

Lancashire County Council

Education Scrutiny Committee

Thursday, 30th January, 2020 at 10.30 am in Committee Room 'C' - The Duke of Lancaster Room, County Hall, Preston

Agenda

Part I (Open to Press and Public)

No. Item

1. Apologies

2. Disclosure of Pecuniary and Non-Pecuniary Interests

Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

3. Call In Request: The Future of Maintained Nursery Schools (Pages 1 - 14)

4. Urgent Business

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

5. Date of the Next Meeting

The next scheduled ordinary meeting of the Committee is due to be held at 10.30am on Wednesday 5 February 2020 in Cabinet Room 'C' at County Hall, Preston.

L Sales
Director of Corporate Services

County Hall
Preston

Education Scrutiny Committee

Meeting to be held on Thursday, 30 January 2020

Part I

Electoral Division affected:
All

Call In Request: The Future of Maintained Nursery Schools

(Annexes 'A and 'B' refer)

Contact for further information:

Samantha Parker, (01772) 538221, Legal and Democratic Services

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Executive Summary

On 16 January 2020, Cabinet received and approved recommendations contained in a report (as at Annex 'A') entitled 'The Future of Maintained Nursery Schools'.

Following requests from 11 County Councillors in accordance with the "Call In" procedures, the Chair of the Education Scrutiny Committee has called a meeting to consider calling in the decision.

Recommendation

In accordance with the Call In procedures contained in Overview and Scrutiny Procedural Standing Orders E1-2, the Education Scrutiny Committee is asked to consider:

1. Whether or not to request Cabinet reconsider the decision made on 16 January 2020 to approve the recommendations as set out in the report below.
2. If so, to determine the grounds on which the request is to be based.

Background and Advice

On 16 January 2020, Cabinet received a report providing an update on the current viability of Maintained Nursery Schools in Lancashire, areas of concern and recommendation actions.

Cabinet resolved that:

- i. The commencement of a formal consultation on the future of those maintained nursery schools identified as currently being 'non-financially viable' or those suffering critical financial stress, be approved.

- ii. The Chair of Governors and the Headteachers for those maintained nursery schools identified as being currently 'financially vulnerable' be requested to provide a sustainable financial recovery plan, with assistance from county council officers.
- iii. For those maintained nursery schools identified as being currently 'financially viable', the situation continues to be monitored on a termly basis, to ensure the position does not deteriorate. If any of these maintained nursery schools are identified in the future as being 'financially vulnerable', the Executive Director of Education and Children's Services be authorised to initiate the actions listed under recommendation (ii) above for those nursery schools.
- iv. In the event that the Maintained Nursery School supplementary grant is not extended beyond April 2021, further consideration be given to the long-term viability of maintained nursery schools which would be the subject of a separate Cabinet report.

On Tuesday 21 January 2020, the Chief Executive received a request, signed by 11 County Councillors representing more than one single political group, for the Education Scrutiny Committee to consider whether this decision should be the subject of a Call In.

The request was received in accordance with Overview and Scrutiny Procedural Standing Orders E1-2 from County Councillors John Fillis, Azhar Ali, Lorraine Beavers, Lizzi Collinge, Paul Hayhurst, Erica Lewis, Mohammed Iqbal, Bernard Dawson, Liz Oades, Julie Gibson and Sobia Malik. The decision cannot now be implemented until the call-in procedure is completed.

Standing Order E2(5) requires those requesting the special meeting to specify how the decision has breached one or more of the Principles of Decision Making set out at Standing Order A4. These are that all decisions of the council, including Cabinet and Committees, will be:

- (a) proportionate in all ways, including financially, to the issues under consideration and to the desired outcome;
- (b) based on appropriate consultation and professional officer advice;
- (c) In line with our duties around Human Rights and equality and diversity;
- (d) clear in terms of aims and outcomes;
- (e) in line with the legal test of reasonableness; and
- (f) made with all relevant information being available to the decision makers, and, where appropriate, other councillors and the public.

The reasons for this request as submitted by the above members are as follows:

(a) Proportionate in all ways, including financially, to the issues under consideration and to the desired outcome.

