

EARLY EDUCATION AND CHILDCARE PROVISION CONTRACT FOR TWO, THREE AND FOUR YEAR OLDS - 2017/20

(005841 – Provision of Early Education and Childcare for eligible two year olds)
(005831 – Provision of Early Education and Childcare for three and four year olds)

Terms and Conditions of Contract for the Purchase of Services

BETWEEN

THE COUNCIL OF THE CITY OF NEWCASTLE UPON TYNE
(hereinafter referred to as “the local authority”)

and

(hereinafter referred to as “the Provider”)

**THIS CONTRACT IS BASED ON THE DEPARTMENT FOR EDUCATION MODEL AGREEMENT
HOWEVER ADDITIONAL TERMS HAVE BEEN ADDED
BY NEWCASTLE CITY COUNCIL TO REFLECT LOCAL PRACTICE.
PROVIDERS ARE ADVISED TO ENSURE THAT THEY HAVE READ THE ENTIRE DOCUMENT
BEFORE AGREEING TO THE TERMS.**

1. The Parties

The Council of the City of Newcastle upon Tyne, whose principal address is at Civic Centre, Barras Bridge, Newcastle upon Tyne NE1 8QH (“**the local authority**”)

and

Janet Campbell
62 Chadderton Drive
Chapel House
Newcastle upon Tyne
NE5 1HN
 (“**the Provider**”)

2. Background

2.1 This Contract sets out the terms and conditions upon which the funding by the local authority of early years placements with the Provider are made. These terms and conditions are intended to ensure that the Provider fulfils the statutory requirements in relation to the provision of free early years' placements.

This Contract does not guarantee the placement of any child/children with the Provider nor does it place any obligation on the local authority to promote or make any placements with the Provider.

This contract covers the following:-

- Funding for two year olds who are eligible for 15 hours of free early education and childcare;
- Funding for three and four year olds who are entitled to universal 15 hours of free early education and childcare (including deprivation supplements where applicable);
- Funding for three and four year olds who are eligible for 30 hours of free early education and childcare under the extended entitlement for working parents;
- Funding for three and four year olds who are eligible for EYPP;
- Disability Access Fund for eligible funded three and four year olds;
- Inclusion (Additional Needs) Fund support for eligible funded two, three and four year olds.

2.2 This Contract together with **Annex A** - Parent Declaration Form; **Annex B** - Criteria for two, three and four year olds (as amended from time to time); **Annex C** - Pricing Schedule (as amended from time to time); **Annex D** - Bank Details Form; **Annex E** - Quality and Notification Process of Ofsted; **Annex F** - SEND: Inclusion Fund and Disability Access comprise the entire Contract between the local authority and the Provider.

Commencement and Duration

2.3 Irrespective of the date of signing of this Contract, the Parties agree that the Contract shall take effect on **1 April 2017** and shall continue until **31 March 2020** unless terminated earlier in accordance with the terms of this Contract.

Key Local Authority Responsibilities

- 2.4 Local authorities must secure a free entitlement place for every eligible child in their area.
- 2.5 The local authority should work in partnership with Providers to agree how to deliver free entitlement places.
- 2.6 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.
- 2.7 The local authority must contribute to the safeguarding and promote the welfare of children and young people in their area.

Key Provider Responsibilities

- 2.8 The Provider must comply with all relevant legislation and insurance requirements.
 - (a) The Provider must comply with all relevant legislation including but not limited to the following, as amended from time to time:-
 - Early Education and Childcare, Statutory Guidance for Local Authorities 2017;
 - Childcare Act 2006;
 - Childcare Act 2016;
 - Equality Act 2010;
 - School Admissions Code 2014;
 - Statutory Framework for the Early Years Foundation Stage 2017;
 - Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014;
 - The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016;
 - Special Educational Needs and Disability Code of Practice: 0 to 25 years 2015;
 - Data Protection Act 1998.
 - (b) The Provider will ensure that they maintain the following levels of insurance with a reputable insurance provider:-
 - i) **Public Liability Insurance of £10 million** (any one claim) including cover for Abuse/Molestation on a “claims occurring” basis; and
 - ii) Where a Provider employs any member of staff, **Employer’s Liability Insurance of £10 million** (any one claim).
 - (c) The Provider will make copies of the insurance documentation available to the local authority upon request and on each anniversary of the commencement date of this contract and/or upon request provide evidence that all premiums relating to such insurances have been paid.
 - (d) If the Provider does not maintain the necessary insurances under this contract, the local authority may insure against any risk in respect of the default and may charge the Provider the cost of such insurance together with a reasonable administration charge.
- 2.9 The Provider must deliver the free 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 free places, along with their services and charges. Those children accessing the free entitlements should receive the same quality and access to provision.

- 2.10 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.
- (a) The Provider must also comply with paragraphs 2.12 - 2.13(a) below.
- 2.11 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 SEND Inclusion Fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.
- (a) The Provider must also comply with paragraphs 2.32 – 2.35 below.

Safeguarding

- 2.12 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' 2015 guidance sets these out in detail.
- 2.13 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' 2015 guidance available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592101/Working_Together_to_Safeguard_Children_20170213.pdf
- (a) The Provider will ensure that they comply with Newcastle's Safeguarding Children and Young Persons' Policy and Procedures available at <http://newcastlescb.proceduresonline.com/chapters/contents.html> or 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.

Eligibility

- 2.14 The Provider should check original copies of documentation to confirm a child has reached the eligible age on initial registration for all free 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.
- (a) It is the Provider's responsibility to check eligibility for free entitlements. The local authority may refuse to fund any placement where a Provider is unable to produce appropriate documentation to satisfy the local authority that the child is eligible for free entitlement.

- 2.15 The Provider should offer places to eligible two-year-olds on the understanding that the child remains eligible until they become eligible for the universal entitlement for three- and four-year-olds.
- 2.16 The local authority must ensure that a child has a free entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the free entitlements.

