



**Haringey Council**

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| <b>Report for:</b> | Children and Young People's Scrutiny Panel – 26 September 2013 | <b>Item Number:</b> |  |
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| <b>Title:</b> | Scoping report – Nursery Provision and the Two Year Old Free Early Entitlement |
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| <b>Report Authorised by:</b> | Cllr Martin Newton<br>Chair, Children and Young People's Scrutiny Panel |
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| <b>Ward(s) affected:</b> All | <b>Report for Key/Non Key Decisions:</b> |
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**1. Describe the issue under consideration**

- 1.1 The Panel have agreed to undertake an in-depth piece of work regarding the statutory duty that local authorities now have to ensure that the most disadvantaged two year old children are able to access a free early learning place. The report outlines the proposed scope and terms of reference for this.

**2. Cabinet Member Introduction**

- 2.1 Not applicable.

**3. Recommendations**

- 3.1 That the Panel approves the scope and terms of reference for the project.

**4. Other options considered**

- 4.1 Not applicable.

## **5. Background information**

- 5.1 Under its agreed terms of reference, the Children and Young People's Scrutiny Panel can assist the Council and the Cabinet in its budgetary and policy framework through conducting in-depth analysis of local policy issues.
- 5.2 In this context, the Panel may:
- Review the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - Conduct research, community and other consultation in the analysis of policy issues and possible options; and
  - Make recommendations to the Cabinet or relevant nonexecutive Committee arising from the outcome of the scrutiny process.
- 5.3 Cabinet Members, senior officers and other stakeholders were consulted in the development of an outline work programme for Overview & Scrutiny Committee and its scrutiny panels, which was agreed at the meeting of 17 June 2013. This identified potential issues for consideration by each of the panels.
- 5.4 The Children and Young People's Scrutiny Panel agreed to undertake an in depth piece of work on nurseries and the two year old free early entitlement at its meeting on 16 July. The following scoping report provides an outline of the legislative and policy context, the aims of scrutiny involvement and the proposed plan of work to be undertaken by the Panel.

## **6. Comments of the Chief Financial Officer and Financial Implications**

- 6.1 There are no finance implications arising directly out of this report and all costs should be met from within existing resources.

## **7 Head of Legal Services and Legal Implications**

- 7.1 The Head of Legal Services confirms that the recommendations in this report are within the terms of reference of the scrutiny panel. Scrutiny panels are non-decision making bodies and the work programme and any subsequent reports and recommendations that the panel produces must be approved by the Overview & Scrutiny Committee. Such reports can then be referred to Cabinet or Council under agreed protocols. There are generic terms of reference for all of the scrutiny panels.
- 7.2 There are no other specific legal implications arising at this stage.

## **8. Equalities and Community Cohesion Comments**

- 8.1 Overview and scrutiny has a strong community engagement role and aims to regularly involve local stakeholders, including residents, in its work. It seeks to do this through:

- Helping to articulate the views of members of the local community and their representatives on issues of local concern
- As a means of bringing local concerns to the attention of decision makers and incorporate them into policies and strategies
- Identified and engages with hard to reach groups
- Helping to develop consensus by seeking to reconcile differing views and developing a shared view of the way forward
- The evidence generated by scrutiny involvement helps to identify the kind of services wanted by local people
- It promotes openness and transparency; all meetings are held in public and documents are available to local people.

8.2 Engagement processes will be used as part of the work of the Panel and will seek to include a broad representation from local stakeholders. It is expected that any equalities issues identified within the consultation will be highlighted and addressed in the conclusions and recommendations reached by the panel.

## **9. Head of Procurement Comments**

9.1 Not applicable.

## **10. Policy Implications**

10.1 It is intended that the work of the Panel will contribute and add value to the work of the Council and its partners in meeting locally agreed priorities.

## **11. Use of Appendices**

11.1 All appendices are listed at the end of the attached report:

## **12. Local Government (Access to Information) Act 1985**

## Children and Young People's Scrutiny Panel

### Scope and Terms of Reference for Project on Nurseries and the Two Year Old Free Early Entitlement

#### 1. Introduction

- 1.1 The Panel have agreed to undertake a short in-depth piece of work regarding the statutory duty that local authorities now have to ensure that the most disadvantaged two year old children are able to access a free early learning place.

