

**DRAFT**

**Nursery Education Fund Policy**

Early Years Funded Free Entitlement

For 2, 3 & 4 Year-Olds

September 2014

DRAFT

# Contents

## **1. Introduction**

1.1 Our role as a Local Authority

## **2. The Early Years Single Funding Formula (Local Authority & Private/Voluntary Providers)**

2.1 The Funded Entitlement for Parents

2.2 Amount of Funded Provision

## **3. Criteria for Delivery of Funded Provision in Herefordshire**

3.1 The Local Directory of Early Years Providers

3.2 Entry to the directory

3.3 Rejection or removal of Nursery education Funding from providers

3.4 Appeals Procedure

3.5 Providers who will not be eligible for 2, 3 and 4 Year Old funding

3.6 Funding Exemptions from Early Years Foundation Stage (EYFS)

3.7 Provision of information

3.8 Data Protection

3.9 Provider Agreement/Contract

3.10 Stretched Offer

3.11 Payments and future automated payment system

3.12 Headcount and Second Payment

3.13 Children Arriving After the Headcount Date

3.14 Absences

3.15 Records and Audit

## **4. Provider role and responsibility**

4.1 Quality & Improving outcomes

4.2 Inclusive Practice

- 4.3 Determining Eligibility for a Funded Place
- 4.4 Deferred Entry into the Reception Year
- 4.5 Entitlement and Flexibility of Funded Free Entitlement
- 4.6 Provider Billing and Invoicing
- 4.7 Parent/Carer Declaration Form for 3 & 4 Year Old Funded Children
- 4.8 Transfer of setting during a funding period
- 4.9 Cross border arrangements
- 4.10 Children increasing/decreasing hours in a funding period
- 4.11 Claims Processes & NEF financial records

## **5. Failure to Adhere to the Code of Practice**

- 5.1 Closure of a provider

## **6. Conditions**

## **7. Complaints Procedure**

## **8. Provider Agreement**

# 1. Introduction

Herefordshire Council has produced this Policy in order to support providers in their role in delivering the funded (free) entitlement for 2, 3 and 4 year olds. It has been written in line with the:

Free Early Learning and Childcare – The Offer for Two-Year Olds, Department for Children, Schools and Families (DCSF) Guidance document for local authorities (July 2009) and the Department for Education (DfE) Early Education and Childcare Statutory Guidance for Local Authorities (September 2013)

This Policy explains how to claim the funding and also specifies the monitoring undertaken by Herefordshire Council concerning the use of funding by providers.

It outlines the conditions of Early Years Funded Free entitlement in Herefordshire and as such underpins the delivery of the Early Years Foundation Stage (EYFS) curriculum, for those registered on our directory of providers.

The aim of this Policy is to describe Herefordshire's Council's responsibilities to ensure that the funded entitlement within Herefordshire meets the requirements set down by government for 2, 3 and 4 year olds and provide simple, clear and transparent guidelines and rules. It will detail the requirements to which providers must adhere to enable Herefordshire Council to monitor providers to ensure that funding is used in an appropriate and legitimate manner.

## 1.1 Our role as a Local Authority

The Childcare Act 2006 fulfils the government's commitment to give every child the best start in life and parents greater choice about how to balance work and family life. The act places a duty on all local authorities in England to improve outcomes for young children, to reduce inequalities between them and to secure sufficient childcare to enable parents to work.

Section 6 places a duty on English local authorities to secure sufficient childcare for working parents.

Section 7 places a duty on English local authorities to secure early years provision free of charge. Regulations made under section 7 set out the type and amount of free provision and the children who benefit from the free provision.

Section 11 places a duty on English local authorities to assess childcare provision. Regulations made under section 11 set out how the assessment must be prepared and published.

Section 13 places a duty on English local authorities to provide information, advice and training to childcare providers.

Local authorities **must** have regard to this guidance when seeking to discharge their duties under sections 6, 7, 11 and 13 of the Childcare Act 2006 and should not depart from it unless they have good reason to do so (Statutory Guidance on Local Authorities 2006 Act)

The Childcare Act gives Local Authorities a key role in shaping the childcare market in their area. For Herefordshire this means working with our providers from the private, voluntary, and independent (PVI) sectors, to create a strong sustainable and diverse childcare market that meet the needs of parents.

The funded entitlement can be delivered through a range of providers including nursery schools and classes, private and voluntary sector day nurseries, playgroups and childminders. It is the responsibility of local authorities to ensure there is a diverse range of providers delivering provision offering parental choice.

Funded Early education for eligible 2 year olds is part of the Government's agenda to support and improve outcomes for children and families to have early access to high quality Early Years provision, locally we have referred to this funding as 2 year old funding.

Herefordshire Council will administer the funded entitlement for 2, 3 and 4 year olds, and has a duty to ensure the delivery of high quality, integrated, inclusive care and education.

## **2. The Early Years Single Funding Formula**

The School Finance (England) Regulations 2012 (S.I.2012/335) set out how Local Authorities must operate their Early Years Single Funding Formula (EYSFF). The regulations require that a Local Authority must consult their schools forum and decide upon the funding formula which informs the hourly rate paid to all providers (*Local Authority Nurseries and Private/Voluntary Sector Providers*).

The hourly rate for two year olds is £4.85 and the rate for 3 and 4 years olds will be £3.20 (plus an extra 26p per child for disadvantaged postcodes) A lump sum of £50 per week is paid pro-rata for providers with less than 100 hours.

### **2.1 The Funded Entitlement for Parents**

Local Authorities must secure the availability of places for all eligible 2, 3 & 4 year old children to meet the funded entitlement for parents. The entitlement for every child is 570 hours per year which equates to a maximum of 15 hours per week, over a minimum of 38 weeks.

