

**REVISED POLICY ON THE PROVISION OF EARLY YEARS EDUCATION AND  
CHILDCARE**

**To:** Children and Young Peoples Committee

**Meeting Date:** 9 February 2016

**From:** Adrian Loades, Executive Director: Children, Families and  
Adults Services

**Electoral division(s):** All

**Forward Plan ref:** N/A **Key decision:** No

**Purpose:** To set out for the Committee's consideration and  
approval, a revised policy to reflect changes in legislation  
with regard to the provision of early years education and  
childcare

**Recommendation:** To agree to adopt the policy, attached as Appendix 1, with  
immediate effect.

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## **1.0 BACKGROUND**

- 1.1 In April 2004, local authorities (LAs) became responsible for securing a free part-time education placement for every child from the term following their 3<sup>rd</sup> birthday whose parents want one.
- 1.2 Under the Childcare Act 2006, local authorities (LAs) have specific sufficiency duties, namely to secure:
- sufficient and suitable childcare places to enable parents to work, or to undertake education or training which could lead to employment;
  - sufficient and suitable early years places to meet predicted demand; and
  - free early years provision for all 3 and 4 year olds (and the 40% most vulnerable 2 year olds) of 15 hours per week 38 weeks per year.
- 1.3 Current legislation (The Childcare Act 2006 and the Education Act 2011, amended by the Children and Families Act 2014, Early Education and Childcare, Statutory Guidance for LAs) places duties on LAs in relation to early years and childcare provision. In response to this, as the commissioner of <sup>1</sup>registered early years provision, the Authority will:
- secure information, advice and training for early years providers
  - support and challenge providers to comply with Equalities, SEND and Safeguarding legislation
  - intervene and support providers judged to require improvement, where parents wish their child to continue to take up an early education place
  - secure quality childcare places for children aged 0 to 14 (or 18 if they have additional needs)
  - take steps to withdraw funding and provide intensive support, where provision is judged inadequate and/or is in breach of welfare requirements
  - respond to concerns about the use of Early Years Pupil Premium
  - respond to concerns regarding British values in early years and childcare provision
  - provide information, advice and assistance to families about local childcare provision and other families information.
  - improve the outcomes of children from birth to five years
  - reduce inequalities between children and young people in their area
  - secure and fund sufficient, flexible early years places for 2, 3 and 4 year olds in good and outstanding provision
- 1.4 In Cambridgeshire, the Authority funds a range of providers including its maintained schools but, the majority of children attend private, voluntary or independent-run (PVI) settings such as pre-schools and day nurseries. Only 23 of the Council's primary schools have nursery classes. In addition there are 7 maintained nursery schools.
- 1.5 Following the general election in May 2015, the government is fast-tracking legislation which will increase the statutory entitlement for 3 and 4 year olds to 30 hours early years education and childcare per week for 38 weeks of the year beginning in some pilot areas in September 2016 and nationally in 2017. Cambridgeshire has not been identified as one of the pilot areas. However, it has been invited by the Department for Education (DfE) to join a working

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<sup>1</sup> day nurseries, playgroups and pre-schools, out of school childcare, childcare on domestic premises, local authority maintained nursery classes/schools, childminders, independent schools, academies and free schools with early years provision.

group the purpose of which is to enable local authorities to provide advice and direction to inform the policy development of how local authorities will deliver the extended entitlement of 30 hours childcare.

- 1.6 The Authority's policy on Early Years (EY) education was last revised in 2012 when it set out for the first time the Authority's position as a market manager and facilitator, and a provider of last resort where the market was unable to meet parents' needs. The policy sets out the different ways in which provision can be offered in this environment. The principles underpinning the policy remain unchanged but the revised policy reflects recent changes to legislation and government policy.
- 1.7 The most significant developments since 2012 are:
- The targeted expansion of funded two-year old places for income deprived families (from September 2013) and other priority groups (from 2014)
  - Schools can now change their age range by up to two years without needing to undertake a formal statutory process
  - With effect from September 2014 the Office for Standards in Education (Ofsted) became the sole arbiter of quality
  - Removal of the statutory requirement for a triennial childcare sufficiency assessment
- 1.8 The Authority is still responsible for improving early years outcomes and whilst Ofsted is the sole arbiter for quality, the duties are still significant.

## **2 MAIN ISSUES**

### **2.1 Revision to the Policy**

#### **2.1.1** Changes to the policy are reflected in:

- Additions to Part 2 *Relevant Legislation* which cover the extension of the entitlement to early years and childcare for 2, 3 and 4 year olds and the ability for schools to change their age range to take 2 and 3 year olds
- Part 4 which sets out the Council's revised approach to advertising demand for new EY places, via its Market Position Statement, in its role as commissioner of early years provision
- Section 5 which reflects the fact that the first school in a new community development will, in future, serve the 2-11 age range in response to the increased level of 0-4 year olds arising from new developments.

These are explained in more detail below.

#### **2.2** Free early education and childcare for the most vulnerable 2 year olds

The widening of financial eligibility criteria in April 2014 means that 2 year olds from working families are now entitled to free early education and childcare. The entitlement now extends to approximately 40% of children in that age bracket. Other priority groups include 2 year olds:

- looked after by the Authority
- adopted
- in receipt of Disability Living Allowance
- who are the subject of a Statement of Special Educational Needs or and Education, Health & Care (EHC) Plan.

