

WIRRAL COUNCIL

CABINET

19TH JUNE 2014

SUBJECT:	CHILDREN & YOUNG PEOPLE'S DEPARTMENT DAY NURSERY PROVISION
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF CHILDRENS SERVICES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR TONY SMITH
KEY DECISION?	YES

1.0 EXECUTIVE SUMMARY

This report updates members on the position regarding savings to day nursery provision of £772,000 - agreed as part of the Council's Budget options. This report seeks a decision from Cabinet on the following recommendations:

- 1.1 That Cabinet approves the recommendation to stop delivering day nursery provision as soon as is practicable. Arrangements for carefully managing transitions for families, staff and services will be discussed later in the report.
- 1.2 That Cabinet approves the day nursery at the New Brighton setting becoming a Social Enterprise model of delivery in partnership with *New Brighton Day Nursery Ltd*, and that there is an initial 5 year contract and a target date of transfer of 1st September 2014.
- 1.3 That negotiations with relevant co-located primary schools and partners in the other 5 settings for the delivery of the 2, 3 and 4 year old offer are progressed. Due regard will be given to HR arrangements for staff that are fair, equitable and transparent.
- 1.4 That subject to appropriate agreements being secured facilities and resources are transferred to schools and partners to deliver the extended 2 year old offer.
- 1.5 That work with families accessing day nursery provision begins in order to ensure a smooth transition of care, using a phased approach if necessary in order to minimise the need for multiple transfers and disruption to children and their parents and carers.
- 1.6 That a contingency plan (funded from existing resources), is detailed in order to secure sufficiency of the early education offer at the affected settings.
The plan will consider:
 - Direct delivery (by the Council), of two, three and four year old early education places on a term-time only basis and for a period of time until other partners can be identified
 - Any HR implications as a consequence, for childcare staff
 - How to best meet any transitional arrangements for the 2, 3 and 4 year old offer as changes to service delivery are implemented.

2.0 BACKGROUND AND KEY ISSUES

2.1 Daycare/Day Nurseries

The report submitted to Cabinet on 13th June 2013 recommended that Day Nursery provision – (childcare paid for by parents and carers) directly delivered in 6 locations be externally commissioned. The saving represents the removal of a subsidy of £772,000 per annum, used to financially support childcare for children aged 0 – 5 years. The subsidy is reflective of a shortfall between fees and charges collected from service users (parents) and full running costs for the provision.

2.2 The day nurseries offer paid for childcare and are required to operate on a commercial basis in the open childcare market place. Childcare fees and charges are based on the average market rate for Wirral. The day nurseries are part of the wider childcare provision operating across Private, Voluntary and Independent sector settings in Wirral.

2.4 Any subsidies that families are eligible for are applied at a family level in the form of child care tax credits or employee voucher schemes, as tax relief at source. These are used by parents to offset childcare costs.

2.5 Childcare Background - Sure Start

Originally there was a requirement for local authorities to ensure childcare was available to support parents and carers to take up training and/or employment. The position has now shifted to requiring local authorities to act as a **brokering** service to support families to find and secure the right type of childcare.

2.6 The Children and Families Act (2014) amended the requirement for the Local Authority to produce and publish details of its childcare sufficiency assessment. However, understanding the local childcare position and supporting it to reach and sustain a high-quality offer is still a requirement and in all our interest, as we continue to progress school readiness and narrowing the gap.

2.7 Since work began to consider the Councils future arrangements for childcare, the Government's ambition for the 2 year old offer to be more closely aligned to schools has become more evident.

2.8 As a point of note; four of the six day nurseries are based on or adjacent to Local Authority Community Primary School Sites. One (St Werburgh's) is on the site of a Catholic Aided Primary School. The sixth, Miriam Place is sited within the St James Centre which is owned and managed by North Birkenhead Development Trust (NBDT).

2.9 Tendering Exercise for the Day Nurseries

A tendering exercise ran from 13th August 2013 to the 10th October 2013 and gave the opportunity for interested parties to submit a tender on The Chest (the North West Procurement Portal). Tenders were invited from interested parties in running the day nursery (childcare) provision, for up to a 5 year period in the first instance.

