not sign the Early Years Education Funding acceptance document by the required time, or date requested by the Funder, and in any event, prior to any Funding payments being made;

- (b) the Provider does not sign Headcount Forms prior to receiving Early Years Education Payments;
- (c) the Provider makes a claim through the on-line processes but does not accept the on-line declaration confirming acceptance of these terms and conditions;
- (d) the Provider uses the Early Years Education Payment for other unapproved purposes, and, or not in accordance with these Terms and Conditions;
- (e) the Provider submits incomplete Headcount forms/in period claim forms or EYSFF data returns, even when this is in error;
- (f) the Provider has not made satisfactory progress with the delivery of the Free Early Years Provision as defined within the OFSTED regulatory inspection outcome and within the prescribed timeframe for improvement;
- (g) the Provider received over a period of time any OFSTED outcome which is either “Inadequate”, “Requires Improvement” or Satisfactory and which demonstrates that they have not made satisfactory progress during that period;
- (h) the Provider obtains funding from a third party which, in the reasonable opinion of the Funder, undertakes activities that are likely to bring the reputation of the Free Early Years Provision or the Funder into disrepute;
- (i) the Provider provides the Funder with any misleading or inaccurate information;
- (j) the Provider commits or has committed a Prohibited Act;
- (k) any member of the governing body, employee or volunteer of the Provider has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Free Early Years Provision or (b) taken any actions which, in the reasonable opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
- (l) the Provider ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (m) the Provider becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or

- (n) the Provider fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure, which the Provider must rectify.
- 11.2. Wherever under the Agreement any sum of money is recoverable from or payable by the Provider (including any sum that the Provider is liable to pay to the Funder in respect of any breach of the Agreement), the Funder may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Provider.
- 11.3. The Provider shall make any payments due to the Funder without any deduction whether by way of set-off, lien, counterclaim, discount, abatement or otherwise.
- 11.4. The Funder may suspend or withhold Early Years Education Payments should the Provider be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Free Early Years Provision or compliance with this Agreement. The Provider shall notify the Funder as soon as possible and without delay of any such circumstances affecting financial stability.

12. TERMINATION

- 12.1. The Funder may terminate this Agreement and any Early Years Education Funding Payments as soon as it is practicable, by giving the Provider written notice, under the relevant circumstances and in particular:
- (a) the Secretary of State for Education advises Hampshire County Council to do so; or
 - (b) the registration with OFSTED is withdrawn; or
 - (c) the Provider cannot offer the full entitlement of 570 hours for eligible children (other than through lack of vacancies); or
 - (d) where OFSTED rates the provision to be less than “Good” or “Outstanding” and the Provider does not co-operate and commit to working with Hampshire County Council to effect the necessary improvement; or
 - (e) the Provider does not address the local authority safeguarding requirements to ensure that children are kept safe;
 - (f) the Provider ceases to meet the requirements outlined in this agreement.
- 12.2. 12.1 (a) and (b) will lead to immediate suspension from the scheme and suspension from the approved Providers. Ultimate removal from

the scheme will be determined regarding the reasons made by DfE or OFSTED.

- 12.3. 12.1 (c) (d) (e) (f) (g) (h) will be considered as part of the Funder's procedure for removal or suspension of Providers from the Directory of Providers unless there is any legal obligation for the Funder to suspend or remove the Provider from the approved list then this would be done with immediate effect.

13. ANTI-DISCRIMINATION

- 13.1. The Provider shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.
- 13.2. The Provider shall take all reasonable steps to secure the observance of clause 13.1 by all servants, employees or agents of the Provider and all suppliers and sub-contractors engaged on the Free Early Years Provision.

14. HUMAN RIGHTS

- 14.1. The Provider shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Provider were a public body (as defined in the Human Rights Act 1998).
- 14.2. The Provider shall undertake, or refrain from undertaking, such acts as the Funder requests so as to enable the Funder to comply with its obligations under the Human Rights Act 1998.

