

<b>Cabinet</b>  26 September 2018	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Debbie Jones , Corporate Director, Children's Services	<b>Classification:</b> Unrestricted
<b>Securing the future of Early Years services – phased closure of the three local authority childcare day nurseries</b>	

<b>Lead Member</b>	<b>Danny Hassell, Cabinet Member for Children, Schools &amp; Young People</b>
<b>Originating Officer</b>	Christine McInnes, Divisional Director, Education & Partnerships
<b>Wards Affected</b>	All wards
<b>Key Decision?</b>	No
<b>Community Plan Themes</b>	<b>A fair and prosperous community</b>  <b>A healthy and supportive community</b>

**Reason for urgent consideration:** The public consultation on this proposal only closed on 10 September 2018, and the large number of responses meant that compiling the resulting report was a lengthy process which impacted on publication. The decision cannot wait for the next Cabinet meeting as the uncertainty is unfair to families who may need to identify an alternative service if a decision is taken to close the day nurseries and to the staff impacted by the decision.

<b>Executive Summary</b>
<p>1.1 Evidence shows that children who get a good start in life go on to do better so investing in early childhood education and childcare is a priority for the Council. In Tower Hamlets, where many children come from backgrounds with high levels of poverty and deprivation, effective early years services can help off-set adverse circumstances experienced in early childhood and break the cycle of disadvantage. Early years services are a key contributor to Early Help, support better developmental outcomes and readiness to learn.</p> <p>1.2 However, early years is one of a large number of priorities in the Council so the level of investment in this service needs to be balanced against the level of investment needed to provide other vital services such as, for example community safety and adult social care within the context of significant reductions in the Council's funding from national government.</p> <p>1.3 Within the context of government funding cuts, decisions need to be made about the best way to spend the reducing funding to most benefit, both because the Council has a duty to ensure it makes decisions that represent good value for</p>

money as well as minimising the impact on service users as a whole. This paper is concerned with the future of the three Local Authority Day Nurseries, the LADNs, John Smith, Mary Sambrook and Overland.

- 1.4 The paper outlines the issues that have been considered in deciding to consult on a proposal to close the LADNs, addresses the outcomes of the public consultation and makes recommendations on the next steps. Every decision will impact service users negatively and the change being proposed will have some negative consequence for the small number of service users, however this has to be balanced against the wider and more far reaching negative impacts that could arise from not making this decision.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Note the outcome of the consultation.
2. Approve implementation of the proposal for a phased closure of the LADNs.
3. Note the intention to hold an Early Years Summit to inform and develop the role of the Council in promoting sustainable, accessible and affordable childcare.

## **1. Context**

- 1.1. In response to government funding cuts, Tower Hamlets Council has to make an unprecedented £58million of savings between 2017 and 2020. A growing population alongside increasing demands and costs, means that the Council has to make very difficult choices.
- 1.2. The Council has a range of statutory duties and services to deliver and, in addition, chooses to invest in a range of non-statutory services. The Council also has an over-arching duty to ensure the decisions it makes provide value for money. As funding decreases, the need to ensure best use is made of every pound spent becomes ever more acute so that Council policy can be implemented and there is maximum benefit across the population of Tower Hamlets. It is the Council's job to ensure that the limited money is used as fairly, equitably and efficiently as possible to have the widest possible impact in the community.
- 1.3. Evidence shows that children who get a good start in life go on to do better so investing in early childhood education and childcare is a priority for the Council. In Tower Hamlets, where many children come from backgrounds with high levels of poverty and deprivation, effective early years services

can help off-set adverse circumstances experienced in early childhood and break the cycle of disadvantage. Early years services are a key contributor to Early Help, support better developmental outcomes and readiness to learn.

- 1.4. Accessible childcare also underpins economic development, enabling parents and carers to access education, training and employment. Childcare benefits individual children and their families and also contributes to the Council's anti-poverty and social cohesion priorities. Whilst the Council can work to promote more affordable childcare, this is a national policy issue and the financial implications of actually providing affordable childcare in an equitable way across the borough make this an unaffordable aspiration without further funding from government being forthcoming.
- 1.5. In Tower Hamlets, early years is a success story and we have clear evidence of a steady trajectory of improvement in standards whilst narrowing the gap between the most and least disadvantaged children. These improvements are underpinned by consistently implementing evidence-based practice. Recently we formed one Integrated Early Years' Service (IEYS) which became fully operational in 2017 to maximise the use of reducing resources.
- 1.6. The IEYS has established a strong multi-agency approach by actively participating in the Tower Hamlets Integrated Provider Partnership through the Children's Vanguard which is now Tower Hamlets Together. This is an approach which supports the holistic development of the child and removes barriers to learning. The Council is committed to maintaining the capacity to ensure this improvement journey continues.
- 1.7. The Local Authority has a range of statutory duties in the area of early years child care prescribed the Childcare Act 2006 and these include the requirements to:
  - work with partners to improve the outcomes of all children up to five years of age and reduce inequalities between them
  - secure sufficient high quality early education places for two, three and four year olds to meet the requirements of parents who require childcare in order to enable them (a) to take up, or remain in, work, or (b) to undertake education or training which could reasonably be expected to assist them to obtain work
  - provide a parental information service (through the Parent's Advice Centre, part of the Family and Parent Support Service)
  - provide statutory services currently delivered through Children's Centres:
    - Improve the well-being of young children in their area and reduce inequalities between them;
    - Ensure that there are sufficient children's centres, so far as reasonably practicable, to meet local need;

- Ensure each children's centre has an advisory board, and that its make-up and purpose meet requirements;
  - Ensure there is consultation before any significant changes are made to children's centre provision in their area;
  - Local authorities, local commissioners of health services and Jobcentre Plus must work in partnership to consider whether the early childhood services they provide should be provided through children's centres in the area.
- provide information, advice and training for childcare providers.
- 1.8. The Council's duties around inclusion birth to five are detailed in the Children and Families Act 2014, Special educational needs and disability code of practice: 0 to 25 years 2014 and the Equality Act 2010. These duties are delivered by the IEYS Inclusion Team. Specialist SEND provision is available from SEND and the Support for Learning Service. For example, teachers of the deaf support families and children. This support is in the childcare settings chosen by the families.
- 1.9. The IEYS staff also manage the distribution of the correct level of funding to all early years providers, a significant administrative task and also a legal duty. The IEYS also runs the partnership delivery of statutory services through the 12 Children's Centres.
- 1.10. The full statutory requirements are included in the Department for Education Guidance June 2018, Early education and childcare; Statutory guidance for local authorities which can be viewed in full at this [link](#).
- 1.11. Early education and childcare is delivered by a variety of private, voluntary or independent organisations and maintained or academy schools. Whilst the Council has a duty to ensure childcare is available, for children under five years old, attendance is the choice of the parent.

