

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk and Scrutiny Committee
DATE	20 February 2025
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Internal Audit Report AC2511 – ELC Funded Provider Places
REPORT NUMBER	IA/AC2511
DIRECTOR	N/A
REPORT AUTHOR	Jamie Dale
TERMS OF REFERENCE	2.2

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the planned Internal Audit report on ELC Funded Provider Places.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

3. CURRENT SITUATION

- 3.1 Internal Audit has completed the attached report which relates to an audit of ELC Funded Provider Places.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

7. RISK

7.1 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are detailed in the resultant Internal Audit reports. Recommendations, consistent with the Council's Risk Appetite Statement, are made to address the identified risks and Internal Audit follows up progress with implementing those that are agreed with management. Those not implemented by their agreed due date are detailed in the attached appendices.

8. OUTCOMES

8.1 There are no direct impacts, as a result of this report, in relation to the Council Delivery Plan, or the Local Outcome Improvement Plan Themes of Prosperous Economy, People or Place.

8.2 However, Internal Audit plays a key role in providing assurance over, and helping to improve, the Council's framework of governance, risk management and control. These arrangements, put in place by the Council, help ensure that the Council achieves its strategic objectives in a well-managed and controlled environment.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	An assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. As a result, there will be no differential impact, as a result of the proposals in this report, on people with protected characteristics.
Privacy Impact Assessment	Not required

10. BACKGROUND PAPERS

10.1 There are no relevant background papers related directly to this report.

11. APPENDICES

11.1 Internal Audit report AC2511 – ELC Funded Provider Places

12. REPORT AUTHOR CONTACT DETAILS

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Internal Audit

Assurance Review of ELC Funded Provider Places

Status: Final

Date: 18 December 2024

Risk Level: Cluster

Report No: AC2511

Assurance Year: 2024/25

Net Risk Rating	Description	Assurance Assessment
Moderate	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.	Reasonable

Report Tracking	Planned Date	Actual Date
Scope issued	30-Aug-24	30-Aug-24
Scope agreed	06-Sep-24	03-Sep-24
Fieldwork commenced	16-Sep-24	18-Sep-24
Fieldwork completed	11-Oct-24	25-Oct-24
Draft report issued	01-Nov-24	01-Nov-24
Process owner response	22-Nov-24	13-Nov-24
Director response	29-Nov-24	18-Dec-24
Final report issued	06-Dec-24	18-Dec-24
ARS Committee	20-Feb-25	

Distribution	
Document type	Assurance Report
Directors	Eleanor Sheppard, Executive Director – Families and Communities
Process Owner	Louise Beaton, Service Manager
Stakeholders	Shona Milne, Chief Officer – Education and Lifelong Learning
	Fiona Lawrie, ELC Locality Lead Officer
	Helen Sherrit, Finance Partner
	Alison Johnstone, Finance Development Officer
	Andy MacDonald, Executive Director – Corporate Services
	Vikki Cuthbert, Interim Chief Officer – Governance*
Final Only	Jonathan Belford, Chief Officer – Finance
	External Audit*
Lead auditor	Agne McDonald, Auditor

1 Introduction

1.1 Area subject to review

The Council has a statutory obligation under the Children and Young People (Scotland) Act 2014, as modified by the Children and Young People (Scotland) Act 2014 (Modification) Order 2021, to provide 1,140 hours per annum of funded Early Learning and Childcare (ELC) to all three and four-year olds, and eligible two-year olds. Early Learning and Childcare (ELC) may be provided within a local authority nursery or by an ELC Funded Provider (private nursery, parent-led playgroup, third sector provider or childminder).

The Scottish Government's approach to ELC entitlement is underpinned by a National Standard that all providers delivering funded hours must meet, regardless of whether they are in the public, private or third sector, or childminders. The National Standard is aligned to the guiding principles of quality, flexibility, accessibility, and affordability. It is also underpinned by the regulations in the Public Services Reform (Scotland) Act 2010 which apply to all care services across Scotland, including day care of children and childminding settings.

In June 2024, there were 2,981 children accessing ELC provision at one of the Council's 53 nursery settings and 1,764 children accessing ELC at one of the Council's 105 ELC Funded Providers (including 63 childminders). The estimated annual expenditure for 2024/25 to ELC Funded Providers to deliver ELC provision is £12m.

1.2 Rationale for review

The objective of this audit is to ensure ELC commissioned places requirements are being delivered and that adequate control is exercised over expenditure. This audit has been included in the 2024/25 Internal Audit plan due to the statutory requirement to deliver ELC and the material value of payments to externally commissioned ELC Funded Providers.

This area was last reviewed in December 2017 in Internal Audit report AC1815. Recommendations were made to enhance written procedures; ELC Funded Provider onboarding controls; pupil attendance monitoring; and payment control.

This is the first time allowances have been reviewed as a standalone audit. It has been included in the agreed Internal Audit plan for 2024/25 due to the statutory requirements related to such payments and the risk of reputational damage in the event payments are made to ineligible applicants. Traditionally, these audits would be conducted individually but, through discussions with Management, it has been identified that there could benefit to looking at 'Allowances' on the whole. As such the review will be more strategic in nature but will look provide wider assurance.

