

Provider agreement 2024-25



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Section 1: Definitions

In this agreement the following words shall have the following meanings;

Term	Meaning
Eligible Children	The children who meet Herefordshire Council's funding criteria as set out in the Eligibility section of this agreement
Funded Early Education (FEE) ("free hours")	Is the provision by the Provider of early education to Eligible Children in accordance with the terms of this agreement
Early Education Funding (EEF)	Such funding payable by Herefordshire Council to the Provider for the provision of early education in accordance with the terms of this agreement
The Provider	The person or the place registered on the local authority Directory of Providers where Eligible Children can access Funded Early Education. This included Pre Schools, Day Nurseries, Childminders, Independent Schools, Maintained Nursery Schools, Maintained Schools and Academies
Block	A period of time related to three Funding Blocks, starting and ending on fixed dates. These fixed stat dates are 1 st January, 1 st April and 1 st September. These are three Blocks a year that run consecutively
Funded Session	This is the provision by the Provider of Funded Early Education between specified times on a single day

Section 2: Introduction

1. Early Years providers who are referred to as 'providers' and include:
 - Early years providers and childminders registered on the Ofsted Early Years Register;
 - Childminders registered with a childminder agency that is registered with Ofsted;
 - Maintained schools, Independent Schools and Academies taking children age two and over and which are exempt from registration with Ofsted as an early years provider
2. Early years providers who wish to offer funded places for:
3. 9-24 month extended entitlements
4. 2 year old Best Start (families receiving additional government support)
5. 3&4 year olds receiving 15 universal hours
6. 3&4 year olds receiving 30 hours funding
7. Children receiving inclusion funding
8. Those wishing to offer funded places must register with Herefordshire County Council (HCC) to be on the Early Years Education and Childcare Directory. Providers who wish to be included on the Early Years Education and Childcare Directory must sign a Early Education Funding Declaration Form, confirming compliance with the current Parental Declaration (PD). It is important all childcare providers understand their responsibilities under this Provider Agreement as it is based on current law and statutory guidance issued by the Department for Education (DfE).
9. The PD is based on the model agreement from the DfE, which sets out the Department's expectations on what should be included in agreements between local authorities (that being HCC for the purposes of this PD) and providers. The original version of the model agreement can be found at: [Parental declaration form.docx \(live.com\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612345/Parental_declaration_form.docx)
10. The PD sets out the expectations for delivery of the funded entitlements. It is not otherwise intended to replace, supersede or negate the requirements or expectations set out in legislation, other published statutory guidance and government advice.
11. The local authority reserves the right to unilaterally vary the agreement to reflect changes in legislation and departmental guidance. Any amendments made to legislation during the period must automatically be adhered to, with or without an updated agreement.
12. The following frameworks and legislation underpin this agreement, which may be amended from time to time (without necessitating a change to this provider agreement) unless a change to the DfE model agreement results:
 - i. Early Education and Childcare, Statutory Guidance for Local Authorities April 2024
 - ii. Childcare Act 2006
 - iii. Childcare Act 2016
 - iv. Children and Social Work Act 2017
 - v. Equality Act 2010
 - vi. School admissions code 2014
 - vii. Early Years Statutory Framework for childminders January 2024
 - viii. Early Years Statutory Framework for group and school-based providers

January 2024

- ix. Early Years Entitlements: operational guidance 2024-25
- x. Local Authority, (Duty to Secure Early Years Provision Funded of Charge) Regulations 2024
- xi. SEND Code of Practice 2015
- xii. Data Protection Act 2018

13. Providers are responsible for ensuring that they have read the PD and supporting documents in full. If, after reading the PD, providers wish to offer Early Education Funding (EEF) from April 2024 to March 2025. The Early Education Funding Provider Declaration Form 2024/54 must be completed online before funding can be paid. This **must** be completed on Synergy.
14. Failure to complete the declaration or comply with the terms of the agreement will lead to providers being unable to offer funded provision.

Section 3: Key Local Authority Responsibilities

1. Local authorities must secure a funded place for every eligible child in their area.
2. The local authority should work in partnership with providers to agree how to deliver places.
3. The local authority should be clear about their role and the support on offer locally to meet the needs of children with special educational needs and/or disabilities (SEND) as well as their expectations of providers.
4. The local authority must contribute to the safeguarding and promote the welfare of children and young people in their area.
5. Local Authorities are required to improve the well-being and outcomes of all children in their area and reduce inequalities. Evidence shows that high quality provision has greater developmental benefits for children, particularly for the most disadvantaged children.

