

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET	
Report of:	Strategic Director for People	
Date of Decision:	19th April 2016	
SUBJECT:	CHANGES TO THE FULL-TIME EARLY EDUCATION PLACES POLICY AND NURSERY SCHOOLS ADMISSIONS	
Key Decision: Yes	Relevant Forward Plan Ref: 001294/2016	
If not in the Forward Plan: (please "X" box)	Chief Executive approved	<input type="checkbox"/>
	O&S Chairman approved	<input type="checkbox"/>
Relevant Cabinet Member(s):	Councillor Brigid Jones, Cabinet Member, Children's Services	
Relevant O&S Chairman:	Cllr Susan Barnett, Education and Vulnerable Children Committee	
Wards affected:	All	

1. Purpose of report:
<p>1.1 To seek approval to change the existing full-time early education places policy relating to the eligibility of individual children, and the existing admission policy with regards to full-time early education places for nursery schools and to nursery classes within primary schools.</p> <p>1.2 To seek approval of a new placement strategy for funded full-time early education places linked to the quality of the school or Private, Voluntary, Independent (PVI) nursery provider.</p> <p>1.3 To note that both of the above will reduce the number of children that are potentially eligible for a funded full-time place and will contribute £1.8m to the current funding gap in the Dedicated Schools Grant in 2016/17.</p>

2. Decision(s) recommended:
That the Cabinet :-
<p>2.1 Approve the proposed changes to the child criteria defining eligibility for a funded full-time early education place from September 2016.</p> <p>2.2 Approve the proposed changes to the full-time places admissions policy for nursery schools and nursery classes within a primary school to be implemented from September 2016.</p> <p>2.3 Approve the introduction of a new placement strategy for funded full-time places from September 2016 linked to the quality of schools/settings.</p>

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3. Consultation

3.1 Internal:

Representative head teachers and school governors have been consulted as part of the Schools Forum process, where Schools Forum gave their support to the range of proposals (including the proposed changes to full-time places) for addressing the funding gap within the Dedicated Schools Grant for 2016/17. Officers from City Finance and Legal and Democratic Services have been involved with the preparation of this report.

Representatives from Schools and Council directly delivered Childrens Centres and Daycare have been involved in a series of Focus Group meetings where the work of the group and the resulting discussions has been incorporated into the design of the proposed new criteria documents.

3.2 External:

Representatives from the PVI Support Organisation have also been consulted as part of the series of Focus Group meetings outlined above. The PVI Support Organisation is a representative body of the private, voluntary and independent sector nursery providers. Sarah Presswood (George Perkins Day Nursery) and Sara Reece (Stepping Stones Day Nursery) are the PVI representatives on Schools Forum and have also been consulted as part of the process.

The proposed criteria have been shared with Trade Unions representatives including Teachers Unions and their views have been incorporated into this report.

A public consultation has taken place for a 30 day period between the 22nd February and 22nd March 2016, which specifically sought the views of existing early education providers and parents. 179 responses were received. 147 respondents (82%) were supportive of a continuation of full-time places for vulnerable children and there was support of between 69-87% of respondents with each of the suggested criteria proposed for children. There was also support from 113 (63%) respondents for settings to be of high quality regardless of the sector. The main concerns expressed within the consultation were the timing of the introduction of the changes with a majority of respondents (50%) feeling the change in September 2016 is too soon for parents and schools to plan effectively. The outcome of this consultation has been taken into account as part of the development of the final criteria and proposals within this report.

In addition to the responses to the formal consultation, a petition was submitted from a nursery school with signatures from 91 parents who were signing to support the statement "...would like to stress the importance of a full-time Nursery place and the positive impact that it has had for my child."

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The decisions are consistent with Council policy, plans and strategies in that they propose criteria which when applied will support the most vulnerable children and families to access more than the statutory minimum early years entitlement. The priorities are based on the Right Service, Right Time model in use within the Early Help strategy, and should enable a short-term intervention to address an identified safeguarding or education need and contribute towards improving a child's outcomes and narrowing of the attainment gap.