A provider should enable parents to be able take up their child's early education place in patterns of hours that stretch their child's entitlement by taking fewer hours a week over more weeks of the year, where there is provider capacity and sufficient parental demand. Providers can agree to stretch the offer over more than 38 weeks, as long as the hours claimed over the year are not more than 570. The Local Authority will continue to fund the provider as a 38 week offer, and any arrangement to stretch the offer is a private matter between the provider and the parent, in accordance with the provider's billing and invoicing policy.

A parent can choose which provider they claim their funding from. No more than two childcare settings can be used. If a child is attending two settings the number of funded hours per week cannot exceed 15. Parents who access the funded entitlement with a provider who opens for less than 38 weeks per year cannot exceed the 15 hours weekly entitlement for example, 17.5 hours per week over 33 weeks. The minimum length of a session the Local Authority will fund in one day is 2.5 hours and the maximum is 10 hours. In order to be able to access the funding, children must remain in the provision for a minimum of 2 weeks. Should parents choose to remove their child before this qualifying period, it is the provider's responsibility to make parents aware that they will be liable for all costs incurred.

For clarification, a childminder cannot claim funding for providing childcare to their own children, as defined in Section 20 of the Childcare Act 2006.

Providers who have children with an Education, Health and Care (EHC) plan can claim the full entitlement even if the child attends for less than 15 hours. If a child claims the full entitlement in a special school no hours can be claimed by or paid to any other provider.

## **2.2 Amount of Funded Provision**

The 2 year old funded entitlement rate from 1st April 2014 is £4.85 per hour

The 3 & 4 year old funded entitlement rate from 1st April 2014 is £3.20 per hour

(inclusive of an additional 26p for postcodes in areas of deprivation and lump sum payment where applicable). Rates and eligibility criteria are subject to change.

## 3. Criteria for Delivery of Funded Provision in Herefordshire

### 3.1 The Local Directory of Early Years Providers

Herefordshire Council must maintain and keep an up to date Local Directory of Early Years Providers. Providers must give permission to be included in the on-line directory. Not all childcare settings will be on it. This can be accessed from our Family Information Service on line directory <http://earlyyears.herefordshire.gov.uk>

The following providers can be included in the local directory:

- Providers registered with Ofsted as Daycare or Sessional providers (day nursery, playgroup, pre-school, private nursery school, school managed provision) on the Early Years Register
- Independent schools registered with the Department for Education delivering the EYFS
- Non-maintained special schools delivering the EYFS
- Childminders
- Providers who have been granted exemption from EYFS by the Department for Education
- Providers registered with Ofsted but have not yet been inspected can be included on the local directory and could be eligible for funding.

### 3.2 Entry to the directory

Providers must comply and meet the following criteria in order to be included in the Local Directory.

Providers must:

- have received an Ofsted Certificate of Registration to deliver funded entitlement through the delivery of the Early Years Foundation stage
- comply and adhere to the requirements of this document and have signed the NEF Funding Agreement (Appendix 1)
- demonstrate a commitment to working with Herefordshire's Councils Early Years Improvement Advisors in order to raise the quality of provision.

### **3.3 Rejection or removal of Nursery Education Funding for providers**

*N.B Local Authority Nurseries will follow a different process to as they are run and managed as part of the school and are bound by a different policy and procedure.*

When Ofsted notify Herefordshire Council of an inadequate setting we will arrange a formal meeting with the setting's committee/owner within 7-10 days. The Council will need to have a copy of the interim inspection report or have been present at the feedback to understand what improvements are required unless; the setting is subject to a focused improvement plan due to previously being graded as satisfactory or requires improvement.

The meeting will agree the approach to be taken to the inadequate inspection judgement and the removal of NEF funding. Consideration will be given to:

- a. Timescales to getting a good/outstanding Ofsted judgement
- b. Practicalities and impact on the children
- c. Availability of alternative places

Notification will be sent to the Committee/Owner of the setting confirming the outcome of the meeting within the next 7-10 days

The dates of regular monitoring checks by the Council will be agreed at the meeting following the first inadequate Ofsted outcome

If the setting receives a satisfactory inspection outcome or a requires improvement outcome within the time scale agree at the meeting then NEF will NOT be removed.

If a second inadequate outcome is received at re-inspection then the settings entry on the Directory of Early Years Providers of NEF will be cancelled and 6 weeks notice will be given of the ceasing of NEF funding.

Immediate notice must be given by the setting to parents that they will not be able to claim for NEF places at that setting after the 6 week notice period had expired.

### **3.4 Appeals Procedure**

Providers wishing to appeal against the Local Authority's decision to remove them from the directory must: notify Herefordshire Councils Early years Policy & Strategy Manager of the intention to appeal within 7 days of the date of the letter following receipt of a letter of removal.

Herefordshire Council will notify the provider within 7 days of a date for an appeal hearing and the procedure and format of the appeal process. At this time the



provider will be asked to submit any written evidence to support their appeal within 7 days.

Evidence from the provider and from the Local Authority will be circulated to all parties 7 days before the appeal date

The provider will be notified of the appeal panel's decision within 5 working days

If a provider wishes to object to the appeals decision, it will then be taken as a complaint towards the Local Authority and be treated as such by progressing it through Herefordshire Council's complaints policy. The appeal decision will stand and be implemented whilst the complaints procedure is underway.

### **3.5 Providers who will not be eligible for 2, 3 and 4 Year Old funding**

If a provider receives an Inadequate Ofsted judgement, the following will apply:

#### ***For providers receiving 3 and 4 year old funding***

Where a provider has an Ofsted Inadequate outcome, the Local Authority will not continue to fund 3 & 4 year olds at the provision unless the provider has agreed to work with the Early Years Improvement Advisors to address Ofsted actions.

Where a provider has an Ofsted Inadequate outcome they must demonstrate improvement by being re-inspected at a "Requires Improvement" level or higher. If the setting is re-inspected at an Inadequate grade funding will be removed.

If there are safeguarding concerns funding may be withdrawn immediately.

