

# Finance and Resources Committee

10am, Thursday, 17 March 2016

## Renewal of NHS Service Level Agreements

<b>Item number</b>	7.28
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	All

### Executive Summary

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This report is to request approval for the renewal of joint funding arrangements to the value of £1.743m per annum for NHS services supporting enhanced integrated support for children and young people in need.

Within Children's Services these arrangements embody the Council's vision of "joined up services which work together effectively with our partners...(and) more efficient ways to manage service delivery while providing a more streamlined, integrated service for customers." (Council Business Plan January 2016). These services are targeted towards delivering better outcomes for children and young people in need, in particular children with a disability, Looked After Children and children with Additional Support Needs.

The strategic alignment and best value of these services will be subject to review as part of the Council's transformation programme for children's services. Performance is monitored with reference to agreed outcomes and priorities of the Edinburgh Children's Partnership, in particular:

### Links

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<b>Coalition pledges</b>	<a href="#">P1</a>
<b>Council priorities</b>	<a href="#">CO1-CO6</a>
<b>Single Outcome Agreement</b>	<a href="#">SO2, SO3</a>

To improve support in early years so that all children reach appropriate developmental and social milestones.

To reduce the gap in achievement experienced by vulnerable children and young people, particularly those living in deprived areas.

To improve and extend help and support for children and families at an early stage so that fewer children need to be looked after.

To improve outcomes for children in need, particularly those who need to be looked after and those with a disability.

## Renewal of NHS Service Level Agreements

### 1. Recommendations

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- 1.1 To note the benefit of the integration of children's services between the NHS and Council to enable effective provision for children with additional support needs in line with statutory requirement, effective operations and Scottish Government guidance.
- 1.2 To agree that the relationship between the NHS and the Council as the key statutory agencies charged with responsibility for children in need, Additional Support Needs and as the Corporate Parents of Looked After Children, justifies in principle the case for single sourcing.
- 1.3 To note that 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 in the delivery of best value in the provision of integrated services.
- 1.4 To agree to the extension of Service Level Agreement contracts for children's services with the NHS, to the value of £1.743m per annum, listed at Appendix 1, from 1 April 2016, for a period of three years subject to strategic direction and monitoring by the Integrated Children's Services Board.

### 2. Background

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- 2.1 The Council and NHS Lothian are the key statutory agencies responsible for children's wellbeing. In order 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.
- 2.2 A number of joint arrangements are in place to support the delivery of this. These 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 Sick Children's Hospital), multidisciplinary teams and shared protocols for key services, notably child protection.
- 2.3 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.

- 2.4 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.
- 2.5 The overall NHS budgets for services for children in Edinburgh are in excess of £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.
- 2.6 The services range from joint care of children with exceptional needs through to enhanced mental health support for Looked After Children (Appendix 1). The total value of the Service Level Agreements is in the order of £1.743m per annum. The largest service area is Speech and Language Therapy (£1.058m) reflects the outcome of legal rulings and government guidance regarding the status of the service as both a health and education authority responsibility (Appendix 3).
- 2.7 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.

### **3. Main report**

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- 3.1 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 3), 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](#).

- 3.2 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.
- 3.3 Whilst the NHS itself already provides significant support for children's learning the legal duty remains with the education authority. In light of 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:
  - 3.3.1 Allied Health Professional services, principally Speech and Language Therapy
  - 3.3.2 Specialist assessment, advice and staff training for children who require high levels of physical adult assistance in school
  - 3.3.3 Specialist assessment, advice and staff training to support the administration of medication and health care procedures in schools
  - 3.3.4 Integrated care and support for children with Exceptional Health Care Needs at school
  - 3.3.5 Specialist assessment, advice and staff training for children with Attention Deficit Hyperactivity Disorder (ADHD)
  - 3.3.6 Additional Child and Adolescent Mental Health Nursing support to schools
- 3.4 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 in light of 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.
- 3.5 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.
- 3.6 The Act requires Councils and the NHS to ensure that that children's services are provided in ways which:

- 3.6.1 best safeguard, support and promote the wellbeing of children.
  - 3.6.2 ensure that any action to meet needs is taken at the earliest appropriate time.
  - 3.6.3 take appropriate action to prevent needs arising.
  - 3.6.4 are most integrated from the point of view of recipients, and constitutes the best use of available resources.
- 3.7 The Children and Young People (Scotland) Act 2014 introduced a number of 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.
- 3.8 In particular, 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
- 3.9 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:
- 3.9.1 how looked after children and young people to access Child and Adolescent Mental Health Services (CAMHS)
  - 3.9.2 a lack of services for looked after children and young people experiencing social, emotional and behavioural difficulties, as a result of adverse childhood events and/or attachment issues, who did not meet the clinical criteria for accessing CAMHS.
- 3.10 Many of these concerns have already been identified in Edinburgh. In 2001, the government initiated a major review of the way in which children's services are delivered. It concluded that services were not pulling together in the best interests of children and that a series of reforms were required so that Children's Services would operate as a single system. Local authorities were to undertake joint strategic planning, work more flexibly and 'move beyond current service

boundaries and concerns, to make best use of all the resources available in the best interests of Scotland's children' and 'allow local authorities greater flexibility in the use of funding streams'. [For Scotland's Children](#), 2001, page 32.

