

Governance, Risk and Best Value Committee

10.00am, Tuesday, 28 November 2023

After school Care Provider – Additional Support Needs support.

Executive/routine
Wards
Council Commitments

1. Recommendations

- 1.1 The Governance, Risk and Best Value Committee is asked to:
 - 1.1.1 Note the findings of this report and the lessons learned.
 - 1.1.2 Agree the implementation of the next steps outlined in section 5 of this report.

Amanda Hatton

Executive Director of Children, Education and Justice Services

Contact: Donna Murray, Senior Education Officer

E-mail: donna.murray@edinburgh.gov.uk | Tel: 0131 529 3979

After school Care Provider – ASN support

2. Executive Summary

2.1 At the meeting of full council on 31 August 2023, elected members requested a report into the management of the council's contract with the third party that had been contracted to provide support for children attending after school provision.

2.2 The following was agreed at the full council meeting:

Council agrees to provide an update (verbally or in Business Bulletin) from the service director to next week's Education, Children and Families committee updating members on provision for affected families with a full report to come to the following meeting detailing:

- Number of pupils impacted by the removal of this service (including new starts).
- Outline of KPIs and outcomes detailed in service provider contracts and to explain how Council ensured that public funds delivered best value.
- Detail of how decisions were made culminating into service withdrawal including a timeline and any engagement and support offered to service providers.
- What assurances have parents, carers, and families received around continuity of support and alternative arrangements.
- How this programme can be reinstated, including timelines to ensure provision is in place for all children and young people affected.
- To request what advice, training, and support is in place and will be shared with providers to enable them to offer a full service for all families.
- Include a copy of equalities impact assessment.
- Review of lessons learnt to protect future provisions.

Council agrees to provide a further report to Governance, Risk and Best Value by the end of the year examining the various governance and best value issues surrounding this contract and the decision to end it.

2.2 The review of the of the management of the third party contract and the lessons learned was shared with the Education, Children and Families Committee on Tuesday 07 November 2023. These are as follows;

- 2.1.1 Ensure appropriate contract monitoring is in place and that those managing contracts are clear in their roles and responsibilities and are provided with training and guidance to support them in their role.
 - 2.1.2 Ensure appropriate handover of all aspects of officers' remits when they leave the council or move to another role.
 - 2.1.3 Establish quarterly updates for senior officers on the impact of contracts to allow any issues or concerns to be addressed timeously to ensure best value for the council.
- 2.3 The internal audit team have reviewed our action plan and lessons learned from this process and provided recommendations for improvement, where applicable.

3. Background

The following information has been gathered from archive files:

- 3.1 Prior to 2009 the Early Years Service provided advice and training on additional support needs for childcare providers of children aged 0-12 years. Funding for this came from the early years budget. Childcare providers for children aged 0-5 with a disability, or aged 0-12 with an autism spectrum disorder, could apply for the funding and successful applicants were awarded funding to upskill staff and provide training on approaches to supporting children with a disability or an autism spectrum disorder.
- 3.2 In 2007/08, approximately £200,000 was allocated to 25 providers to support 77 children.
- 3.3 In 2008 a review of how providers used the funding allocated by the early years' service found the following issues:
 - 3.3.1 The majority of providers received the same level of funding on a year on year basis with little assessment of the child's changing support needs or circumstances
 - 3.3.2 The majority of all applications from providers requested funding to provide 1:1 staffing when this was unlikely to be beneficial in the long run or even necessary in the short term
 - 3.3.3 The Early Years team did not have the expertise to support the providers in a way that would reduce their reliance upon the funding.
- 3.4 In 2009 a decision was made to outsource this approach following an initial pilot with a third party. This contract was called the Inclusive Childcare Support Service and the purpose of this contract was:

The Inclusive Childcare Support Service will support the inclusion of children and young people with additional support needs in mainstream childcare settings and be able to respond to ongoing demands for this service whilst delivering best value for the City of Edinburgh Council. The City of Edinburgh Council requires the Service Provider to manage the up-skilling of mainstream childcare settings. The service delivery is based on a 'reducing dependency increasing capacity' model. Support is provided to childcare settings to build staff skills, knowledge and confidence to include children and young people with additional support needs within normal staff ratios. This is compliant with legislation in relation to inclusion and a provider's requirement to be open to all children.

