



REPORT TO: MORAY COUNCIL ON 2 FEBRUARY 2023

SUBJECT: EARLY LEARNING AND CHILDCARE – SUSTAINABLE RATE UPDATE

BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND ORGANISATIONAL DEVELOPMENT)

1. REASON FOR REPORT

- 1.1 To ask the Council to consider the recommendation from the Education, Children’s and Leisure Services Committee on 14 December 2022 to increase the sustainable rate by 5% and the allocation of budget to meet this cost.
- 1.2 This report is submitted to Council in terms of Section III (B) (1) of the Council’s Scheme of Administration relating to the consideration of financial and budgetary policy of the Council.

2. RECOMMENDATION

2.1 It is recommended that the Council:

- i) consider and note the process followed to set the current ELC sustainable rate for funded hours;**
- ii) consider and note the recommendation from Education, Children’s and Leisure Services Committee on 14 December 2022 to increase the sustainable rate by 5% backdated to April 2022 in line with the pay award to Local Government employees, taking account of the information now available in Appendix 1; and**
- iii) if the Council supports the recommendation from the ECLS Committee, it is recommended that the Council agrees to allocate additional budget to meet ongoing annual costs of £395k per annum (variable based on uptake) and funding for backdating to April 2022 if this date is agreed.**

3. BACKGROUND

- 3.1 At the meeting of Education, Children’s and Leisure Services Committee on 2 November 2022, the Committee agreed to defer the report on Early Learning and Childcare – Sustainable Rate Update and that it be brought to the next meeting of the Committee to consider with corresponding confidential report

on Early Learning and Childcare – External Consultant Update (para 11 of the minute refers).

- 3.2 At the Special meeting of Education, Children's and Leisure Service Committee on 14 December 2022, the Committee agreed a 5% uplift to the sustainable rate within ELC should be recommended to Moray Council for consideration (para 21 of the minute refers) as there was no service budget to meet this expenditure and additional budget would require to be allocated.
- 3.3 In Moray, there are currently 39 partner provider nursery settings and 37 partner childminders that offer funded Early Learning and Childcare to children and families. These services are essential in supporting the Council to deliver 1140 hours of funded childcare to 3-5 year olds and eligible 2s which is a statutory legislative requirement for all local authorities as mandated by Scottish Government.
- 3.4 Partner provider settings are in a 3 year contract (1 August 2021 to 31 July 2024) with the Council and provide a high quality service in line with national expectations which is reviewed and supported through the contract monitoring processes. The contract is open to new providers to join twice yearly becoming active in February and August throughout the 3 year period.
- 3.5 As part of this contractual agreement with private provider settings, the Council pays a sustainable rate per child, per hour and acknowledges that inflationary and Real Living Wage (RLW) increases will be reviewed on an annual basis in line with [Funding Follows the Child and the National Standard for Early Learning and Childcare Providers: Guidance for Setting Sustainable Rates from August 2020](#).
- 3.6 This guidance issued by Scottish Government outlines that the sustainable rate should be set to ensure financial sustainability for settings offering funded ELC hours and should allow Real Living Wage (RLW) to be paid while offering opportunities for settings to reinvest.
- 3.7 Prior to 2021 the Council's funded hourly rate was £5.31 for 3-5 year olds and £6 for 2 year olds.
- 3.8 Using data obtained following a local IPSOS Mori data collection exercise carried out in 2019/2020, in partnership with Aberdeenshire, a new sustainable rate of £6.30 for 3-5 year olds and £7.57 for 2 year olds was established which has been paid since August 2021. This process is outlined in **Appendix 1**.
- 3.9 Establishing this rate involved working with a select group of partner provider nursery managers and Council colleagues in Finance and Early Years through a Financial Sustainable Workstream group to ensure a clear and transparent approach was maintained.
- 3.10 It was agreed at Education, Communities and Organisational Development Committee (ECOD) on 31 March 2021 (para 14 of the minute refers) to approve the sustainable rate of £6.30 for 3-5 year olds and £7.57 for 2 year olds.

