

Finance and Resources Committee

10am, Thursday, 17 March 2016

Direct Award of Independent Care Placement, Residential and Day School Contracts

Item number	7.24
Report number	
Executive/routine	
Wards	All

Executive Summary

This report is to request approval for direct awards to be given to 18 independent care placement, residential and day school providers delivering 52 individual placements, for the two year period from 1 April 2016 to 31 March 2018.

This request will enable the Council to maintain continuity of care and/or education for 52 children and young people with complex needs, and to develop a planned approach to the quality assurance and monitoring of the individual contracts taking into account new procurement regulations which come into effect in April 2016.

This will also allow the time to work with Scotland Excel to discuss and extend the framework activity in relation to the buying of services and making placements with suppliers on the Scotland Excel Frameworks for Care. This will incorporate discussions on the future need and demand for services not currently captured on the Scotland Excel Framework in preparation for its next review in 2018.

Links

Coalition pledges	P1
Council priorities	CO1-CO6
Single Outcome Agreement	SO3

Finance and Resources Committee

Direct Award of Independent Care Placement, Residential and Day School Contracts

1. Recommendations

- 1.1 It is recommended that the Finance and Resources Committee approve the direct award to 18 providers for a total estimated value of up to £4.569m per annum, subject to inflationary increases, for the two year period from 1 April 2016 to 31 March 2018.
- 1.2 These direct awards are for services to support 52 placements, in total 24 children to attend an independent day school, 26 young people to attend an independent residential school provision, and two young people to be looked after by an independent care provider, all of which are either not on the current Scotland Excel Framework, or the placement began prior to the provider joining the Scotland Excel Framework.

2. Background

- 2.1 Through the Priority Based Planning process the Council has developed a transformation programme to change the balance of care for looked after children which took effect from April 2013, and targets were set to March 2018.
- 2.2 The targets reflected the objectives of the Early Years Change Fund to shift investment from expensive care arrangements towards early intervention whilst improving the outcomes for looked after children.
- 2.3 During this period we have had some significant successes in shifting the balance of care, and reducing the rate of growth in overall numbers of looked after children. The Council has a target to reduce the rate of increase in looked after children over the period 2013-2018. In the previous six year period looked after children numbers increased at an average of 30 a year, at an incremental cost of £1.8 million a year. By contrast, in the period April 2013 to January 2016, the number of looked after children has only increased by 11 placements and is significantly ahead of target.
- 2.4 In the previous six year period overall foster placements increased at an average of 35 a year to a total of 608 whereas since April 2013 they have

remained static and are currently at 601. This achievement has avoided further anticipated increases in expenditure on looked after children.

- 2.5 The proportion of children looked after in kinship care has increased from 20% to 24%. The proportion of children looked after in City of Edinburgh foster placements (as opposed to those provided by independent agencies) has increased from 56% to 60%.
- 2.6 The City of Edinburgh is currently responsible for 31 children placed in independent or grant aided residential special schools. This report is to ask for approval of direct awards for 26 of these residential placements as the remaining five placements are already covered by the Scotland Excel Framework.
- 2.7 All of these young people have been placed following detail assessment of options and careful regard to legal regulations for care and education. There is a presumption of mainstream local education for children supported by local services. Out of Council placements are only made when managers are clear that there is no alternative placement within City of Edinburgh resources that could meet the young person's need or manage the risks they present.
- 2.8 18 young people have been placed at a residential school following an inter-agency assessment which has agreed that specialist provision is required to meet and safeguard their often complex needs.
- 2.9 Six disabled young people have been placed at a residential school due to their substantial care needs which could not currently be met within a family placement setting, and where there has been a family breakdown. These placements are either under Section 25 or Section 70 of the [Children \(Scotland\) Act 1995](#) and have been made following careful consideration of individual needs and individual planning agreed by lead professionals and the family.
- 2.10 Seven young people have been placed in residential special schools under Section 50 of the [Education \(Scotland\) Act 1980](#), which allows the Education Authority, following consultation with a parent, to take a decision that a pupil is to be educated in a residential special school. In most instances this follows a statutory placing request by the parent. These young people are not looked after and accommodated (LAAC).
- 2.11 In addition to residential placements, there are currently 25 young people who attend an independent day special school provision to meet their particular educational needs. This report is to ask for approval of direct awards for 24 of these placements as the remaining placement is covered by the Scotland Excel Framework.
- 2.12 Parents may make placing requests for any of these special schools if the school is willing to offer a place subject to the Education Authority funding the

place. These placing requests are made under education legislation affording parents the right to appeal to a statutory tribunal if the Education Authority refuses the placing request. The tribunal has regard to all the circumstances of the case and this will include care issues. This introduces a considerable degree of unpredictability to the planning process and the Council cannot restrict parents from requesting any special school in the United Kingdom where parents have a right in law. Although such appeals are rare, their occurrence and the outcome is difficult to predict and a single placement can have a considerable effect on budgets.

