



Herefordshire Nursery Education Funding

Provider Agreement 2023-24

Contents

Section	Subject
1	Introduction
2	Future Policy Changes
3	Key Local Authority Responsibilities
4	Key Provider Responsibilities
5	Safeguarding
6	Eligibility
7	The Grace Period
8	Flexibility
9	Partnership Working
10	Special Educational Needs and Disabilities
11	Social Mobility and Disadvantage
12	Quality
13	Business Planning
14	Charging
15	Funding (Payment Arrangements)
16	Compliance
17	Termination and Withdrawal of Funding
18	Refusal of Funding Registration
19	Appeals Process and Dispute Resolution
20	Complaints Process
21	Freedom of Information and Data Protection
22	Confidentiality

1. Introduction

- 1.1 Early years providers¹ who wish to offer funded² places for two, three and four year old children must register with Herefordshire County Council (HCC) to be on the Herefordshire Childcare Directory. Providers who wish to be included on the Herefordshire Childcare Directory must sign a Nursery Education Funding Declaration Form, confirming compliance with the current Parental Declaration (PD). It is important all childcare providers understand their responsibilities under this Provider Agreement as it is based on current law and statutory guidance issued by the Department for Education (DfE).
- 1.2 The PD is based on the model agreement from the DfE, which sets out the Department's expectations on what should be included in agreements between local authorities (that being HCC for the purposes of this PD) and providers. The original version of the model agreement can be found at: <https://www.gov.uk/government/publications/funded-early-years-provision-and-childcare-modelagreement>.
- 1.3 The model agreement has been developed to bring consistency, as far as possible, in provider agreements across the country, by including standard headings and wording which the Department expects local authorities to use. However, they acknowledge that it is not a 'one size fits all' contract, as local authority level processes also need to be included.
- 1.4 The PD builds on the national DfE document: 'Early Education and Childcare; Statutory Guidance for Local Authorities, June 2018' (Statutory Guidance). The PD 2023/24 should be read in conjunction with the national guidance. The PD does not replace the statutory guidance but instead clarifies and supports the guidance, as well as providing details that are specific to Herefordshire.
- 1.5 The PD sets out the expectations for delivery of the funded entitlements. It is not otherwise intended to replace, supersede or negate the requirements or expectations set out in legislation, other published statutory guidance and government advice.
- 1.6 The local authority reserves the right to unilaterally vary the agreement to reflect changes in legislation and departmental guidance.
- 1.7 The following frameworks and legislation underpin this agreement, which may be amended from time to time (without necessitating a change to this provider agreement) unless a change to the DfE model agreement results:
- Early Education and Childcare, Statutory Guidance for Local Authorities 2017
 - Childcare Act 2006
 - Childcare Act 2016
 - Children and Social Work Act 2017
 - Equality Act 2010
 - School admissions code 2014
 - Statutory framework for the early years foundation stage 2017
 - Early Years Entitlements: operational guidance 2018
 - Local Authority, (Duty to Secure Early Years Provision Funded of Charge) Regulations 2014
 - The Childcare (Early Years Provision Funded of Charge) (Extended Entitlement) Regulations 2016

¹ Early years providers include:

- Early years providers and childminders registered on the Ofsted Early Years Register
- Childminders registered with a childminder agency that is registered with Ofsted
- Schools taking children aged two and over and which are exempt from registration with Ofsted as an early years provider.

² The term 'funded' within this document means that it is provided without cost to the parent/carer, through funding provided by the Department for Education and paid by the Local Authority.

- Special educational needs and disability code of practice: 0 to 25 years 2015
- Data Protection Act 2018

- 1.8 Providers are responsible for ensuring that they have read the PD and supporting documents in full. If, after reading the PD, providers wish to offer Nursery Education Funding (NEF) from 17th April 2023 to 22nd March 2024. The **Nursery Education Funding Provider Declaration Form 2023/24 must be completed and returned to Herefordshire County Council** before funding can be paid. This must be completed on Synergy.
- 1.9 This document is applicable to all nurseries, pre-schools, maintained nurseries, wraparound care, holiday schemes, childminders and childminder agencies and therefore covers provision run by the local authority, private providers, charities, committees, governors, academies, funded schools and the independent sector.
- 1.10 Failure to return the declaration or comply with the terms of the Agreement will lead to providers being unable to offer funded provision.

2. Future Policy Changes

- 2.1 HCC retain the right to update the current Herefordshire Provider Agreement at any point during 17th April 2023 – 22nd March 2024 to reflect any national or local policy changes. Any amendments made to legislation during this time period must automatically be adhered to, with or without an updated Herefordshire Provider Agreement.

3. Key Local Authority Responsibilities

- 3.1 Local authorities must secure a funded entitlement place for every eligible child in their area.
- 3.2 The local authority should work in partnership with providers to agree how to deliver funded entitlement places.
- 3.3 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.
- 3.4 The local authority must contribute to the safeguarding and promote the welfare of children and young people in their area.
-