#### 2. Background

##### *Statutory Duty and Entitlement*

- 2.1 From September 2013, all local authorities in England have had a statutory duty to provide free part time early education for the 20% most disadvantaged 2 year olds. This will be extended to the 40% most disadvantaged in September 2014. Children whose parents meet the eligibility criteria will become eligible for a place from the start of the term after they turn two years old until the start of the term after they turn three.
- 2.2 The entitlement is for 570 hours per year, which equates to 15 hours per week for term time only. It is for the individual provider to determine what hours and weeks they can offer parents.
- 2.3 The national eligibility criterion are as follows:
  - Children looked after by Local Authorities;
  - Children meeting the criteria for entitlement to Free School Meals (FSM), where the child's parents are in receipt of any one or more of the following support payments:
    - Income support (IS);
    - Income-based jobseeker's allowance (IBJSA);
    - Income-related employment and support allowance;
    - Support under Part 6 of the Immigration and Asylum Act 1999;
    - The guarantee element of State Pension Credit;
    - Child Tax Credit but not to Working Tax Credit and have an annual income not exceeding £16,190 (as of 6 April 2012), as assessed by Her Majesty's Revenue and Customs
    - Entitled to Working Tax Credit four week run-on
- 2.4 The eligibility criteria for Phase Two has recently been announced and is as follows:
  - Children meeting eligibility criteria for FSM
  - Families receiving WTC and have annual gross earnings of no more than £16,190 a year
  - Children receiving a current statement of SEN or an education, health and care plan
  - Children attracting Disability Living Allowance

- Children looked after by the LA
- Children leaving care through special guardianship or through an adoption or residence order

2.5 The Department for Education (DfE) is supplying local authorities with a termly list of parents who have a child they believe may be eligible for a place. This is based on benefits data held by the Department of Work and Pensions. Local authorities have the discretion to agree their own local criteria, which will allow vulnerable and disadvantaged children whose parents do not meet the eligibility criteria to access a place.

2.6 The DfE provides revenue funding allocations to local authorities to secure the necessary places. This forms part of the ring-fenced Dedicated Schools Grant (DSG) in 2013-14. The DfE has also provided capital funding allocations.

#### *London Wide Position*

2.7 London Councils commissioned the Daycare Trust to undertake research into the challenges facing London boroughs in delivering the new entitlement and reported on this in December 2012. They estimated that a minimum of 24,100 new places would be needed throughout London by September 2013 and 31,700 by September 2014. In addition to the shortage of places, the research revealed the following:

- The revenue funding that the government had provided might not be sufficient to make it financially viable for some providers to participate in providing the free places. The revenue funding to London boroughs provides for funding of between £5.28 and £6.08 per hour to commissioners. In several boroughs, good or outstanding providers were intending to opt out of delivering free places as the funding would not cover costs;
- London authorities had faced higher than expected costs in delivering the offer due to a combination of demographic factors, the childcare market and the large numbers of children who qualify for free places in some boroughs;
- The delivery model could cause difficulties for providers as it was based on term time only provision, whilst nurseries and childminders tended to work over 50-52 weeks. In addition, the offer of 15 hours per week might not be enough to make it attractive to many providers as it could leave them with unfilled hours;
- The most effective way to close the gap between the poorest children and their peers before they start school was considered to be the provision of support for the whole family. London local authorities were of the view that a dual offer of support, as provided by children's centres, would be of greater benefit;
- Significant capital investment was needed to enable providers to adapt and expand premises in order to provide the necessary additional capacity; and
- Whilst some of the costs of delivering the offer were likely to level off after 2015, future revenue costs would need to fully take into account the additional

costs of providing places within London.

- 2.8 The research outlined the approach being followed in a number of boroughs and, in particular, how some individual boroughs were addressing the challenges. Further research is being undertaken by London Councils on progress made by boroughs in identifying and delivering the places required.

#### *Haringey Position*

- 2.9 The DfE projected that Haringey would require places for 882 two year olds for the the academic year September 2013 to July 2014. This represented 22% of Haringey's two year olds. In the following academic year, the entitlement will be extended to a further 800 children, representing 42% of two year olds. The DfE has also estimated that only 80% of eligible children are likely to take up their entitlement.
- 2.10 A report on the issue was submitted to Cabinet on 9 July 2013. The entitlement presented was identified by the Director of Children and Young People's Services (C&YPS) as presenting three significant challenges:
- Ensuring there are sufficient good quality places to meet statutory responsibilities;
  - Developing a funding formula that has the capacity to sustain the required number of places within the agreed financial settlement; and
  - Ensuring high levels of participation.
- 2.11 The provision of free early education targeted at two year olds from the most economically deprived communities forms a key part of the Council's Child Poverty and Health and Well Being strategies. The programme was viewed as presenting an exciting opportunity to:
- Deliver early help to the most disadvantaged young children;
  - Support the Council's 'Outstanding for All' improvement programme for education in the borough;
  - Ensure there was continuity of provision for children from early education into primary school; and
  - Support parents into training and work as well as the creation of jobs and training opportunities.
- 2.12 All three and four year olds are entitled to 15 hours per week of free early education from the term after their third birthday. The current take-up levels for this within the borough are around 77%. The challenge of providing access to this entitlement is that, whilst it is a statutory duty for the Council to ensure the provision of places, there is no legal obligation on parents to take up places.
- 2.13 It was reported that there was a need to improve take up levels across the two, three and four year old age range in order to avoid potential reductions in future levels of DSG funding. It was considered that the expansion of the two year old programme over the next two academic years will contribute significantly to improving participation levels at age three as these children will already be known.