15. LIMITATION OF LIABILITY

- 15.1. The Funder accepts no liability for any consequences, whether direct or indirect, that may come about from the Provider running the Free Early Years Provision, the use of the Early Years Education Payment or from withdrawal of the Early Years Education Payment. The Provider shall indemnify and hold harmless the Funder, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Provider in relation to the Free Early Years Provision, the non-fulfilment of obligations of the Provider under this Agreement or its obligations to third parties.

- 15.2. Subject to clause 15.1, the Funder's liability under this Agreement is limited to the payment of the Early Years Education Payment.
- 15.3. Nothing in this Agreement shall limit or exclude each party's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; and
 - (b) fraud or fraudulent misrepresentation.

16. WARRANTIES

The Provider warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to deliver the Free Early Years Provision (assuming due receipt of the Early Years Education Payment);
- (b) it has not committed, nor shall it commit, any Prohibited Act;
- (c) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Funder immediately of any significant departure from such legislation, codes or recommendations;
- (d) it shall comply with the requirements of the Health and Safety at Work etc., Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Free Early Years Provision;
- (e) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (f) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (g) all financial and other information concerning the Provider which has been disclosed to the Funder is to the best of its knowledge and belief, true and accurate;
- (h) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Early Years Education Payment;
- (i) has disclosed all relevant information to the Funder in order for the Funder to admit the provider to the Early Years Education Payment funding scheme and for the Provider to be added to the directory of registered providers of Early Years Education; and

- (j) since the date of its last accounts, there has been no material change in its financial position or prospects.

17. INSURANCE

17.1. The Provider shall effect and maintain with a reputable insurance company a policy or policies 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 (the **Required Insurances**).

17.2. The Required Insurances referred to above include (but are not limited to):

- (a) public liability insurance with a limit of indemnity of not less than **[five] million** pounds **[(£5,000,000)]** in relation to any one claim or series of claims arising from the Service; and
- (b) employer's liability insurance with a limit of indemnity of not less than **[ten] million** pounds **[(£10,000,000)]** in relation to any one claim or series of claims arising from the Service; and
- (c) Professional indemnity insurance with a limit of indemnity of not less than **[one] hundred thousand** pounds **[(£100,000)]** in relation to any one claim or series of claims arising from the Service.

The Provider shall (on request) supply to the Funder a copy of such insurance policies and evidence that the relevant premiums have been paid.

18. DURATION

18.1. Except where otherwise specified, the terms of this Agreement shall apply from the date of this agreement and remain in place unless Schedule 5 has necessitated the withdrawal of the Provider from the List of Approved Providers and/or the agreement is required to be terminated under the terms outlined in section 18 of this Agreement.

18.2. Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

19. ASSIGNMENT

The Provider may not, without the prior written consent of the Funder, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as

contemplated as part of the Free Early Years Provision, transfer or pay to any other person any part of the Early Years Education Payment.

20. WAIVER

No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

21. NOTICES

All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

22. DISPUTE RESOLUTION

- 22.1. In the event of any complaint or dispute (which does not relate to the Funder's right to withhold funds or terminate) arising between the parties to this Agreement in relation to this Agreement the matter must first be referred for resolution to the Service Manager Childcare and Business Support or any other individual nominated by the Funder from time to time.
- 22.2. Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Service Manager Childcare and Business Support or other nominated individual, as the case may be, either party may refer the matter to the Head of Services for Young Children of the Council and the [Chair OR Chief Executive] of the Provider with an instruction to attempt to resolve the dispute by agreement within 28 days, or such other period as may be mutually agreed by the parties.
- 22.3. In the absence of agreement under clause 23.1, the parties may seek to resolve the matter through mediation under the CEDR (Centre for Effective Dispute Resolution) Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

23. NO PARTNERSHIP OR AGENCY

This Agreement shall not create any partnership or joint venture between the Funder and the Provider, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

24. JOINT AND SEVERAL LIABILITY

Where the Provider is not a company or an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Provider shall be jointly and severally liable for the Provider's obligations and liabilities arising under this Agreement.

25. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

26. ENTIRE AGREEMENT

This Agreement and any documents referred to in it constitute the whole agreement between the parties and supersedes previous versions advertised and any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

27. VARIATION

The Funder reserves the right to amend these Terms and Conditions from time to time. The Funder shall notify the Provider of any such amendments prior to these amendments being incorporated to the Terms and Conditions. Any amendments will be notified through the provider's business email account and incorporated into the published Terms and Conditions within 20 working days of such notification. These amendments shall then form part of the Terms and Conditions which the Provider has signed for and accepted and be legally binding upon the Provider.

28. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the Laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

Schedule 1 - Delivery of Free Early Years Education

- 1.1 Providers must deliver Free Early Years Education at times and in patterns that support parents to **maximise** the use of their child's free Early Years Education entitlement. There are 570 hours per eligible birthday year and this is the maximum that will be paid for any child.
- 1.2 The Provider must indicate clearly to parents the dates the Free Early Years Education is available.
- 1.3 Where a Provider is unable to make the whole free early years entitlement available through their own provision they should, in partnership with another approved provider ensure the maximum free Early Years Education per child of 570 hours (minimum standard offer of 15 hours per week for 38 weeks) for each child in each 12 month period from the date the child becomes eligible.⁴
- 1.4 The Provider can also "stretch" the maximum free Early Years Education over fewer hours a week over more weeks a year. The Provider should still provide the "standard" offer as well as a "stretched" offer at their setting.
- 1.5 Delivery of Free Early Years Education can be offered flexibly but in any one day must:
 - Not be longer than 10 hours
 - Not be shorter than 2.5 hours
 - Not be before 7.00 am or after 7.00 pm
- 1.6 As a minimum ensure that parents are able to access the standard offer for their child's free early education place, for example in the following patterns:
 - three hours a day over five days of the week;
 - five hours a day over three days of the week.
- 1.7 Provider's that are not able to provide access for the full entitlement (open for 38 weeks a year for 15 hours a week) can do so where this suit parent's needs. The Provider must actively ensure that the Parent is informed of the remaining hours available of free entitlement so the child can access at another Provider if they choose.
- 1.8 Early Education places must be delivered completely free of charge to parents. Therefore, parents cannot be charged for any part of the free Early Years Education either directly or indirectly. Under no

⁴ Children cannot take up their entitlement at more than two providers at any one time.

circumstance should the Provider levy any fee in respect of the free Early Years Education nor should parents be charged in advance to be refunded at a later date.

- 1.9 In accordance with 1.8 above, Providers must not include any administration fee or deposit. Any charges for goods or services are not to be a condition of children accessing their free entitlement, for example, but not exclusively, meals, optional extras or required purchase of additional hours or provision outside the free entitlement.
- 1.10 Provider's must promote equality and inclusion, particularly for disadvantaged families, looked after children, children in need and children with disabilities or special educational needs by:
- (a) removing barriers of access to free early education
 - (b) working with parents/carers to give each child support to fulfil their potential.
 - (c) maintaining a good working partnership with their local children's centre to maximise family learning, support and signposting to other appropriate services for the child and/or family.

Child's Eligibility

- 1.11 Children become eligible for the free entitlement from the beginning of the funding period following their second birthday (if eligible), or third birthday, up to term after their fifth birthday and the child is of statutory school age:

A child born between	A child will be eligible for two three or four year old funding from
1 January and 31 March	1 April following the child's second or third birthday
1 April and 31 August	1 September following the child's second or third birthday
1 September and 31 December	1 January following the child's second or third birthday

- 1.12 All three and four year old children⁵ who meet the eligibility birth dates can take up a free Early Years Education place at a Provider.

⁵ The child's residence is not limited to the Hampshire local authority area.

