

**Meeting with Bright Stars and East Lothian Council**  
**Thursday 11 August 2022 2.30pm**  
**John Muir House, Haddington**

**Present:** , Executive Director for Education and Children’s Services ( )  
 Head of Education (Chair) (  
 Quality Improvement Officer, Early Years (  
 Principal Officer, Business Unit  
 Solicitor, ELC  
 , Team Manager, Care Inspectorate  
 Managing Director for Bright Stars  
 Solicitor,

Minutes: , PA Service Administrator, East Lothian Council

<b>1.</b>	<b>Welcome and Introductions</b>	<b><u>ACTION</u></b>
	opened the meeting with introductions, meeting agenda and organisation.	
<b>2.</b>	<b>Purpose of the meeting</b>	
	<p>set out the purpose of the meeting:</p> <ul style="list-style-type: none"> <li>• To outline current concerns</li> <li>• To consider whether or not East Lothian Council (ELC) will continue to fund 1140 hours in Pear Tree Nursery (West Road) via a contract, with a wider implication about similar concerns emerging in other Bright Stars settings in East Lothian.</li> </ul> <p>asked if the meeting would be recorded. confirmed that the meeting would not be recorded but a minute of the meeting was being taken and would be distributed to all meeting attendees.</p>	<b>ELC</b>
<b>3.</b>	<b>Summary of Concerns</b>	
	<p>set out a summary of concerns:</p> <ul style="list-style-type: none"> <li>• Communication to families which suggests that East Lothian Council has not supported West Road following the ‘weak’ CI report.</li> <li>• Making isolated decisions for children and families without consulting appropriate, relevant professionals and families. These actions have not followed expected GIRFEC processes nor the expectations as outlined in the ELC contract.</li> <li>• No evidence communicated for Bright Stars isolated decision to end the contract for            or opportunities for discussion around</li> <li>• The use of language to communicate intentions to families namely ‘expulsion’.</li> <li>• Failure to amend and qualify the statement to families which stated that “East Lothian Council has withdrawn funding for children with ASN”.</li> </ul>	

4.	<b>Expectations</b>	
	<ul style="list-style-type: none"> <li>• Referred directly to most recent Pear Tree/ ELC 1140 contract.</li> <li>• Highlighted Criteria 6 – Inclusion - of the National Standard for settings to</li> </ul> <p>(1) comply with the duties under the Equality 2010 (touching on the requirement to reasonable adjustments for those with disabilities under this act and also the Disability Discrimination Act 1995, which has the same requirement) and</p> <p>(2) Making reasonable changes to the care and learning environment to ensure that a child’s additional support needs do not provide a barrier to them accessing a full range of experiences and meeting their individual needs.</p> <p>Covered the main terms which have been breached:-</p> <p>Clause 10</p> <ul style="list-style-type: none"> <li>• Settings applying the National Standard.</li> <li>• Requirement to work with Council to put in place an improvement plan and sharing with the Council the progress of the setting.</li> </ul> <p>Clause 9</p> <ul style="list-style-type: none"> <li>• Good or above rating by the care inspectorate</li> </ul> <p>Clause 15.3</p> <ul style="list-style-type: none"> <li>• Council’s Improvement Protocol and how this was not adhered to</li> </ul> <p>Clause 10- Criteria 6</p> <ul style="list-style-type: none"> <li>• In regards to the contracts terminated reasonable adjustments expected</li> <li>• Action plan in place for reasonable adjustments.</li> </ul>	
5.	<b>Care Inspectorate</b>	
	<p>Confirmed her representation at the meeting was purely as Manager overseeing the inspections of the nurseries in East Lothian, of which Pear Tree was one. Her team carried out a routine inspection on Pear Tree West Road and duly awarded the facility their current gratings. was present at the meeting as the regulatory body. The CI have no input into funding decisions between councils and funded partners.</p>	
6.	<b>Response from Bright Stars</b>	
	<p>responded to previous points and stated the current position of her Client.</p> <ul style="list-style-type: none"> <li>• Voiced her concerns with content and structure of the meeting, that in her view this was a one way conversation and thought it more productive to speak of what could be done for the remainder 96 children in regards to going forwards.</li> <li>• shared copies of an action plan with the group.</li> <li>• noted that her Client was fully aware that the nursery was awarded grading of weak from CI on all fronts, this is not being challenged.</li> <li>• Her client took over business 1st June, CI report was carried out prior to change of ownership.</li> </ul>	

- In her view, the specific points regarding the \_\_\_\_\_ should be addressed separately.
- \_\_\_\_\_ noted that in respect of Equalities legislation, the nursery's position is that they have acted in accordance with this legislation and was a matter that is not up to others but for the court to determine that position.

