

To: Education and Children's Services Policy Board

On: 2 November 2023

Report by: Interim Chief Education Officer

Heading: Early Learning and Childcare – Payment of Sustainable Rates to Funded Providers

1. Summary

- 1.1 Renfrewshire Council has a statutory duty to provide early learning and childcare (ELC) places to all eligible children. The Council has continued to observe this duty through the provision of places in local authority, private and voluntary sector nurseries and with childminders. Renfrewshire Council's Flexible Framework for Early Learning and Childcare Places, reference RC-CPU-20-113 ("Council's Framework") enables the Council to purchase placements in private and voluntary sector nurseries and with childminders (these private and voluntary services and childminders are identified as Approved Funded Providers or AFP).
 - 1.2 The Scottish Government's Funding Follows the Child and the National Standard sets out the principles and practice for funded early years providers delivering ELC within a local authority area. A key aspect of the National Standard is for a locally determined sustainable rate for ELC.
 - 1.3 The purpose of this report is to propose an increase in the hourly rate paid by Renfrewshire Council to AFP on the Council's Framework to deliver funded ELC.
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2. Recommendations

- 2.1 The Education and Children's Services Policy Board is asked to:
 - (i) approve an increase to the hourly rate paid to Renfrewshire Council's Funded Providers for the provision of funded early learning and childcare from £5.71 to £5.97 from 16 August 2023 for any child aged 3 to 5 years accepted for funding under the Council's Framework; and
 - (ii) approve the continuation of the existing hourly rate of £8.50 paid to approved Funded Providers for early learning and childcare for any eligible child aged 2 to 3 years and agree to a review of this rate for future years.

3. Background

- 3.1 Section 1 of the Education (Scotland) Act 1980, as amended by the Standards in Schools etc. Act 2000 and The Children and Young People (Scotland) Act 2014 ("2014 Act"), directs authorities on their duty to provide pre-school education. Renfrewshire Council has continued to observe this duty through the provision of places in local authority, private and voluntary sector nurseries and with childminders.
- 3.2 The Scottish Government's Funding Follows the Child Policy tasks Councils with the responsibility of ensuring flexibility and choice, ensuring that there is a range of options for families in their area. The National Standard sets out the required standards for early years providers; with Councils required to be guarantors of quality in enabling Providers to meet the requirements of the National Standards. The aim is to ensure the provision of a quality service to support children to develop, learn and attain.
- 3.3 The National Standard also sets out a requirement for providers to pay those staff delivering funded ELC the real Living Wage; with the aim of supporting recruitment and retention of staff, professional learning and investment in their services.
- 3.4 Since the Covid pandemic in 2020 to the present time there has been some flexibility in meeting the National Standards. The Funding Follows the Child and National Standard Operating Guidance for 2023 are currently being revised by the Scottish Government; these revisions have not yet been published. It is anticipated that core principles within the guidance will not change.
- 3.5 The Renfrewshire Council's Flexible Framework for Early Learning and Childcare Places, reference RC-CPU-20-113 ("Council's Framework"), provides a robust scrutiny and assessment process to ensure quality ELC provision and AFP commitment to meeting the National Standards in relation to quality of provision, payment of the real Living Wage, quality staffing and staff retention.
- 3.6 Renfrewshire Council's expansion of ELC to 1140 hours ensured that parents were offered a range of options for accessing their child's free ELC entitlement across each geographical area. In each area parents can choose from a range of Providers, including Council and AFP; and a range of options such as term time and 52 weeks per year, full day, and part-time places.
- 3.7 In Renfrewshire, approximately 1500 eligible children currently access their funded ELC placement in an AFP setting. The Council is dependent on AFP to fulfil its statutory duty to deliver high quality ELC to all eligible children - private, voluntary sector nurseries and childminders settings in this sector need to remain financially viable and meet the required standards set to ensure the provision of high-quality ELC services.
- 3.8 In determining the sustainable rate for AFP in Renfrewshire Council area, the Council complied with the current Scottish Government guidance on rate setting (published May 2022). There is an expectation from the Scottish Government that the hourly rate paid to AFP is reflective of the cost to deliver ELC, takes cognisance of inflationary increases, payment of the real Living Wage and provides scope for

reinvestment; to reflect a measure of profit in a private sector setting or surplus in a third sector setting.