- 2.10 In summary; 65 suppliers registered an expression of interest. 23 completed a confidential information agreement (to release statistical information to them to inform their bid). The process resulted in only 2 completed applications being submitted (1) North Birkenhead Development Trust - to manage and deliver Miriam Place day nursery (2) New Brighton Day Nursery Ltd - to manage New Brighton Day Nursery.
- 2.11 Both these applications met the necessary tender requirements and subsequently progressed to interview. Interviews with both organisations took place on 23rd October 2013 and initial offer letters (subject to Cabinet approval) were issued in November 2013 to both organisations.
- 2.12 In December and January 2013/14 further work in respect of confirming the financial position for the two potential providers was progressed, this was to ensure that any future handover position would ensure a robust position for service users, staff (a transfer position for staff would need to be considered) and local communities.
- 2.13 During this period North Birkenhead Development Trust identified a sustainable position could not be reached for their organisation and chose not to progress any further. North Birkenhead Development Trust continues to be open to progress partnership working with the council and relationships remain strong. They have expressed a tentative expression of interest in developing as a social, not commercial model for the 2, 3 and 4 year old education offer.
- 2.14 Four of the six day nursery settings did not attract any tenders. Co-located schools although interested in the tendering process, did not submit tenders citing sustainability issues. This was largely due to school staff rates of pay and conditions. The risks to the wider school community and associated school budgets were deemed too great. However schools remain strong partners and have a keen interest in the Boroughs future development of its Early Year's Services. This can be seen in the opportunities now presenting for the for the 2, 3 and 4 year old offer to potentially be delivered by partners, (including schools) at five of the settings.

2.15 **New Brighton Day Nursery**

The application to run New Brighton Day Nursery has been developed by staff with external support. Using a social enterprise model, a new company has been established called *New Brighton Day Nursery Ltd*. The staff continue to be interested in progressing with their proposal to deliver childcare on a commercial model. Several meetings have been held with representatives of the company to further clarify sustainability issues which have been raised by the Council. The current facility operates with an estimated subsidy of £72,000 (actual 2013-14 £21,000). The model proposed by *New Brighton Day Nursery Ltd*. anticipates a surplus from the first year of operation based on additional income from greater occupancy. These increases in children are reflected in the centre's latest census returns, income sheets and numbers of eligible 2 year olds. However this will need to be sustained and developed further in the future to ensure the continuing viability of the provision.

- 2.16 The facility currently has an establishment of 17 staff, with 14 currently in post. *New Brighton Day Nursery Ltd* have stated that they intend to transfer staff under Transfer of Undertakings for the Protection of Employment (TUPE) for all existing Wirral Council staff working in New Brighton Nursery on their current terms and

conditions of employment. In addition Brighton Day Nursery Ltd have stated that they intend to seek admitted body status from the Local Government Pension scheme, in line with the principles outlined in TUPE legislation. The business plan for *New Brighton Day Nursery Ltd.* anticipates additional increases in occupancy in year 2 and further developments/investment in the services offered. The contract would be for a five year period. As a social enterprise surpluses would be re-invested within the business.

2.17 The original ambition for the day nursery provision was designed for all six settings to operate independently and without the need for any subsidies, to ensure parity and a consistent childcare offer for local parents across the Borough. This now sees only one of the six setting with the potential to deliver in this way.

2.18 **Early Years provision on School Sites**

The remaining four day nurseries are all co-located on school sites and there are ongoing interdependencies through buildings and partnership arrangements. Following the tendering process, procurement and legal services advised that discussions with the schools could take place to elicit whether there was any interest by the schools in taking on the running of elements of the provision, alongside the school provision. To date all four headteachers and their respective governing bodies have expressed an interest in developing formal partnership arrangements to extend the current school offer (from 3 to 11 years) to include the two year old offer. This is in line with the direction of travel by central government which strongly suggests that schools play a significant role in offering two year old places.