"The implications of nursery closures are so significant that, whilst consulting and working with nurseries on their future is welcomed, the decision and action taken

does not identify adequate funding to ensure that all Nurseries are maintained until April 2021 or until the Government has identified the future of the School Supplementary Grant Status.

Inadequate identification of funding: A contingency fund of £1million should have been included to ensure viability until clarity on the government's intentions is received, and also in order to ensure that there is financial capacity to allow a full range of options to be considered at that future point.

Without this, the decision is not proportionate to the issue."

To assist the Committee, the Call In procedures contained in Overview and Scrutiny Procedural Standing Orders E1-2 are attached as at Annex 'B'. Of particular relevance are the requirements that the Committee must determine at the meeting whether or not to request that the decision be reconsidered, and if so to determine the grounds upon which the request is based.

The Committee is required to meet within seven clear working days of the request to consider the Call In being received, and a special meeting has therefore been scheduled for Thursday 30 January at 10.30am in Cabinet Room C, County Hall, Preston.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

There are no significant risk management implications arising from this item.

However, the risk management and other implications associated with the decision are set out in Annex 'A' to this report.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
N/A	N/A	N/A

Reason for inclusion in Part II, if appropriate

N/A

Annex A

Report to the Cabinet

Meeting to be held on Thursday, 16 January 2020

Report of the Head of Service - Education Improvement 0-11 (Acting)

Part I

Electoral Divisions affected:

Accrington South
Accrington West and
Oswaldtwistle Central
Brierfield and Nelson West
Burnley Central East
Burnley Central West
Burnley North East
Burnley Rural
Burnley South West
Chorley Central
Chorley North
Clitheroe
Lancaster Central
Mid Rossendale
Nelson East
Ormskirk
Padiham and Burnley West
Pendle Central
Pendle Rural
Preston City
Rossendale East
Rossendale West

The Future of Maintained Nursery Schools

Contact for further information:

Paul Duckworth, Tel: (01772) 516166, Head of Service - Education Improvement 0-11 (Acting),

paul.duckworth@lancashire.gov.uk

Executive Summary

This report provides an update on the current viability of Maintained Nursery Schools in Lancashire, any areas of concern and the recommended actions.

Recommendation

Cabinet is asked to:

- (i) Approve the commencement of a formal consultation on the future of those maintained nursery schools identified as currently being 'non-financially viable' or those suffering critical financial stress.
- (ii) Approve that the Chair of Governors and the Headteachers for those maintained nursery schools identified as being currently 'financially vulnerable' be requested to provide a sustainable financial recovery plan, with assistance from county council officers.
- (iii) Approve that, for those maintained nursery schools identified as being currently 'financially viable', the situation continues to be monitored on a termly basis, to ensure the position does not deteriorate. If any of these maintained nursery schools are identified in the future as being 'financially vulnerable', the Executive Director of Education and Children's Services be authorised to initiate the actions listed under recommendation (ii) above for those nursery schools.
- (iv) Approve that, in the event that the Maintained Nursery School supplementary grant is not extended beyond April 2021, further consideration be given to the long-term viability of maintained nursery schools which would be the subject of a separate Cabinet report.

Background and Advice

Previous reports have been presented to Education Scrutiny Committee which provided information about Lancashire's Maintained Nursery Schools and, in particular, the current and future financial challenges.

This report provides an update for Cabinet on the current position of maintained nursery schools support that is being provided to the sector, any areas of concern and recommends how any challenges should be addressed.

Maintained Nursery Schools were set up nationally more than a century ago, to provide early years education and childcare to disadvantaged children in the most deprived areas of England. Although maintained nursery schools are early education providers, they are legally constituted as schools. Like maintained schools, they have a head teacher, governing body, delegated budget and at least one teacher with qualified teacher status, but differ from schools in that they have a dedicated head teacher who is an Early Years specialist.