Section 4: Key Provider Responsibilities

1. The provider must comply with all relevant legislation and insurance requirements.
2. The provider must follow the Statutory Guidance in its' entirety. Where any element of the Statutory Guidance is not followed, the provider must be able to provide clear evidence to demonstrate that it was in the best interests of the children involved.
3. The provider should 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.
4. The provider must follow the 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.
5. The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.

6. Providers must notify The Local Authority immediately if a parent withdraws their child or the attendance pattern alters in any way. It is in the interest of the provider to ensure that there is a Parent/Provider Agreement in place as this may be taken into consideration if the Local Authority seeks to reclaim funding. Funding must always follow the child. The Local Authority does not take into account provider's cancellation terms and will pay funding at the parental choice of setting.
7. Providers must notify The Local Authority immediately if a child is absent (authorised or unauthorised) for 20 full days of absence (whether over consecutive or sporadic days), or 30% absence within a single term. Funding may be stopped and reinstated following the end of the absence. The Local Authority will not fund a place where absence is recurring or for extended periods unless the absence is authorised and in agreement with the Local Authority in advance.
8. Providers must maintain accurate attendance registers including a record of notification of absence. Providers must make parents aware that they are to contact the setting if the child is unable to attend for extended periods. Providers must show professional curiosity when children do not attend and follow safeguarding processes and procedures.
9. If the parent wishes to take additional week's holiday, they should be made aware that the Local Authority may not fund their child's place for this period. The parent may need to give up the place or come to an arrangement with the provider.
10. Providers will not be penalised for a child's unexplained absence for a session or short period when they have booked to attend the setting. However, where an absence is recurring over an extended period, the provider must make all reasonable efforts to establish a valid reason for the absence and promptly notify The Local Authority.
11. Providers will work towards and support the vision and values in the Herefordshire Council plan 2024-28 **'Delivering the best for Herefordshire in everything we do'**.

Section 5: Changes to the Provider

1. The Local Authority's Early Years Team and Ofsted must be informed of any changes to a registered provider's details, for example: change of premises, ownership, nominated individual, or payment details. Ofsted and Herefordshire Council must be informed immediately if a provider is planning to close.
2. The Provider must inform the Early Years Improvement Advisory team if they have an unannounced or planned Ofsted inspection at the earliest opportunity. The provider should invite an Early Years Improvement Advisor to Ofsted feedback either face to face or virtually
3. The provider must work with the Early Years Improvement Advisory team on any welfare requirements, actions and recommendations given by Ofsted

Section 6: Unforeseen and Planned Closures

1. For unforeseen closures, funded entitlement funding may be claimed for up to 5 working days in total in any one term/funded period. This is applicable where providers have no choice to close where it would be illegal to remain open e.g. staff sickness, heating malfunction. In the case of severe adverse weather conditions, payments will be made at the discretion of the local authority.
2. For any planned closure e.g. staff training and public holidays, the parent must be offered the child's funded entitlement hours at another time that is convenient to both the provider and the parent where reasonably practical.
3. Any planned closure e.g. building work/ redecoration, will not be funded for funded entitlement hours.

Section 7: Safeguarding

1. The local authority has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts which make this clear, and the [‘Working together to safeguard children’](#) guidance sets these out in detail.
2. The provider must follow the EYFS and have clear safeguarding policies and procedures in place that are in line with local guidance and procedures for responding to and reporting suspected or actual abuse and neglect. A lead practitioner must take responsibility for safeguarding and all staff must have training to identify signs of abuse and neglect. The provider must have regard to ‘Working together to safeguard Children’ guidance.

