

# **WIRRAL COUNCIL**

## **CABINET**

**7 JULY 2014**

|  |   |
|--|---|
| <b>SUBJECT:</b>                          | <b>CHILDREN &amp; YOUNG PEOPLE'S DEPARTMENT<br/>DAY NURSERY PROVISION</b> |
| <b>WARD/S AFFECTED:</b>                  | <b>ALL</b>  |
| <b>REPORT OF:</b>                        | <b>DIRECTOR OF CHILDREN'S SERVICES</b>                                    |
| <b>RESPONSIBLE PORTFOLIO<br/>HOLDER:</b> | <b>COUNCILLOR TONY SMITH</b>  |
| <b>KEY DECISION?</b>                     | <b>YES</b>  |

### **1.0 EXECUTIVE SUMMARY**

- 1.1 At the meeting of Cabinet on 19 June 2014, Cabinet approved and agreed to the transfer of New Brighton Day Nursery provision to become a separate legal entity established as a social enterprise model. This is under a five year contract and working to a transfer date of 1 September 2014. This was the only tender which proceeded to a full conclusion from the process agreed by Cabinet on 13 June 2013.
- 1.2 At the meeting of Cabinet on the 19<sup>th</sup> June 2104 it was agreed that other matters in respect of proposals regarding the remaining five Council day nurseries be deferred to a future meeting of Cabinet.
- 1.3 All of the five day nurseries referred to in this report are co-located in buildings alongside key partners. Four are situated on school sites and one is located within the St James Centre, this Centre is owned by the North Birkenhead Development Trust.

### **2.0 BACKGROUND AND KEY ISSUES**

#### **2.1 Day Nurseries**

- 2.1.1 The day nurseries offer childcare paid for by parents are required to operate on a commercial basis and 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.
- 2.1.2 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.

## 2.2 Childcare Background - Sure Start

- 2.2.1 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.
- 2.2.2 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.
- 2.2.3 Since work began to consider the Council's future arrangements for its day nursery provision, the Government's ambition for more school based provision for 2 year olds has become more apparent.
- 2.2.4 As a point of note; three of the five remaining day nurseries are based in or collocated with Local Authority Community Primary School Sites. One (St Werburgh's) is on the site of a Catholic Aided Primary School. The fifth, Miriam Place is sited within the St James Centre which is owned and managed by North Birkenhead Development Trust.

## 2.3 Day Nursery Provision on School Sites

- 2.3.1 The four day nurseries co-located on school sites have ongoing interdependencies through buildings and partnership arrangements. Given that there was no interest from any organisation through the tendering process to outsource day nurseries, procurement and legal services advised that discussions with the schools could take place. This was to elicit whether there was any interest by the schools in taking on the running of any element of the 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 (3 to 11 years) to include the two year old offer (2 to 11 years). This is in line with the direction of travel by central government which strongly suggests that schools should play a significant role in offering two year old places, as school based provision.
- 2.3.2 All the schools currently deliver three and four year old places. The schools have made it clear that they are not interested in delivering full paid for childcare (for children 0-5 years for 51 weeks a year across a 10 hour day), and will only consider any extension to their current offer on a school basis.
- 2.3.3 The four headteachers have been in discussion 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 (this would not be under a TUPE arrangement) for the current associated day nursery staff. Any new posts in the schools would have revised terms and conditions reflecting the needs of the school e.g. term time contracts.

- 2.3.4 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.
- 2.3.5 Some building reordering to accommodate children and afford a flow across the school will likely result.

## **2.4 Day Nursery Provision on North Birkenhead Development Trust Site**

- 2.4.1 North Birkenhead Development Trust, did tender to provide the service, but as set out in the previous Cabinet report of 19 June 2014, they withdrew. The Cabinet report of the 19 June 2014 concluded the tendering process and all related outstanding matters. Partnership working and relationships between North Birkenhead Development Trust and the Council remain strong.
- 2.4.2 North Birkenhead Development Trust have indicated a tentative expression of interest to deliver on a social not a commercial model an interest in delivering the 2, 3 and 4 year old education offer. It is therefore recommended that Cabinet agrees to consultation and further negotiations being undertaken with North Birkenhead Development Trust as a current and key stakeholder at the St James Centre to explore the full potential of any proposal.

