

AGENDA ITEM: 24 Pages: 177 - 185

Meeting	Cabinet Resources Committee
Date	28 February 2012
Subject	Consultation on proposed changes to the funding formula of Children's Centres
Report of	Cabinet Member for Education Children and Families
Summary	This report seeks approval to consult with relevant stakeholders on proposed changes to the formula for funding Children's Centres, which would redirect funding to areas of greatest need and remove subsidies for the childcare elements.
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Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1- Children's Centres – Current and Proposed Funding Allocations 2011/12- 2014/15 (circulated separately) Appendix 2- Summary of Children's Centre Childcare provision -Financial year 2011/12 (circulated separately)
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable
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1. RECOMMENDATIONS

- 1.1 That the Committee gives approval for consultation with relevant stakeholders, including the public, on proposed changes to the formula used for Children's Centre funding allocations from September 2012 in order to channel more funding into disadvantaged areas, take account of parents' ability to pay for childcare and reward successful centres through payment for results.
- 1.2 That the Committee note that a further report providing an analysis of the responses to the consultation as well as the equalities impact analysis will be brought back to Cabinet Resources Committee in June or July 2012.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet 14 February 2011, Decision item 5 C: **Proposed reduction and redesign of children's centres and related services in Barnet. This decision** reduced the number of Children's Centres from 21 to a network of 13 Children's Centres with outreach venues, following consultation.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Children's Centres contribute to the priorities outlined in the Children and Young People Plan 2010/11-2012/13, especially the commitments to:
- intervene early to strengthen families, ensuring the early identification of children and families to enable appropriate preventative interventions through the Common Assessment Framework (CAF);
 - ensure every child has a good start to life by providing access to high quality early years provision and support;
 - promote access for all children and young people to positive activities;
 - reduce economic disadvantage through tackling child poverty:
 - a) Ensuring access to affordable and suitable childcare;
 - b) Supporting parents to build confidence and skills;
 - c) Addressing health, including mental health, both as a cause and consequence of poverty.
- 3.2 The early intervention work carried out in Children's Centres helps to reduce the need for more intensive support later on, thereby improving life chances for children. This also contributes towards the key Corporate Plan (2011/12 -2012/13) priorities 'better services with less money' and 'a successful London suburb'.

4. RISK MANAGEMENT ISSUES

- 4.1 If the council does not consult on this proposal there is a risk that the council may be challenged by way of judicial review on the grounds that it has failed to discharge the statutory duty to consult. There is also a risk that the local authority could be in breach of its statutory duty if the consultation process is not carried out in a fair and proper manner (see para 7.5 below).
- 4.2 The proposals, if implemented, would redistribute the Children's Centre budget, with consequent "winners" and "losers". The period for phased implementation is intended to minimise the need for redundancies. However, the timescales are tight as the first phase of the new proposed funding is intended (subject to consultation) to take effect from 1 September 2012. This could result in some staff working and being paid through their

notice period. This applies in particular to teachers on one term's notice who would work through until December 2012. This presents a financial risk to the Council. To help mitigate this all staff affected would be redeployed accordingly, where possible and subject to selection criteria.

- 4.3 There is a potential reputational risk to the authority due to the high profile and sensitive nature of the project. Regular communication and engagement will take place with all stakeholders including : local families who use the centres, particularly parents who are members of disadvantaged groups, staff including managers, teachers and other staff that may be affected, advisory boards of children's centres that may be affected, the wider community, service providers that may be affected including voluntary organisations and private sector providers, the Cabinet Member for Education, Children and Families, and trade unions.
- 4.4 There is a potential risk that Children's Centres with onsite childcare may need to increase their childcare fees to achieve cost neutrality. This may have an adverse financial impact on some parents of younger children or who purchase additional hours. However, disadvantaged 2 Year Olds and all 3 and 4 Year Olds will continue to be entitled to up to 15 hours a week of free childcare and parents will continue to be entitled to Working Tax Credits subsidising childcare. Children's Centres that have onsite childcare may also take one of the following actions:
- (a) Reduce service delivery of childcare;
 - (b) Close childcare;
 - (c) Review childcare and make changes in the future;
 - (d) Commission a childcare provider to deliver the childcare on site.
- 4.5 If Children's Centres close their childcare, this may impact on the local authority's legal obligation to assure there is a sufficiency of childcare. To minimise the financial impact for Children's Centres that have childcare, the local authority will support Children's Centres by working alongside them to develop their Business Plans. If current childcare were to close, alternative provision would be identified for parents.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Barnet Children's Service operates in line with Barnet's Equality Scheme and equalities legislation. The Barnet Children and Young People Plan 2010-2013 states that 'All partners in Barnet's Children's Trust are committed to ensuring that children and young people, regardless of ethnicity, religion, disability, economic status or other differences, are able to access opportunities and activities, and are enabled to achieve their potential.'
- 5.2 An initial Equalities Impact Assessment (EIA) will be carried out on the funding proposal regarding Children's Centres. To minimise the impact of the proposed changes we will analyse data and consult with relevant stakeholders in order to provide a service that is as comprehensive and cost-effective as possible within resource constraints. The Equalities Impact Assessment will be reviewed following the outcome of the consultation and the results will be made available to this Committee. The EIA will be used to identify whether there is likely to be a disproportionate impact on any protected group and what mitigating factors can be put in place. This analysis together with the responses to the consultation will be used to inform decision-making.

