

**Open Report on behalf of Debbie Barnes, Executive Director of Children's Services**

Report to:	<b>Councillor Mrs P A Bradwell, Executive Councillor responsible for Children's Services</b>
Date:	<b>31 March 2017</b>
Subject:	<b>Early Years National Funding Formula</b>
Decision Reference:	<b>I013248</b>
Key decision?	<b>Yes</b>

**Summary:**

In December 2016, the government released the outcome of the consultation for an early years national funding formula and its intentions to implement the new funding formula in April 2017.

The consultation sets out Local Authorities funding for early years 3 & 4 year old entitlement through a formulaic approach delivering a much fairer funding system, and the government requirements to Local Authorities distributing funding to early years providers delivering 3 & 4 year old entitlement.

The report provides a summary of the early years national funding formula for Lincolnshire, and Lincolnshire's proposed early years local funding formula and rates to providers for 2017/18.

**Recommendation(s):**

That the Executive Councillor:-

1 approves the Lincolnshire early years local funding formula set out in the Report at Appendix A;

2 approves the Lincolnshire Early Years Funding Distribution for 3 and 4 year olds for 2017/18 set out in Table 4 of the Report at Appendix A including the Local Universal Basic Rate of £3.82; and

3 approves the Lincolnshire Early Years Funding Distribution for eligible 2 year olds for 2017/18 set out in Table 5 of the Report at Appendix A including the Local Universal Basic Rate of £4.85.

**Alternatives Considered:**

1. To review Lincolnshire's proposed early years local funding formula and to consider alternative funding formula approaches in line with government requirements.

This alternative would delay the formal publication of Lincolnshire's early years funding rates for 2017/18 commencing in April 2017. The government consultation itself (August 2016) and the response to the consultation (December 2016) made the timescales extremely challenging for Local Authorities, which the government accepts. A key driver for government being the extension to the entitlement for 3 & 4 year old children of eligible working families from September 2017.

Even allowing for the challenging timescales, the Local Authority has engaged with the sector on the proposed funding formula through a provider survey and provider groups, which aided the Local Authority in shaping the final funding formula. The Schools Forum on the 22 February 2017 supported the early years funding formula for 2017/18 and agreed to the Local Authority centrally retained funding in line with the regulations.

The Local Authority will keep the funding formula under review in 2017/18 with provider engagement - any changes will be consulted upon with agreed changes being implemented from 2018/19.

**Reasons for Recommendation:**

To enable the Local Authority to meet the requirements of implementing the governments early years national funding formula for April 2017. The approval will allow the early years local funding formula to be formally approved, which will be used to fund providers delivering early years entitlement for 2017/18.

**1. Background**

In December 2016, the government confirmed its intentions to implement an early years national funding formula in April 2017.

The consultation response outlined Local Authorities funding for early years 3 & 4 year old entitlement through a more transparent and fairer funding system nationally. The formulaic approach to funding Local Authorities uses early years factors of 'base rate' and 'additional needs' factors. The government in response to the consultation also announced a 'minimum funding rate' per pupil of at least £4.30 per hour. Lincolnshire's rate using the formulaic approach was £4.16 per hour, therefore the 'minimum funding rate' has increased Lincolnshire's rate to £4.30 per hour. Although early years funding is more transparent nationally, Lincolnshire is one of 47 out of 150 Local Authorities to be on this minimum funding rate.

Lincolnshire's indicative early years funding for 2017/18 is £25.060m. The government is to fund the additional 15 hours for 3 & 4 year old children of eligible working families from September 2017. This is to be funded at the same rate of £4.30 per hour to Local Authorities, and the indicative allocation is £4.582m for 2017/18.

The government national funding formula changes govern how Local Authorities distributing funding to early years 3 & 4 year old providers delivering entitlement. The main requirements include a local universal rate across all types of providers; a pass-through rate of funding to providers of at least 93% in 2017/18, and a mandatory deprivation factor.

The decision by the government to have a universal rate would have a significant impact on the financial sustainability of maintained nursery schools. The government however has since recognised in its response to the consultation that maintained nursery schools do bear costs over and above other providers in relation to their statutory governance arrangements. The government will therefore be providing supplementary funding for 2017/18 and 2018/19 to maintain the current rate of funding across Local Authorities for maintained nursery schools – this therefore protects Lincolnshire's five nursery schools at its current funding rate for the duration of this parliament. The government has stated that it will consult openly regarding the future of maintained nursery schools.

When determining the local universal rate per hour for 2017/18, it was important that it is underpinned with detail and that justification can be provided on how the rate is determined.

The Local Authority adopted the following approach to determine a local universal rate:

- Develop a typical cost model approach, based on agreed staffing ratios and setting characteristics.
- The typical cost model considers all activities it takes to provide early years entitlement and costs these.

The theoretical funding model approach was recommended as best practice to Local Authorities by the government when the early year's single funding formula was first established in 2011/12. The Local Authority engaged with the sector, which has aided the Local Authority in shaping the final local funding formula and distribution.

The 2017/18 hourly rate (starting from April 2017) for 3 and 4 year old entitlement has been determined as £3.82. The 2017/18 hourly rate (starting from April 2017) for eligible 2 year old entitlement has been determined as £4.85.

The Local Authority consulted with the Schools Forum on the 22 February 2017, and support was given to the Early Years Funding Formula and provider rates for early years children, and approval was given to the Local Authority's proposals to centrally retained funding.

