

## Early Learning and Childcare: Scotland Excel Project

December 2018

### Provider and Local Authority Survey Analysis

#### Background

Scotland Excel has been commissioned by the Scottish Government to deliver guidance and templates to support local authorities and providers prepare for the expansion of early learning and childcare (ELC) entitlement to 1140 hours by August 2020. The guidance will support implementation of the new Funding Follows the Child approach and provide clarity around how to meet aspects of the new National Standard which all funded providers will be expected to meet from 2020.

As local authorities and ELC providers prepare for the delivery of the expansion, Scotland Excel have been asked to develop:

- guidance and a set of principles for determining local sustainable rates;
- guidance to support providers to meet the business sustainability criteria set out within the National Standard;
- guidance and support for transitional arrangements, including procurement and application process options;
- template terms and conditions for agreements between local authorities and providers in the private and third sectors, including childminders;
- guidance on the implementation of the ‘real’ Living Wage for workers delivering the funded entitlement through funded providers in the private and third sectors.

Scotland Excel recently held focus groups to engage with relevant stakeholders and get input for the initial direction of the guidance. The focus groups were held with local authorities, national provider representative bodies and providers during September and October 2018. After concluding the focus groups, we issued a survey to local authorities, a group of providers and provider representative bodies, asking for initial feedback in October 2018.

The survey was issued to all private and voluntary nursery providers (registered with the Care Inspectorate) on 5<sup>th</sup> November, with a closing date of 20<sup>th</sup> November 2018. There are approximately 2,000 services that provide ‘Day Care of Children’ currently registered with the Care Inspectorate.

#### Survey

The survey was qualitative to obtain the maximum amount of information for each question, and to inform the general direction of the guidance, through understanding current practices. There were 15 questions in total, which were grouped as per Table 1.

<b>Questions</b>	<b>Information Requested</b>	<b>Reason for Question Section</b>
Q1 – Q4	Contact Information	Confirm whether respondent was local authority or provider

Q5 – Q11	Business Sustainability	Gather information relevant to current business sustainability criteria and evidence used
Q12 – Q15	Sustainable Rates	Gather information relevant to current and future rate setting process

**Table 1:** Question Breakdown

The wording of each individual question is available at the beginning of each analysis section. Please note that the analysis begins at question five as the first four questions were for information only.

### *Responses*

There were a total of 114 completed responses. Of the completed responses, 15 were submitted by local authorities, with a further 99 submitted by ELC providers or individuals.

There were a further 724 incomplete responses made. Where an answer was given to an individual question, these were also included in the analysis.

### *Analysis*

The responses have been anonymised and each question was analysed individually. The analysis sought to identify key themes and points from the answers given.

The analysis is shown below. Analysis has been undertaken for both local authority and provider respondents, to enable a comparison and inform future discussion with both sets of stakeholders.

**PLEASE NOTE:** The phrase “procurement process” is used throughout this document. We are aware that not all local authorities use, or will be using, a traditional procurement process moving forward however this wording has been used to cover all processes which local authorities use to contract with funded providers.

## Question 5 – Approach to Business Sustainability Guidance

Q5. Do you agree that a set of principles concerning Business Sustainability criteria with examples of specific criteria that could be used, would be a suitable approach to take to the guidance?

### **Local Authority Analysis Results**

Local authorities responded with 100% agreement that this would be useful. They told us that it may ensure more consistency and continuity across the sector if the guidance is specific around what evidence should be requested.

### **Provider Analysis Results**

Over 65% of respondents agreed that this would be useful and a suitable approach to take to the guidance. Respondents also included comments acknowledging the requirement for local authorities to manage risk, and that this was an appropriate method to manage the risk.

However, there was concern about the time, effort and resource required from providers to gather this information together prior to, or as part of, a procurement process.

Respondents commented on the need for the evidence to be proportionate and relative to their businesses. Detail should be provided by local authorities as to why the evidence is being requested by the local authority, as well as how it will be reviewed.

They also stated that the business sustainability principles should include considerations on transparency, proportionality and flexibility to allow local authorities to decide the most appropriate evidence used, based on the local market and requirements.

There were also more general comments that local authorities should consider how their practices affected providers' business sustainability through factors such as payment terms, contract length and resources required to complete the procurement process.

## Question 6 – Business Continuity Plans Inclusions

Q6. Business Continuity Plans: What criteria should a provider include in these plans? What should a provider need to evidence to pass this criteria?

