



***Delegated Decisions by Cabinet Member for Children,
Education & Families***

***Monday, 8 December 2014 at 12.00 pm
Meeting Room 1, County Hall, Oxford***

Items for Decision

The items for decision under individual Cabinet Members' delegated powers are listed overleaf, with indicative timings, and the related reports are attached. Decisions taken will become effective at the end of the working day on 16 December 2014 unless called in by that date for review by the appropriate Scrutiny Committee.

Copies of the reports are circulated (by e-mail) to all members of the County Council.

These proceedings are open to the public

Peter G. Clark.

Peter G. Clark
County Solicitor

November 2014

Contact Officer: **Deborah Miller**
Tel: (01865) 815384; EMail: deborah.miller@oxfordshire.gov.uk

Note: Date of next meeting: 5 January 2015

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.

Items for Decision

1. **Declarations of Interest**
2. **Questions from County Councillors**

Any county councillor may, by giving notice to the Proper Officer by 9 am two working days before the meeting, ask a question on any matter in respect of the Cabinet Member's delegated powers.

The number of questions which may be asked by any councillor at any one meeting is limited to two (or one question with notice and a supplementary question at the meeting) and the time for questions will be limited to 30 minutes in total. As with questions at Council, any questions which remain unanswered at the end of this item will receive a written response.

Questions submitted prior to the agenda being despatched are shown below and will be the subject of a response from the appropriate Cabinet Member or such other councillor or officer as is determined by the Cabinet Member, and shall not be the subject of further debate at this meeting. Questions received after the despatch of the agenda, but before the deadline, will be shown on the Schedule of Addenda circulated at the meeting, together with any written response which is available at that time.

3. **Petitions and Public Address**
4. **Closure of Northfield School Hostel** (Pages 1 - 16)

Forward Plan Ref: 2014/124

Contact: Diane Cameron, School Organisation Officer Tel: (01865) 816445

Report by Director for Children's Services (**CMDCEF4**).

This proposal is led by Oxfordshire County Council and is to formally remove the boarding provision at the "hostel" run as part of Northfield School, Oxford. The report sets out what alternative provision is envisaged in due course.

The reason for the proposal is that following a Health & Safety survey, the building had to be closed to students and is beyond economic repair.

The proposal includes the intention to use receipts of the sale of the site to improve the main building of Northfield School.

The Cabinet Member for Children, Young People & Families is RECOMMENDED to approve the proposal to close the boarding facility at Northfield School.

5. Closure of West Kidlington Nursery School (to merge with West Kidlington Primary School) (Pages 17 - 26)

Forward Plan Ref: 2014/100

Contact: Diane Cameron, School Organisation Officer Tel (01865) 816445

Report by Director for Children's Services (**CMDCEF5**).

This proposal is led by Oxfordshire County Council and is effectively a "merger" of West Kidlington Nursery and Primary Schools.

The process that must be followed in order to effect this merger, is to close the Nursery School as a separate establishment and alter the age range of the Primary School.

The two schools are run by the same governing body and Headteacher already and so there should be no change on the ground to provision offered. All accommodation remains as before and the intended result is a streamlining of administration, reducing time for staff and consolidating two budgets into one.

The Cabinet Member for Children, Education & Families is RECOMMENDED to approve the publication of a statutory notice for the closure of West Kidlington Nursery School and the linked extension of age range of West Kidlington Primary School.

6. Pre Schools on Maintained School Sites Under Licence or Lease: Proposed New Charging Arrangements (Pages 27 - 40)

Forward Plan Ref: 2014/035

Contact: Debbie Rouget, Early Years & Childcare Sufficiency & Access Manager Tel (01865) 810617

Report by Director for Children's Services (**CMDCEF6**).

The last review of rents and lease arrangements for early years providers', operating on school premises, was carried out and approved by the Council's Executive in 2003

Since 2003 there have been many significant developments and changes in national policy for both funded early education and the provision of childcare.

These include the introduction of statutory sufficiency duties for Local Authorities to secure sufficient provision and an expansion of childcare provided on school sites.

The current coalition government has a clear desire to see access to more childcare on school sites, providing an 8am to 6pm offer of integrated education and care for children. The Children and Families Bill 2013 paves the way to implementing a range of proposals, including making easier for schools to offer out of school care, either directly themselves or through 3rd parties.

These changes are against a current background of the availability and affordability of childcare being a significant concern of all the main political parties, local authorities, families, organisations concerned with the well-being of children and families, and many providers.

In light of the above there is a need for the Council to provide clear, consistent and transparent additional guidance to support both schools and providers.

The Cabinet Member for Children, Education & Families is RECOMMENDED to:-

- (a) confirm support for the principle that school premises should be available for suitable community and extended services, particularly access to more childcare on school sites, providing an 8am to 6pm offer of integrated education and care for children;***
 - (b) implement the premises charges contained in Annexe 1 for arrangements being made between community schools and 3rd party early years and childcare providers, where the parties themselves cannot agree the charges, and when other council premises are used to deliver these services;***
 - (c) recommend the arrangements contained in Annex 1 to all other schools, including those operated by Diocesan authorities (voluntary controlled and voluntary aided schools) and academies in Oxfordshire.***
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Division: Leys

Also of interest to Rose Hill & Littlemore and across the County due to special school intake.

CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE & FAMILIES - 8 DECEMBER 2014

FINAL REPORT ON THE PROPOSED CLOSURE OF THE BOARDING FACILITY KNOWN AS THE HOSTEL AT NORTHFIELD SCHOOL, OXFORD

Report by Director for Children's Services

Introduction

1. This report follows a local consultation and a subsequent statutory notice period relating to the County Council's proposal to close the boarding facility known as the hostel at Northfield School from 1 January 2015.
2. The local consultation ran from 10 September 2014 – 8 October 2014. The consultation leaflet is attached at Annex 1 and was circulated to all parents of pupils at the school, County Council teams and other groups.
3. The statutory notice (attached at Annex 2) was published by the Local Authority, in the Oxford Mail on 13 October 2014 and expired following 4 weeks of formal consultation on 10 November 2014. In accordance with legislation the notice was also posted at the school entrances and sent to the local library. A copy of the full proposal (attached at Annex 3) and the notices were sent to the governing body, local councillors from Parish, District and County level, Headteachers and the local Library. They were also made available on the Oxfordshire County Council website.
4. The decision-making power in terms of determining the notice lies with the Cabinet or can be delegated to the Cabinet Member for Children, Education & Families. In meeting as 'decision-maker' the Cabinet or Cabinet Member must have regard to government guidance and statutory timescales otherwise a decision can be referred to the independent Schools' Adjudicator for reconsideration. The decision must be made within 2 months of the close of the notice period; as a consequence, it is necessary for the Chairman of the Council to determine that the decision cannot be subject to 'call-in' as this would, in most cases, prevent a decision being finalised within the required timescale and mean that the Cabinet's role would be negated by referral to the Schools' Adjudicator.

The Proposal

5. The proposal is to formally close the boarding facility run by the County Council as part of Northfield School. The facility is known as the "hostel" and is on a separate site to the main school buildings. Use of Northfield School's hostel was suspended in April 2014 following the results of a Health and

CMDCEF4

Safety survey. The issues identified were too serious to allow the hostel to remain open. The repairs and capital costs to make the building safe and fit for use are estimated to be approximately £1.5m.

