

Item: 8

Policy and Resources Committee: 19 May 2021.

Early Learning and Childcare.

Report by Executive Director of Education, Leisure and Housing.

1. Purpose of Report

To reconsider the hourly rate for the temporary childcare provision in Kirkwall.

2. Recommendations

The Committee is invited to note:

2.1.

That, on 20 April 2021, when considering the hourly rate to be set for the temporary Council provision of childcare, the Policy and Resources Committee recommended:

- That a price of £6.00 per hour be set for the temporary Council provision of childcare for 0-3 year old children.
- That the undernoted estimated budget shortfalls of operating the temporary Council provision of childcare for 0-3 year old children, be funded as follows:
 - Financial year 2021/22 (July 2021 to March 2022) – up to £170,000 to be met through a one-off contribution from the General Fund Contingency.
 - Financial year 2022/23 – up to £255,000 to be met through a one-off contribution from the General Fund Balance.
- That, in order to minimise losses to the Council, given that it was very unlikely a day nursery would be able to run at 100% capacity, powers be delegated to the Executive Director of Education, Leisure and Housing to explore and, if required, implement the risk mitigations detailed in Appendix 5 to this Minute.

2.2.

That, on 5 May 2021, when considering the recommendations detailed above, the Council resolved that charging and budget shortfalls for operating the temporary Council provision of childcare for 0-3 year old children be referred back to the Policy and Resources Committee for further consideration.

2.3.

That the premises at the former Papdale Halls of Residence are not large enough to enable 3-5 year olds to attend, therefore until the proposed new provision at Orkney College is completed, the focus for temporary childcare will be for 0-3 year old children, where there is the greatest need.

2.4.

That, due to the staffing ratios required for the youngest children and in order for the service to be cost neutral, the hourly charge per place would require to be set at an unaffordable rate.

2.5.

That it is very unlikely that any day nursery would be able to run at 100% capacity and, accordingly, a number of risk mitigations are proposed to minimise losses to the Council, as detailed in section 7 of this report.

It is recommended:

2.6.

That a price of £6.00 per hour be set for the temporary Council provision of childcare for 0-3 year old children.

2.7.

That the undernoted estimated budget shortfalls of operating the temporary Council provision of childcare for 0-3 year old children, be funded as follows:

- Financial year 2021/22 (July 2021 to March 2022) – up to £170,000 to be met through a one-off contribution from the General Fund Contingency.
- Financial year 2022/23 – up to £255,000 to be met through a one-off contribution from the General Fund Balance.

2.8.

That, in order to minimise losses to the Council, given that it is very unlikely a day nursery would be able to run at 100% capacity, powers be delegated to the Executive Director of Education, Leisure and Housing to explore and, if required, implement the risk mitigations detailed in section 7 of this report.

3. Background

3.1.

On 26 November 2019, the Policy and Resources Committee considered a report relating to the imminent closure of Orkney's only partner provider provision for children aged 0-5.

3.2.

The Committee recommended that consideration of how to provide continuity of service for children, parents and carers using Peedie Breeks Nursery in the event of its closure on or before the end of June 2020 be referred, in the first instance, to a short-life Member/Officer Working Group, following which the Executive Director of Education, Leisure and Housing should submit a further report, at the earliest opportunity, to the Education, Leisure and Housing Committee.

3.3.

The Committee also recommended that the Executive Director of Education, Leisure and Housing should publish a summary of the Council's intentions, to seek to reassure carers and businesses regarding what steps would be taken, in so far as they related to the Council's statutory duties, in order to minimise any adverse impact they might experience from closure of Peedie Breeks Nursery.

3.4.

At the Special General Meeting held on 30 June 2020, the Council considered a range of issues in relation to the provision of early learning and childcare in Orkney. Having considered a number of options, the Council resolved that, in order to meet the short and long terms needs for early learning and childcare, an option be adopted, which incorporated the following:

- Temporary provision of a 0-5-year olds and out of school care service.
- Building suitable accommodation for a new provision adjacent to Orkney College.
- Undertaking a tender exercise for a commercial operator to run a service for 0-5-year olds.
- Formally requesting financial support, including capital contributions, from partners within the Orkney Community Planning Partnership.

