

DERBYSHIRE COUNTY COUNCIL
CABINET MEMBER FOR CHILDREN’S SERVICES

11 April 2017

Report of the Strategic Director for Children’s Services

PROTOCOL FOR A PROPOSAL TO CHANGE AGE RANGE IN EARLY YEARS PROVISION

1. Purpose of Report

To seek approval for a protocol in respect of proposals from schools to change age ranges in order to provide early years’ education.

2. Information and Analysis

The DfE published new guidance on the school organisation process in April 2016 called ‘Making Prescribed Alterations to Maintained Schools’. The new guidance states that it is for the Local Authority to propose a change in age range of one year or more for community schools (including adding sixth form or nursery provision) by following a statutory procedure.

Governing Bodies of foundation and voluntary schools can propose an age range change of up to two years (except for adding a sixth form) without following a statutory process. The DfE expects governing bodies to consult with the Local Authority to ensure their proposal is aligned with local planning arrangements and that any necessary consents have been obtained. Academies have separate guidance on the extension of age range.

With the introduction of an entitlement to 30 hours funded nursery education for three and four year-olds and the expansion of funded nursery education for two year-olds in low income families, schools are expressing an interest in extending their age range. Accommodation at many of our schools is limited and there is a potential conflict with the need to ensure that there are sufficient places for statutory age children. The protocol at Appendix 1 has been written to ensure that the respective

sections within the Authority work in a co-ordinated way to ensure the best use of the accommodation and maximise the school places available in both early years and statutory provision.

3. Legal Considerations

The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and associated DfE statutory guidance set out the process for changing the age range in schools.

Part 1 of the Childcare Act 2006 (as amended), requires local authorities to ensure there are sufficient funded Early Years Places to meet the requirement of working parents of three and four year-olds in their area. In addition, this duty has been amended to include funding places for disadvantaged two year-olds.

4. Other Considerations

In preparing this report the relevance of the following factors has been considered:- financial, prevention of crime & disorder, equality of opportunity, social value, environmental, health, human resources, property and transport considerations.

5. Key Decision No

6. Call In

Is it necessary for the call-in period to be waived in respect of the decisions being proposed in the report? No

7. Background Papers

These are held on file in the Children's Services Development Section and County Property Division files

8. Officer Recommendation

8.1 That the Cabinet Member approves the protocol for schools on the change of age range in early years' provision.

**Jane Parfremment
Strategic Director for Children's Services**

Appendix 1

Derbyshire County Council

Children's Services

Proposal for a Change of Age Range - Early Years

Guidance on the Process

The DfE published new guidance on the school organisation process in April 2016 called 'Making Prescribed Alterations to Maintained Schools'. This is the latest guidance which should be followed by Local Authorities and schools.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/514548/16-04-06_FINAL_SO_Guidance_PA_Regs.pdf

Who Can Make This Proposal?

The new guidance states that it is for the Local Authority to propose a change in age range of one year or more for community schools (including adding sixth form or nursery provision) by following a statutory procedure.

Governing Bodies of foundation and voluntary schools can propose an age range change of up to two years (except for adding a sixth form) without following a statutory process – but they are required to discuss these proposals with the Local Authority to ensure that such a decision will not affect pupil-place planning detrimentally.

Academies have separate guidance on the extension of age range which can be found at –

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504321/Making_significant_changes_to_an_open_academy.pdf

It is important to note that only academies deemed Good or Outstanding by OfSTED can progress with a proposal to extend their age range.

Initial Contact

If the Head Teacher and Governors of a school wish to consider extending the age range of their school, they should contact the Development Contact Officer for an initial discussion. If the Early Years and Childcare Service is contacted directly by a school, this will be referred to the Development Contact Officer.

These are –

Area	Children's Services – Development Contact Officer (DCO)
Amber Valley	Jill Beacham 01629 536549 jill.beacham@derbyshire.gov.uk
Bolsover	Jennie McCusker 01629 536757 jennie.mccusker@derbyshire.gov.uk
Chesterfield	Jennie McCusker 01629 536757 jennie.mccusker@derbyshire.gov.uk
Derbyshire Dales (North)	Jill Beacham 01629 536549 jill.beacham@derbyshire.gov.uk
Derbyshire Dales (South)	Phil Jepson 01629 535761 philip.jepson@derbyshire.gov.uk
Erewash	Phil Jepson 01629 53576 philip.jepson@derbyshire.gov.uk
High Peak	Jenny Webster 01629 535808 jenny.webster@derbyshire.gov.uk
North East Derbyshire	Jenny Webster 01629 535808 jenny.webster@derbyshire.gov.uk
South Derbyshire	Phil Jepson 01629 535761 philip.jepson@derbyshire.gov.uk

The Development Contact Officer will determine if there are sufficient accommodation/toilets available without impacting on the provision of places for statutory-aged pupils. This will need a review of the net capacity and BB103 requirements for the school, an analysis of the pupil projections for the next five years, the overall site area and requirement for external classroom space. There are significant constraints on the use of external premises as any lease or licence agreement will be subject to the involvement of Derbyshire County Council Estates Officers and can ONLY be signed by the Local Authority.