- 3.9 The national guidance also highlights that from a local authority perspective the rate must be affordable for local authorities in terms of available budget.
- 3.10 Updated national guidance on rate setting was expected, with the hope that this would guide the sustainable rate setting process for this current academic session. The Scottish Government and COSLA are conducting a joint review of sustainable rate setting process nationally to include further guidance and, it is now understood that this will not be published until later in 2023. This delay in publication will impact rate setting processes for 2024.
- 3.11 On the 7 September 2023 the Scottish Government wrote to Councils to advise on the Programme for Government 2023 – childcare commitments. In this letter the Scottish Government advised of their commitment to provide funding to uplift pay to at least £12 per hour for those in the Private and Voluntary sector delivering funded ELC, anticipating this commitment will be progressed via the sustainable rate setting process. Once there is further clarity on this commitment a further report may be required to be submitted to the Policy Board.
- 3.12 In October 2022 the Education and Children’s Service’s Policy Board approved a rate of £5.71 for any eligible child aged 3 to 5 years and £8.50 paid for eligible 2-year-olds. This rate was paid from the start of the academic session 2022/23. The rate took cognisance of inflationary increases, payment of the real Living Wage and reinvestment. At the same time the rate was reflective of the cost to deliver ELC as determined by the Ipsos MORI national costs collection exercise which was carried out in early 2022. This exercise was commissioned by the Scottish Government and COSLA to support Councils in the rate setting process.
- 3.13 In addition to the rates noted in 3.12 above, AFP receive £3 per meal for an eligible child in line with the 1140 hours of ELC entitlement, this is in addition to the hourly rate and the separate £0.58 per session per child as part of the Scottish Milk and Health Snack Scheme.
- 3.14 The current (and previous) hourly rate paid to AFP does not represent the other additional services the Council provides as part of the Council’s Framework. The additional benefits include high quality continued professional learning; a designated link Partnership Support Officer; professional advice and support on quality improvement; access to an Early Years Graduate (in line with SIMD status) and to an Early Years Teacher; financial support towards external workforce training costs to assist in the compliance with SSSC requirements; and other support services such as Educational Psychology. This in-kind support enables the Council to discharge its duty as guarantor of quality.
- 3.15 If a sustainable rate is not paid, there is a risk of AFP services closing. If ELC services were to close in Renfrewshire this could reduce choice and local provision for parents and impact on the Council’s ability to fulfil its statutory duty in some local areas.
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4. Renfrewshire Council - Sustainable Rate

- 4.1 In reviewing the rate for session 2023/24, the Council has been seeking to determine a sustainable rate which supports AFP to deliver ELC in accordance with the National Standard and Council's Framework, while at the same time ensuring best value for the Council.
- 4.2 To establish an agreed approach to setting a revised hourly rate Council officers worked collaboratively with a representative group of AFP to agree a way forward. The group of 10 AFP representatives and Council officers from Children's Services and Finance & Resources agreed the approach to rate setting required to accord with guidance from the Scottish Government and the Council's budget. The AFP representative group confirmed they did not wish a further cost collection exercise and agreed to a revised rate being set that reflects the real Living Wage, inflationary pressures, seasonality of provision, and allows for an appropriate margin to provide support for the reinvestment.
- 4.3 The AFP representative group were consulted on the timeline for confirming a revised sustainable rate for session 2023/24 and agreed to proposals being presented to this November 2023 policy board, in the hope that the updated national guidance on sustainable rates would have been published in advance of this policy board cycle. As the national guidance is not yet available the revised rate for Renfrewshire has been developed to accord with the current national guidance (published in 2022) and in agreement with the AFP representative group
- 4.4 The AFP representative group were advised that the revised sustainable rate represents a percentage uplift in staffing and non-staffing cost such as inflation, seasonality, and re-investment, with the proposed rates being considered an affordable rate to the Council.
- 4.5 Members of the AFP representative group also request a rate to reflect children with additional support needs ("ASN"). Renfrewshire Council centrally manages support for children with ASN to ensure that their specific needs are appropriately considered, this is supported and addressed via the Getting it Right for Every Child and Staged Intervention Framework. This centrally managed arrangement ensures the appropriate interventions are deployed and equity of resource allocation across the Council. Increasing the rate to funded providers would not have a direct correlation to ensuring effective support arrangements for identified children with ASN.
- 4.6 The proposed hourly rate to AFP for the provision of funded early learning and childcare places for an eligible child aged 3 to 5 years is £5.97, this represents a 5% uplift on staffing costs and 3% on non-staffing cost including inflation, seasonality and re-investment.
- 4.7 There is no proposal to increase the rate paid for an eligible children aged 2 to 3 year olds as Renfrewshire's rate continues to be one of the highest in Scotland for this age group. It is proposed that a review of the 2 year old rate is undertaken to consider future rates, which reflect the cost to deliver ELC for this age group and remains affordable to the Council.
- 4.8 It is proposed that the rate increase for an eligible child aged 3 to 5 years is backdated, to the date the eligible child was approved for funding during this academic year or where the eligible child continued the placement from academic term 3 in 2022 from 16 August 2023 updated.