#### ***For receiving 2 year old funding***

Where a provider has an Inadequate Ofsted outcome they will not be eligible for 2 year old funding until they have been re-inspected at a GOOD level or higher.

Funding for two year olds currently attending the setting at the time of the Ofsted inadequate judgement will be reviewed when the Ofsted Interim or monitoring report is available.

Where either the original inspection or the monitoring visit highlights safeguarding issues that will impact on the 2 year olds at the provision funding will be withdrawn immediately

Providers who have a requires improvement Ofsted outcome

Where a provider has an Ofsted Requires Improvement outcome the Local Authority will not continue to fund 2, 3 & 4 year olds at the provision unless the provider has agreed to participate with Early Years Improvement Advisors to address Ofsted actions.

### **3.6 Funding Exemptions from Early Years Foundation Stage (EYFS)**

All early years providers who register with Ofsted and schools who are exempt from registration, are required by the Childcare Act 2006 to deliver the Early Years Foundation Stage (EYFS). In certain circumstances (following a provider's application for exemption/modification to the DfE) exemptions/modifications may apply.

Herefordshire Council will consider and advise providers whether they will continue to fund providers/children. Parents must always be offered access to a funded place for their child with a provider who has not been granted an exemption.

In order for an Early Years provider/school to continue to receive funding following on from being granted an exemption/modification they must demonstrate a commitment to working with the Early Years Advisors to raise quality of provision when required to do so.

### **3.7 Provision of information**

When a provider signs the Local Authority Agreement they are committing to completing the following information returns:

Providers should complete and return any requests for information relating to children in receipt of funding. This would include completion of the Early Years Foundation Stage profile for children who have deferred entry into school until the term after the child's 5<sup>th</sup> birthday.

Providers may be asked by Herefordshire Council to distribute information to parents.

### **3.8 Data Protection**

It is vital that those who collect and use personal data maintain the confidence of those who are asked to provide it, by ensuring full compliance with the requirements of the Data Protection Act (1998).

Details of Herefordshire Council's standard contract terms relating to Data Protection, Freedom of Information, Information Security and Data ownership can be found on the Council's website.

### **3.9 Provider Agreement/Contract**

A Local Authority NEF Provider Agreement states the terms and conditions that providers and Herefordshire Council are expected to meet. Providers and the Council must abide by the terms and conditions.

### **3.10 Stretched Offer**

Parents who wish to take their free entitlement over a longer period than the standard term of 38 weeks are able to do so by 'stretching' their entitlement over the year as long as the hours claimed do not exceed 570.

Through its sufficiency duty, Herefordshire Council has to ensure a range of provision is available which meets parental needs and is keen to ensure that parents can access a stretched offer if they choose, although this is not a mandatory requirement for providers.

In the event of an audit, providers must be able to support any claims made.

### **3.11 Payments**

Funding will be paid in accordance with the timetable of dates directly into provider's bank accounts (via BACS), and these accounts must be in the name of a business, except for childminders. It is the provider's responsibility to notify the Local Authority of any changes to their bank account details.

Herefordshire Council will make up to three interim payments to providers (Autumn, Spring and Summer terms) and one final payment including any adjustments payments.

Automated Payment System – Herefordshire Council will be working with providers to develop an automated on line payment system for NEF. This will be a more efficient process and will allow providers to have direct access for logging information and cutting down on paperwork and time. Further details will be shared with all providers over the coming months.

### **3.12 Headcount and Second Payment**

A headcount of eligible children should take place in each funding period. These dates are published on the council website. All children for whom the provider is claiming funding for should be attending the provision on the headcount date. This will include children who are booked to be at the provision at any time during the week of the headcount date and should include children who normally attend the provision but are on a family holiday or are sick.

The headcount dates change each term and these are published on Herefordshire Council's website for 2 year olds and 3 and 4 year olds as below:

<https://www.herefordshire.gov.uk/nefproviders>

Children on provider's registers who have not yet started or have left before the headcount date cannot be included in the headcount. It is the provider's responsibility to check that the children are eligible for funding in that period.

Providers must notify the Local Authority of children leaving their provision or moving to another provision by completing the relevant forms, eg Child leavers form. These forms should be forwarded as soon as possible.

### **3.13 Children Arriving After the Headcount Date**

Providers may claim funding for eligible children who newly arrive after the headcount date. A Parent Declaration form should be completed and forwarded to the local Authority.

Children transferring from one provider to another can only do so in accordance with the protocols laid out in the Parent Declaration Form.

### **3.14 Absences**

The Local Authority will not claim back funding for any irregular attendance, but needs to be informed of any regular non-attendance so that the matter can be reviewed. Children can be absent due to sickness or holidays for a period of up to 2 weeks before any funding will be recovered.

### **3.15 Records and Audit**

Herefordshire Council reserves the right to audit providers on a regular basis to ensure that no fraudulent claims are being made. This may result in removal of a provider from the Local Directory. Accurate registers should be kept for a minimum of 3 years. Financial records must be retained for seven years. Termly moderation may take place for children with an Education, Health and Care Plan (EHC).

Providers should be aware that the information about each child, the details of claims submitted for payment of funding, and the actual payments made may be the subject of a Local Authority wide audit check to ensure the validity of the expenditure of public funds.

## **4. Provider role and responsibility**

Providers need to be aware of their responsibilities and the role of Herefordshire Council. It is important for providers to meet parental needs and to work towards providing flexible services that meet demand.

Collaborative engagement with Children's Centre and other providers is integral to support ongoing high quality, flexible services to support families needs. Providers are making this commitment when signing the Provider Agreement relating to this Policy.

### **4.1 Quality**

A provider's involvement in continuous quality improvement is vital to secure high quality, flexible, inclusive provision for children. The funded entitlement must be delivered to high standards. Providers must provide planned adult led activities and opportunities for child initiated learning to enable children to progress towards achieving Early Learning Goals, in line with the principles and practice described in the Statutory Framework for the Early Years Foundation Stage (EYFS). Providers must adhere to the Early Years Foundation Stage Statutory Regulations. Providers must also adhere to the SEN Code of Practice.

