



# **Local Authority Agreement for the Provision of Early Education Funding (EEF)**

Effective from April 2024

(Version 1.0 – May 2024)

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## **1. Agreement and Services**

- 1.1 This Agreement is between Lancashire County Council (Local Authority) and Eligible Providers ("Provider") offering Early Education Funded (EEF) places within the administrative boundaries of Lancashire County Council.
- 1.2 The Provider will, during the Contract Period:
  - a. provide EEF places to eligible children within the boundary of Lancashire County Council in accordance with this Agreement.
  - b. ensure Early Years Pupil Premium (EYPP) funding is used to improve the education they provide for all disadvantaged children who are eligible for EYPP.

## **2. Definitions**

- 2.1 In this Agreement, unless the context otherwise requires, the terms referred to throughout the Agreement are defined in Annex A.
- 2.2 The words 'include', 'including', 'particularly' and 'in particular', are to be construed without limitation.
- 2.3 Words importing one gender include all other genders, and words denoting the singular number include the plural and vice versa.
- 2.4 The clause headings and sub-clause headings will not affect the interpretation of this Agreement and all references to clauses, sub-clauses or schedules are to clauses, sub-clauses of and schedules to, this Agreement.
- 2.5 References to, or to a provision of, a document are references to it as amended, supplemented or replaced before or after the date of this Agreement.
- 2.6 References to, or to a provision of, any law, regulation or guidance include any amendment, extension, re-enactment or replacement made before or after the date of this Agreement.
- 2.7 Subject to the terms of this Agreement, any reference in this Agreement to the Local Authority or the Provider or any other party referred to herein will include their permitted respective successors and assigns.
- 2.8 Wherever provision is made for the giving or issuing of any notice, consent, approval, certificate, confirmation or determination by any person, unless otherwise specified, such notice, consent, approval, certificate, confirmation or determination will be in writing and all cognate expressions will be construed accordingly.
- 2.9 References to materials, information, data and other records will be to those things whether stored in electronic, written or other form.

### **3. Commencement and Duration**

- 3.1 This Agreement will commence on the 1 April 2024 and will continue in full force, unless terminated earlier by giving notice of termination in accordance with the provisions of clause 18 herein, or otherwise lawfully terminated. The Agreement will automatically renew on the 1 September each year unless notified otherwise, as outlined in Clause 37.
- 3.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

### **4. Key Local Authority Responsibilities**

- 4.1 The Local Authority must secure an EEF place for every eligible child in their area.
- 4.2 The Local Authority should work in partnership with the Provider to agree how to deliver EEF places.
- 4.3 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.
- 4.4 The Local Authority must contribute to safeguarding and promote the welfare of children and young people in their area.

### **5. Key Provider Responsibilities**

- 5.1 The Provider must comply with all relevant legislation and insurance requirements.
- 5.2 The Provider must deliver the EEF 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 must be clear and communicate to Parents' details about the days and times that they offer EEF places, along with their services and charges. Those children accessing the EEF entitlements should receive the same quality and access to provision.
- 5.3 The Provider must follow the Early Years Foundation Stage (EYFS) and have clear safeguarding policies and procedures in place that link to the Local Authority's guidance for recognising, responding, reporting and recording suspected or actual abuse.
- 5.4 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. Safeguarding**

- 6.1 The Local Authority has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. It has a number of statutory functions under the 1989 and 2004 Children Acts which make this clear and the 'Working Together to Safeguard Children' 2018 guidance sets these out in detail.
- 6.2 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' 2018 guidance.

## **7. Eligibility**

- 7.1 The Provider must:
- a. Ensure the child is eligible to access an EEF place (as defined in defined in A1 of the current Early Education and Childcare Statutory guidance for Local Authorities).
  - b. Check original copies of documentation to confirm a child has reached the eligible age on initial registration for all EEF entitlements.
  - c. Retain paper or digital copies of documentation to enable the Local Authority to carry out audits and fraud investigations.
  - d. Ensure that any documentation that is retained is stored securely for a minimum period of 6 years. Thereafter the documentation must be handled and securely destroyed in accordance with BS EN 15713:2009 unless there are legal, regulatory or other legitimate purposes to retain the documentation for a longer period. Failure to retain essential documentation may result in reclaiming of funding by the Local Authority.
- 7.2 The Provider should offer disadvantaged two-year-old places on the understanding that the child remains eligible until they become eligible for the universal entitlement for three and four year-olds.
- 7.3 The Local Authority must ensure that a child has an EEF place no later than the beginning of the term following the child and the Parent meeting the eligibility criteria for the EEF entitlements.
- 7.4 Alongside the eligibility code, which is the child's unique 11-digit number and original copies of documentation (see clause 7.1), a Provider must acquire written consent from, or on behalf of, the Parent to be able to receive confirmation and future notifications from the Local Authority of the validity of the Parent's eligibility code. The Provider must use the Parental Agreement at Annex B which asks the Parent for the necessary information and consents.
- 7.5 Once a Provider has received written consent from the Parent, they should verify the eligibility code with the Local Authority, as detailed in clause 7.7.

- 7.6 The Local Authority will confirm the validity of eligibility codes to allow providers to offer places for eligible children from 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.
- 7.7 The Local Authority checking service will be facilitated through the on-line Provider Portal which the Provider must use to check the validity of all working parents' eligibility codes.
- 7.8 Thereafter the Local Authority should complete audit checks to review the validity of eligibility codes for children who qualify for the working parents' entitlements at six fixed points in the year, both at half term and at the end of term across the year (in line with the dates listed at Table A). It is the Local Authority's responsibility to notify the Provider where a Parent has fallen out of eligibility and inform them of the grace period end date.

*Table A: Grace Periods*

<b>Date Parent receives ineligible decision on reconfirmation (i.e. validity end date)</b>	<b>Local Authority Audit Dates</b>	<b>Grace Period End Date</b>
1 January–10 February	11 February	31 March
11 February–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

- 7.9 All eligible children who meet the prescribed criteria can take up an EEF place, from the term after the child reaches the relevant age of eligibility, regardless of a Parent's ability to pay for any additional hours or services.
- 7.10 Two year old disadvantaged families who become eligible after the beginning of the term following the child's second birthday will be entitled to an EEF place from the date they became eligible.
- 7.11 The Provider must ensure each disadvantaged two year old child meets the eligibility criteria by requesting, from the Parent, a copy of the Local Authority two year old eligibility letter that has been issued by Lancashire's Early Education Funding Team.
- 7.12 Children who become eligible under the working parents entitlements after the termly deadlines specified by HMRC Childcare Choices will not be entitled to the expanded or extended hours until the beginning of the next term.

- 7.13 An Early Education Funded place cannot be provided to a child by a Provider if the child is related, (as defined in the Childcare Act 2006 (Ch21, pt1.18)) to the registered owner of the childcare setting, where the registered owner is directly providing the childcare to the related child. This clause is of particular relevance to childminders. It will not apply in a pre-school or nursery setting provided the registered owner is not included in the ratios of staff providing childcare directly to a group that includes their related child(ren) e.g. key person).
- 7.14 The Provider shall on request provide the Local Authority with such further information, explanations and documents as the Local Authority may reasonably require, for it to establish that the funding has been used properly in accordance with the terms of this Agreement.