4. Key Provider Responsibilities

- 4.1 The provider must comply with all relevant legislation and insurance requirements.
- 4.2 The provider must follow the Statutory Guidance in its' entirety. Where any element of the Statutory Guidance is not followed, the provider must be able to provide clear evidence to demonstrate that it was in the best interests of the children involved.
- 4.3 The provider should deliver the funded entitlements consistently to all parents, whether in receipt of 15 or 30 hours and regardless of whether they opt to pay for optional services or consumables. This means that the provider should be clear and communicate to parents details about the days and times that they offer funded places, along with their services and charges. Those children accessing the funded entitlements should receive the same quality and access to provision.
- 4.4 The provider must follow the EYFS¹ 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.
- 4.5 The provider must have arrangements in place to support children with special educational needs and/or disabilities (SEND). These arrangements should include a clear approach to identifying and responding to SEND. Providers should utilise the SEN inclusion fund and Disability Access Fund to deliver effective support, whilst making information available about their SEND offer to parents.
- 4.6 Providers must maintain accurate attendance registers including a record of notification of absence. Providers must make parents aware that they are to contact the setting if the child is unable to attend.
- 4.7 Providers must notify The Local Authority immediately if a parent withdraws their child or the attendance pattern alters in any way. It is in the interest of the provider to ensure that there is a Parent/Provider Agreement in place as this may be taken into consideration if the Local Authority seeks to reclaim funding.
- 4.8 Providers must notify The Local Authority immediately if a child is absent (authorised or unauthorised) for more than 2 weeks during one term. If the absence is for longer than 2 weeks in one term, funding may be stopped and reinstated following the end of the absence. The Local Authority will not fund a place where absence is recurring or for extended periods unless the absence is authorised and in agreement with the Local Authority in advance.
- 4.9 If the parent wishes to take additional week's holiday, they should be made aware that the Local Authority would not fund their child's place for this period. The parent will either; need to give up the place or come to an arrangement with the provider.
- 4.10 Providers will not be penalised for a child's unexplained absence for a session or short period when they have booked to attend the setting. However, where an absence is recurring over an extended period, the provider must make all reasonable efforts to establish a valid reason for the absence and promptly notify The Local Authority. A minimum of 85% attendance is expected during a term as set out on the Parent/Provider Agreement. Holiday taken during the term is allowed for up to a maximum of 2 weeks during the term and has to be in agreement with The Local Authority. The Local Authority will then consider all the known circumstances and use its discretion in deciding whether, and to what extent, it is appropriate to withdraw or reclaim funding in respect of the child.

Provider Responsibility

- 4.11 Providers can only claim for the weeks that they are open to deliver the free entitlement. Some providers may not be able to deliver the minimum free entitlement (i.e. independent schools, which are usually only open for 34 weeks of the year or a playgroup open only 12 hours a week due to shared premises). These are the only exceptions to not delivering the full 15 hours entitlement.

Changes to Provider

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

Unforeseen and Planned Closures

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

Insurance and Indemnity

- 4.19 The provider shall be wholly responsible for the safe operation and conduct of the setting, and will keep Herefordshire Council indemnified against all claims for losses and damages from third parties (and all associated reasonable costs and expenses) arising from any breach of this Agreement and the provision (or failure to provide) the free entitlement places and activities it covers except where the claim is as a result of the act or omission of Herefordshire Council .
- 4.20 The Local Authority requires the provider to have in place and thereafter maintain the following 2 insurance policies:
 - o Employers liability insurance with a minimum level of indemnity of £10 million
 - o Public liability insurance with a minimum level of indemnity of £5 million
- 4.21 The provider shall produce for inspection to the Local Authority documentary evidence to the reasonable satisfaction that the insurance required under this Agreement is being maintained, before entering into this Agreement and any time thereafter, at the request of the Local Authority.

5. Safeguarding

- 5.1 The local authority has overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. They have a number of statutory functions under the 1989 and 2004 Children Acts and the Children and Social Work Act 2018 which make this clear, and the 'Working together to safeguard children' 2018 guidance sets these out in detail.

5.2 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'² 2018 guidance.

¹ The EYFS can be found at: <https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>

² The 'Working together to safeguard children' 2018 guidance can be found at: <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2> Early Years safeguarding guidance can be found at [Support for early years professionals – Herefordshire Council](#)

6. Eligibility

Two Year Old Funding

- 6.1 The provider must check original copies of documentation to confirm a child has reached the eligible age on initial registration for all funded entitlements. The provider can retain paper or digital copies of documentation to enable the local authority to carry out audits and fraud investigations. Where a provider retains a copy of documentation this must be stored securely and deleted when there is no longer a good reason to keep the data.
- 6.2 The provider must offer places to eligible two-year-olds on the understanding that the child remains eligible until they become eligible for the universal entitlement for three- and four-year-olds.
- 6.3 The local authority must ensure that a child has a funded entitlement place no later than the beginning of the term following the child and the parent meeting the eligibility criteria for the funded entitlements. Families within Herefordshire who are eligible for two year old funding will be provided with a code. Funding will start from the beginning of the term following their second birthday if the family applies in advance, or from the day that the application is processed if the child is already of an eligible age.
- 6.4 Children who meet the criteria below will become eligible for a funded place **from the term following** their second birthday until the end of the term in which they turn three years of age, as outlined in 'Table 1' below.

Table 1

Children who turn two/three years of age between;	Term Two/Three Year Old Funding commences:
1 st April and 31 st August	Autumn Term (September)
1 st September and 31 st December	Spring Term (January)
1 st January and 31 st March	Summer Term (April)

Table 2

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

Two Year Old Eligibility Criteria

Economic Criteria

To be eligible for 15 hours of funded early education, from the term after their second birthday, children must be living in a household that receives one or more of the following benefits:

- Income Support
- Income-based Jobseeker's Allowance
- Income-related Employment and Support Allowance
- Universal Credit with an annual household earned income of no more than £15,400
- Support through part 6 of the Immigration and Asylum Act
- The guaranteed element of State Pension Credit
- Child Tax Credits, with an annual household income of no more than £16,190
- Working Tax Credits, with an annual household income of no more than £16,190
- Working Tax Credit 4-week run on (paid for 4 weeks after a family stops qualifying for Working Tax Credits)

Additional Criteria

Children are also entitled to a funded place if:

- They are looked after by a Local Authority
- They have a current Education, Health and Care Plan.
- They are in receipt of Disability Living Allowance
- They have left care under a Special Guardianship Order, Child Arrangements Order or an Adoption Order.