6. The currently vacant building could be sold, and funds used to enhance facilities at the Northfield School site. The accommodation at Northfield School itself is in need of repair and improvement. If this proposal is agreed, some of the receipt from the sale of the hostel site would be used to improve the facilities at Northfield School, particularly the sports facilities. This would help the school develop extended school day activities on site and the facilities would be available to the community all year round.
7. In April 2014 the maximum number of children using the hostel was 9 per night. Overall 16 children were benefitting from the provision, with some spending four nights a week there and others staying for a couple of nights at a time.
8. To compensate for the closure of the hostel the school has been operating an extended day for 8 children per night until 8pm, 4 days a week, term time only. Due to the limited suitable facilities at the school, the children are generally taken off site to locations in Oxford. The children have been responding positively to the new extended day and most are managing well without the need for the residential facility.
9. Oxfordshire's Placement Strategy for children in and on the edge of care focuses on increasing Oxfordshire County Council's residential provision through the construction of four new 4-bed homes. The aim is to keep our riskiest and most vulnerable children closest to their local area. The new homes will provide support all year round rather than term time only and the homes will not be linked to one specific school. The new provision will be small homes rather than a single hostel. The homes will be able to support any of the most vulnerable children at Northfield to prevent them from being taken into care.
10. The hostel was assessed as a possible building to support the Placement Strategy, however the accommodation is not considered suitable.

Representations

11. During the earlier local consultation three responses were received. Two were in agreement with the proposal to close the hostel. One was made by a parent of a child at Northfield School who expressed support for the receipt of the sale of the site to be spent in improving the school facilities.
12. One response was from the Governing Body of Northfield School (attached at Annex 4) expressing concern over the future arrangements for pupils that would have used the hostel, and outlining the expense to the school already incurred in previous maintenance works to the hostel. The letter also recognised the fact that the hostel has been assessed as beyond economic repair, and the desire that receipts of its sale would be augmented by the County Council and spent on maintenance of the school's buildings.

13. The letter was responded to by Children, Education & Families and the response is attached at Annex 5.
14. During the statutory notice period only one representation was made. This was in opposition to the proposed closure, but no reason was given for this view, and the respondent is unknown.

Legal background

15. The removal of boarding provision is subject to statutory procedures, as set out in "School Organisation: Maintained Schools. Guidance for proposers and decision-makers" (The Guidance) published January 2014. When reaching a decision, Cabinet Member must have regard to The Guidance.
16. In terms of reaching a decision all proposals should be considered on their merits but the following factors should be borne in mind but are not considered to be exhaustive. The Decision Maker should consider the views of all those affected. Details of the consultation should be included in the proposals. The Decision Maker must be satisfied that the consultation meets statutory requirements. If the requirements have not been met, the Decision Maker may judge the proposals to be invalid and should consider whether they can make a decision on the proposals. Alternatively the Decision Maker may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposals as a whole.
17. **The effect on standards, school improvement and diversity.** In making a decision on a proposal to remove boarding provision from a school that is not closing, the decision-maker should consider whether there are satisfactory alternative boarding arrangements for those currently in the school and those may need boarding places in the foreseeable future, as set out in "School Organisation Maintained Schools, Annex B: Guidance for Decision-makers" (January 2014). The Decision-maker should refer in particular to section 39 of this Annex B Guidance relating to "the SEN improvement test".
18. **School characteristics.** The Decision Maker should consider whether there are any sex, race or disability discrimination issues that arise and whether there is supporting evidence. The Decision Maker needs to consider the accessibility of provision for disadvantaged groups as the provision should not unduly extend journey times or cost.
19. **Need for places.** The Decision Maker should consider whether there is a need for the proposal and should consider the evidence presented for the proposal.
20. **Funding and land.** The Decision Maker should be satisfied that any land, premises and capital required to implement the proposals will be available.

Financial and Staff Implications

21. There will be no financial cost to the Local Authority as a result of these proposals. There are seven staff posts in the hostel. Since the temporary

closure of the hostel members of staff have wherever possible been temporarily deployed to work in Northfield School. As a result of natural wastage three posts are currently not occupied. If the hostel is closed the associated posts will be redundant and the redundancy procedure will be followed. Where possible consideration will be given to redeployment of the remaining staff.

Equality and Inclusion Implications

22. The proposal affects boys aged 11 to 18 on the roll at Northfield School, a special school for boys with behavioural, emotional and social difficulties, who accessed the boarding facility known as the hostel. Alternative arrangements, through extended day provision and the Placement Strategy, have minimised the impact of the proposal on the small number of boys that have been using the hostel.

Decision

27. In considering the proposals for a school expansion, the Decision Maker can decide to:
- Reject the proposals;
 - Approve the proposals;
 - Approve the proposals with a modification (e.g. the implementation date); or
 - Approve the proposals subject to them meeting a specific condition (see the Guidance).

RECOMMENDATION

28. **The Cabinet Member for Children, Young People & Families is RECOMMENDED to approve the proposal to close the boarding facility at Northfield School.**

JIM LEIVERS

Director for Children's Services

Annexes: Annex 1: Consultation leaflet
 Annex 2: Statutory proposal
 Annex 3: Full proposal document
 Annex 4: Representation from the Governing Body
 Annex 5: Response to the Governing Body

Contact Officer: Diane Cameron – School Organisation Officer, School
 Organisation & Planning, CEF. Tel: 01865 816445

December 2014



Consultation on the proposal to close Northfield Hostel

1. Introduction

Oxfordshire County Council is proposing to close Northfield Hostel. It is not proposing to close Northfield School. The paragraphs below explain the reasons for proposing the closure of the residential hostel and what is being developed to increase the range of residential provision across Oxfordshire.

2. Northfield Hostel

Northfield Hostel is managed by Northfield Special School to provide Monday to Friday, term time only, residential provision for up to 12 of its students. Northfield School is a special school for secondary aged boys with Behavioural, Emotional and Social Difficulties (BESD). The school serves children from across the whole county. The hostel is located adjacent to the A4142 (Eastern By-Pass Rd) and Sandy Lane West Road. If a decision is taken to close the Northfield Hostel it would, most likely, be sold.

3. Current situation

Use of Northfield Hostel was suspended in April 2014 following the results of a Health and Safety survey. The issues identified were too serious to allow the hostel to remain open. The repairs and capital costs to make the building safe and fit for use are estimated to be approximately £1.5m.

In April the maximum number of children using the hostel was 9 per night. Overall 16 children were benefitting from the provision, with some spending four nights a week there and others staying for a couple of nights at a time.

To compensate for the closure of the hostel the school has been operating an extended day for 8 children per night until 8pm, 4 days a week, term time only. Due to the limited suitable facilities at the school, the children are generally taken off site to locations in Oxford. The children have been responding positively to the new extended day and most are managing well without the need for the residential facility.

4. New residential provision in Oxfordshire.

Oxfordshire's **Placement Strategy** for children in and on the edge of care focuses on increasing Oxfordshire County Council's residential provision through the construction of four new 4-bed homes. The aim is to keep our riskiest and most vulnerable children closest to their local area. The new homes will provide support all year round rather than term time only and the homes will not be linked to one specific school. The new provision will be small homes rather than a single hostel.

The homes will be able to support any of the most vulnerable children at Northfield to prevent them from being taken into care.

The hostel was assessed as a possible building to support the Placement Strategy, however the accommodation is not considered suitable.