2.19 All the schools currently deliver three and four year old places. Unlike the proposal by New Brighton Day Nursery Ltd, the schools have made it clear that they are not interested in delivering full paid for childcare and will only consider any extension to their offer on a school basis.

2.20 With the exception of the Head teacher at Mount Primary School linked to the New Brighton setting (who has not been approached), the remaining four headteachers have been working with the local authority and have indicated an agreement in principle, to explore options to extend the current school early education offer to include two year olds. The ambition would be to offer provision on a school day and school term basis and seek to register with OfSTED to admit two year olds. The schools have indicated that they are willing work with the local authority to offer new employment opportunities (but not under a TUPE arrangement) for the current associated day nursery staff. However the new posts in the school's would have revised terms and conditions reflecting the needs of the school e.g. term time contracts.

2.21 There is a shared and genuine drive across our schools and the local authority to narrow the gap and improve school readiness and a preparedness to work differently to improve outcomes for children, their families and our communities.

2.22 Some building reordering to accommodate children and afford a flow across the school will likely result.

3.0 RELEVANT RISKS

- 3.1 There is a risk from the disruption to services required to achieve the necessary changes. This will be mitigated wherever possible through close partnership working. The Family Information Service will ensure that information, advice and guidance is available and effective.
- 3.2 There is a risk for families in that they may not be able to access or choose to use alternative childcare. In order to minimise this, each family will be offered an individual brokerage plan and support to identify and access childcare which meets their needs and supports smooth transitions.
- 3.3 Staff have been 'at risk' for a considerable period of time and will be impacted by any subsequent changes. These could involve changes to terms and conditions, transfer implications, moving to term time only conditions, annualised hours or compulsory redundancy.
- 3.4 The Council is open to challenge if it continues to directly deliver (or subsidise) childcare when other providers are willing and able to do so (Childcare Act 2006 and the Apprenticeships, Skill, Children and Learning Act 2009).
- 3.5 Contingency planning to protect against service failure and future proof the service will be required.

4.0 OTHER OPTIONS

- 4.1 The following options have been considered:
 - 4.1.1 The Local Authority continues to directly deliver the day nursery provision. Whilst this would ensure the continuation of locally valued service, the cost implications would be significant to the Council (circa £772,000 per annum) and the budget savings would be compromised. It would also challenge our legal responsibility to only provide childcare where others can not or will not and leave the council open to challenge. The childcare sufficiency assessment does not currently indicate a need and vacancies across the borough are over and above the level of places being offered in the six day nursery settings currently.
 - 4.1.2 The Local Authority re structures its services, ceasing to deliver the day nursery provision (for children 0-5 years for 51 weeks a year across a 10 hour day), to refocus childcare delivery on the 2,3 and 4 year old early education offer (based on a term time and sessional basis). This option has the potential to challenge the ability of schools and other providers to sustain their own provisions.
 - 4.1.3 The Local Authority re structures its services ceasing to deliver the day nursery provision (for children 0-5 years for 51 weeks a year across a 10 hour day), to refocus childcare delivery on the 2 year old early education offer only (based on a term time and sessional arrangement). This position may still likely require some financial support albeit in line with the Council's responsibility to deliver services to the most disadvantaged children in the Borough.
 - 4.1.4 In 2013 the Department of Education published amended guidance to ensure services for young children pre birth to 5 are targeted to the most disadvantaged

(the inference is those in the 20 – 30% most disadvantaged groups), to improve outcomes and reduce inequalities for children and families in greatest need, in;

- Child development and school readiness
- Parenting aspirations and parenting skills
- Child and family health and life chances

5.0 CONSULTATION

- 5.1 Earlier public consultation has taken place though the Council's "What Really Matters" Budget consultations which have included the role of Children's Centres.
- 5.2 Formal HR consultation will be undertaken with staff and recognised trade unions on the decisions and likely impact of this report.
- 5.3 Consultation will take place with a range of partners – particularly schools
- 5.4 Consultation with each family currently accessing day nursery services to plan and support their ongoing childcare needs as childcare brokerage will also take place

