

Milton Keynes Council in
Partnership with Milton Keynes
Early Years Development and
Childcare Partnership:

A Code of Practice for Nursery
Education Funding



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1. Introduction and Context

Nursery education is a fast moving and complex environment, which has been radically altered by the introduction of the “Every Child Matters” agenda and its five key outcomes for children, that they:

- be healthy;
- stay safe;
- enjoy and achieve;
- make a positive contribution;
- and
- achieve economic well-being.

To help deliver this agenda, the ten-year strategy, ‘Choice for Parents, the Best Start for Children’ sets out the government’s vision for nursery education provision and Nursery Education Funding. It is based around four key themes, which underpin the government’s education framework:

- choice and flexibility;
- availability;
- quality; and
- affordability .

The ten-year strategy also includes a comprehensive package of measures, which will radically alter the provision of nursery education, through extended use of the free entitlement. Key commitments include:

- from April 2006, the minimum free entitlement of 12.5 hours a week, has been extended from 33 to 38 weeks a year (for all 3 + 4 year olds);
- from 2010, the minimum entitlement will be further extended to 15 hours a week for 38 weeks a year in all settings.

These commitments will be made available to children as and when required. In support of these commitments, the Government has introduced a new Code of Practice, which integrates and supersedes the current Sure Start Code of Practice. This Code will remain in force until 2008-09, when it will be replaced by a new statutory guidance reflecting the provisions in the Childcare Act.

Building upon the Government Code of Practice, this Local Code of Practice has been developed to deliver on the Government’s commitments and

requirements, while ensuring they are tailored to meet the needs of children within Milton Keynes.

2. Legislative Context

Various Acts and local policies and procedures underpin and provide a statutory framework for this Code of Practice. The provider must adhere to all the rules and guidance set out in them. These are detailed in Annex 1.

3. Purpose and Aims of the MK Code of Practice

The MK Code of Practice has been developed to provide clear and simple guidance about how providers should deliver the free entitlement, and how they should claim the funding for it. It also specifies the monitoring undertaken by Milton Keynes Council staff about use of funding by providers. In line with the government Code of Practice, the MK Code of Practice, will remain in force until 2008-09.

The Aims of the Local Code of Practice

The local Code of Practice:

1. provides simple, clear and transparent guidelines and rules;
2. ensures that Nursery Education Funding within MK meets the requirements set down by government;
3. details the requirements to which providers must adhere;
4. describes MKC's responsibilities; and
5. enables MKC to monitor providers to ensure that funding is used in an appropriate and legitimate manner.

4. Requirements of the Code of Practice

Requirements set down by government to which providers must adhere

In this Code of Practice, providers are defined as 'the person and the place registered with the MKEYDCP where a child goes for nursery education, which are applicable for nursery education funding.' Only private, voluntary and supported providers are eligible for nursery education funding.

The following are the overarching principles that must be adhered to by providers, when delivering the free nursery education entitlement:

1. All eligible children are entitled to a maximum of **5** sessions (**12.5** hours a week) of free nursery education per week, for **38** weeks a year. This equates to a maximum total of **190** sessions over three terms, excluding half-term holidays.

2. A child **MUST NOT BE CHARGED ANY FEE** in order to have their free entitlement of 2 and a half hours.
3. Parents can take up additional services outside of their free entitlement through private arrangements made with providers. Providers will charge for these services. All fees and billing procedures must be clearly presented.
4. Failure to provide the free entitlement to an appropriate level of quality and standards may lead to a withdrawal of funding.
5. Failure by the provider to provide the free entitlement as it is set out in this document, may lead to a withdrawal of nursery education funding.
6. Providers are not required (although good practice would suggest they should) to meet the requirements of this code:
 - for any period they are not providing the free entitlement;
 - for any child who is not receiving the free entitlement; and
 - for any session in excess of the free entitlement.
7. Each provider must acknowledge receipt of this Code of Practice and agree to adhere to the requirements. A signed Copy of the Code of Practice Agreement, set out in Annex 2, must be returned to MKC before the date the grant is sent out.

Which Children are Eligible?

8. All three year olds are entitled to the free entitlement for up to two academic years, before they reach compulsory school age. This will commence in the dates shown below.