## **8. Grace Period**

- 8.1 A child will enter the grace period when the child's Parents cease to meet the eligibility criteria set out in the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2022, as determined by HMRC or a First Tier Tribunal in the case of an appeal.
- 8.2 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 Eligibility Checking Service. The grace period end date will automatically be applied to eligibility codes.
- 8.3 The Local Authority should continue to fund a place for a child who enters the grace period as set out in the most recent version of the Early Education and Childcare Statutory Guidance for Local Authorities.
- 8.4 The Local Authority will undertake termly audits, in line with the audit dates specified in Table A and will flag the child records in the on-line Provider Portal so that the Provider knows which children have fallen into the grace period.
- 8.5 The Provider must inform any Parents whose children have fallen into the grace period as soon as possible after being notified the termly grace period audits have taken place.
- 8.6 The Provider should inform Parents that if they fall back into eligibility during the grace period, the expanded or extended hours for their child beyond the grace period are subject to availability.
- 8.7 Children should not start a new working parents entitlement place with the Provider during the grace period. This includes:
- a. Where a Parent falls into their grace period before the child has started their place.
  - b. Where a Parent falls into their grace period whilst their child is in a place with a different provider and is seeking to move their child.
- 8.8 In exceptional circumstances, the Local Authority may allow a child to change providers during the grace period, e.g. if the current provider is no longer able to offer EEF places.

## 9. Flexibility

- 9.1 Provision must be offered within the national parameters on flexibility as set out in Section A2 of the current Early Education and Childcare Statutory guidance for Local Authorities.
- 9.2 The Provider should work with the Local Authority and share information about the times and periods at which they are able to offer EEF entitlements, to support the Local Authority to secure sufficient stretched and flexible places to meet Parental demand in the Local Authority. The Provider will also be required to submit on-line childcare sufficiency returns to enable the Local Authority to carry out its' statutory sufficiency duties. The Provider must also make information about their offer and admissions criteria available to Parents prior to the child taking up their funded place.
- 9.3 Children may take up their EEF entitlement at more than one provider providing they do not exceed two sites in any single day. Where this is the case funding will be allocated in line with clauses 16.18 - 16.20.

## 10. Partnership Working

- 10.1 Partnerships should be supported by the Local Authority on four levels between:
- i. Local Authority and providers
  - ii. Providers working with other providers, including childminders, schools and organisations
  - iii. Providers and Parents
  - iv. Local Authority and Parents
- 10.2 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.
- 10.3 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
- 10.4 The Provider should discuss and work closely with Parents to agree how a child's overall care will work in practice when their EEF entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child.
- 10.5 The Provider must enter into a Parental Agreement as provided at Annex B with all Parents whose children are taking up the EEF entitlements, to ensure the necessary information and consents are in place to allow the Provider to claim funding from the Local Authority. The Parental Agreement must be signed by the Parent and the Provider. The Parent must be provided with a signed copy of the Parental Agreement, in either paper or electronic format.
- 10.6 The Provider may choose to add additional fields to the Parental Agreement as provided at Annex B, providing such fields do not contravene any of the national



requirements as set out in the Early Education and Childcare Statutory Guidance for Local Authorities. For auditing and verification purposes, the Provider should not remove any fields contained in the Parental Agreement provided at Annex B.

- 10.7 To support a child's transition to primary school or a new setting, the Provider is encouraged to share relevant information about the child with the new school/setting.

## **11. Special Educational Needs and Disabilities**

- 11.1 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 (January 2015).
- 11.2 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.
- 11.3 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.
- 11.4 The Provider must 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.

## **12. Supporting Disadvantaged Children**

- 12.1 The Local Authority should promote equality and inclusion, particularly for disadvantaged families, looked after children (LAC) and children in need (CiN) by removing barriers of access to EEF places and working with Parents to give each child support to fulfil their potential.
- 12.2 The Provider should ensure that they have identified the disadvantaged children 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.
- 12.3 The Provider must ensure all prescribed information is included in the headcount or supplementary claim for any children they wish to claim EYPP for, to enable the Local Authority to check if the child is eligible for EYPP (i.e. Parent name, date of birth and NI/NASS number, consent).
- 12.4 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 early education, as is currently the case for the disadvantage entitlement.

- 12.5 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.

### **13. Quality**

- 13.1 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.
- 13.2 Ofsted are the sole arbiter of quality for all EEF 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 (CMA's) are organisations that can register, and quality assure childminders as an alternative to registering with Ofsted.
- 13.3 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 are newly registered providers.
- 13.4 Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of the current Early Education and Childcare Statutory Guidance for Local Authorities and the EYFS statutory framework.
- 13.5 Where the Provider fails to meet the quality standards as detailed in clause 13.4, the Local Authority may withdraw funding as outlined in clause 18.
- 13.6 The Provider must ensure that any marketing or publicity materials that refer to Ofsted inspection judgements are up to date, and reflective of the most recent published inspection report. This includes any information published on the Provider's website. Where the Provider chooses to publish their Ofsted inspection report, they must ensure it is the most recent version.
- 13.7 The Local Authority will carry out an annual conversation meeting with the Provider, which the Provider must participate in.

### **14. Business Planning and Claims**

- 14.1 The Local Authority should clearly set out the documentation that they need to receive from providers to support payment and delivery of EEF entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.
- 14.2 The Local Authority should not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the

processing of EEF entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the Local Authority because of the lateness and local authorities will ensure charges are clearly communicated to providers. The Provider should refer to clause 14.8 for details of the Administration Charges.

- 14.3 The Local Authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers. The Local Authority's audit arrangements are set out in clause 17.
- 14.4 The Provider should ensure they submit timely and accurate information, including, but not limited to, headcount funding claims, supplementary funding claims, census returns, childcare sufficiency returns, 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.
- 14.5 The Provider should maintain accurate financial and non-financial records relating to EEF places and should give the Local Authority access on reasonable notice to all financial and non-financial records relating to EEF places that have been funded by the Local Authority under this Agreement, subject to confidentiality restrictions.
- 14.6 The Local Authority will notify the Provider by email the dates in each term by which the headcount and supplementary funding claims, childcare sufficiency returns and census returns must be submitted.
- 14.7 It is the sole responsibility of the Provider to submit accurate headcount funding claims, supplementary funding claims, census returns, childcare sufficiency returns, or other information and documentation as requested by the Local Authority, within the deadlines as notified to the Provider outlined in clause 14.6.
- 14.8 In the event that the Provider submits incomplete or inaccurate headcount claims, supplementary claims and/or any other returns associated with Early Education Funding (e.g. census, childcare sufficiency) the Local Authority may apply an Administration Charge on each and every such occasion, as outlined in Tables B and C. All administration charges will be deducted from the Early Education funding due to be paid to the Provider, or, if applicable, be recoverable by the issue of separate invoices.

*Table B: Inaccurate and Incomplete Claims*

Provider Type	Type of Charge	Amount Per Term
Childminder	Inaccurate headcount claims	£10.00
Childminder	Inaccurate supplementary claims	£10.00
Childminder	Inaccurate or late census/childcare sufficiency returns (or any other return associated with Early Education Funding)	£10.00

Provider Type	Type of Charge	Amount Per Term
Early Years Providers (excluding childminders)	Inaccurate headcount claims	£20.00
Early Years Providers (excluding childminders)	Inaccurate supplementary claims	£20.00
Early Years Providers (excluding childminders)	Inaccurate or late census/childcare sufficiency returns (or any other return associated with Early Education Funding)	£20.00

*Table C: Late Headcount Submissions*

No. of Children on Headcount Claim	Total Charge Per Term
1 to 5	£ 10.00
6 to 10	£ 20.00
11 to 20	£ 40.00
21 to 30	£ 60.00
31 to 40	£ 80.00
41 to 50	£100.00
51 to 70	£135.00
70+	£150.00

- 14.9 The Provider can only make headcount and supplementary funding claims for eligible children as prescribed in clause 7.
- 14.10 The Provider cannot make a headcount or supplementary Funding Claim for any children where a signed Parental Agreement, as provided at Annex B, is not in place as detailed in clause 10.5. Failure to retain paper or electronic copies of records relating to Funding Claims (as outlined in clauses 17.2 and 17.6) may result in the reclaiming of funding by the Local Authority.
- 14.11 The Provider must submit the headcount Funding Claim, via the on-line Provider Portal, for all eligible children, as specified in clauses 7 and 14.10, who are present or on roll for the headcount week. The Provider cannot submit a headcount Funding Claim for any children who are not present or on roll for the headcount week, unless one of the following applies:
- a. The child is absent in the headcount week due to illness or a pre-agreed absence.
  - b. The Parent has given written notice to the Provider, prior to the headcount week. Where this is the case, providing the child has

attended prior to the headcount week in the current term, the Provider can claim Early Education funding up to the end of the agreed notice period.