30 hours places

- 2.17 Alongside the 30 hours eligibility code, which is the child's unique 11-digit number, and original copies of documentation (see 2.14), a Provider must acquire written consent from, or on behalf of, the parent to be able to receive confirmation and future notifications from the local authority of the validity of the parent's 30 hours eligibility code. The Provider should use Annex A: Parent Declaration Form which asks the parent for the necessary information and consents.
- 2.18. Once a Provider has received written consent from the parent, they should verify the 30 hours eligibility code with the local authority.
- 2.19 The local authority will confirm the validity of 30 hours eligibility codes to allow Providers to offer 30 hours places for eligible three and four year olds. The local authority will provide a validity checking service to Providers to enable them to verify the 30 hours eligibility code swiftly and efficiently. The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity.
- (a) A Provider must currently contact the local authority by email via 2yo@newcastle.gov.uk or telephone to check validity of eligibility codes. The local authority will introduce an online portal for live checking of eligibility. This is expected to be launched during the 2017 summer term and will replace the temporary email verification process. The local authority will give Providers 14 days' written notice of the introduction of this change in these arrangements.
- 2.20 Thereafter, the local authority should complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours free childcare at 6 fixed points in the year, both at half-term and at the end of term across the year (in line with the dates as listed at Table A below). 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

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

The Grace Period – 30 hours places only

- 2.21 A child will enter the grace period when the child's parents cease to meet the eligibility criteria set out in the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016, as determined by HMRC or a First Tier Tribunal in the case of an appeal.
- (a) The eligibility criteria is set out at Annex B: Criteria for 2, 3 and 4 year olds attached.
- 2.22 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 Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.
- 2.23 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 2017.
- (a) The grace period is as detailed in Table A above.
- 2.24 The local authority will complete an audit check on eligibility codes as a minimum at six fixed points in the year at both half term and at the end of term across the year (in line with dates listed in Table A above). The local authority will contact and inform providers accordingly.

Flexibility

- 2.25 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. These details can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596460/early_education_and_childcare_statutory_guidance_2017.pdf
- 2.26 The Provider should work with the local authority and share information about the times and periods at which they are able to offer free 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.
- (a) The Provider is required to ensure that details of the time and periods when they offer free entitlements are published together with their admissions policy on Newcastle's Support Directory at www.newcastlesupportdirectory.org.uk
- 2.27 For parents who wish to claim their funded entitlement at more than one Provider, the Provider must ensure that parents complete Annex A: Parent Declaration Form. The Provider must advise parents that they must declare to all Providers delivering a service how many funded hours they wish to claim and the number of funded hours at each Provider. These details will be verified by the Census/Headcount collection process. Where the total hours claimed is above the free entitlement and the discrepancy cannot be resolved, each Provider's funding allocation will be reduced proportionality to ensure that the maximum eligible hours are not exceeded for each child.

Partnership working

- 2.28 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.

- 2.29 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.
- 2.30 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. This is available at: <http://www.familyandchildcaretrust.org/dfes-30-hour-mixed-model-partnership-toolkit>
- 2.31 The Provider should discuss and work closely with parents to agree how a child's overall care will work in practice when their free entitlement is split across different Providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.

Special educational needs and disabilities

- 2.32 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 (January 2015). The Code of Practice is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf
- 2.33 The Provider must ensure owners and all staff members are aware of their duties in relation to the SEND Code of Practice and the Equality Act 2010.
- 2.34 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.
- (a) The Provider should refer to the attached Annex F – SEND: Inclusion Fund and Disability Access.
- 2.35 The Provider should be clear and transparent about the SEND support on offer at their setting and make information available about their offer on the Newcastle Support Directory to support parents to choose the right setting for their child with SEND.

Social mobility and disadvantage

- 2.36 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 free places and working with parents to give each child support to fulfil their potential.
- 2.37 The Provider should ensure that they have identified the disadvantaged children in their setting as part of the process for checking Early Years Pupil Premium (EYPP) eligibility. They will also use EYPP and the deprivation supplement to improve outcomes for this group.

Quality

- 2.38 The Early Years Foundation Stage (EYFS) statutory framework is mandatory for all schools that provide early years provision and Ofsted registered early years Providers 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.

- 2.39 Ofsted are the sole arbiter of quality for all free entitlements and Ofsted and inspectorates of independent schools have regard to the EYFS in carrying out inspections and report on the quality and standards of provision.
- (a) The Provider must notify the local authority immediately should they be no longer registered with Ofsted or their rating change.
- 2.40 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.
- 2.41 Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of Early Education and Childcare Statutory Guidance for local authorities and the EYFS statutory framework. These details are set out at Annex E: Quality and Notification Process at Ofsted attached.

Business planning

- 2.42 The local authority should clearly set out in this section the documentation that they need to receive from Providers to support payment and delivery of free entitlements and the timetable which Providers should follow when submitting their documentation. This includes setting out the importance of timely and accurate census returns.
- (a) The Provider must undertake a headcount of children attending their provision on the date notified to them by the local authority and send that information to the local authority by the specified date. This information may be required a minimum of three times per year and/or as reasonably required by the local authority.
- (b) Providers must complete an annual Early Years Census.
- (c) Providers must provide attendance information upon receiving a request from the local authority for such information.
- (d) The local authority will issue a schedule of key dates, including submission deadlines for the information detailed at 2.42-2.46 inclusive to Providers with their annual indicative budgets.
- 2.43 The local authority should not charge Providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of free entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the local authority as a result of the lateness and local authorities will ensure charges are clearly communicated to Providers. The local authority should set out details of any charges in this section.
- (a) The local authority does not currently make any charge for late or incomplete information however, the local authority reserves the right to introduce reasonable charges during the lifetime of this contract, subject to prior consultation with all Providers.
- 2.44 The local authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to Providers. The local authority's audit arrangements will consist of some or all of the following:-
- a) Pre-headcount/Census;
- b) Headcount/Census;
- c) Eligibility code (for 30 hours funding) – 6 fixed times a year (see 1.17 and

Table A above);

d) Annual setting level census (including admissions policy);

e) Parental Declaration Form;

f) Admissions Policy.

- 2.45 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.
- (a) For two year old funding this means we will inform you how much funding you will receive for all eligible children identified and evidenced as eligible the term before and then each subsequent term inform you of the funding for any new children identified as eligible.
- (b) For three and four year old funding this means we will calculate your actual termly allocation based on your in term headcount or census. You will receive the difference between your termly predicted allocation (in your inductive budget) and your actual allocation each term. For at least the first two terms of the extended 30 hour entitlement (from September 2017) the local authority will make additional payments at the beginning of each term for children eligible for the extended entitlement if these are included in the pre-headcount/census.
- (c) You may be able to claim funding for children who arrive at a setting after headcount by sending a copy of the completed Annex A: Parent Declaration Form to the local authority to obtain approval for additional funding. You must also inform the local authority, in writing, when a child leaves your setting including the leave date and any notice given so that funding can be adjusted accordingly.
- 2.46 The Provider should maintain accurate financial and non-financial records relating to free entitlement places and should give the local authority access on reasonable notice to all financial and non-financial records relating to free entitlement places funded under the Provider agreement, subject to confidentiality restrictions.

