

# COUNCIL CABINET 15 April 2015

ITEM 5a

Report of the Cabinet Member for Children and Young People

## Castle Nursery School- Closure Proposal

#### SUMMARY

- 1.1 Castle Nursery School is one of eight maintained nursery schools within the City, located on the outskirts of the Arboretum ward. It has an 'outstanding' Ofsted judgement and delivers funded places for three and four year olds. The future viability of Castle Nursery is a concern due to static low numbers on roll over the last eight years, with only 25children currently accessing a place at the nursery. Castle Nursery has the capacity to accommodate 80 children so the current vacant occupancy level based on this, would be 69%. However, the nursery for a number of years has operationally looked to deliver 52 funded places so the more realistic vacant occupancy level is 52%.
- 1.2 Both initial consultation and statutory consultation have now taken place onthe proposal to close Castle Nursery School from 31 August 2015. The responses to the initial consultationwere reported to Council Cabinet at the meeting on 18 February 2015. Through this initial consultation, a total of 63 responses were received opposing closure from a variety of stakeholders, together with a 1,708 signature petition opposing any closure. This petition included 489 signatures from individuals who reside outside the City. Two e-petitions opposing any closure were also received, one with 238 signatures, and one with 68 signatures.
- 1.3 Council Cabinet, at a meeting on 18 February 2015, approved the publication of a legal notice on the proposal to close Castle Nursery School. The publication of this notice marked the start of a further four week statutory consultation period which ran from 3 March 2015 to 31 March 2015. A copy of the legal notice on the proposal is attached as Appendix 3 to this report. A total often responses were received objecting to the proposal to close Castle Nursery School. A summary of responses received during the statutory consultation period is set out within Appendix 2 to this report. In view of the sustained low occupancy levels and very high operating costs at Castle Nursery, the proposal is for Council Cabinet to consider closing Castle Nursery School from 31 August 2015.
- 1.4 It is important to note that 18 of the current 25 children on roll are due to transfer to school in September 2015, which is likely to leave only 7 children on roll in September. However, this does not include any summer intake, should the school be allowed to admit new starters in the summer term.

#### **RECOMMENDATION**

2.1 To consider approving the closure of Castle Nursery School from 31 August 2015.

#### REASONS FOR RECOMMENDATION

3.1 Statutory consultation has now been carried out on the proposal to close Castle Nursery school due tostatic low numbers on roll over the last eight years. The Council is committed to delivering and funding services that evidence value for money. However, the current cost per place at Castle Nursery is significantly higher than that of the other nursery schools. There is the potential for a minimum £100,000 saving per annum to the Dedicated Schools Grant (DSG).



# COUNCIL CABINET 15 April 2015

Report of the Strategic Director for Children and Young People

#### SUPPORTING INFORMATION

#### **Background**

- 4.1 As reported to Council Cabinet on 19 November 2014, the future viability of Castle Nursery School is a concern with low numbers on roll over the last eight years. The nursery has the capacity to provide 40 full time three and four year old nursery places for 80 children to access, but actually provides 26 full time places for up to 52 children. Only 25 children currently access a place at the nursery, which for a number of years now hasoperationally only looked to deliver 52 part time places.
- 4.2 The City Centre location of the nursery makes it difficult to attract new children. Despite on going marketing activities and the nursery offering longer funded sessions to support working parents, this situation has not changed with occupancy levels remaining static over the last eight years. Castle Nursery have been looking into the possibility of providing up to eight part time funded places for two years olds in efforts to improve occupancy levels. However, there has been a significant growth inthe number of two year old providers now established in the area who have vacant two year old places available.
- 4.3 Only 8 of the current 25 children on roll live in the Arboretum and Normanton wards, with other children coming from across the city. There are other maintained nursery units within a 1 mile radius of Castle Nursery with funded places available. It is important to note that if Castle Nursery is considered to be strategically and / or financially unviable, the Council can provide an alternative choice of local accessible maintained nursery provision for the low number of children likely to be affected.

#### **Initial Consultation**

- 4.4 Council Cabinet approved the commencement of the initial consultation on the future viability of Castle Nursery School on 19 November 2014. The initial consultation period ran for six weeks and came to a close on 12 January 2015. A detailed summary of the consultation responses was considered by Council Cabinet at a meeting on 18 February 2015. The responses to this initial consultation included the following:
  - A 1,708 signature petition against the closure of the nursery. However, it should be noted that 489 of the signatures are from individuals who live outside Derby City.
  - A 238 signature e-petitionagainst the closure of the nursery organised through the change.org website. 81 (34%) of the people completing the e-petition posted their address as living in Derby. The majority of the remaining respondents were fromacross the UK.

- A 68 signature e-petition against the closure of the nursery organised through the 38degrees.org.uk website.
- A detailed and considered response from the Governors of Castle Nursery School.
- 62 responses from a variety of stakeholders, including parents, staff, governors and trade unions.

The responses and petitions were made available for Members to view in advance of the Council Cabinet meeting.

#### **Statutory Consultation**

- 4.5 Council Cabinet, at the meeting on 18 February 2015, approved moving to the next stage of the statutory process on the proposal to close Castle Nursery school, including the publication of a legal notice. The publication of this notice marked the start of a further four week statutory consultation period which ran from 3 March 2015 to 31 March 2015. A copy of the notice on the proposal to close Castle Nursery School is attached as Appendix 3 to this report.
- 4.6 A total of ten responses were received during the statutory representation period, all of which opposed the proposal to close Castle Nursery School. These responses include a Strategic Plan to Ensure the Future Viability of Castle Nursery School and a particularly detailed response from the Friends of Castle Nursery School. The responses are summarised within Appendix 2 to this report. A copy of the responses were made available for members to view in advance of the meeting.
- 4.7 In view of the sustained low occupancy levels and very high operating costs at Castle Nursery, the proposal is for Council Cabinet to consider closing Castle Nursery School from 31 August 2015. It is important to note that 18 of the current 25 children on roll are due to transfer to school in September 2015, leaving only 7 children on roll in September. However, this does not include any summer intake, should the school be allowed to admit new starters in the summer term.