### Local Authority Analysis Results

Local authority responses included a number of suggestions, such as:

- Contingency planning for ‘force majeure’ events (such as fire, loss of premises), staff and environment;
- How the business plans to maintain and improve their service offering in terms of quality, staff and environment;
- Details on a proposed exit strategy;
- Consideration of risk logs;
- The submission of a demand and supply forecast (including service user demographic profile i.e. age of children attending)

It was suggested that regular updates need to be made and submitted to local authorities for review, potentially on an annual basis. Local authorities also stated that there may be different considerations for different businesses, that would need to be included in the guidance.

One local authority confirmed that they currently review Care Inspectorate inspection reports for business continuity planning.

### Provider Analysis Results

Providers offered a wide variety of answers to this question. There appeared to be misunderstanding between Business Continuity and Business Sustainability evidence, with many respondents including evidence which may be more useful to consider within Business Sustainability as a whole. It may be useful to clarify the differences between these as part of future procurement processes.

The following list provides the most frequently mentioned criteria/documentation types which could be requested as part of business continuity:

- Care Inspectorate quality evaluations
- Contingency/continuity planning (long and short term)
- Staff development logs (SSSC Registration/qualifications/training logs)

The following information was mentioned regarding business continuity, however, this may be more relevant to business sustainability:

- Business plans or forecasts
- Current/planned occupancy
- Accounts/Letter from Accountant/Profit and Loss Accounts
- Tenure at current premises

When referring to business continuity, respondents perceived that providers should be treated equally to local authorities and that providers should not have to create additional documentation for this requirement.

For example, local authorities could request information in the same format as the Care Inspectorate, to reduce the duplication of effort.

## Question 7 – Audited Accounts

Q7. Local authorities - Currently, do you request audited accounts at the point of a provider applying for partnership/tender? If yes, what do you assess and are you willing to share this with Scotland Excel? Providers - Currently, have audited accounts been requested at the point of applying for partnership/tender? What is relevant for a council to assess?

### Local Authority Analysis Results

Local authorities confirmed that they had requested accounts previously, although these were a mix of audited and unaudited (or equivalent). Local authorities also asked for the most recent two years accounts along with details of any significant changes since the last year end, or a statement of the organisations turnover, profit and cash flow for the most recent full year of trading.

If organisations are unable to provide this, they must provide additional information to prove financial viability, although no examples of this were provided.

Financial ratios have also been used in conjunction with accounts such as current ratio, quick ratio, gearing and return on capital employed.

Local authorities also commented that accounts are not always received when they are requested, and it may be beneficial to consider other information in addition to accounts, to help inform decision making. No specific examples or information was provided to clarify this further.

### Provider Analysis Results

46% of respondents indicated that no local authorities had requested audited accounts, with a further 30% being unsure or unaware of whether these had been requested before.

Providers left a significant amount of commentary over whether accounts should be requested. Reasons given for this included:

- There is no transparency on how accounts are assessed.
- Accounts represent the entire business operations, not only the funded hours, therefore they should not be reviewed as the information is not all relevant.

Respondents indicated that they accepted local authorities had to manage the risk appropriately, however that accounts may not be the most appropriate way to do this.

Respondents indicated that transparency was the most important thing to consider when requesting accounts from providers. This may include ensuring that both the criteria and evaluation methodology used are clearly stated as part of the procurement process.

## Question 8 – Financial Forecasts

Q8. Councils - Do you currently request financial forecasts at the point of a provider applying for partnership/tender? If yes, what do you assess and are you willing to share this with Scotland Excel?

Providers - Currently, have financial forecasts been requested at the point of applying for partnership/tender? What is relevant for an council to assess?

### **Local Authority Analysis Results**

The majority of local authorities do not currently request this information. However, several asked for business plans or projections to show financial viability which may be similar and/or provide similar information.

### **Provider Analysis Results**

Providers indicated that financial forecasts have not been requested by local authorities. There were concerns over the unpredictable nature of the market, especially during the transition period to the full roll-out of the 1140 hours funded entitlement in August 2020.

Respondents commented that these policies will drive unpredictable changes to the market and, therefore, forecasting would become much more challenging.

Respondents highlighted other options which could give more relevant information to local authorities. These included cash flow statement, reserves, short and long-term forecasting, projected occupancy and capacity levels of the setting.

## Question 9 – Monitoring Provider Failure

Q9. Councils - Do you currently assess and/or monitor risk of a partner provider failing? At what points during application and contract management would this be assessed and what factors is this based on?

