

Subject:	Consultation on Reducing Maintained School Nursery Classes		
Date of Meeting:	6th March 2017		
Report of:	Executive Director - Families Children and Learning		
Contact Officer:	Vicky Jenkins, Childcare	Name:	Strategy Manager – Free Entitlement
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The head teachers and governing bodies at Queen's Park, Middle Street and St Mark's primary schools propose to close their nursery classes.
- 1.2 The schools themselves propose closure of the nursery classes because of falling numbers of children and consequent significant pressure on school budgets.
- 1.3 For Queen's Park and Middle Street as community schools the process is a statutory one, and the consultation would be followed by statutory notices with full proposals to raise the schools' lower age range from three to four. Committee is asked to agree that this process is started.
- 1.4 For St Mark's as a voluntary aided school the process is a non-statutory one and can be carried out by the governing body. In seeking to make this change the usual principles of public law must be followed; a fair procedure must be adopted, and all relevant considerations have to be taken into account. The school would be supported by the local authority in following the correct procedure.

2. RECOMMENDATIONS:

- 2.1 That in accordance with DfE statutory guidance ***Making 'prescribed alterations' to maintained schools (April 2016)*** the process is started for closure of the nursery classes at Queen's Park and Middle Street primary schools immediately following this committee meeting. The local authority has to be the proposer regarding this alteration and the statutory process must be followed.
- 2.2 That, subject to findings from the initial consultation stage, a decision on whether or not to proceed to statutory notices with full proposals for Queen's Park and Middle Street primary schools is delegated to the Chair of the Children, Young People and Skills Committee and the Executive Director - Families Children & Learning.

- 2.3 That at the end of the statutory notice period, a decision on whether or not to proceed with closure of the nursery classes at Queen's Park and Middle Street primary schools is taken at the June Children, Young People and Skills Committee.
- 2.4 That the committee notes that the governing body of St Mark's Voluntary Aided primary school intends to start the non-statutory process for closure of its nursery class and that the school will be supported by the local authority in doing so.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Queen's Park, Middle Street and St Marks' primary schools have nursery classes which offer part-time free early education to three and four year olds (the early years free entitlement, EYFE). Each class has 50 places and offers parents morning or afternoon sessions. The offer is consistent with the universal entitlement to free early education of all three and four year olds, 15 hours a week, 38 weeks a year.
- 3.2 In recent years the number of children receiving their EYFE at maintained school nursery classes has fallen throughout the city. This appears to be the result of demographic changes in certain neighbourhoods, resulting in a lower number of young children living in the area, and/or parental preference for the more flexible early years provision which is offered by the private, voluntary and independent sectors (PVI). This provision tends to be open for longer hours and for more weeks a year and therefore more suited to the needs of working parents.
- 3.3 In addition all disadvantaged two year olds are now entitled to EYFE and have taken up this entitlement in the PVI sector which takes children from age two. Children then remain in PVI settings and do not move on to school nursery classes at the age of three. The schools have considered taking two year olds but feel they do not have the capacity to expand in this way.
- 3.4 In spring term 2017 of the 50 places available at each school, there were 19 children enrolled at Queen's Park nursery class, 16 at Middle Street and 20 at St Mark's.
- 3.5 Maintained schools receive a budget for their nursery classes based on the number of children who attended in the previous financial year, which is adjusted each term according to headcount. If numbers are lower than expected funding is clawed back from the school's budget. Early years funding cannot fund empty places. The number of children in a maintained school nursery class is always lowest in the autumn term as the previous cohort of children have left to go to school. Numbers grow through the school year as more children become eligible for EYFE as they reach the term after their third birthday.
- 3.6 For Queen's Park primary school nursery class the original 2016/17 budget was £67,449, but the clawback for the summer and autumn terms was £12,179. The original summer term estimate was based upon 36 children but there were only 30 on roll (out of a possible total of 50), and for autumn the budget estimate was 22 children but there were only 13 on roll; there are 19 on roll in the spring term which will result in further clawback.

- 3.7 For Middle Street primary school the original 2016/17 budget for the nursery was £58,539. For the summer and autumn terms a total of £11,037 was clawed back. The low number in the spring term will result in a clawback of around £4,000 resulting in funding for the financial year of around £43,000.
- 3.8 In 2015/16 St Mark's primary school had an overspend of £160,554. The latest forecast for this year indicates that the school is expecting to end the year with an increased deficit – up to a licensed deficit of £250k. In terms of the nursery class, this year the original budget was £52,107. This was an extremely low base and numbers have actually increased slightly during the year, meaning that for summer and autumn a further £12,737 has been allocated. However, the numbers are still low with only 20 children on roll in the spring term.
- 3.9 Because of low numbers budgets for all three schools are not sufficient to run their nurseries and so the head teachers and governing bodies have decided that their only option is to close.
- 3.10 The council greatly values the high quality of provision in these school nursery classes but is unable to offer additional funding.
- 3.11 Consultation regarding closure would be based on sufficient alternative provision for children in all three areas. In the Queen's Park area there are two other maintained providers very close the school; Tarnerland nursery school with 100 places for three and four year olds, and Royal Spa nursery school with 80+ places. In central Brighton where Middle Street is located there are two other maintained schools with nursery classes, St Paul's CE Primary (mornings only) and St Mary Magdalen Catholic Primary. Both also have low numbers of children and so these may be boosted by the closure of Middle Street.
- 3.12 In addition in Whitehawk where St Mark's is located there is council-run provision at Roundabout children's centre nursery about half a mile away and at Sun Valley children's centre nursery at the Valley Social Centre, as well as a range of PVI provision in Kemp Town.
- 3.13 For parents of young children in Brighton & Hove there is a wide range of high quality childcare available with PVI providers, as well as maintained provision. Our Childcare Sufficiency Assessment 2016 reported on childcare provision in the city and quality, based on Ofsted inspection judgements, is high compared with national data; at 31st August 2016 94 per cent of providers were good or outstanding, compared with 91 per cent in England as a whole. A parent survey in the CSA did not report any shortage of childcare. The Childcare Sufficiency Assessment is published on the council's website and can be viewed [here](https://www.brighton-hove.gov.uk/content/children-and-education/childcare-and-family-support/childcare-city).
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- 3.14 Childcare provision is significantly market-based as parents can choose where to access their EYFE. The childcare market is constantly changing and adapting to differing entitlements and parental preferences. This is a very different picture from when nursery classes were established in schools when there was limited other provision and little choice for parents.