- 3.11 The rate included an uplift of 8% to allow reinvestment in settings and was set to ensure services could pay the Real Living Wage (RLW) which is a pre requisite of meeting the [National Standard](#).
- 3.12 Moray remains one of the highest rates amongst all local authorities, currently ranked as third highest in Scotland.
- 3.13 Nationally other local authorities did not review their sustainable rate, as requested by Scottish Government, which led to further work being done by the Improvement Service to gather more localised data through IPSOS Mori.
- 3.14 Moray was included in this IPSOS Mori data collection process in March 2022 with updated statistics provided by Improvement Service in May 2022.
- 3.15 Currently the ELC budget is undergoing a review by an external consultant. As part of this review, the sustainable rate and the process for setting this rate are being considered including review of the most recent data collection exercise and recent uplift of the Real Living Wage. An update report on this was provided to the ECLS Committee on 14 December 2022 (para X of minute refers).
- 3.16 The external consultant has now provided the draft detailed report and this will come to ECLS Committee on 19 April 2023. An excerpt from this has been shared in **Appendix 1**.
- 3.17 **Appendix 1** provides Full Council further information around Sustainable Rate setting and the context of Moray's current sustainable rate in comparison to other local authorities.
- 3.18 Taking account of all of the information summarised above and in the full report to ECLS, in particular the financial pressures on the service, the recommendation from officers to the ECLS Committee was that any changes to the rate for 2022/2023 be put on hold until the process of the review referred to in 3.15 is finalised to ensure relevant advice from the external consultant is taken into consideration.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The report links to the priority of working towards a financially stable Council that provides valued services to our Communities and providing a sustainable education service aiming for excellence as referred to in the Moray Council Corporate Plan.

The report links to 'Building a better future for our children and young people in Moray' from the LOIP.

(b) Policy and Legal

There are no policy or legal implications arising directly from this report; however, it is important to note that the contract agreement between Moray Council and Partner Providers highlights the following points regarding the sustainable rate:

- inflationary and Real Living Wage increases will be reviewed on an annual basis;
- the extent to which any inflationary and Real Living Wage changes are reflected in the price for future years of the contract is subject to the overall level of funding agreed between Scottish Government and local government for the expanded ELC hours;
- in relation to the sustainable rate setting process, the Council will take into consideration statutory and non-statutory Guidance including as published by Scottish Government and COSLA;
- the Council may, as a result of the sustainable rate setting process, elect to amend the price during the period of contract and shall be the sole judge of whether the price is amended and is under no obligation to implement any price amendment at any stage;
- the process for setting the price will be conducted in line with [Funding Follows the Child and the National Standard for Early Learning and Childcare Providers: Guidance for Setting Sustainable Rates from August 2020](#); and
- the yearly sustainable rate and daily lunch rate will be determined annually by the Council.

The full contract agreement can be viewed on the [Public Contracts Scotland](#) site.

(c) Financial implications

There is no budget available within the service to fund an uplift in the hourly rate paid to partner providers and additional budget would be required if the council is minded to approve the recommendation from the ECLS committee.

The ELC service is currently projected to overspend its allocated budget and work is underway to identify options to reduce costs by a further £589,000 in order to reach a balanced budget position, which takes account of a reduction of £1.093m in the Scottish Government grant in 2022/23 and savings of £471,000 already identified by the service.

Further financial risk is that the recent settlement figure from Scottish Government indicates that the specific grant for ELC will be £200,000 less in 2023/24 than in 2022/23.

The cost of a 5% increase, based on latest ELC uptake figures, would be £395k for a full year (this includes the projected overspend that currently exists on PVI settings).

If the 5% increase were to start from August 2023 it would be split £273k in 23/24 and £122k in 24/25. Back dating to April 2022 would put additional pressure on the existing budget position.

The cost of a 5% increase in the sustainable rate for the current numbers of children in partner provider settings is an increase in expenditure of £395,000. This increase is a recurring cost which will add to the Council's savings target for 2023/24 and onwards.