3. Main report

- 3.1 The Service has been working on the Balance of Care agenda in Edinburgh for some years and with increased budgetary pressures and a need to look more creatively and focus on outcomes for children, this remains one of our most important and pressing priorities.
- 3.2 The Service continues to review all internal and purchased residential placements to ensure they are still in the best interests of the child placed. Independent reviewing officers chair reviews of Looked After and Accommodated Children's placements. In the highest spend cases we have put in place a number of practice evaluation sessions which involve senior management scrutiny of ongoing placements and a new exploration of the alternatives. This is leading to some proposed alternative plans for children but in most cases these will need the agreement of a Children's Hearing as the child's place of residence is named in the conditions attached to a statutory supervision order.
- 3.3 Five of the 31 placements the Service currently has are from providers listed on the Scotland Excel Framework. The remaining 26 have either been purchased off the framework for a number of reasons, primarily due to the restricted range of schools listed by Scotland Excel at this time.
- 3.4 Placements in non listed schools are either made as a result of a parental placing request which must name a specific school or, after extensive research, it was the only provider at the time of placement, which was able to meet and safeguard the needs of the individual child.
- 3.5 Six out of the 26 placements are with providers who are on the current Scotland Excel Framework; however the placements were made before 2014 when the current framework began, therefore approval of the direct awards is required.
- 3.6 All of the schools, irrespective of being on the Scotland Excel Framework, are subject to rigorous inspections by Education Scotland and the Care Inspectorate.

- 3.7 In addition to formal inspections and published reports, each placement is subject to continuing scrutiny and periodic review by the child's parents, social worker and educational psychologist. For those children who are looked after and accommodated, there are also regular visits by the allocated social worker, six monthly multi-agency child planning and placement looked after children reviews chaired by a reviewing officer, and visits from an independent children's rights worker.
- 3.8 The Council committed £8.6 million over three years up to March 2015 through the Early Years Change Fund to accelerate the shift within the Balance of Care agenda, to address the balance from high cost late intervention to early and effective intervention.
- 3.9 Balance of Care awareness forums have been held with representatives from all of the Service areas to look at focussing on more creative, cost effective solutions for some of the most complicated children who are placed in residential schools, out of authority placements and secure accommodation.
- 3.10 A number of initiatives have been working well such as increasing the number of City of Edinburgh foster carers and kinship carers and investing in Family Solutions and Family Group Decision Making.
- 3.11 However there remains a challenge with managing crises, out of authority placements and secure placements for a significant number of children, many of whom are placed out of area, away from their families and communities and sometimes in expensive residential placements. For some, this is the best option in terms of meeting their individual needs and achieving their full potential. However it may be the case that for others, their future needs could be met effectively closer to home.
- 3.12 In order to address the financial pressures and balance of care, all placements are undergoing a re-assessment involving relevant social work and education staff to identify opportunities for returning the children to Council provision. This will include utilising the principles of the [Social Care \(Self-directed Support\) \(Scotland\) Act 2013](#) where possible, which seeks to engage parents, carers and extended family in developing a support plan that meets their needs and enables the child to be cared for by them, where it is safe and appropriate to do so.
- 3.13 Some of this work is being undertaken in conjunction with 'In Control', an organisation with experience of self-directed support. They have been engaged by the Scottish Government and Social Work Scotland to work with three Scottish local authorities in applying self-directed support principles to cases where the child is already in high cost residential provision or at high risk of becoming so in the future. This pilot is about to start in Edinburgh, which is one of the chosen local authorities.

- 3.14 Whilst these measures will reduce the overall number and cost of residential school placements outwith Edinburgh, there is a probability that a small number of new placements will still be required over the two year period to April 2018. However, through current and future management actions, it is planned that any new placements will be less than the number and cost of placements that are terminated within the same period.