- 2.14 C&YPS are using a place planning approach and in line with the principles contained within the 'Outstanding for All' Education Commission Report. There is an expectation that settings will all have been judged as good or outstanding by Ofsted, with settings judged as satisfactory/requiring improvement only approved if there is a shortage of places in the area concerned as well as evidence that it is progressing towards a good outcome. New settings can also be included on the scheme
- 2.15 An analysis of the need for places has been undertaken, including mapping of the quality of provision and an intensive training and support programme to improve the quality of provision being delivered. The intensive improvement programme is being delivered using funding provided for this purpose by the DfE. All current providers have participated in induction and training programmes and the Haringey Early Years Quality Assurance programme in order to ensure that the quality of provision is at least good.
- 2.16 Children accessing the programme will be tracked so that the impact of the programme can be measured and the outcomes of successful interventions are shared across other programmes.
- 2.17 601 places have so far been secured in Haringey, with another 60 places coming on stream in January 2014. Participating settings include private, voluntary and independent providers, children's centres, schools and childminders.
- 2.18 The Council's Cabinet endorsed the Haringey Schools Forum recommendation to ring-fence the funding for the entitlement. The revenue funding comprises of:
- £2.656 million revenue funding for statutory place provision; and
  - £1.043 million trajectory funding to support the expansion of the programme.
- 2.21 Trajectory funding has been provided to develop the infrastructure required to support both phases of the programme and will be used for a range of purposes, including to:
- Develop systems for the allocation of places and payments to providers;
  - Further develop systems for tracking the progress of children;
  - Improve the quality of provision so that more providers are good or outstanding;
  - Stimulate the local market and encourage new providers to set up;
  - Support the sustainability of new providers to deliver good quality places by initially funding on planned places rather than actual participation. From April 2015, Councils will only be able to fund settings based on actual participation; and
  - Promote and advertise the programme and deliver outreach to families.
- 2.22 The DfE provided capital funding for the Council of £736,659 to support the expansion of the programme. The Cabinet noted that comments of Chief Financial Officer that this was an extremely modest amount taking into account the work that was required. The criteria for allocating this funding are:
- Need for places in the area;
  - Number of new places that the setting will offer; and

- Value for money e.g. number of places delivered compared to cost of adaptations.

- 2.23 Further work is being carried out to encourage new providers to set up and deliver places in the areas of greatest need for September 2014. A significant proportion of the capital funding will be required to support developments involving large building projects.
- 2.24 Guidance on expectations of how funding should be allocated to providers was issued by the DfE when the two year old funding was announced in November 2012. This included a requirement on local authorities to fund two year old places through an Early Years Single Funding Formula (EYSFF). The borough's Schools Forum appointed an Early Years Working Group, comprising of forum members, Headteachers and Governors, to work with officers to develop the formula. The initial work of the Group focused on consideration of the cost of provision across different providers in order to inform the setting of base rates. However, a DfE consultation on the issue suggested that this might not be sustainable beyond March 2014 as it proposed to require a single flat rate for *all* two year old provision.
- 2.25 The two year old formula must use a base hourly rate and can also include a quality supplement. The Council receives funding based on a notional rate of £5.28 an hour.
- 2.26 The Early Years Working Group consulted with potential providers for their views on a number of issues:
- The number of places that could be offered at a variety of rates;
  - Whether these places would be provided if a flat rate was introduced; and
  - Whether the Local Authority should provide place-led funding during the initial stages of delivery.
- 2.27 The consultation looked at what places might be available and what providers considered to be a reasonable rate. In the consultation, differential rates of between £4 and £6 per hour were considered. The advantage of differential rates was that they more closely reflected the costs faced by different providers and could allow additional funding in settings dealing with children with more complex needs or facing higher unavoidable costs. This could be offset by lower payments to establishments dealing with less complex need and facing lower costs. The advantage of a flat rate was that it was easier to administer and more transparent. It was also an incentive for providers to develop cost effective provision along the lines of a playgroup.
- 2.28 The results of the consultation were inconclusive due to the low response rate and the wide variance amongst feedback on rates. The feedback from the majority of those who did respond suggested that very few providers felt able to deliver places for less than the funded rate of £5.28. Most respondents indicated that a rate of £6.00 per hour would be most appropriate but it was not considered possible to fund all potential eligible places at this rate within current levels of funding.
- 2.29 The Cabinet meeting of 9 July agreed that the Council would adopt a formula model underpinned by the following approach:



- A flat rate for all types of providers;
- A modest top slice of 2% on the rate to meet the cost of administering the programme; and
- Maintaining existing levels of provision by continuing to fund an existing, fixed number of places at the current provider rate to the end of March 2013.