5. Improved facilities at Northfield

The accommodation at Northfield School is in need of repair and improvement. If the proposal is agreed, some of the receipt from the closure and sale of the hostel would be used to improve the facilities at Northfield School, particularly the sports facilities. This would help the school develop extended school day activities on site and the facilities would be available to the community all year round.

6. Proposal

The Council is proposing to close Northfield Hostel permanently. The key reasons are:

- The high costs for repair.
- The current model of provision is only 4 nights per week, term time only.
- The Placement Strategy will be increasing residential provision through the development of 4 new homes.
- The success of the extended school day model while the hostel has been closed
- The opportunity to enhance facilities at the Northfield School site.

Oxfordshire County Council is formally proposing to close Northfield Hostel and is seeking your views on this.

How to respond

Please respond by email to diane.cameron@oxfordshire.gov.uk and put NORTHFIELD HOSTEL in the subject line of your email.

Alternatively, write to Diane Cameron, School Organisation & Planning, County Hall, FREEPOST Oxfordshire County Council.

ALL RESPONSES TO BE RECEIVED BY 8 OCTOBER 2014.



**OXFORDSHIRE
COUNTY COUNCIL**

PUBLIC NOTICE

Proposed closure of the boarding accommodation known as the 'hostel' at Sandy Lane West, Oxford (part of Northfield School)

Notice is given in accordance with The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 that Oxfordshire County Council intends to make a prescribed alteration to Northfield School, Knights Rd, Blackbird Leys OX4 5DQ from 1 January 2015.

Oxfordshire County Council is proposing to close the boarding accommodation facility known as the 'hostel' which is managed by Northfield School for its pupils' use.

Use of the hostel was suspended in April 2014 following the results of a Health and Safety survey. The issues identified were too serious to allow the hostel to remain open. Alternative measures have been implemented for the children that were using the hostel, and these have been running well.

The county council's Placement Strategy focuses on increasing our residential provision through the construction of four new 4-bed homes. The aim is to keep our riskiest and most vulnerable children closest to their local area.

This Notice is an extract from the complete proposal. Copies of the complete proposal can be viewed at www.oxfordshire.gov.uk/consultation. Copies can also be obtained by contacting:

Diane Cameron
School Organisation & Planning
County Hall
FREEPOST OXFORDSHIRE COUNTY COUNCIL.
Tel: 01865 816445
Email: diane.cameron@oxfordshire.gov.uk

Within four weeks from the date of publication of these proposals, any person may object to or make comments on the proposal by sending them to the local authority using the online feedback form at www.oxfordshire.gov.uk/consultation or by using the above contact details.

Signed: Jim Leivers, Director of Childrens Services

Publication Date: 13 October 2014

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STATUTORY PROPOSALS FOR PRESCRIBED ALTERATIONS

The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013

In respect of a Local Authority proposal: School and LA details

1. The name, address and category of the school for which the Local Authority are publishing the proposals:

Northfield School, Knights Road, Blackbird Leys, Oxford OX4 5DQ. This is a special school by Oxfordshire County Council, which is the Local Authority.

Implementation and any proposed stages for implementation

2. The date on which the proposals are planned to be implemented:

From 1 January 2015.

Objections and comments

3. A statement explaining the procedure for making representations:

Representations (responses) to the proposals can be made online using the feedback form at www.oxfordshire.gov.uk/consultation .

Alternatively any person may respond by email to diane.cameron@oxfordshire.gov.uk putting **Northfield School** in the subject line, or in writing to: Diane Cameron, School Organisation & Planning, County Hall, FREEPOST OXFORDSHIRE COUNTY COUNCIL.

Representations must be received by midnight on 10 November 2014.

Alteration description**4. A description of the proposed alteration**

Oxfordshire County Council proposes to close the boarding accommodation facility known as the 'hostel' run by Northfield School for its pupils' benefit. The hostel is located at Sandy Lane West, Oxford.

Objectives**5. The objectives of the proposals.**

Use of Northfield School's hostel was suspended in April 2014 following the results of a Health and Safety survey. The issues identified were too serious to allow the hostel to remain open. The repairs and capital costs to make the building safe and fit for use are estimated to be approximately £1.5m.

The currently vacant building could be sold, and funds used to enhance facilities at the Northfield School site. The accommodation at Northfield School itself is in need of repair and improvement. If this proposal is agreed, some of the receipt from the sale of the hostel site would be used to improve the facilities at Northfield School, particularly the sports facilities. This would help the school develop extended school day activities on site and the facilities would be available to the community all year round.

As set out below in section 7, alternative provision and future plans are in place relating to the welfare of the pupils who were using the hostel.

Project costs**6. Project costs and how these will be met:**

There are no costs related to this proposal. The hostel is out of use and is providing no benefit, while sale of the asset would generate funds for Oxfordshire County Council.

7. Evidence of demand / support

In April 2014 the maximum number of children using the hostel was 9 per night. Overall 16 children were benefitting from the provision, with some spending four nights a week there and others staying for a couple of nights at a time.

To compensate for the closure of the hostel the school has been operating an extended day for 8 children per night until 8pm, 4 days a week, term time only. Due to the limited suitable facilities at the school, the children are generally taken off site to locations in Oxford. The children have been responding positively to the new extended day and most are managing well without the need for the residential facility.

Oxfordshire's Placement Strategy for children in and on the edge of care focuses on increasing Oxfordshire County Council's residential provision through the construction of four new 4-bed homes. The aim is to keep our riskiest and most vulnerable children closest to their local area. The new homes will provide support all year round rather than term time only and the homes will not be linked to one specific school. The new provision will be small homes rather than a single hostel. The homes will be able to support any of the most vulnerable children at Northfield to prevent them from being taken into care.

The hostel was assessed as a possible building to support the Placement Strategy, however the accommodation is not considered suitable.

During the earlier public consultation three responses were received. Two were in agreement with the proposal to close the hostel. One was made by a parent of a child at Northfield School who expressed support for the receipt of the sale of the site to be spent in improving the school facilities.

One response was from the Governing Body of Northfield School expressing concern over the future arrangements for pupils that would have used the hostel, and outlining the expense to the school already incurred in previous maintenance works to the hostel. The letter also recognised the fact that the hostel has been assessed as beyond economic repair, and the desire that receipts of its sale would be augmented by the county council and spent on maintenance of the school's buildings.

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SCHOOL:
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HOUSE:
SANDY LANE WEST
LITTLEMORE
OXFORD
OX4 5LD
Tel: (01865) 775779

HEADTEACHER:
MR. M. BLENCOWE

6th October 2014

Dear Ms Cameron

Re: Closure of Northfield Hostel

I am writing on behalf of the Governors at Northfield School with regard to the informal consultation being undertaken with regard to the closure of Northfield Hostel.

The proposed closure of Northfield Hostel is a cause of grave concern to the Governors for the following reasons:

1. The school has annually bought into the property maintenance services of Carillion and at no time has the company brought to the attention of the Headteacher or the Governors the need for extensive repairs to ensure that the Hostel met Health and Safety requirements. Indeed the school had spent time and money in replacing furniture and ensuring that the environment was acceptable, only now to be told that the Hostel is not safe for use.
2. The school has been able, in the short term, to make arrangements for pupils to have an extended day at school and as a result to compensate in part for the loss of the Hostel. Although pupils have responded positively to this new initiative, it is not an entirely suitable alternative to the Hostel provision, as it relies on staff being able to supervise pupils off the Northfield site to enable them to access appropriate activities. There is also a need for meals, which have to be provided through retail outlets, which is costly together with the provision of daily taxis to return pupils home. For the extended day provision to continue, it needs to be fully funded with appropriate facilities on the school site to allow pupils to take part in activities and to have a meal before returning home.
3. The Hostel has been operating as a very successful resource for 16 pupils, offering residential and extended day provision. The benefit to pupils of being able to access a secure, nurturing and stimulating environment cannot be underestimated. The Governors would want the Local Authority to be aware that a number of these pupils are very vulnerable for a number of reasons, but are not in the Looked After system; the Hostel has not, therefore, been operating as part of the Local Authority's provision for children Looked After and has been part of the provision provided by Northfield School for its pupils.