In addition to school nursery and nursery school provision, there are 83<sup>1</sup> childcare settings and 111 child minders in the borough.

All this varied provision is funded either by parents paying for care and/or by government childcare place funding. No Council funding is available for childcare places although Council funding does support the 12 Children's Centres.

- 1.12. In Tower Hamlets the statutory requirements in relation to early years are delivered by the Integrated Early Years' Service and an indication of the rich range of work the service provides to children and their families [can be viewed on the web site](#).
- 1.13. However, early years is one of a large number of priorities in the Council so the level of investment in this service needs to be balanced against the level of investment needed to provide other vital services such as, for

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<sup>1</sup> Figures from Tribal database September 2018.

example community safety and adult and children’s social care within the context of significant reductions in the Council’s funding from national government.

- 1.14. This report is concerned with the future of the three Local Authority Day Nurseries, the LADNs, John Smith, Mary Sambrook and Overland and addresses the outcomes of the public consultation on a proposal to close them. The paper explores the options available including those raised in the public consultation, commenting on the possible negative impact on users of the LADNs that will result from agreeing the proposal to close them and how this is outweighed by the greater possible negative consequences of continuing.
- 1.15. The report proposes a phased closure of the nurseries, to mitigate the impact on the current cohort of children. Childcare at Mary Sambrook has been temporarily suspended as we have been unable to recruit sufficient managers to continue service from September 2018, and any children enrolled there have been offered places at John Smith or Overland in the interim. Consequently, if a decision is taken to close the nurseries, it is not proposed that Mary Sambrook will reopen. John Smith would close at Christmas, and Overland (which currently has the largest number of children with special educational needs) at the end of July 2019. This will ensure that parents with children currently enrolled at the LADNs have time to identify suitable alternative provision.

## 2. EY provision in the borough

- 2.1. The figures quoted in this section do fluctuate and are indicative. There are approximately 22,000 children under the age of 5 in the borough:

<b>Ages</b>	<b>2017 ONS population estimates</b>		
Age 0	4,541	Under 2	9,028
Age 1	4,487		
Age 2	4,366	2 to 4	13,142
Age 3	4,250		
Age 4	4,526		
<b>Total</b>	<b>22,170</b>		

In the region of 7,500 children used childcare during the academic year 2017-18<sup>2</sup>. Of the children attending childcare or education

- 4,561 children attended school nursery and reception classes

<sup>2</sup> Figures taken from CIS and Tribal datasets June 2018.

- 2,843 children attended childcare (including childminders) of which 73<sup>3</sup> children attended the three LADNs in the academic year 2017-18.

2.2. At full capacity, the three Local Authority Day Nurseries could provide 117 child care places, which accounts for 1.4% of the total under-5s provision in Tower Hamlets.

<i>Projected operating capacity of LADN</i>					
	Total FTE projected capacity	0-2 yrs	2-3 yrs	3+	Staffing FTE ratio to support model
Nursery					
Mary Sambrook	38	6	16	16	8
John Smith	38	6	16	16	8
Overland	41	9	16	16	9
Total	117	21	48	48	25

2.3. There is a variety of childcare available to families and the age range they cover differs. For children from three months to 2 years of age, there is more limited availability of childcare as there is no government funding available and the required adult to child ratio of one adult to three children (under twos) and one to four (two to three), makes this an expensive option for providers and parents. Childminders will care for children aged three months plus; nursery schools and school nurseries have historically provided for children aged 3 and over, however they are increasingly investing in creating places for 2 years olds and this is discussed further below.

2.4. Parents with children of this age attending the LADNs have paid the standard hourly rate. The IEYS cannot raise charges without the agreement of elected members. The ages of children attending the LADNs in April 2018 were:

Age	Under					Total
	1	1	2	3	4	
Number of children	1	8	25	36	4	74

As in previous years, a number of children left the provision to go onto school nursery provision or into reception. Following this, 21 children continue attending the LADNs in September 2018. Of the 21 children currently attending, there are no children on a Child Protection Plan, no Looked-after children, one child on a Child in Need Plan, one child with an EHCP and six

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<sup>3</sup> Attendance at childcare fluctuates constantly due to parental choice. Figures are further affected by the ages of the children – younger children require more staffing legally – and the levels of additional needs and SEND affect staffing and therefore occupancy. 73 is the average term time figure. The capacity was 117.

children who are deaf or hearing impaired who require some additional support.

### **3. How national funding works**

- 3.1. There are three strands to government early years childcare place funding:
  - Means tested early learning for two year olds (household income of less than £15,000 with universal credit) at a rate of £6.50 per hour;
  - Universal provision of 15 hours a week during term time (570 hours annually) of childcare for families of all 3 and 4 year olds at a rate of £6.30 an hour (plus £0.50p per hour supplement in areas of disadvantage, applies to 70% of children);
  - An additional 570 hours of childcare (15 hours per week during term time) annually for families of all 3 and 4 year olds whose parents are both working, also at £6.30 per hour.
- 3.2. Any additional hours are paid for by parents and some will be eligible for childcare tax credits. It is up to the provider what is charged for childcare places in order to remain financially viable.
- 3.3. The hourly rate for children attending the LADNs is £4.84, which has been the charge for over 10 years. The charges are agreed annually by Cabinet.
- 3.4. Apart from the significantly lower hourly (and therefore half day and daily) cost, other factors which reduce the costs to parents accessing the LADNs include: charging only one rate which is not varied for younger children or for times beyond core hours, both of which are more expensive when using other providers. Because LADN parents are only paying for hours agreed and not at a daily rate, this reduces income e.g. 9.30 to 3.30 = 6 hours. A daily rate, as charged in PVI childcare, would be minimum of 7 hours. The LADN do not require a deposit and there is no payment in advance, which has resulted in parents accruing debts in some cases. Up until 2017-8, parents could request a flexible hours approach (i.e. 10.00 a.m.-2.00 p.m.) rather than a standard morning or afternoon session. This approach was changed and sessions are now part-time: mornings or afternoons, but parents do not pay during holidays. There is no retention fee charged for the holiday periods for term time only families. There are no payments from other agencies for children who do not fit the funded criteria e.g. deaf children attending Overland DN who are under 2yrs of age.
- 3.5. Whilst the costs to parents are much lower than any other provider's, the cost of running the service is relatively high due in part due to the cost of the overheads for the management and operation of the buildings as well as the terms and conditions of the staff.
- 3.6. In order to meet the funding gap between income from government childcare funding and parental contribution, uniquely the LADNs also had

a significant additional financial contribution. This financial contribution was originally paid from the Council's General Fund, but this was substituted by an equivalent contribution from the Dedicated Schools Grant (schools budgets) in 2015.