#### **Value for Money**

- 4.8 The Council's commitment to value for money is also a very important consideration in respect of the proposal to consider the financial viability of Castle Nursery. The annual budget for Castle Nursery School for the financial year 2014-15 is £182,264. Based on delivering the current 25 places, a cost of a place at the nursery is £7,291. Even when the nursery had higher occupancy levels of 31 children, the cost per place would have been £5,879.
- 4.9 The fixed allocation of £100,000, which forms part of all nursery school budgets, can be used to give an indication of how the cost per place at Castle Nursery School compares with other nursery schools. Using the fixed allocation of £100,000 based on Castle Nursery delivering the current 25 places, this equates to £4,000 per place. When the nursery has had higher occupancy levels of 31 children, the cost per place wasstill £3,226, compared to the cost per place in those nursery schools that have full occupancy levels and deliver 80 part time places at £1,250, and 104 part time places at £962 per place.

4.10 The sustained low number of children on roll at Castle Nursery means that whilst the nursery predict a £7,000 surplusat the end of this financial year, it is important to note that this has only been achieved by the use of £10,000 of the nursery school's surplus balance from the previous year (2013/14). The nursery, therefore, in real terms hasmade a £3,000 deficitwith the nursery school's balances now being very limited. If the predicted occupancy levels are not achieved and with no options for the school to be supported with additional funding, this extremely tight budget could easily move into a deficit position.

#### **Next steps**

- 4.11 In view of the sustained low occupancy levels, the nursery operationally running at a deficit and having to rely on previous years surplus balances, and the high cost of a place at Castle Nursery, the proposal is for Council Cabinet to consider closing Castle Nursery School from 31 August 2015.
- 4.12 It is important to note that if Castle Nursery is considered to be strategically and / or financially unviable, the proposed timing of the closure will ensure the level of impact on children is kept to a minimum. 18 of the current 25 children on roll are due to transfer to school in September 2015, leaving only seven children who will require alternative provision. The Council's Childcare and Families Information Team will provide an individual childcare brokerage service for any parents affected and provide early support with sourcing alternative early year's provision for their children.

# OTHER OPTIONS CONSIDERED

5.1 No other options have been considered.

# This report has been approved by the following officers:

Legal officer	Anita Barnett, Solicitor, Legal and Democratic Services
Financial officer	Alison Parkin, Head of CYP Finance
Human Resources officer	Liz Moore, Strategic HR Business Manager
Estates/Property officer	
Service Director(s)	Frank McGhee, Director for Commissioning
Other(s)	

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Background papers:	Council Cabinet Report 19 November 2014
List of appendices:	Appendix 1 – Implications
	Appendix 2 – Summary of Consultation Responses
	Appendix 3 – Notice on Castle Nursery Closure Proposal
	Appendix 4 – Equalities Impact Assessment

#### **IMPLICATIONS**

#### **Financial and Value for Money**

- 1.1 Castle Nursery School is funded by the Dedicated Schools Grant (DSG), a ringfenced specific grant received by the Council from the Department for Education specifically for educational purposes.
- 1.2 The annual budget for the nursery for the financial year 2014-15 is £182,264. The funding for the nursery is formula based with predominantly two main features, a lump sum element of £100,000, which is consistent with all schools' funding, and an hourly rate based on the actual take up of provision at the nursery. The budget is issued on an estimate of take up, but is adjusted in year for the actual take up at the school; where estimates are above actual take up, the nursery's annual budget would be reduced.
- 1.3 Staffing costs of £154,628 make up 84% of the nursery budget despite the low pupil numbers in the nursery; increasing where take up reduces the overall budget. This does not show the real staff costs as alimited contribution is being made to the Federated Head's salary due to the budget constraints and all financial administration is provided by the federated school, again with no financial contribution being made.
- 1.4 The school is currently forecasting a £7,000 surplus position for the financial year 2014-15. Operationally, the nursery this year has made a £3,000 deficit which has been balanced by using £10,000 of the nursery school's surplus balances carried forward from 2013-2014. Limited reserves are available in future to do this. The nursery has high costs for the staffing infrastructure which is based on the nursery operationally delivering 52 funded places although vacant occupancy levels are 56%, and costs are now more than the funding derived through the funding formula allocation. There is no scope within the funding regulations to allocate additional monies to the school and a licensed deficit could only be approved where there is a financial plan which shows the school to be out of deficit over a three year period. The current numbers at the school are such that this plan would not be achievable.

#### Legal

2.1 The statutory legal process has been followed in relation to consulting on the closure of Castle Nursery School.

#### **Personnel**

3.1 Should there be a decision to close Castle Nursery, there are eight members of staff at the nursery who could be at risk of redundancy. The required consultation procedures are being followed, including communication and consultation with the staff and trade unions.

## **IT Implications**

4.1 None for consideration.

#### **Equalities Impact**

5.1 The equality implications on the children, parents / carers / guardians and employeeshave been assessed through an Equalities Impact Assessment which is attached as Appendix 4 to this report. The Equality Action Plan identifies that the Childcare and Families Information Teamwill offer an individual brokerage service to source alternative childcare provision for any parents affected if a decision is taken to close Castle Nursery. Parents will be supported to source alternative early year's provision allowing plenty of time to do this so the transition into the new provision is made as easy as possible for the child / family.

#### **Health and Safety**

6.1 None arising from this report.

#### **Environmental Sustainability**

7.1 None arising from this report.

#### **Property and Asset Management**

8.1 The Council will consider future options for the current site at the end of the statutory consultation period. Any maintenance and security costs will also need to be considered if a decision is taken to close the nursery and the site is not immediately disposed of.

## **Risk Management**

9.1 None directly from this report.

#### Corporate objectives and priorities for change

10.1 All people in Derby City will enjoy achieving their learning potential for a brighter future.

# Proposed Closure of Castle Nursery School Summary of Responses to Statutory Consultation

Castle Nursery School submitted a Strategic Plan to Ensure the Future Viability of Castle Nursery School as their response to the consultation. Friends of Castle Nursery School also submitted a particularly detailed response. The main points of these responses, and Derby City Council's response, are shown in the table below:

Consultation Response	Derby City Council Response
Quality of Education and Care	LA Comment:
<ul> <li>Castle Nursery school supports a much higher percentage (43%) of children with SEN than other settings</li> <li>There is a presumption against the closure of nursery schools and the proposal should demonstrate that plans to develop alternative provision clearly demonstrate that it will be at least equal, in terms of quantity as the provision provided by the nursery school with no loss of expertise and specialism. It is clear that there will be a loss of expertise and specialism if the experienced nursery staff are made redundant.</li> </ul>	<ul> <li>The January 2015 school census data shows that six of the 24 children (25%) on roll at the time of the census had an Education, Care and Health Plan or SEN support. According to the January 2015 census data, two of the other seven maintained nursery schools in the city support a higher percentage of children on roll with SEN.</li> <li>Alternative provision is available in other maintained provision local to Castle Nursery School with a good Ofsted judgement, employing staff with similar early years experience and expertise as those employed at Castle Nursery School. It is hoped that staff at risk of redundancy will secure new employment within the early year's sector supported by possible redeployment opportunities in order to retain their skill and expertise within the sector.</li> </ul>
Sufficiency of Early Years Funded Places	LA Comment:
<ul> <li>There are likely to be 32 children on roll in the summer term</li> <li>The maintained nurseries within a mile of Castle Nursery will not have places for the 32 children wishing to attend Castle Nursery from September 2015</li> </ul>	<ul> <li>If the decision to close the nursery is taken, the Council will not have to find 32 alternative places for the childrencurrently accessing Castle Nursery School as most of these will leave to go to school in September 2015. There will be potentially seven families who will need alternative three and four year</li> </ul>

- How will the Council's school place planning ensure that they meet their legal responsibility to provide education places for children in the Arboretum ward?
- There are 10 children on roll who wish to remain at Castle Nursery into the next academic year
- There is only one other provider in the ward that is graded Outstanding by OfSTED, so their parental choice is limited. Friends of Castle Nursery School will support them in engaging solicitors who specialise in educational law and SEN human rights
- All settings providing 3 and 4 year old places have experienced lower occupancy this year
- Mode 5 childcare is not being provided in the Arboretum ward, so consideration should be made to allowing Castle Nursery to operate in this mode
- Based on 2011 census data and 2012 live birth rate data, there are approximately 771 3 and 4 year olds in the Arboretum ward eligible for a place at the nursery
- As there are 750 funded 3 and 4 year old places available in the Arboretum ward (including Castle Nursery), this is a shortfall of 21 places; if Castle were to close, there would be a shortfall of 73 places.
- Places at maintained settings in schools are not available to children who turn 3 after September, as they operate a one point intake
- There should be enough provision for families to have a choice of setting
- Some families may not wish to choose a maintained nursery setting at a faith school

- old funded provision. Four of these do not live in the Arboretum ward, but all will be supported by the Families Information Service with an individual brokerage service to find an alternative place in good maintained provision.
- Alternative provision is available in other maintained provision local to Castle Nursery School with a good Ofsted judgement
- The ability for the Nursery School to change how it models and delivers the 15 hours of free early education entitlement to include longer days /Mode 5 to make this more beneficial to working parents and increase occupancy levels is a decision that can be made by the Governors. However, this would have to be subject to any necessary changes being made to the Nursery Schools Ofsted registration, suitable consultation with parents/stakeholders, making the necessary changes to staff terms and conditions using the usual HR processes. From a financial perspective, any remodelling must be financially viable within the school budget. Any additional childcare provided outside of the three and four year old funding MUST be self-sustaining and cannot be subsidised by the school budget.
- Two of the maintained nursery provisions in the Arboretum ward experienced lower than expected occupancy levels in autumn 2014, but one of these has managed to reach usual numbers by spring 2015. There have been consistent occupancy levels retained in private, voluntary and independent childcare settings in the ward.
- Maintained provisions across the city when they are not full are not restricted from allowing new children to join the nursery units in January and April each year if the nursery has available places.
- The Arboretum ward has a choice of three and four year old funded places across maintained and PVI settings should a

parent not wish to access their funded place at a nursery unit based at a faith school.

- The Council has a legal responsibility to ensure there are enough school places (Reception to Year 11) available to meet local needs. Significant investment has been made to increase the number of primary school places available to meet demand and future demand is closely monitored.
- According to the latest details on children on roll at the nursery, 18 of the 25 children are due to transfer to school in September 2015, leaving seven who would be directly affected by the closure of the nursery.
- Take up of three and four year old places in the Arboretum ward using the last approved GP register data confirms not all children in the Arboretum ward take up this entitlement. Take up of this offer using NHS verified GP registration data was 70.2% for three year olds and 77.6% for four year olds, compared with the 86.9% and 91.7% respectively across the city.
- FIS continue to publicise the offer in this area and continue to work directly with health professionals, Children's Centres and community groups to increase the take up of three and four year old funded places in this ward. It is important to note that there are sufficient places.

#### Marketing

- Families were not aware of the nursery school or the 15 hour funding entitlement for 3 and 4 year olds
- The LA has a duty to promote the free entitlement to early learning
- Maps of the ward produced by Derby City Council do not show Castle Nursery School
- Research amongst previous parents shows that they found

#### **LA Comment:**

- The maps referred to were not related to education provision and did not show any nursery provision.
- The Families Information Service (FIS), as part of the Local Authority's statutory duties under Section 7 and Section 12 of the Childcare Act 2006, do ensure there is wide publication of the three and four year old early free early education entitlement (FEEE) across the city and have to ensure there

- out about the nursery through word of mouth, not previous marketing activities
- Derby City Council's failing efforts to market the nursery have contributed to the low numbers on roll
- How are Derby City council ensuring uptake of 3 and 4 year old funded places at Castle Nursery by local families?
- Without further promotion, the number on roll is forecast to be 34, which is the highest for 4 years
- There are currently 47 children on the waiting list
- The new marketing strategy has increased the waiting list by 26
- The newly formed "Friends of Castle Nursery School" will fund future marketing activities at £250 a year and are committed to raising the profile of the nursery

- are sufficient funded places available. A variety of mediums are used to do this. In the Arboretum ward in particular, the FIS liaise closely with professionals working in the community including health professionals, Children's Centres and community groups, working with them to promote and encourage take up of the offer as it is acknowledgedthatword of mouth is usually the best way to encourage this.
- The Local Authority recognises the work that has been undertaken in a short time to market the nursery and the continued support being offered by the 'Friends of Castle Nursery School'. Whilst in the long term this has increased the waiting list to 47 children between now and summer 2017, in the short term the predicted occupancy level in summer 2016 is 34, which is a similar level to that seen in 2014.