3.5.

At the Special General Meeting held on 14 January 2021, the Council noted the outcome of a property review which indicated that the former Papdale Halls of Residence, whilst not ideal, had been determined to be the only suitable property within the Council's current property portfolio in which a temporary provision could be established. In order to meet the current requirements of the Care Inspectorate, refurbishment requirements included remodelling toilet facilities, providing separate changing spaces for toddlers and babies and providing a cleaning cupboard and laundry space. The Council further resolved to increase the provisional budget for repairs and refurbishment by £88k to £188k, funded by a contribution from the Repairs and Renewals Fund.

3.6.

On 20 April 2021, when considering the hourly rate to be set for the temporary Council provision of childcare, the Policy and Resources Committee recommended:

- That a price of £6.00 per hour be set for the temporary Council provision of childcare for 0-3 year old children.
- That the undernoted estimated budget shortfalls of operating the temporary Council provision of childcare for 0-3 year old children, be funded as follows:
 - Financial year 2021/22 (July 2021 to March 2022) – up to £170,000 to be met through a one-off contribution from the General Fund Contingency.
 - Financial year 2022/23 – up to £255,000 to be met through a one-off contribution from the General Fund Balance.

- That, in order to minimise losses to the Council, given that it was very unlikely a day nursery would be able to run at 100% capacity, powers be delegated to the Executive Director of Education, Leisure and Housing to explore and, if required, implement the risk mitigations detailed in Appendix 5 to the Minute.

3.7.

On 5 May 2021, when considering the recommendations of the Policy and Resources Committee detailed at section 3.6 above, the Council resolved that charging and budget shortfalls for operating the temporary Council provision of childcare for 0-3 year old children be referred back to the Policy and Resources Committee for further consideration.

4. Update on Repairs and Refurbishment (Start-up)

4.1.

Work is well underway to complete the necessary repairs and refurbishment at the former Papdale Halls of Residence. This is being carried out within a fixed price contract with an expected outturn as indicated in the table below, against an agreed budget of £188,000:

Fixed Price Contact for Works:	£102,000
Fees – 15%	£15,000
Contingency – 10%	£10,000
Total for works	£128,000

4.1.1.

While the contract is still 'live', monitoring indicates that the project is both on time and on budget.

4.2.

The balance of the approved budget of £60,000 has been assigned for the purchase of equipment for care and learning, bringing the overall start-up costs to £188,000.

4.3.

It is anticipated that the majority of the nursery equipment included in the cost estimates above at £60,000, will be recycled into the new permanent Early Learning and Childcare facility, or alternatively, into existing local authority nurseries.

5. Temporary Childcare Provision

5.1.

The new provision adjacent to Orkney College is anticipated to be able to accommodate 51 children aged 0-5. This would enable the operator to offer 24 spaces to children aged 3-5 and 15 spaces to children aged 2-3 with the remaining 12 spaces for children under two. Staff ratios are much higher for the youngest children, which means that per place, the staffing is more expensive for babies and toddlers. This balance of spaces between over threes and under threes (24/27) would enable the permanent setting to be able to break even, if run at optimal efficiency.

5.2.

Depending on the Care Inspectorate's final decision, the temporary premises at the former Papdale Halls of Residence will be able to offer 27/32 places compared to approximately 51 places for the new nursery provision adjacent to Orkney College. As this is considerably smaller than the anticipated new nursery, accommodating children aged 3-5 as well as 0-3 year olds would mean that many of the parents of the youngest children would be unable to obtain childcare. In April 2021, approximately 53 parents of children aged 0-3 years had expressed an interest in the provision.

5.3.

Children aged 3-5 are able to be accommodated within the existing local authority nurseries, although this is very tight due to delays in building works, and later in the year, new arrivals may have to attend outwith Kirkwall settings. The 1140 hours offer includes year-round and extended day provision in a number of settings. As child-minders are very full, there is currently little childcare provision for children aged 0-3. Therefore until the new provision is completed, it is proposed that the focus for the temporary childcare will be for 0-3 year old children.