If you're a non- UK citizen who cannot claim benefits

If your immigration status says you have 'no recourse to public funds', you may still get funded childcare for your 2-year-old. You must live in England and your household income must be no more than:

- £26,500 for families outside of London with one child
- £34,500 for families within London with one child
- £30,600 for families outside of London with two or more children
- £38,600 for families within London with two or more children
- You cannot have more than £16,000 in savings or investments.

Two Year Old Funding - How to Apply

Families who believe they meet the economic criteria should apply for two year old funding at [Early Years \(herefordshire.gov.uk\)](https://www.herefordshire.gov.uk/early-years)

More information can be found here: [Funded early education and childcare – Herefordshire Council](#)
Queries can be sent here: SchoolEffectivenessTeam@herefordshire.gov.uk

Three and Four Year Old Funding

- 6.5 All children become entitled to 15 'universal' hours of funded early education from the term following their third birthday, in accordance with 'Table 1' above. Their entitlement continues until either the end of the term in which they become five years of age or until they start in a maintained/academy school reception class.
- 6.6 Eligibility for an 'additional' 15 hours is determined by HMRC through their online application process¹ (excluding children who are looked after by Foster Parents). Eligible parents will be given a '30 hours eligibility code' to pass on to their childcare provider.
- 6.7 Eligibility for the 'additional' hours for children who are in the care of a Foster Parent is determined by the Local Authority. Eligible foster parents will be given a '30 hours eligibility code' to pass on to their childcare provider.
- 6.8 Alongside the 30 hours eligibility code, which is the child's unique 11-digit number, and original copies of documentation, a provider must acquire written consent from, or on behalf of, the parent/carer to be able to receive confirmation and future notifications from the local authority of the validity of the parent/carer's 30 hours eligibility code.

Three and Four Year Old Additional Hours Eligibility Criteria

To be eligible for an additional 15 'extended' hours of funded early education, children must be living in a household that meets the following criteria:

- The parent of the child (and their partner where applicable) should be seeking the funded childcare to enable them to work;
- The parent of the child (and their partner where applicable) should be in qualifying paid work. Each parent or the single parent in a lone parent household will need to expect to earn the equivalent of 16 hours at the national living wage or their national minimum wage rate over the forthcoming quarter;
- Where one or both parents are in receipt of benefits in connection with sickness or parenting, they are treated as though they are in paid work;
- Where one parent (in a couple household) is in receipt or could be entitled to be in receipt of specific benefits related to caring, incapacity for work or limited capability for work, they are treated as though they are in paid work.
- Where a parent is in a 'start-up period' (i.e. they are newly self-employed) they do not need to demonstrate that they meet the income criteria for 12 months in order to qualify for the 'extended' hours.
- If either or both parents' income exceeds £100,000 they **will not** be eligible for the 'extended' hours.

¹ Information for parents about the 'extended' hours can be found at: www.childcarechoices.gov.uk

Three and Four Year Old Additional Hours Eligibility Criteria – Children who are in Foster Care

To be eligible for an additional 15 'extended' hours of funded early education, children must be fostered in a household that meets the following criteria:

- All foster parents within the household must be working outside of fostering, or at least one foster parent is working outside of fostering and the other foster parent is in receipt of a qualifying benefit.
- Non-foster parents within the household must meet the criteria listed in the box above (Additional Hours Eligibility Criteria).

In addition, the application must be supported by the foster parent's Supervising Social Worker; the additional hours must be identified as being in the best interests of the child within their Care Plan.

Applications can be made via <http://www.Herefordshireshire.gov.uk/30hoursfostering>.

- 6.9 Once a provider has received written consent from the parent/carer, they should verify the 30 hours eligibility code with the local authority. Funding will start from the beginning of the term following their third birthday if the family applies in advance, or from the beginning of the term after that they provide their '30 hour eligibility code' (1st September, 1st January or 1st April), if the child is already of an eligible age.
- 6.10 The local authority will confirm the validity of 30 hours eligibility codes to allow providers to offer 30 hours places for eligible three and four year olds. The local authority will provide a validity checking service to providers to enable them to verify the 30 hours eligibility code, through the Online Provider Portal (Synergy). The Eligibility Checking Service (ECS) allows all local authorities to make instant checks for code validity.
- 6.11 Thereafter, the local authority should complete audit checks to review the validity of eligibility codes for children who qualify for 30 hours funded childcare at 6 fixed points in the year, both at the beginning of term and at half-term across the year (in line with the dates as listed in the table below). It is the local authority's responsibility to notify a provider where a parent/carer has fallen out of eligibility and inform them of the grace period end date.