A child born between:	Will be eligible for a free place from:
1st April and 31st August (inclusive)	1st September (or from the start of the Autumn term following their 3 rd birthday)
1st September and 31st December (inclusive)	1st January (or from the start of the Spring term following their 3 rd birthday)
1st January and 31st March (inclusive)	1st April (or the start of the Summer term following their 3 rd birthday)

9. Children will continue to be entitled to a free early education place until they enter school, unless formal deferred entry is agreed. If children have a deferred entry (for example they enter school in the January rather than the September), they continue to be entitled to the funding until they start at the school.

10. When a child starts school they may be phased into the school gradually over the first half term. When this happens the child is considered to be using their free part-time early education entitlement at the school. So if a child continues to attend a provider along side the school the parent must pay the provider for that nursery education the child receives.

A child born between:	Will be admitted to school from:
1st September and 31st December (inclusive)	<i>The term when they are five</i>
1st January and 30th April (inclusive)	September (following their 4 th birthday)
1st May and 31st August (inclusive)	September (following their 4 th birthday)

11. A child moving into Milton Keynes from another area or country can access nursery education funding at any point during the term.
12. Whilst new claims for funding can be processed at any point of term, duplicate funding within Milton Keynes is not permitted when a child leaves a setting. 2 scenarios can arise:
- Funding Transfer: Remaining unused entitlement is paid to the new setting but only if a child moves to another setting within Milton Keynes that is funded through NEG. There is an existing arrangement by which settings are willing to carry out these transfers, although these cannot be enforced by the council. Please note however that where funding is not transferred by a setting, the Council may claw back funding under minimum attendance guidelines
 - Retention of Funding: When a child moves to a school nursery class in Milton Keynes or any other setting outside of Milton Keynes Local Authority, providers should retain the funding paid for the child.
13. Parents must read the Information Leaflet provided by MKC before signing a Parental Declaration. If a setting fails to provide the leaflet for parents, they are liable for any false claim.
14. Providers must advise parents that their choice of early years provider will not in any way influence their admission to a school place once they reach school age.

Characteristics of the Session

15. A provider must be open for between 33 weeks and 38 weeks a year (excluding half term) for which they will receive the required funding. There is nothing to prevent parents from taking up the free entitlement at a provider that is open for less than 38 weeks. However, both MKC and the provider concerned have a responsibility to inform parents that the local authority may not be able to fund top-up provision at an alternative provider.

16. Children may receive their entitlement by attending sessions at more than one private, voluntary or supported provider of nursery education (sometimes referred to as non-maintained).

17. If a child attends a maintained provider (i.e. a school nursery class) that provider receives all the free entitlement funding. Therefore, if a parent chooses for their child to attend a maintained provider, they will not be entitled to claim a funded place at any other provider. This applies, even if the parent decides not to use all the free entitlement available at the maintained provider.

Milton Keynes Council will only fund a split between maintained and non-maintained providers in exceptional circumstances;

- where a child has special needs requiring support from 2 different settings.
- where a child has historically been allowed to access a funded place at a maintained and non-maintained setting.
- where there is deemed to be insufficient availability of childcare options for parents in an area.

18. A provider may offer more than one session in a day, however they can only claim for a maximum of two sessions per day. In such circumstances, the free entitlement may include the lunch period or other break providing this is specifically planned and structured to support children's overall learning and development.

19. A free entitlement session must be a minimum of 2 ½ hours in length, and does not include staff preparation and clearing up time.

20. A maximum of 2 sessions may be claimed a day and can be claimed for children attending for a 5 hour morning or afternoon session.

Eligibility of Providers

21. Providers must be registered with the Milton Keynes Early Years Development and Childcare Partnership (MKEYDCP) in order to offer the free nursery education place.

22. Childminders must be part of a NCMA approved network and accredited to receive nursery education funding. They must also hold or be working towards a recognised, relevant level three qualification.

23. All providers must adhere to the requirements within this document.

Provider Standards

24. Providers must adhere to the appropriate National Standards for under-eights Day-care and Childminding and the associated guidance. Please

contact the Childcare Information Service for information on the latest editions.