5.4.

The room sizes in the former Papdale Halls of Residence total approximately 110 square metres of usable playroom space including the former sleep room. This means that the nursery could be registered for up to 12 babies and 20 toddlers (subject to Care Inspectorate agreement) making 32 in total, rather than 27 as originally modelled. Babies require a 1:3 staffing ratio and toddlers 1:5. By adding on one more group of toddlers, it is slightly easier to reduce the gap between costs and income.

5.5.

Parents with young children continue to make enquires about the provision. Currently there are 53 parents on the interest list for 0-3 spaces. It is anticipated that it will be ready to open in July/August, subject to registration and staffing being in place. In order to enrol children, it is important to let them know how the setting will operate and what they can expect to pay.

6. Affordability, Price Point and Hourly Rate

6.1.

Places would be offered to babies aged 6 months and over, and children would lose their place when they had entitlement at their own setting (usually from the term after their third birthday). The education service would also use the Willow Tree for funded two-year olds. The cost for these children would be covered by the early years' service budget.

6.2.

The costings are in the spreadsheet in Appendix 1, along with colour shading to indicate approximate break-even and loss points.

6.3.

Given that the Real Living Wage at the moment is £9.50 and the National Living Wage is just over £9, choosing an affordable price point for parents is challenging. A 0-3 childcare facility cannot break even if an affordable fee is charged. It is the 3-5 year old children, who require a ratio of 1:8 that support a break-even position. This will be provided in the new provision, which will be able to cater for 51 children at any one time, including up to 24 3-5 year olds.

6.4.

Generally, day nurseries charge around £5-£6 per hour, with discounts for additional children, or increased attendance. Clearly at that price point, significant losses would be incurred.

6.5.

It is very unlikely that the nursery would be able to run at 100% capacity. Many of our own settings run well below that once parental choice has been taken into consideration, for example, Friday afternoons are often much quieter. Any quiet afternoons would be used to give the staff non-contact time, which is essential for quality and maintenance, however, this would also mean that the gap between fee and wage costs would increase.

6.6.

Assuming an 85% take up, the price point for a break-even model would be in the order of £9.00 per hour. In contrast, the price point at the upper end of what might be considered an average rate would be £6.00 per hour. With reference to appendix 1, this rate would lead to an in year overspend of approximately £125k and a full year 'running cost' of in the order of £190k.

6.7.

Any losses incurred through running a 0-3 provision will be on a short term basis only, whilst the new provision is being completed, after which the service will be able to be tendered out as a 0-5 provision and run on cost neutral basis. Parents will continue to pay at or above the national average hourly rate for their childcare place.

6.8.

Setting a price prompt of £6.00 per hour or above will ensure that the permission does not undercut childminders.

7. Risk Mitigation

7.1.

It is very unlikely that any day nursery would be able to run at 100% capacity, however, the following is suggested to mitigate risks/reduce losses:

7.1.1. Sessions

Rather than booking hours as and when, parents would be able to book the following only:

- Morning session (08:00 to 13:00).
- Afternoon session (13:00 to 17:30).
- All day session (08:00 to 17:30).

7.1.2. Fixed hourly rate

Many nurseries offer discounts for two children, or for taking more hours. Having a fixed hourly rate will cost parents more, however, the income would be more predictable.

7.1.3. Food

There will be a lunch offer (cooked meal only) which parents will be charged for separately, the price to be set in agreement with the school meals service. Snack will be included within the fees.

7.1.4. Holiday Allowance

In addition to the closure days at Christmas, parents will have a four week holiday entitlement. Any additional holiday time taken will be charged for.

7.1.5. Sickness Absence

Parents will be charged for days that their child is not attending due to illness. If a child is going to be off for more than two weeks, then the parent should speak to the manager. In this case, fees may not be charged, as per the existing charging policy.

7.1.6. Changing the day of attendance each week

Random or varied attendance will not be able to be accommodated. However, parents may ask if there is any availability for ad hoc sessions and the manager will accommodate requests if there is space.