- 14.12 In the event of non-attendance for the full period leading up to the Monday of headcount week, for any eligible child, the Provider must gain written confirmation from the Parent that they wish to continue accessing their child's EEF place from the Provider, otherwise the Provider cannot include the child in the headcount Funding Claim.
- 14.13 The Provider must submit the headcount Funding Claim for all children specified in clause 7 by the specified deadlines as notified in clause 14.6.
- 14.14 If the Provider fails to make an accurate headcount claim for any eligible children described in clause 14.11 or fails to claim for all eligible children described in clause 14.11, the Provider is permitted to submit a supplementary Funding Claim for such children.
- 14.15 In addition to those children described in clause 14.14, the Provider is permitted to submit a supplementary claim for the following children:
- a. Eligible disadvantaged two year old children who take up an EEF place after the headcount week.
  - b. Three and four year old children who take up an EEF universal place after the headcount week.
  - c. Eligible children who take up the working parent entitlements after the headcount week, **providing** the child's Parent was found to be eligible by HMRC **prior** to the beginning of the current term.
  - d. Eligible children who increase their hours of attendance after the headcount week.
  - e. Where a child has already been claimed by another provider in the headcount/school census, if the supplementary claim exceeds the termly maximum funded hours, the Provider will only be funded any remaining hours.
- 14.16 The Provider is only permitted to make a supplementary claim for those children described in clauses 14.14 and 14.15 for the remaining termly funded weeks/hours, with effect from the Monday after headcount week, or the date on which a signed Parental Agreement was in place as provided at Annex B, whichever is the latest. The Provider cannot submit a supplementary claim until the child has actually started at the setting, i.e. post-dated claims will not be accepted.
- 14.17 The Provider must submit all headcount and supplementary claims within the term for which they relate. Headcount or supplementary claims received after the end of term for which they relate will not be processed by the Local Authority.
- 14.18 If the Provider fails to comply with clause 14.17, the Provider cannot subsequently charge the Parent for any funded hours that the Provider should have claimed from the Local Authority.

14.19 Where a closure day occurs due to a bank holiday, polling day, or unforeseen circumstances such as severe weather, funerals etc. the Provider should, wherever possible, offer the missed session/s at an alternative time or allow the Parent to 'bank' the hours for a future date/time. However, this may not always be possible and in such cases the Local Authority will not recover the funding for the temporary period the place is unavailable, unless the Parent needs to access alternative provision during the closure period.

## **15. Charging**

15.1 Government funding is intended to cover the cost to deliver 15 or 30 hours a week of EEF high quality, flexible childcare places. It is not intended to cover the cost of meals, consumables, additional hours or additional services.

15.2 The Provider can charge for meals and snacks as part of the EEF 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 free 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.

15.3 The Provider should deliver the EEF entitlements consistently so that all children accessing any of the EEF entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.

15.4 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 EEF entitlements.

15.5 The Provider must publish their admissions criteria and ensure Parents understand which hours/sessions can be taken as their EEF entitlement. Not all providers will be able to offer fully flexible places, but the Provider should work with Parents to ensure that as far as possible the pattern of hours are convenient for Parents' working hours.

15.6 The Provider can charge Parents a deposit to secure an EEF but should refund the deposit in full to Parents within a reasonable time scale, and no later than 4 weeks after the child has taken up their EEF place. The Provider should also be mindful of the impact of charging a deposit on the ability of disadvantaged 2 year old families being able to access a place.

15.7 The Provider cannot charge Parents "top-up" fees (any difference between the Provider's normal charge to parents and the funding they receive from the local authority to deliver EEF places) or require Parents to pay a registration fee as a condition of taking up their child's EEF place. The Provider must ensure they show the funded hours at a £0 charge on the Parent's invoice before any charges for additional hours/services are made.

- 15.8 The Provider should ensure their invoices and receipts are clear, transparent and itemised, allowing Parents to see that they have received their EEF 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. Copies of invoices issued to Parents should be retained for a minimum period of 6 years for auditing and verification purposes, as outlined in clauses 17.2 and 17.6.
- 15.9 The Provider cannot ask the Parent to pay for their child's EEF place in advance and be refunded later e.g. when the Provider receives the funding for their child's EEF place from the Local Authority.
- 15.10 The Provider cannot use EEF funding to offset any outstanding fees a Parent has accrued as a result of any non-funded hours or additional services delivered by the Provider.

## **16. Funding**

- 16.1 The Local Authority will pay the Provider an Early Education funding rate that is in line with the Local Authority's approved Early Years Funding Formula.
- 16.2 Before agreeing to fund the Provider, the Local Authority will consider any information published by Ofsted about the Provider, including recent history about childcare provision by the Provider or childcare provision at a particular premise of the Provider.
- 16.3 The Local Authority will pay the Provider the Early Education funding in accordance with the conditions and rates detailed in this Agreement, for so long as the Provider is and remains an Eligible Provider.
- 16.4 The Local Authority's decision to fund the Provider to deliver EEF places will be based on the Provider's Ofsted registration status and inspection judgement, as outlined in Clauses 18.2 - 18.9. For any newly registered providers the Local Authority will fund the Provider until such time that the Provider's first Ofsted inspection judgement is published. Thereafter, the Local Authority will fund the Provider in line with Clauses 18.2 -18.9.
- 16.5 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.
- 16.6 Providing the Provider submits the required information within the specified deadlines outlined in this Agreement, the Local Authority will pay the interim payments and final balances as outlined in Table D below. Where the payment date falls on a Non-Working Day, payment will be made on the next Working Day.
- 16.7 The Provider must submit an estimate of hours for each funding type if they wish to receive interim payments, each term. If the Provider fails to submit an estimate of hours, the interim payments will be calculated as a percentage of the previous term's headcount hours claimed. If the Provider did not make a headcount claim in the previous term, and fails to submit an estimate of hours, the Provider will not receive any interim payments that term. Where this is the case the amount due to them for the term will be paid with the final balance payment. Final balancing payments will be calculated based on the actual hours claimed in the headcount.

16.8 Providers will have the option of receiving 12 monthly payments or 1 interim payment in the first month of each term followed by a final balance in the last month of each term. Table D & E below outlines the two options, along with the payment terms and dates.

**Table D: Option 1 - Monthly Payments September to August**

<b>Term</b>	<b>Interim Payment Dates</b>	<b>Interim Payment Period</b>	<b>Interim Payment Amount</b>	<b>Balancing Payment Date</b>	<b>Balancing Payment Period</b>
Autumn	07 September 07 October 07 November	September October November	25% of provider estimate 25% of provider estimate 25% of provider estimate	07 December	December
Spring	07 January 07 February	January February	35% of provider estimate 35% of provider estimate	07 March	March
Summer	07 April 07 May 07 June 07 July	April May June July	20% of provider estimate 20% of provider estimate 20% of provider estimate 20% of provider estimate	07 August	August

**Table E: Option 2 - One Interim and One Final Balance Payment Each Term**

<b>Term</b>	<b>Interim Payment Dates</b>	<b>Interim Payment Period</b>	<b>Interim Payment Amount</b>	<b>Balancing Payment Date</b>	<b>Balancing Payment Period</b>
Autumn	07 September	September to November	75% of provider estimate	07 December	December
Spring	07 January	January to February	70% of provider estimate	07 March	March
Summer	07 April	April to July	80% of provider estimate	07 August	August

16.9 The Local Authority will make supplementary payments for those children described in clauses 14.14 and 14.15 on a pro-rata basis depending on the hours already taken and the number of hours and weeks remaining in the term.