25. If the quality of early education and childcare provision at any provider is judged by Ofsted to be inadequate, then the situation will be reported to the Early Years Foundation Stage Implementation Group (EYFSIG) of the MKEYDCP. MKEYDCP will determine whether the nursery education funding is withdrawn. Following the EYFSIG decision, MKC may withdraw funding, having first notified Ofsted. However, MKC will make the necessary arrangements to provide appropriate support to providers to try and overcome any identified issues and prevent withdrawal of the funding.
26. All provision should be consistent with the five key outcomes set out in “Every Child Matters”.
27. The free entitlement must be delivered to high standards, which will be monitored, by ensuring that all providers have a satisfactory or better Ofsted inspection. Providers must also provide planned learning activities to help children progress towards achieving early learning goals, in line with the principles and practice described in the curriculum guidance for the Early Years Foundation Stage.
28. The provider’s educational programme must value and reflect diversity and prepare children to live in a multi ethnic society. Providers should also monitor the take-up and achievement of different groups, examine the reasons for discrepancies and revise approach where necessary.
29. Providers must accept visits once a term from the Early Years Foundation Stage (EYFS) team and work with them to achieve identified aims.
30. Providers must ensure that staff are appropriately qualified and continue to have access to training for early years in addition to day care standards core training.
31. Providers must maintain records detailing the child’s development linked to the nursery education.
32. Providers must make available to the EYFS team all the information needed including:
 - notice period for leaving;
 - learning opportunities;
 - staff training, administrative set up etc; and
 - any other information that can be reasonably requested.
33. Providers must ensure that all staff delivering EYFS attend at least a minimum of 18 hours curriculum training per year on the curriculum.
34. Providers must ensure that Special Educational Needs Co-ordinators (SENCOs) attend 4 days training per year.

35. Providers must maintain training records, details of qualifications of staff and a training plan. These must be reported on annually and the plan made available to the EYFS team.
36. Providers must implement the principles of the EFYS.
37. Providers must maintain written records of children's achievement against the EYFS curriculum and pass this information to parents and receiving schools and settings on transfer.
38. Providers must have regard to the 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 settings to have a written policy (which must be reviewed annually) for Equal Opportunities, Special Educational Needs and have a named SENCO and an Inclusion Named Co-ordinator.
39. Providers must complete and return the DfES Annual Early Years Census.
40. Providers may be asked from time to time to distribute information to parents as published by the Early Years service, on behalf of Milton Keynes Council's Learning and Development Directorate.
41. The provider should have a named person responsible for Child protection who attends Basic Safeguarding of Children training.

5. Milton Keynes Council Responsibilities: Process for Obtaining Funding for the Free Entitlement

MKC will pay a flat rate per child for each two and a half hour session claimed during a term. MKC makes 2 payments. Payment one is based upon the estimated number of children and sessions to be attended during that term. The second payment is based upon actual attendance for the term. MKC's monitoring responsibilities are listed in section 8.

6. Guidelines for Claiming the Funding

1. If a child attends more than one non-maintained provider, the funding will be split proportionally, unless the parent/carer specifies otherwise. Where parents claim more than they are entitled to, the council will withhold a payment until the parent has decided where they wish to access the entitlement. As all parents have to read the Milton Keynes Council Information Leaflet and sign a declaration, they must be liable for false claims. Providers will be liable for false claims and may lose out on funding if they have failed to provide the leaflet and obtain a signed declaration.

2. Where Children take up care outside of the free entitlement or attend for more than 2 and half hours, the amount of grant paid for the child should be deducted from normal fees.