The Governors recognise that the current estimate of the cost of repairing the Hostel is not economically viable. The informal consultation states that 'some of the

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receipt from the closure and sale of the hostel would be used to improve the facilities at Northfield School, particularly the sports facilities.' The Governors would be supportive of this proposal, but are concerned that the current very poor state of the school buildings and roof also need to be addressed and would urge the Local Authority to ensure that Governors are fully involved in any decisions with regard to the disposal of the hostel and the provision of new facilities. To date the school has not been fully informed, or consulted, with regard to the disposal of the hostel, the provision of alternative facilities, or how the poor condition of the school buildings and roof are to be addressed.

The Governors look forward to being informed of the results of the informal consultation and the next steps that will be followed in this process.

Yours sincerely

Mary Whitlock
Chair of Governors
Northfield School

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Division(s): Kidlington South Also affecting: All Kidlington

CABINET MEMBER FOR CHILDREN, EDUCATION & FAMILIES – 8 DECEMBER 2014

PROPOSAL TO CLOSE WEST KIDLINGTON NURSERY SCHOOL AND EXTEND THE AGE RANGE AT WEST KIDLINGTON PRIMARY SCHOOL TO EFFECT A MERGER

Report by Director for Children's Services

Introduction

1. West Kidlington Primary School and Nursery School share a governing body and a Headteacher, however for the purposes of financial accounting and Ofsted inspection they are separate establishments.

The proposal

2. The introduction in April 2011 of the Early Years Single Funding Formula, which funds eligible children attending settings, rather than the number of places provided (as previously), means there is now no financial advantage in the two establishments being separate.
3. This proposal's intention is to maintain the same level of high quality early years places while improving the financial viability and long term future of this provision. To do this, it is proposed that the Nursery School closes as a separate establishment, and the Primary School age range is extended to include 3 year-olds, effectively "merging" the two establishments into one.
4. In practical terms, there would be no alteration on the ground that parents, children or teaching staff would notice. All provision would remain in the same accommodation as it is currently. The change proposed is purely administrative in nature.
5. In removing the need to duplicate work (e.g. preparation for two separate Ofsted inspections and managing two separate budgets for the two establishments), the aim is for back office and management staff time to be freed up and processes streamlined to make them more efficient.

Consultation

6. Oxfordshire County Council carried out a consultation on the proposal from 9 September 2014 – 21 October 2014. A consultation leaflet (Annex 1) was distributed to parents of children at both the Nursery and Primary Schools, as well as to local councillors, partnership schools and early years providers

including childminders in the area, libraries, local Early Intervention Hub and dioceses. It was also available on the OCC public website, together with full details of the various ways of responding.

7. Three responses to the consultation were received:
 - Two respondents supported the proposal in principle,
 - One respondent opposed the proposal in principle.
8. The reason given for supporting the proposal was that the financial benefit to the establishments made it a sensible way forward and would help support the maintenance of high quality Nursery provision.
9. The concerns raised by the respondent objecting were:
 - That the proposal was to close a Nursery rated Good by Ofsted.
 - That if the nursery age children were on roll at the Primary School, parents would think they did not have to apply for a place in Reception year as they were already attending the school.
 -
10. However the respondent who objected did perceive that the Single Funding Formula was an issue of concern for the Nursery School as a separate establishment.
11. The County Council shared the objection with the Primary School and responded to it as follows:
 - The Primary School is also rated Good by Ofsted, and no change to staff or provision is anticipated as a result of this proposal.
 - The Nursery and Primary admissions policies are not the subject of the proposal, which will have no effect on access to a place. Children at any nursery, whether that be a private nursery or pre-school, a school nursery class or an attached nursery school must still apply separately for a school place at the appropriate time. Parents of children attending West Kidlington Nursery School must apply for a place to start primary school in Reception year group at the appropriate time, and this will not change as a result of this proposal.
 - As there are limited opportunities to vary the Early Years Single Funding formula from the prescribed rules is beyond the control of the county council and the establishments, it is prudent to organise the schools in a way that minimises any detrimental financial impact and so supports the safeguarding of the nursery provision for the future. These proposals aim to protect existing high quality provision, and are not a threat to its continuance. The county council has a duty to ensure sufficiency of early years provision.

Making a Decision

12. This proposal has completed an initial consultation stage, and a decision is now sought as to whether to proceed to publication of a statutory notice.

13. The proposal is being made under The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2013 and Establishment and Discontinuance of Schools Regulations 2013 that came into effect on 28 January 2014. Local authorities also have a duty to have regard to statutory guidance, in this particular case 'School Organisation, Maintained Schools: Guidance for proposers and decision-makers' ("the Guidance").
14. The Guidance requires proposers to consult interested parties initially for a minimum of 6 weeks. The consultation period was in line with the Guidance having run from 9 September 2014 – 21 October 2014. The consultation was therefore carried out in accordance with the Regulations.
15. Although it is not a requirement, Local Authority officers are submitting an initial report to the Decision Maker following the public consultation stage. This is because it is felt that the closure of an establishment, although no change will result on the ground, is a proposal requiring thorough scrutiny.
16. A decision is now required as to whether to publish a statutory notice for this proposed merger. If approved, a statutory notice would be published in a local newspaper, online, and around the schools' sites. This would be followed by a formal representation period of four weeks as required under the Regulations, during which time any person may comment on the proposals. The decision-making power in terms of determining the notice will lie with the OCC Cabinet Member for Children, Education & Families, and a report would be submitted for a final decision in due course.

Equality and Inclusion Implications

17. As this proposal constitutes no change other than administrative, it has no implications in terms of any change to equality and inclusion.

Financial and Staff Implications

18. The direct financial implication of this report is the cost of undertaking the statutory process recommended, which is planned for and met within the normal Children Education & Families budget provision. There are no significant financial implications or risks at this stage. If the proposal proceeds, following statutory consultation there would be another report to Cabinet in due course seeking a final decision on whether to carry out the merger.
19. The financial implications of this report are anticipated to be positive, as the reduction in time and work required by management and staff in maintaining two separate establishments should result in time and cost efficiencies.

RECOMMENDATION

20. **The Cabinet Member for Children, Education & Families is RECOMMENDED to approve the publication of a statutory notice for the**

**closure of West Kidlington Nursery School and the linked extension of
age range of West Kidlington Primary School.**

Jim Leivers

Director for Children's Services

Contact Officer: Diane Cameron, School Organisation Officer, 01865 816445

December 2014

Annex 1 Consultation leaflet

**Proposal to close West Kidlington Nursery School
in order to merge provision with West Kidlington Primary School**

9 September 2014 – 21 October 2014

See full details and respond via a quick online questionnaire at

<http://myconsultations.oxfordshire.gov.uk>

What is the proposal?