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 The service works closely with the local voluntary, community and faith sector organisations. Particularly in respect of delivering services and working with vulnerable local children, young people and families. Services offered going forward will focus on the needs of the most disadvantaged and be targeted to narrow the gap.
- 6.2 Voluntary, Community and Faith groups have a significant role in the delivery of childcare across the Borough. Future plans will ensure that partnership arrangements with the Voluntary, Community and Faith sector are maintained.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; STAFFING AND ASSETS

- 7.1 The commissioning or restructuring of the six day care settings was anticipated to reduce overall costs by £772,000 per year. This was being delivered from September 2013 but has not yet occurred as the procurement process failed to attract the desired response. The Council is aiming to cease direct provision from September 2014.
- 7.2 For 2013/14 the part year saving target was £453,000. As contracts have not been awarded this has not been achieved. This saving has been offset by the use of a number of underspends within the Children and Young People's Department.
- 7.3 For 2014/15 the full year saving target of £772,000 will not be achieved. The exact saving will be determined by the length of time required to consult and transfer facilities. It is intended that any shortfall will be met from the Department's Budget and an Early Years Reserve.
- 7.4 All current staff (circa 70 – 80 individuals in post) who are employed in the six settings will be affected, options and legalities surrounding this are currently being considered with HR.

- 7.5 School colleagues have agreed that any future recruitment to cover any changes to the school structures as a result of this work will be ring-fenced to those staff displaced, in the first instance.
- 7.6 Staff at New Brighton Day Nursery will be subject to a TUPE transfer.
- 7.7 Work to mitigate the impact on other staff in terms of establishing additional posts in schools and at the North Birkenhead Development Trust would be considered.

8.0 LEGAL IMPLICATIONS

- 8.1 Staff employed in day nursery posts will be afforded equal opportunity to register an interest in any applicable TUPE or employment transfer.
- 8.2 Staff employed in day nursery posts will be afforded equal opportunity to register an interest in posts created as a result of any developments.

9.0 EQUALITIES IMPLICATIONS

- 9.1 The priority and service areas have been based upon assessment and analysis of local need and available provision. A specific focus for future delivery will be to target vulnerable and at risk children, young people and families' e.g. eligible two year olds, teenage and young parents, children at risk of poor outcomes.
- 9.2 Equality Impact Assessment (EIA)
- | | |
|---------------------------------------|----------------------------------|
| (a) Is an EIA required? | Yes |
| (b) If 'yes', has one been completed? | Yes (14/8/12) Refreshed May 2014 |

10.0 CARBON REDUCTION IMPLICATIONS

- 10.1 None identified

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 11.1 None identified

12.0 RECOMENDATIONS

- 12.1 That Cabinet approves the recommendation to stop delivering the day nursery provision as soon as is practicable. Consideration, for carefully managing transitions for families, staff and services will be made explicit.
- 12.2 That Cabinet approves the day nursery at the New Brighton setting becoming a Social Enterprise model of delivery in partnership with *New Brighton Day Nursery Ltd*. That there is a 5 year contract and a target date of transfer of 1st September 2014
- 12.3 That negotiations with relevant co-located primary schools and partners in the other 5 settings for the delivery of the 2, 3 and 4 year old offer are progressed. Due regard will be given to HR arrangements for staff that are fair, equitable and transparent.

- 12.4 That subject to appropriate agreements being secured facilities and resources are transferred to schools and partners to deliver the extended 2 year old offer.
- 12.6 That work with families accessing day nursery provision begins in order to ensure a smooth transition of care, using a phased approach if necessary in order to minimise the need for multiple transfers and disruption to children and their parents and carers.
- 12.7 That a contingency plan (funded from existing resources), is detailed in order to secure sufficiency of the early education offer at the affected settings. The plan will consider;
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13.0 REASONS FOR RECOMMENDATIONS

- 13.1 The recommendations will support the targeted delivery of services to meet the needs of children and families in communities and in particular those most in need of them.

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HISTORY (last 3 years)

Council Meeting	Date
Q&A information from Public Consultation	15th May 2013
Council Budget Meeting	February 2013
Cabinet Report - Commissioning of 6 Day Nursery Provisions	13th June 2013