
To: Education and Children's Services Policy Board

On: 17 January 2019

Report by: Director of Children's Services

Heading: Childcare First Ltd – Hillview Nursery

1. Summary

- 1.1 On 27 September 2018 at the meeting of Renfrewshire Council, elected members agreed that an approach be made to Childcare First Ltd to secure the transfer of Hillview nursery to the council. This report provides an update on the discussion between council officers and Childcare First.
- 1.2 This report seeks approval from the Education and Children's Services Policy Board to proceed with the transfer of Hillview nursery, subject to the satisfactory completion of legal negotiations.
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2. Recommendations

2.1 The Education and Children's Service's Policy Board:

- [a] agrees to the transfer of Hillview nursery from Childcare First Ltd to the council; and
 - [b] delegates authority to the director of children's services and head of corporate governance, subject to the satisfactory completion of legal negotiations, to complete the transfer.
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3. Background

- 3.1 Hillview nursery is presently operated by Childcare First Ltd and is registered with the Care Inspectorate to provide early learning and childcare to a maximum of 38 children not yet attending primary school, at any one time. Hillview nursery operates a service for children aged from 0 to 3 years and children aged 3 to 5 years.
- 3.2 The Board of Childcare First, having reviewed their business model took the decision that they would close Hillview nursery on 31 March 2019. Council decided on 27 September 2018 to approach Childcare First to discuss the transfer of Hillview to the authority to allow the continuation of the service.
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4. Council's Obligations Regarding Nursery Provision

- 4.1 At present, under The Children and Young People (Scotland) Act 2014, children aged 3 and 4 years and eligible 2 year olds are entitled to 600 hours of funded early learning and childcare per annum. Renfrewshire Council has fulfilled this duty, achieving this through its own provision and by commissioning places from independent or third sector providers on the council's framework arrangement. Hillview nursery is a provider under the Council's Framework to deliver early learning and childcare to eligible children.
- 4.2 On 23 August 2018 the education and children's services policy board approved Renfrewshire Council's plan for expanding early learning and childcare from 600 hours to 1140 by 2020. This is in line with the Scottish Government's commitment to increasing the current level of entitlement for children aged 3 and 4 years and eligible 2 year olds.
- 4.3 A phased approach to delivering the increased entitlement over the next three years is to be progressed. The Government has issued additional funding to councils to support the expansion.
- 4.4 Renfrewshire Council's expansion of early learning and childcare continues to ensure that provision is delivered through the council's own provision and through working with providers from the independent and third sector, including child minders. In planning the expansion to 1140 hours of early learning and childcare, the existing Hillview provision for eligible children aged 3 and 4 years and entitled 2 year olds was included within the expansion proposals.
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5. Delivery of Current Service at Hillview

- 5.1 At present, Hillview nursery is registered to provide early learning and childcare to a maximum of 38 children at any one time. The current registration permits the delivery of the following provision:

- (i) 6 places for children aged 0 to 2 years;
- (ii) 9 places for children aged 2 to 3 years; and

(iii) 23 places for children aged 3 to 5 years.

- 5.2 Within the Ferguslie area there are a total of 4 early years nurseries (2 local authority services and 2 independent providers on the council's framework agreement to deliver early learning and childcare). This includes Hillview nursery. All providers offer provision for children under 3 years of age.
- 5.3 The additional Government funding being allocated to the Council is to support the 1140 expansion, specifically for children aged 3 to 5 years and for eligible 2 year olds, the age group entitled to early learning and childcare.
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6. Progress of Discussions about the Proposed Transfer of Hillview Nursery to Renfrewshire Council

- 6.1 Discussions have been ongoing between council officers and Childcare First about how such a transfer of Hillview nursery could be facilitated. A joint statement agreed by both Childcare First and the council went out to both staff and parents of Hillview nursery outlining the council decision that was made on 27 September. Legal Services have formally written to the solicitor representing Childcare First seeking to implement the council decision to transfer Hillview nursery.
- 6.2 Discussions have been ongoing between senior officers of the council and the chair of Childcare First about the potential transfer of staff at Hillview nursery. Information has been provided by Childcare First to facilitate the council's senior officers in collaboration with HR and legal services to ensure the council complies with its legal obligations under the TUPE Regulations, subject to approval by members of the transfer taking place.
- 6.3 Information about children's placements has been made available by Childcare First to the council. It is proposed that contact will be made with parents to ensure continuity of these placements at Hillview nursery subject to approval of the transfer of the nursery to the council.
- 6.4 Childcare First has notified the Care Inspectorate of voluntary withdrawal of registration for the service at Hillview nursery with effect from 31 March 2019. The council is currently in the process of submitting an application to the Care Inspectorate to register Hillview nursery as a council service, in the event of the transfer taking place.
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7. Transfer of staff