- 5.3 An initial Equalities Impact Assessment on the potential impact on staff in Children's Centres that could be affected will be completed.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property and Sustainability)

- 6.1 The total budget for Children's Centres is contained within the early intervention and prevention budget in Children Services with some funding from the Dedicated Schools Grant.

Barnet Council is proposing a 2012/13 budget and spend for Children's Centres of £4.3m. There is no change from 2011/12 budget.

- 6.2 The proposal is to redistribute the £4.3m budget to Children's Centres activities based on local need/deprivation and remove the existing childcare subsidy in Children's Centres that provide childcare.
- 6.3 The proposed reallocation of funding would result in Children's Centres that will gain funding and those that will see a reduction. Children's Centres that have childcare on site would see a reduction in funding. This is largely driven by the funding formula removing the subsidy of childcare.

7. LEGAL ISSUES

- 7.1 The council has an overarching duty to secure sufficient childcare provision in its area to meet the requirements of working parents pursuant to section 6 of the Childcare Act 2006. Childcare provision is an important function of the council and this duty is partially met through provision of childcare in children's centres.
- 7.2 The proposed changes to the funding formula will result in the removal of the subsidy with regard to on-site childcare provision in children's centres and will require childcare provision to be cost neutral. This may require some children's centres to increase existing childcare fees to a market rate which in turn may have an impact on parents' ability to afford that existing provision. As stated in paragraph 4 there is a risk that these changes may lead to a reduction of service provision, closure of childcare provision in some centres or review and commissioning of childcare provision.

- 7.3 Legal advice has been taken on whether the statutory duty to consult arises with regard to the proposed change to the funding formula. The test as to whether the council has a duty to consult can be found in section 5D(1)(b) of the Childcare Act 2006 inserted by s198 of the Apprenticeship, Skills, Children and Learning Act 2009. Section 5D(1)(b) provides that consultation must take place “before any *significant change* is made in the services provided through a relevant children’s centre. Interpretation of this provision has not been tested in the courts, however, the word “significant” in other contexts has been interpreted as meaning something more than *de minimis*. Section 5D(3) states for the purposes of this section a *change in the manner in which*, or the location at which, services are provided is to be treated as a *change in the services*. Section 5D(2) requires the council in discharging its duty under section 5 to have regard to any guidance given by the Secretary of State. Statutory guidance with regard to children’s centres was issued in 2010 which provides that a “significant change” may include “a significant service no longer being provided at a children’s centre (or particular site of the children’s centre)” or “a greatly reduced level of service provided at a children’s centre”.
- 7.4 The legal opinion is that the statutory duty to consult does arise. The proposed funding formula would amount to a significant change in the services provided through a children’s centre as it could at best lead to increases in childcare fees which will impact on affordability and access to the service and at worst childcare provision no longer being provided in some children’s centres. The change in proposed funding could impact on sufficiency of provision by the council.
- 7.5 The requirements for fair and proper consultation are well established in caselaw. Consultation can only be considered as proper consultation if :
- comments are genuinely invited at the **formative** stage;
 - the consultation documents include sufficient **reasons** for the proposal to allow consultees to be properly informed and allow them to give intelligent consideration and an informed intelligent response.
 - there is adequate **time** given to the consultees to consider the proposals (6-8 weeks is deemed sufficient, however, must bear in mind holiday periods / school closures etc;
 - there is a mechanism for feeding back the comments and those comments are conscientiously taken into account by the decision maker / decision making body when making a final decision.
- 7.6 The council must also be mindful of the statutory duties pursuant to the Equality Act 2010 and in particular the duty of the council or other public bodies acting on its behalf when exercising public functions to have due regard to the need to eliminate discrimination, advance equality of opportunity between persons who share a protected characteristic and those who do not, foster good relations between persons who share a relevant protected characteristic and persons who do not share it in order to tackle prejudice and promote understanding. The protected characteristics are age, gender reassignment, disability, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.7 In short, equality and diversity issues are a mandatory consideration in decision-making in the council. This requires officers and members to satisfy themselves that equality considerations are integrated into day to day business and that any proposal has properly taken into consideration what impact, if any, there is on any protected group and what mitigating factors can be put in place. The results of consultation together with the analysis of any potential impact on a protected characteristic (the equalities impact assessment referred to in paragraph 5.2 above) must be considered before reaching a final decision on this proposal.