- 3.7. In effect, this financial contribution is a direct subsidy which only benefits the very small number of families using the service, a proportion of whom are not the most vulnerable in the borough. In commercial terms this subsidy provides the LADNs with a competitive advantage over other providers, many of whom are voluntary agencies or small local businesses. If the LADNs are closed the families currently benefiting from this subsidy will no longer do so, though some kind of financial transition process could be used as an interim measure to mitigate the negative impact on the small number of families involved.
- 3.8. For the financial year 2017-18, the funding gap was £384k (including £185k of residual costs of the closed Queen Mary LADN). For the financial year 2018-19 the projected funding gap between the income from government funding and parental fees and the costs is £610k because there was the financial benefit of £542K from DSG that will not be available in the following years. This amount has reduced from previous projections because of the smaller staffing numbers.
- 3.9. The bulk of the DfE's DSG is required to be passported by the Council straight to school budgets. A small proportion can be retained with the agreement of the Schools Forum, the statutory decision-making body related to school budgets, to pay for Council services that benefit schools.
- 3.10. With regard to school budgets, school leaders are currently managing the combined financial impact of the following changes –
- The introduction of the Early Years Funding Formula in March 2018 which pays a lower hourly rate than education provision cost and has curtailed the amount of funding that can be centrally retained to support strategic priorities/centrally organised services;
  - The planned introduction of the National Funding Formula for schools which will reduce current school budgets by an estimated £33m in Tower Hamlets;
  - Falling rolls in primary schools as outlined in the Tower Hamlets Primary Schools Review position paper, April 2018.

*' In January 2018, there were around 1,860 unfilled primary school places across all year groups – equivalent to 62 forms of education (FE) or 7% of the borough's supply. In reception alone, there were around 390 unfilled reception places (10% or 13FE). Projections indicate that surpluses in some areas of the borough will continue to increase.'*

- The falling proportion of pupils eligible for free school meals.

- 3.11. These pressures, together with changes in the national financial regulations which have resulted in a reducing proportion of the funding that can be centrally retained have resulted in the use of centrally retained DSG coming under ever increasing pressure. Following extensive debate early in 2018, the Schools Forum decided to cease the funding for LADNs from September 2018 on the basis that the current delivery does not represent value for money.
- 3.12. The Schools Forum acknowledged while there are benefits to a small number of individual families from highly subsidised childcare as it is much cheaper to them; the view of the School's Forum is that this position can only be achieved at a very high cost to the wider education system and is intrinsically unfair as the money could be used more effectively elsewhere to the benefit of significantly more children.
- 3.13. This means that the equivalent amount of the Council's General Fund will now be diverted to make up the financial short-fall during this financial year resulting in a significant overspend. This funding would otherwise be used by the IEYS to deliver the range of statutory and non-statutory services outlined above and operational changes will need to be made to curtail the projected overspend in this financial year. Service reductions will need to be made going forward to offset the shortfall in budget. In effect the Council would need to make savings elsewhere to continue funding the LADNs following the School Forum decision to withdraw the DSG.
- 3.14. Whilst it may be argued that an equivalent financial contribution could be found from elsewhere in the Council's budget, this would perpetuate a situation where the Council is clearly not meeting its duty to provide good value for money and providing a financial subsidy to a small number of families, a proportion of whom would be unlikely to meet means testing criteria due to their income. It is acknowledged there will be a negative impact on current service users, but to meet the cost from elsewhere in the Council could result in a greater negative impact to more service users.
- 3.15. It may also be argued that changes in management and the charging structure could make the LADNs financially sustainable. Within the current level of government funding, the Council model of allocating corporate costs and the staff pay and conditions, financial modelling shows that hourly fees to parents would need to increase to circa £40 an hour. This, alongside the other changes that would need to be made, would make the provision unaffordable for most families and unattractive compared to other providers.
- 3.16. When first established 25 years ago, the LADNs did cater for a cohort of particularly vulnerable children, however this is no longer the case. Government and Council investment has created a greater range of high quality childcare. Children with special needs and disabilities, as well as those whose families are involved with Children's Social Care, are successfully integrated into early years settings across the borough. These

children and their families are supported by the Council's peripatetic specialist teachers and other services such as the educational psychology service and speech and language therapists within their early years setting.

#### 4. Places and cost

4.1. The very small proportion of childcare places provided by the LADNs has been discussed above and the actual costs for 2017-18 and projected costs for 2018-19 are included below.

#### 4.2. Cost breakdown

<b>2017-18 expenditure</b>	<b>Staff salaries</b>	<b>Agency costs</b>	<b>Building costs</b>	<b>Utilities</b>	<b>Other costs</b>	<b>Totals</b>
John Smith Day Care	267,334	47,873	53,305	2,536	88,415	<b>459,463</b>
Mary Sambrook Day Care	307,007	56,359	33,299	631	86,768	<b>484,064</b>
Overland Day Care	332,153	69,216	33,871	29	98,154	<b>533,423</b>
<b>Total</b>	<b>906,494</b>	<b>173,448</b>	<b>120,475</b>	<b>3,196</b>	<b>273,337</b>	<b>1,476,950</b>
Queen Mary	0	0	114,500	180	70,253	<b>185,176</b>
<b>Total expenditure</b>	<b>906,494</b>	<b>173,448</b>	<b>234,975</b>	<b>3,376</b>	<b>343,589</b>	<b>1,662,126</b>

#### 4.3. Financial forecasting & modelling

Forecasting		2017-18	2017-18 baselines	2018-19 forecasts	2019-20 forecasts
£k		Outturn	<i>Outturn excluding Queen Mary LADN costs</i>	Forecast	Forecast
<b>Total cost</b>		<b>-1,662</b>	<b>-1,476</b>	<b>-1,476</b>	<b>-1,476</b>
<i>Income streams</i>	<i>DSG funding</i>	953	953	542	0
	<i>Government funded hours</i>	182	182	182	182
	<i>Parental fees</i>	142	142	142	142
<b>Total income</b>		<b>1,277</b>	<b>1,277</b>	<b>866</b>	<b>324</b>
<b>Net cost = Budget pressure</b>		<b>-385</b>	<b>-199</b>	<b>-610</b>	<b>-1,152</b>
Net cost per child	<i>Based on 100 children attending during 2017-18</i>	-3.9	-2.0	-6.1	-11.5

**Note:** This table is based on Appendix A of the June 2018 Cabinet paper.

- 4.4. The baseline has been revised to exclude £185k of costs associated with the closed Queen Mary LADN from April 2018 when the lease ceased, giving lower costs.
- 4.5. The forecasts for 2018-19 and 2019-20 have been revised to assume that government funding and parental fees remain at 2017-18 baseline levels, giving higher incomes.
- 4.6. As numbers attending are significantly lower in this academic year, the number of children attending in the last academic year is used for the

purposes of calculations as currently the per capita costs are significantly higher.

