

**EQUALITY – IMPACT ASSESSMENT
PROPOSAL TO FUND PART-TIME NURSERY PLACES IN
NURSERY AND PRIMARY SCHOOLS WITH EFFECT FROM 1ST
SEPTEMBER 2015**

1. Purpose of the Proposal

- 1.1 Schools currently offer full-time or part-time nursery places, or a mixture of both. The current mixture of full-time and part-time provision across the County Borough means that many schools have no space to admit children in the term following their third birthday. There is an inequality of provision at present; many three year olds have to wait for up to two terms until they are allocated a nursery space in a school.
- 1.2 In order to ensure that the authority meets its statutory obligations, and provides equitable access to nursery education it is proposed that with effect from September, 2015, all children would be offered a part-time nursery place in the term following their third birthday.
- 1.3 The authority wishes to be able to:
- offer a part-time nursery place to every three year old in the term following their third birthday, thereby meeting statutory requirements;
 - remove the gap in provision that many young children are currently experiencing with up to two terms gap; and
 - continue to meet their statutory duties in relation to childcare which include: facilitating the childcare market to ensure it meets the needs of working parents; in particular those on low incomes, those with disabled children, or those who wish their child to attend Welsh medium provision; and ensuring people have access to the full range of information they need as a parent.

2. The General Duty

Section 149(1) of the Equality Act 2010 imposes a duty upon public authorities to have "due regard" to the three equality needs when exercising their functions. It states that a public authority must, in the exercise of its functions, have due regard to the need to

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protective characteristics include age, gender, race, religion and disability.

3. Equality Challenge

3.1 Is the proposal lawful?

- 3.1.1 a) Nursery Education In accordance with section 118 of the *School Standards and Framework Act 1998* (and regulations made thereunder) the authority must secure that the provision (whether or not by it) of nursery education for children from the term after their third birthday, is sufficient for its area.
- 3.1.2 At the present time the authority is not meeting this statutory requirement. The provision of part-time nursery places would enable all three year olds to be offered a part-time place (equality of provision) and ensure a continuity of support for children in need (for example no gap in provision after leaving a Flying Start provision).
- 3.1.3 There will be a **high positive impact** as all three year olds will be able to access a part-time place enabling the authority to continue its drive on standards, including the Foundation Phase (up to age 7) where the authority is currently the poorest performing authority in Wales.
- 3.1.4 b) Childcare Provision Any change to educational provision will affect the childcare needs of those with parental responsibility and the authority needs to consider its duty under section 22 of the *Childcare Act 2006* (the '2006 Act') to 'secure, so far as is reasonably practicable, that the provision of childcare (whether or not by it) is sufficient to meet the requirements of parents in their area who require childcare in order to enable them: to take up, or remain in work; or to undertake education or training which could reasonably be expected to assist them to obtain work.'
- 3.1.5 The duties under the 2006 Act require the authority to shape and support the development of childcare provision in its area in order to make it flexible, sustainable and responsive to the needs of the community. The intention is to ensure that parents are able to access childcare locally that meets their needs and enables them to make a real choice about work.
- 3.1.6 It is not the intention of the duty to oblige the authority to meet the individual childcare needs of every working family, but to ensure that at a community level, the authority is taking strategic action with its partners to address gaps in childcare. The authority is expected to support the development of childcare where there is sufficient parental demand that a childcare setting or a child minder could operate and be sustainable.