Section 8: Eligibility

1. The provider should check original copies of documentation to confirm a child has reached the relevant 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 stored securely and deleted when there is no longer a good reason to keep the data in line with their policy.
2. The provider should offer disadvantaged 2-year-old places on the understanding that the child remains eligible until they become eligible for the universal entitlement for 3- and 4- year-olds.
3. The local authority must ensure that a child has a funded place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the funded entitlement.
4. Alongside the eligibility code, which is the child’s unique 11-digit number, and original copies of documentation, 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 eligibility code.
5. Once a provider has received written consent from the parent, they should verify the eligibility code with the local authority. Prior to offering a place or allowing a child to take up their funded hours, the provider **must** ensure that the child is eligible for funding and that they have correctly identified the child’s eligibility starting date. **Failure to do so will result in the provider absorbing fees and costs. They must not pass the costs on to the parent.**
6. 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.
7. Thereafter, the local authority should complete audit checks to review the validity of eligibility codes for children who qualify for the working parent entitlement at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as listed at table A below). It is the local authority’s responsibility to notify a provider where a parent has fallen out of eligibility and inform them of the grace period end date.

Table A: Audit and Grace Period Dates

Date Parent receives ineligible decision on reconfirmation:	LA audit date:	Grace Period End date:
1 Jan – 10 Feb	2 nd week of February	31 March
11 Feb – 31 March	1 st week of April	31 August
1 April – 26 May	1 st week of June	31 August
27 May – 31 August	1 st week of September	31 December
1 September – 21 October	3 rd week of October	31 December
22 October – 31 December	11 st week of January	31 March

Table B

Children who turn 9 months-3 years of age between:	Term funding can be used in:
1st April and 31st August	Autumn Term (September)
1st September and 31st December	Spring Term (January)
1st January and 31st March	Summer Term (April)

Table C

When does their child turn 3?	When they can get 30 hours from	Recommended time to apply	Deadline for parents to apply
1 September to 31 December	Spring Term starting on or after 1 January	15 October to 30 November	31st December
1 January to 31 March	Summer Term starting on or after 1 April	15 January to 28 February	31st March
1 April to 31 August	Autumn Term starting on or after 1 September	15 June to 31 July	31st August

Section 9: The Grace Period

1. A child will enter the grace period when the child's parents cease to meet the eligibility criteria set out in the Childcare (Funded 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.
2. Local authorities will be able to access information about whether a child has ceased to meet the eligibility criteria and entered the grace period via the ECS. The grace period end date will automatically be applied to eligibility codes.
3. The local authority should continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory guidance for Local Authorities 2023.
4. In exceptional circumstances, the local authority may further extend the grace period to support stability and continuity for a child experiencing difficult circumstances, such as the death of a parent or domestic violence.
5. The Grace Period is intended to offer continuity for the child and family, as well as financial stability for the provider. The Grace Period therefore does not apply if the child has fallen into their grace period before they have taken-up any of the additional hours, or if the child moves to a different setting, unless:
 - The provider closes before the end of the grace period.
 - The provider receives an Ofsted inspection judgement of 'Inadequate' and is withdrawn from the Early Years Education and Childcare Directory.
 - The child is experiencing exceptional circumstances, such as the death of a parent or domestic violence.

Section 10: Flexibility

1. Provision must be offered within the national parameters on flexibility as set out in Section A2 of Early Education and Childcare [Statutory guidance for Local Authorities](#).
2. The provider should 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 should also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting.
3. Provision must be offered within the national parameters which includes:
 - no session to be longer than 10 hours
 - no minimum session length (subject to the requirements of registration on the Ofsted Early Years Register)
 - not before 6.00am or after 8.00pm
 - a maximum of 2 sites in a single day
4. To claim funding for a child, the provider must have a completed Parent Declaration Form

for every child, clearly identifying the 'universal' (first 15) hours for all children and the 'extended' (additional 15) hours for qualifying children. All 'universal' hours **must** be taken before 'extended' hours are claimed.

5. Where a child attends more than one funded setting, the parents/carers will choose how their child's funded hours are allocated, unless one of the providers is a specialist¹ provider.
6. If claiming for a child on 2 sites the provider must;
 - Ensure they claim for all universal funding before claiming extended entitlements
 - They share information about the child with the other setting

Section 11: Partnership working

1. Partnerships should be supported by local authorities on four levels between:
 - i. Local authorities and providers
 - ii. Providers working with other providers, including childminders, schools and organisations
 - iii. Providers and parents
 - iv. Local authorities and parents
2. The local authority should promote partnership working between different types of providers, including childminders, across all sectors and encourage more providers to offer flexible provision, alongside other providers.
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.
4. The provider should 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.