Providers must maintain written records of children's achievement against the EYFS based on observational assessment and ensure this information is passed to parents, receiving schools and providers on transfer.

When required to do so providers must make available to the Early Years Improvement Advisors all the information needed including:

observational assessment and planning in relation to funded children

Progress tracking information in relation to children in receipt of, or have been in receipt of, 2 year NEF funding for inclusion in relation to a child with SEND (Special Education Needs Disability)

staff training records

administrative set up relating to NEF

any other information that can be reasonably requested

Providers must ensure that staff are appropriately qualified, continue to have access to training for early years, in addition to any other training.

Providers must maintain training records, details of qualifications of staff and a training plan.

Herefordshire Council have a team of Early Years Improvement Advisors working within the Learning and Achievement Service who support settings with inclusion needs of children with SEND and offer advice, support and training for all practitioners and settings involved in the delivery of the Early Years Foundation Stage. Focused support is provided to settings with Ofsted inspection outcomes result in an Inadequate or Requires Improvement (Satisfactory).

Improving Outcomes - By adopting this policy you are signing up to supporting the improving outcomes for children by promoting learning and development for every child and "narrowing the gap" in outcomes from disadvantaged families and their peers.

## **4.2 Inclusive Practice**

Providers are required to have regard to the SEN Code of Practice on the Identification and Assessment of Special Educational Needs, and to the additional guidance published by the Secretary of State. This requires providers to have a written policy (which must be reviewed annually) for Equal Opportunities and Special Educational Needs and have a named SENCO.

Educational settings have duties under the Equality Act 2010 and providers must make reasonable adjustments for disabled children and young people to help alleviate any substantial disadvantage they experience because of the disability, and they must not discriminate against or harass them.

Providers must provide for children's social, emotional and behavioural development with regard to current national and local guidance and the SEN Code of Practice. They must have a written policy for reasonable adjustments; implementing agreed actions with external agencies where required. The provider must designate a member of staff responsible for Safeguarding/Child Protection, have a stringent and robust Safer Recruitment procedure that complies with current legislation and Ofsted regulations and have regard to the Herefordshire Local Safeguarding Children Board advice and procedures and must work in partnership with other agencies when necessary.

All providers must adopt an inclusive approach, promote equality of opportunity and ensure there is no discrimination and must have a clear, transparent, inclusive and equitable admission procedure and process. The provider must have a designated staff member with responsibility for equal opportunities.

#### **4.3 Determining Eligibility for a Funded Place**

Funded free early education for two year olds is currently based upon national eligibility criteria. Funding is allocated on the basis that qualifying criteria is met.

Children become eligible for 2 year old funding the term after their second birthday. Funding will be paid up to and including the term before the child is eligible for 3 and 4 year old funding. This is to ensure a smooth transition between funding streams.

Children eligible for funded early education for 2, 3 & 4 year olds are entitled to a maximum of 15 hours free early education provision, delivered flexibly over three terms (38 weeks), or stretched over 51 weeks. The funded free hours must be delivered flexibly, taking into account the needs of both the child and family. No additional fees may be charged, including registration fees or deposits.

If a parent chooses to use the funding between a maximum of 2 providers, the overall total hours must not exceed 15 and they should make both providers aware of their decision. Children become eligible for 2, 3 & 4 year old funded entitlement

from the term after their 2nd or 3rd birthday and up until statutory school age which is the term after their 5th birthday.

The following table shows when a child is eligible to receive funding:

<b>Birthday falls between</b>	<b>Term funding starts</b>
1 <sup>st</sup> April – 31 <sup>st</sup> August	September
1 <sup>st</sup> September – 31 <sup>st</sup> December	January
1 <sup>st</sup> January – 31 <sup>st</sup> March	April

#### **4.4 Deferred Entry into the Reception Year**

As it is not compulsory for a parent to send their child to school until the term after their fifth birthday, funding may be claimed by the provider in the usual way in respect of a child whose parent has formally arranged with the Head of a School to defer the child's entry into school (Reception) for one or two terms. Please note this does not apply to a child who is being 'phased in' at the beginning of the reception year, as funding cannot be claimed once a child is on the school's register (this does not apply to independent schools).

Funding does not apply to the reception classes of maintained (state) schools, as these will be funded through school budgets. Children attending a non-maintained (independent) school, however, are still eligible to claim funding until they are of statutory school age, which is the term after their fifth birthday.

It is the provider's responsibility to check details of each child, including date of birth, to ensure eligibility.

Children must remain in the provision for a minimum of 2 weeks in order to be eligible for the funding. Should parents choose to remove their child before this qualifying period, it is the provider's responsibility to make parents aware that they will be liable for all costs incurred.

#### **4.5 Entitlement and Flexibility of Funded Free Entitlement**

Statutory guidance for Local Authorities on the Delivery of Free Education, September 2014, gives details of when Local Authorities should not fund providers to deliver the free entitlement. These limits secure an offer which will enable children to access regular, quality provision, in keeping with the evidence of the benefits of doing so, and promote continuity whilst also maximising flexibility for parents and ensuring a degree of stability for providers. The limits are:

No attendance longer than 10 hours

No attendance shorter than 2.5 hours

Not before 7am or after 7pm

A maximum of two providers at any one time

Herefordshire Council recognises that 'set up and clear away time' is needed, but the hours that funding is claimed for must reflect the period during which the EYFS is being delivered.

It is recognised that some providers are unable to offer the full entitlement of 15 hours a week over the full 38 weeks a year due to restricted premises use. A parent can choose a reduced entitlement if they wish as long as the provider informs the parents of the implications. A parent can make up a shortfall of hours with an additional provider. If a provider is unable to offer a minimum of 38 weeks per year, parents are unable to condense the offer eg 17.5 hours per week for 35 weeks.

