

DATA LABEL: PUBLIC



EDUCATION EXECUTIVE

DISCRETIONARY CHARGING - EARLY LEARNING AND CHILDCARE (ELC)

REPORT BY HEAD OF EDUCATION (PRIMARY)

A. PURPOSE OF REPORT

To seek Education Executive approval for the introduction of discretionary charging in council provisions as part of the council's ELC framework.

B. RECOMMENDATION

1. To approve the introduction of discretionary charging in council provisions as part of the council's ELC framework.
2. To agree that the fee charged for discretionary early learning and childcare will be set annually at the average of all fees charged by partner providers based in West Lothian, and that this annual fee will be reported to elected members for scrutiny.
3. To delegate authority to the Depute Chief Executive to progress the arrangements set out in the recommendations and body of this report, in order to ensure that the proposed new service can be implemented by the target date of August 2022.

C. SUMMARY OF IMPLICATIONS

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| I Council Values | Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | Powers and duties, including charging fees, in Education (Scotland) Act 1980, Standards in Scotland's Schools Etc. Act 2000, Children and Young People (Scotland) Act 2014. Scottish Government's ELC Statutory Guidance (July 2021). Scottish Government policy to expand provision of early learning and childcare from 600 to 1140 hours by August 2021. Statutory responsibility for ensuring that early learning and childcare is available to all eligible children in the area. |
| III Implications for Scheme of Delegations to Officers | Discretionary charging will be added to the existing entry in the Scheme of Delegation in relation to early learning and childcare, including wraparound care and out-of-school care". |
| IV Impact on performance and performance Indicators | Key Performance Indicators are reported annually to reflect uptake of service, quality within service and outcome of external scrutiny inspections |

V	Relevance to Single Outcome Agreement	Our children have the best start in life and are ready to succeed Delivery of outcomes will improve attainment for children
VI	Resources - (Financial, Staffing and Property)	ELC Expansion revenue budget to date - £16,440,000.
VII	Consideration at PDSP	7 December 2021 The Policy Development and Scrutiny Panel was supportive of progressing with the introduction of discretionary charging in council provisions as part of the council's ELC framework, in order to provide increased flexibility and choice, subject to assurances that it would not impact on the ability of the council to meet its obligations to provide 1140 hours of funded early learning and childcare.
VIII	Other consultations	Parents/carers have been consulted on increased flexibility and choice in early learning and childcare every two years. Additional consultations have been undertaken in relation to the expansion to 1140 hours new locations for 2020/21 and 2021/22. Consultation with all ELC staff was undertaken between January 2019 and May 2019. Further staff consultations were undertaken between January and March 2020 and February 2021. Financial Management Unit and Operational Services (Facilities Management) Non-teaching Trade Unions. Consultations with current partner providers in relation to the hourly rate paid in 2020/21 onwards. Partner provider engagement on implications of Scottish Government's ELC Statutory Guidance (July 2021) in November 2021

D. TERMS OF REPORT

D1 Early Learning and Childcare Delivery Plan and Legal Background

The ELC Statutory Guidance requires local authorities to publish a plan for the delivery of early learning and childcare at least once every 2 years, informed through consultation with parents/carers and based on local needs.

Under section 1(1C) of the Education (Scotland) 1980 Act, education authorities have discretionary powers to provide early learning and childcare beyond the statutory funded early learning and childcare entitlement requirements under section 1(1) and (1A) of the 1980 Act and section 47(1) of the Children and Young People (Scotland) Act 2014 (i.e. the funded early learning and childcare entitlement). This can enable education authorities to prioritise certain children who would benefit most from such provision. Education authorities are also, under section 33(2) of the Standards in Scotland's Schools etc. Act 2000 empowered to charge fees for such

discretionary early learning and childcare. The provision of discretionary early learning and childcare, through fees subsidised or otherwise, can provide additional flexibility as required by section 52 of the 2014 Act.

D2 Stakeholder Engagement

The Children and Young People (Scotland) Act 2014 places duties on education authorities to consult with parents on the delivery of funded ELC, and to have regard to the desirability of ensuring that ELC is made available in a way that is flexible and allows parents an appropriate degree of choice when deciding on how to access the service.