Section 12: Special educational needs and disabilities

1. The local authority must 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](#).
2. The provider must ensure owners and all staff members are aware of their duties in relation to the SEND Code of Practice 2014 and the Equality Act 2010.
3. The local authority must be clear and transparent about the support on offer in their area, through their local offer, so parents and providers can access that support.
4. The provider should be clear and transparent about the SEND support on offer at their setting and make information available about their offer to support parents to choose the right setting for their child with SEND.

Section 13: Supporting disadvantaged children

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.
2. The provider should ensure that they have identified the disadvantaged children including those who have been or are Child Looked After in their setting as part of the process for checking EYPP eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.
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. 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.

Section 14: Quality

1. The [Early Years Foundation Stage \(EYFS\) statutory framework](#) is mandatory for all schools that provide early year's provision and early years providers registered with Ofsted or with an Ofsted-registered Childminder Agency in England. The EYFS sets the standards that all early years' providers must meet to ensure that children learn and develop well and are kept healthy and safe.
2. Ofsted are the sole arbiter of quality for all childcare entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision. Childminder agencies (CMAs) are organisations that can register and quality assure childminders as an alternative to registering with Ofsted.
3. Local authorities have a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.
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 2023 and the EYFS statutory framework.

Section 15: Business planning

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 census returns.

2. The local authority should 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.
3. The local authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.
4. The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of their local authority. Failure to do so may result in inaccurate, delayed or suspended funding.
5. The provider should maintain accurate financial and non-financial records relating to funded entitlement places and should 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.

Section 16: Charging

1. Government funding is intended to deliver 15 or 30 hours a week of funded, high quality, flexible childcare. It is not intended to cover the cost of meals, other consumables, additional hours or additional services.
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.
3. The provider should deliver the funded entitlements consistently so that eligible children accessing them will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
4. The local authority should not intervene where parents choose to purchase additional hours of provision or additional services, provided that this is not a condition of accessing the funded entitlement.
5. The provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as funded provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of hours are convenient for parents' working hours.
6. The provider can charge parents a deposit to secure their child's funded place but should refund the deposit in full to parents within a reasonable time scale.
7. The provider cannot charge parents "top-up" fees (any difference between a provider's normal charge to parents 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.
8. The provider should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their funded entitlement completely funded 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.

9. Any provider not adhering to this will have their funding withdrawn.

Section 17: Funding

1. The local authority should pay all providers monthly, particularly childminders, unless a provider requests and the local authority agrees to continue an existing alternative sustainable method of payment.
2. The provider should accurately complete and submit headcount and other necessary data returns required by the DfE or Local Authority to understand sufficiency throughout the year by the agreed date in order to support the local authority to make payments. Those who fail to provide the relevant information through completing surveys, audits and questionnaires, within the stipulated timeframe and grace period, will automatically have their funding withdrawn.
3. All up to date details on funding rates, funding calendar and funding schedule can be found here; [Early education funding \(EEF\) for providers – Herefordshire Council](#)
4. The LA make monthly payments to all settings based on 100% estimates. The LA make 10 estimate payments followed by 3 actual payments throughout the year, but do not pay in the financial end of year month April. Actual payments are only made to those settings who are due a weighting such as EYPP, rurality, DAF and any adjustments for hours not claimed through the estimates. This means that not all providers will be entitled to receive an actual payment.

Section 18: Compliance

1. The local authority can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the funded entitlements.
2. EEF Audits are carried out to ensure that all settings who are funded to deliver EEF within Herefordshire are adhering to the Herefordshire Provider Agreement and are therefore allowing families to access their funded entitlement.
3. EEF Audits are carried out to confirm:
 - Accuracy of funding claims.
 - Accuracy of funding payments including Inclusion funding.
 - Adherence to Herefordshire Provider Agreement.
 - Parents are able to access their child's funded entitlement without having to pay any additional 'top up' fees.

Section 19: EEF Audit Criteria

1. The following criteria will be used to prioritise when an EEF audit is carried out:
 - Settings where the EEF team or Early Years team have concerns from visits, phone calls or repeated problems with funding claims and/or payments.
 - Settings that have been highlighted by phone calls from parents/carers.
 - On closure of business. Financial records with Herefordshire County Council will not be finalised and closed until the audit has been completed.
 - New settings within the first 3 terms of business.
 - At random, based on the capacity of the EEF Team.