- 3.1.7 The recent information report to Cabinet *Childcare Sufficiency in Relation to the Nursery Education Proposals* (14th January, 2015) (Appendix 2) considered the sufficiency of childcare provision across the authority.
- 3.1.8 As part of these duties the authority completes a Childcare Sufficiency Audit every three years and last year Merthyr Tydfil County Borough Council completed the CSA 2014 – 2017. The CSA Action Plan, approved by Cabinet on 8th October, 2014, identifies nineteen key outcomes that will drive partnership work over the next three years to ensure that there is childcare available in areas of identified need and the sustainability of existing childcare providers is supported more effectively.
- 3.1.9 The authority concludes, therefore, that the information within the report *Childcare Sufficiency in Relation to the Nursery Education Proposals* suggests that there would be sufficiency of childcare provision within current providers to meet childcare demands that may arise should schools only provide part-time nursery places from 1st
- 3.2 Is there discrimination?
- 3.2.1 a) Protected Group: Age - Children The equality duty covers the protected characteristic of age, which refers to a person having a particular age (for example, 32 year olds) or being within an age group (for example, 18-30 year olds). This includes all ages, including children and young people.
- 3.2.2 The proposal is likely to have an impact on pre-school children living in Merthyr Tydfil County Borough Council. There will be a **high positive impact** upon children who are currently unable to access a part-time nursery education place even though they are entitled to do so. In the current academic year over 200 eligible three-year olds are unable to access a place. However, if the proposal is approved all three year olds can be offered a part-time place with effect from 1st September, 2015, and will provide **equal opportunities and equality of access** across the County Borough.
- 3.2.3 In areas of **social deprivation** where Flying Start provision is established, children are entitled to free part-time pre-nursery childcare sessions from the school term following the child's 2nd birthday, to the term during the child's 3rd birthday. There are currently insufficient nursery education places for children leaving Flying Start to begin nursery following their 3rd birthday, creating a risk that the progress made by these children, who are defined as the most disadvantaged living in the County Borough, will be lost and they will regress while waiting for a placement. There will be a **positive impact** upon children who are currently unable to access a part-time nursery education place when leaving Flying Start provision.

3.2.4 Are nursery pupils being disadvantaged by only being offered a part-time place?

The statutory requirement for a nursery place is 10 hours per week, however this proposal will offer a part-time place of at least 12.5 hours per week in line with current educational practices. The majority of authorities in South Wales: Caerphilly; Cardiff; Newport; Blaenau Gwent offer part-time nursery provision of 12.5 hours per week although Rhondda Cynon Taf is currently consulting on providing part-time nursery places of 15 hours per week for pupils the term after their 3rd birthday, increasing to full-time (30 hours) the term after their 4th birthday.

3.2.5 The *Education (School Day and School Year) (Wales) Regulations 2003* apply to schools maintained by local education authorities and to special schools. These Regulations state that pupils attending full-time nursery must receive three hours of suitable activities per day; one and a half hours of suitable activities per day for a part-time nursery place

3.2.6 Schools currently offer full-time or part-time nursery places, or a mixture of both. Other authorities with similar levels of deprivation fund part-time nursery places and those pupils are achieving higher standards than in Merthyr Tydfil. Evidence suggests that it is the quality of education rather than the quantity which has the biggest impact on what pupils achieve. The authority currently ranks 22nd out of the 22 authorities in Wales with regards to performance outcomes at the end of the Foundation Phase (age 7).

3.2.7 Part-time nursery places will enable more pupils to have nursery education and the authority is continuing to drive on improving the quality of the provision. This will have a **positive impact** on individuals and on overall standards. Raising outcomes in the Foundation Phase is a priority for the authority; quality part-time nursery education along with the resultant continuity of provision for all will have a **positive impact** upon outcomes in the Foundation Phase.

3.2.8 Impact of a reduced provision - children

It is important to note that pupils who are currently in a nursery group (ie who will reach the age of 4 by 31st August, 2015) and who currently receive a full-time nursery place in a nursery class or school will move into Reception class in September 2015 and will not be directly affected by the proposal to offer part-time nursery places. There will be a **no impact** upon this cohort.

3.2.9 b) Protected Group: Age – Adults
Impact of a reduced provision - adults

The authority recognises that this proposal will affect working families with rising three year olds and that many families will experience a

negative impact and will have to plan ahead and perhaps differently for how they will manage their childcare needs.