#### **4.6 Provider Billing and Invoicing**

The DfE code of Practice September 2010 re-states the 2006 code, "Parents cannot be charged for any part of the minimum funded entitlement either directly or indirectly". Providers must ensure that for each eligible child the funded entitlement is free at the point of delivery. They should not impose any conditions in any format on parents to which they must agree in order to take up their funded hours.

Providers should discuss with parents their invoicing and billing process prior to a place being taken up, to ensure parents understand that the free entitlement will be shown as hours taken at no cost and any additional services and hours are charged accordingly, and in line with the providers pricing structure.

#### ***Providers must :***

Not charge top-up fees in respect of the funded hours. Parents should not be charged any top up amounts in relation to the funded hours. Payment for additional hours or services over and above the funded entitlement is a private matter between the parent and the provider.

Make parents aware, prior to taking up a funded place, of any charges that will be payable in respect of additional hours or services provided.

Make parents aware that although the free entitlement can cover the hours over the lunch period, the free entitlement is not expected to include the meal. Parents may choose to buy a lunch but providers cannot make this a condition of access and parents can have the option of providing a packed lunch.



Not charge registration, deposit or administration fees to parents who are only accessing the funded entitlement (this does not include additional services).

Not Impose conditions on parents requiring them to pay for their funded hours up front and be refunded at a later date. Parents should not be charged in advance and then refunded once payment from the Local Authority is received. Herefordshire Council supports providers by paying an interim payment based on their estimate of hours forms predicting the number of 2,3&4 year olds they are going to have for that term. We will pay 75% of the estimate in the first 3 months and then the final 25% in their final payment at the end of the term with any adjustments.

Show on any billing information or invoices the funded hours as “free” or “nil charge”

Must not Impose the conditions of purchasing a uniform in order to take only their funded hours

If Herefordshire Council is made aware by a parent that any of the above practices may have been carried out, the Local Authority will immediately investigate further and request detailed information on billing/invoice material. Providers are required to make all information available to the Council on request. The Council will investigate the complaint concerning the funded entitlement in line with the DfE Code of Practice and the local terms and conditions. If the provider is found not to be acting within the code, then Herefordshire Council will begin the process of removing the provider from the Local Authorities Directory of Providers.

If a parent has a concern regarding the funded entitlement, or the providers pricing policy in relation to the funded entitlement, they should in the first instance discuss this with the provider. The provider should investigate the concern in accordance with their own complaints policy. If the parent still feels that the matter is not resolved according to the terms of the funded entitlement, the parent can inform Herefordshire Council of their concerns in writing to the *Early Years Policy & Strategy Manager at Herefordshire Council, Plough lane, Hereford HR4 OLE. Email [jstephens@herefordshire.gov.uk](mailto:jstephens@herefordshire.gov.uk)*

Failure to provide the funded entitlement to an appropriate level of quality and standards may lead to a withdrawal of funding to the provider.

#### **4.7 Parent/Carer Declaration Form for 2, 3 & 4 Year Old Funded Children**

A Parent/Carer Declaration Form must be completed for each child who is claiming funding. All new or existing children who are changing their claims will be required to complete a new Parent Declaration Form.

Providers must ensure that parents are aware that:

a) When their child attends more than one setting they must complete a separate Declaration Form with each provider. Both Declaration Forms must show the

providers name and the total number of hours being taken up at each provision. In the event of the submission of conflicting claim forms from different providers, the Finance Team reserve the right to allocate the funding as they deem appropriate

b) The parent is signing up to a funding period for the funded entitlement and may be liable for any costs if there is a breach of that declaration

c) The provider must retain a copy of the signed Parent Declaration Form for their records.

#### **4.8 Transfer of setting during a funding period**

Children must remain in the provision for a minimum of 2 weeks in order to be eligible for the funding. Should parents choose to remove their child before this qualifying period, it is the provider's responsibility to make parents aware that they will be liable for all costs incurred.

Funding may be transferred between providers when a child changes provision. A completed "Notification of early leavers" form should be forwarded in this instance. A transfer of funding can only happen when we have received paperwork from both new and old providers. The child care setting notice period must be adhered to as parents may have costs incurred.

#### **4.9 Cross border arrangements**

The funded entitlement is allocated on the basis of where a child attends a provision, rather than which local authority they reside. This means that providers should claim for all children attending their provision whether they live in or outside of Herefordshire.

If a child is attending a provision outside Herefordshire, providers must ensure that no more than the maximum 15 funded hours are claimed between authorities. The hours taken up in each Local Authority must be clearly stated on the Parent Declaration Form.

The following will apply:

Looked after 2 year olds – The (host) local authority responsible for the care of a 2year old (under section 22(1) of the Children Act 1989) will pay for the early education entitlement.

2 year olds in families meeting the same criteria used to assess free school meal

eligibility – The (host) local authority in which the child resides will pay for the early education entitlement and this will take effect from September 2014.

3 & 4 year old funded children living in Herefordshire but attending a childcare provider outside of Herefordshire we will not fund.

#### **4.10 Children increasing/decreasing hours in a funding period**

If a child is taking up less than 15 hours in total of the funded entitlement, a parent can agree with the provider to increase the number of hours attended up to the maximum entitlement at any point in the funding period.

If a child is reducing their hours to less than 15 hours of the funded entitlement (and not transferring the remaining hours to another provider) a parent can agree with the provider to decrease the number of hours at any point in the funding period.

#### **4.11 Claims Processes**

The information requested must be submitted to the Local Authority within specified deadlines in order that funding for those children can be paid to the provider by the published dates.