- 3.15 In September 2017 working parents of three and four year olds become entitled to 30 hours free childcare, which is double the existing EYFE. Working parents entitled to this additional childcare are likely to want provision which is offered outside school hours and terms, which is not on offer at these schools. St Mark's primary school feels that there are very few working parents attending the school who would be eligible for 30 hours free childcare.
- 3.16 The process for the proposal to close the nursery classes and raise the lower age range of these schools to four would start with consultation with
- Parents of pupils at the school
 - The governing body
 - Neighbouring schools and nurseries
 - Ward members
 - The local authority (which is the decision maker).
- 3.17 Consultation should take place after this committee's decision to proceed.
- 3.18 For Queen's Park and Middle Street primary schools following consultation a decision will need to be taken whether or not to proceed to the publication of a statutory notice. It is proposed that this decision is delegated to the Chair of the Children, Young People and Skills Committee and the Executive Director - Families Children & Learning.
- 3.19 The statutory notice has to be published in a local newspaper and at the entrances to the school as well as other appropriate venues such as libraries and post offices. Information would also be published on the council's and the schools' websites.
- 3.20 The full proposal in the statutory notice will include
- School and local authority details;
 - Description of alteration and evidence of demand;
 - Objectives (including how the proposal would increase educational standards and parental choice);
 - The effect on other schools, academies and educational institutions within the area;
 - Project costs and indication of how these will be met, including how long term value for money will be achieved;
 - Implementation and any proposed stages for implementation; and
 - A statement explaining the procedure for responses: support; objections and comments.
- 3.21 Following publication there is a four week representation period during which any person or organisation can submit comments on the proposal. A decision must then be taken on the proposals within two months of the end of the representation period. It is proposed that this decision be taken at the June meeting of the Children, Young People and Skills Committee.
- 3.22 The proposed timetable for Queen's Park and Middle Street Primary Schools is as follows

Date	Action
6 th March 2017	Decision of CYPS to proceed with process for closure of nursery classes
7 th March to 7 th April 2017	Consultation period
8 th April to 14 th April 2017	Analysis of responses received during the consultation Decision of Chair of the Children, Young People and Skills Committee and the Executive Director - Families Children & Learning whether to proceed to publication of statutory notices
21 st April 2017	Publication of statutory notices in Brighton & Hove Independent
21 st April to 19 th May 2017	Four week representation period following publication of statutory notices
12 th June 2017	Decision on whether to proceed with closure at Children, Young People and Skills Committee

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The alternative options considered included nursery classes moving to half time and waiting to see if the increase in the entitlement to 30 hours free childcare for the working parents of three and four year olds would increase the occupancy of the nurseries and/or taking two year olds in the nursery classes. The schools do not think that either option would result in a viable nursery class.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Both schools have consulted their governors about the proposal to close the nursery classes. Middle Street also consulted parents about their views on 30 hours free childcare and found that parents were interested in this, but wanted wraparound care which the school does not have the space to include within the nursery.
- 5.2 This report proposes consultation regarding closure of the nursery classes and raising the schools' lower age range to four.

6. CONCLUSION

- 6.1 The committee agrees to start the process as outlined in the report for closure of the nursery classes at Middle Street and Queen's Park primary schools, in accordance with the timetable outlined in paragraph 3.22.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The low occupancy of the nursery classes means that the three schools are receiving an inadequate level of funding through the early years single funding formula to support full time (50 place) nursery classes. This is set out in paragraphs 3.6 to 3.8 above. As a consequence the schools are subsidising nursery provision from the wider school budget at a time when there are

significant pressures. In particular, Middle Street and St Mark's primary schools are currently operating within the context of a licensed deficit budget.

Finance Officer Consulted: Steve Williams

Date: 18/01/17

Legal Implications:

- 7.2 In order to remove the nursery provision and alter the lower age range in a community school the Local Authority must comply with the School Organisation legislation, (the Education and Inspections Act 2006), and statutory guidance, "Making 'prescribed alterations' to maintained schools" published by the Department for Education. As set out in the body of the report this statutory process requires the Local Authority to carry out consultation on the proposed changes, to publish statutory notices which are followed by a four week representation period, and to make a final decision within two months of the end of the representation period.
- 7.3 As St Marks's Primary is a voluntary aided school the legislation provides that governing body of the school are able to alter the lower age range of the school by following a non-statutory process. The DfE guidance stipulates that the governing body must ensure that an open and fair consultation on the proposal is carried out with parents and other interested parties, and that the governors consult with the Local Authority to ensure that the proposal is aligned with local place planning arrangements. A final decision can then be taken by the full governing body.

Lawyer Consulted: Serena Kynaston

Date: 08/02/2017

Equalities Implications:

- 7.3 Any equalities implications which emerged during the process of making the changes to these schools would be considered as part of the statutory process. Any equalities impacts on staff will be considered through the normal consultation processes which include one to one meetings for staff during which any concerns can be discussed.