#### **Castleward Housing Development**

- There is already a lack of 3 and 4 year old funded places in the Arboretum ward, which will increase with the building of the Castleward development
- Why has the original plan to relocate Castle Nursery School to the new Castleward primary school been changed and who was consulted? Why has no funding been provided through a Section 106 agreement to fund this?
- What are the new timescales of the Castleward development?

#### **LA Comment:**

- There are sufficientnursery places available in the area to provide for children moving into the Castleward development before the primary school opens.
- The possibility of relocating Castle Nursery School was suggested in the initial City Centre Eastern Fringes Area Action Plan, but only as one possible way of providing nursery places for the new development. Section 106 funding cannot be used to fund the relocation of existing places.
- The timescales of the Castleward development are still unclear.

#### **Funding and Operational Changes**

• How would the £100,000 saving to the Dedicated Schools' Grant be saved if it is ring-fenced for Early Years provision?

#### **LA Comment:**

 The Dedicated Schools' Grant is ring-fenced for educational use and would be recycled into schools' funding across the

- The reduced capacity of 52 was imposed by Derby City Council, as was the federation with St Chad's Infant School
- Why were the barriers to providing funded places for 2 year olds not made clear two years ago when the process was started?
- Derby City's low uptake of funded 2 year old places means it is no longer viable to pursue offering these places
- When calculating the estimated cost per child when the nursery had 31 children on roll, it failed to consider the extra £2,322.25 per child the nursery would receive in additional funding
- Calculating the cost per child by dividing the Dedicated Schools Grant contribution of £100,000 by the number of children does not demonstrate actual cost per child
- Closing Castle Nursery School will place more pressure on the high needs block of the Dedicated Schools' Grant. How will this ensure that future demands are met and Derby City Council will balance the budget?
- The fact that there was a surplus budget last year means that there has not been a deficit previously
- The budget will change in future as it will include pupil premium payments, rising 3s funding and SEND top-ups
- Castle Nursery actually have 26 on roll when rising 3s are included, which reduces the current cost per place
- Staff at the top of their pay scales and staffing costs associated with providing lunch increase the cost per place
- Ideas for remaining sustainable while numbers are low include offering care sessions, a shoppers' crèche and flexible contracted hours for staff
- The nursery could also generate income by offering the building for hire and providing baby classes and holiday clubs

- City. The funding for schools has remained at a cash flat level for a number of years. Whilst the demand on the budget continues to grow, it is important that efficiencies and value for money are delivered.
- The Local Authority understands the decision to operationally deliver 52 three and four year old funded places and not work to the 80 part time places the nursery has the capacity to deliver, was taken by the Governors to reflect the occupancy levels seen in the nursery over a number of years. If a formal approach had been made to the Council's School Organisation and Provision Team to do this, or it had been instigated by the Local Authority, then a process to formally reduce the size of the nursery would have been taken forward.
- The decision to federate Castle Nursery and St Chad's Infant School was a joint decision between the schools' governing bodies and the Local Authority.
- Derby City's current two year take up is 73% and is the third best performing Local Authority in the East Midlands. This should be compared against the national take up of 63%.
- Members of the School Organisation and Provision Team initially met with the Head/ Nursery Teacher to discuss the potential of delivering two year old provision at the nursery in early 2013. Various meetings and discussions took place after this, including support to get a Pump Prime Funding application approved to support the delivery of two year old places from April 2014. Continued support has been offered to overcome the barriers the nursery school were facing with moving forward with the two year old provision, which included the Ofsted registration process.
- The cost per child is calculated by dividing the totalcosts by the number of children. Excluding the £100,000 would not

- present an accurate picture, as that funding is used to deliver the nursery provision to those children.
- The Council commissions and provides provision for children with additional educational needs, so there will not be more pressure on the high needs block of the Dedicated Schools' Grant.
- The school is currently forecasting a £7,000 surplus position for the financial year 2014-15. Operationally, the nursery this year has made a £3,000 deficit which has been balanced by using £10,000 of the nursery school's surplus balances carried forward from 2013-2014. Limited reserves are available in future to do this.
- SEND top up payments are unlikely to be used to support children in early years settings as they are linked to Education and Health Care Plans and SEN support for early years does not usually come through this route.
- The latest figures provided by the nursery show that there are 25 children on roll, including three rising 3s.
- The nursery's budget is made up of a fixed allocation of £100,000 and a variable allocation that depends on pupil numbers. The school can decide how to allocate the funding it receives, and could make savings within its budget by looking at staffing costs and lunchtime provision. However, this would not change the cost per pupil when calculated by dividing the nursery budget by the number on roll.
- The ability of the Governors/ Nursery School to change how it
  models and delivers the 15 hours of free early education
  entitlement to include longer days to make this more
  beneficial to working parents and increase occupancy levels
  is at their discretion. However, this would have to be subject
  to any necessary changes being made to the Nursery
  Schools Ofsted registration, suitable consultation with

parents/stakeholders, making necessary changesto staff terms and conditions using the usual HR processes. From a financial perspective, any remodelling must be financially viable within the school budget. Any additional childcare provided outside of the three and four year old funding MUST be self-sustaining and cannot be subsidised by the school budget.

 The Local Authority acknowledge that the Nursery School, in order to improve its financial position, could offer alternative services to include hiring out the nursery school to Riverside Church, providing holiday clubs and shoppers crèche. However, any additional service MUST be self sustaining and cannot use staff or resources funded by the school budget.

#### **Closure Process**

- Arboretum ward residents have not been consulted on the closure of the nursery
- Children at the nursery have not been consulted on the closure
- Derby City 'Parent Carer Forum' has not been consulted on the closure
- Where is the evidence that a full consultation has taken place that meets the statutory guidance? Where is the list of wider stakeholders that DCC have consulted?
- Council Cabinet should give Castle Nursery School time to implement their strategic plan before deciding on closure
- Why was the initial consultation period only 6 weeks when it could have been up to 12 months?
- What was the methodology for the consultation? Why were the school and its stakeholders not included in any consultation when the problem was first identified and

#### **LA Comment:**

- The Council has followed the Department for Education's Guidance for proposers and decision maker's in relation to maintained schools, which sets out the process for closure of a school. This includes guidance on the consultation process and who should be consulted.
- The 15 February Cabinet Report did state that the statutory consultation would run until 30 March. However, all documentation relating directly to the statutory consultation, including the brief notice, complete proposal and Your City, Your Say website, carried the closing date of 31 March 2015. The staff HR consultation is a separate consultation with a different closing date.
- It is normal procedure to arrange meetings with parents of nursery or primary age children at around 6pm, so that working parents can come from work, but parents are not too late in returning home.