1.3 How to use this report

This report has several sections and is designed for different stakeholders. The executive summary (section 2) is designed for senior staff and is cross referenced to the more detailed narrative in later sections (3 onwards) of the report should the reader require it. Section 3 contains the detailed narrative for risks and issues we identified in our work.

2 Executive Summary

2.1 Overall opinion

The full chart of net risk and assurance assessment definitions can be found in Appendix 1 – Assurance Scope and Terms. We have assessed the net risk (risk arising after controls and risk mitigation actions have been applied) as:

Net Risk Rating	Description	Assurance Assessment
Moderate	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified, which may put at risk the achievement of objectives in the area audited.	Reasonable

The organisational risk level at which this risk assessment applies is:

Risk Level	Definition
Cluster	This issue / risk level impacts a particular Service or Cluster. Mitigating actions should be implemented by the responsible Chief Officer.

2.2 Assurance assessment

The level of net risk is assessed as **MODERATE**, with the control framework deemed to provide **REASONABLE** assurance over the Council's approach to ELC Funded Provider places.

The Council has a statutory obligation under the Children and Young People (Scotland) Act 2014, as modified by the Children and Young People (Scotland) Act 2014 (Modification) Order 2021, to provide 1,140 hours per annum of funded Early Learning and Childcare (ELC) to all three and four-year olds, eligible two-year olds and eligible five-year-olds who have deferred entry to school. Early learning and childcare may be provided within a local authority nursery or by an ELC Funded Provider (private nursery, playgroup, Gaelic provision, outdoor provision, or childminder).

In June 2024, there were 2,981 children accessing ELC provision at one of the Council's 53 nursery settings and 1,764 children accessing ELC at one of the Council's 105 ELC Funded Providers (including 63 childminders).

The budgeted ELC Funded Provider annual expenditure for 2024/25 is £12.7m and the funding rates available to ELC Funded Providers are as follows:

ELC Funding	Rates per hour / meal	
	Childminder	Other ELC Provision
3- to 5-year-olds	£6.17	£6.27
2-year-olds	£6.49	£6.92
Meals	£3.00 per meal	

Reasonable assurance was available over the following areas reviewed:

- Statutory Obligations** – Clear guidance is in place on the Council's website for applying for funded ELC places and for becoming a funded provider. This includes the Council's ELC Admissions Policy that helps ensure the Council meets its duty to make available 1,140 hours per annum of funded Early Learning and Childcare (ELC), by clearly defining ELC entitlement and the admissions process for Council staff and parents / carers. The Council has also met its statutory duty to consult with parents and carers on ELC delivery most recently in 2023, which informed the ELC Delivery Plan for 2024/26 required by the Children and Young People (Scotland) Act 2014, which was approved by Education and Children's Services Committee. The delivery plan has also been published on the Council's website as required by the C&YP (Scotland) Act 2014.

- **Care Inspectorate Registration** – A sample of twenty-five ELC Funded Providers (eleven childminders and fourteen private nurseries) reviewed during the audit were all (100%) registered with the Care Inspectorate as required.
- **Payment of Sustainable Rate** – In line with Scottish Government guidance on delivering sustainable funding rates to ELC Funded Providers in 2024/25, required for the Real Living Wage, the Council increased ELC Funded Provider rates by 7.6% when compared to the 2023/24 rates.
- **Quality Assurance** – The National Standard requires Care Inspectorate quality evaluations to be good (4) or better on themes that relate to quality of Staffing, Management and Leadership. When ELC Funded Providers undergo a Care Inspectorate inspection and quality falls below National Standard requirements, the Service issues a Service Improvement Plan (SIP) notice. Four (57%) of seven ELC Funded Providers with recent inspection grades below National Standard requirements were reviewed and all (100%) had SIP notices issued with site visits and related support evident.
- **Nursery Site Visits** – Quality assurance site visits are required to be undertaken three times annually for all ELC funded nurseries. A sample of five ELC Funded Providers whose last Care Inspectorate reports were satisfactory all had been visited as required.
- **Support for Childminders** – The Council procured the Services of the Scottish Childminding Association (SCMA) for two years to March 2026 to help recruit and retain childminders, plan and source childminder training and development, and provide quality assurance support to ensure childminders meet the National Standard. The Service is receiving updates on SCMA performance for contract management purposes.

However, the review identified some areas of weakness where enhancements could be made to strengthen the framework of control, specifically:

- **Written Procedures and Guidance** – Payment control responsibilities, new ELC Funded Provider onboarding processes and Service Improvement Plan procedures have not been formalised, risking business continuity, inadequate payment control, new providers not meeting the necessary minimum requirements and Service Improvement Plans not being formalised to address poor Care Inspectorate outcomes.
- **Contractual Arrangements** – For the sample of twenty-five ELC Funded Providers (eleven childminders and fourteen private nurseries) reviewed, 23 (92%) had no evidence of ELC contract terms and conditions being agreed to by the ELC Funded Providers and the two contracts that were signed expired in August 2024. The Service advised that they are currently working with the Legal Team to draw up contract variations/extensions following Finance and Resources Committee approval of contract extensions in August 2024, and that they are due to be issued by the end of October 2024. However, this omission coupled with the fact ELC Funded Providers are paid in advance on a termly basis, exposes the Council to a risk of contractual disputes and potential financial loss should an ELC Funded Provider not deliver services as required.
- **Data Protection** – ELC Funded Providers are required to agree to the Council's Information Sharing Protocol (ISP), which forms part of the ELC contract, to help ensure data protection legislation is adhered to. However, agreement was not in place at the time of review for a sample of 25 ELC Funded Providers as described above. Where ISPs are not agreed there is a greater risk pupil personal data will be mismanaged by the respective provider when collected, processed, stored, or shared, increasing the risk of reputational damage for the Council.
- **ELC Funded Provider Financial Assessments** – The National Standard states: *“Settings wishing to deliver the funded entitlement must be able to demonstrate that they are financially viable providers”*. It goes on to explain how this should be demonstrated i.e. by providing relevant information supporting financial viability e.g. annual accounts / forecasts, a business continuity plan / childminder contingency plan, use of financial viability checks by Care Inspectorate for new settings on probationary period. However, financial sustainability checks for ELC Funded Providers were absent for the procurement exercise in August 2020 when 1,140 hours was introduced and there are no arrangements for the completion of these checks for contract extensions. This increases the risk of financial loss and reputational damage to the Council should any providers become insolvent.

- **Bank Account Evidence** – Two (8%) of a sample of twenty-five funded ELC Funded Providers reviewed had not been paid to the bank account submitted by the supplier. The Service advised one ELC Funded Provider's payment was paid to the bank account of another ELC Funded Provider owned by the same individual. The other payment was to a defunct supplier account (single customer had two supplier accounts) resulting in a duplicate payment to the supplier and an overpayment of approximately £4k for which Finance advise a refund has now been requested. In addition, bank account evidence was unavailable for eight (32%) ELC Funded Providers reviewed. Where payments are not made to the correct bank account or are unsupported, this risks financial loss for the Council or cashflow difficulties for ELC Funded Providers and reputational damage. A recommendation has already been made as part of Internal Audit AC2407 for Finance to standardise payee identification and bank account evidence requirements.
- **Prepayments** – Currently, ELC Funded Providers receive termly payments in advance. Whilst paying in advance is in line with Scottish Government guidance paying termly in advance presents increased risk of financial loss to the Council (e.g. 11 individual advance termly payments of more than £100k to different ELC Funded Providers exceeding £1.5m in total) and could be managed by more frequent smaller value advance payments where appropriate.
- **Payment Approval Delegated Authority** – Whilst the majority of payments reviewed were authorised by an officer with the authority to do so, two (8%) were not in breach of the Council's Scheme of Governance, since they exceeded the officer's delegated payment authorisation value of £150k i.e. one payment was for £163k and another for £287k to the respective nurseries being paid. Where payments are made without being approved by an officer with the necessary authority, this reduces scrutiny and risks payment error, potentially fraud and financial loss.
- **Payment Accuracy** – A sample of fifty payments were reviewed. Whilst 90% of 50 payments were confirmed as accurate, payments accuracy could not be verified for payments related to five (10%) children relating to four different ELC Funded Providers. One overpayment of £551 which the Service has requested a refund for from the relevant ELC Funded Providers; and an underpayment of £147 to an ELC Funded Provider relating to two different children due to an incorrect hourly rate used for the ELC Funded Provider. In addition, two meals related payments totalling £354 (both eligible 2-year-olds) for 118 meals were unsupported and a backdated payment for a meal rate uplift for another ELC Funded Provider was underpaid by £24.77 (incorrect number of meals used for calculation).
- **ELC Budget monitoring** – Quarterly budget monitoring meetings are conducted with Finance, including the Chief Officer – Education and Lifelong Learning and the Service Manager for Early Years. Agenda items include updates on the latest financial position, key business issues (e.g. sustainable funding rate), and relevant milestones (e.g. savings progress. The most recent meeting at the time of the review was held in August 2024 with the next one scheduled for November 2024. However, as at 31 July 2024 the ELC Expansion of 1,140 Hours budget for 2024/25 was forecast to exceed the budget of £12.7m by £1.3m (10%), relating to a significant under recovery of income. Whilst the Service advises this pressure is not related to ELC Funded Providers and instead relates to charges for spare capacity at Council run nurseries, there was no plan to address this at the time of review, risking a material reduction in Council reserves.

Recommendations have been made to address the above points, including formalising Service procedures and enhancing the system of control over contractual arrangements, including in relation to ISPs. In addition, recommendations were made to improve bank account monitoring arrangements; complete necessary financial viability assessments; review prepayment arrangements to mitigate the risk of financial loss; enhance the system of control over payment accuracy; and establish a plan to address the forecast pressure due to under recovery of income.