- 4.7. Below is a time point comparison taken for June 2017 and June 2018 showing the costs of agency staff required to operate at capacity.

Month: June 2017

LADN	Number on roll	Of which SEND	DEAF This figure is included in the SEND total
John Smith	37	4	1
Mary Sambrook	38	4	0
Overland	44	16	12
	119	24	13

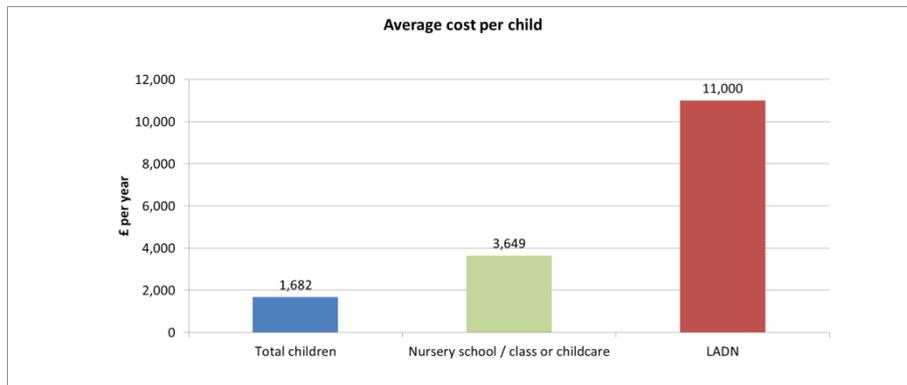
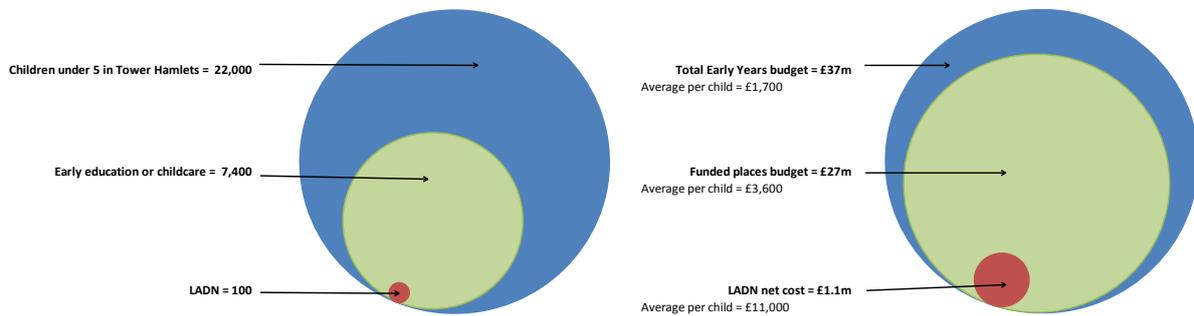
13 agency staff in post. Cost for one month: £25,978.

Month: June 2018

LADN	Number on roll	Of which SEND	DEAF This figure is included in the SEND total
John Smith	20	3	0
Mary Sambrook	18	2	0
Overland	32	16	12
	70	21	12

No agency staff in post. Cost for one month: zero.

4.8. The diagram below represents the proportion of childcare provided by the LADNs in relation to the whole and the cost per child in relation to the whole early years budget.



## 5. Providers who are rated good or outstanding and how this compares to other boroughs

5.1. The quality of provision is judged using the national benchmark of Ofsted inspection outcomes. The vast majority of the 87 childcare settings and the 112 child minders in the borough are judged Good or Outstanding by Ofsted, all school provision is Good or better, with the six maintained nursery schools all judged Outstanding. This compares favourably to the 66% of nursery schools across London which are Outstanding.

Compared to neighbouring boroughs, the latest Ofsted outcomes are:

	% Good or Outstanding	Day care nurseries	Childminders	Primary Schools
Tower Hamlets	86	92	100	100
Hackney	88	88	96	96
Newham	85	85	88	88

5.2. Source: <https://www.gov.uk/government/statistics/childcare-providers-and-inspections-as-at-31-march-2018>;

## **6. Spaces in nursery schools and nursery classes**

- 6.1. Once concern about closure of the LADNs was the impact on families looking for child care. In fact, there are a number of PVI childcare places in the vicinity of the LADNs that have vacancies across the age range
- 6.2. The six maintained nursery schools have 112<sup>4</sup> vacancies. These vacancies are “held” as vacancies which in practice can be either full or part time to allow for SEND support. The head teachers allocate places in response to the needs of children, within the Ofsted ratio requirements. The figures of 112 vacancies represent a range: 112FT to 224PT places. In practice, the number of places allocated will fall between the upper and lower limit.
  - 6 providers with spaces in 1.5 mile radius from Overland
  - 3 providers with spaces in a 1 mile radius of Mary Sambrook
  - 6 providers with space in a 1 mile radius of John Smith

## **7. Background to the decision to consult on closure**

- 7.1. The cost of the LADNs has been an issue for a number of years and a previous proposal to close the provision in 2014-15 resulted in the contribution of the Council’s General Fund being substituted by a contribution by DSG. This response did not resolve the underlying financial issue of the cost.
- 7.2. In 2017 a proposal to commission Private, Voluntary Sector or Independent (PVI) providers to run the LADNs from September 2018 was strongly opposed during the public consultation. Discussions then took place with the Schools Forum about exploring options for schools to run the LADNs. This was supported in principle, however initial scoping with interested parties indicated that they would not want to start a business with the transfer of current costs that would come with the TUPE of existing staff, the risk of financial failure would be too high. A risk of implementing this model which was raised at the time was of staff being TUPEd to the new provider then immediately being re-structured to alter their terms and conditions.
- 7.3. Careful consideration of the number of high quality early places available, the expense of continuing to run the provision, the pressure on budgets, value for money considerations and the successful integration of vulnerable children into a range of early years settings, showed there was a clear case to propose a phased closure.