Section 20: Evidence required for an EEF Audit

1. Providers who have been selected for an EEF Audit will need to present the following information:
 - Copies of registers (daily attendance sheets) for one week at the beginning and one week at the end of the audited term.
 - Copies of all Parent Declaration Forms for the audited term.
 - Copies of all parental invoices/bills/statements for a period within the audited term.
 - Evidence supporting the level of need for any funded child receiving an inclusion support.
 - Details of the way in which providers offer the funded entitlement, which should include:
 - A copy of the fee structure.
 - A copy of a registration form/contract.
 - Any funding related information used by the provider for parents/carers.
 - Records of income and expenditure for the identified funding block
 - Documentation to prove the current status of the setting e.g. Registered Charity, Incorporated Company, Private Owner, Social Enterprise
 - Copy of current business plan
 - Copies of accounts
 - Proposed budget for the year
 - Any other evidence that can be reasonably required.
2. All audits will be completed by the EEF Manager and/or the EEF Business Support Officer and the results will be passed on to the Lead Early Years Improvement Advisor; Herefordshire County Council. The outcome of the audit will be communicated to the provider as soon as possible.
3. Providers found to be making inaccurate claims will be required to reimburse any overpayments to the LA at the earliest opportunity. EEF will be withdrawn with immediate effect until overpayment is rectified. Failure to rectify any overpayments will result in the provider being referred to the LA for possible legal action and the removal from the Early Years Education and Childcare Directory.
4. Any change of circumstances or organisations, including name of setting, provision, registered person, address, committee members, Ofsted grade etc. **must** be reported to the Lead Early Years Improvement Advisor and EEF team. Failure to do so will affect your EEF. If appropriate changes are not made, providers will be referred to the Head of Learning and Achievement for removal from the Early Years Education and Childcare Directory, in line with the 'Termination and Withdrawal of Early Education Funding guidance'.
5. Providers who fail to supply the required information to complete a full EEF Audit will be referred to the Head of Learning and Achievement for removal from the Early Years Education and Childcare Directory.
6. The Early Years SEND Manager will monitor the Inclusion Supplement and the impact on the individually named children throughout the term. Providers found to be incorrectly claiming the Inclusion Supplement, either for the level of need of the child or for the hours attended by/offered to the child, will be required to reimburse the overpayment to the LA at the earliest opportunity. Funding for children in receipt of the Inclusion Supplement, who are not deemed to be making appropriate progress, will also be reclaimed. DAF funding can be used to buy resources for the child, where possible the resources must follow the child to their new setting.

Section 21: Termination and withdrawal of funding

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

[Local authority to insert details of their termination/withdrawal of funding terms and process. Termination provisions must also include those required by regulation 7 (Termination of the arrangements) of the Local Authority, (Duty to Secure Early Years Provision Funded of Charge) Regulations 2014 and regulation 37 (Arrangements between local authorities and early years providers: termination) of The Childcare (Early Years Provision Funded of Charge) (Extended Entitlement) Regulations 2016]

2. The Provider will inform parents/carers of the Requires Improvement or Inadequate outcome and make available the Inspection Report.
3. The LA may terminate or suspend this Agreement and withdraw funding in whole or part with immediate effect by giving written notice to the Provider if:
 - a. The Provider has had its registration suspended or cancelled by Ofsted;
 - b. The Provider is rated 'Inadequate' by Ofsted;
 - c. The Provider receives an Ofsted inspection judgement of 'Not Met';
 - d. The Provider is a childminder, who is registered with a childminding agency, who have received two consecutive 'ineffective' judgements.
 - e. The Provider in relation to the care of 2-year-olds, receives a judgement of 'Requires Improvement';
 - f. The Provider is subject to Ofsted enforcement action or has been found to have ineffective safeguarding practices by Ofsted;
 - g. The Provider is a newly registered Provider who has not yet had an inspection report published by Ofsted and fails to comply with the terms of this Agreement;
 - h. The Provider breaches its statutory requirements and its National / Council safeguarding requirements;
 - i. The Provider is in breach of this Agreement and fails to provide satisfactory evidence to the Council that it has remedied such a breach within 14 days of the Council notifying the Provider of such breach;
 - j. The Provider becomes insolvent, or is declared bankrupt, or 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;
 - k. The Provider ceases to occupy any premises from which it administers the Funded Entitlement Places;
 - l. The Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
 - m. The Provider does not sign and return this Funding Agreement dated 1 September 2024 – 31 August 2025;
 - n. The Provider acts fraudulently; or