The county council is proposing that West Kidlington Primary School “merges” with the associated nursery school. The two establishments already share a Headteacher and Governing Body, and the members of staff have the same employer. The proposed change would therefore be administrative in nature, and it is hoped there would be no noticeable change for pupils, parents or teaching staff.

The process to achieve the “merger” involves the legal closure of the nursery school as a separate establishment, and it becoming part of the primary school, as a nursery class. The primary school’s age range would change from 4 – 11 to 3 – 11.

If the proposal goes ahead there would be no effect on admissions; children in the school’s nursery class would still need to apply for a place in the school’s Reception year, just as they do now.

Why is this being proposed?

Significant grants which previously supported the Nursery school have been withdrawn. The Nursery school can no longer set a workable budget.

What happens if the proposal doesn’t go ahead?

If the school and nursery remain separate, there would be no immediate change to pupils, parents and staff on a practical level. However, it is likely that the duplication of administrative time and work in running two separate establishments would increasingly become an unnecessary financial drain on the Governing Body. Because of changes made in April 2011 by the DfE to the Early Years Single Funding Formula for nursery schools, there is now no financial advantage to running two establishments in parallel. Detail of the changes may be viewed on the DfE website:

<http://www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/funding/a0068704/early-years-funding-reform>

What happens next?

This public consultation seeks your views on the proposal, and **runs until 21 October 2014**. Following the end of the consultation period, a report will be written summarising the responses received and will go before the Member for Children, Education & Families or, in some circumstances, to the full Oxfordshire County Council Cabinet.

Following consideration of the responses received, a decision will be made by the Member (or Cabinet) on whether to proceed to publish a Statutory Notice on the proposal, which is the next step. If a Notice is published, it will appear around all the schools' sites and in local newspapers. This is a second opportunity for the public to respond, and this period last for four weeks. On the closure of this period, a second report is written and a final decision is made by either the Member or Cabinet.

It is likely that the full process above would mean a final decision in March 2015.

How do I respond to the consultation?

You can give us your views in several ways. The quickest and easiest way is online at <http://myconsultations.oxfordshire.gov.uk> where all our consultations are listed. Click on the right consultation and then use the online questionnaire and submit your views directly.

Alternatively, you may write to us or print off the form at the back of this leaflet and post it to: **Diane Cameron, School Organisation & Planning, FREEPOST OXFORDSHIRE COUNTY COUNCIL.**

You may also email your views to us at:

WestKid2014-manager@myconsultations.oxfordshire.gov.uk

Remember your response must be received by 21 October 2014

**Proposal to close West Kidlington Nursery School in order to merge provision with
West Kidlington Primary School**

RESPONSE FORM

I / We wish to make the following comments:

Signature

Name

Address (optional)

Parent / carer of a child at West Kidlington Nursery School

Parent / carer of a child at West Kidlington Primary School

Parent / carer of a child not yet at school

Governor / Staff

Local resident

Other (please specify)

RETURN BY 21 OCTOBER 2014 to

Diane Cameron

School Organisation & Planning

CMDCEF5

FREEPOST OXFORDSHIRE COUNTY COUNCIL

(no stamp required)

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**CABINET MEMBER FOR CHILDREN, EDUCATION & FAMILIES
8 DECEMBER 2014**

**REVIEW OF RENT AND LEASE ARRANGEMENTS FOR EARLY YEARS AND
CHILDCARE PROVIDERS OPERATING ON SCHOOL OR COUNCIL SITES**

Report by Director for Children Education & Families

Executive Summary

1. The last review of rents and lease arrangements for early years providers, operating on school premises, was carried out and approved by the Council's Executive in 2003 – see appendix 1
2. Since 2003 there have been many significant developments and changes in national policy for both funded early education and the provision of childcare – *see appendix 2*
3. These include the introduction of statutory sufficiency duties for Local Authorities to secure sufficient provision and an expansion of childcare provided on school sites.
4. The current coalition government has a clear desire to see access to more childcare on school sites, providing an 8am to 6pm offer of integrated education and care for children. The Children and Families Act 2014 paves the way to implementing a range of proposals, including making it easier for schools to offer out of school care, either directly themselves or through 3rd parties.
5. These changes are against a current background of the availability and affordability of childcare being a significant concern of all the main political parties, local authorities, families, organisations concerned with the well-being of children and families, and many providers.
6. In light of the above there is a need for the Council to provide clear, consistent and transparent additional guidance to support both schools and providers.

The local authority's sufficiency duties

7. The Childcare Act 2006 requires the local authorities to:-
 - Secure sufficient childcare for working parents or parents in education/ training - Section 6

This means securing the right type and volume of provision, so far as is reasonably practicable, for working parents, or parents who are studying or training for employment, for children aged 0-14 (up to 18 for a disabled child).
 - Secure early years provision free of charge (Nursery Education Funding) - Section 7

This means securing provision, so that families can access their free early education entitlement of 570 hours, over a minimum of 38 weeks per year, for **some 2 year old** (approximately 2,000 in Oxfordshire) and **all 3 and 4 year old** children.

8. Delivery and funding of the sufficiency duties

- Both early years and childcare places are delivered by a mixed market of voluntary, private and independent providers, including childminders, along with schools and academies.
 - **Childcare places** are expected to be self-sustaining from parental fees. In some circumstances parents are able to obtain support with their fees. This includes help with some (maximum 70%) of the childcare through Working Tax Credits for lower income families (support tapers as household earnings increase).
 - **Early years entitlement** is free to parents at the point of delivery. Providers are funded through the Dedicated School Grant as Nursery Education Funding (NEF). An Early Years Single Funding Formula (EYSFF) is agreed, through the School's Forum, and sets the rates for NEF. EYSFF includes an element for premises costs
9. All voluntary, private, independent providers, including childminders and academy providers of NEF enter into a legal agreement with the Council for the delivery of the places. The agreement includes the quality standards required. Ofsted is the sole arbiter of quality.

DfE Guidance for Schools

10. Guidance is available in the "[Governors' Handbook - For governors in maintained schools, academies and free schools](#)"¹
- The latest version was published by the DfE in September 2014 and relevant extracts are contained in *appendix 3*
 - The guidance details the legislation that provides school governors with the powers to enter into premises agreements for use of school premises in order to accommodate extended activities and community services. It is also explained that charges can be made for the use of school premises and if the use is for "charitable purposes" (this includes childcare) then it is permitted to use the school delegated budget.
- ¹ www.gov.uk/government/publications/governors-handbook--3
11. The need for additional local guidance
- The DfE guidance does not advise on the premises charges to be made.
 - In most cases schools and 3rd party early years and childcare providers are able to arrive at an agreement over the property charges.
 - There are occasions when schools seek guidance on what to charge childcare providers and a few occasions where schools and providers have been unable to reach agreement on the premises charges to be made.
 - In some instances uncertainty has arisen over the premises costs to be charged at renewal of leases, particularly where a Partnership Foundations Stage Unit (PFSU) agreement (*see appendix 2*) exists, as the council no longer has the resources to support these arrangements. This can create friction between schools and early years providers, following inconsistent advice being given and some proposals that affect sustainability of provision. This can result in considerable officer time being spent supporting negotiations.

- The Council's Legal Team recommends that there should be a signed lease or licence in place before a 3rd party organisation occupies the premises. This is considered essential to ensure that potential legal rights to occupy premises are not inadvertently created prior to, or without a formal agreement, being in place.
- In light of the above there is a need for the Council to provide clear, consistent and transparent additional guidance to support both schools and providers. This will also help support delivery of statutory sufficiency duties, along with the access to and affordability of provision for parents. The Council can only make recommendations to academies and church schools, as they have ownership/control of the premises, but it is recommended that the current policy is updated for community schools and that the same policy is implemented should council buildings be used to deliver these services.