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<sup>4</sup> Figures collected 12.09.18 direct from head teachers.

- 7.4. The current model of provision by the LADNs, where the childcare cost for a small group of families is far in excess of the national early years funding formula available, is putting pressure on school budgets and reduces opportunities for that funding to be used equitably and transparently to benefit early years provision as a whole. In order to ensure fairness across the borough and to enable all families to have the same opportunities for access to childcare, as well as ensuring the Council is doing all that it can to support the small businesses and voluntary sector providers that run childcare, the Council needs to take action to maximise value for money.
- 7.5. Within the context of the work of the IEYS to increase childcare places, the closure of the LADNs would not impact in any significant way in the overall number of places in the short term, while current and planned activities would ensure there would be no shortfall over the medium and longer term. For example, the IEYS is working closely with the six maintained nursery schools to improve their financial viability, which includes the development of hybrid models of education setting providing childcare. With the support of the service, Children's House maintained nursery school has recently created eight new childcare places and will be able to take in 12 additional deaf children from September 2018. More generally, the service is promoting the uptake of vacant places in all the maintained nursery schools. There are currently 47 FT and 35 PT vacant places available this September (enough for up to 129 children attending for half a day throughout the week).
- 7.6. In headline terms, this is more than sufficient to accommodate all of the current LADN children, and if the provision is not appropriate for other reasons then other childcare places are available and so there is effectively no risk that parents wishing to use a LADN would not be able to access local childcare. Given the choice, current service users will want to continue with their subsidised childcare, however this will be at a cost elsewhere in the system. There will be viable alternatives available.
- 7.7. A concern raised in the previous consultation on the LADNs was in relation to the potential loss of the highly regarded support for hearing impaired and deaf children and their parents at Overland LADN. Whilst the LADN staff do play an important role for the families, all the specialist input is delivered by external staff who work across the early years sector and this of course would continue. If Cabinet decides to accept the proposal to close the LADN the intention is to retain as many staff as possible within the Tower Hamlets workforce so their skills and experience are not lost.
- 7.8. The Council is also looking at how to make improvements to the SEND services as a whole including for deafness and hearing impairment. Children's House Maintained Nursery School, whose head teacher is a trained audiologist, is offering specialist provision for this cohort from September 2018, easing any pressure on specialist deaf provision at Overland LADN. With capital investment from the Council, Children's House plan to develop a 24 place assessment and learning environment,

including deaf children, which will be fully operational in 2019 and playing a key role in developing a more robust system for deaf and hearing impaired children than currently exists, helping with consistently earlier diagnosis and intervention prior to statutory schooling.

- 7.9. In the longer term, as early years provision is such an important area for the new administration, planning is underway for an Early Years Summit, which will help to define a clear vision for early years in the borough, as well as a process to identify and address the key barriers for the development of affordable childcare locally.
- 7.10. The wider-ranging debate on the LADN has raised a number of important issues that need to be addressed.

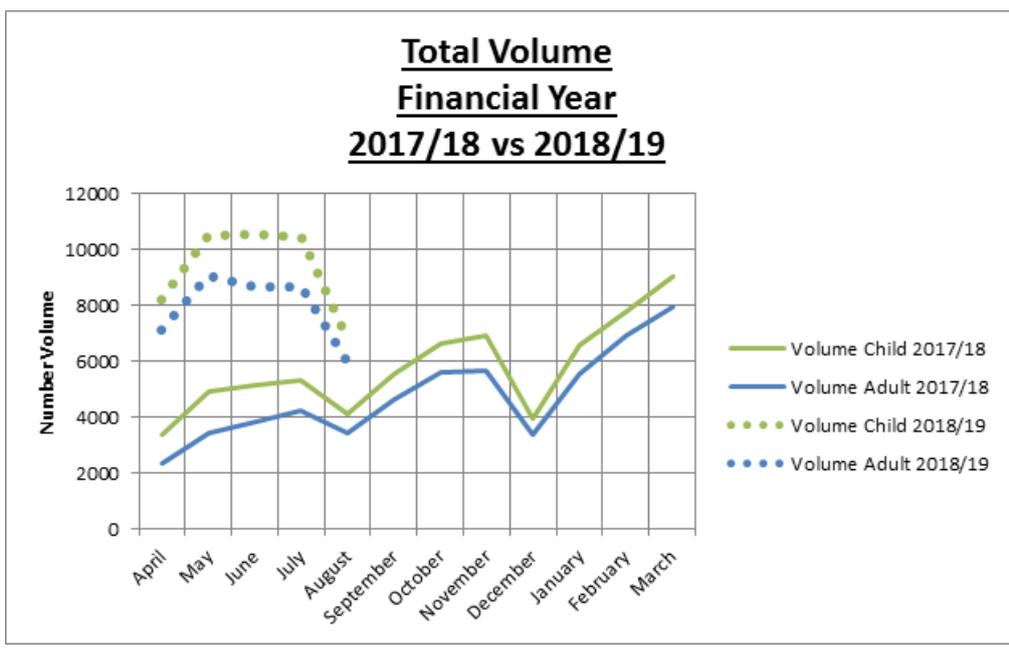
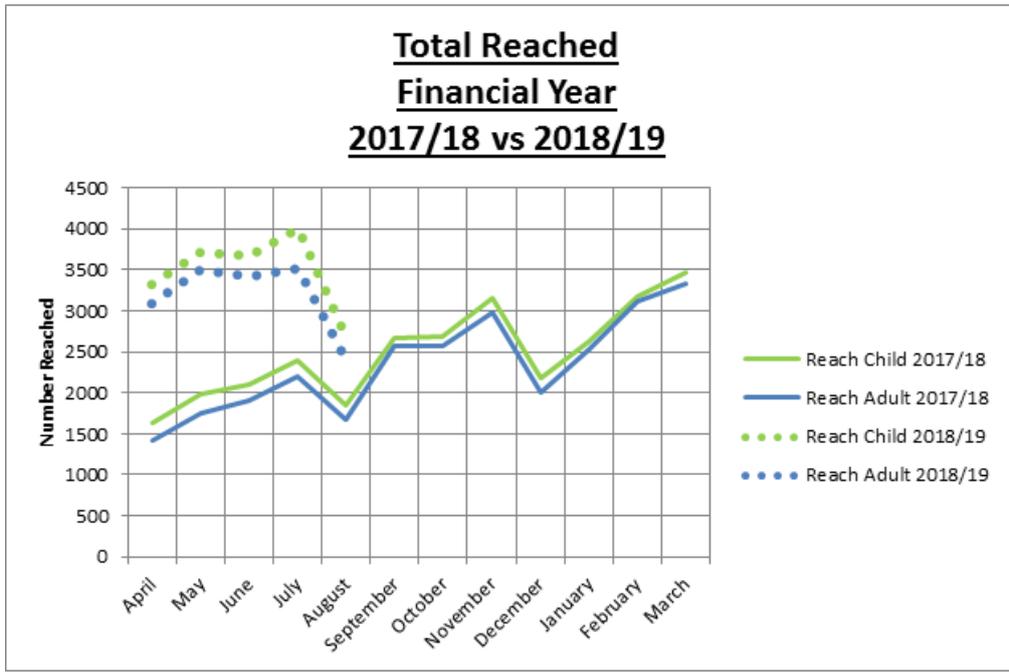
## **8. Equity**