3.2.10 The proposal will also impact on those seeking employment. This could be a **positive impact** for those parents who have indicated (Childcare Sufficiency Assessment 2014-17) that the cost of childcare is a barrier and for those parents who are currently unable to access any nursery place for their child and unable to seek employment/training as a result. For other parents/carers who were expecting their child to be able to access a free full time nursery place in a local school there will be a **negative impact** affecting their ability to seek employment and/or affecting their financial situation.

3.2.11 The authority's Childcare Sufficiency Assessment 2014-17 indicates that 104 parents/carers who completed the survey (12%) were in training and/or looking for work. *'38% of (these) parents who are looking for work say childcare has stopped them or their partner from getting a job compared to 5% of all respondents to the parent/carer questionnaire'*. The work of the Early Years Team in planning strategically to meet local demand for childcare and nursery education provision in the community will play an important role in assessing any changing or increasing demand. At the meeting on 28th January, 2015, Members will make a decision on the proposal and this early decision will assist families in planning ahead for the next academic year; and enable the Early Years Team to work with local childcare and private nursery education providers to assist in meeting the needs of parents for additional part-time provision (to complement part-time nursery places) and/or wrap around care.

3.2.12 Through delivery of the Childcare Sufficiency Assessment Action Plan 2014 – 17, the authority plans to ensure that more parents who are looking to return to work will no longer see childcare as a barrier to employment and/or training by:

- Working with key partners including Job Centre Plus, Bridges into Work and employers to provide signposting to affordable childcare options;
- Working in partnership with Job Centre Plus to develop a monitoring and recording system. Whereby parents who cite childcare as a barrier to work are asked to prioritise a range of factors e.g. affordability, location, tax credits. This information is collated and reviewed on an annual basis, so that promotional and awareness work can focus on identified priorities;
- Providing information and signposting to childcare provision at relevant events including employment fairs and college open days; and
- Providing employers with information to signpost employees to affordable childcare. Attend local business networking events to raise awareness of support available to employers.

- Raising awareness of all families/carers to the tax credits and financial support they are entitled to: by providing leaflets to all providers to distribute; holding tax and childcare clinics; and liaising with Citizens Advice Bureau so that they can also advise clients.

3.2.13 c) Protected Group: Disability The authority also has duties under section 17 and 18 of the Children Act 1989 to (a) safeguard and promote the welfare of children within their area who are in need; and (b) so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.

3.2.14 Under section 18 of the 1989 Act the authority must provide such day care for children in need within their area who are (a) aged five or under; and (b) not yet attending schools, as is appropriate. In particular regard must be had to the duty under s.18(5) to provide for children in need within its area, who are attending any school, such day care or supervised activities as is appropriate outside school hours.

3.2.15 The authority currently fulfils both the target duty under section 17 of the 1989 Act, and its duty under section 18 of the 1989 Act to provide appropriate day care for children in need, through a range of services which identify children that are in need within its area, and provide care for them. For instance:

- Where a child resides in a designated Flying Start area they would have access to the authority's Flying Start programme from birth, which offers free high quality childcare.
- There is a wide range of additional services available within the authority's area to meet the needs of pre-school children in need, including specific day care needs.

3.2.16 The care needs of individual families with children in need will inevitably be affected by their particular circumstances and by the particular local services available to them at that point. The authority works with these individual families to identify the specific needs of any child determined to be in need. As a result, the authority concludes that there will be **neutral impact** as a result.

3.2.17 It should also be noted that Greenfield Special School is not affected by the nursery education proposals and will continue to offer full-time nursery places to children with additional learning needs admitted to the school. These pupils are being **positively discriminated** in order to address their needs as recognised in their Statement of Special Educational Needs and to ensure continuity of support for them, their parents/carers.