Considerations

12. There are many considerations to be taken into account, including:-

- the local authorities' statutory duties to secure sufficient provision
- supporting the Council's development work, to ensure sufficiency of childcare places. This includes working with schools to encourage provision on school sites. This is in response to government initiatives and also that often the best place for provision is the school site, where the children attend for their statutory school place, as it facilitates integrated care and education,.
- ensuring accessibility to and affordability of provision for families
- The considerations are set out in more detail in *appendix 4*

Key changes proposed from 2003 decision

13. On Legal Team's advice

- a. guidance on having a signed lease or licence in place before a 3rd party organisation occupies the premises has been included
- b. in the case of community schools, where the council is usually the land owner, there is a recommendation that it is a requirement that the Council is the party that grants the lease or licence (this confirms current usual practice)

14. The link between Partnership Foundation Stage Units (PFSU) partnership agreements and preferential property arrangements is removed. This is because the Council no longer has the resources to support PFSU arrangements.

15. There is consistent property charging terms for all providers of funded early education. This was a recommendation from the Early Years Working Group (a sub group of the Schools Forum). It reflects that all these providers contribute to the Council's statutory duty, are funded at the same rate, operate in the same market and have similar operating costs.

The introduction of new arrangements for out of school provision.

16. This reflects that there has been an expansion of out of school care on school sites, the government's desire to see further expansion, the Council now having a duty to ensure sufficient childcare provision and that the cost of childcare being a significant concern. The proposal recommends that 3rd party providers have the same arrangements that become the practice for schools when they are directly providing

these services. It reflects that most providers operate as social enterprises and/or work on fine margins. However when large (80 to 100 place) holiday playschemes operate, typically just for part of the summer holidays, then there is a clear commercial venture, it is proposed that a commercial rent remains.

17. The introduction of the same arrangements should Council premises be used to deliver these services

Financial and Staff Implications

18. The recommendations potentially reduce the income that could be derived from renting school/council premises. However it is considered appropriate to discount a market rent in order to assist with fulfilling statutory obligations by offering affordable rents.
19. Costs for the Council's legal and agents fees in relation to the completion of the lease/licence will be recovered.
20. There are no other staff implications as the services are managed by and delivered by employees of the organisation occupies the premises.

RECOMMENDATIONS (see appendix 5 for detailed rationale)

The Cabinet Member for Children, Education & Families is **RECOMMENDED** to:-

- (a) **confirm support for the principle that school premises should be available for suitable community and extended services, particularly access to more childcare on school sites, providing an 8am to 6pm offer of integrated education and care for children;**
- (b) **implement the premises charges contained in Annexe 1 for arrangements being made between community schools and 3rd party early years and childcare providers, where the parties themselves cannot agree the charges, and when other council premises are used to deliver these services;**
- (c) **recommend the arrangements contained in Annex 1 to all other schools, including those operated by Diocesan authorities (voluntary controlled and voluntary aided schools) and academies in Oxfordshire.**

JIM LEIVERS

Director for Children Education & Families

Lead Author and CEF Contact Officer: David Mendham,

Sufficiency and Access Officer: Early Years and Childcare School Organisation & Planning

SUE SCANE

Director for Environment & Economy

Property Contact Officer : Hannah Goodlad, Asset Strategy Officer, Property Asset Strategy Team

PETER CLARK

Head of Head of Law & Governance

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November 2014

**PREMISES ARRANGEMENTS for
EARLY YEARS and CHILDCARE PROVIDERS OPERATING on
SCHOOL or COUNCIL SITES**

The following premises arrangements are applicable for agreements between community schools and 3rd party early years and childcare providers. Schools may use the powers contained in the Education Act 2002 to agree alternative charging arrangements but in the absence of an agreement the charges below will apply. These arrangements are also applicable when other council premises are used to deliver early years and childcare services.

These arrangements are also recommended to all other schools, including those operated by Diocesan authorities (voluntary controlled and voluntary aided schools) and academies in Oxfordshire.

1. There must be a formal lease or licence in place, before the organisation occupies the premises.

A lease will be required where the organisation will have exclusive possession of the premises or may be required where the organisation has exclusive possession of the premises during designated hours. The lease will be contracted out of sections 24-28 Landlord & Tenant Act 1954.

A licence will be required where occupation of the premises is shared with the school.

2. In the case of community schools Oxfordshire County Council will be the party to grant a lease or licence, with agreement being drafted up by Law and Culture (Legal Services)
3. Organisations should meet their own running costs which includes gas, electricity, water, insurance, cleaning etc. This may be charged by the school as a percentage of actual costs incurred by the school apportioned based on floor area occupied by the organisation.
4. Organisations will be responsible for paying the Council's legal and agents fees in relation to the completion of the lease/ licence. The Council is to keep costs as low as possible by using template heads of terms and agreements wherever possible
5. Any rents payable will be paid into school budgets
6. Organisation pay rent on the following basis:-

A. Providers of Nursery Education Funding (NEF) places (including those also offering childcare places)	Rent	External Repairs	Internal Repairs	Running costs
<ul style="list-style-type: none"> Organisations located on school sites, providing its own building. e.g. prefabricated/ temporary buildings 	£500 per annum (ground rent)	Tenant	Tenant	Tenant usually by way of separate meters
<p>Note - Where the charges are to be implemented when leases are due to expire before end 2015, there will be a stepped increase from the current annual ground rent payable of £150 to £300 in years' one and two of the new lease until year three when the full rent of £500 per annum will become payable. For any new lease negotiations the full rent will be imposed with immediate effect.</p>				
<ul style="list-style-type: none"> Organisations using school/council buildings e.g. surplus school buildings/rooms 	£3.00 per sq.ft /£30 per sq.m per annum	Landlord/ Delegated schools budget*	Tenant	Tenant by way of apportioned costs or separate meter
<p>Note: the rent charge will be principally payable on the area of exclusive use.</p> <p>* It may be appropriate to include a clause requiring the tenant to make reasonable contributions to exterior repairs and maintenance costs for the area of exclusive use.</p> <p>Where other areas of the school property are intended to be shared e.g. ball pools, school halls, this will be negotiated separately and based on the hours of use of those shared areas and times of use</p>				
<ul style="list-style-type: none"> Day nurseries 	A rent, negotiated individually	As agreed between parties	As agreed between	As agreed between the

			the parties	parties
B. Providers solely providing breakfast clubs, after school clubs, holiday playschemes.	Rent	External Repairs	Internal Repairs	Running costs
<ul style="list-style-type: none"> Not for profit/low margin organisations – includes social enterprises and sole traders where the owner works in the provision 	Peppercorn	Landlord/ Delegated schools budget	Landlord / Delegated schools budget	Tenant by way of apportioned costs or separate meter
<ul style="list-style-type: none"> Commercial organisations 	A rent negotiated individually; either based on schools individual hire policy for accommodation used out of school hours, or based on £6.00 per sq.ft apportioned for hours of use.	Landlord/ Delegated schools budget	Landlord/ delegated schools budget	Tenant by way of apportioned costs charged by the school

In addition:-

I. For providers of Nursery Education Funding (NEF) places, including those also offering childcare places

- The landlord will have the right to terminate the lease/ licence in the event that the NEF is withdrawn by the Council, in accordance with the NEF agreement, with Ofsted being the sole arbiter of quality

II. For providers solely providing breakfast clubs, after school clubs, holiday playschemes.

- The lease/ licence contains a clause giving the right to terminate the agreement in the event of the provision being considered inadequate, either by reference to an Ofsted inspection or where there is no Ofsted registration, by the landlord at the landlords absolute discretion.