8. CONSTITUTIONAL POWERS

8.1 The Council's constitution in Part 3, Responsibility for Functions, paragraph 3.6 states the terms of reference of the Cabinet Resources Committee.

9. BACKGROUND INFORMATION

9.1 In February 2011 Cabinet agreed to reduce the number of children's centres and to focus them on the 30% most deprived areas of the borough, in order to concentrate on meeting the needs of the most disadvantaged and vulnerable children and families. This reflected the Council's shift towards a more targeted and preventative approach to services for children and families. As a result there are now 13 full service Children's Centres located across the borough with eight venues (former Phase 3 Children's Centres) linked to them.

9.2 The Council decided to retain integrated education and childcare in seven Children's Centres (Wingfield Children's Centre, Newstead Children's Centre, Coppetts Wood Primary School and Children's Centre, The Fairway Primary School and Children's Centre, The Hyde Primary School and Children's Centre, Parkfield Primary School and Children's Centre and Underhill Infants School and Children's Centre). These centres provide onsite childcare between 8am – 6pm, (10 hours per day), 5 days a week over 48 weeks of the year. This was in spite of the Government no longer requiring Children's Centres to offer childcare as part of their core offer.

Review of funding formula

9.3 In 2011 the Council undertook a review of Children's Centres and related Commissioned Services, to explore and develop a business plan for alternative models that would meet the Council's objectives, reduce the need for acute and specialist provision and deliver a 30% budget saving in this area. It recommended that the funding formula be more closely aligned to the number of children, areas of highest deprivation and cost neutral childcare provision to reflect this shift in policy. Officers subsequently convened a working group, including representatives of Children's Centre Managers, Headteachers and School Governors to discuss proposals, test ideas, and develop a new proposed funding formula for Children's Centres that reflected these objectives..

9.4 Funding for Children's Centres is currently based on four components:

- Funding for essential staff (Centre Manager, receptionist);
- Family Support;
- Occupancy costs (utilities, premises, insurance, repair), adjusted for the size of the Children's Centre;
- Where childcare is offered, an additional budget is allocated

- 9.5 Wider discussions have also regularly taken place with Children's Centre stakeholders, including open discussion on the current funding formula and what factors to include in a revised funding formula. Currently, the Government is trialling payment by results in up to 30 other local authorities across the country. In Barnet, it was agreed with stakeholders that for the financial year 2011/12 Children's Centres would use a revised service level agreement during a transitional year which trialled the implementation of payment by results, based on increased usage. This can be linked to a very significant increase in the number of families using centres during this year.
- 9.6 It is proposed that, to meet the Council's revised objectives, future funding for Children's Centres is based on the following factors:
- The level of deprivation of the reach areas of the Children's Centres – as measured by the indices of multiple deprivation (IMD) 2010 scores;
 - The number of under fives in the Children's Centre's reach area;
 - Centre specific indicators, including utilities, headteacher allowance (where school based);
 - Childcare to be separated from Children Centre based activities, with childcare costs assumed to be neutral.
 - Children's Centres that have a former phase 3 Children's Centre site attached to them as an outreach venue to have the costs included as part of their allocation;
 - Children Centres that have onsite childcare and are not directly managed by the local authority (Coppetts Wood, Fairway, The Hyde, Parkfield and Underhill) should be encouraged to charge childcare fees in line with the market;
 - The local authority to recommend childcare fees to the centres that are managed by the local authority;
 - A continued requirement to raise external income (in 2011/12 this was up to £1500 per centre);
 - Payment by results, based on increased usage, to be introduced.