4.2 Financial Implications

The costs of existing full-time early years provision is funded from the Dedicated Schools Grant which is a ring-fenced grant to fund schools and PVI's. In setting the early years budgets for 2016/17 a funding gap was identified for which various savings have had to be identified. The proposed change to the existing full-time place policy is a key element of delivering £1.8m of the required savings in 2016/17. This proposal will also align more closely with the current national position in which local authorities are only funded by the DfE for 15 hours a week of early years provision through the DSG. In Birmingham the funding of full-time provision has been provided for by allocating DSG to this service as opposed to other parts of the schools and PVI sector.

The funding implications will need to be reviewed on an annual basis and may result in further refinements or changes to the criteria in future.

4.3 Legal Implications

Under Section 18 of the Children Act 1989 and, the Children Act 2004 the Council must discharge its functions having regard to its statutory duties and the need to safeguard and promote the welfare of children. Section 18 of the 1989 Act requires local authorities to provide such day care for children in need within their area who are aged 5 or under, and not yet attending schools, as is appropriate.

Section 1 of the Childcare Act 2006 (Early Years Outcomes Duty) includes the requirement to improve the well-being of young children and reduce inequalities between children. Section 6 requires the Council to secure, as far as is reasonably practicable, sufficient high quality childcare to meet the requirements of parents in employment or training needing childcare.

Section 7 places a duty on the Council to secure free early years provision for three and four year olds. This duty relates specifically to the provision of 570 hours over no fewer than 38 weeks (15 hours per week). However, the Council may provide additional hours of early education, in excess of those required by the Childcare Act or other legislation, but it does not have a statutory duty to do so.

The Childcare Act 2016 introduces a funded extended free childcare entitlement but this is not expected to be implemented fully until September 2017 and will be targeted towards children of working parents rather than vulnerable children.

4.4 Public Sector Equality Duty (See attached Protocol)

An initial equalities screening has been undertaken on the 11th March. It demonstrated that a full equality assessment was required as there may be an adverse impact on people in the protected categories of Age (it is a specific policy for 3 and 4 year olds) and Race who would have benefited under the current criteria who may not under the revised criteria. The full assessment was undertaken which did identify a definite impact. The impact was considered fully alongside the public consultation and a specific question was posed regarding the impact on children with English as an additional language (EAL) in respect of the impact on Race. The response was having EAL was not a good indicator of need – on the contrary – having a second language should be seen as a positive rather than a deficit. A child with good language development (irrespective of language) will acquire English within the statutory entitlement of 15 hours without the need for additional hours. Mitigation for this impact has been to retain criteria within the proposed criteria around language development, which will target those where language

development is slow. In relation to the impact on Age, as this is a specific policy relating to 3 and 4 year olds, and the proposed change will potentially reduce the numbers of children eligible, there isn't a mitigation that can be made. However, the statutory entitlement to 15 hours early education will continue to be available to all children. Please refer to Appendix 5 for the Equalities Assessment.