The Development Contact Officer will offer to liaise with the Early Years and Childcare specialist if the Head wishes to proceed with a more detailed discussion about potential models of delivery and the use of space with Early Years Business and Quality specialists. The Development Contact Officer will contact the Early Years and Childcare Services Manager who will arrange a joint visit of Early Years Business and Quality specialists.

Early Years Business and Quality specialists will schedule a joint visit in which they will talk to the Head about the vision for the development and outline the statutory requirements of the EYFS to ensure that the Head is clear about any potential difficulties. This discussion will cover the following Quality issues

- possible models of delivery;
- staffing and ratios;
- use of accommodation to meet the needs of young children, inclusive of toileting arrangements and privacy;
- potential use of space in the learning environment;
- the possibilities of activities that could wrap around the normal school day;
- the quality of the current early years provision in school; and
- whether the current leadership in the early years will have the capacity to oversee additional staff or is the school likely to need to review its leadership arrangements? (including split-site arrangements that mean that there is a QTS on both sites, unless run by a PVI provider).

The Early Years Quality specialist will offer the Head an external audit of the proposed provision which will include the use of space, the quality of teaching and learning and the use of the learning environment. This information will then be shared with the Head and the school's Senior Improvement Advisor.

In addition, the following Business issues will be discussed:

- whether the school has evidence of parental demand and offer support in this undertaking;
- what other provision in the area may impact on the longer-term sustainability of the provision (thinking to the future, parents are likely to go where access to 30 hours of nursery funding is both seamless and uncomplicated);
- where other local provision is full;
- whether partnership with a PVI provider may enable the school to deliver a more flexible approach to nursery entitlement (bearing in mind that a significant number of parents will be entitled to 30 hours of funding in September 2017, many of which will not wish to take their funding based on the hours of a traditional school day);
- sustainability of provision (in liaison with Schools Finance Service); and
- recruitment (in liaison with Human Resources Service).

If there are any reservations from Development team, the Early Years sufficiency team and quality team, or the School Improvement Service or any one or any combination of these areas, the school should be advised NOT to progress to the pre-publication consultation.

If there is support from all three areas of the Local Authority for the proposal, there is an expectation within the DfE Guidance that there is an initial or pre-publication consultation with all interested parties. The Local Authority expects that the school would conduct this consultation and ensure that all stakeholders have had the opportunity to comment.

A template for the consultation document and the possible list of consultees is attached as Appendix A and Appendix B.

Following the Pre-publication Consultation

The following table provides a simplified view of the timescales for the process. These are statutory for Local Authority maintained schools, but represent good practice for voluntary and foundation schools.

Process

Initial Consultation – Publication – Representations – Decision – Implementation

This is a statutory process and as such there is a clear structure and timescale to follow to ensure that all stages are completed appropriately.

The following guidance indicates the stages of the process.

Consultation	<p>Cabinet Report to seek approval to initiate a consultation.</p> <p>Then LA uses the guide of four week period within term time, using hard copies of consultation document, meetings with staff, governors, and parents and the community, consultation with pupils, and publication of details on web site as means of effecting the consultation.</p> <p>Responses received need to be considered by Cabinet at the next available meeting after close of consultation.</p>
Publication	<p>DfE requires the publication of a Statutory Notice. This is deemed 'published' on the day it is placed in the local press and posted in a minimum of two places where members of the school & local community will see it.</p> <p>Publication in the local press is usually a Thursday. This initiates the period of representations.</p>
Representations	<p>The minimum period for this is four weeks, and the proposal is available for all interested parties on the school's web site and on the Local Authority's web site.</p> <p>(NB. This cannot be in school holidays)</p>
Decision	<p>The responses received will be considered by the Local Authority at a Cabinet Meeting as soon as possible after the close of the representation period. This must be within</p>

	two months of the close of the period for representations or the proposal must be submitted to the Schools Adjudicator for a decision.
Implementation	If approved by Cabinet at its meeting, and not the subject of challenge to the Schools Adjudicator, the proposal is implemented as of the date on the Statutory Notice.