- closure put forward as the solution?
- Conflicting dates have been given in documentation. Some state the final date of the statutory consultation as 30 March and others as 31 March, while the staff HR consultation gives Friday 3 April
- Who has supported families through the consultation process?
- How was the time and date of the consultation meeting decided? Why wasn't it asked when would be best for parents? What effort was made to ensure that all current and new parents were consulted? Why was the meeting not held during the day? Why have there been no further proactive face to face meetings which would have enabled parents who have difficulties in submitting written responses to be consulted properly and feel part of the process?
- What are the legal grounds for closing the nursery?
   According to DfE guidance, the only reason for closing a maintained school that would apply is that it is surplus to requirements, but there is actually a shortfall of places in the Arboretum ward.
- The City Centre Eastern Fringes Area Action Plan makes it clear that the preferred option was to relocate the nursery into the new primary school, but now the Council is consulting on closure of the nursery, it must be presumed that this is no longer the case. It is clear from the plan that the Council is planning an area wide reorganisation. If the need for closure arises from an area-wide reorganisation, any related proposal should be consulted on at the same time and notices published at the same time. The Council have failed to do this.

- The proposal to close the nursery is in accordance with point 1 of paragraph 46 of the Department for Education's guidance on the closure of maintained schools, which is that it is surplus to requirements and there are sufficient places available in neighbouring schools to accommodate displaced pupils. As outlined in the section on sufficiency of early years' places above, there is no shortfall of funded 3 and 4 year old places in the Arboretum ward.
- The option of relocating Castle Nursery School to a future new primary school in Castleward was put forward in the City Centre Eastern Fringes Area Action Plan, but was only one option for nursery provision in the area. The provision of a new primary school to serve a new housing development does not constitute an area-wide reorganisation of education provision. The proposal to close Castle Nursery School has not arisen from an area-wide reorganisation, but from concerns over value for money and low numbers on roll for a sustained period.

The Council received eight further responses within the statutory time period. The main points are summarised in the table below, along with Derby City Council's response, where appropriate:

Consultation Response	Derby City Council Response			
<ul> <li>Quality of Education and Care</li> <li>Castle Nursery should be promoted for its Outstanding provision to all children</li> <li>The Family Information Service information shows that Castle Nursery has a good OfSTED rating, when it is actually outstanding</li> </ul>	<ul> <li>LA Comment:</li> <li>This is noted, and following this consultation feedback, information will be updated in relation to OfSTED ratings. This is, of course, a changing picture.</li> <li>FIS when speaking to parents would always recommend parents /carers look at the current Ofsted report as part of their considerations and provide details of how to access this and would expect the nursery school as part of their contact with potential parents/carers to promote this achievement.</li> </ul>			
Sufficiency of Early Years Funded Places	LA Comment:			
<ul> <li>Research in the Arboretum area has shown that there are families not accessing nursery provision</li> <li>The flexibility offered by the nursery has enabled me to go</li> </ul>	<ul> <li>Please see comments in Sufficiency of Early Years Funded Places above.</li> <li>The Local Authority acknowledges the importance of having</li> </ul>			
<ul> <li>back to work; the consultation process has not taken this into account</li> <li>The Council stated in 2013 that school land is needed in the Arboretum ward to provided two year old funded places.</li> </ul>	flexible affordable childcare to enable parent/carers to return to work and training and fully recognises the value of the additional childcare Castle Nursery School provides to parents. This consultation though is focused on the viability			
<ul> <li>Why waste money rather than keep Castle Nursery open?</li> <li>The Council stated in 2013 that demand for 2, 3 and 4 year old funded places could quickly outstrip supply due to pressure on school places</li> </ul>	of the three and four year old funded places. The Council as part of any decisions made will ensure parent/carers are provided with individual support to source alternative early years and childcare provision.			
<ul> <li>If the "Childcare and Families Information Team Early Years Market Position Statement 2013 for 2, 3 and 4 year olds" (referred to in the two bullets above) was correct, what has changed since then?</li> <li>Statistics show that there are over one hundred children in</li> </ul>	The Council's Market Position Statement (MPS) for 2, 3 and 4 year olds 2013 does indicate the need to consider using capital funding to create additional new 2 year old funded places in the Arboretum ward due to the high number of potentially eligible two year olds. However, since then			

the Arboretum ward not accessing any early years provision

- Other settings in the Arboretum ward do have surplus places
- The nursery operates Mode 5 provision for delivery and could offer longer hours to meet the needs of city centre workers

predominantly within the PVI sector there have been a significant number of new 2 year old places created to address the gaps identified within the MPS. These have not needed significant capital funding due to the childcare provisions being set up in existing buildings or childcare providers expanding their setting. The Council will as part of their sufficiency duties continue to assess whether the two year old places available meet the preferred sector choice of parents/carers. When creating anynew two year old provisions, many of these will / do take funded three and four year old children to allow continued care. This has helped address the sufficiency concerns raised in the MPS relating to three and four year old funded places.

• The Council's extensive school place planning expansion programme over the last 2 years has addressed the concerns raised in the MPS for 2, 3 and 4 year olds (2013) that four years olds who were not able to access a preferred reception school place may then decide stay in the their three and four year old funded place until a preferred school place became available. This would have blocked a three and four year old funded place resulting in a pressure being placed on three and four year old funded places.

#### Marketing

- Friends of Castle Nursery have developed a marketing campaign that has been effective in increasing occupancy levels and visibility
- More time and effort to develop the marketing strategy will hopefully increase numbers
- The nursery was previously given insufficient opportunity to put a plan together to increase numbers
- The recent marketing campaign has increased the number of

#### LA Comment:

- Please see comments in Marketing above.
- have met with the Head of the Nursery School to discuss options on how to try and increase the take up of three and four year old funded places. Offers were made to meet with Governors to draw up a marketing strategy back in May 2013 and reaffirmed at subsequent meetings to try and encourage the increase of three and four year old places.

children on the waiting list

- What has the Council actually done to help promote Castle Nursery?
- The nursery has been proactive in a number of new initiatives
- Local parents are not aware of the nursery due to lack of signage

#### **Castleward Housing Development**

- Potential future families will be moving into the Castleward development
- The proposed closure has not been made with the future needs of the Castleward development in mind
- It doesn't make sense to close a school and then build a new school in less than two years' time
- The Council stated in 2013 that demand for 2, 3 and 4 year old funded places could quickly outstrip supply due to pressure on school places. The Castleward development will add pressure on remaining schools and lead to decreased parental choice.