Date Parent receives ineligible decision on reconfirmation:	LA audits will be carried out twice a term:	Grace Period End date:
1 September – 21 October		31 December
22 October – 31 December		31 March
1 Jan – 10 Feb		31 March
11 Feb – 31 March		31 August
1 April – 26 May		31 August
27 May – 31 August		31 December

7 The Grace Period

- 7.1 A child will enter the grace period when the child's parents/carers cease to meet the eligibility criteria set out in the Childcare (Funded Early Years Provision) (Extended Entitlement) Regulations 2016, as determined by HMRC or a First Tier Tribunal in the case of an appeal.
- 7.2 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.
- 7.3 The local authority should continue to fund a place for a child who enters the grace period as set out in the Early Education and Childcare Statutory guidance for Local Authorities 2018.
- 7.4 In exceptional circumstances, the local authority may further extend the grace period to support stability and continuity for a child experiencing difficult circumstances, such as the death of a parent or domestic violence.

- 7.5 The Grace Period is intended to offer continuity for the child and family, as well as financial stability for the provider. The Grace Period therefore does not apply if the child has fallen into their grace period before they have taken-up any of the additional hours, or if the child moves to a different setting, unless:
- The provider closes before the end of the grace period.
 - The provider receives an Ofsted inspection judgement of ‘Inadequate’ and is withdrawn from the Herefordshire Childcare Directory.
 - The child is experiencing exceptional circumstances, such as the death of a parent or domestic violence.

The Grace Period – How to apply for an extension and/or change of setting

To apply for an extension to the grace period, or for a child to move settings whilst in their grace period due to exceptional circumstances, a provider must submit a request to the NEF Team. The request must provide evidence of the child’s circumstances and be submitted before the end of the standard grace period. The request will be assessed by the Early Years Steering Group¹ and a response will be communicated directly to the provider.

8 Flexibility

- 8.1 Provision must be offered within the national parameters on flexibility as set out in Section A2 of Early Education and Childcare Statutory guidance for Local Authorities, which includes:
- No session to be longer than 10 hours
 - No minimum session length
 - Not before 6am or after 8pm
 - A maximum of two sites in a single day
 - Continuous provision during a day, without ‘artificial breaks’
- 8.2 The provider should work with the local authority and share information about the times and periods at which they are able to offer funded entitlements to support the local authority to secure sufficient stretched and flexible places to meet parental demand in the local authority. The provider should also make information about their offer and admissions criteria available to parents at the point the child first accesses provision at their setting. Providers should submit information about their setting, including their funded offer, to the local authority. This can be done through the Online Forms section of the Online Provider Portal and should be completed termly. Where providers have given permission, this information will be supplied to parents/carers looking for childcare.
- 8.3 To claim funding for a child, the provider must have a completed Parent Declaration Form for every child, clearly identifying the ‘universal’ (first 15) hours for all children and the ‘extended’ (additional 15) hours for qualifying children. All ‘universal’ hours **must** be taken before ‘extended’ hours are claimed.
- 8.4 Where a child attends more than one funded setting, the parents/carers will choose how their child’s funded hours are allocated, unless one of the providers is a specialist¹ provider.

¹ Specialist providers include:

- Special School Nursery Classes

Accessing funding with two or more providers

- If a child is attending a specialist provider, the specialist provider must be allocated the 'universal' hours (up to 15 hours) first. Any remaining universal hours and all of the 'extended' hours can then be allocated to another setting/s by the parent/carer.
- If a specialist provider offers more than 15 hours per week to a child, any hours above 15 will be funded at the standard hourly Nursery Education Funding rate plus the appropriate Inclusion Supplement.
- Where a child is attending two or more mainstream providers, the parent/carer is able to allocate the funded hours to best suit their needs.

8.5 Providers should support parents/carers to complete the Parent Declaration Form appropriately, taking into account what 'funded offer' is available at their setting.

8.6 Parents/carers will be made aware that if a child no longer qualifies for 'extended' (additional 15) hours, the child's funded hours will be allocated as per the 'universal' (first 15) offer the parent/carer has indicated on the Parent Declaration Form.

9 Partnership Working

9.1 Partnerships should be supported by local authorities on four levels between:

- Local authorities and providers
- Providers working with other providers, including childminders, schools and organisations
- Providers and parents
- Local authorities and parents

9.2 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.

9.3 The provider should work in partnership with parents, carers and other providers to improve provision and outcomes for children in their setting.

9.4 The provider should discuss and work closely with parents to agree how a child's overall care will work in practice when their funded entitlement is split across different providers, such as at a maintained setting and childminder, to ensure a smooth transition for the child. Providers **must** enable a regular two-way flow of information with parents and/or carers, and between providers, if a child is attending more than one setting.

10 Special Educational Needs and Disabilities

- 10.1 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 years¹ (January 2015).
- 10.2 The provider must ensure owners and all staff members are aware of their duties in relation to the SEND Code of Practice and the Equality Act 2010.
- 10.3 The local authority must be clear and transparent about the support on offer in their area, through their Local Offer², so parents/carers and providers can access that support³.
- 10.4 The provider should be clear and transparent about the SEND support on offer at their setting and make information available about their offer to support parents/carers to choose the right setting for their child with SEND.
- 10.5 The local authority outlines the minimum entitlement that all children with special educational needs and disabilities can expect within the Herefordshire³
- 10.6 Based on the child's level of need, additional funding may be available for children with special educational needs and disabilities, through Inclusion support funding
- 10.7 Parents/carers of children accessing their 3 & 4 year old entitlement and in receipt of Disability Living Allowance are able to allocate an annual Disability Access Fund payment to the provider of their choice.