Charging

- 2.47 Government funding is intended to cover the cost to deliver 15 or 30 hours a week of free, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or additional services.
- 2.48 The Provider can charge for meals and snacks as part of a free entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and yoga. These charges must be voluntary for the parent. Where parents are unable or unwilling to pay for meals and consumables, Providers who choose to offer the free entitlements are responsible for setting their own policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals.
- 2.49 The Provider should deliver the free entitlements consistently so that all children accessing any of the free entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
- 2.50 The local authority should not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to

take up their child's free place. The Provider should be completely transparent about any additional charges.

- 2.51 The Provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as free 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.
- (a) Providers must upload a copy of their admissions policy on to the Newcastle Support Directory available at www.newcastlefis.org.uk within 10 days of the date of the signing of this contract.
- (b) Providers must keep their core information, including contact information, opening times, costs and Local Offer Information up to date through the Newcastle Support Directory available at www.newcastlefis.org.uk
- 2.52 The Provider can charge parents a deposit to secure their child's free place but should refund the deposit in full to parents within a reasonable time scale.
- 2.53 The Provider cannot charge parents "top-up" fees (the difference between a Provider's usual fee and the funding they receive from the local authority to deliver free places) or require parents to pay a registration fee as a condition of taking up their child's free place.
- 2.54 The Provider should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their free entitlement completely free of charge and understand fees paid for additional hours. The Provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific Provider.

Funding

- 2.55 The local authority should pay all Providers, particularly childminders, monthly by September 2018 unless a Provider requests and the local authority agrees to continue an existing alternative sustainable method of payment.
- 2.56 The Provider should accurately complete and submit headcount and other necessary data returns by the agreed date to support the local authority to make payment.
- 2.57 The local authority should set out details of the local funding process and timetable in this section, so Providers are clear about the funding that they will receive and the requirements on them in order to receive it, including funding multiple Providers and changes in Provider.
- (a) For two year olds, the local authority will issue to the Provider an indicative budget at the beginning of each school term (September, January and April) which broadly reflects anticipated participation. The local authority will adjust the budget to reflect actual levels of participation with receipt of the figures submitted by the Provider in accordance with paragraph 2.56.
- (b) For three and four year olds, the local authority will issue the Provider with an indicative budget at the beginning of the financial year which broadly reflects anticipated participation. The local authority will adjust the budget to reflect actual levels of participation with receipt of the figures submitted by the Provider in accordance with paragraph 2.56.
- (c) During 2017, for three and four year olds eligible for the extended entitlement for working parents (30 hours), the local authority will work with the Provider directly in response to

actual take up and make payment of the additional sums twice a term after the Provider evidencing eligibility for each child in accordance with paragraph 2.45(b) above.

- (d) For 2018 onwards, for 3 and 4 year olds eligible for the extended entitlement for working parents (30 hours), the local authority will issue the Provider with an indicative budget which broadly reflects anticipated participation based on the previous year. The local authority will adjust the budget to reflect actual levels of participation on receipt of the figure submitted by the Provider in accordance with paragraph 2.45(b) above.
- (e) The local authority shall pay the Provider in accordance Annex C: Pricing Schedule attached. Any amendments to the Pricing Schedule during the contract term shall be sent to the Provider for signature and return.
- (f) The local authority's payments shall be made in accordance with its policy on Early Years' Single Funding available from the local authority at https://www.newcastle.gov.uk/sites/default/files/wwwfileroot/schools-and-learning/curriculum-and-school-services/item_9_early_years_funding_formula_2017-18_12th_january_2017.pdf or upon request.
- (g) The local authority will allocate an Early Years' Pupil Premium for all eligible children by allocating additional funding at the nationally set rate to the number of funded hours (with the exception of LAC children who are allocated the full annual amount). Providers will be responsible for collecting relevant information and providing this to the local authority to allow eligibility checks to take place in accordance with Annex B: Criteria for 2, 3 and 4 year olds.
- (h) The Provider will return any funding to the local authority which is owed due to an overpayment before the end of each financial year (31 March).
- (i) The Provider must notify the local authority immediately of any child moving between funded placements. The local authority will, in its absolute discretion, determine in each situation whether to provide funding immediately for any new placement to ensure that there is no double funding occurring.
- (j) The Provider must have completed or complete and return Annex D: Bank Details Form to ensure that their payment details are correctly recorded by the local authority. For the avoidance of doubt, a Provider is not required to submit a further Annex D if the existing details held by the Council have not changed.
- (k) The local authority will issue a schedule of key dates, including submission deadlines for the information detailed at 2.42-2.46 inclusive to Providers with their annual indicative budgets. The local authority reserves the right to make changes to the schedule of key dates at any stage on giving Providers a minimum of fourteen (14) days' notice of any proposed changes.

Compliance

- 2.58 The local authority can carry out checks and/or audits on Providers to ensure compliance with the requirements of delivering the free entitlements.
- 2.59 The local authority reserves the right to withhold or withdraw funding for failure to carry out or to meet the requirements set out in this contract.

Termination and withdrawal of funding

- 2.60 Suspension of registration by Ofsted or a breach of statutory requirements or safeguarding issues may result in the termination of the arrangement and withdrawal of funding.
- 2.61 The local authority should set out details of their terms and process for termination/withdrawal of funding. Termination provisions must include those required by regulation 7 (Termination of the arrangements) of the Local Authority, (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 and regulation 37 (Arrangements between local authorities and early years Providers: termination) of The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016.
- (a) The local authority may terminate this contract with immediate effect where:-
- (i) the Provider is no longer registered with Ofsted; or
 - (ii) the Provider's registration with Ofsted has been suspended; or
 - (iii) the Provider is not meeting spiritual, moral, social and cultural developments of pupils; or
 - (iv) the Provider is not actively promoting fundamental British values of democracy; the rule of law; individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
 - (v) the Provider is promoting as fact views or theories which are contrary to established scientific or historical evidence and explanations; or
 - (vi) the Provider commits a breach of the terms of this contract that the local authority considers to be so fundamental as to justify immediate termination.
- (b) The local authority may withdraw funding where:-
- (i) the Provider receives an inadequate judgement from Ofsted; or
 - (i) the Provider fails to fulfil the requirements of this contract.
- (c) Before taking action to terminate the contract or withdraw funding in accordance with paragraphs 2.61(a) or 2.61(b), the local authority will work with the Provider to try to resolve the issue prior to making a final determination.
- (d) If this contract is terminated in whole or in part, the local authority shall be liable to pay to the Provider only such payments, if any, that have accrued up to the time of termination.
- (e) The Council reserves the right to suspend all or some of the provision of free early years services delivered under this contract should the Council believe that this is necessary to either protect the health and wellbeing of a child or children in placement, to secure compliance with the terms of this contract or where there is a risk or potential risk to the reputation of the Council.
- (f) Any decision to suspend, terminate or withdraw funding under paragraphs 2.61(a)-(e) above will be given in writing by the Council. The Council reserves the right to issue such decisions verbally in the case of urgency. Any verbal decisions will be followed by notice in writing within two (2) working days.