#### **LA Comment:**

• The Castleward development is underway, but it is being implemented on a phased basis and timescales for completing the whole development are not yet fixed. A new primary school is required as part of the second phase of the development, but timescales for this phase are currently under review. The housing development is in a relatively early stage, and due to the timescales required to design and construct a primary school, the delivery of a new school could be up to 3 years away. There are sufficientnursery places available in the area to provide for children moving into the Castleward development before the primary school opens. Due to Castle Nursery's difficult budget position and concerns over value for money, it would be very difficult to keep the nursery open until the provision at the new primary school is available.

#### **Funding and Operational Changes**

- The documentation demonstrates that the nursery's budget is in deficit, which is no longer the case
- The consultation documentation does not mention that the school is overstaffed; redeployment of staff and use of flexible contracts could help the budget position.
- The financial position of the nursery will improve from April

#### LA Comment:

• The school is currently forecasting a £7,000 surplus position for the financial year 2014-15. Operationally, the nursery this year has made a £3,000 deficit which has been balanced by using £10,000 of the nursery school's surplus balances carried forward from 2013-2014. Limited reserves are available in future to do this.

when SEN pupil premium funding comes in	The SEN pupil premium will have a very minimal impact on funding and estimates are very low for Castle Nursery.
<ul> <li>Closure Process</li> <li>There is not enough awareness of Castle Nursery School amongst ward members</li> <li>Is it fair that the Council Cabinet should make the final decision and can the scrutiny board make a difference?</li> </ul>	<ul> <li>LA Comment:         <ul> <li>The proposals to consider the future viability and closure have been to Council Cabinet twice and are due to go a third time. Consultation documents have been sent to ward members. The Council's decision making process has been followed and previous reports have been seen by the Overview and Scrutiny Board.</li> </ul> </li> </ul>

# **Castle Nursery School – Statutory Notice**

# **Derby City Council - Proposed Closure of Castle Nursery School**

Notice is given that Derby City Council intends close Castle Nursery School (Copeland Street, Derby, DE1 2PU) from 31 August 2015.

Derby City Council is proposing to close the above nursery school due to sustained low occupancy levels and very high operating costs.

The current number of children accessing an Early Years 3 and 4 year old funded place at this school is 24, based on January 2015 School Census Data.

This Notice is an extract from the Complete Proposal. Copies of the Complete Proposal can be obtained from: School Organisation and Provision Team, Derby City Council, The Council House, Corporation Street, Derby, DE1 2FS. The Complete Proposal can also be accessed on the Council's website using the following website address: <a href="https://www.derby.gov.uk/castlenursery">www.derby.gov.uk/castlenursery</a>

Within four weeks from the date of publication of these proposals, any person may object to or make comments on the proposal by sending them to School Organisation and Provision Team, Derby City Council, The Council House, Corporation Street, Derby, DE1 2FS or <a href="mailto:yoursay@derby.gov.uk">yourcityyoursay@derby.gov.uk</a>. Comments must be received by Tuesday 31 March 2015.

Publication Date: Tuesday 3 March 2015



# Equality impacassessment form

**Children and Young People's Directorat** 

**School Organisation and Provision** 

Proposed Closure of Castle Nursery School

10 March 2015

# **Equality impact assessment –** please read this section first before you do the assessment

This is our equality impact assessment form to help you equality check what you are doing when you are about to produce a new policy, review an older one, write a strategy or plan or review your services and functions. In fact you need to do an equality impact assessment whenever a decision is needed that affects people and **before** that decision is made.

So why do we need to do equality impact assessments? Although the law does not require us to do them now, the courts still place significant weight on the existence of some form of documentary evidence of compliance with the **Public Sector Equality Duty** when determining judicial review cases. This method helps us to make our decisions fairly, taking into account any equality implications, so yes we still need to do them.

The Public Sector Equality Duty is part of the Equality Act 2010 and this Duty requires us as a public body to have 'due regard' to eliminating discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act. It requires us to advance equality of opportunity and foster good relations between people who share a 'relevant protected characteristic' and people who don't.

# Having 'due regard' means:

- removing or minimising disadvantages suffered by people due to their protected characteristics
- taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- encouraging people with certain protected characteristics to participate in public life or in other activities where the participation is disproportionately low.

# The protected characteristics are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity

- race
- religion or belief
- sex
- sexual orientation

This completed form should be attached to any Chief Officer Group, Cabinet or Personnel Committee report to help elected members make their decisions by taking the equality implications into account. Equality impact assessments **must be done before** decisions are made. Include the Cabinet or Personnel Committee's decision on the front sheet when you know it.

You'll find that doing these assessments will help you to:

- understand your customers' and communities needs
- develop service improvements
- improve service satisfaction
- demonstrate that you have been fair and open and considered equality when working on re-structuring
- make sure you pay due regard to the requirements of the Public Sector Equality Duty.

Don't do the form by yourself, get a small team together and make sure you include key people in the team such as representatives from our Diversity Forums and employee networks and you could invite trade union representatives too – the more knowledge around the table the better. You also need to decide how and who you will consult with to help inform the equality impact assessment. Our Lead on Equality and Diversity can help with useful contacts – we have a team of people who are used to doing these assessments and can help with information on barriers facing particular groups and remedies to overcome these barriers.

You'll need to pull together all the information you can about how what you are assessing affects different groups of people and then examine this information to check whether some people will be negatively or positively affected. Then you'll need to look at ways of lessening any negative effects or making the service more accessible – this is where your assessment team is very useful and you can also use the wider community.

Agree an equality action plan with your assessment team, setting targets for dealing with any negative effects or gaps in information you may have

found. Set up a way of monitoring these actions to make sure they are done and include them in your service business plans.

When you have completed the assessment, get it signed by your Head of Service or Service Director and send it to our Lead on Equality and Diversity for checking and to publish on our website. It is a public document so must not contain any jargon and be easy to understand.

Remember, we need to do these assessments as part of our everyday business, so we get our equality responsibilities right and stay within the law – Equality Act 2010.

