

31.08.22

John Muir House
Haddington
East Lothian
EH41 3HA
Tel 01620 827827

Dear Sir/ Madam

**Bright Stars Nurseries Group
Provision of 1140 hours – Decision in relation to Funding Contract**

I refer to the meeting held on 11 August 2022 which was attended by officers of East Lothian Council, Managing Director of Bright Stars Nursery Group and of Solicitors. The purpose of the meeting was for the Council to outline its concerns in relation to the quality of provision at Pear Tree West Road and the policy position of Bright Stars Nurseries Group in supporting the needs of children with Additional Support Needs. The meeting also addressed serious concerns regarding the outbreak of E-Coli at Pear Tree Church Street. Those in attendance were informed that the meeting would also support the evidence gathering around whether or not the Council would renew its contract to fund 1140 hours at those nurseries now owned by Bright Stars Nurseries Ltd given that all contracts expired on 31st July 2022.

Having had the opportunity to consider your response to our request for information and all other available information including that gathered at the meeting, I am now writing to inform you of East Lothian Council's decision in respect of the funding arrangements for 1140 hours with Bright Stars Nurseries Group in East Lothian. Taking all available information in to consideration, East Lothian Council **will not** be renewing the contracts to fund 1140 hours with the Bright Stars Nurseries Group operating in East Lothian. This decision covers Pear Tree West Road, Church Street, Meadowpark and Pumpkin Patch Nursery in North Berwick.

Our reasons for not renewing these contracts are as follows:

The contracts in relation to the 1140 hours funding for eligible children within your organisation's settings expired on 31 July 2022. Funding for 1140 hours has continued on a short term basis to allow East Lothian Council to consider whether it is satisfied that the Bright Stars Group is able to comply with the National Standard and the terms of a contract with the Council.

As you are aware the expansion of Early Learning and Childcare in Scotland is underpinned by the National Standard. Providers of Early Learning and Childcare who are unable to meet or comply with the National Standard are not eligible to provide the funded entitlement. Local Authorities have the responsibility of monitoring the compliance of all funded providers against the National Standard, whether they are local authority, private or third sector providers, including childminders. As guarantors of quality for the National Standard, the local authority plays a key role in ensuring each child is receiving a high quality Early Learning and Childcare experience during their funded hours. In the event that the Local Authority is satisfied that the provider is able to comply with the National Standard they will enter into contracts with the Provider for each setting.

It is important for Local Authorities to act responsively when information about a funded provider is made available to them. As you are already aware, East Lothian Council has been made aware that there are serious concerns regarding Bright Stars Nurseries Group's ability to comply with and adhere to the National Standards. This has been highlighted in a range of ways including, recent Care Inspectorate Inspections, parental concerns raised with the Local Authority, officers' concerns, the actions taken by the group to exclude your establishments and your failure to provide any reassurance that this type of action would not be taken again in any of your settings.

1. Compliance with the National Standard - Quality

As you are aware, the Care Inspectorate inspection of 27 April 2022 of Pear Tree West Road found this setting to be weak across all areas inspected (Care and Support, Environment, Staffing, and Management and Leadership). This setting has failed to meet the level expected and since that inspection, there has been no demonstrable evidence of any improvement. Furthermore, we would wish to note that East Lothian Council has provided very considerable additional support through a detailed action plan that has included weekly support from officers. We would also wish to point out that it was our action plan that was presented back to us at the recent meeting on the 11th August to represent your efforts to secure improvement. You should note that this lack of action and your failure to provide any level of confidence would have on its own provided grounds to terminate the contract for 1140 hours funding. Whilst the specifics of the National Standard do allow for a Service Improvement Period of up to 12 months to be initiated by the Council, these do not apply where a contract has already expired or where a local authority, as guarantor of quality, has little or no confidence that the provider will be able to fully comply.

We note that due to the date of registration of the Church Street setting, it has not yet been subject to a full Care Inspectorate inspection. However, we note that from our recent meeting on 11 August 2022, at which a representative of the Care Inspectorate was present, you indicated that the standard of the environment at your Church Street setting fell well below your own expectations and as such the National Standard. This view is also supported by Council officers who have visited the setting as part of the recent E-coli outbreak. As you

know, Council officers have expressed very serious concern about the standard of cleanliness and upkeep of the building and there has been a lack of swift action to allay these concerns.

2. Compliance with the National Standard - Equality Act 2010

As you are aware, serious matters have been raised with you around your approach towards meeting the needs of children with Additional Support Needs and in particular the willingness of Bright Stars Nurseries operating in East Lothian to support specific children who require additional support. As has already been noted, you have already excluded [redacted] and have terminated [redacted] contracts, noting that in your view, your staff were unable to meet [redacted] needs. Whilst this in of itself is serious enough, further concerns were then highlighted to the Executive Director of Education and Children's Services where, at the meeting on 11th August, your organisation's representatives were unable to provide a definitive answer when asked if Bright Stars would be able to provide support for all children across any of your settings with Additional Support Needs in the future. This has resulted in East Lothian Council having serious concerns about your organisation's policies, willingness and ability to comply with the duties as set out in the Equality Act 2010. You will note that the National Standard and Criteria 6 – Inclusion requires that the setting complies with the duties under the Equality Act 2010.