16.10 The Provider must ensure all claims for supplementary payments are submitted by the end of the term for which the claim relates, as the Local Authority will not pay backdated claims from previous terms.

16.11 The Local Authority will make supplementary payments as outlined in Table E, providing the claim is accurate, complete and received within the timescales specified in clauses 14.7 and 16.10.



Table F: Supplementary Payment Dates

Term	Claims received by:	Payment Date By:
Autumn	5 December	31 December
	6-31 December	15 January
Spring	5 March	31 March
	6-31 March	15 April
Summer	5 August	31 August
	6-31 August	15 September

- 16.12 The Local Authority will make a termly Early Years Pupil Premium (EYPP) payment for any eligible children included in the Provider's headcount claims or supplementary claims by the specified in Tables D and E, providing all relevant information was submitted to the Local Authority as specified in clause 12.3.
- 16.13 Where the Provider fails to include any information specified in clause 12.3, the EYPP funding will not be paid to the Provider for such children in that term.
- 16.14 The Provider must ensure that Parents are aware that if their child moves to a different provider after the headcount week then any additional/residual funding for that term will not be made available for the child at another setting, unless the following applies:
- a. the move relates to a child in public care (i.e. a looked after child) or a child at risk of becoming looked after
  - b. where a child has stretched or banked hours, from a previous term(s) in the current academic year, that have not been used by the end of the required notice period, the Provider must notify the Local Authority so that the unused hours can be recovered to ensure the child is able to use the hours at another setting and does not miss out on their annual entitlement of hours.
- 16.15 The Provider accepts that the movement of children after the headcount week for a child who is in public care, as described in clause 16.14a, will not necessarily result in additional/residual funding being made available and will only be considered by the Local Authority following a written request by the child/family social worker. In such cases the request for additional/residual funding to be made available should be made by the Provider and must include written confirmation from the child's social worker.
- 16.16 Where the Provider subsequently fails to meet the quality, provisions detailed in clause 13 the Local Authority may, at its sole discretion, make additional funding available for eligible children to continue to take up their EEF place at an alternative provider for the remainder of the term.
- 16.17 Where the Provider, for any reason, is unable to continue to offer an eligible child an EEF place, if this is:

- a. permanent, the Local Authority will recover any unused funding and make such funding available to the child's new provider. In such cases the Provider must provide the Parent of the child with reasonable notice in writing of their intention to withdraw the offer of an EEF place. The Provider must also provide written notification to the Local Authority within 1 week of the notice being given to the Parent.
- b. temporary, the Provider should, wherever possible, offer the missed session/s at an alternative time or allow the Parent to 'bank' the hours for a future date/time. However, this may not always be possible and in such cases the Local Authority will not recover the funding for the temporary period the place is unavailable.
- c. temporary, and if event the Parent needs to access alternative provision, the Local Authority will recover funding for the temporary period the place is unavailable, to enable the Parent to access their entitlements with a different provider.

16.18 Where the Provider makes an Early Education Funding Claim, and another provider or school also makes such a claim for the same child:

- a. both claims will be regarded as valid provided the combined hours claimed do not exceed the termly maximum hours allowable.
- b. where the combined hours claimed exceed the termly maximum hours allowable, then the Local Authority will reduce each claim on a pro-rata basis to the termly maximum hours allowable.
- c. on such an occasion the Local Authority will notify each provider or school of their number of eligible hours being claimed and the pro-rata amount to be paid for each child.

16.19 Where an Early Education Funding Claim is made by the Provider on behalf of a child residing outside of the administrative boundary of the Local Authority, the claim will be deemed valid provided the hours claimed do not exceed the termly maximum hours allowable.

16.20 If the Provider makes an Early Education Funding Claim for a child residing outside the administrative boundaries of the Local Authority, and a provider or school from the child's residing local authority also makes a claim, then the claim will be deemed valid provided the combined hours claimed does not exceed the termly maximum hours allowable:

- a. where the combined hours claimed exceeds the termly maximum, the Local Authority will fund the Lancashire provider any balancing hours (i.e. the difference between the hours claimed by the non-Lancashire provider and the termly maximum hours allowable).
- b. if an overpayment has been made, the Local Authority will reclaim the value of the over-claim from the Lancashire provider.

16.21 If the child is in the academic year in which he/she turns five, the Provider cannot claim Early Education Funding once the child has taken up a reception place in a maintained school or academy (including during any staggered intake period).

16.22 The Provider must ensure all Early Education Funding received from the Local Authority is used in accordance with the terms of this Agreement.

- 16.23 If an overpayment is made to the Provider, the Local Authority will reduce the value of any future Early Education Funding payments, until the overpayment has been fully recovered. Where the Provider has not made a headcount claim for two consecutive terms, the registered Provider will repay the overpayment against an invoice raised by the Local Authority.
- 16.24 If the Provider, for whatever reason, becomes unable to offer Early Education Funding, the registered Provider will repay to the Local Authority the balance of any outstanding Early Education Funding or overpayment against an invoice raised by the Local Authority.
- 16.25 In the event of a funding dispute between the Provider and the Parent, where the Provider cannot provide a copy of the signed Parental Agreement as provided at Annex B the Local Authority may re-claim the total number of funded hours from the Provider, for the period in dispute.
- 16.26 All sums payable under this Agreement are, unless otherwise stated, exclusive of Value Added Tax and at all times are subject to and conditional upon funds having been first received by the Local Authority from its funders.
- 16.27 The Local Authority, acting reasonably, may at its discretion withhold and/or require repayment from the Provider of any or all of the Early Education Funding at any time during the Contract Period and within 3 years of the contract commencing if:
- a. the Local Authority has paid funding in excess of the Early Education Funding actually due to the Provider.
  - b. the Provider has failed to take sufficient measures to investigate and resolve any irregularity in the course of it providing the Service.
  - c. this Agreement is terminated pursuant to clause 18 or any of the grounds reasonably existing under clause 18.
  - d. the Provider has failed to employ any part of the Early Education Funding in providing the Services in accordance with this Agreement.
  - e. the Provider is in serious breach of the terms of this Agreement or the relevant Statutory Guidance.
  - f. the Local Authority has reasonable evidence that the Provider is in financial difficulties by its' failure to pay its debts when they fall due.
  - g. financial irregularities, including the non-retention of all essential records and documentation as specified in this Agreement, are identified as a result of the Local Authority undertaking checks and/or audits in relation to Early Education funding claims.

## **17. Compliance**

- 17.1 The Local Authority can carry out checks and/or audits on providers to ensure compliance with the requirements of delivering the EEF entitlements.
- 17.2 The Provider must keep a satisfactory standard of records (e.g. supporting documentation, daily registers of attendance, parental agreements, copies of evidence of child's date of birth, two year old eligibility and eligibility for the extended entitlement etc.) in order to support its Early Education funding claims and to ensure satisfactory

audit trails. All records will be checked as part of any checks and/or audits undertaken by the Local Authority.

- 17.3 The Provider will allow the Local Authority access to financial records, documents and other materials relating to the use of the funding and provide such assistance with their interpretation as the Local Authority may require. Failure to do so may result in the reclaiming of funding by the Local Authority.
- 17.4 In carrying out its checks and/or audits, the Local Authority may require the Provider to supply copies of all relevant information, including but not limited to the information described in clause 17.2, relating to the use of Early Education funding.
- 17.5 The Local Authority will provide the Provider with reasonable notice of any such checks and/or audits.
- 17.6 The Provider must retain, in paper or electronic format, all information and documents relating to the use of Early Education Funding for a minimum period of 6 years and ensure such information is processed in accordance with Data Protection Legislation.