- 1.13 Only two year old children who meet the DfE eligibility criteria for two year olds and have been approved by the Funder as eligible can take up a free Early Years Education place as a funded two year old. The child's residence is limited to the Hampshire local authority area except by approved arrangement through the Funder with another local authority.
- 1.14 Providers must follow guidance provided on the Funders website: <http://www3.hants.gov.uk/childrens-services/childcare/providers/eye-eyesff/eye-scheme.htm#section473437-3> and ensure they have made sufficient checks to confirm each child's eligibility and secured the appropriate authorisation from the parent/carer to claim the Early Years Funding payment.
- 1.15 A childminder cannot claim Early Years Education Funding for providing childcare to their own children⁶.
- 1.16 Children who are of compulsory school age are not eligible for Early Years Education Funding.
- 1.17 The Provider must have regard to Hampshire County Council's Schools Admissions Guidance. Children can start school in reception classes (Year R) the September immediately following a child's fourth birthday. The Provider is expected to ensure children leave the setting following a well informed discussion with parents, taking into account their views of a child's maturity and readiness to enter reception class.
- 1.18 In accordance with the School Admission Code, children are able to take up a place in a maintained school reception class from the September following their fourth birthday. Parents can request that their child's admission is deferred until later in the year, but not beyond the point they reach compulsory school age, at the beginning of the term following their fifth birthday. Where a child does not take up their place in a reception class, a deferred entry declaration form must be completed so children may continue with the Provider and continue to receive Early Years Education Payment funding. Early Years Education cannot be claimed in addition to attendance at school.
- 1.19 For children aged 4 and 5 who have not taken up their school place for any reason in a maintained school, it is the Provider who must

⁶ Early years provision is defined in section 20 of the Childcare Act 2006. This definition of childcare specifically excludes care provided for a child by a parent or step-parent (or other relative). The provision by an independent childminder or a childminder of a childminder agency (for his/her own child) does not count as childcare in legal terms. Early education funding (DSG) cannot be claimed by, or spent on, parents providing childcare for their own child, even if they are claiming for other children.

complete the Early Years Foundation Stage Profile⁷ and make the statutory return to the Funder.

⁷ Early Years Foundation Stage Profile – consists of 20 items of information, the attainment of each child assessed in relation to the 17 Early Learning Goals (ELG) descriptors together with a short narrative describing the child's three characteristics of effective learning .

Schedule 2 - Early Years Education Funding Rate and Payment

Early Education Funding Rate

- 2.1 The Funder's Early Years Single Funding Formula (EYSFF) will determine the hourly rate to be paid to each Provider for delivering Early Years Education for three and four year olds.
- 2.2 The EYSFF has a single fixed base rate and a variable rate for each of three elements⁸: flexibility, quality and deprivation. The rate for the elements of flexibility and quality will be determined by; - the choice of start and finish times for children (flexibility); the OFSTED Inspection outcome (at the time of the EYSFF submission or first inspection for new providers); the qualification of the staff (quality); each child attending the setting may receive additional funding based on the Income Deprivation Affecting Child Index (IDACI) rating for their home address and/or each child may receive Early Years Pupil Premium (EYPP)⁹ (deprivation). The Funder will publish on the website the EYSFF basis of its calculation.
- 2.3 The Funder will publish the value of the EYSFF base rate and the values of each of the three funding elements of rates, flexibility, quality and deprivation in **early/mid March** of each year.
- 2.4 Nursery schools and nursery units maintained by Hampshire County Council have additional statutory duties for which they will also receive a flat rate payment.
- 2.5 To ensure the funding rates and the Provider's Early Years Education delivery are as accurate and up to date as possible, the Funder will collect information from every approved Provider annually through the EYSFF process, usually during the **Autumn funding period** (see paragraph 2.10 below).
- 2.6 Providers must submit to the Funder as part of the **EYSFF** data collection (and at any other time when requested to do so), in order for the Funder Provider to calculate the "flexibility" rate, the start times and finish times that the free Early Years Education will be available for children to access at their setting. In addition, the provider will also submit information on any start and finish times when the free Early Years Education entitlement is not available for eligible children to attend the setting.
- 2.7 In order for the Funder to calculate the "quality" rate, Providers will be required to submit details about staff delivering Early Years Education

⁸ The EYSFF only applies to three and four year old payments the two year old funding amount is a flat rate and notification of this will be published within the EYSFF information.

⁹ The payment of Early Years Pupil Premium will be subject to the DfE guidance still to be published. The expected start date of these payments is 1 April 2015.

and should ensure that they collect and submit staff data in accordance with the Provider’s data protection protocols and privacy notices for staff.

