

Agenda Item	6.
Report No	RES/12/20

Committee: **CORPORATE RESOURCES COMMITTEE**

Date: 3 June 2020

Report Title: **ELC Key worker Childcare Provision – costs and risks**

Report By: Executive Chief Officer Performance and Governance

1. Purpose/Executive Summary

1.1 To provide an assessment of the costs and risks associated with using ELC partner provision for key worker childcare and agree next steps with regard to payment.

2. Recommendations

- 2.1
- To note the significant estimated costs, in the region of £38,000 per week, associated with the use of private, voluntary and independent (PVI) partners in the provision of key worker childcare for children aged 0-5yrs;
 - To note the risks associated with not providing providers with payment;
 - To note that, following agreement at the Gold Member Covid-19 meeting on 21 April 2020, payments have been made to providers for the places provided to date, at a value of c£185,000;
 - To agree that, in the absence of any funding coming forward from the Government, to fund providers for places commissioned and potentially up to break-even rate until the end of the summer holidays; the total minimum predicted cost being £799,235
 - To note the Scottish Government requirement to continue to provide childcare for key workers over the school holiday period and beyond;
 - To agree the Council should continue to lobby for funding and/or adjustments to the current arrangements to reduce the financial liability to the Council.

3. Implications

- 3.1 Resource: the costs of provision are significant and increasing steeply if required over the summer holiday period and beyond. The Government has said councils should use unspent funding provided for the roll out of 1140hours and other previously ring-fenced grants. This means that this funding will no longer be available for its original purpose or to help offset the catastrophic impact of Covid-19 on the Council's budget. It is also unclear what requirements there will still be upon the Council to deliver 1140 hours at some point in the future ie expectations could change within the 2020/2021 financial year creating significant in year additional costs.
- 3.2 Legal: here is no legal requirement to provide Key Worker childcare, however individual providers could choose to pursue the Council for non-payment of fees.
- 3.3 Impact/Risk
- The primary risk is financial – as set out in section 5.
 - There is a risk to the Council's reputation if childcare providers remove their support.
 - There is a risk that the Highland's response to addressing C-19 will be undermined if childcare places are no longer provided as key workers will be unable to work.
- 3.4 Governance: The decision can be made by the Chief Executive using the emergency provisions in the Scheme of Delegation. However, given the significant financial sums involved it is considered to be appropriate for this to also be discussed and agreed at Corporate Resources Committee on 3 June 2020.
- 3.5 Equalities/rural & island/Gaelic: there are no specific implications arising from this report.

4. Detail

- 4.1 On 18 March 2020 the First Minister announced the closure of all schools in Scotland from the end of that week. Less than 24 hours later, local authorities were informed they needed to have key worker childcare provision in place by the end of the following week. The Government said that councils needed to continue paying partner providers their contracted rates for Early Learning and Childcare, whether or not they remained open for Key Worker children, and local authorities were asked to prioritise the use of private nurseries and childminders for key worker childcare to support the sector to stay viable.
- 4.2 Although initial take up for childcare hubs for the 6-14yr age group was slow, this was less so for young children, aged 0-5yrs, and by the end of the first week almost 30 ELC settings had been opened up, rising to 44 by the end of April. 17 nurseries are now in operation with the rest of the places provided by childminders and in a small number of cases, provided by the Council at primary school hubs. This equates to around 1400 places per week/280 places every day supporting around 250 families, most of whom have more than one child. The allocation of these places by area in partner settings is around 67% in the South, 16% in the Mid, 12% in the West and 5% in the North.
- 4.3 The reason the issue is particularly challenging in Highland is that our Early Years model has always relied on a large number of partner providers because of the geography and rurality of the area making it impractical to deliver from our own pre-school settings alone. Even if the Government had not requested that local authorities

favour using private nurseries and child minders for key worker provision, which we have done, the Council does not have sufficient capacity within the Council's own pre-school settings to meet the demand for early years places for 3-5yr olds and there are no settings suitable for 0-2yr olds. Increasingly in some areas we are now running out of partner providers, but there are insufficient Council staff volunteers to open hubs for 3-5 year olds in our own settings.