D3 2021 Parent/Carer Survey

The 2021 survey was issued in early November 2021 and the feedback from this survey was considered at Education PDSP on 7th December 2021.

The key areas to note from the feedback are -

* Almost all parent/carers reported their satisfaction with the 38/50 week model option.

* Most parent/carers recognised the benefit of the increased hours to them and almost all parent/carers noted the benefits for their child.

* Most parent/carers would like the flexibility and choice of purchasing additional hours in a council setting if this was made available.

D4 Discretionary Placements

Education authorities have discretionary powers to provide early learning and childcare beyond the statutory funded early learning and childcare entitlement. Education authorities are also empowered to charge fees for such discretionary early learning and childcare. The provision of discretionary early learning and childcare, through fees subsidised or otherwise, can provide additional flexibility.

As outlined in the Scottish Government's ELC Statutory Guidance, any education authority fees for parents for discretionary early learning and childcare should be transparent; and where education authorities charge for discretionary early learning and childcare, as part of their overall approach to setting charges for discretionary services, it is expected that appropriate consideration is given to the potential impacts on the competitiveness and business sustainability of other providers offering the funded ELC entitlement.

The outcome of the council's most recent parent/carers survey evidences that a high percentage of parent/carers (73% of the respondents) would be interested in being able to purchase additional hours in a council setting if they were available.

It is proposed that officers now progress plans to deliver early learning and childcare beyond the statutory funded early learning and childcare entitlement, based on the following broad principles:

- Officers will ensure that additional hours are only offered for purchase where this will not prevent parents/carers from accessing their entitlement to 1140 hours of funded early learning and childcare. This will be achieved by reserving places for children likely to move into the local area, or reach the age of entitlement, similar to current practice in primary and secondary schools.
- Additional hours will only be offered for purchase to children already admitted to an establishment. This will remove the need for a complex admission process, and prevent the purchase of additional hours influencing admission decisions.
- Maximum use will be made of electronic application and payment processes.

Statutory Guidance requires that where education authorities charge for discretionary early learning and childcare, as part of their overall approach to setting charges for discretionary services, they must give appropriate consideration to the potential impacts on the competitiveness and business sustainability of other providers offering the funded early learning and childcare entitlement. In order that the introduction of discretionary charging does not impact adversely on the business of existing partner providers, it is proposed that the fee charged by West Lothian Council is set annually, based on the average of all fees charged by partner providers within West Lothian. If agreed, this formula will be used to set fees in each subsequent year, separate from the normal annual Council process of setting fees and charges. Fees will be reported to elected members for scrutiny.

It is not proposed to offer any concessionary rates, as this could be seen as a practice that would impact adversely on the business of existing partner providers by undercutting the rates charged for their services. This proposed new service is specifically designed for working parents who wish to maximise the hours of early learning and childcare they can receive within a council establishment.

It is proposed to introduce discretionary charging at the start of school session 2022/23. Elected members will be kept informed and asked to make decisions where required, but it is acknowledged that the May 2022 election may reduce opportunities for formal reporting to and decision making by elected members.

The Education Executive is therefore asked to delegate authority to the Depute Chief Executive to progress the arrangements set out in the recommendations and body of this report, in order to ensure that the proposed new service can be implemented timeously, in line with the views expressed in the annual parental/career survey.

E. CONCLUSION

In order to meet the needs and requirements of families, and in keeping with the principles of Scottish Government's 'A Blueprint for 2020: The Expansion of Early Learning and Childcare in Scotland', it is recommended that officers progress plans to deliver discretionary charging as part of the council's ELC framework as set out in this report. Elected members will be kept informed and asked to make decisions where required. In order to ensure that the proposed new service can be implemented timeously, in line with the wishes expressed by parents/carers, the Education Executive is asked to delegate authority to the Depute Chief Executive to progress the arrangements set out in the recommendations and body of this report.

F. BACKGROUND REFERENCES

A Blueprint for 2020: The Expansion of Early Learning and Childcare in Scotland:
ELC Expansion Planning Guidance for Local Authorities
Early Learning and Childcare Statutory Guidance – July 2021

Appendices/Attachments:
None

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