For a Community School –

The results of the pre-publication consultation should be reported to the full Governing Body and recorded in the minutes of the meeting. The school will forward the information from the pre-consultation discussions and a record of the full Governing Body discussion and minutes to their Development Contact Officer. The Development Contact Officer will report to the School Organisation Group through the Head of Development for a decision on whether to proceed or not. The Local Authority will take forward the statutory process for community schools if agreed.

The Development Contact Officer will seek Cabinet approval for the publication of a Statutory Notice to outline the proposal, draft the notice and statement of proposal, will collate all responses to that notice, and report back to Cabinet to seek their decision. This will be shared with the school as soon as possible after the calling-in period.

The Development Contact Officer will ensure that EduBase is updated and the DfE notified of the outcome as appropriate. The Development Contact Officer will ensure that DNET, Schools Admissions and Families Information Services are informed of the change in status.

For a Foundation or Voluntary School –

The results of the pre-publication consultation must be reported to and discussed by the Governing Body and a decision reached on whether to proceed to the next stage or not. There should be a minute to record the decision to progress with the next stage of the process (or not). The school will forward the information from the pre-consultation discussions and a record of the full Governing Body discussion and minutes to their Development Contact Officer for information.

The Governing Body of a Foundation or Voluntary school would progress the proposal with a non-statutory process if the proposal extends the age range by no more than two years (excluding a sixth form).

The Governing Body of the school must make a resolution at a full governing body meeting to proceed (or not) with the proposal, recording the comments made in the responses to the consultation and how the school would address them.

If the Governors decide to progress with the proposal, they must confirm their decision to the Local Authority through the Development Contact Officer who will ensure that EduBase is amended to

reflect the change in age range. The Development Contact Officer will ensure that DNET, Schools Admissions and Families Information Services are informed of the change in status.

It is possible to reverse the decision to extend the age range of a school but this will require a similar process to that which is described above, with the same timescales, and it should be noted that removing a provision is likely to elicit more objection from the local community than setting it up.

Because of this cautionary note, it is advised that schools consider this step very carefully before committing the school to this decision.

Appendix A to Change of Age Range Protocol

Derbyshire County Council

CAYA Development

Statutory Consultees

The revised guidance on changing the age range of a school no longer gives a prescriptive list of statutory consultees. However, it suggests that an appropriate group of interested parties should be consulted.

The advice of DCC would be that the following groups of people should be consulted –

Parents of existing pupils (and future parents if known)

Staff, teaching and non-teaching

Local Authority – FAO Kathryn Boulton, Service Director (Ref. DEV/SP)

Head Teacher and Governors of other primary phase schools within a two-mile radius

Other pre-school or play groups within a two-mile radius

Early Years team – FAO Sue Ricketts, School Advisory Service

Also -

Anglican and Catholic Diocesan offices

Local Member of the County Council

Parish Council

Local Member of Parliament

A consultation document needs to be drafted and ‘published’ on the school’s web site and we would support the process by including it on the DCC web site.

Appendix B to Change of Age Protocol

Derbyshire County Council

{Name of School}

Pre-Publication Consultation on a Proposal by the Governing Body for the Extension of the Age Range of the School from 5-11 years to 3-11 years

Context

[Description of existing school position]

Proposal

[This is a statement of the proposal on which this consultation is seeking a response; it could take the form of a series of questions on options for consideration. This must include the number of three/four year-olds it is anticipated will be accommodated in the school.]

Staff

[Implications for staff – whether an existing pre-school is closing and being integrated into school, the school is expanding its staffing etc. This must be the subject of detailed discussion with the school's HR consultant.]

Funding

The Authority receives funding from the Government, in the form of Dedicated Schools Grant (DSG), for all children who have reached the age of 3 by the 31 December prior to the January School Census. These children are currently eligible for a maximum of 15 hours of free early year's provision. In addition, there is DSG funding for children aged 2 who may also qualify for up to 15 hours of free childcare if they meet one or both of the Government's specific two-year old criteria.

The school will receive its funding for eligible children under Derbyshire's Early Years Single Funding Formula (EYSFF), a common formula which funds all of the free entitlement for children in nursery units within a mainstream school, nursery schools and private, voluntary and independent settings. Funding will be based on a count of actual weekly hours attended by qualifying children as at the three School Census points (i.e. January, May and October).

[There will need to be evidence of discussion with the school's finance consultant.]

Pre-publication Consultation

The consultation on this proposal will be for four weeks from [insert dates].

A meeting will be arranged with all interested parties to explain the proposal and respond to questions. This will take place on –

[Date of meeting if one is being held.]

The consultation document will be available on request from the Clerk to the Governors at the address and e-mail address below, and is available on the school's web site and on www.derbyshire.gov.uk .

Any comments, observations or objections should be sent to –

[Address]

Or by e-mail to [e-mail address].

The deadline for receiving responses to this consultation is **[Date]**.