Appeals process

- 2.62 A Provider may be denied approval to offer the free entitlements or have their funding withdrawn as set out above. The Provider can appeal against that decision.
- 2.63 The local authority should set out details of their appeals process in this section.

- (a) If you wish appeal against a decision to terminate this contract or a decision to withdraw funding, the Provider must do so in writing within 14 days of the date of the decision. Appeals must be sent to the Newcastle City Council's Families Information Service: admissions.information@newcastle.gov.uk
- (b) The appeal must detail the decision that is being appealed against and include any information that the Provider wishes the Council to take into consideration when considering the appeal.
- (c) The local authority will acknowledge receipt of the appeal within 14 days of receipt.
- (d) The appeal will be considered in the first instance for two year olds by the Service Manager for Early Help and Family Support and for three and four year olds by the Service Manager – Access, Attendance and Admissions.
- (e) Any appeal received outside the 14 day time limit will only be considered in exceptional circumstances.
- (f) If the appropriate Service Manager upholds the original decision, the Provider can make a further appeal against the decision. This must be made within 14 days from the date of the written notification of the decision. Any such appeal should be made in writing and sent with supporting papers and evidence for two year olds to the Assistant Director, Inclusion, Commissioning and Procurement and for three and four year olds to the Lead Assistant Director – Education.
- (g) Assistant Director/Lead Assistant Director will write to the Provider giving a date, time and location to hear the appeal. The Provider and the Assistant Director/Lead Assistant Director or a representative of the Assistant Director/Lead Assistant Director will be entitled to make oral representations to the Assistant Director/Lead Assistant Director. The Provider may be accompanied by a supporter/representative if they so choose.
- (h) Assistant Director/Lead Assistant Director will give a written decision within 14 days of the hearing. The decision will be binding on both parties.
- (i) Should the Provider not be satisfied with their treatment under the appeals process they have the right to make a complaint to the Local Government Ombudsman.

Complaints process

- 2.64 The local authority should set out here their complaints procedure for parents who are not able to resolve their concern directly with the Provider where the parent is not satisfied that their child has received their free entitlement in accordance with the legislation or as set out in this agreement and in Early Education and Childcare Statutory guidance for local authorities. This complaints procedures must satisfy public law requirements.
- 2.65 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 free entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for local authorities.
 - (a) Where a parent is not satisfied with the outcome of their complaint to the Provider, the Provider must make available to the parent(s) details of how to make a complaint to the local authority in relation to the service provided by the Provider, in addition to any complaints process operated by the Provider, Ofsted and/or any Independent Inspectorate. The local

authority's complaints procedure is available at <http://www.newcastle.gov.uk/your-council/complaints>

- 2.66 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.
- (a) Details of how to contact the Local Government Ombudsman will be provided at the conclusion of any complaint investigated by the local authority or details of how to make a complaint to the Ombudsman can be obtained from <http://www.lgo.org.uk/make-a-complaint>

3. Additional Requirements

- 3.1 The local authority shall be entitled to issue to the Provider in writing or, in case of urgency orally (provided the local authority confirms oral instructions in writing as soon as it is practicable), variation orders requiring the addition, suspension, reduction or cessation of provision of any Services in accordance with any changes in legislation and/or Department of Education guidance.
- (a) The local authority may also issue variation notices to Providers in relation to any changes to the price paid to Providers in relation to any sums payable under any aspect of this contract. The local authority will give Providers a minimum of fourteen (14) days' notice of any proposed change in sums payable.

General Data Protection Regulations and Data Protection Bill

3.2 New data protection legislation is due to come into force during May 2018, which aims to protect the privacy of all EU citizens and prevent data breaches. It will apply to any public or private organisation processing personal data.

3.3 Established key principles of data privacy will remain relevant in the new Data Protection Legislation but there are also a number of changes that will affect commercial arrangements, both new and existing, with suppliers. The new General Data Protection Regulations specify that any processing of personal data, by a Processor, should be governed by a contract with certain provisions included.

3.4 We have identified a number of existing contracts involving processing personal data, and which will be in place after 25 May 2018, that require updating to bring them into line with the new regulations. This will involve updating contract terms and ensuring specifications and service delivery schedules reflect the roles and responsibilities between the Controller and the Processor as required by the new regulations.

3.5 In addition, we will be updating our procurement documentation to reflect the new regulations for contracts to be awarded on or after 25 May 2018.

3.6 Any organisation required to comply with the new Data Protection Legislation may incur costs in doing so, especially where new systems or processes are required. However, these costs are attributable to conducting business in the EU, and not supplying the UK public sector. We expect all suppliers to manage their own costs in relation to compliance.

3.7 As the Controller, we will not accept liability clauses where you are indemnified against fines under GDPR as the Processor. The legal penalty regime has been extended directly to Processors

to ensure better performance and enhanced protection for personal data. That means indemnifying Processors for any GDPR fines or court claims undermines these principles.

3.8 You may also have received similar communications from commercial teams across the public sector. If you would like to know more about the upcoming changes, the Information Commissioner's Office is a useful source of information on the new regulations.

3.9 As part of the obligation of GDPR we are required to include a Data Processing Schedule within the Contract. The schedule will outline the Data Processing requirements that you are authorised to undertake on behalf of the Council, such as, the legal basis for collecting the data, the types of personal data collected, and the purpose of processing under the Contract.