2.3 Severe or major issues / risks

Issues and risks identified are categorised according to their impact on the Council. The following are summaries of higher rated issues / risks that have been identified as part of this review:

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
1.2	<p>Contracts – For the sample of twenty-five ELC Funded Providers (eleven childminders and fourteen private nurseries) reviewed, 23 (92%) had no evidence of ELC contract terms and conditions being agreed to by the ELC Funded Providers and the two contracts that were signed expired in August 2024.</p> <p>The Service advised that they are currently working with the Legal Team to draw up contract variations/extensions, and that they are due to be issued by the end of October 2024.</p> <p>However, this omission coupled with the fact ELC Funded Providers are paid in advance on a termly basis, exposes the Council to a significant risk of contractual disputes and potential financial loss should a ELC Funded Provider not deliver services as required.</p> <p><u>Data Protection</u></p> <p>ELC Funded Providers are required to agree to the Council's Information Sharing Protocol (ISP), which forms part of the ELC contract, to help ensure data protection legislation is adhered to. However, agreement was not in place at the time of review for a sample of 25 ELC funded ELC Funded Providers as described above. Where ISPs are not agreed there is a greater risk pupil personal data will be mismanaged by the respective ELC Funded Provider when collected, processed, stored, or shared, increasing the risk of reputational damage for the Council.</p> <p><u>Contracts Register</u></p> <p>It is a statutory requirement for all regulated contracts to be published in the Council's Contracts Register and the Council's Procurement Regulations state:</p> <p><i>"It is responsibility of the Delegated Procurer to ensure that details of all contracts with a Contract Value equal to or greater than £10,000 (supplies/services or works) or £4.5m (concessions) are included within the Contracts Register and that copies of all concluded contracts are available to Commercial and Procurement as required."</i></p> <p>At the time of review the Contracts Register had only been updated to reflect a planned ELC funded ELC Funded Provider procurement for 2024/25 and this had not been published on the live Contracts</p>	Yes	Major	11

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	Register visible to the public, as required by the Procurement Reform (Scotland) Act 2014.			
1.5	<p>Budget Monitoring – The ELC Funded Provider budget for 2024/25 is material at £12.7m and therefore it is essential that this budget is adequately monitored and controlled.</p> <p>Quarterly budget monitoring meetings are being conducted with Finance, including the Chief Officer – Education and Lifelong Learning and the Service Manager for Early Years, which is positive. Agenda items include updates on the latest financial position, key business issues (e.g. sustainable funding rate), and relevant milestones (e.g. savings progress).</p> <p>However, as at 31 July 2024 the ELC Funded Provider spend for 2024/25 was forecast to exceed the budget of £12.7m by £1.3m (10%). The £1.3m pressure relates to a significant under recovery of income mainly related to budgeted income contributions of £1m from Aberdeenshire Council with the remaining £300k relating to “Childcare Income” from selling surplus ELC places which is currently being piloted in one Local Authority ELC setting.</p> <p>The Service advise that the £1m forecast is not directly related to ELC Funded Provider spend /budget since it is associated with the wider Early Years budget, based on earlier expectations of how the expansion of ELC / 1140 hours would be delivered across both Local Authorities – Aberdeen City and Aberdeenshire Councils i.e. relates to net out of authority nursery placement charges between Aberdeen City and Aberdeenshire Councils.</p> <p>However, it could also be seen that these same pressures existed in 2023/24 and were therefore foreseeable.</p> <p>In addition, should there not be a compensating saving, this £1.3m under recovery will result in a material reduction in the Council’s reserves.</p>	Yes	Major	15

2.4 Management response

The Service welcomes the assurance provided through this review and are overall satisfied with the Net Risk Rating of Moderate and Assurance Assessment of Substantial. We appreciate the thorough

and constructive feedback from the Audit team and we are committed to implementing the recommendations to improve service delivery.

3 Issues / Risks, Recommendations, and Management Response

3.1 Issues / Risks, recommendations, and management response

Ref	Description	Risk Rating	Moderate
1.1	<p>Written Procedures and Guidance – Comprehensive written procedures and guidance, which are easily accessible by all members of staff can reduce the risk of errors and inconsistency. They provide management with assurance correct and consistent instructions are available, especially in the event of an experienced employee being absent or leaving.</p> <p>The Service has implemented a funding process that outlines the steps for reviewing and uploading pupil census “trackers” submitted by ELC Funded Providers into the ELC Funded Provider Payment database for payment calculations.</p> <p>However, the payment control responsibilities, including necessary segregation of duties in preparation, checking / reconciliation, and approval of payment files, prior to onward submission to Finance for payment, is not formalised in a procedure. This risks payment error and financial loss to the Council or ELC Funded Providers, and potentially fraud, should adequate scrutiny and approval of payments not take place.</p> <p>In addition, there is no clear guidance or checklist for evaluating new ELC Funded Provider applications, risking new ELC Funded Provider being onboarded without meeting the minimum requirements e.g. in relation to the National Standard, insurance etc.</p> <p>In addition, there are no clear procedures describing new ELC Funded Provider onboarding processes or procedures covering Service Improvement Plan processes, risking new providers failing to meet the National Standard and other contractual requirements and Service Improvement Plans not being formalised to address existing ELC Funded Provider receiving poor Care Inspectorate inspection outcomes.</p>		
IA Recommended Mitigating Actions			
<p>a) The Service should formalise payment control responsibilities by establishing clear procedures describing segregated duties for preparation, reconciliation, review, and approval of ELC Funded Provider payments prior to submission of payment files to Finance for processing.</p> <p>b) The new ELC Funded Provider application review process should be formalised.</p> <p>c) Service Improvement Plan procedures should be formalised including expectations in terms of timeliness of issuing SIP notices, support to be delivered and improvement plan monitoring arrangements.</p>			
Management Actions to Address Issues/Risks			
<p>a) <i>The Service will formalise payment control responsibilities by establishing clear procedures for approval and processing of payments.</i></p> <p>b) <i>The Service will formalise new provider application review process.</i></p> <p>c) <i>Agreed</i></p>			
Risk Agreed	Person(s)	Due Date	
a) and b) Yes	a) and b) Service Manager – Early Years	a) and b) 30 May 2025	
c) Yes	c) Service Manager – Early Years	c) Implemented	