In response:

\_\_\_\_\_ asked for clarification on why there was no communication with ELC prior to the communication that went to \_\_\_\_\_ informing them their contracts were being terminated \_\_\_\_\_?

\_\_\_\_\_ responded that when \_\_\_\_\_ and \_\_\_\_\_ met previously they discussed funding for children with special needs.

\_\_\_\_\_ stated that specific funding had not been discussed at this meeting

\_\_\_\_\_ noted that the decision to 'expel' the named \_\_\_\_\_ took into account:

- The remaining children, stakeholders, staff's capability and skills set.

- We had already been informed there was no funding.

\_\_\_\_\_ noted that ELC learned about the company's decision through \_\_\_\_\_ and \_\_\_\_\_ would have expected to have been informed prior to the communication \_\_\_\_\_ t

\_\_\_\_\_ stated that she was disappointed and surprised that \_\_\_\_\_ did not share the information with ELC, she did acknowledge the need to meet/communicate with all parties.

\_\_\_\_\_ noted that she had emailed \_\_\_\_\_ when made aware of communication, asking for an urgent response but did not receive this.

- Company made no reference to exclusion of compulsion and did not use those words.
- Company was aware of clause 9 and nursery scored unsatisfactory care inspectorate report which could lead to termination of contract.
- She was not aware that the improvement protocol has been used here
- Loss of staff over last 9-12 months, 11 moving to ELC nurseries, in her view due to better rates of pay, which impacted the private nursery.
- Previously CI reports had been good, something clearly impacted the report.
- Loss of permanent manager on maternity leave, although role has been filled now with a permanent staff member.
- New owners were not aware of CI report before taking over the nursery group, they have tried to improve the provision
- Nursery could cope with ASN but have been required to provide a different level of care in \_\_\_\_\_

- Her Clients do not want another adverse report, action plan covers care, support environment, management and leadership.

sought clarification on whether was implying that the Council had not followed the improvement protocol to support the nursery.

commented that if ELC were in the middle of the protocol then that was acceptable. What concerned her was the suggestion that the funding was going to be immediately pulled.

- Noted that she would not comment on what said, and was not prepared to discuss it within this forum without present. contacted as QIO, despite both being on holiday, due to her serious concern around the leadership decision. The recollection of the conversation put forward by and recollection shared with are very different.
- The action plan handed over by to attendees as the Nursery's response to current concerns was written by ELC EL&CC Support Teacher, as part of the improvement protocol. This has taken the form of both long term overarching plan and short term planning.

thanked for highlighting the company's position. She addressed ELC Improvement Protocol, and noted that the ELC position was that the actions fell well short of minimum requirements. There was a lack of evidence that all reasonable adjustments were made, including were not given the opportunity to prior to the termination of their contract by Bright Stars.

noted that in her view, the Company had fulfilled its duties under the Equality Act.

noted that ELC has had significant difficulty in communicating with Bright Stars and non-reply to emails. Should East Lothian Council consider renewing any contract the following would need consideration:

- Identify lead contact and an alternative contact in regards communication purposes.
- Regular meetings between Bright Stars Management and relevant officers from ELC.
- to hold regular review meetings with ELC officers and go through the position of the action plan, as way of additional reassurance.
- requested the review meeting took place somewhere else rather than in the nursery.
- acknowledged improvements had not been implemented as quickly as company had wanted.
- said there was a need to support staff to become the best they could be, and to put all the children first.

also noted that:

- The manager returns from maternity leave in October.
- An additional depute manager will input to support, assist the nursery to move forward and improve to the same standards as other establishments within the company.
- The company doesn't want to re-brand the nurseries, but keep their heritage and their culture and enhance through managers.

asked to be able to clarify the position with regard to the takeover of the nursery:

- The purchase of Pear Tree legal entity has not changed; there has only been a change of directors.
- From the CI point of view, this is the only change is relevant directors and shares in the company's legal entity. If the group had been bought over then that would be a brand new company and would be required to re-register.
- Asked to clarify who the listed director/leadership contacts are for Pear Tree Nursery and share this directly with her. CI rely on information received by the company.

stated that she had listened to the steps being set out by the company and found it unacceptable that the had been 'expelled'. Other provisions had also experienced staffing issues but were still able to meet the National Standard.

sought clarification as to whether the CI inspection was triggered by the incident of

confirmed that CI inspectors follow scheduled inspections.