5. Financial Implications

- 5.1 The cost of paying for the actual ELC places being used, from the date when provision was first put in place to 18 May 2020, has come to £185,232. The cost for the whole summer term on the current rate of usage, i.e. without increasing the number of places to meet demand or the rate paid, is **estimated at £451,232**
- 5.2 Staying open, taking children and only being paid the statutory ELC payments would result in providers running at a loss. Under the physical distancing requirements set by the Government, all premises can only operate at 20% - 30% capacity and childminders are only allowed to support up to 2 households. In these circumstances many providers are better off closing their doors: they will still have received their ELC payments from the Council and can apply for furlough and the range of business support initiatives now in place.
- 5.3 With this in mind, the Government has been clear that no provider should be making a loss as a consequence of remaining open for key worker children and so an 'open book' approach needs to be taken with any provider who is seeking funding in addition to payment for places. A process has been put in place to accommodate this and initial work done with larger nurseries suggests this could require a 30-35% uplift to enable some settings to remain open and still break even. Whilst this would not be needed for all or even most providers, at this stage it is not possible to predict the actual additional cost this could come to.
- 5.4 There is also an outstanding issue around unmet demand. There is capacity to increase the hours in some establishments across Highland for the families *already* catered for by around 30% - these are in settings that are at capacity for the number of families they are allowed to accommodate but where they are not yet using all of the hours available. Increasing their places to the maximum could incur additional costs in the region of £120,000 until the end of term.
- 5.5 As for providing places to new families, there is significant unmet demand that could run into hundreds of families when including Category 2 & 3 workers, with greatest pressure in Inverness. This is likely to grow as more businesses are given the go ahead to re-open because key workers will be able to rely less on their partners to take on caring responsibilities. Many parts of Highland are now at or near capacity and, following on from the publication of the Scottish Government's Framework for Decision Making on 21 May 2020, there has been a sharp increase in the demand for more places to open up. Doing so would obviously incur more cost.
- 5.6 Lastly there is a further financial liability arising from the recent confirmation that the Council will need to keep providing key worker childcare over the 6 week summer holiday period. Cost calculations have so far only been for term time. However, if the holiday period is to be covered there will be costs to the Council from using partner

settings; and additional costs from having to pay the staff who are currently volunteering in the school based hubs. This is in the region of 280 staff, albeit not all of these are full time. A further complication and cost exists if the Council is required to offer and fund childcare once the schools return in the autumn.

Summary of financial liability:

- March – May, actual places used: **£185,235**
- Current weekly costs: **£38,000 x 7 weeks left of term = £266,000**
- Increased use of current capacity: **£120,000**
- Summer holiday ELC provision: **£228,000**

Total known liability: £799,235

Additional unknown financial liability:

- Break-even payments for existing providers (para 4.3): unknown
- New places to meet demand (para 4.5): unknown
- Summer holiday provision for 6-14 year olds: unknown
- Term-time provision during the autumn term and beyond: unknown

5.7 The Scottish Government has been clear that local authorities are expected to provide childcare for key workers free at the point of access. Initially it was unclear how this was to be funded. Whilst the SLA payments were made early on to all ELC providers, the Council did delay making payments for the places commissioned for key worker children whilst seeking clarification from the Scottish Government about how this was to be resourced. However, there was a very real risk that continuing to hold back payment would have meant settings would have lost money and closed, resulting in there being no ELC childcare for key workers. As well as being damaging to the providers, this would have impacted negatively on the ability of the Highlands to respond to Covid-19 and caused reputational damage. Following consideration of this issue at the Member Gold Covid-19 Group meeting on 21 April 2020 it was agreed to raise the matter urgently with the Scottish Government and at Cosla. It was agreed at the same meeting that the Council should meet the costs of key worker childcare if the Government did not provide additional funding, and that a report should be taken to the next Corporate Resources Committee setting out the financial implications arising from the provision of Key Worker Childcare.

6. Engagement

6.1 The following week there were a series of Skype meetings with the Minister for Children and Young People, Maree Todd, and also with Government officials; as well as discussion at Cosla. In each case the argument was made that Councils should not be expected to cover the costs of providing non-statutory provision or to subsidise the private childcare sector. It was also proposed that unspent business grants could be used for this purpose, so no new money was required. However, the Government's response was as the Deputy First Minister had said from the outset - that councils could use PEF, SAC and 1140 hours funding 'flexibly' to bridge the gap. This continues to be the Government's position.