2.30 The flat rate that was agreed for all providers was £5.18 per hour and reflected a 2% top slice on the funded rate of £5.28. It was acknowledged that this was a challenging rate for maintained childcare provision and some private providers. It was therefore also agreed that further work would be done to support some providers to develop sustainable models for the delivery of places at this funding rate. It was noted by Cabinet that there was a risk that there may be a statutory requirement for a flat rate from September 2014.

#### *Support for providers*

2.31 The first capital and resource funding grant round to support providers in delivering two year old places has now been completed by the Council. This will assist through making changes to the internal and external environment of premises so that they better meet the needs of the current intake of children. It was also aimed at enabling providers to purchase additional resources where appropriate. Further rounds of grant funding will focus on the development of new places in areas where it is anticipated that demand will be greatest.

2.32 Further action is being taken to address the shortfall in number of places required in Haringey. There is a need to focus on the wards with either the highest shortfalls or the greatest need. The following approach is being adopted to develop the additional 221 new places needed in the short term and the additional places required in September 2014:

- Working with the Council's Corporate Property and Leisure colleagues to identify and secure sites where there is the potential to develop places.
- A market development event is being planned for October 2013. Work is being undertaken with Regeneration to ensure a comprehensive approach to job creation and developing local economies. This will focus particularly on Tottenham where significant numbers of places are needed by September 2014.
- Encouraging new providers to establish settings in areas where supply is low but expected demand is high. This will include the engagement of schools where there is the potential for on-site provision.
- Continuing to stimulate interest from newly established and existing providers who are not currently participating.
- Targeting current providers, where there is the capacity to expand.

2.33 Some providers have declined to participate due to the hourly rate. In addition, in the areas of most need, the level of good and outstanding providers is low.

Sustainability of provision and the likely impact on sufficiency are also acknowledged to be issues.

### **3. Scope of Work by Children and Young People's Scrutiny Panel**

- 3.1 It is proposed that the Panel's project will look in detail at plans by the Council to implement the early entitlement offer and, in particular, ensuring that there are sufficient high quality places available for two year olds in all areas of the borough where they are needed and that take up levels meet targets. In addition, it will also look at the transition process for places for three year olds. The objective of the project will be to make recommendations for endorsement by the Overview and Scrutiny Committee and submission to the Cabinet on potential measures that could be taken by the Council and its partners to improve support for the most disadvantaged children and maximise the benefits and outcomes of the new entitlement.

#### *Terms of Reference/Objectives*

- 3.2 To consider and make recommendations to the Overview and Scrutiny Committee on local arrangements to implement the early entitlement offer for two year olds and, in particular, measures to ensure that;
- Sufficient high quality places are available for two year olds in all areas of the borough where they are needed;
  - Take up levels meet targets;
  - There is a smooth transition to provision for three year olds.

#### *Sources of Evidence*

- 3.3 The work of the Panel will be informed by evidence from a number of sources:
- The Children and Young Peoples Service (C&YPS) have already provided a briefing to the Panel on the new entitlement and progress with implementation locally and can provide further input on developments and additional progress in due course.
  - London Councils have undertaken specific research on the issue and are currently monitoring the implementation of the entitlement across London. Input could be requested from them on the findings of their work as well as approaches adopted by other boroughs and, in particular, any innovative measures of note that have been taken.
  - Input from a range of providers, including maintained and independent ones, on the challenges that they face. This will be representative of the different areas of the borough.
  - The Chair of the Early Years Working Group of the Schools Forum on the work undertaken by them on the issues and the conclusions that they reached.
  - Other London boroughs. It is proposed that specific evidence be sought from Camden on the approach taken there, which involves the topping up of the

number of hours entitlement. In addition, both Barnet and Lewisham are also undertaking scrutiny exercises on similar issues and information and evidence could be shared with them.

### *Methodology*

- 3.4 The project will obtain its evidence through consideration of relevant documentary evidence and a small number – maximum two – of evidence gathering meetings to interview relevant stakeholders. It is proposed that the meeting where evidence is obtained from local stakeholders should, if possible, be held at a local nursery.
- 3.5 The meetings will be arranged as follows:

#### *Meeting 1:*

Evidence from the following:

- A maintained and an independent provider from both the east and the west of the borough; and
- The Chair of the Early Years Working Group of the Schools Forum

#### *Meeting 2:*

1. Evidence from the following:

- London Councils;
- Camden Council.

2. Conclusions and Recommendations

### *Timescale*

- 3.6 The Panel will need to ensure that its work on this issue is completed in time for approval by the final Overview and Scrutiny Committee of the Municipal Year on 17 March.