11 Social Mobility and Disadvantage

- 11.1 The local authority should promote equality and inclusion, particularly for disadvantaged families, looked after children and children in need by removing barriers of access to funded places and working with parents to give each child support to fulfil their potential.
- 11.2 The provider must ensure that they have identified the disadvantaged children in their setting as part of the process for checking Early Years Pupil Premium (EYPP) eligibility. They will also use EYPP and any locally available funding streams or support to improve outcomes for this group.
- 11.3 EYPP is in place to support educational outcomes for disadvantaged 3 and 4 year-old children. Providers need to be able to demonstrate to Ofsted that they are using it to help close the gap between the attainment of the most disadvantaged children and their peers. Ofsted will assess the progress of children eligible for EYPP during an inspection.

¹ The SEND Code of Practice: 0 to 25 years can be found at: <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

² Information about Herefordshire's Local Offer can be found at: [Local Offer: Special Educational Needs and Disabilities \(SEND\) - Talk Community Directory](#)

³ Information about the early years inclusion support available to providers and the Herefordshire [Teaching children with SEN and disability – Herefordshire Council](#)

EYPP Eligibility Criteria

To receive EYPP a child must be in receipt of 3 and 4 year old funding and the family must meet at least 1 of the following criteria:

- Income Support
- Income-based Jobseekers Allowance
- Income-related Employment and Support Allowance
- Support under part 5 of the Immigration and Asylum Act 1999
- The guaranteed element of State Pension Credit
- Child Tax Credit (provided they are not entitled to Working Tax Credit and have an annual income of no more than £16,190.00)
- Working Tax Credit run-on (which is paid 4 weeks after they stop qualifying for Working Tax Credit)
- Universal Credit with an annual earned household income of no more than £7,400.

In addition, providers will also receive EYPP for children who meet the following criteria:

- Is currently being looked after by a local authority in England and Wales
- Has left care in England or Wales through:
 - An adoption
 - A special guardianship order
 - A child arrangement order

11.4 EYPP is paid at a rate of £0.62 per hour. It is only paid for 'universal' (first 15) hours and is **not paid** for the 'extended' (additional 15) hours.

11.5 It is the responsibility of the setting to identify children that may be eligible for EYPP. We recommend that all settings request permission to check EYPP status on Synergy.

Claiming EYPP

- When claiming EYPP on the Online Provider Portal for children meeting the additional criteria, the reason for eligibility must be included with the 'notes' section.
- If a child is looked after by a local authority other than Herefordshire, providers would need to claim EYPP from the appropriate 'parent' authority.

11.6 It is recommended that all providers use the Pupil Education Plan (EY PEP) on a termly basis to record the support, interventions and progress of children who are Looked After.

11.7 All providers with eligible children will receive deprivation funding. Deprivation Funding is paid termly as an adjustment on each Actual Payment. The total amount paid is clearly stated on the Termly Funding Statement. The EYPP allocation per child is also included on this statement.

11.8 All providers will receive rurality funding. Rurality funding is paid termly.

12 Quality

- 12.1 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.
- 12.2 Ofsted are the sole arbiter of quality for all funded 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.
- 12.3 Local authorities have a legal duty to provide information, advice and training on meeting the requirements of the EYFS, meeting the needs of children with SEND and on effective safeguarding and child protection for providers who are rated less than 'Good' by Ofsted or newly registered providers.
- 12.4 Provision must be offered in accordance with the national parameters on quality as set out in Section A3 of Early Education and Childcare Statutory Guidance for Local Authorities and the EYFS statutory framework.

13 Business Planning

- 13.1 The local authority should clearly set out the documentation that they need to receive from providers to support payment and delivery of funded entitlements and the timetable which providers should follow when submitting their documentation, this includes setting out the importance of timely and accurate census returns.
 - 13.2 The local authority should not charge providers disproportionate penalties for providing late or incomplete information leading to additional administration in the processing of funded entitlements. Any charges should be reasonable and proportionate to the inconvenience or costs incurred to the local authority as a result of the lateness and local authorities will ensure charges are clearly communicated to providers.
 - 13.3 The local authority should not carry out audit regimes which are disproportionate or are unnecessarily burdensome to providers.
 - 13.4 The provider should ensure they submit timely and accurate information, including, but not limited to, headcount data, census data, parental declarations and invoices, as per the financial guidelines of their local authority. Failure to do so may result in inaccurate, delayed or suspended funding.
 - 13.5 The provider should maintain accurate financial and non-financial records relating to funded entitlement places and should give the local authority access on reasonable notice to all financial and non-financial records relating to funded entitlement places funded under the provider agreement, subject to confidentiality restrictions.
-

14 Charging

- 14.1 This agreement does not provide guidance on how settings operate their individual businesses and does not cover any additional hours or services that a parent chooses to access at their child's setting.
- 14.2 Government funding is intended to cover the cost to deliver 15 or 30 hours a week of funded, high quality, flexible childcare. It is not intended to cover the cost of meals, consumables, additional hours or additional services.
- 14.3 The provider can charge for meals and snacks as part of a funded entitlement place and they can also charge for consumables such as nappies or sun cream and for services such as trips and musical tuition. Parents should therefore expect to pay for these, **although these charges must be voluntary** for the parent. Where parents are unable or unwilling to pay for meals and consumables, providers who choose to offer the funded entitlements are responsible for setting their own policy on how to respond, with options including waiving or reducing the cost of meals and snacks or allowing parents to supply their own meals. Providers should be particularly mindful of additional charges on the most disadvantaged parents.
- 14.4 The provider should deliver the funded entitlements consistently so that all children accessing any of the funded entitlements will receive the same quality and access to provision, regardless of whether they opt to pay for optional hours, services, meals or consumables.
- 14.5 The local authority should not intervene where parents choose to purchase additional hours of provision or additional services, providing that this does not affect the parent's ability to take up their child's funded place. The provider should be completely transparent about any additional charges.
- 14.6 The provider should publish their admissions criteria and ensure parents understand which hours/sessions can be taken as funded provision. Not all providers will be able to offer fully flexible places, but providers should work with parents to ensure that as far as possible the pattern of hours are convenient for parents' working hours.
- 14.7 The provider can charge parents a deposit to secure their child's funded place but should refund the deposit in full to parents within a reasonable time scale.