Deadlines for returning all forms are published on Herefordshire Council website:

[www.herefordshire.gov.uk/nefproviders](http://www.herefordshire.gov.uk/nefproviders)

Herefordshire Council retain information about each child which is held on a database. Details are used for administration and audit purposes and will not be passed onto any other party not mentioned in the Parent Declaration form.

All returns that include children's details must only be submitted through secure email account and not through normal unsecured e-mail.

NEF Records – All financial records associated with Nursery Education Funding should be kept for a period of 7 years.

## **5. Failure to Adhere to this Policy**

If a provider fails to adhere to any aspect of the Herefordshire Nursery Education Fund Policy or fails to adhere to any other rules or procedures that it must abide by (for example Ofsted standards), then funding will be withdrawn.

However, Herefordshire Council seeks to work with providers to ensure that at all times they have the appropriate support and guidance needed to deliver on the necessary commitments, and to ensure that any likely breach is resolved as soon as possible.

### **5.1 Closure of a provider**

If a setting is planning to close or to be sold onto another provider, it is a condition of the funding that the provider gives the Local Authority at least one term's notice by completing the relevant form. Any registration that is resigned or cancelled with

Ofsted will automatically be removed from the directory. Herefordshire Council will reclaim any monies paid in advance for funded sessions.

## 6. Conditions

In order for providers to access early years funding, Herefordshire Council must attach reasonable conditions to ensure compliance in relation to quality standards, statutory duties and principles which are outlined in the DfE Code of Practice (Statutory Guidance), if a provider fails to meet any of the conditions set, it may require the repayment of the whole or part of any funding that has been paid in respect of the provision of funded places. Failure by providers to adhere to either the National or Local NEF Policy will mean that a provider could be withdrawn from the Directory of Local Providers and withdrawal of the funding.

## 7. Complaints Procedure

Should a provider have a complaint, in the first instance contact should be made with the Council's Children's Quality & Assurance Team 01432 260180 or email: [childrenscomplimentsandcomplaints@herefordshire.gov.uk](mailto:childrenscomplimentsandcomplaints@herefordshire.gov.uk)

The full complaints procedure can be found at: <https://www.herefordshire.gov.uk/government-citizens-and-rights/formal-complaints/formal-complaints>.

## 8. Provider Agreement

Appendix 1 contains the Provider Agreement under which Herefordshire Council agrees to fund providers, and the terms and conditions the provider agrees to abide by. The provider agreement should be read in conjunction with this NEF Policy.

Providers will be required to sign and agree to the terms and conditions in the Provider Agreement of funding for a 2, 3 and 4 year olds funded entitlement.

Appendix 1: Provider Agreement

# PROVIDER AGREEMENT

# Early Years Funded Free Entitlement

For

**2, 3 & 4 Year-Olds**

and for

**Inclusion to the Directory of Early Years**

**Providers**

This agreement is for the period 1<sup>st</sup> September 2014 until 31st August  
2015

THIS AGREEMENT is made this.....day of .....2014.

Between:

1. Herefordshire Council, Plough Lane Offices, Plough Lane, Hereford HR4 0LE  
("the Local Authority");

and

2. ....("the provider")

## **Background**

This agreement refers to the Department for Education (DfE) – “Early education and childcare, Statutory guidance for local authorities” September 2014 and subsequent revisions, supplements and additions.

<https://www.gov.uk/government/publications/early-education-and-childcare>

Conditions and this Agreement relate to all providers who receive Nursery Education Funding from Herefordshire Council in respect of eligible children aged 2, 3, and 4.

## **1. The Funded Free Entitlement**

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- 1.1 The funded free entitlement for an eligible 2, 3, and 4 year old is 570 hours per year that can be delivered over no less than 38 weeks, or may be stretched over a maximum of 51 weeks of the year.
- 1.2 The funded free entitlement can only be taken between the hours of 7am and 7pm as agreed between the provider and the local authority for the delivery of the funded free entitlement.
- 1.3 A provider can offer flexible packages subject to the following:
  - No session longer than 10 hours
  - No session shorter than 2.5 hours
- 1.4 For each funding period, a provider must obtain a completed Parent Declaration form for each funded child at their provision confirming the hours the child will claim each week.
- 1.5 A provider **must** be aware of the specific conditions and funding arrangements in place for children moving provision before and after headcount dates.
- 1.6 A child can attend up to two providers at any one time.
- 1.7 Herefordshire Council may agree that a provider offers the funded free entitlement over a reduced period (33-38 weeks) if there are premises constraints that prohibit the provider from opening for 38 weeks of the year. **Parents will not be permitted to increase the number of hours of the funded free entitlement above 15 per week for example, 17.5 hours per week over 33 weeks.**
- 1.8 If a provider has an agreement to offer less than 15 hours per week, they **must** in these circumstances:

provide the parent with information relating to other local provision that could offer the full 15 hours funded free entitlement over a minimum of 38 weeks, and provide details of provision that could provide the balance of the funded free entitlement, together with details of Herefordshire's Family Information Service website:  
<https://www.herefordshire.gov.uk/health-and-social-care/children-and-family-care/family-information-directory/>
- 1.9 A provider **must** ensure they do not impose on parents conditions of access to which they must agree in order to take up their funded free entitlement.

- 1.10 A provider **must** ensure that the funded free entitlement is not charged for at the point of delivery and no charges may be made for these funded hours.
- 1.11 A provider **must not** request top-up payments from parents for the funded free entitlement hours.
- 1.12 A provider **must not** charge for hours and services in advance and then refund the payment when funding from Herefordshire Council is received.
- 1.13 A provider may charge for hours and services in addition to the funded free entitlement. Any additional charge **must** be made clear to parents before they take up places.
- 1.14 A provider **must** make parents aware that if they are not able to access their entitlements in the correct way, they should make their complaint directly to the provider in the first instance.