4. Measures of success

- 4.1 Continuity of services to support those young people who are currently placed in independent care placement, residential or day school provisions to ensure there is no disruption to their care or education from 1 April 2016 and to allow their future plans to be determined.
- 4.2 A review of quality assurance checks and new individual contracted arrangements to be in place by 1 July 2016 for all current and ongoing placements which are not on the Scotland Excel Framework.
- 4.3 A continued reduction in the number of independent residential and day special school and secure placements over the next two years.
- 4.4 An increase in the choice of provisions on the Scotland Excel Framework by April 2018.
- 4.5 A joint contract in place with neighbouring local authorities (West, East and Midlothian) for residential and day placements at Harmeny School by April 2018.
- 4.6 Adoption and implementation of self-directed support principles and methods when considering the support needs of children being considered for independent residential school provision.

5. Financial impact

- 5.1 The 2016/17 budget for independent residential schools and independent day special school provision is £3.402m reducing to £3.202m in 2017/18. The current forecast expenditure in 2016/17 for all current placements and taking into account estimated leaving dates is approximately £4.7m. This is based on 2015/16 prices and may rise over the two year period as a result of inflationary increases.
- 5.2 Through the work detailed in the main report, the service is working to reduce pressures so that costs in 2016/17 and 2017/18 will be contained within overall service budgets.
- 5.3 The figures shown in appendix one detail the maximum annual cost per provider, subject to inflationary increases. However, actual expenditure will

reduce as and when alternative care plans are developed for the young people concerned or they reach their school leaving date.

- 5.4 The maximum expenditure over the two year period for independent day and residential school provision will be £9,138,186 subject to inflationary increases.

6. Risk, policy, compliance and governance impact

- 6.1 The direct award of these contracts enables the Council to maintain the current education and/or care provisions for these young people and allows time for reviews and further planning to be undertaken over the next two years.
- 6.2 Should the current service provisions cease on 31 March 2016, 52 vulnerable young people will be without their current educational and/or care placement or any viable alternative.
- 6.3 The very fact that these young people have been placed in an independent care, residential or day special school provision is evidence that there are currently no alternative educational or care supports which can meet their very complex needs at this time.
- 6.4 Section 70 of the [Education \(Scotland\) Act 1980](#) allows any interested party to complain to Scottish Ministers about an alleged failure to carry out a duty in legislation relating to education. It gives a discretionary power for the Scottish Ministers to make an order to enforce a statutory duty to be carried out. In this instance if placements were withdrawn without satisfactory alternative provision being in place, the authority would be open to allegations that it was in breach of the duty to make adequate and efficient provision for its area and thus at risk of sanction by Scottish Ministers.
- 6.5 The risks associated with not agreeing to direct awards are low in comparison with removing the support services for which established relationships with vulnerable individuals are in place. There are also no current alternative providers who would be able to meet the needs of these young people from 1 April 2016.
- 6.6 The rights of parents and young people to make placing requests for special schools are founded in law. If placements were terminated the Council would be at severe risk of decisions being challenged and successfully overturned at the Additional Support Needs Tribunal.
- 6.7 A decision that would effectively terminate placements without regard to the views of the child would be at risk of contravention of the United Nation Charter on the Rights of the Child.
- 6.8 Termination of placements in these circumstances would expose the Council to substantial reputational risk over the care of children in need.

- 6.9 The sudden cessation of these service provisions on 1 April 2016 would also mean that these vulnerable young people would be without an education and those who are looked after and accommodated under Section 70 of the Children (Scotland) Act 1995 would be in breach of their condition of residence.
- 6.10 Services for children and young people who are looked after are priority statutory services subject to regulation and inspection at a range of levels.

7. Equalities impact

- 7.1 This extension will ensure continued provision of a service to 52 vulnerable children, for whom it would be untenable to secure alternative support within such short timescales. It would therefore, prevent the risk of unlawful discrimination that would arise in those circumstances.
- 7.2 There is an overall Equality Rights Impact Assessment (ERIA) which has been completed in respect of the Personalisation Programme which was established to monitor and support the implementation of the [Social Care \(Self-Directed Support\) \(Scotland\) Act 2013](#) within the Council.
- 7.3 The fundamental principles of self-directed support are choice and control, enabling people to choose how to live their life and have control over the way in which their care needs are met. This extension will allow time for the current supports to be reviewed in line with these principles.

8. Sustainability impact

- 8.1 The impacts of this report have been considered in relation to the three elements of the [Climate Change \(Scotland\) Act 2009](#) Public Bodies Duties. There are no adverse environmental outcomes arising from this report.