3.10 Regarding the "type of personal data collected" we would like to check the accuracy of what we are intending to list within the schedule for the Service(s) you operate on our behalf. We have reviewed the data requirements of this contract and we are intending to list the following within the Data Processing Schedule:

3.11 Type of Personal Data:

- Name(s)
- Date of birth
- Address
- Telephone number(s)
- Email address
- Gender/Gender identity
- Ethnicity
- Spoken language
- Asylum seeker/refugee status/immigration status
- Disability/SEN/Additional needs
- Benefit entitlement/economic status

Identification references:

- NI number/NASS number
- 30-hour eligibility code

Personal information (previous and current) required to deliver the support such as:

- Medical /Health/Treatment information [includes GP/doctor information]
- Financial information
- Accommodation
- Education/Training/Employment
- Social Care information
- Police / Criminal / Offence information
- Probation information/conditions
- Service provided / contacts with service
- Risk information [risks to self, children, public, other adults, staff, other residents, vulnerability to abuse from others, etc]
- Names and relevant information of family/household members and/or carers as appropriate for Service [*this would include information on children where relevant*]

Please note: Information in *Italics* is to provide additional clarity on the types of information that the data type would include.

Dispute resolution

- 3.12 If a dispute arises between the local authority and the Provider in connection with this contract, the parties shall each use reasonable endeavours to resolve such dispute by means of prompt discussion at an appropriate managerial level.
- 3.13 If a dispute is not resolved within fourteen (14) days of referral under paragraph 3.7 above then either party may refer it to the Chief Executive or appropriate nominated officer of each party for resolution who shall meet for discussion within 14 days or longer period as the parties may agree.

The Prevent Duty

- 3.14 At the heart of Prevent is safeguarding children and adults and providing early intervention to protect and divert people away from being drawn into terrorist activity.
- 3.15 Local Authorities must ensure that contracts with providers include provisions on, for example, *being aware of and understanding the* Prevent duty for provider employees, *referral* routes through which providers must raise concerns, and sanctions for failing to adequately support the authority in discharging its duty. Clauses covering these obligations will be inserted into the new contract.
- 3.16 For further information about Prevent please contact Paul Staines (Prevent Officer) on 0191 277 7524.

ANNEX A

Parent Declaration Form: Early Years, Disability Access and Free School Meal funding

Please use black ink and write in block capitals.

All three and four year olds are eligible for a funded early education place of 15 hours a week for 38 weeks per year (term time only) or the equivalent of 570 hours stretched over the whole year.

Some two year olds are eligible for 15 hours per year subject to certain criteria – see ‘Parents Notes’.

Some three and four year olds will be eligible for 30 hours per week funded early education place (term-time or equivalent stretched). This form collects information to assess which funding you are eligible for including Free School Meals, Pupil Premium and Disability Access Fund

Parent or Carer details: the person receiving the benefit must be listed.

Title:	Legal Forename:	Legal Family name:											
Previously known surname:													
Address:													
		Postcode:											
Date of birth: / / (i.e. 31/08/1970)	Telephone:												
Mobile phone number:	Are you a lone parent: Y/N												
Email address:													
National Insurance (NI) or National Asylum Support Service (NASS) number:													
<table border="1"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>													
<i>NI - 9 digits, 2 letters, 6 numbers 1 letter. NASS - first 9 numbers only</i>													
NEW 30 hours eligibility code (e.g. 12345678912)													
<table border="1"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>													
NEW Golden ticket number (for two year old funding):													
Relationship to child/ren named on this claim:													

If you have joint parental responsibility please complete the details below:

Title:	Legal Forename:	Legal Family name:
Previously known surname:		
Address:		
		Postcode:
Date of birth: / / (i.e. 31/08/1970)	Telephone:	

NI or NASS number:	<input type="text"/>								
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Relationship to child/ren named on this claim:
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Child details:

Legal Forename:	Legal family name:
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Date of Birth: / /	Gender M <input type="checkbox"/> F <input type="checkbox"/>	Ethnicity code:
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Address:

Postcode:	Language spoken:
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Additional information**:	DLA <input type="checkbox"/>	EHCP <input type="checkbox"/>	LAC <input type="checkbox"/>	Adopted <input type="checkbox"/>	Residence Order / Special Guardianship <input type="checkbox"/>
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**** If you have ticked any of the above your Provider may ask you to produce evidence**

Main Provider/School:

Proposed start date:	Proposed hours per week:
----------------------	--------------------------

Please complete section below regarding hours per week including any other Providers/schools who may also be claiming funding.

Setting / School and attendance details

- You need to complete this Declaration Form for each setting / school your child attends for their early education entitlement in order to ensure that funding is paid fairly between them
- Your child can attend a maximum of three settings and if your child attends more than 1 setting you can decide how to allocate your funded hours.
- If your child is in receipt of DLA one Provider may be eligible for Disability Access Fund – to help us allocate this please nominate your main Provider: _____

My child is attending the following settings:

Setting / School Name(s)	Please enter total free entitlement hours attended per day*					Total number of hours per week	Number of weeks per year (e.g. 38, 51)
	Mon	Tues	Wed	Thur	Fri		
A							
B							
C							
Total Daily Free Hours Attended							
Start Date/s							

* You may need to discuss these hours to make sure parents and Provider agree which settings are claiming the funded 15 or 30 hours (including if stretched over the whole year)

Siblings (other children who you have parental responsibility for)

	Forename	Surname	Date of birth
Child 1			
Child 2			
Child 3			
Child 4			
Child 5			
Child 6			

Parent/Carer/Guardian with legal responsibility declaration

I am eligible for (Please refer to 'Parents Notes' and tick)

- 15 hours for two year olds (see note 1)
- 30 hours for three and four year old (see note 2)
- 15 hours for three and four year old (see note 3)
- Disability Access Fund i.e. in receipt of DLA (see note 4)
- Early Years Pupil Premium (see note 5)

I agree that the information given above is correct, and I give permission for Newcastle City Council to check my eligibility status with the relevant benefit providers, and hold my details to make further checks including Early Years Pupil Premium, Disability Access Fund and Free School Meals. I agree to inform you immediately if my benefit stops or changes.

If eligible I agree to complete local Sure Start registration form (two year olds only)

Parent Signed:	Date:
Childcare Provider Signed: Print Name:	Date:

Data privacy: General Data Protection Regulation (GDPR) May 2018 puts in place certain safeguards regarding the use of personal data by organisations, including the Department for Education (DfE), local authorities and schools. It gives rights to those (known as data subjects) about whom data is held, such as pupils, their parents and teachers. This includes:

- the right to know the types of data being held;
- why it is being held; and
- to whom it may be communicated.