Providers - Are you aware if the risk of a partner provider failing is currently assessed and/or monitored? At what points during application and contract management is this assessed and what factors is this based on?

### **Local Authority Analysis Results**

Local authorities left mixed comments concerning this as this is generally monitored through quality criteria. For example, poor quality may be the result of poor investment and may mean less families use the service. Annual accounts are reviewed by some local authorities, however, it may be helpful to consider other ways of monitor the risk of 'provider failure' moving forward.

### **Provider Analysis Results**

The majority of providers are unaware whether the local authorities monitor this. Several respondents commented that they perceived a drop in quality evaluations to represent a more serious risk of provider failure, as opposed to failure due to financial circumstances.

Several respondents were unsure what this question related to, therefore it may be useful to give providers further information regarding this as part of the contract, should they become a funded provider.



## Question 10 – Business Sustainability for Specific Circumstances

Q10. Do you agree that specific guidance is required for different types of business changes in partner provider settings? For example, an existing partner provider opens a new setting or a setting is purchased by an existing partner provider.

### **Local Authority Analysis Results**

Most local authorities stated that this would be useful, however, some commented that all providers must be judged against, and meet, the same quality criteria (i.e. they must all meet the National Standard moving forward) and there must not be a perceived or real change to the criteria. For example, these settings must not gain any advantage or disadvantage in the evidence that they must produce due to the business change – they must meet the same standard.

### **Provider Analysis Results**

The majority (64%) of respondents indicated that this would be useful.

There were several comments stating that the local authority's approach to this should be based on risk. For example, where settings are deemed higher risk this would be expected, however, for lower risk settings (i.e. new setting being opened by existing provider) respondents felt that this may be unfair.

Respondents also mentioned their preference for an external body to assess/review this as this may represent a level of impartiality.

There were comments which highlighted the importance of "change of ownership" as a specific area that needs further consideration. This is set apart from closing or opening of new settings which is a business decision, as opposed to ownership which may affect the business.

## Question 11 – Business Sustainability: Further Comments

Q11. Is there any other comments or feedback regarding the Business Sustainability criteria that you would like to include?

### Local Authority Analysis Results

Although not all related specifically to business sustainability, further comments from local authorities included:

- the need to ensure evidence requested is fit for purpose for childminders as well as nurseries;
- the potential need to have specific requirements for providers in rural areas and voluntary organisations that, due to their organisational structure, would be unable to submit specific evidence;
- the amount of resource required to assess providers on the National Standard criteria; and
- the need for business planning to be included as part of the evidence to ensure the provider is viable in the next 12 – 24 months. For example, through projected figures for enrolment.

### Provider Analysis Results

Comments from respondents included:

- an overarching concern that equity is required between local authority and funded providers, including concern that the local authority is often both a competitor and decision maker/gatekeeper for funded providers;
- reference to poor relationships between local authorities and funded providers which exist in some areas;
- concerns from providers regarding the funding rate and staff retention difficulties;
- an immediate need for transparency around local authority plans to allow funded providers to plan appropriately and ensure their own sustainability;
- ensuring quality criteria is at the heart of decision making;
- reference to the support required for implementing a new procurement (or other) process to become a funded provider, including a provider's resource requirements to undertake this.

## Question 12 – Sustainable Rates: Benefits “in-kind”

Q12. The sustainable rates work could review ‘in-kind’ benefits of being a partner provider to provide an overview of both the financial and non-financial benefits of being a partner provider. Would this be appropriate and useful?

### **Local Authority Analysis Results**

Most local authorities agreed that this would be useful and that it may encourage new providers, by highlighting the benefits of becoming a funded provider. However, several local authorities commented that it is difficult to quantify these benefits as they can vary between different local authority areas.

### **Provider Analysis Results**

The majority of respondents were either unsure or disagreed that this would be useful.

Feedback included that local authorities should not to have control over this as there was a perceived variability over what was available. There is also uncertainty over what local authorities need to provide on a mandatory basis and what is additional to their statutory/regulatory requirements.

### Question 13 – Independent Review of Rates

Q13. Some councils have undertaken reviews or commissioned independent reviews into the cost of early learning and childcare provision, in their local area. Has your council undertaken this and are you willing to share this with Scotland Excel?

#### **Local Authority Analysis Results**

The majority of local authorities have not completed a review of the cost of ELC provision in their local area. Two have completed informal or partial reviews of costs/prices and two have completed a full review.

#### **Provider Analysis Results**

There is a lack of clarity over whether this has been done, with the majority of providers stating they are unaware if this has been undertaken by the local authority.