- 7.1 Hillview nursery currently employs 9.88fte (full time equivalent) employees, comprising of early learning and childcare, catering, cleaning and janitorial staff. Should the transfer of the service to the council be agreed, all staff would transfer to the council's employment under their existing terms and conditions. It is proposed that the employees would transfer to Renfrewshire Council with effect from 1 April 2019.

- 7.2 The TUPE Regulations 2006 (Transfer of Undertakings (Protection of Employment) as amended by the “Collective redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) regulations 2014” (“**TUPE Regulations**”) would apply if such a transfer of service from Hillview nursery to the council takes place because the transfer would be considered to be a “relevant transfer” (as set out in the TUPE Regulations).
- 7.3 Employees from Hillview nursery would transfer automatically to the council, on their existing terms and conditions of employment (apart from occupational pension) and continuity of service would transfer with them.
- 7.4 There will be an opportunity for employees to transfer to Renfrewshire Council’s terms and conditions with effect from 1 April 2019.
- 7.5 Under TUPE Regulations, the council would have legal obligations to inform and consult with affected employees to ensure such legal obligations are complied with. The council will actively and regularly consult with all affected employees in advance of the transfer.
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8. Property/Assets

- 8.1 The land on which Hillview nursery is built is owned by the council and leased to Childcare First in terms of a lease which is currently running from year to year on tacit relocation.
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Implications of this report

1. Financial

Once the expansion of Early Years provision is complete, the total cost of the council operating Hillview nursery will be approximately £450,000. This cost is comparable with other Council run nurseries who accommodate a similar number of children and service.

2. HR and Organisational Development

If the transfer of Hillview nursery to the council is approved, there will be 9.88fte employees transferring to the council. The members of staff transferring to the council would transfer as set out in TUPE Regulations, which will mean the employment of staff wholly or mainly assigned to Hillview will transfer to the council under their existing terms and conditions.

3. Community/Council Planning

Our Renfrewshire is thriving - Ensuring the best start in life for children and young people.

Our Renfrewshire is well	- Early intervention will lead to healthier outcomes for children and young people.
Our Renfrewshire is safe	- Local services will benefit children, young people and members of the community.
Building strong, safe and resilient communities	- The quality of community life is enhanced by supporting parents, children and young people.
Tackling inequality, ensuring opportunities for all	- Effective governance arrangements ensure that the organisations receiving funding comply with legislative requirements.
Creating a sustainable Renfrewshire for all to enjoy	- Support to families and flexible childcare placements will support parents into and sustain employment, training or enter education.

4. Legal

In the event of the proposed transfer of service taking place, a transfer agreement setting out the terms of the transfer will require to be drafted and negotiated between the parties.

5. Property/Assets

The land on which Hillview nursery is built is owned by the council and leased to Childcare First in terms of a lease which is currently running from year to year on tacit relocation.

6. Information Technology

Installation of Council network and IT systems would be required.

7. Equality and Human Rights

The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations.

8. Health and Safety

Appropriate assessments in respect of the buildings externally and internally would be required.

9. Procurement

Termination of the existing Framework arrangement will be required. In the event of the transfer taking place, this would be dealt with within any transfer agreement agreed between the parties.

10. Risk

Should the council decide to transfer Hillview to council ownership, a full and detailed risk register for the transfer will be in place . Risks already being considered as part of the decision making process include financial sustainability; the potential for impact on other providers in the locality; the risks associated with the TUPE process (including the possibility that staff prefer not to transfer and create a shortage); and ensuring that all arrangements can be put in place to ensure no break in the service provided to families.

11. Privacy Impact

None

12. COSLA Policy Position

Not applicable

List of Background Papers

None.

LMcA

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