Should you have any concerns in relation to how your information or the information relating to your child/ren is being or will be used, please contact your provider or the Early Years Sector Support team on 0191 277 4674

Please note that information about whether a child is in receipt of Disability Living Allowance is sensitive personal data which should be handled appropriately. Providers are asked to pay particular note to advice from the ICO on holding personal data including sensitive personal data available: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/principles/>

Parent Notes:

Note 1: To be eligible for 15 hours for my two-year-old I must be in receipt of one of the following:

- Income Support/ Income Based JSA, Income related ESA
- Child Tax Credit (with or without Working TC) and combined income of less than £16,190
- Universal Credit and a combined income from work of less than £15,400 a year after tax
- The Guarantee element of State Pension Credit
- Support under Part VI of the Immigration and Asylum Act
- Child in receipt of DLA
- Child is Looked After, has left care through Adoption, Special Guardianship or Residence Order

Note 2: To be eligible for 30 hours for my three-or-four-year-old I must earn less than £100,000 and meet one of the following criteria:

- Single parents who works at least 16 hours or earns more than £125.28/ £118.08*
- Couple - both parents work at least 16 hours/week or each earn more than £125.28/ £118.08*
- Working will include those on statutory sick pay, parental, adoption, maternity or paternity leave
- One parent is employed and the other parent is in receipt of specific carers' benefits, or specific disability or incapacity benefits.

* These weekly amounts are based on working 16 hours at the National Living/Minimum Wage which is different for different ages. These are April 2018 rates for over 25s and 21 to 24s.

Note 3: All three-and-four-year-olds are entitled to 15 hours early education. If you are not entitled under note 1 or note 2 you can choose to pay for additional hours yourself and you may get support from the Government through Tax/Universal Credit or through Childcare Vouchers.

Note 4: Three- and four-year old children who are in receipt of child DLA and are receiving the free entitlement are eligible for the Disability Access Fund (DAF). DAF is paid to the child's setting as a fixed annual rate of £615. See - <https://www.gov.uk/disability-living-allowance-children/overview>

Note 5: Early Years Pupil Premium (EYPP) is an additional sum of money paid to childcare providers for children of families in receipt of certain benefits including

- Income Support/ Income Based JSA, Income related ESA
 - Child Tax Credit (but not Working TC) and combined income of less than £16,190
 - Universal Credit
 - The Guarantee element of State Pension Credit
 - Support under Part VI of the Immigration and Asylum Act
 - Child in receipt of DLA
 - Child is Looked After, has left care through Adoption, Special Guardianship or Residence Order
- This funding will be used to enhance the quality of their early years' experience by improving the teaching and learning and facilities and resources, with the aim of impacting positively on your child's progress and development. For more information please speak to your childcare provider.

Child Ethnicity codes:

Ethnicity Category	Code	Ethnicity Category	Code
White - British	WBRI	Asian or Asian British - Pakistani	APKN
White - Irish	WIRI	Asian or Asian British - Bangladeshi	ABAN
Traveller of Irish Heritage	WIRT	Asian or Asian British - Any other Asian Background	AOTH
Gypsy / Roma	WROM	Black or Black British - Caribbean	BCRB
White - Any Other White Background	WOTH	Black or Black British - African	BAFR
Mixed - White and Black Caribbean	MWBC	Black or Black British - Any Other Black background	BOTH
Mixed - White and Black African	MWBA	Chinese	CHNE
Mixed - White and Asian	MWAS	Any Other Ethnic Group	OOTH
Mixed - Any Other Mixed background	MOTH	Refused	REFU
Asian or Asian British - Indian	AIND	Information Not Yet Obtained	NOBT

ANNEX B

CRITERIA FOR 2, 3 AND 4 YEAR OLDS

Age eligibility - this is for all 2, 3 & 4 year old children

A child born on or between:	Is eligible for a free place from start of term beginning on or following:
1 January – 31 March	1 April after their 2 nd /3 rd birthday
1 April – 31 August	1 September after their 2 nd /3 rd birthday
1 September – 31 December	1 January after their 2 nd /3 rd birthday

3 & 4 year old eligibility – 15 hours eligibility

All three and four year olds who attend appropriate provision in the local authority's area are eligible for **15** hours of free early education subject to the above age criteria until the child reaches compulsory school age.

3 & 4 year old eligibility – 30 hours extended entitlement for working parents

From 1 September 2017, three and four year olds whose parents meet the following criteria may be eligible for 30 hours of free early education under the extended entitlement for working parents:

Both parents are working (or sole parent in a lone parent family) & each parent/carer who works at least 16 hours or earns more than £120/£112.80* but not more than £100,000 annually.

Working will include those on statutory sick pay, parental, adoption, maternity or paternity leave and where one parent is employed and the other parent is in receipt of specific carer's benefits, or specific disability or incapacity benefits.

* These weekly amounts are based on working 16 hours at the National Living/Minimum Wage which is different for different ages i.e. at 25 years you need to earn at least £120 per week, for 21 to 24 year olds this will be at least £112.80 per week and a lower rate again for under 21s.

3 & 4 year old eligibility – Early Years Pupil Premium

Economic Criteria – one of the following
Universal Credit
Income support
Income based JSA (Job Seekers Allowance)
Income related ESA (Employment & Support Allowance)
Support as an Asylum Seeker (through Part 6 of Immigration and Asylum Act 1999)
Child Tax Credit but not entitled to Working Tax Credit and has an annual income defined by HMRC (less than £16,190)
Working Tax Credit run-on
Pension Credit – Guarantee Element

OR be on a Looked After Child (LAC) plan; or have left care through Special Guardianship, Adoption or a Child Arrangements Order (which consists of/includes arrangements with whom the child is to live and when).

2 year old eligibility

Two year olds will not be deemed eligible unless the local authority has checked and confirmed eligibility and provided an ID number to the Provider. In addition to the age criteria above, children/families must also meet one of the following criteria:

a) Economic criteria of parent/carer:

Economic Criteria – one of the following
Universal Credit and a combined income from work of less than £15,400 a year after tax
Income support
Income support based JSA (Job Seekers Allowance)
Income related ESA (Employment & Support Allowance)
Support as an Asylum Seeker (through Part 6 of Immigration and Asylum Act 1999)
Child Tax Credit but not entitled to Working Tax Credit and has an annual income defined by HMRC (less than £16,190)
Working Tax Credit run-on
Pension Credit – Guarantee Element

OR be on a Looked After Child (LAC) plan; or have left care through Special Guardianship, Adoption or a Child Arrangements Order (which consists of/includes arrangements with whom the child is to live and when).