You have been asked to provide further information and evidence. To date, the Council has received basic information and not that which was specifically requested during the meeting on 11th August and again requested by a follow up email to you from a Council officer on 15 August. The information provided by you was in fact requested by parents who were advised by you that it would only be released if directly requested by the Council. This request was made by telephone to Pear Tree West Road by our Early Years Quality Improvement Officer (QIO) on 15th August, with a request for information for [redacted] to be given as part of [redacted]. As Pear Tree West Road nursery was closed on 17th August, this information was handed into East Lothian Council HQ, John Muir House, by a member of West Road staff at 8.55am for collection by our QIO.

It is noted that the documents received did not include all former risk assessments, any positive support plans or strategies to support the developing needs [redacted] with evaluations and next steps. [redacted] plans, which had been written [redacted] by health and ELC education to inform planning, were in the folder but had not been used consistently across the staff team to ensure impact.

From the above, it is concluded that there are insufficient suitable policies and procedures in place across the Bright Stars Nurseries group operating in East Lothian to deal with the concerns that have been raised regarding the Equality Act 2010. The Council therefore has not been able to gather any evidence that this type of action would not be taken again in any one of Bright Stars Settings across East Lothian (as confirmed by your representative on 11th August), a situation that would be unacceptable to the Council.

3. Compliance with the National Standard - Organisational Leadership

The National Standard requires settings that wish to become funded providers of Early Learning and Childcare to work in genuine partnership with the local authority. East Lothian Council has been able to derive only limited assurance that this is the approach of Bright Stars Nurseries. In particular, I would draw your attention to the following:

Your management team have misrepresented the position of East Lothian Council to parents/carers and others. Despite raising these concerns with you at the time, Council Officers have not received any assurance that this inaccurate and misleading position has been rectified with an accurate account of the Council's role.

Furthermore, we have received correspondence from parents and carers who have expressed concern to us about your representations that the Council has not provided your settings with appropriate support around children with Additional Support Needs. In particular your communications to parents through your app and in termination of contract correspondence to families. For example in correspondence provided to us:

"You will also be aware that the local authority has failed to support with 1:1 funding as sought, despite an application for funding to provide that being submitted to East Lothian Council with input from the nursery in February 2022."

This is incorrect as

"[.....] as you know, we were informed at a meeting with East Lothian Council in June 2022 that there would be no funding available for additional support at West Road, even if we were able to recruit appropriate staff to fill the role

This statement is also incorrect as exceptional needs funding had been allocated.

Also in correspondence through the parent app:

"The Local Authority has withdrawn its funding for children with Additional Support Needs."

Each of these statements is inaccurate. assured us that new statements had been issued but despite asking for the revised statement to be shared with the Council, none has been forthcoming. We note from the most recent correspondence from your solicitor received on 26th August that this statement is still not available. The Council can only conclude that a new statement was never issued leaving the reputation of the Council at stake. This further reinforces that lack of genuine partnership working and deliberate attempts to bring the Council in to disrepute.

We also highlighted at the said meeting, our concerns in relation to Bright Stars' lack of communication with East Lothian Council, which has continued following the meeting,

including the communication surrounding the various documentation requested by the Council in an email of 15 August. In addition there are further concerns in respect of your organisation's poor communications arising from the recent e-coli outbreaks.

Summary

In summary, East Lothian Council has very little confidence in Bright Stars Nurseries Group's ability to meet the National Standard as set by the Scottish Government and therefore to comply with the terms of any new contract put in place by East Lothian Council.

As guarantors of quality for the National Standard, the local authority has a key role in ensuring each child is receiving a high quality Early Learning and Childcare experience during their funded hours. For the reasons as set out above, we do not consider it possible for your organisation to remain and continue as a funded provider of 1140 hours. We therefore provide you with notice that as of Friday, 30 September 2022, East Lothian Council will cease all funding of 1140 hours for eligible children attending nurseries operated by the Bright Stars Nurseries Group. We intend to inform those parents today for whom we have contact details and that receive a funded place for their child that they will be unable to access funding for places at any nursery operated by the Bright Stars Nurseries Group from the 30th September 2022– you should also notify parents and staff. The extended date of 30th September is to allow time for parents/carers to find alternative funded Early Learning and Childcare arrangements should they choose to do so.

Please note that the Council may review this position on application after a period of 12 months, should there be evidence of improvement that is substantiated by the Care Inspectorate in respect of any of your establishments.

Yours sincerely

Head of Education