5. Relevant background/chronology of key events:

- 5.1 Birmingham has a history of funding some full-time early education provision which pre-dates the current universal education entitlement to 15 hours per week. Full-time nursery places were originally provided within the 27 Council maintained nursery schools and all children attending the nursery schools accessed a full-time place regardless of their circumstances or need.
- 5.2 The criteria for accessing a funded full-time place were changed in 2011 following changes introduced by the DfE to the funding requirements. The current criteria were implemented from September 2011 with a more targeted access to funded full-time places.
- 5.3 Modelling of the early years offer for 2016/17 highlighted that the current £5m annual cost of funded full-time places cannot be sustained within the resources available. It is proposed to reduce access to funded full-time places to the statutory minimum as the most appropriate measure to create a high quality, sustainable early education offer. All children are entitled to a 15 hour early education offer from the term after their third birthday. This statutory entitlement is based on the Effective Provision of Preschool Education (EPPE) Project (research by Sylva et al, 2010) that hours in excess of this do not provide any additional benefit to improving a child's outcomes. The research states "There was no evidence that full-time provision (10 sessions per week) resulted in better outcomes than part-time provision (i.e. 5 sessions)."
- 5.4 In autumn term 2015, 3409 children (nearly 20% of all funded places) were funded for full-time hours. This is an increase from 17% and 16% in the spring and summer terms. The majority (82%) of those funded for full-time take up their place in a maintained setting (a nursery school or class).
- 5.5 Analysis by ward shows enormous variation in the proportion of children being funded for full time places in different parts of the city. (See appendix 1 data report). The analysis shows that in some wards the proportion of children with funded full time places is unusually high whilst the overall take-up of early education is lower than average. This suggests that the offer of so many full-time places may be preventing take-up of the statutory requirement by other children in these wards as a child accessing a full-time place occupies 2 places for the 15 hours thereby reducing the number of places available.
- 5.6 The current criteria is split into two categories. Priority 1 criteria for full time places have a focus on those children who have additional vulnerabilities, such as those with special educational needs and disabilities and those on a child protection plan. Priority 2 requires children to meet two or more of the criteria (see the full list in appendix 2) to qualify for a funded full-time place. The data available at ward level suggests that the vast majority of funded places are allocated to children who do not meet priority 1 criteria but do fulfil at least two of the criteria under the priority 2 list.

- 5.7 A short-life focus group was established with representatives from across the sectors to discuss and agree a future strategy for full-time places. The group considered whether full-time places should continue to be offered at all, and if so, what criteria should be used.
- 5.8 A number of guiding principles were agreed to work within. These were:-
- Is it safe? Proposals should secure that every child is protected from harm.
 - Is it fair? Proposals support the principle that every child is entitled to an equal chance of the very best start in life.
 - Is it sustainable? Proposals support a model that will continue to be delivered within available resource.
 - Does it deliver quality? Proposals ensure support of quality and best practice across all early education settings.
- 5.9 There were significant views expressed during the focus group meetings (and within the consultation sessions with providers) that in their experience children who access a funded full-time place benefit significantly, in contrast to the national evidence from research. As part of the consultation a request for local evidence to support this was issued, and although a small number of responses made a reference to schools' own data, none has been shared.
- 5.10 The proposed revised criteria will continue to target the most vulnerable children, but will reduce the overall numbers of children that are identified as eligible. It is conservatively estimated that 50% of the existing number of full-time places will be funded in the future.
- 5.11 The existing policy is attached at Appendix 2 and the proposed policy at Appendix 3 for ease of comparison.
- 5.12 A 30 day consultation has been undertaken with schools, settings and parents and has informed the proposed criteria. A report detailing a summary of the consultation response is attached as Appendix 4. The full consultation response is available on request. There was an element of confusion from parents regarding the distinction between the local full-time policy within Birmingham and the Governments new policy from September 2017.
- 5.13 The proposed changes to the local criteria for full-time places for vulnerable children will complement and sit alongside the new national policy in September 2017 which will fund 30 hours of early education to children of parents who work more than 16 hours and earn less than £100k each.
- 5.14 Schools Forum have agreed that subject to Cabinet approval, the changes in the full-time places criteria will contribute £1.8m towards mitigation of the funding gap in the Early Years Block for 2016/17.
- 5.15 Schools and PVI settings have already been informed that changes to the criteria are being considered and it has been requested that offers of places do not take place until the 25th April 2016.
- 5.16 The new policy will apply to all children from September 2016. Transitional arrangements will be put in place to allow any child who accessed a full-time place as part of their early education prior to September to continue to do so until progression to school.

5.17 Work is ongoing currently to develop more sustainable cost models of early education provision from 2017 onwards, particularly given the likely reduction in funding if the proposals to introduce a national funding formula are taken forwards.