OR child has a current statement of SEN or an Education, Health and Care plan; or be in receipt of Disability Living Allowance

PLEASE NOTE:

2 year olds who are confirmed by the local authority as eligible continue to be eligible even if they cease to meet the criteria at a later date.

3 and 4 olds who are eligible for EYPP will remain eligible from the remainder of the academic year (September – July) in which they were assessed as eligible. Applications will be re-assessed in preparation for the start of each academic year.

3 and 4 olds who are eligible for the extended entitlement for working parents must be re-confirmed every three months by the parent using the Childcare Choices website and the local authority will inform any Provider if a child becomes ineligible, the relevant notice period and when funding will end.

ANNEX C – Pricing Schedule

Early Years Funded places for two, three-and-four year olds

Eligible two-year-olds	15 hour term time (or equivalent)	£5.20 per hour (flat rate)
Three-and-four-year-olds	Universal Free Early Years Entitlement Annual Deprivation Supplement*^	£4.35 per hour (flat rate) 9% of total funding to be allocated based on number of eligible children each term.

* For children who live within the 10% most deprived Super Output Areas based on IDACI (Income Deprivation Affecting Children) – this is paid annually in summer term based on children from the following year with the exception of childminders who are paid based on existing children.

^ The Annual Deprivation Supplement will be varied annually and notified to Providers at the end of March annually.

ANNEX D - Bank Details Form:

Free Early Years Entitlement for 2, 3 & 4 year olds

As part of the Contract you have agreed to receive all future payments via BACS rather than cheque. Please complete the information below:-

Ofsted Unique Reference Number:

Provider Name:

Provider Address:

Postcode:

Telephone No.:

Email Address:

Contact Name:

National Insurance Number (if self employed):

Bank Account Holders Name:

(actual name on the bank **account**):

Bank Name:

Sort Code:

Account Number:

Bank Address:

Postcode:

Signature:

Position:

Please also attach on headed paper confirmation of your name, bank details and business purpose

ANNEX E – Quality and Notification Process of Ofsted

Local Authorities are required to rely solely on the Ofsted judgement of the provider or the childminder agency as the benchmark of quality.

Local Authorities are required to fund two, three and four year old children at Good or Outstanding settings or newly registered and awaiting an Ofsted judgement; and three and four year olds at Requires Improvement (Satisfactory) settings and only fund two year olds at Requires Improvement (Satisfactory) settings to ensure sufficiency of funded places.

Local Authorities must secure alternative provision and withdraw funding from a Provider (other than a local authority maintained school), as soon as is practicable, when Ofsted publish an inspection judgement of the Provider of 'inadequate' or an inspection judgement of a childminder agency of 'not effective'. When withdrawing funding local authorities should take into account the continuity of care for children who are already receiving their funded hours at a Provider or agency registered childminder and Ofsted monitoring information about the Provider or agency.

Local Authorities must not fund Providers who 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.

The following processes are to support this.

Setting based care on Early Years register

1. Ofsted inform Family Information Service (FIS) of outcome and recommendations.
2. In the first instance, FIS will contact the Early Years Foundation Stage Consultant for the area with the details of the inspection and concerns raised by Ofsted.
Members of the Early Years Foundation Stage team will identify their own geographical areas of work and provide contact details to FIS and the Sure Start Leads in the situation that they may be unavailable.
3. The Early Years Foundation Stage Consultant, or named deputy, should then provide the details to the Sure Start Lead and convene a Team around the Setting (TAS) meeting to include the Sure Start Teacher and any other personnel they feel appropriate.
4. The Early Years Foundation Stage Consultant and Sure Start Teacher will then agree who is most appropriate to visit the setting to complete the action plan and a visit will be arranged.
5. The setting should agree the actions in the action plan, which will be based on the Ofsted recommendations, and the Early Years Foundation Stage Consultant will then forward the action plan to Ofsted and also log the action plan on whichever electronic system we agree to use. (In the interim, a paper copy should be collected and shared at the TAS meetings).
6. All action plans should have monitoring and review period built in.

The action plan may include a requirement to attend training.

Registered Childminders

1. FIS will contact the Sure Start Lead (or named deputy) for the area on receipt of Ofsted notification.
Each Sure Start Lead will provide FIS with a list stating who should be contacted in their absence to ensure that all letters are responded to as soon as possible. This should be a named person identified to deputise on inadequate judgements and act on them. This person should only be contacted if the Sure Start Lead is unavailable.
2. The Sure Start Lead identifies the appropriate person/people to visit the Childminder, this visit must be led by the Sure Start Teacher.

3. Similar to above the action plan, based on recommendations, should be agreed with the childminder.
4. In this instance it is the responsibility of the Sure Start Lead to forward the action plan to Ofsted and log it on our system.

The action plan may include a requirement to attend training.

Schools

In the event of a school receiving an inadequate judgment from Ofsted, with early years identified as being an issue, the notification comes into the LA and would be forwarded to the School Improvement Partner (SIP).

If the school then contacts the local Sure Start Lead requesting support, they should be directed to the Early Years Foundation Stage Consultant for that geographical area, who will be available to support as necessary.

The support may include a requirement to attend training.

ANNEX F - SEND: Inclusion Fund and Disability Access

As part of the Government review of the Early Years National Funding Formula in 2016 operational guidance was published including two specific new requirements to support children with Special Education Needs and Disabilities (See:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/580716/EYNFF_Operational_Guidance.pdf)

1. The introduction of a Disability Access Fund (DAF) to aid access to early years places by, for example, supporting Providers in making reasonable adjustments to their settings and/or helping with building capacity (be that for the child in question or for the benefit of children as a whole attending the setting).

We have set up a process for funding Early Years Providers for children eligible for Disability Access Funds (DAF) of £615 per child. Funding can be requested by providing evidence of children on the Spring 2017 annual census in receipt of three-and-four-year-old funding **AND** evidence of the child being in receipt of Disability Living Allowance (DLA).

To apply for Disability Access Fund for the year 2017-18, Providers should email evidence of DLA for three-and-four-year olds to 2yo@newcastle.gov.uk

From 2018 onwards the evidence will be collected via the Spring Census returns.

2. A requirement for authorities to establish an SEN Inclusion Fund (IF): to help Providers better address the needs of individual children.