- o. The Provider fails to carry out the actions required by the Council in the timescale required by the Council when engaged in the Provider Causing Concern Process
4. All children should be able to access their funded entitlement with a high quality provider.
 5. Providers who are judged by Ofsted as 'Requires Improvement' may be removed from the Early Years Education and Childcare Directory for Two Year Old Funding.
 6. Providers who are judged by Ofsted as 'Not Met' or 'Inadequate' may be removed from the Early Years Education and Childcare Directory.
 7. In addition, providers may also be removed from the Early Years Education and Childcare Directory if they:
 - Fail to supply adequate information to complete an EEF Audit, as stated above.
 - Do not adhere to the 'Early education and childcare: Statutory guidance for local authorities' April 2024
 - Herefordshire Provider Agreement 2024-25
 - Fail to complete the annual Early Years Census.
 - Fail to complete data required by the DfE or Local Authority through surveys and questionnaires
 - Failure to comply with all relevant legislation and insurance requirements.

Section 22: Removal of Funding Process

1. If a provider is judged to be 'Requires Improvement', 'Not Met' or 'Inadequate' by Ofsted:
 - upon publication of the Ofsted report, providers will be expected to provide attendance patterns for all children who are currently receiving EEF - these families may be given notice of the removal of funding from their child's provider
 - registered attendance pattern (including days and times)
 - children who are not included on this list may not receive EEF after the publication of the Ofsted report
 - An EEF sufficiency assessment may be conducted to ascertain if there is alternative provision available within the locality of the provider - where it can be evidenced that there is no alternative provision available for children it may be possible for the family to continue using the provider
 - The EEF Sufficiency Assessment will be completed by the EEF/EY Team. Based on the results of the EEF Sufficiency Assessment, a recommendation will be shared with the Early Years Sufficiency team and the Head of Learning and Achievement. Sufficiency Assessment can be found here: [Early education funding \(EEF\) for providers – Herefordshire Council](#)
 - Notice will be given to the provider within four weeks of the judgement being published. Families of funded children will also be notified that funding will be removed from their child's provider - funding will cease from half-term or term break, depending upon the number of weeks remaining in the period, ensuring that at least 6 (calendar) weeks' notice is given
 - providers who receive a subsequent judgement of 'requires improvement', 'not-met' or 'inadequate' will be given notice of their removal from the appropriate Directory; an EEF Sufficiency Assessment will not be completed

2. Herefordshire complies with Department for Education statutory guidance (Early education and childcare - Statutory guidance for local authorities – April 2024) and as such meets both the requirements and the recommendations of this guidance in order to ensure that as far as possible **‘all children are able to take up their free hours in a high quality setting’**. (DfE 2024).
3. Herefordshire therefore funds places where the provider meets the quality requirements and is willing to accept the local authority funding requirements.
4. Herefordshire will withdraw a provider from the Early Education and Childcare Directory if they are not willing to accept the local authority funding requirements, or they do not meet the quality requirements. Do not show rapid improvement and there are sufficient places elsewhere, which meet the needs of the children and families.

Section 23: Refusal of Funding Registration

1. Ofsted automatically notify the Local Authority when a new Early Years Ofsted registration becomes active. Where possible, a representative from the Local Authority Early Years Team will contact the provider directly to discuss the new registration and invite them to an induction meeting.
2. Before agreeing to fund a new provider, the LA will consider any information published by Ofsted about a registered person, provider or agency. This could include any recent history about childcare offered by the provider or childcare offered at a particular address. This would include a provider employing at least one member of the leadership team from a setting who has been closed down or rated by Ofsted as 'Inadequate' at any location.
3. Any concern about the inclusion of a new provider on the Early Years Education and Childcare Directory will be referred to the Head of Learning and Achievement, via the Early Years Lead Improvement Advisor. A provider may be requested to provide evidence to support their application to register as a funded provider

Section 24: Appeals process

1. A provider may be denied approval to offer the funded entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision.
2. Where a provider wishes to appeal against the decision made to refuse their inclusion on the Early Years Education and Childcare Directory, the provider may submit supplementary evidence that:
 - Clearly demonstrates that the organisation and management of the setting has changed sufficiently to make a new setting, rather than a rebranded setting.
 - Clearly demonstrates that the new setting will be offering high quality funded provision.
 - All information will be referred to the Head of Learning and Achievement for a final decision.
 - Where a provider has been removed from the Early Years Education and Childcare Directory due to an Ofsted inspection grade of ‘Requires Improvement’ or ‘Inadequate’ and the provider wishes to appeal against the recommendation made by the EEF/EY Team, the provider may submit evidence that:
 - Clearly demonstrates that the sufficiency information recorded on the EEF Sufficiency Assessment is incorrect.
 - Clearly demonstrates that there are insufficient funded places available within their locality to meet the needs of the existing funded children, using the criteria outlined in the ‘Termination and Withdrawal of Early Education Funding guidance’.