- 8.1. Within a context of diminishing budgets any service which is disproportionately more costly than equivalent services needs to be carefully scrutinised so the reasons for this are understood and a judgement made about whether or not the extra expenditure is justified. This is because a disproportionately high cost which needs to be subsidised from other budgets results in fewer resources being available for services that may benefit a larger group.
- 8.2. It may be fair and justifiable to fund more expensive, higher quality services for more vulnerable children and families and this is the rationale put forward by those who want the LADNs to continue. As a consequence careful consideration was given to this view.
- 8.3. The data about children attending the LADNs clearly shows that the cohort is not significantly more vulnerable than children in other provision in relation to SEND or involvement with Children's Social Care. Whilst data about socio-economic background of families using the LADNs is not consistently collected, it is clear from parental feedback and correspondence that the LADNs cater for a mixture of families from a range of socio-economic backgrounds not just the poorest families. In terms of community cohesion, this is positive, however it does mean that resources are being used to subsidise childcare provision for families across the economic spectrum.
- 8.4. The feedback from parents about the quality of the provision is very positive. However in order to sustain the required staffing levels, staff from other services in the IEYS have had to be placed in the LADNs to provide capacity. This has meant taking them away from their substantive job of working with all the PVI providers in the borough to ensure they meet Ofsted standards and with children's centres, managing statutory service delivery. This has had a negative impact in the wider early years sector whilst this support was in place.

- 8.5. The judgement of the School's Forum was that the DSG contribution to the LADNs could be better used to benefit a much bigger group of children and families through the schools community. In part this decision was reached because the government regulations about use of DSG has over time reduced the proportion of this funding that can be retained by the Council to fund central services (with the agreement of Schools Forum). Whilst the option of officers making a further proposal to Schools Forum for funding to support the LADNs for the financial year 2018-19 has been suggested in the consultation, head teachers have made it clear that this would not be supported and Schools Forum would not agree it.
- 8.6 The option of offsetting the budget pressure through other Council budgets was considered.
- 8.7 The option of offsetting the budget pressure through other Council budgets was considered. To take this option is highly likely to result in cuts in other services and be subject to dissatisfaction from the service users who will be impacted and make the same argument that the cut should be made elsewhere in the Council.
- 8.8 The option of selling one or two of the buildings and using the funds raised to keep the remaining provision open was a suggestion from the Save Our Nurseries campaign. The Council is required to go through an internal asset challenge process to identify if there may be other potential uses for any buildings that may be considered surplus to current operational requirements that meet other Council strategic priorities prior to agreeing to the disposal of any asset. This decision process is taken through the Asset Management and Capital Strategy Working Group to the Asset Management Board for approval. If it is determined that the best outcome for the Council is to proceed with a disposal then this has to be authorised by Cabinet and the net sale proceeds would ordinarily then go into a central fund. The use of this funding is subject to scrutiny and so its use is governed through a decision making process which ensures funding is allocated to address Council capital priorities. It would be very unusual for capital receipts to be used as revenue funding to support the continued operation of other properties. Both the timescale and the processes involved make this option unviable as a way of securing the remaining LADN in operational use.
- 8.9. In addition, pursuing these options would not actually address the budget pressure per se, the issue of poor value for money and therefore the inequitable distribution of funding which arises as a consequence of the LADN funding model; it would perpetuate it.
- 8.10. The way that the Council currently manages its budgets means that the head of service is required to balance their budget within the financial year. As a consequence financial pressures such as those created by the loss of the DSG contribution to the LADNs costs need to be met within the IEYS budget. This means other EY services will be cut back to off-set the costs. The two areas that have been identified for potential reductions are

the Children’s Centres and the work on the creation of new places. Reductions in these areas will impact on many more families and children than closure of the LADNs.

8.11. The IEYS continues to track use of the Children’s Centres in relation to use last year for both reach and volume for adults and children. The dip in August follows the seasonal trend of reduced access by families over the summer period. Should the funding for Children’s Centres be cut, there would be an impact on a significantly greater number of children and families than closure of the LADNs.



Percentage increase - Quarters 1 and 2 of financial year 2018-19 in comparison to financial year 2017-18

%increase	Q1	Q2
Reach Child	68%	34%
Volume Child	88%	40%
Reach Adult	74%	39%
Volume Adult	110%	56%

8.12. Campaigners for the retention of the LADNs have also argued that the Council should increase investment in early years to bring all providers up to the level of funding the LADNs. The financial implications of this approach is clearly untenable given the budget pressures.

8.13. In conclusion, the argument that it is justified to continue the current level of subsidy to the LADNs does not add up. Whilst there undoubtedly be a negative impact on current service users, the children and families are not the most vulnerable in the borough and in addition to the financial subsidy the staffing has had to be supplemented. These costs will be met by reductions in services to many more families.

## 9. SEND provision

9.1. The support of children with special educational needs and disabilities in the early years is a complex process. A proportion of children have clear needs from birth, for example those with profound and multiple impairment who would go on to attend Stephen Hawking school and many of those with sensory impairment (visual or hearing). Others are identified as having some developmental delay and if additional targeted interventions don't have an impact then these children undergo a diagnostic process.

9.2. For children with a higher level of need, a portfolio of evidence from professionals is considered by the SEND Panel to decide whether or not the child is eligible to have an Education, Health and Care Plan. This is a legally binding document which sets out the desired outcomes for the child together with the arrangements for achieving them. Children who do not meet this threshold may be identified as needing 'SEN support' which means they are eligible for some additional help. The Council employs teams of specialist teachers for example IEYS Area Inclusion Team and the Sensory Support Service, as well as the

Educational Psychology Service to work with children and parents identified as needing additional help, whether or not they have an EHCP, in their early years setting. This is also true of health and children's social care.