- 2.8 The funding rate will be fixed for each financial year and sent to each Provider by 31 March. The Provider will receive an indicative estimate of their Early Years Education funding for the financial year based on their previous claim pattern and their new hourly rate.
- 2.9 The hourly rate will be notified before and fixed from 1 April each year, and continue throughout each financial year, based on the data submitted by the Provider in the EYSFF data return.
- 2.10 The funding rates will default to the lowest values where a Provider fails to provide information requested on their flexibility and/or quality.
- 2.11 New Early Years Education Providers will complete the EYSFF data return as part of the application process to be registered as a Provider for Early Years Education in Hampshire. Where information is not provided the rate will be set at the base rate until the Provider submits accurate and up to date information relating to “flexibility” and “quality”. Any difference in rate will be reconciled at the first headcount claim for first funding period.

Funding Schedule – funding periods

- 2.12 The Funder follows the DfE funding periods for making EYE claims as follows:
 - Summer – 1 April to 31 August
 - Autumn – 1 September to 31 December
 - Spring – 1 January to 31 March.

Funding Schedule – Headcount claims

- 2.13 Claims for eligible children (as set out in Schedule 1 – clauses 1.11 to 1.13) are submitted by the Provider for each of the funding periods for children who have been registered for agreed EYE hours by parents/ carer through the signed parent declaration form and are attending the setting on the published headcount date. The Funder will publish on their website the actual dates for which the Headcount claim must be made and any other procedures for making a Headcount claim. In principle the dates will be as follows but could change subject to notice by the Funder:

Headcount Date	Submit Headcount claim by:
SUMMER FUNDING PERIOD	
Third Thursday in April	Fourth Friday in April

AUTUMN FUNDING PERIOD	
Third Thursday in September	Fourth Friday in September
SPRING FUNDING PERIOD	
Third Thursday in January	Fourth Friday in January

2.14 For the purpose of claiming the 2 year old free Early Years Education offer, the Provider must ensure they have seen the 2 Year old acceptance letter (proof of eligibility) provided by the Local Authority to the Parent/Carer. The letter contains the child’s Child Unique Claim number (proof of eligibility) which the Provider must use for all Headcount or In Period claims and any correspondence with the Funder relating to the child.

Funding Schedule – In Period claims

2.15 If a child with free Early Years Education entitlement registers after the Provider has submitted their Headcount claim, the Provider must claim for the child through the In Period claim process. Claims should be made according to the Funder’s published information which can be found on the Services for Young Children website. In principle the dates will be as follows but could change subject to notice by the Funder.

1.

In period claim	Earliest date In Period claim form can be submitted,	Latest date In Period claim form can be submitted
Summer funding period (1 April to 31 August)	Monday of the Last week of May	2 nd Friday of September
Autumn funding period (1 September to 31 December)	Monday of the Last week of October	2 nd Friday of January
Spring funding period (1 January to 31 March)	Monday of the Last week of February	2 nd Friday of April

Funding Schedule – payment arrangements

17. The Funder aims to make the EYE funding payment within 10 working days of receipt of the complete and accurate claim. In the event that the Provider has made omissions or errors requiring the Funder to request further information, this may delay the 10 day period in which the Funder aims to pay the EYE funding.
18. The Funder will provide all necessary forms for the Provider to complete the Headcount, In Period claims or other data collection in either downloadable media, hard copy or through secure online environments. All claims for EYE funding must be made on the Funder's Headcount form or In Period claim form or on-line claim process.
19. The Funder will agree locally with childminder agencies and each childminder registered with each agency whether funding for the early education entitlement is paid directly to childminders or is routed to the childminder through the agency.

Schedule 3 - Privacy Notices

- 3.1 The Funder will provide on its website <http://www3.hants.gov.uk/childcare> a downloadable Privacy Notice for child data. This Notice will clearly outline how data and information collected by the Provider will be used by the Funder.
- 3.2 The Funder will inform Providers through the business email account when the Privacy Notice is changed or updated.
- 3.3 The Provider must download and print the privacy notice and published it at the setting so that it is brought to the attention of all parents/carers whose children attend for Early Years Education at that setting.
- 3.4 The Funder will provide on its' website a downloadable Staff Privacy Notice example for Providers to use for the collection of staff data for the EYSFF.