## **18. Termination and Withdrawal of Funding**

- 18.1 The Agreement may be terminated in line with the Local Authority's duties 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.
- 18.2 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.
- 18.3 The Provider must have an active Ofsted registration status. Where the Provider's registration status changes and is no longer active the Local Authority may withdraw Early Education funding from the date the status changed.
- 18.4 Where the registration status reverts to 'active' within 2 weeks of the date specified in clause 18.3, the Provider must offer the equivalent EEF hours that were 'lost' because of the status change, to ensure that all children are able to access their full annual entitlement. Where this is not possible, the Local Authority may recover the funding for these hours. Where the registration status does not revert to 'active' within 2 weeks of the date specified in clause 18.3 the Local Authority will recover any unused funding from the Provider so that families are able to take up the remainder of their entitlements with an alternative provider, should they wish to do so.
- 18.5 Where the Provider is given an Ofsted rating of 'requires improvement' the Provider must submit an Action Plan to the Local Authority within 6 weeks of the judgement being published. Where the Provider fails to submit an Action Plan by the required date or where the Provider fails to engage with the Local Authority on what action is being taken to improve, the Local Authority may provide 8 weeks written notice of its intention to withdraw Early Education Funding.

- 18.6 Where the Provider is given three consecutive inspection ratings of 'requires improvement' the Local Authority may provide written notice of its intention to withdraw Early Education Funding with effect from 8 weeks after the inspection publication date.
- 18.7 If Ofsted publish an overall rating of 'inadequate', or 'not met' the following will apply to all providers, except childminders who are registered with a childminder agency:
- a. Funding will continue until the next inspection, but the Local Authority reserves the right to reduce or extend this period, as in its absolute discretion, considers appropriate.
  - b. The Provider will be required to submit an action plan within 15 working days of the 'inadequate' judgement being published. The action plan must include participation in training/quality improvement activities and provide details of who/how this is being provided. Failure to meet this within the specified timescales could result in funding ceasing 8 weeks after 'inadequate' inspection is published.
  - c. The local authority will write to all parents to let them know the outcome of the inspection and what the funding implications for them are.
  - d. If at the next inspection, the Provider remains 'Inadequate' or 'not met' the Local Authority will withdraw funding 4 weeks from the date the next inspection judgement is published.
- 18.8 If Ofsted publish a second consecutive inspection judgement of 'ineffective' for a childminder agency the Local Authority will withdraw funding from each childminder who is registered with the agency 4 weeks from the date the inspection judgement was published unless the childminder agency has assessed an individual childminder as being of acceptable quality and Ofsted has not identified any concerns about the childminder agency's assessment arrangements.
- 18.9 If Ofsted have identified any concerns about the childminder agency's assessment arrangements, funding will cease 4 weeks after the second consecutive judgement of 'ineffective' is published for all individual childminders registered with the agency.
- 18.10 In such cases outlined in clause 18.7 – 18.9:
- a. the Provider must inform Parents of the inspection judgement within 5 working days of it being published and must explain what the funding implications are for their child's(ren's) place.
  - b. where a Parent chooses to secure alternative childcare before the date the Local Authority would ordinarily cease funding as outlined in clause 18.7 and 18.8, the Local Authority will only fund the Provider for a period of 4 weeks after the date the inspection judgement was published. Any remaining funding after this date will be made available for Parents to access their child's EEF entitlement with a different Provider.
  - c. where funding ceases as outlined in 18.7d or 18.9 the Local Authority will only re-instate Early Education Funding when the Provider has been re-inspected and the published Ofsted rating is 'Requires Improvement', 'Good', 'Outstanding' or in the case of a Childminder Agency 'effective'. Funding will be backdated to the date of the re-inspection providing a

Funding Agreement for the Provision of Early Education and Childcare is in place between the Provider and the Local Authority.

- d. the Provider must ensure any publicity information that contains their Ofsted judgement is updated to reflect the most recent inspection.

18.11 Each party will be entitled to terminate this Agreement by giving at least 3 months written notice to the other party.

18.12 The Local Authority will be entitled to terminate this Agreement with immediate effect if the Provider:

- a. commits a material breach of any of the terms of this Agreement, which is incapable of remedy or which, being capable of remedy, is not remedied within 3 months after receipt of notice from the Local Authority specifying the nature of the breach set out in clause 25.1a;
- b. enters into any composition or arrangement with its creditors or enters into any liquidation whether compulsorily or voluntarily or has a receiver or administrator appointed over all or any part of its assets or undertaking or an administration order is made in relation to it.

18.13 If the Provider fails to keep satisfactory records as outlined in clauses 17.2 and 17.6 and following any checks and/or audits undertaken by the Local Authority, evidence suggests that the Provider is making potentially fraudulent claims and/or commits fraud in relation to this Agreement, the Local Authority may:

- a. recover in full from the Provider any other loss sustained by the Local Authority in consequence of any breach of this clause; or
- b. after careful consideration and acting in a proportionate manner, immediately terminate this Agreement and recover from the Provider the amount of any loss suffered by the Local Authority resulting from the termination, including the costs reasonably incurred by the Local Authority in making arrangements for the recovery of the funding and any additional expenditure incurred by the Local Authority throughout the remainder of this Agreement.

18.14 Upon notice of termination of this Agreement, for whatever reason, the Provider will repay to the Local Authority the balance of outstanding Early Education Funding within 28 days of termination and provide appropriate accountancy evidence on the level of unspent Early Education Funding.

18.15 Upon notice of termination of this Agreement, for whatever reason, the Local Authority will reimburse the Provider the balance of outstanding Early Education Funding within 28 days of termination providing the Provider has submitted a valid Headcount or Supplementary Funding Claim as specified in clause 14.

18.16 The Provider cannot claim any additional Early Education Funding for any new children, or existing children who increase their hours of attendance, after the Local Authority has given prior written notice of its intention to withdraw funding under clauses 18.12 and 18.13.

## **19. Appeals Process**

- 19.1 The Provider may be denied approval to offer the EEF entitlements or have their funding withdrawn as set out in clause 18 above. The Provider can appeal against that decision.
- 19.2 Where the Provider wishes to appeal the decision described in clause 19.1, they must appeal to the Local Authority within 2 weeks of receiving the Local Authority's notification that funding will be withdrawn.

## **20. Complaints Process**

- 20.1 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 EEF entitlement in the correct way, as set out in this Agreement and in Early Education and Childcare Statutory guidance for Local Authorities.
- 20.2 If a Parent is not satisfied with the way in which the Provider has dealt with their complaint, the Provider should direct the Parent to the Local Authority's Corporate Complaints Procedure at [www.lancashire.gov.uk](http://www.lancashire.gov.uk).
- 20.3 Where a Parent is not satisfied that their child has received their EEF entitlement in accordance with this Agreement and/or the Early Education and Childcare Statutory Guidance for Local Authorities and is unable to resolve their complaint or dispute directly with the Provider, the Parent may contact the Local Authority in order for the Local Authority to investigate the Parent's complaint.
- 20.4 Where a Parent contacts the Local Authority if they are unable to resolve their complaint or dispute directly with the Provider, the Local Authority may request relevant information from the Provider in order for the dispute/complaint to be investigated by the Local Authority. The Local Authority will give the Provider a reasonable amount of time to provide such information to the Local Authority.
- 20.5 If the Provider fails to provide information requested by the Local Authority, as outlined in clause 20.4, the Local Authority may re-claim the total number of funded hours from the Provider, for the children and period in dispute.
- 20.6 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.

## **21. Monitoring and Tracking**

- 21.1 The Provider must promote good attendance and must record the attendance of all funded children in a register which meets the requirements of Ofsted, e.g. a daily record of the names of the children being cared for on the premises, their hours of attendance and the names of each child's key person.

- 21.2 The Provider needs to be aware of potential safeguarding issues surrounding non-attendance and reduced attendance as well as the impact on a child's development.
- 21.3 The Provider must monitor the attendance records of all Early Education funded children.
- 21.4 The Provider must have a robust system in place for monitoring children's attendance and ensure that any concerns arising from poor attendance are dealt with in line with all statutory requirements.