- 9.3. Children identified as needing SEN support and with EHCPs are successfully integrated across early years provision in Tower Hamlets and supported by specialist Council and health service staff in those settings. It is simply not the case that only the LADNs can appropriately support these vulnerable children. So data from the academic year 2017-18 showed that there were a total of 79 children under the age of 5 who had met the threshold for an Education, Health and Care Plan of whom 10 attended one of the three LADNs. With regard to other vulnerable children, there were 52 under 5s who were looked after by the Council and 84 on a Child Protection Plan; of these 136 vulnerable children there was one child on a Child Protection Plan in the cohort of 73 children attending the LADNs.
- 9.4. Figures taken from Council service provider records in September 2018 show that 525 children birth to five are currently receiving some form of additional support from Council specialist SEND services in the borough. This figure is made up of:
  - 208 children supported in PVI childcare settings by the Area Inclusion team.
  - 31 children with EHCPs across all early childhood education and care settings 0-5.
  - 116 with a diagnosed hearing or vision loss of whom 48 have an EHCP
  - 170 children in maintained nursery schools at school support.
- 9.5. The very small number of children with SEND, both those requiring some level of additional support as well as those with a higher level of need as indicated by an EHCP can be successfully transitioned to other existing providers who have already integrated vulnerable children. The Council is working with providers to enhance and extend early years SEND provision. For example, from September 2018, Children's House Nursery School, which is 1.2 miles from Overland, has opened 12 places for hearing impaired and deaf children, giving parents a choice.
- 9.6. Overland quite rightly has a good reputation for supporting children with hearing impairment and their families as staff have a valuable level of experience in this area, however the regular specialist teaching is all delivered by peripatetic teachers who work for the Council's sensory impairment team and speech and language therapists who work for the health service providers. There is no specialist deaf unit at Overland LADN.
- 9.7. Any child with a diagnosed sensory loss (hearing or visual) is entitled to support from a qualified teacher regardless of whether or not they need and ECHP or not. This applies to all types of child care provision. So in

September 2018 there are 116 children birth-to-5 who are being supported by a qualified teacher, 81 have hearing impairment and 35 visual impairment. A very small fraction of these attend the LADNs.

- 9.8. Tower Hamlets has particularly high levels of hearing impairment and deafness and work is ongoing to improve services in this area. The Council is working with an Outstanding local nursery school, Children's House, to develop its proposal to establish an assessment and early support centre for young deaf children and their families. The school has been consistently rated outstanding in its past three Ofsted Inspections and has won national awards, the most recent being this year when Children's House was awarded the School of the Year by Pearson's recognising the work done to promote children's language and communication. Research shows that when early identification of deafness is followed quickly by high quality early intervention, deaf children can achieve the same outcomes as other children. The head teacher is a trained audiologist and teacher of the deaf.

## 10. Places

### 10.1. Information on our plans for capital development, expansion and take up of two year old places

- 10.2. The Council is committed to meeting its duty to provide sufficient and high quality childcare, recognising the benefits to children, families and the wider community. For example, since the Government set a target of a place for every eligible two year old in 2013-14, the IEYS of the Council has successfully created 976 early years places, of which 695 are Early Learning two year old (EL2) places with up to a further 1000 places planned for roll out by 2020.

- 10.3. The table below shows the change in the take up of early learning for two year olds since 2013-14. There has been a 7.5% increase in take up in EL2 in July 2018 compared to the same period in July 2017.

Take up of EL2 since 2013-14

Jul-14	445
Jul-15	741
Jul-16	823
Jul-17	853
Jul-18	915

- 10.4. In future, more primary schools with nursery classes and all the maintained nursery schools intend to take 2 year olds. The IEYS has

met with all schools who have expressed an interest to discuss how the Council can support them.

## **11. Current IEYS work to expand early learning for two year olds**

- 11.1. IEYS continues to send postcards to potentially eligible families around 6 times a year based on the information of eligible families that we receive from DWP, to ensure they are aware of the service their child is entitlement to. This is the most cost effective way of communicating with eligible parents.
- 11.2. From this list the team send postcards to families (minus those families who already have a 2 year old in a placement) informing them of the EL2 offer and providing details of the three nearest providers to their home. The last set of postcards were sent July and the next one is due to be sent next week. Postcards will be sent out again in November.
- 11.3. This leaves a small group who are not accessing childcare and not engaged with children's centres. These families are targeted with children's centre information and encouraged to drop in informally.
- 11.4. Publicity materials have been revised this year including leaflets and banners and leaflets were distributed to GPs, schools and Idea stores. We have been displaying EL2 information on plasma screens at Idea stores on an ongoing basis. We have recently negotiated with Parks team to display EL2 banners near playgrounds across the borough.
- 11.5. All settings providing funded EL2 places have been given a large banner to advertise the 2yo programme, children's centres continue to carry out targeted outreach such as door to door knocking in the community. Also they run stay and play and information sessions specifically for those eligible families by sending invitation and support to fill out forms and give information.
- 11.6. Several articles appeared in *Our East End*, featuring the benefit of EL2 scheme. Recently an "EL2 planning group" was set up in order to plan to further increase the take up of EL2 in the borough. The group consists of representatives from health, social care, housing, JCP, Family Information Service (FIS) and other key partner agencies. The group aims to review the outreach, marketing strategies as well as improving application processes.
- 11.7. Historically, the LA promoted term-time only childcare and in addition to the work of the IEYS on the creation of new places the service is also stimulating the development of a local childcare market which operates all year round to better meet working parent's needs.