3.2.18 Eradicating child poverty and the United Nations' Convention on the rights of the child

Under the Children and Families (Wales) Measure 2010 the authority must:

- prepare and publish a strategy for contributing to the eradication of child poverty which the Council has done through the adoption of the Single Integrated Plan. and its predecessor, the Children and Young People's Plan; and
- take all reasonable steps to perform the actions and functions set out in the strategy for the eradication of child poverty. The actions and functions, and the steps the Council has done and will take to perform them, are again set out in the Single Integrated Plan.

3.2.19 It is a priority of the authority to engage with families who have any additional needs as early as possible to support them to make the most of family life and reach their full potential. The authority has also used the *United Nations Convention on the Rights of a Child* as a basis for developing the vision for Merthyr Tydfil County Borough ensuring that it is a safe, healthy and prosperous place to live and learn.

3.3 Protected Group: Race

3.3.1 There is a growing population of families from other cultural backgrounds in Merthyr Tydfil, but this is the group least likely to be using childcare provision (59% do not access). The Childcare Sufficiency Assessment 2014-17 survey was completed by 34 respondents (4%) from Black, Asian and Ethnic Minority families,

3.3.2 Through delivery of the CSA Action Plan the authority plans to ensure that more families from black and ethnic minority communities will use and benefit from childcare by:

- Working with community leaders and groups to encourage Black and Ethnic Minority families to promote existing provision and the benefits of accessing childcare; and
- Encouraging more black and ethnic minority families living in Flying Start areas to take up the childcare element.

3.3.3 Offering part-time nursery places will have a **positive impact** upon families from other cultural backgrounds as being able to access free part-time nursery education will enable more families to engage with the education system and will support those families who currently find cost a barrier.

3.4 Protected Group:Welsh Language

3.4.1 The authority has two Welsh-medium primary schools that both offer part-time nursery places (**neutral impact**). One school currently operates a good practice model working effectively with local private Welsh-medium nursery education provider (Meithrin) to transport pupils between the school and the Meithrin. This provides parents with access to full-time nursery education provision through the medium of

Welsh if required. The other school will be able to establish a pre nursery group for three year olds in the term following their third birthday.

3.4.2 The nursery proposal will have a **positive impact** upon Welsh-medium education with a larger number of part-time nursery places becoming available and an opportunity to continue and extend established links with Meithrin.

3.4.3 The data collected as part of the CSA suggests only 55 families, less than 1% of all families, '*are not currently using childcare because 'there is no suitable Welsh language provision'*'.

3.4.4 Through delivery of the CSA Action Plan the authority plans to ensure that more families who would like Welsh Language Childcare can find and use it by:

- Promoting existing Welsh language and bilingual provision and raise awareness that it is an available option.
- Supporting existing Welsh and Bilingual Language provision to become more sustainable. Also support them to undertake market research to ascertain if they should expand and / or develop their service to better meet the needs of parents.
- Supporting providers to undertake training and development to increase the level of Welsh Language used in existing settings.

The authority's Welsh in Education Strategic Plan continues to monitor the demand for Welsh-medium provision and has built capacity for growth within the current Welsh-medium primary sector.

4. Consultation & Engagement

4.1.1 For the purposes of the consultation the following proposal brief was put forward for public and service user consultation between Monday 3rd November 2014 – Monday 1st December 2014.

'In order to ensure that the local authority meets its statutory obligations to secure sufficient provision of nursery education for all children from the term following their third birthday, and in order to provide equitable access to nursery education for all children it is proposed with effect from 1st September 2015 that:

- *All nursery places will be funded on a part time basis*
- *All three year olds will be provided with access to a nursery place starting the term following their third birthday.'*

4.1.2 The results of the recent public consultation were reported to Cabinet on 14th January 2015 including details of the responses:

- Online – 62% of responses agreed with the proposal (168 out of 271 responses).

- Leaflets – 50% of responses agreed with the proposal (19 out of 38 responses)
- Letters/emails – 100% against the proposal (11 responses)
- Short Surveys – 100% against the proposal (9 responses)
- Workshop – 100% of the attendees agreed with the proposal (7 attendees)
- Petitions Received
 - Number of signatories = 288
 - Number of signatories = 261

TOTAL AGREEMENT = 57%

(194 of 338 responses in support of the proposal)

4.1.3 Of the respondents the majority were not users of the service (199 of 263 respondents) 75.7%; 25 respondents were using a part-time nursery places (9.5%) and 32 respondents were using full-time places (14.8%).