Lancashire is one of the largest authorities in terms of its number of maintained nursery schools which currently stands at 24. A summary of each maintained nursery school by district, service planning area and electoral ward is provided below:

Maintained Nursery School	District	Service Planning Area	Electoral Division
Rockwood	Burnley	Burnley Central	Burnley Rural
Taywood	Burnley	Burnley Central	Burnley Central West
Basnett Street	Burnley	Burnley North	Burnley North East
Stoneyholme	Burnley	Burnley North	Burnley Central East
Reedley Hallows	Burnley	Burnley North	Burnley Central East
Rosegrove	Burnley	Burnley Outer	Burnley South West
Ightenhill	Burnley	Burnley Outer	Burnley Central West
Whitegate	Burnley	Burnley Outer	Padiham and Burnley West
Highfield	Chorley	Chorley Central	Chorley North
Duke Street	Chorley	Chorley Central	Chorley Central
Accrington Lee Royd	Hyndburn	Hyndburn East	Accrington South
Fairfield	Hyndburn	Hyndburn East	Accrington West and Oswaldtwistle Central
Appletree	Lancaster	Lancaster Central	Lancaster Central
Newtown	Pendle	Colne	Pendle Rural
Bradley	Pendle	Nelson and Brierfield	Brierfield and Nelson West
Woodfield	Pendle	Nelson and Brierfield	Brierfield and Nelson West
McMillan	Pendle	Nelson and Brierfield	Nelson East
Walton Lane	Pendle	Nelson and Brierfield	Pendle Central
Stoneygate	Preston	Preston Central	Preston City
Ribblesdale	Ribble Valley	Pendle Hill	Clitheroe
Bacup	Rossendale	Rawtenstall and Bacup	Rossendale East
Staghills	Rossendale	Rawtenstall and Bacup	Mid Rossendale
Hillside	Rossendale	Rossendale West	Rossendale West
Moorgate	West Lancashire	Ormskirk and Newburgh	Ormskirk

The quality of provision in Lancashire's maintained nursery schools is high with 23 of the 24 judged to be good or better (96%).

The number of children accessing early education provision in a Lancashire maintained nursery school is 2,519 (458 two year olds and 2061 three/four year olds). This equates to 10.4% of the total number of children accessing early education provision across the whole sector.¹

It has been recognised by the Government that the Early Years National Funding Formula, introduced in 2017, does not adequately cover the costs of delivery in maintained nursery schools. There has been significant uncertainty around the future of this funding but the Department for Education has recently confirmed the funding will be extended for the 2020-21 financial year.

¹ (source summer term 2019 take up data – autumn term 2019 take up date not available at time of writing report).

Nationally, the Maintained Nursery Schools supplementary grant represents approximately a third of the total Maintained Nursery School budget and without this supplementary funding, all of Lancashire's maintained nursery schools would cease to be financially viable in their current form. Around 50% of Lancashire's 24 maintained nursery schools are currently under significant financial stress, with a small number being, or close to being, financially unviable.

Childcare Sufficiency Assessment

A high level sufficiency analysis has been undertaken for each of the service planning areas where the 24 maintained nursery schools are located, in order to assess the potential impact on sufficiency should Lancashire maintained nursery school provision change in the future. The 2019 full Childcare Sufficiency Assessment for all districts/service planning areas will be complete in early Spring.

This current analysis has been completed for each maintained nursery school/service planning area based on the maximum number of registered places for all 'other' childcare providers in the area. The analysis indicates that all service planning areas, with the exception of Burnley North, currently have a sufficient number of childcare places.

However, this analysis should be treated with some caution for the following reasons:

- Sufficiency analysis is only ever a 'snap shot' in time.
- The wider sector is reporting both nationally and locally that the current financial challenges they are facing is impacting on their future sustainability. Whilst Lancashire has not seen any evidence of this yet, officers are monitoring net closures on a monthly basis, to help ensure there continue to be sufficient numbers of places in all areas.
- Providers do not necessarily 'work to' their maximum numbers of registered places and may choose to deliver fewer.
- Whilst the analysis shows that there are sufficient places at service planning area level in all areas but one (Burnley North), this might not be the case within a one to two mile radius of each maintained nursery school. Should a decision be taken therefore to consult on the future of any maintained nursery school, a much lower level analysis of sufficiency would need to be undertaken, to fully understand the impact of any potential changes to maintained nursery school provision in an area.