## **22. General Obligations**

- 22.1 The Provider in the performance of this Agreement will comply with all statutory requirements, regulations and other provisions to be observed and performed in connection with the Services to be provided, including but not limited to the following Statutory Guidance:
  - a. Early Education and Childcare Statutory Guidance for Local Authorities 2024.
  - b. Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2018.
  - c. The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016.
  - d. The Childcare Acts 2006 and 2016.
  - e. Statutory Framework for Early Years Foundation Stage Statutory Framework (September 2021).
  - f. Special Educational Needs and Disability Code of Practice: 0 to 25 years 2015.
  - g. The Health and Safety at Work etc. Act 1974 and associated regulations.
  - h. The Common Law Duty of Care.
  - i. Equality Act 2010.
  - j. Civil Law.
  - k. Prevent Duty Guidance
  - l. Data Protection Legislation.
- 22.2 The Provider will comply with all the conditions and terms of registration requirements as set out in the Statutory Guidance.
- 22.3 The Provider will offer Early Education provision at premises within the administrative boundary of the Local Authority.
- 22.4 The Provider must complete, through the on-line Provider Portal, all documentation, funding claims and returns in connection with and appertaining to the Early Education Funding including, but not limited to, acceptance of this Agreement in full.
- 22.5 The Provider must have an inclusive admission policy.
- 22.6 The Provider must not do anything to cause any infringement by the Local Authority of its obligation under the Human Rights Act 1998 or any other human rights law.



- 22.7 The Local Authority will ensure that the Early Education Funding is administered promptly, fairly and in a way that promotes equal opportunities and inclusion.
- 22.8 The Local Authority will maintain and keep an up-to-date on-line Directory of all registered childcare providers within its administrative boundary. All providers who are registered to offer early education funded places for two, three and four year old children will be listed in the Directory. The Provider may choose to use limited address details within the Directory, and only share part of their address. The Directory will be made available on the Local Authority's website so that families can search for relevant childcare and early education funded places.
- 22.9 The Local Authority will keep up-to-date information relating to the provision of Early Education Funding on the Local Authority's website [www.lancashire.gov.uk](http://www.lancashire.gov.uk).
- 22.10 The Local Authority will ensure that providers are made aware of the requirements and process for applying for Early Education Funding.

### **23. Confidentiality, Freedom of Information and Data Protection Legislation**

- 23.1 Subject to clause 23.3 (Freedom of Information), each party shall during the Contract Period and thereafter keep secret and confidential all Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.
- 23.2 The obligation of confidentiality contained in clause 23.1 shall not apply or shall cease to apply to any Know-How or other business, technical or commercial information which:
- a. at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party.
  - b. is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
  - c. is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.
- 23.3 The Provider acknowledges that the Local Authority is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and shall assist and co-operate with the Local Authority (at the Provider's expense) to enable the Local Authority to comply with these information disclosure requirements.
- 23.4 The Provider shall:

- a. transfer the request for information to the Local Authority as soon as practicable after receipt and in any event within 5 Working Days of receiving a request for information.
- b. provide the Local Authority with a copy of all information in its possession or power in the form that the Local Authority requires within 5 Working Days (or such other period as the Local Authority may specify) of the Local Authority requesting that information; and
- c. provide all necessary assistance as reasonably requested by the Local Authority, to enable the Local Authority to respond to a request for information within the time for compliance set out in section 10 of the FOIA.

23.5 The Local Authority shall be responsible for determining at its absolute discretion whether the information:

- a. is exempt from disclosure in accordance with the provisions of the FOIA; and
- b. is to be disclosed in response to a request for information.

23.6 In no event shall the Provider respond directly to a request for information unless expressly authorised to do so by the Local Authority.

23.7 The Provider shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Local Authority to inspect such records as requested from time to time.

23.8 The Provider notes the Local Authority's obligations under the Data Protection Legislation and it will comply with this legislation in so far as it places obligations on the Provider as well as facilitating the Local Authority's compliance. In particular, the Provider notes that the Local Authority may be required to provide information relating to this Agreement or the Provider to a person in order to comply with the Local Authority's obligations under such legislation.

#### **24. Procedure for Dealing with Disputes About This Agreement**

24.1 If either party is dissatisfied with this Agreement or the Services or the payments which are the subject matter of this Agreement and that party is not able to resolve its dissatisfaction in informal discussion with the other party, then it may at its option give notice to the other party in writing of its intention to invoke the dispute procedure set out in clauses 24.2 and 24.3.

24.2 Within 10 days of receipt of the said notice or any other period agreed between the parties, the Local Authority's nominated representative and the Provider's representative will meet to attempt to resolve the said dispute.

24.3 In the event that the parties referred to in clause 24.2 fail to resolve the said dispute, the Local Authority's Head of Education and a Director of the Provider will meet within

10 days of the meeting referred to in clause 24.2 (or such other period agreed between the parties) in a further attempt to resolve the said dispute.

- 24.4 If the dispute cannot be resolved by the parties within 1 month of being escalated as referred to in clause 24.3, the dispute may by agreement between the parties be referred to a mediator (the "Mediator") chosen by agreement between the parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the parties in the further proceeding.
- 24.5 If the parties fail to appoint a Mediator within 1 month or fail to enter into a written agreement resolving the dispute within 1 month of the Mediator being appointed, either party may exercise any remedy it has under applicable law.

## **25. Procedure for Dealing with Breaches of Any Terms of This Agreement**

- 25.1 Where concerns are highlighted by the Provider's continual failure to meet the statutory requirements of the EYFS, the Local Authority will:
- a. give written notice to the Provider setting out any concerns the Local Authority may have.
  - b. where the Local Authority considers that its concerns are capable of being addressed, set out the actions that must be taken to remedy such concerns.
- 25.2 Any actions required by the Local Authority in accordance with clause 25.1b will be carried out by the Provider within 3 months of the date of the recommendations (or such other period as may be stipulated by the Local Authority or agreed by the parties).
- 25.3 The Local Authority will visit the Provider's premises from which the Services are being delivered and meet the Provider within 3 months of the written notice to ensure that the Local Authority's required actions are being implemented and that the concerns identified by the Local Authority are being remedied to the reasonable satisfaction of the Local Authority.
- 25.4 The Provider may ask for a meeting with the Local Authority where the Provider has any concerns in relation to any aspect of service delivery or the manner in which the Local Authority is meeting its obligations under this Agreement or may invoke the dispute procedure as outlined in Clause 24.

## **26. Notices**

- 26.1 Any notice or other document to be given under this Agreement will be to the registered address, in which case written notification will be deemed received if sent by second class recorded delivery service to the following names and addresses:

In the case of the Local Authority to:

Operational Delivery Lead (Early Years Funding & Sufficiency), Education, Improvement, Children's Services, County Hall, PR1 0LD.

In the case of the Provider to the registered address as contained in the details provided by Ofsted.

- 26.2 In proving the notice was served, it will be sufficient to prove that the envelope containing such notice was properly addressed and posted and any receipt issued by the postal authorities will be conclusive evidence of the fact and date of posting of any such notice.
- 26.3 The Provider will notify the Local Authority in writing if it changes its address and will provide such notice within 14 days of any such change.

## **27. Assignment**

- 27.1 The Provider may not, without the prior written consent of the Local Authority (which will not be unreasonably withheld or delayed), assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Agreement, transfer or pay to any other person any part of the funding.

## **28. Indemnity**

- 28.1 The Provider will indemnify the Local Authority from and against all loss or damage or liability (whether criminal or civil) together with any legal costs incurred by the Local Authority resulting from a breach of this Agreement by the Provider, its employees or agents including:
- a. any act, neglect or default of the Provider, its employees or agents; and;
  - b. any claim by a third party based on any facts which if substantiated would constitute a breach of any of the Provider's obligations under this Agreement.
  - c. Any breaches of Clause 23
- 28.2 The indemnities contained in this clause will be continuing indemnities and will be without prejudice to any other right or remedy of the Local Authority whether arising under the terms of this Agreement or otherwise. Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.