4. Main report

- 4.1 In 2009 The City of Edinburgh Council entered into a Service Level Agreement with a third party to provide support to childcare providers to meet the needs of children attending their service. The support was for children aged 0-5 years with a disability and children aged 0–12 with a diagnosed autism spectrum disorder within their service.
- 4.2 The Service Level Agreement (SLA) was renewed annually until 31 March 2016 when advice from the Commercial and Procurement Services team highlighted the SLA process was not appropriate for ongoing projects and the requirement for the contract should go through the tender process.
- 4.3 The monitoring and management of the SLA was the responsibility of a council officer with Inclusive Childcare Support within their remit. From April 2009 – March 2017 quarterly reports were provided by the contractor for review. The officer reported to the Senior Education Manager for the service and retired on 31 March 2017.
- 4.4 The third party from the SLA was successful in the procurement process and a contract was put in place from 1 April 2017 – 31 March 2020. Due to the impact of the COVID 19 pandemic this was extended to March 2022.
- 4.5 During the course of the contract from April 2017 to March 2022 the third party contractor continued to submit quarterly reports outlining details of the support they provided. These reports were logged by an officer who had no responsibility for managing the contract .
- 4.6 A senior council officer within the early years team was contacted when the contract was due to end in March 2022 and this led to information gathering and work with procurement services to ascertain the impact of the contract. An extension of 12 months to March 2023 was put in place to enable this to happen.
- 4.7 The information gathering highlighted that the original purpose of the contract was not being met. For example, the original contract was for children with a disability or diagnosed autism spectrum disorder. A number of the children funded did not meet this criteria.

- 4.8 During session 2007/08 prior to the council entering the SLA and subsequent contract with the third party, 25 providers received support directly from the council to enable them to support 77 children.
- 4.9 The report provided by the third party in May 2023 noted 28 children received support from January – March 2023. The key function of the third party therefore appeared to be distributing funding to services who applied rather than building capacity in the sector.
- 4.10 The annual cost of the contract from April 2022 - March 2023 was £196,056.00. £120,000.00 of this sum was distributed by the third party to childcare providers.
- 4.11 The third party provided some training and upskilling of staff in after school settings however, this was minimal and their main function was distributing funds to childcare providers which created a dependency within the after school settings of the need to have a member of staff working with children on a 1-1 basis before they would provide a place for the child.
- 4.12 The monitoring of the impact of the contract also highlighted that the role carried out by the Third party did not reflect changes in relation to the expansion of early years provision and the service delivered by the council's additional support for learning team. This resulted in some early years childcare providers receiving funding for children from both the third party and our own additional support audit process.
- 4.13 The third party previously contracted to provide this service shared details of the afterschool care settings who received funding for a total of 28 children to attend their service. When the service was brought in house from August 2023 all settings continued to receive funding for these children. One provider has had difficulty recruiting staff and we are supporting them with this. A further 6 children are accessing afterschool care since the programme was brought in house.
- 4.14 Following consultation with eleven afterschool care providers and ten parents we have created a new application process for providers. This has been sent out to over 100 providers along with details of training opportunities they can access.
- 4.15 There is no statutory requirement to provide financial or human resource to private businesses for any aspect of their service. Benchmarking suggests that there are no other arrangements of this nature in any other local authorities. Rather, signposting advice to parents is the accepted means of ensuring private providers meet their duties under the Equalities Act (see 7.1).