- 4.9 AFP will continue to receive £3 per meal for any eligible child in accordance with the 1140 hours of ELC entitlement and in addition to the hourly rate. In addition, £0.58 will also be paid for each child, per session as part of the Scottish Milk and Health Snack Scheme.
- 4.10 The other additional in-kind services the Council provides to AFP, as outlined in paragraph 3.14, will continue to be provided, this is also in addition to the hourly rate paid to AFP.
- 4.11 In considering this revised rate, the Council officers remain mindful of the financial pressures facing the Council and in ensuring it remains affordable within the current financial year, and for future financial years. The proposed increase in the hourly rate for 3 to 5 year olds represents a significant cost pressure to the Council, estimated to be in the region of £416,000 per year.

Implications of this report

1. Financial

The overall cost of the proposed increase to the hourly rate payable to AFP for ELC is expected to be in the region of £416,000 per year, approximately £260,000 of cost falling within the current financial year to 31 March 2024. This will require to be met within the Council's existing budget available for ELC.

2. HR and Organisational Development

None

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

Services from AFP will continue to be procured in accordance with the Council's Framework and the Council's Standing Orders Relating to Contracts.

5. Property/Assets

None

6. Information Technology

None

7. Equality and Human Rights

No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because the service is being extended. If required, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. Health and Safety

None

9. Procurement

Services from AFP will continue to be procured in accordance with the Council's Framework and the Council's Standing Orders Relating to Contracts. The process for the proposed variation to the rate will be dealt with in accordance with the Flexible Framework for Early Learning and Childcare Places and formal letter issued by the Corporate Procurement Unit to each of the appointed Providers for their agreement.

10. Risk

If the Council does not increase the hourly rate to a level that enables AFP to be sustainable, there is the risk that:

- i. There will be a reduction in the level of choice and local provision for parents and possibly impact on the Council's ability to fulfil its statutory duty and compliance with the Funding Follows the Child Policy and National Standard of ensuring sufficient places, which could result in additional cost for the Council as it will need to expand existing Council ELC services and/or open new Council operated ELC services.
- ii. There may be reputational damage to the Council if ELC services close due to not being sustainable, leading to disruption to children and families lives, loss of local provision, choice and flexibility for families, loss of employment and community-based services.
- iii. Providers in the private and voluntary sector may not be able to recruit and retain staff or meet the National Standard if they are not able to pay the real Living Wage.
- iv. Potential reduction in the quality of service provided if qualified and experienced staff cannot be recruited.

11. Privacy Impact

None

12. COSLA Policy Position

COSLA is working with the Scottish Government to jointly review the sustainable rate setting process to agree further national guidance to support the rate setting processes.

13. Climate Risk

None

List of Background Papers

- Funding Follows the Child and the National Standard for ELC Providers - Updated Interim Guidance on Setting Sustainable Rates Annex A of the Interim Guidance provides updated guidance on setting sustainable rates for August 2022, Scottish Government, May 2022. Link - <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-interim-guidance-update-requirements-early-learning-childcare-settings-local-authorities-august-2022/documents/>
- Early Learning and Childcare – Payment of Sustainable Rates to Funded Providers, Education and Children Policy Board, October 2022. Link - <..\..\Archive\Children's Services\Pdfs\2022\Final PDFs 27 October\Early Learning and Childcare Payment of Sustainable Rates to Funded Providers ECSPBSQ.pdf>
- Programme for Government 2023 – Childcare commitments; letter from the Scottish Government, 07.09.2023.

Link – 

The foregoing background papers will be retained within children's services for inspection by the public for the prescribed period of four years from the date of the meeting.

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