Charging a Refundable Deposit

- Whilst a deposit can be charged for all children accessing their funded entitlement, providers should consider the criteria used to determine eligibility for two year old funded place in particular, when developing their policy on deposits
- It is recommended that deposits are returned within a month of a child taking up their funded place, however it must be returned by the end of the first term of attendance.
- The provider is able to set their own policy when charging a deposit or registration fee for non-funded hours or services.

- 14.8 The provider cannot charge parents "top-up" fees (the difference between a provider's usual fee and the funding they receive from the local authority to deliver funded places) or require parents to pay a registration fee as a condition of taking up their child's funded place.
- 14.9 The provider should ensure their invoices and receipts are clear, transparent and itemised, allowing parents to see that they have received their funded entitlement completely funded of charge and understand fees paid for additional hours. The provider will also ensure that receipts contain their full details so that they can be identified as coming from a specific provider.

15 Funding (Payment Arrangements)

- 15.1 The local authority should pay all providers, particularly childminders, monthly.
- 15.2 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.

Headcount Week Dates 2023/24	
Term	Headcount Week Dates
Summer 2023	8 th May 2023
Autumn 2023	2 nd October 2023
Spring 2024	15 th January 2024

- 15.3 The current hourly rate for two year old funding in Herefordshire is £5.63 from April 17th 2023
- 15.4 The current hourly rate for 3 & 4 year old children in Herefordshire is £4.48 from April 17th 2023
- 15.5 Funding follows the child, should the parent wish to move the child, the parent should give the required notice of period as stated by the provider.
- 15.6 If children are unable to attend their provision due to sickness or holidays, the funding will remain in place until the end of term. A provider is expected to remove the child from the claim at the beginning of the new term. If a parent would like the place to remain open in the new term, providers should contact the NEF Team to discuss the individual circumstances of the child/family.

- 15.7 Providers will be automatically opted in to receive their funding payments on a monthly basis.
- 15.8 All NEF claims must be made using the Online Provider Portal.
- 15.9 Providers will receive a detailed NEF Payments and Claim Schedule from the NEF Team to allow them to plan for the submissions and for their payments.
- 15.10 Providers who do not submit their claims by the required dates will not receive a payment until the next scheduled payment date. Payments made outside of the NEF Payments and Claim Schedule will be subject to an Administration Charge.
- 15.11 Providers who do not submit their completed NEF registration paperwork on time may be unable to make their claim as scheduled; if this delay results in a request for a payment outside of the NEF Payments and Claim Schedule, the Administration Charge would apply.

Administration Charge

Providers who are late submitting their Estimate or Actual claims and require a payment to be made at a time not previously included on the NEF Payments and Claim Schedule, will be required to pay a £25.00 administration charge.

Providers who are newly open or newly registered to offer NEF will be exempt from this charge, as long as their submissions have been made at the times agreed by the NEF Team.

The Administration Charge will be entered as an Adjustment on the providers' record and will be charged at the next available Actual or Adjustment Payment.

- 15.12 To make an Estimate Claim, providers must submit the number of funded hours per week that they expect to provide in the following term. Providers who choose to be paid monthly may update their Estimate Claim at any time in the term; any remaining Estimate Payments will reflect the updated Estimate Claim.

Monthly Payments – Estimate Payments for 2, 3 & 4 Year Old Funding

Providers will receive their Estimate Payments as per the following:

Funding Period	Month Estimate Payment Due	Proportion of Termly Estimate Paid
Summer 2023	7 th May 2023	33.333%
	7 th June 2023	33.333%
	7 th July 2023	33.333%
Autumn 2023	7 th September 2023	25%
	7 th October 2023	25%
	7 th November 2023	25%
	7 th December 2023	25%
Spring 2024	7 th January 2024	33.333%
	7 th February 2024	33.333%
	7 th March 2024	33.333%

- 15.13 Actual claims must be submitted at the beginning of every term, following the NEF Payment and Claims Schedule issued by the NEF Team. Claims will be based on the children who are registered to attend during headcount week onwards.

Actual Payments for 2, 3 & 4 Year Old Funding

The Actual Payment is paid as per the table below:

Funding Period	Month Actual Payment Due
Summer 2023	w/c 31 st July 2023
Autumn 2023	w/c 18 th December 2023
Spring 2024	w/c 18 th March 2024

- 15.14 Children who begin accessing their funded hours after the headcount week, who have not accessed their funded hours at any other provider during the term, will be able to access two year old funding or their Universal 3 & 4 year old funding from the day that they start. Additional 15 hours funding for 3 & 4 year olds will only be available for children who have a valid '30 Hours Childcare Code' with a start date prior to the beginning of the term. Providers will be able to claim for the number of weeks the child attends during the term.
- 15.15 Where a child's pattern of attendance changes during the term, an Adjustment Claim can be submitted on the Online Provider Portal to reflect the change in funded hours. The Adjustment Claim must be made within the term that the changes occurred. Payment will not be made for any Adjustment Claims made after the end of the appropriate term.