## **29. Insurance**

- 29.1 During the Contract Period the Provider will:
- a. maintain in force with a reputable insurance company comprehensive policy of insurance to cover all liabilities arising out of or in connection with this Agreement.
  - b. Display a copy of the current policy/policies and inform the Local Authority in writing if the Provider ceases to hold valid insurance

through cancellation, non-payment, breach of the insured terms or any other means.

### **30. No Waiver of Rights**

- 30.1 No failure on the part of either party to exercise and no delay on its part in exercising any right or remedy under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any or further exercise thereof or the exercise of any right or remedy. The rights and remedies provided in this Agreement are in addition to and not exclusive of any rights and remedies provided by law.
- 30.2 Any express waiver by the Local Authority of any breach of any of the obligations of the Provider under this Agreement will not be a waiver of any continuing breach or of any breach of any of these obligations.

### **31. Severance**

- 31.1 If any term, provision or part of this Agreement become or be declared illegal, invalid or unenforceable for any reason whatsoever such term, provision or part will be divisible and deemed to be deleted from this Agreement; provided always that if such deletion substantially affects or alters the basis of this Agreement the parties will negotiate in good faith to amend and modify the remaining terms as may be necessary or desirable in the circumstances.

### **32. Variation**

- 32.1 If the Local Authority needs to make any changes to this Agreement due to statutory changes or instructions from the Secretary of State then the Local Authority reserves the right to do so without Agreement from the Provider.

### **33. Entire Agreement**

- 33.1 This Agreement will constitute the entire Agreement and understanding between the parties in respect of all matters which are referred to and will supersede any previous Agreement between the parties in relation to the matters referred to herein. Both parties acknowledge that they have not relied upon any representation or statement not expressly incorporated into this Agreement.

### **34. Collusion/Corruption**

- 34.1 The Provider shall not, and shall ensure that any person employed by it or acting on its behalf, shall not:
- a. offer, or give, or agree to give, any person employed by the Authority, or any person employed by it or acting on its behalf, any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or having done, or forborne to do, any act in relation to the obtaining or performance of

this Agreement or any other agreement with the Authority for showing, or forbearing to show, favour or disfavour to any person in relation to this Agreement or any other agreement with the Authority; or

- b. commit any offence under the Bribery Act 2010; or
- c. give any fee or reward, the receipt of which is an offence under section 117(2) the Local Government Act 1972.

- 34.2 If the Provider or any person employed by it or acting on its behalf, breaches clause 34.1, such breach shall be deemed to be a material breach of this Agreement which is not capable of remedy and the Authority may terminate this Agreement immediately by notice in writing to the Provider.
- 34.3 Without prejudice to its other rights and remedies under this clause 34, the Authority shall be entitled to recover in full from the Provider and the Provider shall on demand indemnify the Authority in full from and against any and all Losses suffered, incurred, awarded against and/or agreed to be paid or sustained by the Authority in consequence of any breach of clause 34.1.
- 34.4 Notwithstanding clause 25, any dispute relating to the interpretation of clauses 34.1 to 34.3 inclusive of the amount or value of any gift, consideration or commission shall be determined by the Local Authority and the decision of the Local Authority shall be final and conclusive (provided that, in so determining, the Local Authority shall act reasonably and in good faith).

### **35. Non-discrimination**

- 35.1 The Provider shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.
- 35.2 The Provider shall take all reasonable steps to secure the observance of clause 35.1 by all servants, employees or agents of the Provider and all Providers and sub-contractors.

### **36. Law and Jurisdiction**

- 36.1 The provisions of this Agreement will be governed by and construed in accordance with English Law. In respect of all matters arising under this Agreement the parties hereby submit to the exclusive jurisdiction of the Courts of England.

### **37. Agreement Renewal**

- 37.1 On the anniversary of this Agreement if the Provider remains an Eligible Provider, this Agreement will automatically renew on the same terms and conditions. In the event of there being any changes to the terms and conditions of this Agreement the Provider will be notified of the same.

## Annex A – Definitions

"Action Plan"	means the plan of action, prepared by a Provider rated by Ofsted as "Requires Improvement" that details the Provider's intended actions to raise the settings quality rating at the settings next Ofsted inspection. The Action Plan must be submitted to the Local Authority within 6 weeks of the Ofsted Inspection publication date must detail targets, actions, responsibilities, costs, timescales and evaluation.
"Agreement"	means this Agreement.
"Administration Charge"	means the administration charge which is the sum calculated as the assessment of the cost of administration time and expenses to the Local Authority in dealing with defaults of the Provider referred to at 14.8.
"Authorised Signatory"	means such a person with the appropriate authority or permission from the Provider to bind the Provider to the terms of this Agreement. The Local Authority reserves the right to request evidence of this permission from time to time, and the Provider must provide this immediately upon request.
"Childcare"	<p>In accordance with the Childcare Act 2015 (Ch21, pt1.18), and clause 7.15;</p> <p>A. Childcare means any form of care for a child and subject to subsection "B" care includes –</p> <ul style="list-style-type: none"><li>a. education for a child, and</li><li>b. any other supervised activity for a child.</li></ul> <p>B. Childcare <b>does not</b> include –</p> <ul style="list-style-type: none"><li>a. Education (or any other supervised activity) provided by a school during school hours for a registered pupil who is not a young child, or</li><li>b. Any form of health care for a child.</li></ul> <p>C. Childcare <b>does not</b> include care provided for a child by-</p> <ul style="list-style-type: none"><li>a. a parent or step-parent of the child.</li><li>b. a person with parental responsibility for the child.</li><li>c. a relative of the child; (which means a grandparent, aunt, uncle, brother or sister, whether of the full blood or half blood or by marriage or civil partnership).</li><li>d. a person who is a Local Authority foster parent in relation to the child.</li></ul>

- e. a person who is a foster parent with whom the child has been placed by a voluntary organisation.
  - f. a person who fosters the child privately.
- D. Childcare **does not** include care provided for a child if the care –
- a. Is provided in any of the following establishments as part of the establishment's activities –
    - i. An appropriate children's home
    - ii. A care home
    - iii. A hospital in which the child is a patient
    - iv. A residential family centre, and
  - b. Is so provided by the person carrying on the establishment or a person employed to work at the establishment.

<b>"Contract Period"</b>	means the period stipulated in clause 3.
<b>"Data Protection Legislation"</b>	means Data Protection Act 2018 and the General Data Protection Regulations in so far as they apply in the United Kingdom.
<b>"DfE"</b>	means the Department for Education.
<b>"Directory"</b>	means the record of all providers eligible to claim funding for the provision of funded Early Education childcare places.
<b>"Early Education"</b>	means government funded early years provision.
<b>"Early Years Funding Formula"</b>	means the government rules for how Local Authorities can fund providers to deliver early years entitlements
<b>"Early Years Pupil Premium" (EYPP)</b>	means additional funding for early years settings to improve the education they provide for disadvantaged children who meet the specified EYPP eligibility criteria.
<b>"Eligible Provider"</b>	<p>means a childcare Provider that:</p> <ul style="list-style-type: none"> <li>• has an "Active" registration status with Ofsted, or the equivalent body for Independent Schools, as an early years Provider.</li> <li>• is a childminder (excluding childminder agencies) with an active registration with Ofsted.</li> <li>• an independent school or academy taking children aged two or over and which are exempt from registration with Ofsted as an early years Provider.</li> <li>• fulfils the required Quality Provision, in clause 13.</li> </ul>