3. If a child is attending a nursery which is open for 51 weeks per year, then they may be funded for more than 38 weeks. No child will be permitted to exceed the maximum entitlement for each term (Spring – 55 sessions, Summer – 65 sessions, Autumn – 70 sessions). However, children doing fewer than 5 sessions in total may spread their entitlement across more than 38 weeks of the year. For example, a child doing 2 sessions could attend 22 weeks in Summer term and still not exceed the maximum entitlement for that term, of 65 sessions. It is assumed that nursery children are attending additional weeks unless it is indicated otherwise on the Headcount form. All nurseries MUST check payment schedules to ensure that they have deducted the correct amount of grant from parents' bills. The entitlement is illustrated in the table;

SUMMER 2007		Sessions				
		1	2	3	4	5
Weeks Open						
13	13	26	39	52	65	
22	22	44	65	65	65	

Maximum entitlement = 65 sessions

AUTUMN 2007		Sessions				
		1	2	3	4	5
Weeks Open						
14	14	28	42	56	70	
16	16	32	48	64	70	

Maximum entitlement = 70 sessions

SPRING 2008		Sessions				
		1	2	3	4	5
Weeks Open						
11	11	22	33	44	55	
13	13	26	39	52	65	

Maximum entitlement = 55 sessions

4. Providers are not encouraged to charge parents for the free entitlement in advance. This practice will however be permitted in nurseries and independent schools, where providers can demonstrate that they have the parent's agreement to reimburse later. Providers should ensure that this practice does not exclude any children whose parents cannot pay up front.

5. If a child claiming the free entitlement leaves/joins after headcount day, the provider must inform MKC immediately. The excess/due money may be claimed back from/received during the next provider's entitlement. Funding

cannot be used to pay for withdrawal notice penalties or arrears built up outside of the free entitlement.

6. An eligible child should claim funding from the LA where the provider operates.
7. The following table shows the minimum number of sessions that need to be attended by a child for the funding entitlement to be claimed. The numbers in red indicate the minimum amount of sessions that should be attended, based on a proportion of 'the sessions per week being claimed for multiplied by the number of weeks a term that is attended by the child'. Failure to attend the minimum number of sessions may result in a reduction in the funding received. However, MKC acknowledges that exceptional circumstances may arise, which mean the minimum attendance is not achieved. These circumstances would be taken into account, when a decision is made.

	11 week term	Min sessions to attend	12 week term	Min sessions to attend	13 week term	Min sessions to attend	14 week term	Min sessions to attend
5 sessions per week	55	35	60	38	65	41	70	44
4 sessions per week	44	28	48	31	52	33	56	35
3 sessions per week	33	21	36	23	39	25	42	27
2 sessions per week	22	14	24	15	26	16	28	17
1 session per week	11	7	12	8	13	8	14	9

Table 1.1

8. Providers must ensure that funding is spent during the term for which it has been allocated and for the benefit of the funded children for that term. However, in some circumstances it may be justified for the provider to use the funding outside of the allocated term.
9. Where children access full daycare or sessions longer than 2.5 hours, settings should deduct the grant claimed from their normal charges when they bill parents. All providers MUST ensure that the grant deducted for each child reconciles with the amount paid by the council every term (displayed on payment schedules).

7. Process for Claiming the Funding

Payment One: Calculating the Estimate:

Step 1: Providers must check eligibility of children through a valid form of identification, for example a birth certificate or passport.

Step 2: Estimate forms will be sent to providers during the preceding term, so providers can estimate the number of eligible children.

Step 3: Providers complete and return Estimate form to MKC by the deadline given.

Step 4: Actual Headcount form is sent out, prior to initial payment.

Step 5: MKC will make initial 50% payment.

Payment Two: Actual Headcount Procedure:

Step 1: All providers must ensure that all parents read MKC's information leaflet and that all Parental Declaration forms are completed and signed by the provider.

Step 2: Providers must check eligibility of children through a valid form of identification, for example a birth certificate or passport.

Step 3: Headcount takes place. Providers must monitor attendance of all eligible children during the Headcount week and make any necessary amendments to claim.

Step 4: Completed claim form is returned to MKC.

Step 5: MKC will notify providers of the balancing amount, together with the names and sessions for which the payment was made.

Step 6: The second payment, which balances the initial estimate, is made. This second payment will reconcile any over or under estimations within the initial estimate payment.

Further payments may be made on submission of new claims through the 'Funding Adjustment' form. This funding is paid on a pro rata basis.

8. Auditing Providers

1. Providers will be audited by MKC at least once every eighteen months, with two weeks notice given. This will ensure that providers are in a position to provide continuous nursery education and detect false claims.
2. Providers must maintain all attendance and finance records for a period of 6 years.