<http://www3.hants.gov.uk/childrens-services/childcare/providers/eye-eyssf.htm>

Schedule 4 - Requirements of Early Years Education Funding Payment

1. The Funder will only use OFSTED¹⁰ outcomes to determine whether to fund a Provider to deliver Early Years Education places in accordance with statutory guidance.
2. The Provider can only receive funding for three and four year old children where the OFSTED outcome is “Outstanding”, “Good” or “Requires Improvement”/”Satisfactory” or “met”.
3. The Provider can only receive funding for two year old children where the OFSTED outcome is “Outstanding” or “Good”. The Funder will only fund two year old children in provision judged by OFSTED as “Requires Improvement”/”Satisfactory” where there is not sufficient accessible “Good” or “Outstanding” provision available.¹¹
4. The Funder will fund new Providers registered with OFSTED (but not yet assessed by OFSTED) until their first full OFSTED inspection is published.
5. The Funder will not fund any provider if they do not actively promote fundamental British values or if they promote views or theories as fact, which are contrary to established scientific or historical evidence and explanations irrespective of any OFSTED judgment.
6. The Funder will not fund a childminder registered with a childminder agency where the childminder agency has indicated to the Funder that the childminder is not of satisfactory quality, unless as in 4.3 it is necessary to do so.
7. All Providers seeking Early Years Education funding from the Funder:
 - (a) must be geographically located on premises within the Hampshire County Local Authority area to be included on the Hampshire Directory of Early Education providers;
 - (b) must deliver the full statutory Early Years Foundation Stage (EYFS) and be registered with OFSTED¹², or be a provider who is exempt from registration with OFSTED or a Provider that is exempt from delivery of EYFS Learning and Development requirements according to DfE Guidance on Exemptions for Early Years;
 - (c) must actively promote fundamental British values and not promote views or theories as fact which are contrary to established scientific or historical evidence and explanations;

¹⁰ Or on the judgement of an independent Inspectorate approved by the Secretary of State.

¹¹ The funder may where appropriate take into account the continuity of care for children.

¹² Or be subject to an independent Inspectorate approved by the Secretary of State.

- (d) must meet the needs of disabled children and children with special educational needs attending their provision;
 - (e) must keep children attending their provision safe;
 - (f) must meet the independent school standard in relation to the spiritual, moral, social and cultural development of pupils;
 - (g) where a Provider receives confirmation of an outcome that is deemed 'satisfactory' / "requires improvement" or "inadequate"¹³, or "not met" they must inform the Funder within 5 working days of any OFSTED outcome/notification, if they have funded two, three or four year old EYE funded children;
 - (h) where a childminder agency identifies that a childminder registered with them is not of satisfactory quality they must notify the Funder within 5 working days.
8. During the period of time the Provider is rated "inadequate" by OFSTED, the Funder may consider securing alternative provision as soon as is practicable for children who are receiving their funded entitlement at a Provider.
9. The Provider must inform the Funder of any variations/changes in registration, changes in opening times, number of places available at the setting, as soon as these changes take place.
10. When a Provider receives an OFSTED outcome of "requires improvement" or "inadequate", the Funder will use the Improvement Support Programme (ISP) to evaluate the level and areas of support required to offer support based on the actions set out in the OFSTED inspection report. This will be confirmed to the Provider in writing. The categories of support will be published on the Funders website.
11. Providers must demonstrate that they have acted reasonably and in the timescales indicated to address concerns raised by OFSTED at inspection.
12. Providers should use the Council's emergency closure procedure to inform of unplanned closures. <http://www3.hants.gov.uk/childrens-services/childcare/providers/more-information/sfyc-information-library.htm>
13. Providers must inform Hampshire County Council within 7 days of any change in legal entity/ownership of the setting through sale or other organisational change. Section 19 refers.

¹³There are currently two OFSTED inspection cycles in operation. Settings inspected prior to November 2013 and judged as satisfactory or less will be on a 12 month re-inspection cycle. Settings inspected after November 2013 will be re-inspected on a 6 months cycle with appropriate monitoring visits in relation to any enforcement notices.