#### **2.3** Age Range Change

Amendments to the Regulations are awaited to facilitate this, but Guidance now exists which enables schools to initiate changes to their age range by up

to two years, allowing them to admit children as young as two without having to go through any form of statutory process.

2.3.1 Schools have to consult the Authority but the legislation is permissive i.e. there is the expectation that the change will take place. In contrast, LAs are still required to follow a statutory process if **they** wish to make changes to a maintained school's age range.

2.3.2 Associated with this change is the lifting of the requirement for schools to register their early years' provision for two-year-olds separately with Ofsted, (so long as it meets certain requirements). This came into effect on 26 May 2015.

## 2.4 Growth

2.4.1 The multipliers which underpin the forecasts of children arising from new developments, were revised in 2015. In September 2015 the CYP Committee approved the increase of the general multiplier for the pre-school population from 18-25 to 20-30 children aged 0-3 per 100 dwellings.

2.4.2 The combination of demographic growth and new legislation brings significant challenge in terms of securing sufficient EY places to ensure the Authority meets its statutory duties. In response to housing growth, section 106 negotiations are undertaken on the basis of the need for sites to be made available within new developments for PVI providers to establish settings in new communities. In addition, the Authority continues to include accommodation for the delivery of EY education in the design specification for all new primary schools and at Committee on 19 January 2016, Members agreed that, in future, the first primary school on a new community development should serve the 2 to 11 age range, rather than 4 to 11 as currently.

2.4.3 The first Market Position Statement was published in June 2015. Its purpose is to highlight development opportunities to existing and new providers of early years and childcare, identifying which communities are in need of more early years education places, day care provision and out of school childcare. The Statement is advertised through the Council's Portal for bringing providers and suppliers together, 'Source Cambridgeshire'.

## **3 ALIGNMENT WITH CORPORATE PRIORITIES**

### **3.1 Developing the local economy for the benefit of all**

3.1.1 Under Section 6 of the Childcare Act 2006 LAs have a duty to secure, so far as is reasonably practicable, sufficient childcare (whether or not by them) is available to meet the requirements of parents in order to enable them to work or undertake training leading to work. This applies to childcare for children aged 0 – 14 years, and up to 18 years for those with disabilities.

### **3.2 Helping people live healthy and independent lives**

3.2.1 Accessible early years and childcare provision is a major contributor to helping people live healthy and independent lives as it provides opportunities for parents to train and/or take up employment.

### **3.3 Supporting and protecting vulnerable people**

3.3.1 There are no significant implications within this category.

## **4.0 SIGNIFICANT IMPLICATIONS**

### **4.1 Resource Implications**

4.1.1 Responses to a survey of early years providers in Cambridgeshire initiated by officers in July 2015, regarding the increase in the weekly entitlement for 3 and 4 years olds to early years education and childcare from 15 to 30 hours weekly, indicated that many settings would struggle to make this provision and still remain financially viable given the hourly rate payable to them which is currently £3.43. If settings were to close this would threaten the Council's ability to meet its sufficiency duties.

4.1.2 The DfE published its Childcare Bill Policy Statement on 3 December 2015.. A consultation on proposals regarding hourly rates for 2, 3 and 4 year old entitlements and the commitment to a national funding formula for early years in 2017/18, is expected in late February/early March 2016. The Authority will respond setting out the Cambridgeshire context to try to ensure additional funding for EY providers within the county.

### **4.2 Statutory, Risk and Legal Implications**

4.2.1 The policy reflects the Authority's statutory duties with regard to securing sufficient early years places.

### **4.3 Equality and Diversity Implications**

4.3.1 The policy does not refer specifically to the impact on children with additional needs or at risk of exclusion. However, sufficient good quality provision is essential in securing better outcomes for all disadvantaged groups, and a clear policy framework will support the sufficiency duty.

### **4.4 Engagement and Consultation Implications**

4.4.1 Where new EY provision is proposed there is an expectation that consultation will take place with the local community and existing providers

### **4.5 Localism and Local Member Involvement**

4.5.1 There are no significant implications.

### **4.6 Public Health Implications**

4.6.1 There are no significant implications

<b>Source Documents</b>	<b>Location</b>
The Childcare Act 2006	<a href="http://www.legislation.gov.uk/ukpga/2006/21/pdfs/ukpga_20060021_en.pdf">http://www.legislation.gov.uk/ukpga/2006/21/pdfs/ukpga_20060021_en.pdf</a>
The Local Agreement for Early Years & Childcare Providers in Cambridge	<a href="http://www.cambridgesh">http://www.cambridgesh</a>

Department for Education's Childcare Bill Policy Statement  
– December 2015

[ire.gov.uk/site/scripts/google\\_results.aspx?q=local+agreement](http://ire.gov.uk/site/scripts/google_results.aspx?q=local+agreement)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/482517/Childcare\\_Bill\\_Policy\\_Statement\\_12.03.2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482517/Childcare_Bill_Policy_Statement_12.03.2015.pdf)