## **12. The outcomes of the public consultation**

- 12.1. Cabinet agreed to the proposal to consult on the closure of the LADNs and following a call in by Overview and Scrutiny Committee, the public consultation started on the 19<sup>th</sup> of July. Whilst a four week consultation would be reasonable particularly as this was a non-statutory consultation, it was agreed to extend the consultation to run for over seven weeks. Four meetings led by the Mayor or Cabinet member for Children's Services were held during the consultation period to give parents and staff an opportunity to discuss the rationale for the proposal.
- 12.2. The online consultation attracted a high level of interest, with 361 completed responses over the period 19 July to 10 September 2018. A further 231 paper responses were received.
- 12.3. The comments reflect a polarisation in views on the future of the LADNs. Those in favour of their closure seek a redistribution of funds to support more children, and note the availability of alternative high-quality childcare. The respondents wanting the LADNs to stay open are concerned about the principle of cuts to Early Years funding and how childcare can support children and their families out of poverty. A full, in depth analysis of the consultation is attached as Appendix 1 and an Equalities Impact Assessment as Appendix 2.
- 12.4. Concern about government cuts to early years funding are causing disquiet across the Tower Hamlets community and there are vigorous campaigns to challenge the national direction of travel. However, retaining the LADNs actually disproportionately reduces the limited resources available within the early years system as a whole. Alternative savings could be identified to continue the required level of subsidy, but this would not address the issue that the LADNs do not represent good value for money.
- 12.5. There is consensus that accessible and affordable childcare can lift families out of poverty and a commitment by the Council to prioritise work on this, but to provide the benefit of subsidised childcare to this very small group of families does not in any systematic or strategic way contribute to a sustainable solution to this challenge.

## **13. Recommended decision and next steps**

- 13.1. The Mayor is asked to note the Equalities Impact Assessment (EQIA), attached as Appendix 2, which concludes that children that attend the LADNs are very close to the ethnic mix of the borough as well as the breakdown of those receiving free hours of childcare. The recommended decision therefore is to proceed with the phased closure of the LADNs as the best option to ensure the implementation of Council policy on value for money and equity in relation to the use of

resources, even though there may be a negative impact on the very small number of service users.

- 13.2. The Council has already committed to continue a strong campaign on the wider issues of in-principle opposition to cuts in early years services and to further explore the scope to promote more affordable and accessible childcare, particularly for the most vulnerable families. The planned early years summit will provide an opportunity for key stakeholders to put forward their suggestions.

#### **14. Equalities implications**

- 14.1. Whilst an argument has been made that the LADNs provide a unique service particularly with regard to children with SEND, it is clear that equivalent services are available from a range of other providers. The additional support provided to children with SEND including hearing impairment is through peripatetic teachers employed by the Council.
- 14.2. The Council's peripatetic teachers of the deaf from the Support For Learning service will continue to visit any school or childcare setting attended by deaf and hard-of-hearing children. In this academic year, Children's House maintained has admitted hearing impaired and deaf children for the first time, with a capacity for 12 deaf children. With capital investment from the Council, Children's House plan to develop a 24 place assessment and learning environment, including deaf children, which will be fully operational in 2019 and playing a key role in developing a more robust system for deaf and hearing impaired children than currently exists. This development will contribute to service improvement through providing consistently earlier diagnosis and intervention prior to statutory schooling.
- 14.3. The proposal to delay closure of Overland Day Nursery until July 2019 also means that the majority of children who currently attend, including those with SEND, will be starting primary school reception in the new school year. Parents of children below school age will have nearly a year to identify suitable alternative provision.
- 14.4. Children with SEND who require a personal assistant or other support to attend childcare in any setting will continue to receive this support. This is either provided directly by the Council from the SEND service or a personal assistant may be employed by the child's family from a Personal Payment funded by the Council as part of the Education, Health & Care Plan.

#### **15. Other statutory implications**

- 15.1. The Council has a duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having

regard to a combination of economy, efficiency and effectiveness by virtue of section 3 of the Local Government Act 1999. This is known as its Best Value Duty.

- 15.2. The proposal originates from the 2017-20 Medium Term Financial Strategy as a way of making savings. However, because the LADNs have not been funded from LBTH budgets in recent years, budget savings are not achievable.
- 15.3. Instead, implementation of the proposal would avoid the budget pressure arising from the cessation of the contribution from the Dedicated Schools Grant, which will likely be met from the IEYS funding at a cost of £1.6m per year.
- 15.4. If the costs are not met from IEYS budgets, there will be the capacity to enable the continuation and development of other activities, such as the preservation of Children's Centres and growing the childcare and early education sectors in Tower Hamlets to ensure the Council meets its duties with regard to the provision of sufficient child care.
- 15.5. As an illustration of the disproportionate cost of LADNs, Early Years budgets amount to £1,500 per child under 5 in Tower Hamlets while the cost per child attending an LADN is over £17,000. Closing the LADNs would have a significant redistributive effect and end the effective subsidy of a very small proportion of children.

## **16. Comments of the Chief Finance Officer**

- 16.1. The centrally retained element of DSG early years funding has been used, with the support of the Schools Forum, to provide funding in support of the Local Authority Day Nurseries (LADN). In setting budgets for 2018/19 and in the context of the continuing reduction in the levels of funding that can continue to be retained in support of centrally funded provision such as the LADN, the Forum resolved that funding would only be provided until the end of August 2018. The body of the report considers the value for money considerations associated with the LADN provision which members will need to consider fully alongside all of the other relevant points made during consultation such as the availability of suitable alternative provision and the expected impact on the outcomes for young people attending these provisions.

## **17. Comments of Legal Services**

- 17.1. The Childcare Act 2006 ("the 2006 Act") imposes a number of duties on local authorities, including to work with partners to improve the outcomes of all children up to five years of age and reduce inequalities between them. The Council must secure, so far as is reasonably practicable, that the provision of childcare (whether or not by them) is sufficient to meet the requirements of parents in their area who require childcare in order to enable them to work, or undertake education or

training. Additionally, Section 11 of the Children Act 2004 places a duty on the Council to make arrangements to safeguard and promote the welfare of children. The report sets out that the Council would continue to comply with these duties if a decision was taken to close the nurseries.

### ***Public Consultation***

17.2. There is no statutory duty to undertake a public consultation in relation to closure of childcare provision, however, a decision was taken to carry out a consultation exercise, to inform the decision making and ensure fairness. The responses to the consultation must be conscientiously taken into account when taking a decision in respect of the proposal to close the day nurseries.

### ***Employment and Equality Considerations***

17.3. Changes to the staffing structure will require consultation and compliance with the Council's Handling Organisational Change procedure. The Council will need to consult with staff before applying any proposed changes to contracts, redundancies or redeployment to other services.

17.4. When deciding whether or not to proceed with these decisions Cabinet must also have due regard to the need to eliminate unlawful conduct under Section 149 of the Equality Act 2010, the need to advance equality of opportunity and to have regard to the impact of decisions on protected groups and the need to foster good relations between persons who share a protected characteristics and those who do not (the public sector duty). The appended equality analysis addresses the impact on service users.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- **Securing the future of early years services – local authority day nurseries (27 June 2018)**

### **Appendices**

- Appendix 1 - Consultation report
- Appendix 2 – Equality impact analysis

### **Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012**

- None

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