- All information provided will be referred to the Head of Learning and Achievement
- If a provider has a complaint about the way in which a provider was removed from or refused inclusion on the Early Years Education and Childcare Directory, the provider may follow the complaints process. [Get involved – Herefordshire Council](#)

Section 25: Complaints process

1. The Provider should ensure they have a complaints procedure in place that is published and accessible for parents who are not satisfied their child has received their funded entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities.
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.
3. Where a parent/carer is not satisfied that their child has received their funded entitlement appropriately, and their concern has not been adequately handled by their child's setting, they can contact the EEF/EY team

Data Protection/GDPR

1. Data from which it is possible to identify children (in any form, including within a Management Information System) is personal data. Such data must be managed in accordance with the required Data Protection Act 2018. Data controllers must ensure that their data handling rules comply with the Act and that all staff have a full understanding of these. It is the Providers responsibility to ensure that they hold their data in accordance with the Act, including issuing parents/carers with a Fair Processing Notice explaining how their data and data about their child is to be used.
2. The Act puts in place safeguards regarding the use of personal data by organisations including DfE, Herefordshire Council and schools. The Act gives rights to those (known as data subjects) about whom data is held. These include:
 - The right to know the type of data being held
 - Why it is being held
 - To whom it may be communicated
3. A Privacy Notice is a good way to be able to meet data subjects rights and therefore Providers should issue a Notice to parents/carers and staff to explain how their data is being used in the census collections carried out by Herefordshire Council each year. The DfE has created a draft template of a Privacy Notice which can be downloaded: - [Data protection: privacy notice model documents - GOV.UK \(www.gov.uk\)](#)
4. Providers have a legal duty under the Act to ensure that personal data is processed securely. Processing is the collection, handling (use), storage, transmission and deletion of data. Further information can be found at this link to the Information Commissioners Office: <https://ico.org.uk/for-organisations/guide-to-data-protection-404/>

Section 26: Confidentiality

1. Subject to this clause the parties shall keep confidential all matters relating to this

agreement and shall use all reasonable endeavours to prevent their Representatives from making any disclosure to any person of any matters relating hereto.

This clause shall not apply to any disclosure of information:

- Required by any applicable law, if this clause shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
 - that is reasonably required by persons engaged by a party in the performance of such party's obligations under this agreement;
 - where a party can demonstrate that such information is already generally available and in the public domain otherwise than because of a breach of this clause;
 - by Herefordshire Council of any document to which it is a party and which the parties to this Agreement have agreed contains not commercially sensitive information;
 - to enable a determination to be made under clause, which is already lawfully in the possession of the receiving party, before its disclosure by the disclosing party;
 - by Herefordshire Council to any other department, office, or agency of the government, and
 - by Herefordshire Council to this agreement and in respect of which the provider has given its prior written consent to the disclosure.
2. On or before the Termination Date the provider shall ensure that all documents and/or computer records in its possession, custody, or control which relate to personal information of the council's employees, ratepayers, or service users, are delivered up to the Herefordshire Council or securely destroyed.

Section 27: Freedom of Information

- 12.1 The local authority and the provider acknowledge their respective duties under the Freedom of Information Act 2000 and must give all reasonable assistance to each other where appropriate or necessary to comply with such duties.
- 12.2 The provider will comply with any notification requirements under the Data Protection Act 2018 and shall duly observe its obligations under the Data Protection Act which arise in connection with this Agreement.
- 12.3 The provider will maintain formal procedures/ systems for the keeping of accurate records that fully comply with any statutory obligations.

13 Confidentiality

- 13.1 Neither the local authority nor the provider will disclose to any person any confidential information concerning the business or affairs of the other party unless required to do so by law.