## **Equality groups and protected characteristics**

These are the equality groups of people we need to think about when we are doing equality impact assessments and these people can be our customers or our employees and job applicants...

- Age equality the effects on younger and older people
- Disability equality the effects on the whole range of disabled people, including Deaf people, hearing impaired people, visually impaired people, people with mental health issues, people with learning difficulties and people with physical impairments
- Gender reassignment the effects on trans people
- · Marriage and civil partnership equality
- Pregnancy and maternity equality women who are pregnant or who have recently had a baby, including breast feeding mothers
- Race equality the effects on minority ethnic communities, including newer communities, gypsies and travellers and the Roma community
- Religion and belief or non-belief equality the effects on religious and cultural communities, customers and employees
- Sex equality the effects on both men and women and boys and girls

 Sexual Orientation equality – the effects on lesbians, gay men and bisexual people

In addition, we have decided to look at the effects on families and people on low incomes too as we feel this is very important.

# **Contact for help**

Ann Webster – Lead on Equality and Diversity ann.webster@derby.gov.uk

Tel 01332 643722 Minicom 01332 640666 Mobile 07812

300079

# The form

We use the term 'policy' as shorthand on this form for the full range of policies, practices, plans, reviews, activities and procedures.

Policies will usually fall into three main categories...

- Organisational policies and functions, such as recruitment, complaints procedures, re-structures
- Key decisions such as allocating funding to voluntary organisations, budget setting
- Policies that set criteria or guidelines for others to use, such as criteria about school admissions, procurement methods, disabled facilities grants, on street parking bays

If in doubt - do one! You never know when we may get a legal challenge and someone applies for Judicial Review.

# What's the name of the policy you are assessing?

Proposal to close Castle Nursery School

#### The assessment team

Team leader's name and job title – Gurmail Nizzer, Head of School Organisation and Provision

#### Other team members

Name	Job title	Organisation	Area of expertise
Heather Ryder- Carrington	Childcare and Families Information Team Manager	Derby City Council	Sufficiency of Early Years Childcare
Helen Zwart	Project Development Officer	Derby City Council	Project Development

We requested input from members of the Council's Diversity Forums, but nobody came forward to be part of the team.

# Step 1 – setting the scene

Make sure you have clear aims and objectives on what you are impact assessing – this way you keep to the purpose of the assessment and are less likely to get side tracked.

1 What are the main aims, objectives and purpose of the policy? How does it fit in with the wider aims of the Council and wider Derby Plan? Include here any links to the Council Plan, Derby Plan or your Directorate Service Plan.

The Council is committed to delivering and funding services that evidence value for money. However, the current cost per place at Castle Nursery is significantly higher than that of the other nursery schools in the city. The Council is proposing to close Castle Nursery School due to very high operating costs and low numbers of pupils for the last eight years.

The proposal links to the corporate objective that all people in Derby City will enjoy achieving their learning potential for a brighter future.

2 Who delivers/will deliver the policy, including any consultation on it and any outside organisations who deliver under procurement arrangements?

The School Organisation and Provision team will deliver the work relating to the proposal. This will be in line with the Department for Education's School Organisation Guidance.

3 Who are the main customers, users, partners, employees or groups affected by this proposal?

The main groups affected by the proposal are children and parents/carers/grandparents of children at the nursery, and staff at the nursery.

# **Step 2 – collecting information and assessing impact**

4 Who have you consulted and engaged with so far about this policy, and what did they tell you? Who else do you plan to consult with? – tell us here how you did this consultation and how you made it accessible for the equality groups, such as accessible locations, interpreters and translations, accessible documents.

We carried out an initial, non-statutory consultation from 26 November 2014 until 12 January 2015. We consulted with parents, staff, trade unions, MPs and ward members. The consultation document was available on the Your City, Your Say section of the Council's website for members of the public to view and respond. We also held consultation meetings at the nursery for staff, trade unions and parents. We checked whether any parents or staff needed an interpreter at the consultation meetings. We also offered the consultation documents in other formats, but nobody requested them.

Should there be a decision to close Castle Nursery, there are eight members of staff at the nursery who could be at risk of redundancy. The required consultation procedures are being followed, including communication and consultation with the staff and trade unions. A Group Consultation meeting has taken place, as required, to advise members of staff of the process and to answer queries. If a decision is taken to close the nursery, there will also be individual meetings with staff. We will arrange for any reasonable adjustments to be made in order to enable members of staff or their companions to attend the meetings. If a decision is taken to close the nursery, staff will have access to redeployment.

We received 63 responses to the consultation. All of them were against the proposal. We also received three petitions against the closure of the nursery with a total of 2,014 signatures. However, a large number of the signatories came from outside Derby. The results of the consultation were reported to Council Cabinet on 18 February 2015 and Cabinet recommended that the proposal to close the nursery should move to the next stage, which is statutory consultation. A summary of consultation responses is available with the Cabinet report which can be accessed by using the following link:

Consultation Responses - Cabinet Report 18 February 2015

Many of the responses focus on the high quality of education received at the nursery, particularly for children with Special Educational Needs (SEN). The Local Authority (LA) acknowledges that the education and care provided by Castle Nursery to all children is outstanding. The nursery does not provide any specifically designated provision for children with Special Educational Needs. It is important to note that all nurseries in Derby City have children with SEN and, similar to Castle Nursery, it is not necessary to have an enhanced resource provision to provide this. The quality of the provision for SEN children across nursery schools in the City is good, and often outstanding. In view of this, the provision across the city for those children in need of an enhanced placement due to SEN is not in need of expansion.

It is important to note that if Castle Nursery is considered to be strategically and / or financially unviable, the proposed timing for any closure will ensure the level of impact on children is kept to a minimum. The Council's Childcare and Families Information Team will provide an individual childcare brokerage service for any parents affected and provide early support with sourcing alternative early year's provision for their children.

The consultation responses also referred to the new housing currently being built close to the nursery on the Castleward development. The Castleward development is underway, but it is being implemented on a phased basis and timescales forcompleting the whole development are not yet fixed. A new primary school is required as part of the second phase of the development, but timescales for this phase are currently under review. The housing development is in a relatively early stage, and due to the timescales required to design and construct a primary school, the delivery of a new school could be up to 3 years away. When it is built it will be fully accessible for disabled children. There are sufficient nursery places available in the area to provide for children moving into the Castleward development before the primary school opens. In view of Castle Nursery's low pupil numbers, difficult budget position and concerns over value for money, it would be very difficult to keep the nursery open until the provision at the new primary school is available.