14. Providers must use the Hampshire County Council's dedicated business email address (provided by the Funder) for all communications regarding Early Years Education and ensure that this email account is checked regularly and frequently, and respond to emails and correspondence from the Funder within the timescale requested.
15. Providers must comply with all relevant legislation and any amendments or re-enactments to them, in particular, the Children Act 1989, Children Act 2004 the Childcare Act 2006 the Children and Families Act 2014, The Apprenticeship Skills, Children and Learning Act 2009 and all other relevant legislation e.g. Race Relations Act 1976, Race Relations (Amendment) Act 2000; Disability Discrimination Act 1995 and the Special Educational Needs and Disability Act 2001 and Equality Act 2010.
16. Providers must ensure that electronic means of communication is managed to ensure protection of personal data.
17. Providers must maintain close collaboration with any other Provider also providing the child's entitlement or early years foundation stage.

Schedule 5 - Procedure to Withdraw/Suspend Early Years Education Payment

Introduction

- 5.1 Every Provider who registers to receive early education funding and support from Hampshire County Council is required to sign a document accepting the Terms of this, the Early Years Education (EYE)

Agreement. By doing so they agree to adhere to the quality standards and principles outlined by the Funder and the Department for Education (DfE) Statutory Guidance for Local Authorities on the delivery of Free Early Education.

- 5.2 The Provider acknowledges that it is a requirement of the DfE that the Funder keeps a directory of all Providers that are approved to receive Early Years Education funding (EYE). It is the responsibility of the Funder to decide whether a Provider is able to meet the requirements in this, the EYE Funding Payment Agreement and can join the Directory. It is also the responsibility of the Funder to assess Providers for the purpose of removing/suspending a Provider from the Directory.
- 5.3 This procedure outlines the processes undertaken by the Funder to remove, or suspend a Provider from the Directory.
- 5.4 The Funder will where appropriate follow this three stage process however, the Funder reserves the right to accelerate to any stage deemed appropriate by the Service Manager Childcare and Business Support or Head of Early Years Service.

Stage One

- 5.5 Where a Provider meets, or the Local Development Team (LDT) has concerns that the Provider's progress may be leading to, potential removal from the list of approved Providers, the SFYC Officer or their representative will arrange an External Team Around the Setting (ETAS). The Provider will receive notification in writing with the reasons for the meeting clearly stated.
- 5.6 The outcome of this meeting with the Provider is to clearly identify OFSTED actions and timescales of required improvement. The Funder may use the ECERS and ITERS or FCCERS rating scale to support this action planning.
- 5.7 A report of agreed actions will be reported to Service Manager Childcare and Business Support responsible for EYE funding with agreed review date.
- 5.8 To confirm that the Provider has made appropriate improvement the ECERS and ITERS or FCCERS¹⁴ (for child minders) framework will be reviewed and a further assessment may be moderated by an appointed SFYC representative if the Local Development Team consider this appropriate.

¹⁴ The Funder will use FCCERS for childminders who are independently registered with OFSTED if they choose their improvement support to be delivered by the Funder.

- 5.9 If acceptable progress has been demonstrated within the agreed timescale and Service Manager Childcare and Business Support is confident that the Provider will continue to make further progress the Provider will receive a letter to confirm this.
- 5.10 If there is no change in practice the matter will be progressed to stage two.

Stage Two

- 5.11 The Local Development Team will request a formal letter be sent by the Service Manager Childcare and Business Support responsible for EYE funding stating the concerns that have been raised and asking how the setting will address these concerns. The Provider will be expected to respond in writing on the issue of addressing those concerns within 14 working days. The letter and the Provider's response will address the timeline required to demonstrate improvement in practice.
- 5.12 The Service Manager will set up a meeting to review the timeline proposed by the Provider and the Funder will confirm in writing the agreed actions with dates to be achieved. The progress will be monitored by the Local Development Team.
- 5.13 If acceptable progress has been demonstrated within the agreed timescale and Service Manager Childcare and Business Support is confident that the Provider will continue to make further progress the Provider will receive a letter to confirming this.
- 5.14 If there is no change or little progress made the matter will be progressed to Stage three.