- 3.11 As part of the change programme at that time the government established the '[Changing Children's Services Fund](#)' (CCSF). The CCSF was introduced to support local authorities, health boards and voluntary organisations in delivering better outcomes through more effective and integrated services. It was to help lead a process of change to:
- 3.11.1 Expand good practice and deliver well-integrated services.
  - 3.11.2 Reshape existing services to achieve better integration.
  - 3.11.3 Establish new and innovative approaches to integrated service delivery.
- 3.12 The Changing Children's Services Fund was administered through the local authority (initially as hypothecated funding) with the intent that it was to be invested in service integration and improvement jointly with the NHS and other partners. As part of this programme, there was targeted investment in CAMHS services to improve integration with the children's services in the Council. This included establishing the Edinburgh Connect to provide a targeted mental health service for Looked After Children. Edinburgh Connect provides a specialist service for Looked After Children and a bridge to the wider range of services CAMHS provides (assessment, out of hours cover, access to specialist teams such as Meadows Trauma team).
- 3.13 There has been a sustained programme to encourage and support co-operative planning, funding and service delivery between the NHS and local authorities. In 2003, Ministers agreed that a further funding be included within the local government finance settlement to support contracts made between education authorities and health boards, funded by a transfer from the health programme. This was extended further in [Scottish Government Guidance 2010](#): "In financial matters, all services need to focus on the best interests of the child and ensure that inter-service financial arrangements adhere to the principles of Getting it right for every child and best value", page 27.

#### **4. Measures of success**

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- 4.1 Continuity of services to improve support in early years so that all children reach appropriate developmental and social milestones.
- 4.2 Strategic alignment of services to reduce the gap in achievement experienced by vulnerable children and young people, particularly those living in deprived areas.
- 4.3 Continuity of services to improve and extend help and support for children and families at an early stage so that fewer children need to be looked after.



- 4.4 Improved outcomes for children in need, particularly those who need to be looked after and those with a disability.
- 4.5 Continued development of joined up services, working effectively with our partners delivering efficient ways to manage service delivery while providing a more streamlined, integrated service for customers.
- 4.6 Resilient delivery of statutory duties.

## **5. Financial impact**

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- 5.1 The cost for the Service Level Agreement for Speech and Language Therapy 2016/17 is £1,058,038 p.a. this represents a £27,000 increase on 2015/16 taking into account additional work to 'raising attainment and closing the gap'.
- 5.2 The cost for the Therapy Inclusion Programme is £45,690.
- 5.3 The cost for Moving and Handling Service for children requiring physical assistance is £98,800; this represents an increase of £10,000 from 2015/16 in response to demographic pressures.
- 5.4 The cost for the Additional Support for Learning Nurse is £24,913.
- 5.5 The cost of individual care packages in 2015/16 was £59,957, we anticipate in light of rising levels of children with complex needs this will increase. At this stage, we envisage this would be a maximum of £80,000.
- 5.6 The cost for CAMHS services is £435,434.

## **6. Risk, policy, compliance and governance impact**

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- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.

- 6.5 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.
- 6.6 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.
- 6.7 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.
- 6.8 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. Equalities impact**

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- 7.1 The Council's approach to these services provision will have a direct impact on its ability to meet its single outcome agreement objective of SO3. Changes to the collaborative working with the NHS would require being subject to a full equality impact assessment.

## **8. Sustainability impact**

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- 8.1 There are no adverse environmental outcomes arising from this report.

## **9. Consultation and engagement**

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- 9.1 Consultation and engagement with stakeholders is addressed within arrangements for the review of the Integrated Children's Services Plan.

## **10. Background reading/external references**

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[Guidance on partnership working between allied health professions and education](#)

The [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#)

The [Children and Young People \(Scotland\) Act 2014](#)

[Getting it Right for Looked After Children and Young People Strategy](#)

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## 11. Links

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<b>Coalition pledges</b>	P1 – Increase support for vulnerable children, including help for families so that fewer go into care
<b>Council priorities</b>	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
<b>Single Outcome Agreement</b>	SO3 – Edinburgh's children and young people enjoy their childhood and fulfil their potential
<b>Appendices</b>	1. Services Delivered via NHS Lothian Funded by the City of Edinburgh Council 2016-17 2. NHS Lothian Expenditure on Children’s Services 3. Legal Rulings underpinning Joint Funding Arrangements for Children’s Services

Appendix 1 Services Delivered via NHS Lothian Funded by the City of Edinburgh Council 2016-17

- 1.1 Speech and Language therapy and Early Intervention for Autism £1,058,038.
- 1.2 Therapy Inclusion Programme £45,690.
- 1.3 Moving and Handling Service for children requiring physical assistance £98,800.
- 1.4 Additional Support for Learning Nurse £24,913.
- 1.5 CAMHS services (Edinburgh Connect, ADHD, Mental Health School Nursing) £435,434.
- 1.6 Individual care packages £80,000.

## Appendix 2 NHS Lothian Expenditure on Children's Services

**Table 1: NHS spend on healthcare services for children and young people (0-17 years) 2012/13.**

Spend on Under 18s	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	£9,571,093	£2,182,610	£1,866,719	£4,002,711	£13,797,364	£203,576	£31,624,074
Payments to Voluntary Organisations					£603,000		
<b>Totals</b>	<b>£33,624,770</b>	<b>£7,951,857</b>	<b>£6,491,316</b>	<b>£15,976,103</b>	<b>£14,400,364</b>	<b>£19,281,019</b>	<b>£97,725,429</b>

### Appendix 3. 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.”