

Framework for Early Years Provision

To: Children and Young People's Committee

Meeting Date: 30th November 2021

From: Executive Director: People & Communities

Electoral division(s): All

Key decision: No

Forward Plan ref: n/a

Outcome: As a result of this report Members will:

Be aware of the impact on the Council of the recent early years closure rates; and

Enable and support the development of a childcare provider framework to identify childcare providers to deliver early years (EY) and childcare services.

Recommendation: The Committee is recommended to endorse the development of a childcare provider framework.

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1. Background

1.1 The Council's Statutory Duties

The Childcare Act 2006 placed specific sufficiency duties upon Local Authorities (LAs), including to secure:

- sufficient and suitable childcare places to enable parents to work, or to undertake education or training which could lead to employment;
- sufficient and suitable early years places to meet predicted demand; and
- free early years (EY) provision for all 3 and 4-year olds of 15 hours per week 38 weeks per year (570 hours per year).

1.2 The Education Act 2011 extended LAs' duties to include an entitlement of 570 hours of free early education per year for eligible two-year olds, from the term following their second birthday.

1.3 The Childcare Act 2016 further extended LAs' duties such that, since September 2017, children aged three and four from working families who meet the qualifying criteria (Appendix 1), have been entitled to an additional 570 hours of free childcare, providing them with a total of 1040 hours of free childcare (equivalent to 30 hours per week for 38 weeks per year).

1.4 EY providers receive funding for childcare places from the Council as part of the EY Single Funding Formula, from the EY block of the Dedicated Schools Grant. The funding allocation is based on the number of childcare hours provided. Payments to childcare providers for breakfast and after school childcare are usually made by parents.

1.5 The Council's Constitution defines a key decision as one which 'results in the Council incurring expenditure or making savings in a single transaction, in excess of £500,000.' Therefore, given the potential contract value of most EY provision, it is currently necessary to seek Committee approval to carry out a tender process to identify new EY providers.

1.6 In September 2021, the Children and Young People's (CYP) Committee received a report seeking approval to tender for a new childcare provider in Arbury. The Committee were advised that a further report would be presented to them with options to streamline the process and reduce the time required to tender, whilst continuing to meet procurement regulations.

2. Recent Early Years Issues

2.1 In 2020, the EY provider located at Trumpington Park Primary School informed officers that they could no longer provide childcare. The setting was well attended and located in a busy and growing area of Cambridge City. Despite best efforts and support from officers the closure could not be avoided. Further investigation revealed that there were insufficient places to accommodate all the children elsewhere should the setting close and there was insufficient lead-in time to run a tender process to identify a new childcare provider. Due to this unique situation, the decision was made that the Council would take over the childcare setting and run it as 'provider of last resort' (see Appendix 2).

2.2 Although running the setting directly enabled, and continues to enable, the Council to meet its sufficiency duty, it is not ideal. The cost to the Council to directly run childcare provision is significantly higher due to its terms and conditions of employment, on-costs and pay

scales than funding a private, voluntary or independent provider to do this. There is also a considerable amount of officer time required to establish and run the provision, including Human Resources input to the TUPE (Transfer of Undertakings (Protection of Employment)) and due diligence process, finance officer time for budgets and forecasting, and EY service adviser time for set up and to line manage the provision.

- 2.3 In September 2021 a paper was submitted to CYP Committee seeking approval to tender for a new childcare provider in Arbury. The setting, run by the Early Years Alliance, had advised the Council that they no longer wished to manage and operate the EY setting. As the setting is based in a former caretaker's bungalow belonging to the Council, and there is an identified need for the places in this area of the City, it is necessary to carry out a tender process to identify a new childcare provider.
- 2.4 This month, officers have been advised of the closure of a number of settings across the County, these settings plan to close with almost immediate effect. One of these, located at Fulbourn, operates out of a County owned venue. Significant support has been provided with the aim to sustain the EY provision and prevent closure, however, when a setting is experiencing recruitment issues this is not always possible.
- 2.5 Given the potential time required for tendering, OfSTED (the Office for Standards in Education) registration and Committee approval there is a risk that in cases such as this, the notice period of three months required of an EY provider is insufficient to carry out all the necessary processes, identify a new childcare provider and to ensure that there is no loss of service to families. Such a loss would not only cause considerable upheaval to children and parents, but it would also place at risk the Council's ability to meet its statutory EY sufficiency duty.
- 2.6 Should it not be possible to identify a childcare provider to run a setting where EY places are required prior to the closure of a setting, the responsibility to provide those places could again fall to the Council as Provider of Last Resort. In these circumstances an alternative approach is required.

3 Early Years Childcare Framework

- 3.1 In order ensure that the Council can continue to meet its childcare sufficiency duty and to avoid being in a position where it becomes the provider of last resort, officers have investigated the option of establishing a Childcare Framework to identify childcare providers when needed, both at short notice and when service agreements and leases are approaching the point at which they are to terminate, and a tender is required.
- 3.2 Soft market testing has been carried out to assess the interest from the market in such a framework. The response to this has been extremely positive with a wide range of childcare providers from all areas of the County, confirming their interest in joining such a framework. This provides a clear indication that the framework could provide the Council with high quality childcare providers across Cambridgeshire when required.
- 3.3 Checks on childcare providers would be carried out at the application stage, officers would then be able to call on the framework and identify a suitable childcare provider within a shorter period of time than when carrying out individual tenders.

- 3.4 Guidance will be sought from procurement and Pathfinder Legal Services during the set-up of the framework. It is proposed that the framework be an 'open' framework to ensure that there is the opportunity for new and additional childcare providers to join the framework if needed and to meet the requirements identified.

4. Alignment with corporate priorities

4.1 Communities at the heart of everything we do

The report above sets out the implications for this priority in 2.4, as it is important that parents can access a childcare place in their community.

4.2 A good quality of life for everyone

This corporate priority is explicit throughout the report as it relates to early years provision, which not only supports children to learn, thrive and achieve their full potential but also supports parents to undertake learning and to work.

4.3 Helping our children learn, develop and live life to the full

This corporate priority is explicit throughout the report as it relates to young children gaining access to EY education which will support their learning and development. This is key to securing optimal outcomes for all children, as well as supporting their wellbeing and playing an important role in safeguarding them.

4.4 Cambridgeshire: a well-connected, safe, clean, green environment

This corporate priority is evident in paragraph 2.4 in the report, which relates to EY provision within the community. This supports parents to access childcare close to home and therefore reduces the need to travel.

4.5 Protecting and caring for those who need us

High quality EY provision plays a role in caring for and safeguarding all children who access it. The provision referred to within the report covers EY education for funded 2-year olds, 3- and 4-year olds and childcare for the children of all ages of working families.

5. Significant Implications

5.1 Resource Implications

The approval of a framework will reduce the time required by officers to carry out full tenders in the future and the potential that the Council will need to take on and run EY and childcare provision as the provider of last resort. As set out in 2.2, there may be considerable financial cost to the Council if it is necessary to act as provider of last resort in the future, in addition to officer time required to seek approval to tender and carry out individual tenders for future childcare opportunities.

5.2 Procurement/Contractual/Council Contract Procedure Rules Implications

The process to seek a new provider would be undertaken in line with the Council's procurement procedures. The Procurement team would advise on the establishment of an 'open' Framework and its subsequent implementation.

5.3 Statutory, Legal and Risk Implications

The report above sets out the implications for this priority in paragraph 1.1, 1.2, 1.3 and 1.5.

5.4 Equality and Diversity Implications

Sufficient good quality early years provision is essential in securing better outcomes for all groups within the community.

5.5 Engagement and Communications Implications

Where an existing provider gives notice that it intends to cease operating, the Council will send a letter to parents of children who access the current setting, to inform parents of the changes and how they can continue to access their free EY entitlement. Support will also be provided to both the existing and new provider to ensure that parents remain fully informed throughout the process and are aware of the changes.

5.6 Localism and Local Member Involvement

The Local Member will be fully briefed in respect of any changes to EY and childcare provision in their ward.

5.7 Public Health Implications

The following bullet points set out details of significant implications identified by officers:

- There is good evidence that EY settings can do much to promote good nutrition and physical activity especially when habits are being formed.
- There are strong links between education and health.
- Improving school readiness is part of the Public Health Outcomes Framework

5.8 Environment and Climate Change Implications on Priority Areas (See further guidance in Appendix 2): This will depend on the successful childcare provider. Assurance relating to requirements for minimising carbon, will be sought via the social value questions in the tender.

5.9 Implication 1: Energy efficient, low carbon buildings.

Positive/neutral/negative Status: Neutral

Explanation: The service will operate from various Council premises across the county and the successful provider will not have the ability to influence this.

5.10 Implication 2: Low carbon transport.

Positive/neutral/negative Status: Neutral

Explanation: There is no transport element to the proposed open framework.

5.11 Implication 3: Green spaces, peatland, afforestation, habitats and land management.

Positive/neutral/negative Status: Neutral

Explanation: There is limited outdoor space attached to most Council EY venues, however, assurance that it will be sought that all outdoor space will be maintained in an appropriate manner.

5.12 Implication 4: Waste Management and Tackling Plastic Pollution.

Positive/neutral/negative Status: Neutral

Explanation: There is limited opportunity to make a significant difference.

5.13 Implication 5: Water use, availability and management:

Positive/neutral/negative Status: Neutral

Explanation: There is limited opportunity to make a significant difference.

5.14 Implication 6: Air Pollution.

Positive/neutral/negative Status: Neutral

Explanation: There is limited opportunity to make a significant difference.

5.15 Implication 7: Resilience of our services and infrastructure and supporting vulnerable people to cope with climate change.

Positive/neutral/negative Status: Positive

Explanation: Providers will be encouraged to influence those in their care about climate change and positive behaviour relating to this. This will help build resilience in our communities.

Have the resource implications been cleared by Finance?

Yes

Name of Financial Officer: Martin Wade

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?

Yes

Name of Officer: Henry Swan

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law?

Yes

Name of Legal Officer: Fiona McMillan

Have the equality and diversity implications been cleared by your Service Contact?

Yes

Name of Officer: Jon Lewis

Have any engagement and communication implications been cleared by Communications?

Yes

Name of Officer: Simon Cobby

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: Jon Lewis

Have any Public Health implications been cleared by Public Health?

Yes

Name of Officer: Raj Lakshman

If a Key decision, have any Environment and Climate Change implications been cleared by the Climate Change Officer?

Yes

Name of Officer: Emily Bolton

8. Source documents guidance

8.1 [Early education and Childcare Statutory Guidance for Local Authorities \(DfE June 2018\)](#)

8.2 [The Childcare Act 2006 S8.1](#)

Appendix 1

Extended entitlement criteria, for working parents to access an additional 570 hours of childcare.

- 1 Both parents are working (or the sole parent is working in a lone parent family)
- 2 Each parent earns, on average, a weekly minimum equivalent to 16 hours at national minimum wage and less than £100,000 per year

Appendix 2

Provider of the last resort.

The wording below in bold is the section of text which has resulted in the LA being commonly referred to as provider of last resort.

Powers of local authority in relation to the provision of childcare

(1) An English local authority may—

- (a) assist any person who provides or proposes to provide childcare;
- (b) make arrangements with any other person for the provision of childcare;
- (c) subject to subsection (3), provide childcare.

(2) The assistance which a local authority may give under subsection (1)

(a) includes financial assistance; and the arrangements which a local authority may make under subsection (1)

(b) include arrangements involving the provision of financial assistance by the authority.

(3) An English local authority may not provide childcare for a particular child or group of children unless the local authority are satisfied—

(a) that no other person is willing to provide the childcare (whether in pursuance of arrangements made with the authority or otherwise), or

(b) if another person is willing to do so, that in the circumstances it is appropriate for the local authority to provide the childcare.