Possible Impact of the proposed new funding arrangements

- 9.7 Appendix 1 demonstrates how the application of a new funding formula would redistribute the allocations to individual centres. Appendix 2 shows the current pattern of provision of places. Both will be included in the consultation on proposed changes. The change that would have the greatest possible impact is the removal of the subsidy with regard to on-site childcare provision to make it cost neutral, While those Children's Centres without childcare and in areas of disadvantage will gain in relative terms, there are two possible risks, as stated in paragraph 4, resulting from the withdrawal of subsidy to those that offer childcare onsite:
- 9.8 They may increase existing childcare fees to a market rate, which in turn may have an impact on parents' ability to afford that existing provision. It is important though to note that these proposals do not affect the local authority's continued funding of childcare for 2 year olds (10 hours on a targeted basis), 3 and 4 year olds (15 hours on a universal basis) and those vulnerable children currently accessing childcare through the Early Years Panel. There are 279 children that generate fee income across the centres involved, although many of these will also be in receipt of the free childcare above or Working Tax Credit and be 'topping up' with additional hours.
- 9.9 Each of the parents of these children will be individually written to as part of the consultation exercise. The Council does not have all relevant information on their

financial circumstances that would allow analysis of the effect on individuals. However Officers are working with Children's Centres to review their business plans and income generation activity, and by the time consultation begins this work will provide some models which show the range by which fees might have to increase to compensate for the withdrawal of subsidy.

- 9.10 There is a risk that these changes may lead to a review of childcare provision in some centres, leading to reduction or closure of service provision. The seven centres provide a total of 237 full-time equivalent childcare places, averaged over the school year, in 2011/12. The Council has a legal requirement to have sufficient childcare provision across the borough and would therefore want to minimise any closure impact. The Council's latest Childcare Sufficiency Assessment found that across the borough there is sufficient childcare provision. The only area of concern is around the western part of the borough, and any loss of places in Wingfield, The Hyde and Parkfield Children's Centres might cause particular concern but experience is that new private childcare provision is being opened.
- 9.11 For the next two financial years (2012/13 and 2013/14) Children's Centres that have childcare will receive transitional funding enabling them to plan for cost neutrality by 2014/15.

Proposed methods of consultation

- 9.12 The consultation on the proposed changes to the Children's Centre funding formula is due to start as soon as possible with a decision on implementation based on the responses to be taken by June 2012. Arrangements will need to take account of the period of purdah linked to the election of the Mayor of London. Consultation is to be carried out via a number of methods:
- Key stakeholders will be emailed a consultation paper containing information about the proposed funding formula for Children's Centres and how to respond to the consultation. The distribution will include schools with a Children's Centre onsite, staff working in a Children's Centre, trade unions and voluntary organisations working in a Children's Centre.
 - Hard copies of the consultation paper on the Children's Centres funding formula will be distributed to all Children's Centres, all libraries in the borough and special schools with an accompanying cover letter.
 - A series of meetings for stakeholders.
 - A number of meetings for parents, publicised in the local press.
 - An online questionnaire, also made available in hard copy.
 - An email address to which people can send their comments or queries.
- 9.13 A series of consultation activities and events are planned throughout the consultation period. The consultation activities and events will be publicised in advance and Children's Centres (managers and staff/Heads/Governors/ parents), stakeholders and Barnet residents will be invited to attend. This should help to ensure that any concerns raised by those involved in Children's Centres can be discussed and, where possible, addressed at an early stage.
- 9.14 A report providing an analysis of the responses to the consultation as well as the equalities impact analysis will be brought back to Cabinet Resources Committee for further consideration of this proposal. In the event that a decision is made to approve the new funding formula the implementation date will be 1 September 2012..

10. LIST OF BACKGROUND PAPERS

10.1 London Borough of Barnet Children's Centres and Related Commissioned Services, Review and business plan 2011/12- April 2011

Legal- HP

Finance- JH