Ref	Description	Risk Rating	Major
1.2	<p>Procurement – Any provider of early learning and childcare (ELC) that is based in Aberdeen, and meets the criteria set out in the National Standard for ELC Funded Providers, can apply to become an ELC Funded Provider by completing the ELC Expansion 2020 Funded Provider Application Form available on the Council's website. If the Services approves the application, they e-mail the offer and ELC contract to the provider. The Service advises that once confirmation of acceptance of the Council's ELC contractual terms and conditions is received from the provider, funded ELC services can begin.</p> <p>For a sample of twenty-five ELC Funded Providers reviewed where payments were made during 2024/25 (11 childminders and 14 private nurseries), the contract acceptance e-mails from the providers were available for two (8%) only and both contracts had expired in August 2024 at the time of review. Whilst the Service advised that contracts extensions were approved by the Finance and Resources Committee on 7 August 2024, where contracts are not signed by ELC Funded Providers, and contractual requirements agreed this increases the risk of contractual dispute e.g. should a provider fail to meet the National Standard requirements.</p> <p><u>Data Protection</u></p> <p>ELC Funded Providers are required to agree to the Council's Information Sharing Protocol (ISP), which forms part of the ELC contract, to help ensure data protection legislation is adhered to. However, agreement was not in place at the time of review for a sample of 25 ELC Funded Providers as described above. Where ISPs are not agreed there is a greater risk pupil personal data will be mismanaged by the respective provider when collected, processed, stored, or shared, increasing the risk of reputational damage for the Council.</p> <p><u>Contract Extensions</u></p> <p>The Finance & Resources Committee approved a business case for an extension to the ELC Funded Provider contract for 2024/25 for an estimated value of £12.7m in August 2024. Following this approval, the Service has prepared new contracts, which are due to be issued to existing ELC Funded Providers by the end of October 2024. A recommendation has been made to track progress.</p> <p><u>Contracts Register</u></p> <p>It is a statutory requirement for all regulated contracts to be published in the Council's Contracts Register and the Council's Procurement Regulations state:</p> <p><i>"It is responsibility of the Delegated Procurer to ensure that details of all contracts with a Contract Value equal to or greater than £10,000 (supplies/services or works) or £4.5m (concessions) are included within the Contracts Register and that copies of all concluded contracts are available to Commercial and Procurement as required."</i></p> <p>However, at the time of review the Contracts Register had only been updated to reflect a planned procurement for 24/25 (not live visible contract on published Contracts Register) and whilst the total contract value was present the list of related ELC Funded Providers was not, as required by the Procurement Reform (Scotland) Act 2014.</p> <p>IA Recommended Mitigating Actions</p> <p>a) The Service should establish a system of control to ensure ELC contractual arrangements are formalised before ELC services are funded by the Council. This should include agreement to Information Sharing Protocols as part of agreement of ELC contracts.</p> <p>b) The published Contracts Register should be updated to reflect the ELC contract and the related ELC Funded Providers.</p> <p>Management Actions to Address Issues/Risks</p>		

Ref	Description	Risk Rating	Major
	<i>We will establish a system of control to ensure ELC contractual arrangements are formalised and published on the Contracts Register.</i>		
	Risk Agreed	Person(s)	Due Date
	Yes	Service Manager – Early Years	March 2025

Ref	Description	Risk Rating	Moderate
1.3	<p>Financial Sustainability Checks – The Funding Follows the Child and the National Standard for ELC Providers Operating Guidance states:</p> <p><i>“Settings wishing to deliver the funded entitlement must be able to demonstrate that they are financially viable providers”, and goes on to state:</i></p> <ul style="list-style-type: none"> • Existing settings <i>delivering the funded entitlement must ensure that they are able to demonstrate – when required – that their business model continues to be financially viable through the provision of appropriate financial information, for example, accounts and business forecasts / projections. A Business Continuity Plan must also be in place.</i> • Newly registered settings <i>wishing to deliver the funded entitlement will have had a financial viability check completed by the Care Inspectorate upon registration and this can be used as evidence of business sustainability in the funded provider probationary status period. When the probationary funded status is under review, the criteria for existing settings will apply.</i> • Childminding settings <i>wishing to deliver the funded entitlement will be expected to have a contingency plan in place, detailing arrangements for the children in their care should they stop providing the service e.g. if the service was temporarily unavailable due to illness or the service was closed permanently.</i> <p>However, financial sustainability checks for ELC Funded Providers were absent for the procurement exercise in August 2020 when 1,140 hours was introduced and there are no arrangements for the completion of these checks for contract extensions. This increases the risk of financial loss and reputational damage to the Council should any ELC Funded Providers become insolvent.</p> <p>IA Recommended Mitigating Actions</p> <p>The Service should establish a system of control over ELC Funded Providers financial sustainability, and this should be applied to both newly procured ELC Funded Providers and extensions of contracts with existing providers.</p> <p>Management Actions to Address Issues/Risks</p> <p><i>We will establish a system of control over ELC provider financial sustainability.</i></p> <p>Risk Agreed</p> <p>Yes</p> <p>Person(s)</p> <p>Service Manager – Early Years</p> <p>Due Date</p> <p>March 2025</p>		