9. Consultation and engagement

- 9.1 There is regular and extensive consultation and engagement activity with children and young people who are looked after. This area of practice was identified by the Care Inspectorate as 'very good' in the Children's Services Inspection.
- 9.2 Regular meetings with the management of each provider to monitor and evaluate the contracts will be established. These meetings will be held a minimum of annually.
- 9.3 The provider submitting monthly returns along with their monthly invoices which detail the level of service delivered.

- 9.4 Annual quality assurance checks which involve reviewing Care Inspectorate reports, insurance and audited accounts.
- 9.5 All of the children/young people who receive support from the providers will have an allocated social worker and/or an Educational Psychologist one of whom will act as lead professional and a team around the child and will monitor and review the service by means of child planning meetings, Looked After Review meetings and regular visits and seeking the views of the children and their parents/carers on a regular basis.
- 9.6 Child planning arrangements ensure that parental views and the views of children and young people are routinely sought, their contribution supported and taken into account in decision making.
- 9.7 Over the next two years we will also undertake regular reviews under the [Social Care \(Self directed Support\) \(Scotland\) Act 2013](#).
- 9.8 The contract will be subsequently amended as each child is reviewed or when he/she reaches school leaving age, which is currently the end of the service provision, to adjust the value of the contract where necessary and as detailed in the report.

10. Background reading/external references

[Progress on the Implementation of Self-Directed Support in Children and Families, Education, Children and Families Committee 19 May 2015](#)

[Looked After Children: Transformational Programme Progress Report – Governance, Risk and Best Value Committee 23 September 2015](#)

[Early Years Change Fund Progress Update on Year Three – Education, Children and Families Committee 6 October 2015](#)

[Implementation of Children and Young People \(Scotland\) Act 2014 – Education, Children and Families Committee 6 October 2015](#)

[Annual Review of Services for Looked After and Accommodated Children- Report to Education, Children and Families Committee 8 December 2015](#)

[United Nations Convention on the Rights of the Child](#)

[Education \(Additional Support for Learning\) \(Scotland\) Act 2009](#)

[Social Care \(Self-directed Support\) \(Scotland\) Act 2013](#)

[Children \(Scotland\) Act 1995](#)

[Education \(Scotland\) Act 1980](#)

Alistair Gaw

Interim Executive Director of Communities and Families

Contact: Scott Dunbar, Service Manager, Looked After Children

E-mail: scott.dunbar@edinburgh.gov.uk | Tel: 0131 469 3017

11. Links

Coalition pledges

P1 – Increase support for vulnerable children, including help for families so that fewer go into care

Council priorities

CO1 – Our children have the best start in life, are able to make and sustain relationships and are ready to succeed

CO2 – Our children and young people are successful learners, confident individuals and responsible citizens making a positive contribution to their communities

CO3 – Our children and young people in need, or with a disability, have improved life chances

CO4 – Our children and young people are physically and emotionally healthy

CO5 – Our children and young people are safe from harm or fear of harm, and do not harm others within their communities

CO6 – Our children and young people's outcomes are not undermined by poverty and inequality

Single Outcome Agreement

SO3 – Edinburgh's children and young people enjoy their childhood and fulfil their potential

Appendices

1. Current Independent Residential or Day School Provision outwith the Scotland Excel Framework

Appendix 1

Current Independent Residential or Day School Provision outwith the Scotland Excel Framework

Independent Care Placement	Current Annual Contract Value £
Care Visions Residential	311,740
Care Visions Foster Care	43,313
Sub Total	355,053

Independent Day Schools	Current Annual Contract Value £
Donaldson's	29,299
Dunedin (17 places)	277,865
Harmeny	49,200
Royal Blind School (5 placements)	161,978
Sub Total	518,342

Independent Residential Schools	Current Annual Contract Value £
Ballikinrain (3 placements)	641,588
Balnacraig	312,000
Camphill (2 placements)	365,945
Curo Salas	243,720
East Park	106,608
Falkland House	76,086
Harmeny (5 placements)	665,300
Hillside (2 placements)	132,796
New School, Butterstone (2 placements)	103,142
New Struan School	227,289
Ochil Towers (3 placements)	218,756
Seamab	183,996
Snowden	87,360
Sycamore Services (Fife) (2 placements)	331,112
Sub Total	3,695,698
Total Annual Cost	4,569,093
Total Two Year Cost	9,138,186