
From:

Sent: 29 July 2022 16:18

To:

Cc:

Subject: FW: Pear Tree Nurseries Limited - East Lothian - BRIG/23/2

By Email Only

Dear

I refer to your e-mail to [redacted] dated 22 July 2022 which was in response to [redacted] e-mail of 20 July relating primarily to your client's decision to terminate contracts with notice for [redacted] who attend the Pear Tree Nursery setting at [redacted]

Dealing with your preliminary question of *vires* this is a decision that is within the scope of the Head of Service for Education (as per the [Council's Standing Orders](#)) and in the absence of the Head of Service these responsibilities are subsequently then delegated by the Head of Service to the Service Managers. [redacted] responsibility in this regard is to have strategic and operational responsibilities for the implementation of Equalities legislation and Additional Support Needs legislation and given this matter does involve concerns regarding your clients ability to comply with this Legislation, [redacted] had and has the appropriate authority to act in the absence of the Head of Education

It should be clarified that there was no intention to immediately terminate the arrangements in place with your Client due to fact that the current contract is due to expire on 31 July 2022 and while this may have been more appropriate to have explicitly stated it was implied in the statement that no further discussion on this situation would take place prior to [redacted] Head of Education and [redacted] Quality Improvement Officer for Early Years Education return to the office from annual leave on 1 August 2022. I will also clarify that there was no formal decision to withhold payments properly due up to 31 July 2022.

Presently, it is the Council's view that your client is failing to meet the National Standard Criteria. I will deal with these points in more detail below. Further, through recent correspondence the Council has further concerns about your clients ability and intentions to meet the criteria. In order to progress matters and allow both your client and the Council to fully review the situation I would ask that your client meets with Council Officers, which will include our Executive Director for Education and Children's Services , at the Council Offices at John Muir House on either 8th August at 2:00pm or 11th August at 2:30pm. We look forward to confirmation from your client that they will attend this meeting and which of the two dates your client will accept. Please note that we have also extended this invite to the Care Inspectorate.

Given the current situation it should be noted that East Lothian Council are prepared at present to extend current funding arrangements in relation to your client's Pear Tree Nursery setting at 1 West Road, Haddington until 2 September 2022. It is felt that this will provide ability for initial discussions to be undertaken and to identify whether or not your client will be able or willing to undertake action to remedy your clients current failings to meet the National Standards. Our primary but not only concern being that your client is unable to comply with the terms of the Equality Act 2010.

In relation to your e-mail I require to address some points and clarify some assertions made.

It is noted in your e-mail that the Care Inspectorate identified issues with the service provided at the Pear Tree Nursery (West Road) setting. This inspection was on 27th April 2022. The inspection looked at 4 areas – Care and Support, Environment, Staffing, and Leadership and Management. The Care Inspector gave a grading of Weak in each of these areas. From a quality perspective, Council Officers have met with the setting on 2 occasions, with (Support Teacher) taking a lead in creating their Improvement Action Plan. has worked closely with the setting (planned weekly) with her most recent actions being discussed in the setting on 25 July 2022. It should also be noted that Council Officers have assisted the setting by developing its enhanced action plan and short term action plan.

To clarify the reasonable adjustments referred to your email only focused on

You have stated that the decision communicated to the parents on 19 July was discussed with prior to parents being informed. This is incorrect. An e-mail was sent to our prior to the meeting however it was confirmed by that no discussions or response to this e-mail was provided (primarily due to not being in the office when the e-mail was sent). I would also confirm that following the Care Inspectorate Report support has been provided to the setting. The report highlighted that the skill set of the staff was in question from both the CI report and direct observations by (Early Learning and Childcare Support Teacher), (Early Years Outreach

Officer) and (Head of Early Years Standards, Regulation and Compliance, ICP/Bright Stars Nurseries). This is why another setting within the Pear Tree group was being offered

You have stated that the decision was supported by of the Care Inspectorate who discussed the matter with Regional Manager. We have an email from of the Care Inspectorate that clearly states that they are not in agreement with any child's placement being removed.

As you will appreciate the agreement expires on 31 July and as such there is little point revisiting the terms of the contract line for line and responding on all of the points you have raised. However, if required we can prepare a fuller response on these points separately. Notwithstanding this I would point out that the Council does wish to try to discuss the matters with your client directly to establish whether or not a resolution to the current concerns raised can be reached as such I refer back to the offer of a meeting on either of the dates set out above.

It should also be noted that while the Pear Tree Nursery setting is of particular concern and focus recent interactions with the other settings within the group are also raising similar concerns regarding compliance with duties under the Equalities Act 2010. It is hoped a plan can be reached in relation to Pear Tree setting and then we can discuss concerns around the other settings. To that end the Council are considering reducing the terms of the funding arrangements in place to six months for the other settings to allow time to review and consider their position in complying with all National Standard Criteria.

I look forward to hearing from you.

Yours sincerely

Service Manager - Governance

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