Support/Actions Undertaken to Date

Over the last two years, considerable targeted support has been provided to 15 maintained nursery schools whose financial position was rapidly deteriorating. Integrated support from Schools Finance, Early Years teams and Human Resources has been provided to individual schools to review business models and staffing structures. As a result of this support, a number of restructures have taken place within schools which have stabilised a number of them. This has been extremely resource intensive.

Representations have been made to Government by the Lancashire Schools Forum and county councillors seeking increased funding for the Early Years Block in Lancashire. The Department for Education responses have all referred to the Government's Comprehensive Spending Review being used to determine spending across all departments, including Dedicated Schools Grant allocations, which incorporate the Early Years Block funding, and Maintained Nursery School supplementary grant funding. Ministers have stated that the information submitted by Lancashire as part of these representations will be collated as part of the evidence for the spending review process.

The Cabinet Member for Children, Young People and Schools and the Executive Director of Education and Children's Services have met with the Lancashire Nursery School Headteachers Federation and chairs of governing bodies to discuss the current financial challenges they are facing. The Executive Director is also working with the clinical commissioning groups of health authorities to determine if support is available to fund or enhance special educational needs provision.

At the beginning of September 2019, the Cabinet Member for Children, Young People and Schools wrote to all maintained nursery schools explaining that the authority would continue with the 'twin track' approach in lobbying for additional early years funding, but would also engage in planning on the basis that no new funding was going to be made available. The Cabinet Member invited each maintained nursery school to carry out a detailed analysis of their position and where necessary, work with officers on possible solutions. Those maintained nursery schools who had already found a sustainable way forward (with or without any additional government funding) were asked to share their plans so that officers could support them to ensure that the desired financial sustainability could be achieved in any future operating models. Three maintained nursery schools responded individually to the Cabinet Member's letter/request and a joint response was received from the Chair of Lancashire Nursery School Headteachers Federation.

Financial implications

The school finance function operates a category warning system for all maintained schools, based on current balances and pupil number movements, to identify schools at financial risk and to target intervention resources. This is as follows:

- Category 1 – Structural deficit
- Category 2 – Significant deficit
- Category 3 – Vulnerable position
- Category 4 – No financial issues

A financial viability assessment covers two scenarios. Firstly, where a school still has a small reserve balance, but where projections show a deficit which will grow rapidly over the following 2-3 years making it unviable. Secondly, where a large deficit already exists and the measures to recover that deficit are inadequate or take too long to achieve financial balance.

The warning system acts as an initial indicator of concern and has been updated for all maintained nursery schools. In addition, a more in depth review looking at a three year financial project has been undertaken which has indicated that:

- four maintained nursery schools are either financially unviable now, or are so close that a structural change is required or immediate and significant changes must be made;
- 10 maintained nursery schools are financial vulnerable, and could slip to being unviable if Governing Bodies do not take further action to reduce staffing costs or increase pupil numbers. Many of these schools have been in receipt of significant stabilization support to date;
- 10 maintained nursery schools are currently financially viable and stable, again some with support from the local authority.

Maintained nursery schools have their funding re-determined each term in line with actual pupil numbers. As the budget monitoring is based on forecasted pupil numbers, the financial position could change quite considerably if there is increase or decrease in termly admissions. This makes them significantly more financially volatile than other maintained schools.

The government has confirmed the continuation of the Maintained Nursery Schools supplementary grant for the financial year 2020-2021, although there is no certainty beyond 31 March 2021. If the grant was to cease at this point, none of the 24 maintained nursery schools would be financially viable as they are currently configured.

The current deficit position for the Maintained Nursery Schools sector is approximately £1m, which the local authority would be liable for should all maintained nursery schools close as a result of the supplementary grant stopping. Any delay on the possible closures, should the grant cease, would significantly increase this number. At present, four maintained nursery schools are considered unviable or very close to it.

Consultations

Formal consultations on the future of maintained nursery schools have not yet taken place. However, an ongoing dialogue continues with maintained nursery schools, through the regular business meetings and via the Lancashire Nursery School Headteachers Federation.

Implications

Implications at this point are limited to additional demands upon local authority support provision. If the result of any consultation was to close a school, this would be the subject of a separate Cabinet report

Risk management

Financial risks are outlined within the Financial Implications section of this report.