- Noted that she was unaware of role as it has never been communicated by the company.
- Relevant paperwork is still missing in relation to
  - health and safety reports, risk assessments, positive support plans etc. This was an expectation for all children, especially those within the

said she would locate missing paperwork and forward to

confirmed that:

- All three Pear Tree nursery managers attended GIRFEC training on 25 May 2022.
- This formed 3 hrs of bespoke training and including the importance of positive support plans for children.
- Expected nursery staff to bring knowledge/training to child planning meeting, and contribute to each child's developing bespoke plan.

stated that she felt communication had not been robust or transparent in regards to contacts within the nursery/company, some of the things in place was not as would have expected.

asked and if there were any other improvements they had planned, to give further reassurance to ELC of Bright Stars commitment to improve their service for children.

noted that they are planning:

- Investment in training of staff, staff and children support.
- Review resources and building structure and environment.
- Get buildings up to standard, moving it forward quickly.
- Use local businesses and community to support the nursery.
- Replace all the flooring, repair windows not opening.
- Stated that our relationship has not started well but would be good to improve and move forward, we want our provisions to be successful for the community.

- The company was very positive and committed to achieving goals.
- With regard to significant difficulties with [redacted], she thought this should be dealt with separately as it has happened and the situation has to be resolved between parent/children and Pear Tree. She thought it important not to cloud the judgment for the other users being supported.

[redacted] She noted that with regard to a review meeting, the company would be happy to do that.

asked [redacted] if she wished to make any comment about the current EColi outbreak at Church Street Nursery, acknowledging that wasn't the main purpose of the meeting but clearly is relevant to the discussion.

- Difficult to know where the EColi came from and acknowledged the environment of the nursery was very poor at present.
- Health protection professional bodies have been very supportive in trying to turn this around.
- Noted that that it seems it could have happened anywhere.

asked [redacted] if she had been in Church Street. [redacted] confirmed she hadn't and responded that she shouldn't 'unless she had a hazmat suit'

reminded [redacted] that children had been in that nursery only 2 days ago.

asked how often ELC teams visit the nurseries.

[redacted] confirmed that West Road is the biggest concern until this point, having received weak inspection report. [redacted] has been in weekly but has also had considerable telephone correspondence the Pear Tree.

asked [redacted] if she had any questions/comments

- Clarified that the contract ended on 31st July for all settings.
- This discussion is about the renewal of the contract.
- Sought clarity around the statement to parents where [redacted] had noted to parents that "we cannot offer places for ASN" – asked [redacted] to clarify if that was all children with ASN?

[redacted] noted that there are ASN children in their other settings, and they would try to support their needs.

asked for further clarification, for example, if a new child presented with ASN would the Pear Tree Group admit that child?

[redacted] responded that they would look at the child's needs and the skills of staff to see if the child's needs could be supported. She also noted that she would work with ELC and make sure everything was in place prior to the child starting but would need to take into account the other children and staff before deciding.

[redacted] then asked whether there could be a [redacted] situation in future whereby a child could be either excluded or not admitted.

responded that in her view there were so many variables, including how they manage to upskill the staff and their knowledge on how they can support the child. They would try and meet the needs of all children but that would be taking into account all involved.

asked for further clarification as to whether there would there be a policy decision to not take ASN children?

responded that they would hope to all come together to consider everything and would make the decision on whether to take ASN children but would want ELC to be part of that process.

asked about plans with regard to misinformation that went out to parents about ELC that could bring East Lothian Council in to disrepute.

stated that it was taken down. She noted that an amendment was sent out to parents

said that this had not been received by ELC and asked to send a copy of amended information sent out to parents to by return.

then noted that she is deeply concerned. This is not what we expect for our children in ELC, and the Council team has already provided significant support. She noted that we would not be making a decision this afternoon but would need to review the evidence provided and would then respond with our decision.

asked for clarification of what specifically was deeply concerned about?

responded that she was deeply concerned about all issues discussed. She noted that this is not the experience ELC has with its other funded providers.

requested the timescale of the decision refunding as she will need to communicate the outcome to parents?

confirmed that ELC would communicate clearly its expectation of the next steps but would need to give considerable thought to everything heard today.

asked when autumn funding starts.

confirmed it started 25th July.

asked if the contract is not renewed, would it be possible for the children that are funded to continue being funded from 25th July - 18th August.

confirmed that should the decision be made not to renew the contract then funding would continue to cover those dates.

thanked and for coming to meet and for their contributions. She confirmed that ELC will communicate its decision in due course.

ELC

### **Actions**

- Minutes of the meeting to be sent to meeting attendees.
- Personal Plans/All About Me
- All historic and current risk assessments, systematic evidence of strategies put in place over time and how these have been evaluated to inform next steps for individualised support. This should also include an individualised Positive Support Plan

	<ul style="list-style-type: none"><li>• Evidence that Bright Stars statement to families has been sent out clearly stating that ELC has not withdrawn funding for children with ASN.</li><li>• ELC will communicate its decision on contract renewal in due course.</li></ul>	
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