6. Evaluation of alternative option(s):

- 6.1 The funding pressure identified within the DSG has required a number of measures to address the gap. As it is not a statutory entitlement and the Authority does not receive any funding for full-time early education places, there is a requirement to review the current criteria.
- 6.2 Officers have considered alternative options such as a reduction of rates paid to all early years' providers, but given that the cost of providing early education has recently been evaluated and evidenced at current funding levels this will cause significant sustainability issues across the sector.

7. Reasons for Decision(s):

- 7.1 To ensure that the funding available for early education is used to provide the best possible early education offer that enables every child to have an equal chance of the best start in life.
- 7.2 To mitigate the expected shortfall within the Early Years Block of the DSG in 2016/17.
- 7.3 To ensure a more targeted offer of full-time places to the city's most vulnerable children in line with the EPPE research evidence, which will contribute to the outcome of narrowing the gap between the highest and lowest achieving, with these children achieving a good level of development by the time they start school.

Signatures

Date

Cabinet Member:

Councillor Brigid Jones

Cabinet Member for Children's
Services

Chief Officer:

Peter Hay

Strategic Director for People

List of Background Documents used to compile this Report:

Childcare Act 2006.

Effective Provision of Preschool Education (EPPE) Project - Sylva et al, 2010

Early Education and Childcare – Statutory Guidance for Local Authorities, 2014

List of Appendices accompanying this Report (if any):

Appendix 1: Full-time places data report Autumn Term 2016.

Appendix 2: Current full-time places criteria and admissions policy (Agreed by Cabinet in 2010).

Appendix 3: Proposed full-time places criteria, admissions and placement policy.

Appendix 4: Summary Consultation Response.

Appendix 5: Full Equality Assessment.

Report Version

0.7

Dated

8th April 2016

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) tackle prejudice, and (b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"> (a) age (b) disability (c) gender reassignment (d) pregnancy and maternity (e) race (f) religion or belief (g) sex (h) sexual orientation

BIRMINGHAM CITY COUNCIL EXECUTIVE REPORTS CHECKLIST

Report Title: CHANGES TO THE FULL-TIME EARLY EDUCATION PLACE POLICY AND NURSERY SCHOOLS ADMISSIONS

Report version: 0.6

Cabinet Report:

Report Author: Lindsey Trivett

To be completed in respect of all Cabinet, District and Ward Committee Reports. This also applies for Joint Member and Chief Officer Reports.

Democratic Services have been instructed to return any Report which does not have a fully completed Checklist attached. The purpose is for the author to indicate who has been consulted in the preparation and clearance of reports and when.

CONSULTATION	Names and dates to be inserted
Has the report been discussed and cleared with:	
(a) Relevant Cabinet Member(s)	
COMPLIANCE ISSUES	
(c) Has the report been cleared with relevant Strategic Director/Deputy Chief Executive?	
(d) Has report been cleared with the relevant Finance Officer? (see back)	Cleared by: Anil Nayyar Date:
(e) Has report been cleared with the relevant Directorate Legal Officer ? (see back)	Cleared by: Ian Burgess Date:
MEDIA CONSIDERATIONS	
(f) Has relevant Media officer been made aware of report and agreed draft press release/statement?	
Any significant comments for the attention of the Leader / Chief Executive?	

RELEVANT FINANCE OFFICERS

PEOPLE DIRECTORATE	Ian Burgess
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PLACE DIRECTORATE	Sukvinder Kalsi
ECONOMY DIRECTORATE	Alison Jarrett
CORPORATE COUNCIL WIDE	Jon Warlow, Steve Powell, Sarah Dunlavey

RELEVANT DIRECTORATE LEGAL OFFICERS

People Directorate (Adults)	Charmaine Murray
People Directorate (Education Law & schools)	Ian Burgess
People Directorate (Child Safeguarding)	Sukhwinder Singh
Place Directorate	Lisa Morgan
Economy Directorate (Regeneration)	Stuart Evans
Economy Directorate (Corporate) - Employment/Corporate HR)	Kate Charlton
Economy Directorate (Commissioning/ Procurement)	Rob Barker
Corporate Council Wide (or if above unavailable)	David Tatlow/Wendy Taylor