Ref	Description	Risk Rating	Moderate
1.4	<p>Payments – The ELC Funded Provider budget for 2024/25 is £12m therefore it is essential that an adequate system of payment control is in place to avoid material payment error and related financial loss to the Council or ELC Funded Providers, and to avoid fraud.</p> <p><u>Bank Account Evidence</u></p> <p>As part of the new ELC Funded Provider onboarding process, the Service issues an FST99 form for the provider to complete so future payments can be made. This includes details of the bank account to be used for making payments.</p> <p>Whilst most payments were paid to the correct bank account detailed on the FST99 forms, two (8%) of a sample of twenty-five ELC Funded Providers reviewed had not been paid to the bank account submitted by the supplier.</p> <p>The Service advised one provider's payment was paid to the bank account of another ELC Funded Provider owned by the same individual (i.e. another funded private nursery part of same ELC private nursery group).</p> <p>The other payment was linked to a £4k overpayment identified by Internal Audit as part of testing for this review.</p> <p>The Accounts Payable (AP) team confirmed the existence of two creditor accounts for the same establishment. This error arose from inaccurate information provided in the FST99 form submitted by the provider in August 2024. Instead of E&LL recognising this as an amendment to an existing supplier, the Service mistakenly identified it as a new supplier. Consequently, duplicate payments of £4,413 each were made to both accounts. AP has confirmed that a refund has been requested.</p> <p>In addition, bank account evidence was unavailable for eight (32%) ELC Funded Providers reviewed.</p> <p>Where payments are not made to the correct bank account or are unsupported this risks financial loss for the Council, cashflow difficulties for ELC Funded Providers and reputational damage. A recommendation has already been made as part of Internal Audit AC2407 for Finance to standardise payee identification and bank account evidence requirements.</p> <p><u>Prepayments</u></p> <p>Currently, ELC Funded Providers receive termly payments in advance. This practice poses a risk of financial loss if providers become insolvent before delivering the services that have been paid for (e.g. 11 individual advance termly payments of more than £100k to different ELC Funded Providers exceeding £1.5m in total).</p> <p>Whilst paying in advance is in line with Scottish Government guidance paying termly in advance presents increased risk of financial loss to the Council and could be managed by more frequent smaller value advance payments where appropriate.</p> <p><u>Payment Approval Delegated Authority</u></p> <p>The Council's List of Officer Powers states under the General Delegations to Chief Officers [Chief Officers have the power]:</p> <p><i>"To approve purchase orders and authorise payments; and to approve officer signatory lists and officer authorisation levels in relation to the raising and approval of purchase orders and the authorisation of payments."</i></p> <p>Whilst most payments reviewed were authorised by an officer with the authority to do so, two (8%) of 25 reviewed were not in breach of the Council's Scheme of Governance, since they exceeded the officer's delegated payment authorisation value of £150k from the Chief Officer – Education and Lifelong Learning i.e. one payment was for £163k and another for £287k to the respective nurseries being paid. Where payments are made without being approved by</p>		

Ref	Description	Risk Rating	Moderate
	<p>an officer with the necessary authority, this reduces scrutiny and increases the risk of payment error, fraud and financial loss.</p> <p><u>Payment Accuracy</u></p> <p>A sample of fifty payments was reviewed. Whilst 90% were confirmed as accurate, payments accuracy could not be verified for payments related to five (10%) children relating to four different ELC Funded Providers.</p> <p>One overpayment of £551 which the Service has requested a refund for from the relevant ELC Funded Provider; and an underpayment of £147 to an ELC Funded Provider relating to two different children due to an incorrect hourly rate used for the provider. In addition, two meals related payments totalling £354 (both eligible 2-year-olds) for 118 meals were unsupported.</p> <p>Also, a backdated payment for a meal rate uplift to one ELC Funded Provider relating to all children was underpaid by £24.77 (incorrect number of meals used for calculation).</p> <p>Whilst payment accuracy was relatively high where payment errors are made this risks financial loss to the Council or ELC Funded Providers and reputational damage.</p>		
<p>IA Recommended Mitigating Actions</p>			
<p>a) A system of enhanced control over bank account details used for ELC Funded Provider payments should be established where possible.</p> <p>b) Prepayments should be reviewed to ensure payment timing and frequency results in an acceptable risk of financial loss should an ELC Funded Provider become insolvent. This determination should be approved by the Chief Officer – Finance and the Chief Officer – Education and Lifelong Learning.</p> <p>c) The cause of payment errors should be investigated, and a system of control introduced to prevent reoccurrence of these errors in future.</p> <p>d) Early Years should ensure payments are approved by an officer with the authority to do so.</p> <p>e) Accounts Payable should review existing suppliers to ensure there are no duplicates and establish new controls to avoid duplicate suppliers being created to avoid duplicate payments such as the one identified.</p>			
<p>Management Actions to Address Issues/Risks</p>			
<p><i>We will establish a system of enhanced control over bank account details used for ELC funded provider payments and will investigate cause of payment errors and introduce a system of control to prevent reoccurrence of this very small number of errors in future.</i></p> <p><i>We will continue to pay Funded Providers in advance, in line with Scottish Government guidance to support sustainability of the private and voluntary ELC sector. We will review payment frequency and assess the potential impact on our Funded Providers and our service delivery to determine risk. However, there is no guarantee that payment frequency will change as a result.</i></p> <p><i>We will ensure that payments are approved by an officer with the appropriate level of authority. This is, in the main, delegated by Chief Officer - E&LL, to ELC Administrator. However, we note the £150,000 value which requires Chief Officer authorisation.</i></p> <p>e) Finance – A NXG payment error detection system will be introduced as part of the upgraded Creditors / Ledger system which includes supplier checking to help avoid duplicate suppliers. As information arises through the use of this upgraded system, suppliers will be disabled as appropriate. Finance will work with C&PSS to enhance messaging within the FST99 form, as well as the Virtual Worker create / amend supplier form, as appropriate, to</p>			