3. Providers will fill in the requisite forms correctly and return them by the date required.
4. When requested providers must send MKC copies of
 - o children's attendance;
 - o bank statements;
 - o invoices or charges to parents;
 - o records of Income and expenditure each term;
 - o copies of accounts
 - o proposed budget for the year; and
 - o any other evidence that can be reasonably requested.
5. The individual staff member who takes the register must not be the person who undertakes the Headcount procedure (childminders are exempt).
6. Providers must maintain a specific, non-personal bank account, which is dual signatory unless a sole-trader.
7. If the funding received for a stand alone 2 and a half hour session exceeds the amount the provider would normally charge for that session, the provider can keep the excess. However MKC will examine financial records to determine how the excess is spent.
8. Providers must contact MKC upon receipt of any payment ineligible children.
9. Any change of circumstance or organisation, including name, must be reported to MKC, as this may result in a change of funding arrangements.

10. Data Protection

It is therefore 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.

Therefore, any provider who decides how and why personal data (which could include copies of passports or birth certificates) is processed (data controllers), must comply with the rules of good information handling, known as the data protection principles, and the other requirements of the Data Protection Act. Processing occurs when any operation or set of operations is carried out on personal data.

Annex 4 details some of the key data protection rules and principles that must be achieved. Failure to meet all the rules and principles outlined in the act (<http://www.opsi.gov.uk/acts/acts1998/19980029.htm>) could lead to the information commissioner taking enforcement action. It could also lead to an individual seeking compensation through the courts.

10. Failure to Adhere to the Code of Practice

If a provider fails to adhere to any aspect of the Code of Practice or fails to adhere to any other rules or procedures that it must abide by (for example Ofsted standards), then funding may be withdrawn.

However, MKC 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.

Advice on how to complain to the Council is available on the Council's website, via this link:

<http://www.milton-keynes.gov.uk/complaints/home.asp>

A complaint leaflet and form is available via the Learning & Development Directorate by contacting 01908 254690 or 01908 253172, or direct from the Council's offices in Central Milton Keynes i.e. Civic Offices or Saxon Court and the Council's libraries.

A provider who is not satisfied with the MKC appeals process and feels that maladministration has occurred, may make a complaint to the Local Authority Ombudsman on 0845 602 1983 or email www.lgo.org.uk after the full appeals process with MKC has been exhausted.

11. Conclusion

This is a live document that aims to act both as a guide for current procedures, while also acting as a starting base, for a progressive and positive partnership between parents, providers and MKC.

The document will be updated as and when required. However, if you have any comments or suggestions, regarding this or any aspect of Nursery Education, then please contact:

Richard Pearson,
NEF Co-ordinator,
MKC,
Galley Hill Education Centre,
Galley Hill,
Stony Stratford,
MK11 1PA

Tel: 01908 254522

Annex 1: Legislative Context

National Legislation

The following statutory frameworks underpin this Code of Practice:

- **The School Standards and Framework Act 1998**, places a duty on MKC to ensure sufficient nursery education provision for children of a prescribed age;
- **Regulation 2 Education (Nursery Education and Early years Development) (England) Regulations 1999**, prescribes the age of the children in relation to whom local authorities' duty to secure sufficient provision applies;
- **Section 153 of the Education Act 2002** states that "MKC must have regard to any guidance given by the Secretary of State when making arrangements with private, voluntary and independent providers (PVI) in pursuance of section 118;
- **Section 89 Education Act 2002**, states that local authorities, school governing bodies, and any person providing funded nursery education must secure the delivery of the National Curriculum for England (so far as it relates to the Early Years Foundation Stage);
- Providers and MKC are bound by the laws on discrimination, including the **1976 Race Relations act**, **Race Relations (Amendment) Act 2000**, the **Disability and Discrimination Act (DDA) 1995** and the **Special Educational Needs and Disability Act 2001**;
- the five key outcomes set out in **Every Child Matters**, underpinned by the **Children Act 2004**; and
- the **Data Protection Act 1998**.
- **Section 7 of the Childcare Act 2006**

The Local Code of Practice is based upon and should be read and understood in conjunction with the Government Code of Practice, which can be obtained from the DfES.