In Newcastle we already have a successful Additional Needs Fund which meets the requirements of the Inclusion Fund. The Additional Needs Fund will be renamed as the Inclusion Fund (IF). This enables Early Years Providers to apply for support for funded two, three-and-four-year-old children, either to support 15 hours or 30 hours depending on eligibility. The support can be either:

- Inclusion worker (for Private, Voluntary or Independent (PVI) Providers)
- Nursery Nurse (for maintained/school provision)
- Funding

For questions regarding applying for Inclusion (Additional Needs) Fund monies or support contact Hazel Newstead, Early Years Additional Needs Support Panel: hazel.newstead@newcastle.gov.uk

To request electronic copies of guidance and application forms email: michael.wilson@newcastle.gov.uk

Disability Access Fund (DAF)

Eligibility

Three- and four-year olds will be eligible for DAF if they meet the following criteria:

- **the child is in receipt of child disability living allowance (DLA) and;**
- **the child receives free early education in Spring 2017 term**

Please note that four-year olds in primary school reception classes are not eligible for DAF funding. Children become eligible for free early education at different points in the year depending on when they turn 3. Details of the dates [when children become eligible are available in existing guidance](#).

Entitlement

The settings of three- and four-year-olds eligible for DAF will be entitled to receive a one-off payment of £615 per year. DAF is not based on an hourly rate and is an additional entitlement.

Children do not have to take up the full 570 hours of early education they are entitled to in order to receive DAF. Children in receipt of DAF will be eligible where they take up any period of free entitlement in Spring 2017 term (in future years based on the Spring Census).

Identifying eligible children

Early Years Providers are responsible for identifying eligible children however, local authorities should encourage Providers to speak to parents in order to find out who is eligible for the DAF.

In future, DLA evidence will be added to the Parent Declaration Form for Providers to complete but for this first year we will ask you to provide evidence for any 3 and 4 year old funded in Spring 2017 term. Two year olds and children attending reception classes will not be eligible, and children who start in the Summer and Autumn 2017 terms will not be eligible as the funding is an annual payment.

Eligibility checking

Local authorities must check that DAF eligibility requirements are met. We must be satisfied that the child is receiving DLA evidenced by the child's DLA award letter.

Funding local authorities for DAF

In the financial year 2017 to 2018, the DAF funding each local authority receives is based on the latest available data (February 2016) from the Department for Work and Pensions.

The estimate of the amount of funding a local authority will receive in 2017-2018 financial year is published in allocation tables available from the Department of Education website at

<https://www.gov.uk/government/publications/early-years-national-funding-formula-allocations-and-guidance>

From January 2018, the Department for Education will collect data from local authorities about DAF take-up via the school census and early years census.

Distributing DAF funding to early years providers

Local authorities must fund all early years settings providing a place for each child eligible for DAF at the fixed annual rate of £615 per eligible child. This will be based on Spring 2017 term data.

DAF will not be offset against any other funding which an authority may ordinarily be providing for children eligible for the DAF.

DAF will be paid as a lump sum once a year per eligible child. If a child eligible for DAF is splitting their free entitlement across two or more Providers, parents will be asked to nominate the main setting. This setting will be where local authorities should pay DAF for the child.

If a child receiving DAF moves from one setting to another within a financial year, the new setting is not eligible to receive DAF funding for this child within the same financial year. DAF funding received by the original setting will not be recouped.

In cases where a child who lives in one authority area attends a Provider in a different local authority, the Provider's local authority is responsible for funding DAF for the child and eligibility checking.

All Early Years Providers who are eligible to receive funding for the 3- and 4-year-old early entitlement education are also eligible to receive DAF.

Early Years Inclusion Fund (Additional Needs) Support Panel

Information for applications

Inclusion Fund panel meetings are held once each half term.

The support available consists of Inclusion Worker support for playgroups and private day nurseries, EEAST nursery nurse support for nursery schools/nursery classes and some funding. All types of support are intended to be a contribution towards the overall support provided for the child by the school/setting.

Only two-year-olds in receipt of two-year-old funding will be eligible for inclusion funding. In some cases it may be possible to provide a short term block of Inclusion Worker support for two-year-olds not eligible for two-year-funding but who meet other additional needs support criteria. The maximum level of support for any two-year-old will be 5 hours. The only exceptions to this are those children who meet the criteria for 15 hours of support (see next point).

Only in exceptional cases will children aged two-, three-and-four-year-olds be eligible for up to 15 hours of support. In cases where an EEAST teacher is involved these applications must be submitted jointly by the school/setting SENCO and the EEAST teacher. These applications can be considered for a package of inclusion worker support/funding or nursery nurse support/funding. These applications can be submitted in advance of the child attending the school/setting. The criteria for these applications is as follows:

- Complex learning and developmental needs that include a physical disability that creates a barrier to accessing the environment;
- The child is very likely to require an EHC plan and specialist provision at school age.

A small number of children aged three-and-four-year-olds may be eligible for up to 10 hours of support. In cases where an EEAST teacher is involved these applications must be submitted jointly by the school/setting SENCO and the EEAST teacher. These applications can be considered for a package of inclusion worker support/funding or nursery nurse support/funding. These applications can be submitted in advance of the child attending the school/setting. The criteria for these applications is as follows:

- Complex learning and developmental needs;
- The child is very likely to require an EHC plan and specialist provision at school age.

All other applications will be considered for a maximum of 5 hours of support. They must be submitted by the school/setting SENCO. These applications can indicate a preference for either nursery nurse/inclusion worker support or funding but the panel will make a decision based on the most effective use of resources. In some cases a short term block of inclusion worker/nursery nurse support may be agreed initially. The criteria for these applications is as follows:

- The child presents with significant difficulties in two or more areas of development and there must be clear evidence included to highlight the child's needs;
- The child has been attending your setting for at least a half term before an application can be submitted;
- Evidence of the support and intervention currently in place and evidence of the impact of the intervention must be attached with the application. This must include minutes from most recent review meeting and the child's individual support plan.

All successful applications will be agreed for one term only. Towards the end of each term an application review form must be submitted. This provides details of how the support/funding has been used and impact of this on the child's development. It also includes details of the child's attendance. Minutes from the child's termly review and their individual support plan must be attached. Continuation of the support/funding will then be discussed by the panel. Feedback from the panel will be via email/telephone to the SENCO within 3 days of the meeting, with a confirmation letter following. Failure to submit the review form and supporting evidence will result in future support/funding being withdrawn.