7.1.7. One week off/ one week on

If parents wish to use one or two weeks every month, then they will need to pay for the full month to retain the space.

7.1.8. Changing arrangements

Parents will need to give 4 weeks' notice of any significant changes they wish to make, eg reducing/stopping sessions. If a parent wished to change/swap a session for any reason, then they would contact the manager who would see if the request could be accommodated.

7.1.9. Payments

Payments would be made a month in advance. Any ad hoc sessions taken during the month would be added to the next bill.

7.2.

It is proposed that powers be delegated to the Executive Director of Education, Leisure and Housing to explore and, if required, implement the risk mitigations detailed above, in order to minimise losses.

8. Corporate Governance

This report relates to the Council complying with its financial processes and procedures and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

9. Financial Implications

9.1.

This report is seeking to establish the optimum price point for the hourly charge that maximises income and uptake and therefore minimises the cost to the Council but also remains affordable for parents.

9.2.

The suggested price point of £6 per hour is at the upper end of benchmarked day nursery charges but is also recommended as this is felt to be a rate that would be sustainable for a private operator in a new facility when additional income streams from looking after older children would become available.

9.3.

Appendix 1 sets out various scenarios for the net cost of providing the service assuming different levels of income and fee. At a £6 per hour charge and 85% take up, the full year income raised would be £387,600 against full year costs of £574,080 and require an annual subsidy of £186,480. In the first year of operation the subsidy will only be required for around eight months at approximately £125,000.

9.4.

At £6 per hour and 70% uptake of available spaces this would require a subsidy of £170,000 in 2021/22 and £255,000 in 2022/23. Whilst an 85% or higher uptake will be targeted, a budget planning assumption at 70% uptake would give the service

greater comfort is achieving a financial target. It is therefore proposed that contributions of up to the subsidy level required at a 70% uptake are provided as one-off rather than baseline budget adjustments.

9.5.

A temporary budget provision will be required to cover the subsidy requirement until the new facility has been completed and the running transferred to a private operator. This temporary budget could be sourced from the General Fund Contingency in 2021/22 which is £1,814,000. A temporary budget would also be required in 2022/23 which could be addressed in the budget setting process for 2022/23 or agreed now as a one off contribution to be sourced from the General Fund balance which, as at 1 April 2020, stood at £8,784,300.

10. Legal Aspects

10.1.

In terms of Section 20 of the Local Government in Scotland Act 2003, the Council has power to do anything which it considers is likely to promote or improve the well-being of its area and persons within it, or either of these.

10.2.

In terms of the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014 as amended, the Council has a statutory duty to secure the provision of the mandatory amount of early learning and childcare for eligible pre-school children.

10.3.

Eligible pre-school children include children who are under school age, have not commenced attendance at a primary school and are either three years old or older, or are two years old and their parents are in receipt of certain qualifying benefits.

10.4.

The Competition Act 1998 prohibits business agreements or concerted practices that prevent, restrict or distort competition, and disallows market abuse on the part of any business in a dominant position in a market. There is little to suggest that the Council would be engaging in any business agreement, concerted practice or market abuse of a dominant position within the meaning of the 1998 Act.

10.5.

By providing a childcare facility for 0-3 year old children on a temporary basis, the Council is acting in response to public demand for a service which the private sector does not currently provide. There are no other private nurseries operating in Orkney with which the Council would be in competition. Evidence suggests that private child minders are operating at, or near, capacity, and that the nursery would not necessarily be operating in direct competition with childminders.

10.6.

Notwithstanding the above, public sector organisations need to take care if they provide services which compete or may compete with private sector suppliers of similar services.

10.7.

Guidance issued by the Scottish Ministers suggests that, when pricing in competitive markets, services should be costed in line with the normal rules for full cost recovery. There can be circumstances which merit departing from the normal principle of full cost recovery. The justification is normally to achieve greater efficiency and sensitivity in responding to matters of demand or cost, for example:

- If the service cannot be expanded, but customers are willing to pay more, there may be a case for increasing the price.
- If there is excess capacity and customers are not willing to pay the current charge, there may be a case for reducing the charge or reducing the output.
- Incentive charging, i.e. charging below cost to encourage demand, or above cost to discourage it.