Policies and Procedures

This Code of Practice links with a number of policies and procedures, and therefore, providers should familiarise themselves with the following:

- Special Educational Needs (SEN) Code of Practice;
- Milton Keynes Children Come *First* Childminding Network: Code of Practice;
- Safeguarding the Welfare of the Child;
- Curriculum Guidance for the Foundation Stage; and
- 'Key elements of Effective Practice' (KEEP)

Annex 2: NURSERY EDUCATION FUNDING: PROVIDERS AGREEMENT

THIS AGREEMENT is made the _____ day of _____ 2007

BETWEEN:-

The Council of the Borough of Milton Keynes of the Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3HG ("the Council")

and

Name of Provider:- ("the Provider")	
Address:-	

BACKGROUND

- (A) The purpose of this Agreement is to formalise the relationship between the Council and the Provider with regard to the provision of nursery education funding.
- (B) In entering into this Agreement, the Provider is agreeing to comply with all requirements of the Agreement.
- (C) The Council will view any failure to comply with the terms of this Agreement as a breach of the legal obligations required of the Provider, which may result in a requirement to repay part or the whole of nursery education funding or the Provider ceasing to be entitled to receive nursery education funding, as detailed in this Agreement.

OPERATIVE PROVISIONS

IT IS AGREED AS FOLLOWS:-

1. Definitions

In this Agreement the following words shall have the following meanings:-

- 1.1 "Eligible Children" means the children eligible to receive funded nursery education as detailed in the MKC Code of Practice.
- 1.2 "Every Child Matters" means the publication entitled 'Every Child Matters' produced by the Dfes (<http://www.everychildmatters.gov.uk/>).
- 1.3 "Funded Nursery Education" means the provision by the Provider of nursery education to Eligible Children in accordance with the terms of this Agreement.
- 1.4 "Nursery Education Funding" shall mean such funding payable by the Council to the Provider for the provision of nursery education in accordance with the terms of this Agreement.
- 1.5 "DfES Code of Practice" means the Code of Practice on the Provision of Free Nursery Education Places for 3 and 4 Year Olds produced by the Department for Education and Skills (and any subsequent versions of this document).
- 1.6 "MKC Code of Practice" means the Code of Practice on Nursery Education Funding produced by Milton Keynes Council (and any subsequent versions of this document).

2. Obligations of the Council

- 2.1 The Council shall pay Nursery Education Funding to the Provider in accordance with the MKC Code of Practice, subject to the Provider providing the Funded Nursery Education in accordance with the terms of this Agreement.

3. Obligations of the Provider

- 3.1 The Provider shall provide the Funded Nursery Education in accordance with the DfES Code of Practice and the MKC Code of Practice and any other reasonable additional requirements of the Council, notified in writing by the Council to the Provider.
- 3.2 The Provider must conform in all respects with the provisions of all relevant legislation including the provisions of any general or local Act or Parliament and the regulations and by-laws of any local or other statutory authority which may be applicable to the provision of nursery education or the employment of the Provider's staff.
- 3.3 Without prejudice to any requirements of the DfES Code of Practice or the MKC Code of Practice, the Provider must in particular ensure compliance with the following:-

- 3.3.1 All Eligible Children shall be entitled to a maximum of 5 sessions (12.5 hours a week) of free nursery education per week, for 38 weeks a year. This equates to a maximum total of 190 sessions over three terms, excluding half-term holidays. The Council may increase or decrease the maximum allowance, subject to notification to the Provider.
- 3.3.2 The Provider must provide the Funded Nursery Education and care:-
- a) to a good quality; and
 - b) in accordance with the curriculum guidance for the Early Years foundation stage, and
 - c) in accordance with Every Child Matters as underpinned by the Children Act 2004, and
 - d) to a standard acceptable to an Ofsted inspector.
- 3.3.3 The Provider will be required to submit to an audit of their provision of Funded Nursery Education, when required by the Council. This shall be at least once in every 18 months, but may be more frequently if the Council so requires.
- 3.3.4 The Provider shall promote equality of opportunity and shall ensure that it complies with all statutory obligations as regards preventing discrimination on the grounds of colour, race, nationality, cultural or ethnic origin, marital status, gender, age, disability, religion, gender reassignment or sexual orientation.
- 3.4 Failure by the Provider to comply with the terms of this Agreement and any other reasonable additional requirements notified in writing by the Council to the Provider may result in a requirement to repay the whole or any part of the Nursery Education Funding or may result in the Provider ceasing to be entitled to receive Nursery Education Funding.
- 3.5 If the Provider considers that any provision of this Agreement is in conflict with the provisions of the DfES Code of Practice or the MKC Code of Practice, the Provider shall immediately notify the Council requesting clarification of the Provider's obligations.