## **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 for individual families.
- 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. Any proposals to deliver the early education offer, not full childcare, is likely to result in potential redundancy and/or changes to terms and conditions e.g. moving to term time only working/annualised hours.
- 3.4 The Council is open to challenge if it continues to directly deliver and/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 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 services, the cost implications would be significant to the Council. The outstanding budget saving, taking account of the transfer to NBDN is £694,600 and would be compromised by this. It would also challenge our legal responsibility to only provide childcare where others can not or will not (Childcare Act 2006 and the Apprenticeships, Skill, Children and Learning Act 2009), thus leaving 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 at this time in the five day nursery settings.
- 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 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.

## **5.0 CONSULTATION**

- 5.1 Formal consultation will be undertaken with the four day nurseries located on school sites during the consultation period.
- 5.2 Formal consultation will be undertaken with North Birkenhead Development Trust during the consultation period.
- 5.3 Formal HR consultation will be undertaken with staff and recognised trade unions on the decisions and likely impact of this report.
- 5.4 Formal consultation will take place with a range of partners during the consultation period.
- 5.5 Formal consultation with each family currently accessing day nursery services to plan and support their ongoing childcare needs as childcare brokerage will also take place during the consultation period.
- 5.6 Formal consultation with local communities interested in local services will take place during the consultation period.

## **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 (inclusive of New Brighton, subject to a decision of the 19 June 2014) 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.
- 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 60 -70 individuals in post) who are employed in the five settings will be affected, options and legalities surrounding this are currently being considered with HR and applicable Trade Unions.
- 7.5 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.
- 7.6 School colleagues have given assurance 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.

## **8.0 LEGAL IMPLICATIONS**

- 8.1 Staff employed in day nursery posts will be afforded TUPE or employment transfer rights, if applicable, that may result from future endeavours to change service delivery.
- 8.2 Staff employed in day nursery posts will, where applicable, be afforded an opportunity to register an interest in posts created by the new service provider, 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' such as; 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 RECOMMENDATIONS**

- 12.1 That Cabinet agrees that the proposal to cease the Council's day nursery provision detailed within the report, in respect of the five day nurseries is subject to a 12 week public consultation period.
- 12.2 That the further allocation of places for children at the five day nurseries be pro-actively managed (through discussion with and agreement of parents) during the proposed 12 week consultation period to help mitigate against possible future inconvenience for parents. This is to reduce any likelihood of disruption or unnecessary transfers for children to a different childcare provider in the event that the Council's day nursery provision detailed within the report ceases to operate.
- 12.3 That Cabinet agrees to consultation and further negotiations being undertaken with those school partners to explore the full potential of developing this proposal.
- 12.4 That Cabinet agrees to consultation and further negotiations being undertaken with North Birkenhead Development Trust as a current and key stakeholder at the St James Centre to explore the full potential of developing this proposal.
- 12.5 That Cabinet agrees that a contingency plan be put in place (funded from existing resources) by the Director of Children's Services as considered necessary and appropriate to ensure sufficiency of the early education offer.
- 12.6 That the Director of Children's Services be authorised to prepare the requisite consultation documentation and commence the public consultation as soon as practicably possible.
- 12.7 That the outcome of the proposal and consultation responses be considered at a future meeting of Cabinet.

## **13.0 REASONS FOR RECOMMENDATIONS**

- 13.1 In 2013 the Department of Education published amended guidance to ensure services for young children pre birth to 5 are targeted to those most in need of them (the inference is those in the 20 – 30% most disadvantaged target 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

Proposed changes to day nursery services (along with the subsidy they currently require) outlined in this report support delivery of services for children and families against this amended guidance (2013).

- 13.2 The childcare sufficiency assessment does not currently indicate a need as vacancies in the wider childcare sector across the borough are over and above the level of places presently being offered in the five day nursery settings.
- 13.3 The Council is open to challenge if it continues to directly deliver (or subsidise) childcare when other providers are willing and able to provide childcare (Childcare Act 2006 and the Apprenticeships, Skill, Children and Learning Act 2009).

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**HISTORY (last 3 years)**

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