- 15.16 If a child accessing 3 & 4 year old funding is also in receipt of Disability Living Allowance, their parent/carer is entitled to allocate an annual payment of £828 (the Disability Access Fund) to the setting of their choice. It is recommended that this payment is made to the setting where the child spends the majority of their time, however it is the parent's choice.

Disability Access Fund Claim Process

- If a parent/carer of an eligible child indicates on their Parent Declaration Form that they wish to allocate their child's Disability Access Fund allocation to you, you will need to submit a copy of their Parent Declaration Form, along with a copy of their DLA letter, to the EY SEND manager.
- The EY SEND manager will contact the parent to confirm that they wish for the funding to be paid.

16 Compliance

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

NEF Audit Criteria

The following criteria will be used to prioritise when an NEF audit is carried out:

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

Evidence required for an NEF Audit

Providers who have been selected for an NEF Audit will need to present the following information:

- Copies of registers (daily attendance sheets) for one week at the beginning and one week at the end of the audited term.
- Copies of all Parent Declaration Forms for the audited term.
- Copies of all parental invoices/bills/statements for a period within the audited term.
- Evidence supporting the level of need for any funded child receiving an inclusion support.
- Details of the way in which providers offer the funded entitlement, which should include:
 - A copy of the fee structure.
 - A copy of a registration form/contract.
 - Any funding related information used by the provider for parents/carers.

- 16.4 All audits will be completed by the NEF Manager and/or the NEF Business Support Officer and the results will be passed on to Herefordshire County Council
- 16.5 Providers found to be making inaccurate claims will be required to reimburse any overpayments to the LA at the earliest opportunity. Failure to rectify any overpayments will result in the provider being referred to Herefordshire council for the removal from the Herefordshire Childcare Directory and possible legal action.
- 16.6 The outcome of the audit will be communicated to the provider as soon as possible. A deadline will be agreed for any required changes to be implemented. If appropriate changes are not made, providers will be referred to the Head of Learning and Achievement for removal from the Herefordshire Childcare Directory, in line with the 'Termination and Withdrawal of Nursery Education Funding guidance'¹.
- 16.7 Providers who fail to supply the required information to complete a full NEF Audit will be referred to the Head of Learning and Achievement for removal from the Herefordshire Childcare Directory.
- 16.8 The Early Years Inclusion Team will also monitor the Inclusion Supplement and the impact on the individually named children throughout the term. Providers found to be incorrectly claiming the Inclusion Supplement, either for the level of need of the child or for the hours attended by/offered to the child, will be required to reimburse the overpayment to the LA at the earliest opportunity. Funding for children in receipt of the Inclusion Supplement, who are not deemed to be making appropriate progress, will also be reclaimed.

17 Termination and Withdrawal of Funding

- 17.1 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.
- 17.2 All children should be able to access their funded entitlement with a high quality provider.
- 17.3 Providers who are judged by Ofsted as 'Requires Improvement' may be removed from the Herefordshire Childcare Directory for Two Year Old Funding.
- 17.4 Providers who are judged by Ofsted as 'Not Met' or 'Inadequate' (including 'special measures' and 'serious weaknesses' for school based provision) may be removed from the Herefordshire Childcare Directory.
- 17.5 In addition, providers may also be removed from the Herefordshire Childcare Directory if they:
- Fail to supply adequate information to complete an NEF Audit, as stated above.
 - Do not adhere to the 'Early education and childcare: Statutory guidance for local authorities', June 2018 and/or the Herefordshire Provider Agreement 2019/20.
 - Fail to complete the annual Early Years Census.

¹ A copy of the 'Termination and Withdrawal of Nursery Education Funding guidance' can be found on the Herefordshire NEF

Removal of Funding Process

If a provider is judged to be 'Requires Improvement', 'Not Met' or 'Inadequate' by Ofsted:

upon publication of the Ofsted report, providers will be expected to provide attendance patterns for all children who are currently receiving NEF - these families may be given notice of the removal of funding from their child's provider registered attendance pattern (including days and times)

children who are not included on this list may not receive NEF after the publication of the Ofsted report

A NEF sufficiency assessment may be conducted to ascertain if there is alternative provision available within the locality of the provider - where it can be evidenced that there is no alternative provision available for children it may be possible for the family to continue using the provider

The NEF Sufficiency Assessment will be completed by the NEF/EY Team. Based on the results of the NEF Sufficiency Assessment, a recommendation will be shared with the Early Years Sufficiency team and the Head of Learning and Achievement. Sufficiency Assessment can be found here: [NEF information for providers – Herefordshire Council](#)

Notice will be given to the provider within four weeks of the judgement being published. Families of funded children will also be notified that funding will be removed from their child's provider - funding will cease from half-term or term break, depending upon the number of weeks remaining in the period, ensuring that at least 6 (calendar) weeks' notice is given providers who receive a subsequent judgement of 'requires improvement', 'not-met' or 'inadequate' will be given notice of their removal from the appropriate Directory; an NEF Sufficiency Assessment will not be completed

Herefordshire complies with Department for Education statutory guidance (Early education and childcare - Statutory guidance for local authorities – April 2023) and as such meets both the requirements and the recommendations of this guidance in order to ensure that as far as possible **'all children are able to take up their free hours in a high quality setting'**. (DfE 2023).

Herefordshire therefore funds places where the provider meets the quality requirements and is willing to accept the local authority funding requirements.

