

Appendix 2: Procedure for withdrawal of funded early education from inadequate settings

The purpose of this document is to describe how Luton Council will fulfil its statutory duty to withdraw funding for early education from settings that are judged by Ofsted to be inadequate.

Statutory Duty

Luton Council's statutory responsibilities in this regard are clear, as set in Section A3.13 of the Early education and childcare statutory guidance for local authorities. This states that local authorities should:

“Secure alternative provision and withdraw funding from a provider (other than a local authority maintained school), as soon as is practicable, when Ofsted publish an inspection judgement of the provider of ‘inadequate’ or an inspection judgement of a childminder agency of ‘not effective’. It is for local authorities to determine an appropriate timeframe for withdrawing funding.”

Luton Council is committed to ensuring that children in Luton are able to access the highest standards of early education and childcare provision. This means that the council will take action to support settings when a judgement of inadequate is issued by Ofsted to a provider, but will also withdraw funding in line with their statutory responsibilities.

Once an inadequate judgement has been published by Ofsted the provider will not be permitted to offer a place to any additional funded children. Luton Council will write directly to parents and carers claiming funded early education hours at the setting informing them of the inspection outcome within five working days of the publication of the report.

The Early Years team will contact the provider with an offer of support and to arrange a meeting to complete the Memorandum of Understanding. In this meeting a support plan will be developed to address the issues highlighted by Ofsted.

Process to Withdraw Funding

Luton Council does not waive its statutory responsibility to withdraw funding, as required by statutory guidance, if it does not remove funding immediately. The council may continue to fund existing two, three and four year olds as long as the monitoring visits are showing improvement, whilst the process to withdraw funding is completed.

A panel to agree the timeframe in which to withdraw funding will be convened at least 10 days after the provider is sent a letter inviting them to the panel meeting.

The provider is given the opportunity, prior to the panel meeting to submit any relevant evidence such as:

- progress they feel they have made in responding to their Ofsted outcomes
- action plans, including time frames, for addressing the issues in their Ofsted report; and training to support improvement

The provider should confirm attendance at the panel and submit all evidence at least 2 working days before the panel date.

The Early Years team will collate information regarding evidence of engagement by the provider, support provided by Luton Council and action taken by the provider.

A sufficiency assessment of funded childcare places within the immediate area of the setting will be carried out by the Family Information Service for the panel to consider at the meeting.

The Withdrawal of Funding Panel will consist of a minimum of three managers from the Education Service including at least one senior manager. The panel will consider the evidence and make the decision as to the timeframe for withdrawal of funding.

There are three options for withdrawal of funding available to the panel as follows:

- withdraw funding with immediate effect;
- withdraw funding at the end of the current funded period (or the following half-term, should there be insufficient time to give parents due notice); or
- withdraw funding following notification of the outcome of the next Ofsted inspection, should the setting receive a second inadequate.

The outcome of the panel will be confirmed to the provider within two working days and a formal letter sent to the provider within five working days.

Right to Appeal

The provider will have 10 working days (being the Appeal Period) from being given notice of the Council's decision on the timescale for funding withdrawal to appeal this decision. Notice is deemed to have been given on the day of delivery if it is delivered directly or on the second working day after posting if it is sent by first class mail.

Please note that there is no option to appeal against Luton Council's statutory duty to withdraw funding from inadequate settings.

Any appeal should clearly set out the grounds for contesting the decision about when funding would be withdrawn and be made in writing to the Service Director of Education.

An Appeal Panel, including three senior managers, will be convened and a council member will be invited to attend. One member of the original panel will be present to explain the process followed and rationale behind the decision taken by the Withdrawal of Funding Panel. The appeal will be considered and the provider will be notified of the panel's decision in writing within three working days.

Should the provider choose not to appeal in the requisite time, or if the decision is upheld by the Appeal Panel, Luton Council will write to the parents of the children claiming their funded early education hours at the setting to advise them that funding is being withdrawn and the related timescales. These letters will be sent out within 10 working days of the Appeal Panel decision.

If the provider receives an Ofsted inspection before the funding is withdrawn and the inspection outcome is no longer inadequate then the provider will continue to receive funding and will remain on the Luton Directory of Providers. If an Ofsted inspection outcome of requires improvement or better is received after the funding has been withdrawn, the provider will need to re-register on the Luton Directory of Providers.