- 6.2 On 4 & 5 May 2020 a letter was sent to all the childcare providers currently supplying key worker support to explain the current situation, confirming that all SLA payments had been made, in full, for the remainder of the term to assist with cash flow and encouraging applications to the business support grants. It was explained that the Council was engaging with the Government on the matter and that, in the meantime, they should contact the Head of Resources in the Education Service to undertake an open book exercise to establish the funding required to cover the costs of their continued operation.
- 6.3 The issue was addressed at Cosla on Friday 15 May 2020, where consideration was given to the latest correspondence from the Scottish Government. This was more directive than previously regarding the need for local authorities to pay for the provision of key worker childcare and for this to be free at the point of access. Cosla agreed that Councils should use 1140 hours and other education ring-fenced funding to ensure that providers remaining open to provide critical childcare on behalf of a local authority should not operate at a loss as a result of this critical provision.

7. Conclusion

- 7.1 The majority of the nurseries and childminders have opened their doors as a result of a genuine desire to assist during the Covid-19 crisis. However, increasingly, they have put pressure on the Council to confirm how they are to be funded. For many providers, this has been a genuinely pressing predicament and there has been a significant risk that they would cease to operate in the near future if additional payments were not made. This would immediately remove the ability for a large number of key worker staff to continue to go to work and would have had a severe and detrimental impact on the Council's reputation. If left unresolved, it would have also meant dozens of childcare providers would be left trying to manage financial losses incurred at the Council's behest - albeit acting on behalf of the Scottish Government.
- 7.2 Consequently, on 21 April 2020, the Member Gold Covid-19 Group agreed that the Council should pay for places that had been commissioned to date in the absence of any further funding being provided the Government. The intention was to continue to lobby the Government for financial assistance but not to keep the childcare providers in a precarious financial position whilst doing so. Ultimately, if additional funding is not provided by the Government, and this looks increasingly unlikely, the Council has the option to either cease key worker childcare, or to pay the full costs up until the end of the summer term. Costs will obviously increase if additional providers are asked to open up to satisfy current and future unmet demand, and there is significant pressure across the Highlands to do so. Costs will rise again from the requirement to continue over the summer holidays.
- 7.3 There are further risks around the need to continue to provide key worker childcare over the summer holiday period which commences on 3 July 2020. A decision will need to be made about whether and how to continue to support and fund this. However, it is difficult to make a decision at this point whilst there is still uncertainty around how regulations may or may not be relaxed in the weeks to come in terms of how many businesses will be able to come out of lockdown, how key worker and non-keyworker childcare requirements are to be managed side by side and whether capacity and physical distancing requirements in school and ELC hubs might be

relaxed. Furthermore, restrictions and social distancing are likely to remain in force to some extent or other well into the Autumn, whilst at the same time pressure on childcare to support businesses to return to work will increase significantly alongside schools reopening for education purposes. This means the situation is likely to become increasingly expensive and also more difficult to sequence and manage as time goes on.

8. Wider Financial Context

8.1 It is important to stress the need for effective financial governance during the COVID-19 situation. The impact on the Council's budget is expected to be severe due to:

- Loss of income;
- Additional costs in delivering COVID-19 support to Highland communities;
- Inability to deliver the agreed Council budget for 2020/21 including significant planned savings; and
- Continuing to meet the costs of contractual obligations.

It is therefore essential that strong financial management is maintained. Any unnecessary spend should be reduced or removed in order to safeguard the Council's finances and ultimately to protect continuity of employment for permanent council employees.

8.2 In this context, it is important to recognise that the service Councils have been asked to fund is not about providing education. It is to provide childcare to enable key workers to attend their workplace and the Council is being asked to subsidise the childcare sector to make this possible. Whilst the moral imperative is hard to ignore, it is not a statutory requirement for local government and consequently, agreeing to spend over three quarters of a million pounds is not in the best interests of the organisation even though it may have wider benefits to society. It is also a service that parents have previously budgeted and paid for themselves. Consideration needs to be given to whether there is a different way of delivering the service in the longer term, involving alternative sources of funding including, possibly a degree of self-funding; whether to stop delivering it altogether; or to accept that this will need to be delivered at the expense of activities that are our responsibility. In this context, it is worth noting that each week of ELC childcare is equivalent in cost to one FTE member of council staff.

Signed by:

Kate Lackie

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27 May 2020