## **2. The Early Years Foundation Stage**

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A provider **must**:

- 2.1 Implement the Early Years Foundation Stage (EYFS) delivering the learning and development requirements appropriate for the level of development of the child and in line with the EYFS.
- 2.2 Maintain a system to ensure children's progress is measured, that planning meets the needs of the individual child, and note that there is a statutory requirement regarding the completion of a Progress Check for 2 year olds and the Early Years Foundation Stage Profile (for children at the end of the EYFS) unless an exemption for the profile has been received.
- 2.3 Complete and return progress data when requested, on children in receipt or who have been in receipt of 2 year funded free entitlement and/or inclusion funding.

## **3. Ofsted**

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- 3.1 A private and voluntary provider and schools offering 2 year old places **must** be on the Ofsted Early Years Register and comply with all statutory requirements of the Early Years Foundation Stage, (Independent schools **must** be registered with the Department for Education) and have a Unique Reference Number (URN).
- 3.2 A provider **must** comply with the requirements for the Disclosure and Barring Service (DBS) checks.
- 3.3 A registered provider **must** have and maintain a minimum Ofsted judgement of Satisfactory/Requires Improvement or above to claim the funded free entitlement for children aged 3 and 4, and a minimum Ofsted judgement of Good or above to claim the funded free entitlement for children aged 2.
- 3.4 If a provider has been judged Inadequate, they **must** inform the Local Authority immediately at which point the policy for removal of Nursery Education Funding (NEF) will be followed. This does not mean automatic removal from the register of funded early entitlement providers, however, such providers will be required to demonstrate rapid improvement in order to continue with current funded children. See the NEF removal policy on the Council website.
- 3.5 A provider **must** inform the local authority of any changes that might affect registration with Ofsted or inclusion in the Directory of Early Years Providers, such as changes to the officers of the management committee or directors; changes to the registered owner of the setting; change of premises.

## 4. Inclusion

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A provider **must**:

- 4.1 Identify a Special Educational Needs Co-ordinator (SENCO) and develop policies in line with the current SEN Code of Practice (2014), that promote inclusion and cover admission arrangements, New SENCOs **must** be enabled to attend an initial SENCO training course, and be supported in their role by management. All SENCOs should be enabled to attend regular professional development/training pertinent

to their role and which informs them of local funding arrangements for children with SEN/D.

- 4.2 All SENCOs **must** be enabled to attend local authority early Years inclusion funding panels in respect of any applications made for inclusion funding for a particular child.
- 4.3 Comply with the appropriate provisions of the Disability Discrimination Act (DDA). The DDA requires all providers to comply with two main duties:
  - Not to treat a disabled person less favourably; and
  - To make reasonable adjustments for disabled people
- 4.4 Comply with the appropriate provision of the Race Relations (Amendment) Act 2000. The local authority has a duty to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between persons of different racial groups. A provider **must** cooperate with the local authority in assisting the local authority to carry out these duties

## 5. Staff Training

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- 5.1 A provider **must** meet the Department for Education (DfE) minimum requirements for staff qualifications.
- 5.2 All staff **must** be able to attend suitable training. In addition to appointing a named SENCO, a provider **must** appoint a Designated Member of Staff for Safeguarding (DMS) and have sufficient members of staff with a current Pediatric First Aid Certificate to comply with minimum standards. All designated staff **must** be enabled to attend regular professional development/training to remain up to date and confident in their roles.

## 6. The Local Directory of Providers – Nursery Education Funding

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- 6.1 A provider that delivers the funded free entitlement **must** be registered on the Local Directory of Providers and meet the associated conditions as detailed in this agreement.

- 6.2 A provider may be removed from the Directory and thus lose their funding as set out in Herefordshire's Nursery Education Funding Policy on the Council Website.
- 6.3 Providers have the right of appeal against removal from the Directory. See Herefordshire's Nursery Education Funding Policy on the Council Website.

## 7. General Conditions of Funding

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A provider **must**:

- 7.1 Provide the agreed allocated funded free entitlement hours to each eligible child at their provision, for whom it is receiving funding, without costs to the parent.
- 7.2 Promote regular take-up of the funded free entitlement hours as being in the best interests of the child, and if a child fails to attend on a regular basis will make parents aware that the allocated hours may be withdrawn.
- 7.3 Report to the local authority the total number of funded hours taken at the provision by all funded children.
- 7.4 Report to the local authority the actual number of funded hours taken in the setting when funding is split between two providers, to ensure each child is not being funded over the entitled number of hours.
- 7.5 Promptly notify the local authority of regular non-attendance of children at the provision and record all reasons for absences in the register.
- 7.6 Comply fully with the local authority's auditing process regarding the funded free entitlement for 2, 3 and 4 year olds.
- 7.7 Issue invoices that show the free entitlement at No Charge/Free, with the fees for additional hours and services shown separately. The funded free entitlement **must not** be shown as a deduction from the bill.
- 7.8 Ensure all parents who have children claiming the funded free entitlement have been given an up to date privacy notice which informs parents about how their child's data will be used.
- 7.9 Keep all documentation requested by the local authority, and make these available should they be requested. Such documents will include

retaining copies of parents' contracts, parental declaration forms and attendance registers.

- 7.10 Comply with the local authority's requirements for information/data returns.
- 7.11 The provider shall at all times when performing its obligations under this agreement comply with the Data Protection Act 1998 including, where appropriate, maintaining a valid and up to date registration in accordance with this Act.
- 7.12 Complete returns each funding period to support payments, and forward to the local authority all relevant documentation within the timescales given. Guidance, dates and deadlines can be found on the Herefordshire Council website. Please note providers must ensure that they have a copy of the 2 year old eligibility letter before submitting a claim for the funding.
- 7.13 Ensure accurate and timely completion of the annual Early Years Census Form issued by the Department for Education, information for the Childcare Sufficiency Assessment and other such returns. The annual Early Years Census return **must** be completed in January.
- 7.14 Endeavour to safeguard the local authority against fraud on the part of directors, trustees, staff or parents with particular regard to inaccurate, incomplete or misleading claims for payment.
- 7.15 Repay to the local authority any funding where that funding has been withdrawn for any reason.
- 7.16 Meet the minimum quality standard as set out in the statutory guidance. Failure to do so may result in the removal of the funded free entitlement as, under DfE statutory guidance, the local authority has a duty to secure acceptable quality provision for the affected children as soon as possible. This may result in removal of the funded free entitlement before the completion of a term notice. (See Nursery Education Policy on the Council Website).