The Department for Education statutory guidance for opening and closing maintained schools (November 2019) states that decision makers should adopt a presumption against the closure of maintained nursery schools. This does not mean that a maintained nursery school will never close, but the case for closure should be strong and the proposal should demonstrate that:

- Plans to develop alternative early years provision clearly demonstrate that it will be at least equal in quantity to the provision provided by the nursery school with no loss of expertise and specialism; and
- Replacement provision is more accessible and more convenient for local parents.

Cabinet is asked to note the above points when considering the recommendations.

List of Background Papers

Paper	Date	Contact/Tel
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None		
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Reason for inclusion in Part II, if appropriate		
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N/A		
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Section E (Overview and Scrutiny)

Request for a Decision not Implemented to be Reconsidered

1. Each Overview and Scrutiny Committee may consider whether an executive decision made but not implemented should be reconsidered by the decision maker (known as a "Call In"), or to arrange for the Full Council to review that decision and decide whether it should be reconsidered.

2. Requests in accordance with Standing Order 1 above must be made in accordance with the following procedure:

(1) Unless designated as Urgent in accordance with Standing Order C29 above, no decision of the Executive can be implemented until after three clear working days following the date of the Cabinet or Cabinet Committee at which the decision was made, or, in the case of decisions made by individual Cabinet members, from the date that the decision is published.

(2) During this period a written request for a meeting in accordance with Standing Order 1 above to be called for the consideration of "Call In" can be made by any five County Councillors representing more than one single political group on the County Council. Co-opted Members cannot request a special meeting to consider "Call In".

(3) The request(s) must be received by Democratic Services on behalf of the Chief Executive by no later than 5.00pm on the third working day following the date of the record of the decision being published. A request submitted later than that cannot be considered.

(4) Requests for a special meeting must be made in writing, and signed by the councillor(s) making the request, a proforma for this purpose is available from the C-First portal. E-mail requests must be emailed to democratic.services@lancashire.gov.uk. For verification purposes, requests must come from the Councillors' county council provided email address. Any Councillor wanting to request a special Call In meeting by email must submit an individual email. Emails cannot be sent by one councillor on behalf of another councillor(s).

(5) Requests for a special meeting must specify how the decision has breached one or more of the Principles of Decision Making set out at Standing Order A4 above.

(6) The meeting of the overview and scrutiny committee must be held within seven clear working days of the request being received by Democratic Services. The date will be agreed by the Chair of the relevant overview and scrutiny committee.

(7) The following will be invited to attend the scrutiny meeting:

(a) Any Councillor who requested the special meeting;

(b) Appropriate representatives of Cabinet;

(c) The appropriate officers from the service subject to the proposed decision; and

(d) Any other witness the committee wishes to invite.

(8) At the meeting, the case for the Call In will first be heard. Those requesting the Call In will be given 20 minutes to present the case, and they may, within that time, arrange for outside witnesses (such as members of the public or representatives of other organisations) to speak.

(9) The Decision Maker (or representative) if present will be invited to respond, and officers invited to clarify any issues raised. The committee will then debate the matter, questioning any of the presenters as required, and a vote will be taken whether to request the Call In.

(10) At the special meeting, the committee may request Full Council to review the decision and decide whether it should be reconsidered only where the original decision was contrary to the Budget and Policy Framework set by the Full Council

(11) If the Call In is requested, the committee must also agree the reasons on which the request is based. These reasons must specify which of the Principles of Decision Making set out at Standing Order A4 has been breached and how. The decision and the grounds upon which the request is based shall be registered in writing with the Chief Executive within three clear working days of the meeting of the Overview and Scrutiny Committee.

(12) The Decision Maker shall reconsider the decision as soon as is reasonably practical, and publish his/her response in accordance with the rules for the publication of executive decisions. A copy shall be provided to the Chair of the relevant Overview and Scrutiny Committee.

(13) All arrangements are subject to the Council's Standing Orders.

(14) Once the written request described at Standing Order 2(2) above has been made, the decision must not be implemented until either the overview and scrutiny committee has decided not to request a reconsideration, or until the Decision Maker has published a response to a request for reconsideration, with reasons.