Appendix 1: Current Position

Review of rents and lease arrangements for early years and family support providers - agreed by County Council Executive 10 June 2003

1. Voluntary Early Years or Childcare providers who enter into formal partnership or service level agreements with the County Council to provide services required by statute on site in the Council ownership the following guidelines should apply
 - In all cases organisations will meet their own operating costs (energy, water, insurance, cleaning etc) internal repairs and maintenance costs and professional fees incurred in the formulation of the lease. In addition to this,
 - Organisations using rooms within a school building should pay no rent and external repairs and maintenance costs will be met from schools' delegated budgets
 - Organisations using their own premises located on school sites should pay no ground rent but will meet all other costs associated with their [premises
 - Organisations using separate premises surplus to school requirements should pay no rent and the County Council will meet external repairs and maintenance costs
 - The County Council will meet its own costs in setting up such lease arrangements
2. For Voluntary Pre-schools without a formal partnership or service level agreements with the County Council
 - Pre-schools using rooms within a school building owned by the County council – pay a share of premises cost plus rent based on floor area occupied at £20per m² - last reviewed in 1995)
 - Pre-schools on their own premises on school sites are charged a standard annual ground rent at £150pa - last reviewed in 1995
 - Pre-schools exclusively surplus school buildings, owned by the County Council are charged a rent, which takes into account the market rate and each agreement is individually negotiated. Pre-school expected to meet their own legal and surveying costs as well as:
 - A standard one off charge of £500 to be paid the County Council towards the cost of producing a new lease for sites and buildings owned by the County Council. In the case of buildings owned by school trustees fees incurred by the trustees will need to be met
 - Actual costs to the County council for subsequent variations to the lease when requested by the Pre-school
 - Legal costs incurred by the owner of any site or land required for access if this is not the County Council. For example school trustees. School trustees are legally required to appoint an independent agent
3. Commercial Pre-school and Childcare Groups

School premises may be available to these groups but a different charging structure applies. For example the rental charge is a commercial market rent, negotiated individually, and commercial pre-school and childcare groups need to cover the full cost of the County Council professional advisors in drawing up the lease.

Appendix 2: Key changes since 2003

	Free Early Education	Childcare
From 2001		Expansion of out of school childcare. Initially prime pumped with Lottery funding and later Sure Start Grant. Start-up funding continues to be available through the Council's Early Years and Childcare Grants programme
2004	Entitlement expanded to all 3 year olds	
May 2006		Extended Schools programme – included an expectation that schools facilitated access to out of school childcare
Childcare Act 2006	Statutory duty to ensure sufficiency	Statutory duty to ensure sufficiency
Circa 2008	Partnership Foundation Stage Unit agreements entered into by Council *	
2009/10	Piloting the entitlement for some 2 year olds began	
September 2010	Entitlement increased from 12.5 hours to 15 hours per week	
January 2013		More Great Childcare - the government's vision and plans to ensure more affordable, high quality childcare
September 2013	Entitlement for some 2 years olds (approximately 20% nationally)	
March 2014		Children's and Families Bill 2013 receives royal assent– this paves the way to implement proposals, including making it easier for schools to offer out of school childcare either themselves or through 3 rd parties
September 2014	Entitlement for some 2 years olds extended to approximately 40% nationally – around 2,000 children in Oxfordshire	

* Partnership Foundations Stage Unit (PFSU) are legal agreements that have been entered into by the County Council, along with the school and pre-school. These agreements set out partnership working arrangements and were particularly concerned with mutual working to ensure the delivery of high quality provision. However the Council is no longer supporting PFSUs, as it does not have the resources to support these arrangements.

PFSU agreements are continuing service level type agreements that have termination events. However the separate, but associated premises agreements, are now coming up for review/renewal and this is resulting in ambiguous position for both the school and pre-school, as the associated premises agreements are conditional on the PFSU agreement continuing.

Appendix 3: Premises guidance for school governors

Extracts from the "[Governors' Handbook - For governors in maintained schools, academies and free schools](#)", published by the DfE September 2014

Extracts from 6.3.2 Use of premises

Schools can accommodate extended and community services. Examples include after-school clubs, adult education, out-of-school childcare (including breakfast clubs and holiday care), and sport and youth clubs. Some schools offer or rent out their facilities to voluntary organisations.

Governing bodies may not use their delegated budget shares for anything other than the purposes of the school. The term 'purposes of the school' would normally be interpreted as including all activities that bring an educational benefit to pupils at the school. The term also includes spending on pupils registered at other maintained schools and providing community facilities for charitable services¹ (see below).

Governing bodies can charge for the provision of extended and community services².

6.3.3 Transfer of control agreements

Governing bodies can enter into a Transfer of Control Agreement (TofCA) as a way of sharing control of the school premises with another body, or transferring control to it. The other body, known as the 'controlling body', will continue to occupy and use the premises during the times specified in the agreement. Transferring control of the premises to local community groups, sports associations and service providers can allow school facilities to be used without needing on-going management or administrative time from the school staff. The governing body of a community school must obtain the LA's consent before entering into a TofCA that transfers control during school hours.

It may not be necessary for a school to enter into a TofCA to enable another organisation to use their premises. Alternative options for a school include retaining overall control of the premises while subletting use of part of their premises to another organisation or entering into a Service Level Agreement with another organisation.

OCC officers note: - Correct management of these agreements is essential to ensure other users do not acquire unintended rights of occupancy by accident.

6.4.1 The 'charitable purpose' requirement

The governing body of a maintained school has the power to provide, or enter into contracts to provide any facilities or services that will further any 'charitable purpose' for the benefit of pupils at its school, families of pupils or people who live and work in the local community³. This power is in addition to governing bodies' powers and responsibilities on the control and community use of school premises. 'Charitable purposes'⁴ may cover such services and activities as:

- childcare (including before and after school and during the holidays);
- adult and family learning;
- health and social services; and
- parenting support and other facilities of benefit to the local community. Examples include access to information and communication technology (ICT), or sports facilities.

Appendix 4: Considerations

When considering an overall strategy and guidance for the use of school/council premises, by 3rd party providers of early years and/or childcare provision, the following are considerations:

- the local authorities' statutory duties to secure sufficient provision of high quality
- supporting the Council's development work, to ensure sufficiency of childcare places. This includes working with school's to encourage provision on school sites. This is in response to government initiatives and also that often the best place for provision is the school site, where the children attend for their statutory school place.
- ensuring accessibility to and affordability of provision for families
- provision needs to be financially sustainable

¹ See section 27 of the Education Act 2002.

² See section 27(3) of the Education Act 2002.

³ Section 27 of the Education Act 2002.

⁴ the Charities Act 2011.