Stage Three

- 5.15 The Service Manager Childcare and Business Support will request representatives from the Provider to a formal review meeting in order to examine the failures relating to actions required to date. Following this meeting a decision will be made on whether the Provider would be removed from the approved providers list. The Provider will receive a letter within 20 working days to confirm one of the following outcomes:
- (i) the Provider remains on the List of Approved Providers with the Funder reserving the right to add conditions/requirements;
 - (ii) the Provider is removed from the List of Approved Providers including the reasons for removal;
 - (iii) the Provider is suspended from the List of Approved Providers until the Funder is satisfied that the Provider is taking the appropriate steps required to improve in order to fulfil/adhere to the conditions of this agreement in full.
- 5.16 All Stage three decisions will be reported to SFYC Management Team.

- 5.17 If the Provider wishes to make a complaint regarding the decision made by the Funder, this should be in accordance with schedule 7 of this Agreement.

Schedule 6 - Information for parents/carers on the Provider Special Educational Needs and Disabilities (SEND) Local Offer

- 6.1 From September 2014 every Local Authority is required to publish information about services they expect to be available in their area for children and young people from birth to 25 who have special educational needs and/or disabilities (SEND); and also SEND services outside of the area which they expect children and young people from their area will use. This will be known as the 'Local Offer'.
- 6.2 It is expected that Providers should:
- (a) develop their own Local SEND offer and will use the website for details of how to develop and maintain this. <http://www3.hants.gov.uk/childrens-services/childcare/parents/parents-sen/send-localoffer.htm>
 - (b) publish the setting's Local Offer on the Hampshire Local Offer website (http://www.hantslocaloffer.info/en/Main_Page) on or before 1 September 2014, or at the time of the first headcount for new providers, whichever is the sooner;
 - (c) review their Local Offers on a regular basis (at least annually) and in partnership with parents/carers ('co-production') to ensure their offer reflects any changes to how services are delivered.

Schedule 7 - Early Education and Childcare – Complaints

(A) Provider Complaints

- 7.1 In addition to the dispute resolution under paragraph 22 of these Terms and Conditions (dispute resolution does not include and cannot be initiated where the Funder has withheld funds or terminates the agreement under paragraph 12 of these Terms and Conditions). Providers may make a complaint about the Council's operation of the EYE funding scheme, through the Hampshire County Council online complaints form or the SfYC complaints process:

<http://www3.hants.gov.uk/childrens-services/childcare/parents/concerns-complaints-comments-compliments-eeu.htm#childcareconcern>

(B) Parent Complaints - Provider's Responsibility

- 7.1 The Early Education and Childcare statutory guidance for local authorities required local authorities to:
- “have a complaints procedure for parents who are not satisfied that their child has received their early education place”
- 7.2 Parents are encouraged to raise immediate concerns with their Provider. If Parents require further understanding of the EYE scheme they can raise their concern directly with Services for Young Children for clarification before they speak to their Provider.
- 7.3 The Provider should resolve parent complaints using their own published complaints process. In most instances it is expected that the Provider will be able to respond to the complaint, explain why they are unable to resolve the complaint if indeed they cannot and whether the parent needs to take any further action such as submitting their complaint to them in writing.
- 7.4 If a parent is not satisfied that their Provider has dealt with their complaint appropriately the Provider should inform the Funder of this as soon as is practicable and also inform the parent who still has concerns, that they have the right to contact Services for Young Children regarding their complaint.
- 7.5 The Provider should inform the parent that details can be found on the SfYC website:

<http://www3.hants.gov.uk/childrens-services/childcare/parents/concerns-complaints-comments-compliments-eeecu.htm#childcareconcern>

- 7.6 The Provider should note this procedure does not duplicate or replace the Provider's own complaints procedures nor does it replace any complaints procedures relating to OFSTED or the complaints procedure of Hampshire County Council.
- 7.7 Where matters of a parent's complaint refers to quality of provision these will be directed to OFSTED.
- 7.8 Matters relating to concerns and issues regarding safeguarding will be directed in accordance with the Local Safeguarding Children's Board processes.