4. Termination

- 4.1 The Council may terminate this Agreement for any reason on no less than 4 weeks written notice to the Provider.
- 4.2 The Council may terminate this Agreement immediately on written notice to the Provider if:-
- 4.2.1 the Provider commits a material breach of this Agreement which seriously affects the provision of Funded Nursery Education, or

4.2.2 A receiving order is made against the Provider or the Provider shall become bankrupt or insolvent or shall compound with or assign in favour of creditors (or being an incorporated company) shall resolve to wind up or be ordered to be wound up or shall carry on business under a receiver.

4.2.3 The Provider may terminate this Agreement for any reason on no less than 6 weeks written notice to the Council. Such notice shall clearly identify that it relates to this Agreement and shall be sent to the Nursery Education Funding Coordinator of the Council at Galley Hill or to such other person or offices as the Council shall from time to time advise the Provider in writing.

5. General Provisions

5.1 Insurance

For the duration of this Agreement, the Provider shall insure against all relevant risks and shall be required to provide written evidence that insurance cover is in place to the Council's required levels which are currently:-

(a) Employer's liability – at least £10,000,000

(b) Public liability – at least £5,000,000

5.2 Variations

No variations of this Agreement shall be effective unless in writing and signed by a duly authorised representative of each of the parties.

5.3 Waivers

No exercise or failure to exercise or delay in exercising any right, power or remedy vested in any party under or pursuant to this Agreement shall constitute a waiver by that party of that or any other right, power or remedy.

5.4 Contracts (Rights of Third Parties) Act 1999

The parties to this Agreement do not intend that any provision is to be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

5.5 Jurisdiction

This Agreement shall be subject to and governed by English Law.

**SIGNED for and on behalf of THE COUNCIL
OF THE BOROUGH OF MILTON KEYNES**

By:-

Position:-

SIGNED for and on behalf of the PROVIDER

By:-

Authorised signatory for the Provider

Name in full:-

Position:-

Date.....

Annex 3: Maintaining Nursery Education Funding Records:

A Guide to Maintaining Nursery Education Funding Records:

MKC needs to ensure that in accordance with the Code of Practice, nursery education funding has been spent for the benefit of the children for whom it has been claimed. Settings should provide an expenditure analysis. MKC's audit team will review the expenditure analysis and carry out the necessary audit checks to ensure that funding has been spent accordingly.

Example: Nursery A receives £6000 in Nursery Funding for the Summer Term.

Records of termly expenditure detail how the £6000 has been spent...

	£
Staff Costs	3800
Rent	1000
Equipment	400
Heat and Light	200
Admin Costs	200
Gas/Electricity	150
Insurance	150
Materials	100
TOTAL	6000

The audit team will require supporting documentation to confirm that the funding has been spent as detailed in this expenditure analysis.

Staff Costs: It is anticipated that the majority of nursery funding expenditure will be allocated to staffing costs. A breakdown of expenditure on staff costs will be reviewed. Significant amounts will be bank statements. In addition to this, timesheets and records of staffing should be available for inspection.

Rent/Heat and Light/Gas and Electricity and Insurance: Documentation outlining annual/quarterly/monthly charges will be reviewed to confirm that costs has been accurately calculated.

Equipment: Where the grant has been spent on equipment, receipts and invoices should be kept so that the value of items can be verified. Equipment should also be available for physical inspection to confirm that it has been bought for the benefit of children.

Admin and Materials: Receipts should be retained as evidence of expenditure.

The analysis of expenditure and related audit checks will provide assurance that the nursery funding has been spent in accordance with the MK Code Of Practice for the benefit of funded children.