10.8.

The Guidance goes on to provide that, if a public sector organisation decides not to recover full costs for a while, it should take care to ensure (among other things) that the charging strategy is compatible with full cost recovery over the medium term.

10.9.

It is important to note that operation of the 0-3 years nursery provision is only a temporary measure. The Council does not intend to operate the nursery in the long term. When the time comes to bring in a private operator, that private operator will benefit from additional income streams from looking after older children. It is therefore both relevant and important for the Council to set charges at a rate which would be sustainable for (and not detrimental to) a future private operator.

10.10.

Both charging high prices and thereby exploiting market power, and charging very low prices that may exclude competitors, are behaviours that could be held to be anti-competitive. Accordingly, it is important that a suitable balance is struck. Setting prices too high could be deemed exploitative, given that there are clearly a number of families who are in need of this service, but setting prices too low may put the Council at risk of criticism for taking business away from local childminders. In achieving such a balance, benchmarking against private sector providers plays a key part.

11. Contact Officers

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12. Appendix

Appendix 1 – Costings.

Appendix 1: Willow Tree Costings

Leadership team			
Position	FTE	Cost 35 hours	Cost 37 hours
ELC Manager	0.5	Cost neutral	
Senior EYP	1	37500	39600
TOTAL FTE	1.5		
0-2 Provision (12 places)			
Position	FTE	Cost 35 hours	Cost 37 hours
Lead EYP	1	37500	39600
EYP	1	31800	33500
EYP	1	28500	30000
EYP	1	33500	35300
EYP	1	31800	33500
EYP	0.75	23850	25125
EYP	0.75	23850	25125
TOTAL FTE	6.5		
2-3 Provision (20 places)			
Position	FTE	Cost 35 hours	Cost 37 hours
Lead EYP	1	37500	39600
EYP	1	33500	35300
EYP	1	28500	30000
EYP	1	31800	33500
EYP	0.6	20100	21180
EYP	0.6	19080	20100
EYP	0.6	14310	15075
EYP	0.6	14310	15075
TOTAL FTE	4.8		
Other staff			
Position	FTE	Cost 35 hours	Cost 37 hours
Admin	0.5	12700	12700
Cleaning	0.5	12700	12700
EYSW	0.6	17100	17100
Total		489900	514080

Expenditure	Cost	Number of places	Hours available	Weeks open	Total hours available	Charge per hour	Income from anticipated uptake per place/hour						
							100% uptake	95% uptake	90% uptake	85% uptake	80% uptake	75% uptake	70% uptake
Staffing	£514,080	32	47.5	50	76000	£10.00	£760,000	£722,000	£684,000	£646,000	£608,000	£570,000	£532,000
Approx running costs	£60,000	32	47.5	50	76000	£9.00	£684,000	£649,800	£615,600	£581,400	£547,200	£513,000	£478,800
		32	47.5	50	76000	£8.00	£608,000	£577,600	£547,200	£516,800	£486,400	£456,000	£425,600
		32	47.5	50	76000	£7.50	£570,000	£541,500	£513,000	£484,500	£456,000	£427,500	£399,000
		32	47.5	50	76000	£7.00	£532,000	£505,400	£478,800	£452,200	£425,600	£399,000	£372,400
		32	47.5	50	76000	£6.50	£494,000	£469,300	£444,600	£419,900	£395,200	£370,500	£345,800
		32	47.5	50	76000	£6.00	£456,000	£433,200	£410,400	£387,600	£364,800	£342,000	£319,200
		32	47.5	50	76000	£5.50	£418,000	£397,100	£376,200	£355,300	£334,400	£313,500	£292,600
	#	32	47.5	50	76000	£5.00	£380,000	£361,000	£342,000	£323,000	£304,000	£285,000	£266,000

Key	
	Profit or near profit
	Up to £50,000 loss
	Up to £100,000 loss
	Up to £200,000 loss
	More than £200,000 loss