Where this has been undertaken, several respondents stated that the results have not been published or shared which has led to a lack of trust between providers and local authorities.

## Question 14 – Meaning of Sustainable

Q14. As part of the guidance and principles, it was suggested that it would be useful to agree the meaning of the word “sustainable” in terms of the funded hours. What would the definition need to include?

### Local Authority Analysis Results

Local authorities responded with several points, including that:

- the rate must allow a provider’s service to be available and consistent;
- the rate should give continuity and security to providers and there should be no cross subsidising of funded/unfunded hours;
- an appropriate surplus/reinvestment needs to be included when considering a sustainable rate;
- the rate must be viable for both local authorities and providers;
- the ‘real’ living wage and inflationary increases should be included in the methodology/calculation for a sustainable rate;
- the rate should cover the costs of delivering the service and should be aligned with the costs of meeting the National Standard;
- the rate should be no more than what parents pay for non-funded hours;
- the provider should be able to provide the service free at the point of access (i.e. no charging of funded hours to parents);
- specific points relating to childminders should be considered in the guidance.

### Provider Analysis Results

Respondents indicated that the rate must be related to the cost of delivering the service and they highlighted the need to include the ‘real’ Living Wage and inflationary increases within the “sustainable rate” definition.

In addition, several respondents mentioned the requirement to include costs relating to reinvestment in the setting, including buildings, resources, staffing (training and development) and that these costs would be on an ongoing and periodic basis. This is especially important considering how settings will be expected to meet the National Standard criteria.

Some respondents indicated that local authorities should consider using the current rates that providers charge to families to indicate the sustainability of the rate offered by the local authority.

Respondents indicated that it would be important to consider sharing the methodology or calculation used for the sustainable rate to ensure transparency with the public and other relevant stakeholders.

It was also raised that childminders may operate under a different business model and will likely have very different costs which may require separate consideration.

## Question 15 – Sustainable Rates: Further Comments

Q15. Is there any other comments or feedback regarding Sustainable Rates that you would like to include?

### Local Authority Analysis Results

Local authorities highlighted that the guidance may consider the following points:

- How they can ensure the statutory entitlement is “free at the point of access” and that no top-up fees are charged for the funded hours;
- That funded and non-funded hours should be the same rate i.e. the local authority should not pay more than what a parent would pay for the same service;
- That there may be a requirement to consider occupancy when considering sustainable rates.

### Provider Analysis Results

Respondents generally reiterated themes which came across in other questions, however, in summary, the following points were raised:

- Funding should reward the financial risk of providing the service, be enough to provide a high-quality service and win parents’ business.
- Costs differ by provider which makes it complicated to have one overarching rate. For example:
  - Voluntary settings operate differently from private settings and often have different funding requirements
  - Business models vary across different providers, including how many under 3-year olds they have spaces for and the split of hours that they deliver funded/unfunded
- The ‘real’ Living Wage, inflation and reinvestment (including staff training and development) were the three concerns that respondents consistently mentioned.
- It was highlighted by respondents that equity between local authority and funded providers was key, including but not limited to, openness and transparency in decision making and equal access to funding (both the rate and capital funding were mentioned).

## Conclusion

The analysis of the survey has raised a number of important issues to address throughout the transition to August 2020 when the Funding Follows the Child approach will be introduced. We will work with relevant stakeholders to identify and propose practical solutions which will ensure a smooth transition to the new approach. In summary, we will focus our work on developing guidance which addresses the following:

- Ensuring that the evidence requested as part of the Business Sustainability criteria is fair, transparent and reflective of providers organisational and operational structure. Where possible, evidence should be documents that are already produced by providers i.e. additional work and resource required to submit these should be minimised;
- Working with providers and local authorities to refine the processes that could be used to develop sustainable rates, including consideration of factors such as inflation, Living Wage and reinvestment in services; and
- A number of points, although not directly related to the guidance being produced immediately, will be considered further as part of the wider suite of guidance that Scotland Excel is producing. For example, the payment terms will be considered as part of the terms and conditions guidance, currently planned for 2019.

## Next Steps

We will begin the next phase of consultation with the sector in December 2018 and this will inform the development of the final versions of the guidance which will be published by March 2019. We will publish draft versions of the guidance documents in January and provide the sector with an opportunity to comment.

We will work closely with the Scottish Government, COSLA and other stakeholders to develop this guidance and work collaboratively with colleagues to simplify the process and reduce the burden on providers to become, and continue to be, a funded provider.