4.1.4 The main themes arising from the responses were:

- Agreement that there should be equality of access to a part-time nursery place for all.
- Expectation that the authority should meet its statutory obligations and provide part-time places in line with provision in other local authorities;
- Recognition that standards in nursery education need to improve; that quality is better than quantity; and that there must be no gap in provision.
- Implications for working families, and those seeking work if no full-time nursery places are available; and
- Potential impact on Welsh-medium education.

4.2 Other evidence gathered

4.2.1 Evidence has been gathered from a number of sources, including academic research papers, Government policies, statistical bulletins and local data.

4.2.2 The evidence has been used to, firstly, determine the level of relevance the proposal has to the protected groups covered by the equality duty and, secondly, explore the potential impacts of the proposal further, having due regard to the need to promote equality and minimise any possible adverse impacts.

4.2.3 In line with feedback from consultation, and other evidence gathered, the following assessment has been taken:

Protected Group	Impact on protected characteristics			
	Positive	Negative	Neutral	Needs further investigation
Age	Yes	-	-	-
Disability	Yes	-	-	-
Gender assignment	-	-	Yes	-
Marriage / civil partnership	-	-	Yes	-
Pregnancy / maternity	-	-	Yes	-
Race	Yes	-	-	-
Religion / belief	-	-	Yes	-
Sexual orientation	-	-	Yes	-
Sex (gender)	-	-	Yes	-
Welsh language	Yes	-	-	-
Carers	-	-	Yes	-

5. Where negative impact has been identified how can this be minimised or removed?

5.1.1 In progressing the proposal to offer part-time nursery places in schools, the authority has committed to the following principles to minimise the impact on the communities across the County Borough by ensuring:

- services are as equitable as possible;
- proposals result in a reasonable level of service remaining in place;
- services will remain sustainable over the medium term (3 to 5 years);
- services will meet our statutory obligations.

5.1.2 The pre-nursery and nursery provision provided across Wales is mixed and the level of local authority provision does not seem to have a direct correlation to the achievement of children at Foundation Phase.

5.1.3 There is little evidence to suggest that full-time provision is any more beneficial to a child's development than part-time. Much of the research suggests that attending provision is the main benefit.

5.1.4 The provision of a part-time nursery place of at least 12.5 hours per week is above the authority's statutory requirements and exceeds many of the offers in local authorities across Wales and England.

6. Where positive impact has been identified how can this be used to promote equality?

6.1 The proposal to offer part-time nursery places will **promote equality** by

- meeting statutory requirements;
- enabling all eligible pupils to be offered a free part-time nursery place;
- offering all families the same provision;
- facilitating continuity of provision in particular for those in areas of deprivation leaving Flying Start settings; and
- supporting children with additional learning needs attending Greenfield Special school to continue to receive a full-time nursery place.

7. Conclusion

7.1 In line with the General Equality Duty (section 149 of the Equality Act 2010), this Equality Impact Assessment has:

- Assessed specific differential impacts that have been identified for each of the protected characteristics;
- Stated where actions can be considered to minimise or remove any potential negative impacts relating to the proposals;
- Provided opportunities, where applicable, to advance equality and good relations between different groups.

7.2 As such, this Equality Impact Assessment has provided sufficient evidence to demonstrate that due regard has been given to the duty placed on the authority in this respect and that there are no grounds based on equality considerations that prevent the consideration of service change proposals in respect of funding and offering part-time nursery places.

7.3 If a decision is taken to implement some or all of the options put forward within the proposal, implementation arrangements will need to have full regard to equality planning requirements, thus ensuring every effort is made to minimise any negative impacts and promote equality.