Ref	Description	Risk Rating	Moderate
	<i>avoid new suppliers being requested by Services when requests actually relate to supplier amendments.</i>		
	Risk Agreed	Person(s)	Due Date
	a) – d) Early Years – Yes	Service Manager – Early Years	May 2025
	e) Finance – Yes	e) Finance – Senior Accountant	NXG system introduction – July 2025
	e) C&PSS – Yes	e) C&PSS – Team Leader – Data Team	Improved wording on FST / Virtual Worker Forms – February 2025

Ref	Description	Risk Rating	Major		
1.5	<p>Budget Monitoring – As described in 1.4 above the ELC Funded Provider budget for 2024/25 is material at £12.7m and therefore it is essential that this budget is adequately monitored and controlled.</p> <p>Quarterly budget monitoring meetings are being conducted with Finance, including the Chief Officer – Education and Lifelong Learning and the Service Manager for Early Years. Agenda items include updates on the latest financial position, key business issues (e.g. sustainable funding rate), and relevant milestones (e.g. savings progress). The most recent meeting at the time of the review was held in August 2024 with the next one scheduled for November 2024.</p> <p>However, as at 31 July 2024 the ELC Funded Provider spend for 2024/25 was forecast to exceed the budget of £12.7m by £1.3m (10%).</p> <p>The £1.3m pressure relates to a significant under recovery of income mainly related to budgeted income contributions of £1m from Aberdeenshire Council where children are placed out of authority (net effect between Councils) with the remaining £300k relating to “Childcare Income” where Council settings have spare capacity for hours exceeding 1,140.</p> <p>It could also be seen that these same pressures existed in 2023/24 and £1m of this was known about when the quarter two 2023/24 financial position was reported in November 2023 to Finance and Resources Committee, meaning it should have informed the budget setting process for 2024/25.</p> <p>On discussion with Finance, it was advised that there was an awareness of this however the 2024/25 budget position was confirmed with the Service at the time the budget was set based on the Service’s understanding of child uptake of places.</p> <p>However, the risks associated with not achieving this budgeted income, which were realised for the quarter 1 2024/25 financial position reported to Finance and Resources Committee in August 2024, were not highlighted at the time the budget was reported to Council for approval in March 2024 to inform decision making on setting a balanced budget.</p> <p>In addition, there is presently no Service plan to address this £1.3m under recovery which will result in a material reduction in the Council’s reserves if not mitigated.</p>				
IA Recommended Mitigating Actions					

Ref	Description	Risk Rating	Major
	<p>a) The Service should establish a plan to rectify the £1.3m pressure caused by the forecast under recovery of income.</p> <p>b) Finance should ensure risks are highlighted to Council as part of the budget setting process.</p>		
	Management Actions to Address Issues/Risks		
	<p>a) <i>We note this budget pressure and have commenced a pilot to sell surplus ELC places.</i></p> <p><i>In relation to the £1m pressure for Aberdeenshire Council children placed at Aberdeen City Council nurseries, the Service would like to highlight that this particular forecast is actually not directly related to ELC funded provider spend / budget. It is associated with the wider Early Years budget, based on earlier expectations of how the expansion of ELC / 1140 hours would be delivered across both Local Authorities – Aberdeen City and Aberdeenshire Councils.</i></p> <p><i>b) An audit on Revenue Budget Setting AC2408 was presented to Audit Risk and Scrutiny Committee on 9th May 2024, this demonstrated that there was a sound system of governance, risk management and controls exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in budget setting. However we recognise that there will be individual anomalies and failure to deliver individual savings and these are under constant review.</i></p> <p><i>Chief Officer – Finance will consider as part of the final budget model for 2025/26 the £1.3m pressure, acknowledging that the desired income stream has not been achieved and seek agreement with the Chief Officer – Education & Lifelong Learning how this shortfall is to be addressed.</i></p>		
	Risk Agreed	Person(s)	Due Date
	a) Yes	'a) Service Manager – Early Years	'a) March 2025
	b) Yes	b) Chief Officer – Finance/Chief Officer – Education & Lifelong Learning	b) April 2025