Corporate Management Team Additional Expenditure Warning
When the Council approved the budget for 2022/23 on 22 February 2022 (paragraph 3 of the Minute refers) it balanced only by using reserves and one-off financial flexibilities. The indicative 3 year budget showed a likely requirement to continue to make savings in the order of £20 million in the next two years. All financial decisions must be made in this context and only essential additional expenditure should be agreed in the course of the year. In making this determination the committee should consider whether the financial risk to the Council of incurring additional expenditure outweighs the risk to the Council of not incurring that expenditure, as set out in the risk section below and whether a decision on funding could reasonably be deferred until the budget for future years is approved.

From 1 August 2021 the commissioning rate increased to:

2 year olds: £7.57 per hour

3&4 year olds: £6.30 per hour

The commissioning rate takes account of the full costs of providing funded ELC. Providers entering into contract with Moray Council must accept the offered rate.

The actual spend for funded ELC places in the 2021-22 financial year totalled £7,077,115. The current contract spend during the 2022-23 financial year is estimated at £7.6 million excluding January 2023 intake figures. As children become eligible for funded ELC at different times throughout the year (dependent on their birth dates), the yearly estimates may fluctuate.

Due to the way this service is funded and our statutory requirements, it is extremely challenging to identify options from which savings can be made; however, every effort is being made to identify solutions to ensure that a sustainable Early Learning and Childcare provision is maintained for Moray and the proposed approach to the hourly rate for providers will contribute to this.

Guidance from Scottish Government stipulates that the rates should be sustainable for local authorities in terms of the budgets available while also incorporating the following elements:

- The rate will support delivery of a high quality ELC experience for all children;
- It will be a rate that reflects the cost of delivery, including the delivery of national policy objectives;
- The rate will allow for investment in the setting – staff, resources and physical environment; and,
- It will enable payment of the Real Living Wage for those childcare workers delivering the funded entitlement.

(d) Risk Implications

There are two inherent risks when considering the sustainable hourly rate:

- If the rate is set too low, there is a risk that providers would not be able to remain financially viable. Should this be the case then some providers may seek to alter their service offer to manage business costs.
- If the rate is set too high, there is a risk that this would not be sustainable for the Council to maintain.

The process for setting the hourly rate aims to allow both factors to be balanced; however, it is important to note that there is a risk to the reputation of the Council as an accredited Real Living Wage (RLW) employer if the sustainable rate is set too low for providers to continue paying the RLW.

It is anticipated that the external consultant review will provide more insight into this process moving forward taking into account the recent uplift in the Real Living Wage from £9.90 to £10.90.

A further risk is that given ELC is a demand led service we could have an increase in uptake of funded childcare. Given the legislative requirement to fulfil the offer of 1140hours costs could rise as uptake does and the Council would have no control over this spend.

(e) Staffing Implications

There are no staffing implications arising directly from this report.

(f) Property

There are no property implications arising directly from this report.

(g) Equalities/Socio Economic Impact

There is no requirement for an equality impact or socio economic impact assessment to be carried out as a result of this report.

(h) Climate Change and Biodiversity Impacts

There are no climate change or biodiversity implications arising directly from this report.

(i) Consultations

Depute Chief Executive (Education, Communities and Organisational Development), Head of Education (Chief Education Officer), Chief Financial Officer, Early Years Service Manager, Nicky Gosling, Accountant and Tracey Sutherland, Committee Services Officer have been consulted.

Preliminary consultation has also taken place with partner provider nursery managers on the Financial Workstream Group who shared initial thoughts regarding the potential implications of the sustainable rate remaining unchanged following the recent uplift in the Real Living Wage. Providers expressed concern that some services, in particular smaller settings, may be forced to close as additional costs associated with funded hours could not be passed on to families. Providers also noted that ensuring they are able to maintain the Real Living Wage for all staff is important in order to recruit a high quality workforce which in turn impacts on the quality of service they are able to deliver.

5. CONCLUSION

- 5.1 The Council is asked to note the process followed to set the sustainable rate for funded ELC hours.**
- 5.2 Council is asked to consider the recommendation from the ECLS Committee on 14 December 2022 to increase the sustainable rate by 5% backdated to April 2022 in line with the pay award to Local Government employees, taking account of the information now available in Appendix 1, and in particular recommendation 16 which proposes a sense check of the methodology prior to any further uplift of the sustainable rate.**

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Background Papers: SPMAN-1315769894-39 / SPMAN-1315769894-346
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