- the Council has a long history of encouraging pre-school providers to use school sites.
- encouraging greater use of school premises through the provision of integrated care and education, with benefits for children, school and parents, including supporting parents to be economically active
- recognising that the services provided are usually for children that are pupils, or future pupils, of the school.
- the need for providers to have reasonable certainty of premises, so that they can plan ahead to deliver high quality, reliable and sustainable provision.
- ensuring that there is clear guidance and a transparent policy for entering into premises agreements. This should recognise that there are wider benefits and considerations to be taken into account
- the different types of schools involved
- early years and childcare provision operates in a mixed market economy but often with many similar operating costs
- Council policies and procedures
- property law, particularly avoiding ensuring that unintended rights of occupancy are not created
- cost implications to both the Council and schools

In addition there is added value for the Council, including support with the delivery of statutory duties, and usually for the school/academy, resulting in considerations, which may mean that the arrangements are not purely commercial transactions.

Benefits/considerations for Schools/Academies

Whilst recognising that schools/academies are likely to wish to maximise their income from external bodies, which use their premises, there are some particular consideration to be taken into account around delivery of early years and childcare provision

- If a primary age school/academy then any pre-school on site is highly likely to be a main source for children who will attend the school/academy in the future
- Opportunities for partnership for benefit of children and their future attainment, including improved transitions. Opportunities to support/influence the delivery of high quality provision
- Schools/academies have the opportunity to enter into a working partnership agreement for the benefit of children and their attainment, in addition to the premises agreement (along the lines of PFSU agreement – see *appendix 2*)
- Where funding for the building came from, including in some cases pre-school fundraising. Note- if charities monies have been utilised then the provider is legally obliged to ensure the charity assets are protected/value for money obtained
- Opportunities for joint fundraising e.g. funding for jointly used outside area
- What is the ability to rent out premises to an alternative, suitable user whilst the school is operating i.e. what is the market rent that could realistically be achieved? This could vary significantly depending upon location of the building and access to it.
- Pre-school can/may be able to provide provision for pupils of the school/academy e.g. wraparound and out of school childcare
- Reputation if school/academy actions close a pre-school and/or out of school provision. On the other hand the schools/academy reputation is a consideration if provision is of poor quality
- If early years and childcare services close then local community likely to look to school/academy to replace them – what would the impact be on the school/academy? e.g. experience to deliver, staffing and finances
- The level of rent (if any) charged by the school will have a direct bearing on the fees the provision needs to charge, in order to be economically viable, and therefore how affordable/accessible the provision is for families.
- Does Out of School provision benefit the school as a whole, including making the school more attractive to families (increases the school roll)?

- Does the Out of School provision benefit the children's learning and attainment? – Most out of school provision is seen as bringing educational benefit and can be classed as a pupil focused activity, which can be supported by the school budget and/or pupil premium.

Wider context

- a) Pre-school deliver statutory places for funded 2, 3 and 4 year old children i.e. support the sufficiency duties contained in the Childcare Act 2006
- b) Pre-schools principal income is Nursery Education Funding (NEF), funded by Dedicated Schools Grant through a funding agreement with OCC
- c) NEF is not generous, resulting in many pre-schools relying upon fundraising to cover running costs and/or cover replacement equipment. In all sectors wages are often low due to funding constraints
- d) Pre-schools are voluntary managed, mostly by parents, and are not for profit organisations. Most are registered charities
- e) All early years providers are registered with and inspected by OFSTED and have to meet the same EYFS standards and early education requirements as school/academy nursery and foundation classes.
- f) OCC monitor Ofsted inspection outcomes and support settings with satisfactory (requires improvement from 4 November 2013) and inadequate judgements, with the aim of improving quality to achieve a good or better outcome at next inspection.
- g) OCC has a clear policy for withdrawing NEF funding where quality is poor – a premises agreement should include a clause stating the agreement can be terminated in the event of NEF being withdrawn
- h) Most childcare providers are registered with Ofsted, providing an independent measure of quality
- i) Section 123 of the Local Government Act 1972, means it is considered a disposal of council land if lease > 7 years is granted.

This is critical and is all important in law. If a lease is over 7 years then it gets registered at Land registry as a charge on the property and occupancy agreement would have to be very carefully worded, in order to avoid unintended consequences and rights being created

Appendix 5: Rationale for Property recommendations

- A consistent approach is needed for the use of any part of a school site proposed to be used for the provision of early years and childcare provision
- OCC has a statutory duty to ensure satisfactory provision is available across the county.
- The current policy/guidance regarding charges for early years and childcare providers is outdated as a consequence of changes in legislation, local authority duties and reduced resources within the Local Authority
- Specific facilities for early years and childcare provision means that school sites are often preferred location for organisations providing the service.
- Many providers are not for profit charitable organisations where any surplus made by the facility is specifically required to be re-invested in the facility.
- Any charges made for the use of the property ie. rent will have a direct effect on the cost of the provision to parents/ carers using the service
- NEF is not generous and early years and childcare providers rely on fund raising to cover all operating costs
- Early years and childcare services on school sites are usually for children who are or become pupils of the school and such provision encourages greater use of school sites and school buildings with extended services.

A. Providers of Nursery Education Funding (NEF) places (including those also offering childcare places)	Rent	Comment
Organisations located on school sites, providing its own building. e.g. prefabricated/ temporary buildings	<p>£500 per annum (ground rent)</p> <p>Temporary building ave size = 1600sq,ft</p> <p>Annual rent = 1600@£3.00psf = £4800 pa</p> <p>10% of annual rent = £480 per annum</p> <p>Say £500 per annum</p>	<ul style="list-style-type: none"> • The tenant is responsible for all repairs and maintenance and for the removal of the building at the end of the lease. • The rent reflects the use of the land and is based on the average commercial rent of £12.50 in Oxfordshire (current rents between £10-15.00 per sq .ft for town centre office use) • a discount of 50% has been applied for use of the site as a community use which is in line with Children’s centre rents = £6.00 per sq.ft • a further 50% discount has been applied to reflect the specific users acceptable on a school site which are required to be compatible with the main educational use and comply with safeguarding requirements = £3.00 per sq.ft • A ground rent has been set on the basis of 10% of the annual rent achievable for an average 15mx10m temporary building
Organisations using school/council building e.g. surplus school buildings/rooms	£3.00 per sq.ft /£30 per sq.m per annum	<ul style="list-style-type: none"> • The tenant is responsible for internal repairs and maintenance and running costs • A rent recommended is on the same basis as the above ground rent with discounts for community use and the specific school compatible uses • It may be appropriate to include a clause requiring the tenant to make reasonable contributions to exterior repairs and maintenance costs for the area of exclusive use. For example the lease terms granted on OCC land, which forms part of a church school site, can impact on completing any subsequent statutory transfer
Day nurseries	A rent, negotiated individually	Continues existing arrangements
B. Providers solely providing breakfast clubs, after school clubs, holiday playschemes.		
Not for profit/low margin organisations –	Page 68	These out of school services

<p>includes social enterprises and sole traders where the owner works in the provision</p>		<p>generally run close to break even. Any costs associated with offering the childcare will have a direct effect on charges made for pupil places, therefore only the contribution towards utility/ additional security and caretaking costs will be payable as apportioned by the school based on floor area and hours of use. Social enterprises are required to re-invest any surpluses back into the service</p>
<p>Commercial organisations</p>	<p>A rent, negotiated individually; either based on schools individual hire policy for accommodation used out of school hours, or based on £6.00 per sq.ft apportioned for hours of use.</p>	<p>Large commercial organisations may offer holiday scheme services to schools and do make profit, therefore the use of school premises should be on the basis of a rent payable by the commercial organisation at the discretion of OCC/ school. The rent payable has been proposed on the basis of the discounted rent described above subsequently apportioned for hours of use.</p>

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