



meeting CABINET

date 26 July 2006

agenda item number

## REPORT OF THE CABINET MEMBER FOR CHILDREN AND YOUNG PEOPLE'S SERVICES

### **Appeals against removal from the County Council's directory of providers eligible to deliver the Free Early Education Entitlement**

#### **Purpose of report**

1. To seek approval for the inclusion of appeals by private, voluntary and independent (PVI) sector providers of free early years education against a County Council decision to remove them from the Nottinghamshire directory of providers to the list of appeals covered by the Appeals Committee.

#### **Information and advice**

##### **Background**

2. Members will be aware that early years education (previously, and in many cases still, known as nursery education) for three and four-year-old children is provided through a partnership between the local authority, maintained schools and Private, Voluntary and Independent (PVI) sector providers. It is funded through the Dedicated Schools Budget.
3. PVI sector providers have to be included in the local "directory of providers" in order to be eligible to be funded to provide early years education. To be included providers must agree to:
  - Deliver the foundation stage curriculum;
  - Have regard to the special educational needs (SEN) code of practice;
  - Be registered with Ofsted ; and
  - To a small number of local conditions in relation to financial administration and to accepting the support the County Council offers to providers through its qualified teacher support team.
4. Previously under the DfES "Code of Practice on the Provision of Free Nursery Education Places for Three and Four-Year-Olds, if a provider

had an unsatisfactory Ofsted inspection this was reported to the DfES which would make a judgement as to whether it would instruct a local authority to remove that provider from its directory. However, from April 2006, the responsibility for that judgement has been given to local authorities. Paragraph 12.9 – 12.10 of the Code of Practice now says:

“In the event that Ofsted judge the provision as inadequate in one or more respects, Ofsted will notify the relevant local authority which may either:

confirm that the provider should be allowed time to improve their provision, with an Ofsted inspection to check on progress within the timescales... (set out earlier in the code) or:

remove the provider from their local Directory of providers, inform Ofsted and withdraw funding from them at the end of the term, or sooner if circumstances require.  
This replaces previous guidance and clarifies that responsibility for deciding whether to withdraw funding to inadequate PVI providers rests with the local authority.”

5. Annex A to the code of practice allows local authorities to remove providers from their directories if they cease to meet any conditions set or withhold reasonable co-operation from the local authority in delivering its statutory responsibilities, as well as if Ofsted judge the provision to be inadequate. If local authorities intend to remove a provider from its directory it must inform the provider in writing before the removal is effected and notify the provider of arrangements for an appeal.
6. It is, therefore, proposed that the County Council’s Appeals Committee should hear any appeal against removal from the directory since under the present constitution this Committee has the power to deal with “any other appeals against a decision made by or on behalf of the Council where provision is made for a right of appeal in any protocol approved for this purpose by the Council”.

### **Public engagement policy**

7. The Head of Early Years and Childcare Services has attended seven district meetings with PVI providers, which focused on changes being introduced to the support which the County Council’s qualified teacher team offers to providers as a result of new procedures from Ofsted inspections. At these meetings the local authority’s new responsibility for decisions about inclusion in the directory were explained, including the right of appeal to the County Council. Those attending the meetings were in agreement with explanation given about how the County Council would exercise that responsibility.

## **Statutory and policy implications**

8. This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, crime and disorder and those using the service. Where such implications are material, they have been described in the text of the report. Attention is however drawn to the following:-

### **Implications for service users**

9. This change clarifies the responsibilities of the County Council and makes the arrangements more straightforward and accessible for both providers and the parents of children attending PVI provision.

## **RECOMMENDATION**

10. That the County Council's Appeals Committee be used to hear appeals by private, voluntary and independent sector providers of funded early years education provision against any decision by officers of the County Council to remove them from the Nottinghamshire directory of providers.

### **COUNCILLOR JOYCE BOSNJAK**

Cabinet Member for Children and Young People's Services

### **Reasons for recommendation**

11. The County Council is required to provide for an appeal against such decisions.

### **Legal Services' comments (LM/3.6.2006)**

12. Cabinet has the delegated authority to approve the recommendations in the report in order to discharge the County Council's functions as Local Education Authority.

### **Director of Resource's financial comments (NDR)**

13. Nil.

### **Background papers available for inspection**

DfES – A Code of Practice on the Provision of Free Nursery Education Places for Three- and Four-Year-Olds, February 2006.

### **Electoral divisions affected**

Nottinghamshire

M19C1586