Information supplied by a provider will be held in an electronic format by Herefordshire Council and may be compared to data from other providers and local authorities and used for statistical purposes.

Herefordshire Council has a statutory responsibility to hold and make available details of registered providers. By signing the declaration below you are consenting to publication of information by family Information Service for the purposes of policy and research, and to provide childcare information to

parents and carers and related professional and government organisations. Exemptions to inclusion in the public directory will apply in certain circumstances subject to agreement with individual settings concerned.

NB: Funding of the free entitlement will not be backdated (exceptional circumstances may be considered in agreement with the Early Years Strategy Group)

**The following must be completed:**

**1. Pattern of Delivery Notification**

Please identify your “Core Offer” of how a child can access just their 15 hours of NEF in your setting.

- Flexibly - any hours that we are open between 7am – 7pm
- A range of sessions adding up to no more than 15 hours
- 3 hour sessions (mornings/afternoons/both/specific times)
- 5 hours sessions (mornings/afternoons/specific times)
- Other - please state below
- I am a new provider offering term time Nursery Care only
- I am a new provider offering Full Day all year round care

Hours offering NEF	Opening Time	NEF Start time	NEF End Time	Closing Time	Comments/Core Offer
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday / Sunday					

Have you limited the total number of NEF places your setting offers?

- YES                       NO

If yes how many places are available?                      For 2 year olds                     

3 and 4 year olds                      AM                                            PM                     

**2. Contractual Period Notification**

Please declare the notice period for removing a child from your setting/provision:

**NOTE: A blank copy of your contract or agreement with parents, stating the declared notice period, must be submitted annually with this agreement otherwise it will be assumed that you have no contractual notice period.**

### 3. The Agreement

I certify that this agreement has been read and that the setting will conform with the requirements therein.

#### Declaration:

Name of Provider \_\_\_\_\_

Type of Provision: \_\_\_\_\_

I confirm that this provision will meet the conditions of funding as set out in the DfE Statutory Guidance (2014), and as set out in this agreement.

I agree to repay Herefordshire Council all funding received in respect of the period for which the conditions of this agreement are not met.

#### Owner/Chair of Committee

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Job Role \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Email \_\_\_\_\_

#### Registered Person/Manager/Head Teacher

Signed \_\_\_\_\_ Date \_\_\_\_\_

Job Role \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Email \_\_\_\_\_

Herefordshire Council agrees to fund the provider in accordance with the terms of this agreement.

Signed \_\_\_\_\_ Position \_\_\_\_\_

Date effective from: 1<sup>st</sup> September 2014

Forms to be returned to Alison Murphy Lead Improvement Advisor (Early Years), Children's Wellbeing, Herefordshire Council, Plough Lane Offices, Hereford HR4 OLE.

## **Appendix 1**

**FUNDING** – NOTE: The free entitlement is of no monetary value to a parent and cannot be used as a rebate against fees charged for additional services accessed for their child/ren

**Providers must ensure that parents complete and sign a Parent Declaration Form when an eligible child claims funding with them for the first time, when making any changes to their claim or their personal details or when requested to do so by the local authority and must ensure Leavers Forms are signed appropriately.**

Where a child attends more than one setting the parent must provide details on the Declarations of all settings. The funding will be divided between settings according to the parental preference detailed on the Declarations – in the event of a dispute the local authority will allocate the funding as deemed necessary. The authority may need to consider the impact on continuity of care for a child if accessing the free entitlement at more than one setting

Funding is passed to the sector in accordance with the agreed Single Funding Formula which will be reviewed annually. The rates applicable can be found in documents already distributed to the sector. The funding for September 2013 to August 2014 for the PVI sector (including Schools with Academy status) will be paid in the following manner:

- The full 38 weeks for 2014/15 will be split into three funding periods of: Autumn 14 weeks, Spring 11 weeks and Summer 13 weeks (with the option of stretching over a maximum of 51 weeks for 2 year olds – 11 hours per week maximum). Funding will only be paid for whole weeks
- Payments will be based on an estimate of hours. An estimate of hours can be provided by the local authority based upon the previous pattern of attendance. Settings will have the opportunity of adjusting the estimate
- Payment following return of an agreed estimate will be made to providers monthly on the 7<sup>th</sup> of every month or closest date

- Therefore the first 3 payments of each “term” will be identical and any adjustment based on actual headcount during a term will be made in the 4<sup>th</sup>, 8<sup>th</sup> and 12<sup>th</sup> month (i.e. the final month of each term)
- NEF paid to schools with Nursery Classes will form part of the schools revenue budget and will be carried out via the local authority accounting system in line with other school funding.

Schools with Academy status will be funded as the PVI sector (above)

Funding will be paid for the period of time a child attends the setting within the restriction above. This may result in funding being deducted from a future term’s payment where a child leaves a setting, likewise funding will be also be reduced if they start attending a setting after the beginning of the funding period. Any child taking extended leave during an academic year may still be funded, but only for a maximum of 6 weeks; settings must inform the LA such incidents and decisions on such funding will be made on a case by case basis.

Settings must inform the local authority when a child has left their setting giving the exact leaving date and final date of funding. In the event of a breach of contract by a parent claiming the free provision, there will be no payment for unattended period of notice unless agreed by the Head of Education Development on receipt of a written request.

For more information go to:

<https://www.herefordshire.gov.uk/education-and-learning/early-years-and-childcare/childcare-services>