Herefordshire will withdraw a provider from the Directory of Funded Providers if they are not willing to accept the local authority funding requirements, or they do not meet the quality requirements. Do not show rapid improvement and there are sufficient places elsewhere, which meet the needs of the children and families.

18 Refusal of Funding Registration

- 18.1 Ofsted automatically notify the Local Authority when a new Early Years Ofsted registration becomes active. Where possible, a representative from the Local Authority Early Years Team will contact the provider directly to discuss the new registration and invite them to an induction meeting.
- 18.2 Before agreeing to fund a new provider, the LA will consider any information published by Ofsted about a registered person, provider or agency. This could include any recent history about childcare offered by the provider or childcare offered at a particular address. This would include a provider employing at least one member of the leadership team from a setting who has been closed down or rated by Ofsted as 'Inadequate' at any location.

- 18.3 Any concern about the inclusion of a new provider on the Herefordshire Childcare Directory will be referred to the Head of Learning and Achievement, via the Early Years Lead Improvement Advisor. A provider may be requested to provide evidence to support their application to register as a funded provider

19 Appeals Process and Dispute Resolution

- 19.1 A provider may be denied approval to offer the funded entitlements or have their funding withdrawn as set out above. The provider can appeal against that decision.
- 19.2 Where a provider wishes to appeal against the decision made to refuse their inclusion on the Herefordshire Childcare Directory, the provider may submit supplementary evidence that:
- Clearly demonstrates that the organisation and management of the setting has changed sufficiently to make a new setting, rather than a rebranded setting.
 - Clearly demonstrates that the new setting will be offering high quality funded provision.
 - All information will be referred to the Head of Learning and Achievement for a final decision.

- Where a provider has been removed from the Herefordshire Childcare Directory due to an Ofsted inspection grade of 'Requires Improvement' or 'Inadequate' and the provider wishes to appeal against the recommendation made by the NEF/EY Team, the provider may submit evidence that:
 - Clearly demonstrates that the sufficiency information recorded on the NEF Sufficiency Assessment is incorrect.
 - Clearly demonstrates that there are insufficient funded places available within their locality to meet the needs of the existing funded children, using the criteria outlined in the 'Termination and Withdrawal of Nursery Education Funding guidance'.
- All information provided will be referred to the Head of Learning and Achievement
- If a provider has a complaint about the way in which a provider was removed from or refused inclusion on the Herefordshire Childcare Directory, the provider may follow the complaints process. [Get involved – Herefordshire Council](#)

19.3 If any dispute arises between the local authority and the provider out of, or in connection with, this PD, either party may at any time serve a notice in writing on the other party that a dispute has arisen. The notice must include reasonable information as to the nature of the dispute.

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 funded entitlement in the correct way, as set out in this agreement and in Early Education and Childcare Statutory guidance for Local Authorities.
- 20.2 Where a parent/carer is not satisfied that their child has received their funded entitlement appropriately, they must raise this concern with their child's setting, following the settings complaints procedure.

- 20.3 Where a parent/carer is not satisfied that their child has received their funded entitlement appropriately, and their concern has not been adequately handled by their child's setting, they can contact the NEF/EY team

Parental Complaint Process

If a parent contacts the NEF/EY team with a complaint about their child's Nursery Education Funding:

- If the information provided by the parent/carer suggests that a setting is operating outside of the Statutory Guidance and/or the Herefordshire Provider Agreement, the NEF/EY Team will contact the setting to discuss the complaint.
- If the NEF/EY Team are unable to address the complaint adequately with the provider, an NEF Audit will be conducted.
- The NEF Team will inform the Lead Early Years Improvement Advisor of the outcome of their investigation. Where the provider is found to be unwilling or unable to operate within the requirements set out with the Herefordshire Provider Agreement, the provider will be removed from the Directory of Funded Providers, in line with the 'Termination and Withdrawal of Nursery Education Funding guidance'. Which can be found here: [NEF information for providers – Herefordshire Council](#)
- Appropriate feedback will be given to the parent

- 20.4 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 Freedom of Information and Data Protection

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

22 Confidentiality

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

Provider Type (e.g. Nursery)			
Ofsted Registration Number (Not applicable if exempt.)			
Correspondence Details /Address: (If different from Provider address)			
Telephone number:			
Email address:			
Please specify the start and end times of the provision.	Day	Start time	End time
	Monday		
	Tuesday		
	Wednesday		
	Thursday		
	Friday		
	Saturday		
	Sunday		
Total Number of weeks NEF offered (i.e. 38 weeks).			
Places offered for Nursery Education Funding			
Maximum number of 2year old NEF places:			
Maximum number of 3 & 4 year old NEF places:			
Vacancies available for Nursery Education Funding			
Vacancies available for 2 year olds:			
Will the provision offer extended entitlement (30 hour)places?	YES	NO	

**Complete, sign and return to:
earlyyears@herefordshire.gov.uk OR via
Anycomms selecting the service 'Early Years
Improvement Team' OR post to Emily Garner,
Lead Early Years Improvement Advisor,
Herefordshire Council, Plough Lane, Hereford
HR4 OLE**

The person legally responsible for your establishment must sign the following declaration:

The person legally responsible for your establishment must sign the following declaration:

- I understand my responsibilities under the NEF provider agreement which are based on current law and statutory guidance issued by the Department for Education (DfE)
- I will comply with the detail set out in the provider agreement which are based on current law and statutory guidance issued by the Department for Education (DfE)

Name of person completing the form :

Job role:

Organisation/Setting:

Signature:

Date: