

Education, Children and Families Committee

10.00am, Tuesday 5 March, 2019

Renewal of NHS Service Level Agreements

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|---------------------|-----|
| Item number | 7.8 |
| Executive/routine | |
| Wards | |
| Council Commitments | 34 |

1. Recommendations

- 1.1 The Education, Children and Communities Committee is asked to:
- 1.1.1 recommend the agreement to the extension of Service Level Agreement contracts for children's services with the NHS, to the value of £1.6m per annum, listed at Appendix 3, from 1 April 2019, for a period of one-year subject to strategic direction and monitoring by the Integrated Children's Services Board.

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Renewal of NHS Service Level Agreements

2. Executive Summary

- 2.1 This report is to request approval for the renewal of joint funding arrangements to the value of £1.6m for NHS services supporting enhanced integrated support for children and young people in need.

3. Background

- 3.1 The Council and NHS Lothian are the key statutory agencies responsible for children's wellbeing. To fulfil their respective duties and provide children with effective well integrated support the two agencies are required to work closely together in a variety of ways relating to strategy, shared services effective operations and integrated child protection, care, and support.
- 3.2 A number of joint arrangements are in place to support the delivery of this (Appendix 1). The services range from joint care of children with exceptional needs through to enhanced mental health support for Looked After Children. The largest service area Speech and Language Therapy (£1.13) reflects the outcome of legal rulings and government guidance regarding the status of the service as both a health and education authority responsibility (Appendix 5).
- 3.3 The arrangements for joint commissioning in Edinburgh are in line with the Scottish Government's strategic priorities for Getting it Right for Every Child which encourage the extension of Joint Strategic Commissioning within in every authority area.

4. Main report

- 4.1 Whilst the NHS itself already provides significant support for children's learning the legal duty remains with the education authority. Considering this, the Council commissions additional services to ensure that children have timely access to health services appropriate to their additional support needs at school and early years. This also ensures that children can experience seamless support where they may require a range of health and educational support for complex needs, for

example, consistent approaches to moving and handling for children who require high levels of physical support in everyday living. These services include:

- Allied Health Professional services, principally Speech and Language Therapy
- Specialist assessment, advice and staff training for children who require high levels of physical adult assistance in school
- Specialist assessment, advice, and staff training to support the administration of medication and health care procedures in schools
- Integrated care and support for children with Exceptional Health Care Needs at school
- A contribution towards the PREPARE team costs. PREPARE is a multi-agency team providing social work and medical support to pregnant women with chaotic drug use. The team is highly successful in supporting women to stabilise their drug use leading to better health and long term care outcomes for babies.
- Medical support for young people who are previously looked after by the local authority
- Mental health support for Looked After and Accommodated children and young people.

4.4 Of the above, the most substantial amount is for Speech and Language Therapy. This reflects the importance of language and communication in children's learning and the assessment of benefit and risk considering court rulings and government guidance. Every authority in Scotland has provision for substantial input from Speech and Language Therapy services delivered by the NHS as sole provider.

4.5 The Children and Young People (Scotland) Act 2014 places duties on the Council and the NHS to coordinate the planning, design, and delivery of services for children and young people with a focus on improving wellbeing outcomes, and to report on how they are improving those outcomes.

4.6 The Act requires Councils and the NHS to ensure that children's services are provided in ways which:

- best safeguard, support and promote the wellbeing of children.
- ensure that any action to meet needs is taken at the earliest appropriate time.
- take appropriate action to prevent needs arising.
- are most integrated from the point of view of recipients and constitutes the best use of available resources.

5. Next Steps

- 5.1 The request for one-year renewal is due to a full review of the current SLA that the Local Authority is undertaking with a view to ensure and improve consistency and delivery of the integrated children's services.

6. Financial impact

- 6.1 The total value of a one-year renewal is £1.6m. Details of the financial impact of each service provision are listed in Appendix 3.
- 6.2 In addition, the cost of individual care packages in 2018/19 was £85K. We anticipate, in the light of rising levels of children with complex needs, this will increase. At this stage, we envisage this would be a maximum of £100K.
- 6.3 Budgetary provision exists for these commitments.

7. Stakeholder/Community Impact

- 7.1 The services provided under these Service Level Agreements are responding to the need for effective integrated support and early intervention for children at school and key targeted services. Risks of disruption to the continuity of these provisions are detailed in Appendix 2.
- 7.2 Council Standing Orders normally require competition for these values, however best value in this instance is achieved through maintaining collaborative working with the NHS as sole supplier within the Council's transformation programme for children's services.
- 7.3 NHS colleagues are fully aware of these proposals and consultation and engagement with stakeholders is addressed within arrangements for the review of the Integrated Children's Services Plan.
- 7.4 There are no adverse environmental outcomes arising from this report

8. Background reading/external references

- 8.1 Guidance on partnership working between allied health professions and education
- 8.2 The Education (Additional Support for Learning) (Scotland) Act 2004
- 8.3 The Children and Young People (Scotland) Act 2014
- 8.4 Getting it Right for Looked After Children and Young People Strategy

9. Appendices

- 9.1 Appendix 1 Detailed background to the service requirement and integrated strategy
- 9.2 Appendix 2 Risks of disruption to the continuity of the service provided

- 9.3 Appendix 3 Proposed NHS Budgets
- 9.4 Appendix 4 NHS Lothian Expenditure on Children's Services
- 9.5 Appendix 5 Legal Rulings underpinning Joint Funding Arrangements for Children's Services

Appendix 1 - Detailed background to the service requirement and integrated strategy

- The Integrated Children's Services Board aligns strategic priorities, budgeting and performance management between the Council and NHS. It provides a robust structure for shared governance and accountability and enables effective provision for children with additional support needs in line with statutory requirement, effective operations, and Scottish Government guidance. in the delivery of best value in the provision of integrated services.
- The joint arrangements include an Integrated Children's Services Board, a strategic partnership plan for children's services, hosting of NHS services in Council provision (e.g. in special schools) and vice versa (e.g. the hospital school in the new Royal Sick Children's Hospital), multidisciplinary teams and shared protocols for key services, notably child protection.
- These arrangements have been established within national guidance aimed at optimising 'collaborative advantage' in children's services: "Local service level agreements, where relevant and useful, between education and health need to be set within the children's services planning process and link into higher level strategic priorities such as reducing health inequalities and raising attainment. Genuine collaborative advantage allows good partnership working at operational or practice level to influence joint strategic developments". Guidance on partnership working between allied health professions and education, page 28 The Scottish Government, 2010.
- The expectation of interdependency between health and local authorities is reflected in the planning and performance frameworks for Children's Services including the inspection of Children's Services which takes place on an integrated basis. The inspection of Services for Children and Young People in the City of Edinburgh in April 2013 included services provided by health visitors, school nurses, teachers, doctors, social workers, police officers and the voluntary sector. The inspection commended the visionary leadership and direction of the Edinburgh Children's Partnership and commitment to prevention and early intervention, which are supported via these agreements.
- The overall NHS budgets for services for children in Edinburgh are more than £33m per annum (Appendix 2). In most cases, the integration of services for children is managed through the co-ordination of budgets, alignment of services structures and operational agreements. However, in some specific cases for policy, legal or operational reasons it is necessary and/or desirable to combine resources through the transfer of funds to enable strategic priorities to be met in the most efficient and effective way.
- Services that promote and support children's health, care and learning are often interdependent and sometimes indivisible. This has long been recognised in legal judgements (Appendix 5), specific legislation, for example, the Additional Support for Learning Act and in policy priorities in children's services including Getting it Right for Every Child and Curriculum for Excellence.

- The Education (Additional Support for Learning) (Scotland) Act 2004, as amended in 2009, places duties on education authorities to identify, make provision for the additional support needs of children and young people from its area. The Act places duties on education authorities, health, social work, and Skills Development Scotland to work to plan and make joint provision for children and young people with complex or multiple additional support needs
- The Children and Young People (Scotland) Act 2014 introduced several specific measures to improve outcomes for Looked after Children, which came into effect in April 2015. The new Act puts corporate parenting onto a statutory basis and expands the number of public bodies who are corporate parents. The Act establishes a framework of statutory duties and responsibilities for relevant public bodies, requiring them to be systematic and proactive in their efforts to meet the needs of looked after children and care leavers.
- The Scottish Government expects Councils and the NHS to adopt Joint Strategic Commissioning to ensure the right services are available to meet the needs of children and families in their area: "Joint Strategic Commissioning (JSC) is where these actions are undertaken by two or more agencies working together, typically health and local government, and often from a pooled or aligned budget" Getting it Right for Looked After Children and Young People Strategy, page 12; Scottish Government, November 2015.
- The Government's Strategy for Looked After Children defines the duties around collaboration, which includes co-funding and more effective co-ordination between different corporate parents to maximize opportunities to promote the wellbeing of children and young people. The strategy emphasises the need to identify and prevent ineffective duplication of effort, and encourages joint working, joint funding, and joint reporting. It highlights the mental health and wellbeing of looked after children and young people as a particular concern in the strategy, especially:
 - how looked after children and young people to access Child and Adolescent Mental Health Services (CAMHS)
 - a lack of services for looked after children and young people experiencing social, emotional, and behavioural difficulties, because of adverse childhood events and/or attachment issues, who did not meet the clinical criteria for accessing CAMHS.

Appendix 2

Risks

- These NHS services are provided as part of an integrated approach working in an integrated way with the Council's services. The loss of these services will impact adversely on a group of vulnerable children and would be expected to lead to further demand on other services. This would be contrary to the duty to act in the best interest of the child and would lead to increased risk of harm.
- If the services were curtailed it would have significant impact on other Council services would be likely to lead to increased cost and would represent a loss in efficiency and effectiveness in the use of public monies contrary to the duty to secure best value.
- Given the progress that has been achieved in early intervention and the presumption of mainstream with close joint working with the NHS there is a risk that the reduction in special school placements would be reversed and this would compromise savings achieved in the 2016/17 budget.
- Disruption to the continuity of provision would be likely to lead to loss of staff with expertise, which would impact on the resilience of Council schools and services for children with additional support needs.
- Failure to deliver services to children with additional support needs and disabilities will lead to referral to tribunal and orders to provide the necessary services.
- There is also a reputational risk given the impact on children and families, the NHS, the achievement of the Council's vision and priorities and government strategy.

Appendix 3

Proposed NHS Budgets 2019/20

- The cost for the Service Level Agreement for Speech and Language Therapy is £1,133,532.
- The cost for the Therapy Inclusion Programme is £47,299.
- The cost for Moving and Handling Service for children requiring physical assistance is £105,100.
- The cost for the Additional Support for Learning Nurse is £21,387
- The cost for the Through Care and After Care Nurse is £46,696
- The cost for the Occupational Therapy post is £44,056
- The cost for the Prepare nurse is £41,490
- The cost for CAMHS services is £160,440.

1. CAMHS

| Description | Budget |
|--------------------------------|-----------------|
| Edinburgh Connect | £142,642 |
| Young People's Service - nurse | £17,798 |
| CAMHS Total | £160,440 |

2. Other NHS budgets

| Description | Budget |
|---|-------------------|
| Speech and Language Therapy | £1,133,532 |
| Therapy Inclusion Project (TIP) | £47,299 |
| Moving and Handling | £105,100 |
| ASL Nurse | £21,387 |
| TCAC Nurse | £46,696 |
| Occupational Therapy - Early Years post | £44,056 |
| Prepare nurse | £41,490 |
| Other Total | £1,439,560 |
| | |
| TOTAL NHS budgets | £1,600,000 |

3. Individual care packages

| Description | Budget |
|--------------------------|----------|
| Individual care packages | £100,000 |

Appendix 4

NHS Lothian Expenditure on Children's Services

| | Edinburgh | East Lothian | Midlothian | West Lothian | Lothian Wide | Non-Lothian and other | Total |
|---|--------------------|-------------------|-------------------|--------------------|--------------------|-----------------------|--------------------|
| Inpatients | £12,564,899 | £3,128,096 | £2,318,175 | £7,009,273 | £0 | £15,949,753 | £40,970,197 |
| Day Cases | £2,680,065 | £643,881 | £467,809 | £1,342,948 | £0 | £1,892,494 | £7,027,197 |
| Outpatients | £8,808,712 | £1,997,269 | £1,838,613 | £3,621,171 | £0 | £1,235,196 | £17,500,961 |
| Community Payments to Voluntary Organisations | £9,571,093 | £2,182,610 | £1,866,719 | £4,002,711 | £13,797,364 | £203,576 | £31,624,074 |
| Totals | £33,624,770 | £7,951,857 | £6,491,316 | £15,976,103 | £14,400,364 | £19,281,019 | £97,725,429 |

Appendix 5

Legal Rulings underpinning Joint Funding Arrangements for Children's Services

The principle of shared responsibility for Speech and Language Therapy between Education Authorities and the National Health Service has been established in court rulings and recognised in Government Funding and Policy over many years.

The legal precedent was establishing in court rulings:

1. B v Isle of Wight Council [1997]:

"All that anyone can do when judging whether a provision is educational or non-educational, is to recognise that there is an obvious spectrum from the clearly educational (in the ordinary 'schools' sense of that word) at one end to the clearly medical at the other, take all the relevant facts into account, apply common sense and do one's best."
and

2. R v LANCASHIRE COUNTY COUNCIL EX PARTE M [1989] 2 FLR 279

"To teach an adult who has lost his larynx because of cancer might be considered as treatment rather than education.

But to teach a child who has never been able to communicate by language, whether because of some chromosomal

disorder or because of social cause seems to us just as much educational provision as to teach a child to communicate in writing."