4 Appendix 1 – Assurance Terms and Rating Scales

4.1 Overall report level and net risk rating definitions

The following levels and ratings will be used to assess the risk in this report:

Risk level	Definition
Corporate	This issue / risk level impacts the Council as a whole. Mitigating actions should be taken at the Senior Leadership level.
Function	This issue / risk level has implications at the functional level and the potential to impact across a range of services. They could be mitigated through the redeployment of resources or a change of Policy within a given function.
Cluster	This issue / risk level impacts a particular Service or Cluster. Mitigating actions should be implemented by the responsible Chief Officer.
Programme and Project	This issue / risk level impacts the programme or project that has been reviewed. Mitigating actions should be taken at the level of the programme or project concerned.

Net Risk Rating	Description	Assurance Assessment
Minor	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.	Substantial
Moderate	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified, which may put at risk the achievement of objectives in the area audited.	Reasonable
Major	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	Limited
Severe	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.	Minimal

Individual Issue / Risk Rating	Definitions
Minor	Although the element of internal control is satisfactory there is scope for improvement. Addressing this issue is considered desirable and should result in enhanced control or better value for money. Action should be taken within a 12 month period.
Moderate	An element of control is missing or only partial in nature. The existence of the weakness identified has an impact on the audited area's adequacy and effectiveness. Action should be taken within a six month period.
Major	The absence of, or failure to comply with, an appropriate internal control, which could result in, for example, a material financial loss. Action should be taken within three months.
Severe	This is an issue / risk that could significantly affect the achievement of one or many of the Council's objectives or could impact the effectiveness or efficiency of the Council's activities or processes. Action is considered imperative to ensure that the Council is not exposed to severe risks and should be taken immediately.

5 Appendix 2 – Assurance review scoping document

5.1 Area subject to review

The Council has a statutory obligation under the Children and Young People (Scotland) Act 2014, as modified by the Children and Young People (Scotland) Act 2014 (Modification) Order 2021, to provide 1,140 hours per annum of funded Early Learning and Childcare (ELC) to all three and four-year olds, and eligible two-year olds. Pre-school education may be provided within a local authority nursery or by a pre-school funded provider (private nursery, parent-led playgroup, third sector provider or childminder).

The Scottish Government's approach to ELC entitlement is underpinned by a National Standard that all providers delivering funded hours must meet, regardless of whether they are in the public, private or third sector, or childminders. The National Standard is aligned to the guiding principles of quality, flexibility, accessibility, and affordability. It is also underpinned by the regulations in the Public Services Reform (Scotland) Act 2010 which apply to all care services across Scotland, including day care of children and childminding settings.

5.2 Rationale for review

The objective of this audit is to ensure pre-school commissioned places requirements are being delivered and that adequate control is exercised over expenditure. This audit has been included in the 2024/25 Internal Audit plan due to the statutory requirement to deliver ELC and the material value of payments to externally commissioned funded providers of ELC provision.

This area was last reviewed in December 2017 in Internal Audit report AC1815. Recommendations were made to enhance written procedures; funded provider onboarding controls; pupil attendance monitoring; and payment control.

5.3 Scope and risk level of review

This review will offer the following judgements:

- An overall **net risk** rating at the **Cluster** level.
- Individual **net risk** ratings for findings.

5.3.1 Detailed scope areas

As a risk-based review this scope is not limited by the specific areas of activity listed below. Where related and other issues / risks are identified in the undertaking of this review these will be reported, as considered appropriate by IA, within the resulting report.

The specific areas to be covered by this review are:

- Statutory Obligations
- Written Procedures
- Procurement
- ELC Census and Payment Control
- Quality Assurance
- Budget Monitoring

5.4 Methodology

This review will be undertaken through interviews with key staff involved in the process(es) under review and analysis and review of supporting data, documentation, and paperwork. To support our work, we will review relevant legislation, codes of practice, policies, procedures, guidance.

Due to hybrid working across the Council, this review will be undertaken primarily remotely.

5.5 IA outputs

The IA outputs from this review will be:

- A risk-based report with the results of the review, to be shared with the following:
 - Council Key Contacts (see 1.7 below)
 - Audit, Risk and Scrutiny Committee (final only)
 - External Audit (final only)

5.6 IA staff

The IA staff assigned to this review are:

- Agne McDonald, Auditor (**audit lead**)
- Andy Johnston, Audit Team Manager
- Jamie Dale, Chief Internal Auditor (**oversight only**)

5.7 Council key contacts

The key contacts for this review across the Council are:

- Eleanor Sheppard, Executive Director – Families & Communities
- Shona Milne, Chief Officer – Education and Lifelong Learning
- Louise Beaton, Service Manager (**process owner**)

5.8 Delivery plan and milestones

The key delivery plan and milestones are:

Milestone	Planned date
Scope issued	30-Aug-24
Scope agreed	06-Sep-24
Fieldwork commences	16-Sep-24
Fieldwork completed	11-Oct-24
Draft report issued	01-Nov-24
Process owner response	22-Nov-24
Director response	29-Nov-24
Final report issued	06-Dec-24