<b>"Early Education Funding"</b>	means the funding to be paid by the Local Authority to the Provider determined in accordance with the Early Education Funding Claim.
<b>"Early Education Funding Claim"</b>	means the claim to be completed on the online Provider Portal by the Provider.
<b>"Electronic Signature"</b>	means a signature that consists of one or more letters, characters, numbers or other symbols in digital form incorporated in, attached to or associated with an electronic document.
<b>"EYFS"</b>	means Early Years Foundation Stage.
<b>"Headcount day"</b>	means the day on which the headcount is carried out or the census day in each term as set out by the Local Authority in this Agreement (clause 14)
<b>"Headcount Week"</b>	means the week in which headcount day falls.
<b>"Local Authority"</b>	means Lancashire County Council
<b>"Named Contact"</b>	means the name of the person(s) from the Provider that is approved and authorised by the Provider to complete and submit the online Early Education claim form.
<b>"Ofsted"</b>	means Office for Standards in Education, Children's Services and Skills or the equivalent body for Independent Schools.
<b>"Provider"</b>	means an eligible childcare Provider situated within the administrative boundary of Lancashire County Council.
<b>"Provider Data"</b>	means any data provided to the Local Authority for the purposes of this Agreement relating to the Provider's finances.
<b>"Online Provider Portal"</b>	means the Local Authority's on-line/web-based portal for the submission of Early Education funding claims.
<b>"Parent"</b>	means the person/s who have parental responsibility
<b>"Parental Agreement"</b>	means the Agreement between the Provider and Parent, which gives parental authorisation for the Provider to claim Early Education Funding on the Parent's behalf.
<b>"School"</b>	means an <b>independent</b> school claiming Early Education Funding, for eligible children. This

Agreement excludes all **maintained** schools offering childcare provision eligible children.

**"Services"**

means those services stated in clause 1.

**"Term"**

for the purpose of this Agreement term dates and funded hours are as follows:

Term	Start Date	End Date	Maximum Funded Hours Claimable	
			Universal	Extended
Autumn	1 <sup>st</sup> September	31 <sup>st</sup> December	210	210
Spring	1 <sup>st</sup> January	31 <sup>st</sup> March	165	165
Summer	1 <sup>st</sup> April	31 <sup>st</sup> August	195	195
Total Funded Hours Per Year			570	570

**"Working day"**

means Monday to Friday (excluding public, bank and statutory holidays) in England.

**ANNEX B – PARENTAL AGREEMENT FOR THE PROVISION OF  
EARLY EDUCATION FUNDED PLACES (EEF)**

**Section 1: Placement Details**

<b>Childcare provider/school name:</b>	
<b>Ofsted registration number:</b>	
<b>EEF placement start date:</b>	

**Section 2: Child & Family Details**

<b>Child legal forename:</b>		<b>Child legal surname:</b>	
<b>Name by which child is known:</b> (If different from above)		<b>Child date of birth:</b>	
<b>Child ethnicity:</b>		<b>Child Gender:</b>	
<b>Child home address &amp; postcode:</b>			
<b>Proof of DOB</b> (e.g. birth certificate/passport etc)		<b>Proof of DOB seen by</b> (i.e. name of staff)	
<b>Does your child receive Disability Living Allowance as the provider will be able to claim the Disability Access Funding?</b>	<b>Yes</b>	<b>No</b>	

<b>Parent Carer Details</b>		<b>Parent/Carer 1:</b>	<b>Parent/Carer 2: (optional)</b>
<b>Legal forename(s):</b>			
<b>Legal surname:</b>			
<b>National Insurance or NASS Number:</b>			
<b>Date of birth:</b>			
<b>2YO golden ticket voucher code</b>  <b>(Issued by LCC – 6 digits)</b>		<b>Working parents' eligibility code</b>  <b>(11-digit code issued by Childcare Choices)</b>	

### Section 3: Early Education Funded Hours

- Table 1 **MUST** be fully completed for all early education funded hours to be claimed, including the session times agreed and any additional charges that may apply for meals/snacks and/or consumables.
- As the government funding is not intended to cover the cost of meals/consumables parents should expect to pay for these. However, any additional charges cannot be a condition of accessing the funded hours/place.
- The childcare provider is only permitted to claim the hours that have been agreed in table 1.
- Where the total annual hours in table 1 is less than the child's annual entitlement the provider may agree to bank these hours to be used later in the term/year. Where this is the case the agreed hours to be banked each term **MUST** be recorded in table 2.
- A record of the actual dates that the banked hours are taken **MUST** also be kept by the childcare provider for audit purposes.
- If a parent does not use their banked hours, or gives written notice to end their child's place, before all the bank hours have been used the childcare provider **MUST** re-pay the unused hours to the Local Authority.

**Table 1: Early Education Funded (EEF) Weekly Hours**

Day	EEF Session Times	Total Funded Hours per Day	Early Education Funded Hours (Zero cost to parent)			Daily Charges for Meals/ Consumables (If applicable)
			No. of Funded Hours (2YO Golden Ticket & 34YO Universal Hours)	No. of Extended/ Expanded Hours (Working Families' Entitlements)	£	£
Mon					£0.00	£
					£0.00	£
					£0.00	£
Tue					£0.00	£
					£0.00	£
					£0.00	£
Wed					£0.00	£
					£0.00	£
					£0.00	£
Thu					£0.00	£
					£0.00	£
					£0.00	£
Fri					£0.00	£
					£0.00	£
					£0.00	£
<b>Total Weekly EEF Hours</b>					<b>£0.00</b>	
<b>Number of weeks per year (e.g. 38, 47, 51, 52 etc)</b>					<b>£0.00</b>	
<b>Total EEF hours per year i.e. weekly hours x no of weeks</b>					<b>£0.00</b>	
<b>Hours available if banking (if applicable)</b>					<b>£0.00</b>	

Total weekly charge for meals/ consumables (if applicable)	£
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**Table 2: Banked Hours (if applicable)**

Term	No. of Funded Hours (2YO Golden Ticket & 34YO Universal Hours)	No. of Extended/ Expanded Hours (Working Families' Entitlements)
Autumn		
Spring		
Summer		
Total banked hours		
Total EEF hours per year (i.e. table 1 and table 2)		
Total Hours to be claimed in headcount (i.e. total EEF hours divided by 38 weeks)		

**Section 4: Accessing EEF Entitlement Across Multiple Childcare Providers**

Does your child take up any EEF hours at any other childcare provider?	YES	NO
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If **yes**, please complete the following for all the other providers where your child is accessing their EEF entitlements.

**Note:** It is the **parent/carer's** decision which provider will claim the funded hours and which provider will claim the extended/expanded hours. This is **NOT** the decision of the provider.

Name of Childcare Provider/School	No. of Funded Hours (2YO golden ticket and 34YO universal)		No. of Extended/Expanded Hours (working families' entitlements)	
	Per Week	Per Year	Per Week	Per Year

**Note:** the total number of EEF hours across **all** providers cannot exceed a maximum of 570 funded hours and 570 expanded/extended hours per year.

**If your child is in receipt of DLA and splitting the EEF entitlements across two or more settings, please nominate the main setting who will claim the DAF**

**Name of setting to claim DAF .....**

**Section 5: Notice Period**

- I am entitled to reduce the number of funded hours outlined in this agreement or move my child from the above named childcare provider to a new childcare provider, providing I give the childcare provider at least [ ] weeks written notice.
- There will be no transfer of funding within the term unless written notice has been given by the deadlines specified in section 3 of Appendix 1 - Parental Agreement Terms and Conditions of Early Education Funded Places.

**Section 6: Declaration**

- I confirm that the information I have provided in this agreement is accurate and true.
- I give consent for the information contained within this agreement to be shared with Lancashire County Council (LCC) and Department for Education, who will access information from other government departments to check my eligibility for all of the early years entitlements i.e. working parents entitlements, 2YO disadvantaged entitlements and Early Years Pupil Premium, Disability Access Fund).
- I give consent for this childcare provider to claim the funded entitlements on my behalf.
- I confirm the childcare provider named above has provided me with a copy of the terms and conditions of funding (Appendix 1) and that I understand these.

Parent/Carer with legal responsibility		Childcare Provider/School
<b>Name</b>		
<b>Address</b>		
<b>Email Address</b>		
<b>Telephone No.</b>		
<b>Signature</b>		
<b>Date</b>		