The statutory consultation is taking place from 3 March to 31 March 2015. We have published a brief notice in the Derby Telegraph and a copy of the notice is on display at Castle Nursery School. We have also put details of the consultation on the Your City, Your Say website and written to parents to tell them about the consultation.

5 Using the skills and knowledge in your assessment team, and from any consultation you have done, what do you already know about the equality impact of the policy on particular groups? Also, use any other information you know about such as any customer feedback, surveys, national research or data. Indicate by a tick for each equality group whether this is a negative impact, a positive one or if you are not sure

Equality	What do you	No	Positive	Negative	Not
groups	already know?	impact	impact	impact	sure
Age	The nursery serves families with young children.			Minimal	
Disability	The nursery does not provide any designated provision for children with Special Educational Needs. However, from the consultation responses there were indications that the nursery offered a high standard of education for these children, but so do other nurseries. The school only has partial access for disabled children.	X			
Gender reassignment - trans		x			
Marriage and civil		x			

partnership				
Pregnancy and maternity	The nursery does not offer places for babies. It provides places for 3 and 4 year olds.	x		
Race	There are a small number of minority ethnic parents / carers. All parents will be offered support to find alternative provision.	x		
Religion or belief or none		x		
Sex		X		
Sexual Orientation		X		
Families and people on low income	The nursery does serve some families who are on a low income		Minimal	

Important - For any of the equality groups you don't have any information about, then make it an equality action at the end of this assessment to find out. This doesn't mean that you can't complete the assessment without the information, but you need to follow up the action and if necessary, review the assessment later. You can get lots of information on reports done from organisations' websites such as the Equality and Human Rights Commission, Stonewall, Press for Change, Joseph Rowntree Trust and so on. Please don't put down that the impact affects 'everyone the same' – it never does!

6 From the information you have collected, how are you going to lesson any negative impact on any of the equality groups? How are you going to fill any gaps in information you have discovered?

The nursery serves families with young children, some of whom are on a low income. There are only 24 children currently accessing a 3 and 4 year old funded place at the nursery. 18 of these children are due to transfer to school in September 2015, so the number of children who will need to find an alternative funded place is very low. Funded places are available at maintained provision within a mile of Castle Nursery School at Rosehill Infant, St Chad's CE Infant and St James' CE Infant Schools. The majority of families accessing a place at Castle Nursery do not live in the Arboretum and Normanton wards closest to the nursery, but live across the city. There are funded places available at maintained, private and voluntary providers across the city.

The Childcare and Families Information Team will provide an individual childcare brokerage service for any parents affected by the proposals and will provide early support with sourcing alternative early year's funded provision for their children.

In the longer term, a new primary school is due to be built in the area as part of the Castleward housing development, which will serve families who live in the area close to Castle Nursery School. The development is still at an early stage and it will be at least three years before the new school opens. In view of Castle Nursery's low pupil numbers, difficult budget position and concerns over value for money, it would be very difficult to keep the nursery open until the nursery provision at the new primary school is available.

# Step 3 – deciding on the outcome

7 What outcome does this assessment suggest you take? – You might find more than one applies. Please also tell us why you have come to this decision?

Outcome 1	No major change needed – the EIA hasn't identified
	any potential for discrimination or negative impact and
	all opportunities to advance equality have been taken
Outcome 2	Adjust the policy to remove barriers identified by the
	EIA or better advance equality. Are you satisfied that
	the proposed adjustments will remove the barriers

	you identified?
Outcome 3	Continue the policy despite potential for negative impact or missed opportunities to advance equality identified. You will need to make sure the EIA clearly sets out the justifications for continuing with it. You need to consider whether there are:  • sufficient plans to stop or minimise the negative impact  • mitigating actions for any remaining negative impacts  • plans to monitor the actual impact.
Outcome 4	Stop and rethink the policy when the EIA shows actual or potential unlawful discrimination

Our Assessment team has agreed Outcome number(s)

Outcome 3			

Why did you come to this decision?

The assessment shows that there is minimal negative impact on a very small number of families. We also need to consider the concerns over low pupil numbers, difficult budget position and value for money.

If you have decided on **Outcome 3**, then please tell us here the justification for continuing with the policy. You also need to make sure that there are actions in the Equality Action Plan to lessen the effect of the negative impact. This is really important and may face a legal challenge in the future.

If you have decided on **Outcome 4**then if the proposal continues, without any mitigating actions, it may be likely that we will face a legal challenge and possibly a Judicial Review on the process - it is really important that the equality impact assessment is done thoroughly, as this is what the Judge will consider.

# Step 4 – equality action plan – setting targets and monitoring

8 Fill in the table (on the next page) with the equality actions you have come up with during the assessment. Indicate how you plan to monitor the equality impact of the proposals, once they have been implemented.

# Equality action plan – setting targets and monitoring

What are we going to do to advance equality?	How are we going to do it?	When will we do it?	What difference will this make?	Lead officer	Monitoring arrangements
CFIT will offer individual brokerage service to source alternative childcare provision for parents	CFIT will write individually to all parents who this impacts on offering the brokerage service.      Leaflets on the brokerage service will be made available in the nursery promoting the service and these will be made accessible on request for those who need them – such as in larger print or in a particular language and they will be made accessible for Deaf parents too if required.	From 27/4/2015	Parents will be supported to source alternative early year's provision allowing plenty of time to do this so the transition into the new provision is made as easy as possible for the child / family.	CFIT/HRC	Records will be maintained held on where alternative provision has been accessed.
Provide help and support for employees facing redundancy if	<ul> <li>Our HR section will organise a range of help for employees</li> </ul>	As soon as possible	The support available will help employees to secure	Human Resources	

the nursery closes	in a redundancy	new jobs	
	situation such as		
	information		
	sessions from		
	Jobcentre Plus on		
	job search advice,		
	funds for		
	retraining,		
	signposting to		
	websites for help		
	on self		
	employment.		
	Interview skills		
	training courses		
	are available as		
	well as our Care		
	First Service to		
	offer emotional		
	support by		
	confidential help		
	and advice and		
	telephone and face		
	to face counselling		
	for a period of three		
	months post city		
	council		
	employment. Free		
	money advice		
	sessions are also		
	being held		

Make sure you include these actions in your Directorate service business plans.