The Report presented to the Schools' Forum is attached to this Report at Appendix A and sets out the detail of the local funding formula and the proposed distribution of the national funding in Lincolnshire for both 3 and 4 year old entitlement and eligible 2 year old entitlement for 2017/18.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- \* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- \* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- \* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- \* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- \* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- \* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

As the entitlement is a universal offer and take up of children accessing their entitlement is 99%, the risk of the revision of the funding formula having an adverse negative impact on any of the identified groups with protected

characteristics is minimal. The entitlement enables all three and four year olds to access up to 15 hours of free early year's education from the term following their third birthday. Parents are able to choose a provision that meets the needs of their child and their own preferences and circumstances. To deliver the entitlement funding the provider must be registered with Ofsted and have a Good or better judgement. The DfE have maintained the deprivation factor as a statutory element of the pass through funding to the providers to enable them to support the needs of children living in areas of deprivation in order to support narrowing of the gap. This is in addition to the requirement for LA to have an inclusion funding for children with moderate special educational needs and/or disabilities. Therefore it is considered that the revised formula does not have a negative impact on any child accessing provision or providers delivering the 15 hours entitlement.

### Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

The funding formula provides all children following the term after their third birthday with the right to access Early Years Entitlement (EYE) provision. Early Years and Childcare Support (EYCC) work with all EYE registered providers to ensure they meet the educational needs of all children. EYCC undertake support programmes with providers who have an Ofsted judgment of less than good to improve the quality of provision they offer to children and families across the county to ensure good quality early years education is available to all. This work contributes to both the JSNA and the JHWS as this work supports the educational outcomes for all children during their early years and throughout their reception year, at the end of reception the LA have the statutory duty to undertake the moderation of the Early years foundation stage profile (EYFSP). The universal access to the entitlement also enables providers to work with other professionals to narrow the educational gap of our most vulnerable children, access inclusion funding to support children with SEND and support the sufficiency and sustainability of provision available to underpin school readiness.

### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The proposals in this Report provide a funding formula that will support the sector in delivering effective early years entitlement including targeting funding for those children from deprived areas reducing inequalities.

### 3. Conclusion

The Report sets out the proposed early years local funding formula and distribution for 2017/18 which complies with the mandatory requirements of the government guidance. Approval of the recommendations will enable the Council to comply with its obligation to determine its local funding distribution and hourly rates for early years entitlement.

#### 4. Legal Comments:

The Council is required to establish a local early years funding distribution and hourly rates for 2017/18.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor if it is within the budget.

#### 5. Resource Comments:

The recommendation to approve Lincolnshire's local early years funding formula will ensure Lincolnshire funds early years providers in line with the government's national funding formula requirements for 2017/18.

The theoretical cost model for determining the local rate per hour for 2017/18 of early years entitlement is underpinned with detail. The local funding rate, funding supplements such as the mandatory deprivation factor, and centrally retained funding is budgeted within the government's early years funding allocation for Lincolnshire.

### 6. Consultation

#### a) Has Local Member Been Consulted?

n/a

#### b) Has Executive Councillor Been Consulted?

Yes

#### c) Scrutiny Comments

The Children and Young People Scrutiny Committee will consider this report at its meeting scheduled to be held on 10 March 2017. Comments from the Committee will be passed onto the Executive Councillor.

#### d) Have Risks and Impact Analysis been carried out?

No

## e) Risks and Impact Analysis

The entitlement enables all three and four year olds to access up to 15 hours of free early years education from the term following their third birthday. Every child within the county is able to access their entitlement with an average over 99 percent of children accessing provision.

In respect of the Early Years Providers, due to the increased funding levels at a national level all Lincolnshire providers of the entitlement will receive the same base rate from April 2017, providing a more equitable funding arrangements with the majority of providers receiving an increase. The exception of which is the five Maintained Nursery schools. Due to their statutory governance arrangements the Maintained Nursery schools have additional costs which are not comparable to other providers of early years provision. The government have recognised this and have committed to providing supplementary funding to LA's until 2018/19 while further consultation at a national level takes place with the Maintained nursery sector.

The revised formula maintains deprivation as a statutory element of the pass through funding to the providers to enable them to support the needs of children living in areas of deprivation in order to support narrowing of the gap. This is in addition to the requirement for LA to have an inclusion funding for children with moderate special educational needs and/or disabilities. Therefore it is considered that the revised formula does not have a negative impact on any child accessing provision or providers delivering the 15 hours entitlement.

However it is acknowledged that in September 2017 the free entitlement is to be increased for working families that meet the eligibility criteria. These families will be able to access up to 30 hours free entitlement, therefore it is intended that a impact assessment will take place in the summer term to ensure we have analysed the impact of these changes on children and providers of the entitlement.

## 7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Early Years National Funding Formula - Lincolnshire Schools Forum report 22 February 2017

## 8. Background Papers

Document title	Where the document can be viewed
DfE's Early Years national Funding Formula consultation response: December 2016	<a href="https://www.gov.uk/government/consultations/early-years-funding-changes-to-funding-for3-and-4-year-olds">https://www.gov.uk/government/consultations/early-years-funding-changes-to-funding-for3-and-4-year-olds</a>

Early Years National Funding Formula – Operational Guide December 2016	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/580716/EYNFF_Operational_Guidance.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/580716/EYNFF_Operational_Guidance.pdf</a>
Early Years National Funding Formula - Report to Schools Forum: 5 October 2016	<a href="http://lincolnshire.moderngov.co.uk/mgCommitteeDetails.aspx?ID=166">http://lincolnshire.moderngov.co.uk/mgCommitteeDetails.aspx?ID=166</a>
DfE's consultation 'An Early Years National Funding Formula': August 2016	<a href="https://consult.education.gov.uk/early-years-funding/eynff">https://consult.education.gov.uk/early-years-funding/eynff</a>

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