Lessons Learned

- 4.16 This contract predates the establishment of the Contracts and Commissioning Team for Children, Education and Justice Services (CEJS). Officers involved in monitoring the impact of the contract with the third party did not have contract management experience or training to ensure the aims of the contract were being delivered and that it provided best value for the council. The officer who logged the returns from the third-party contractor from April 2017 to March 2022 did not receive

guidance on what to do with them. Senior officers were aware of the contract through budget listings and when the need to approve extensions were requested, but there was no formal process in place to inform them of the performance of the contract. All contracts need to be managed by appropriately trained officers with clear protocols for financial oversight.

- 4.17 The contract was initiated via the offices of the Additional Support for Learning Service, however was paid via the offices of the Early Years Service. Clear protocols should be in place for budget virements, with financial oversight.
- 4.18 When the officer with the remit for Inclusive Childcare Support retired in March 2017, there was no arrangement to handover this part of their remit to ensure effective monitoring and scrutiny of the implementation of the contract. Senior Managers should review handover and induction arrangements.
- 4.19 The Roles, Remits and Responsibilities for all officers involved in Contract Management should be reviewed jointly by CEJS and Finance, and will include clarity for teams including Procurement, Contracts and Commissioning, Finance and the managers thereof. This will be supported with training and guidance.

5. Next Steps

- 5.1 The issues identified in 4.14 – 4.17 of this report have been shared with senior officers and arrangements are underway for the following to be in place by 01 December 2023:
 - A clear handover process will be put in place to ensure that when staff leave the council or move to another role all aspects of their remit are fully taken over by an officer with the same level of responsibility, overseen by their line manager
 - Staff with a responsibility for managing contracts or supporting contract managers will be required to undertake appropriate training
 - The Commissioning Team within the Children, Education and Justice services will be involved in all future contract management arrangements for the service
 - Where contracts are in place, contract managing officers will be required to provide written information on the performance of the contract to senior officers at agreed points to enable any issues to be addressed timeously and ensure the council achieves best value
 - A statement setting out roles, remits and responsibilities for procuring, awarding, managing and reporting on contracts will be prepared.

6. Financial impact

- 6.1 For the financial year from April 2023, £196,056.00 has been allocated from the early years revenue budget to provide support to after school care providers working with children with a disability or autism spectrum disorder.
- 6.2 There will be a cost associated with providing management of the service in-house

through ASL officer time and administration of applications.

7. Equality and Poverty Impact

- 7.1 It is the responsibility of after school care businesses to meet legislation requirements under the Equality Act 2010 and businesses who refuse to provide places for children on the basis of their additional support needs are in breach of this legislation.
- 7.2 Providers can seek support in the form of advice from an additional support for learning officer, training, guidance and finance to enable one to one support.
- 7.3 This provision will potentially impact on equity of access to these supports when the allocated budget is reached.
- 7.4 Parents and carers of children registered disabled or with an autism spectrum disorder will be supported to access education, work or training through this support.

8. Climate and Nature Emergency Implications

- 8.1 There are no implications for the Climate and Nature identified as part of this report.

9. Risk, policy, compliance, governance and community impact

- 9.1 After school care providers and parent representatives have been consulted on the in-house approach to providing support and the application process for this. All providers received details on how to apply for this support during week beginning 23 October 2023.
- 9.2 A key risk of the use of council resources to provide non-statutory provision is that there may not be sufficient budget in the future to meet the demand.
- 9.3 Continuing to allocate budget for non-statutory provision risks the council's ability to address budgetary challenges and identify savings and efficiencies as outlined in the Financial Strategy and Medium-Term Financial Plan (MTFP) report June 2023.

10. Background reading/external references

- 10.1 [7.3 - MTFP and Financial Update.pdf \(edinburgh.gov.uk\)](#)
- 10.2 <https://democracy.edinburgh.gov.uk/documents/s61445/Item%204.1%20-%20Minute%20of%2031%20August%202023.pdf>

11. Appendices

None.