

LONDON BOROUGH OF CROYDON

REPORT:	CABINET	
DATE OF DECISION	28 June 2023	
REPORT TITLE:	Future options for Maintained Nursery Schools	
CORPORATE DIRECTOR / DIRECTOR:	Debbie Jones, Corporate Director Children, Young People and Education Shelley Davies, Director of Education	
LEAD OFFICER:	Shelley Davies, Director of Education Denise Bushay, Head of School Place Planning, Admissions and Early Years	
LEAD MEMBER:	Cllr Maria Gatland, Lead Member Children, Young People and Education	
KEY DECISION?	Yes	0223EM Key Decision – Decision significantly impacts on communities living or working in an area comprising two or more Wards
CONTAINS EXEMPT INFORMATION?	NO	Public
WARDS AFFECTED:	All	

1. SUMMARY OF REPORT

- 1.1. The report below outlines the high level option for the possible direction of travel for the transformation of the delivery of Maintained Nursery Schools (MNS) in the London Borough of Croydon.
- 1.2. The Local Authority has a statutory duty under Section 7 of the Childcare Act 2006 to provide sufficient funded three- and four-year-old places for eligible children to access. Early education is not statutory and is a parental choice. However, having enough and diversity of early years provision allow parents/carers to find childcare that meets their child’s learning needs and enables parents to make a real choice about work and training.

- 1.3. A Maintained Nursery School is one of several types of provision that we have in the borough for early years education. Appendix one highlights the different type of early years providers we have in the borough. There is sufficient and diverse supply of early education and childcare provision available across the borough to meet demand.
- 1.4. MNS are considered to have a strong track record of boosting early development for all children, but especially the most vulnerable, including children with special educational needs and disability. They tend to be located in deprived areas.
- 1.5. MNS are local authority run schools that provide early education and childcare to children under 5 during school hours, usually 9am-3.30pm, during term time and does not usually include wrap around care. They have a head teacher, governing body, delegated budget and at least one teacher with qualified teacher status. Currently MNS cannot become academies. However, one of Croydon's maintained nursery schools is run by an academy chain under a Service Level Agreement.
- 1.6. There are five Maintained Nursery Schools in Croydon, of which, two have been rated by Ofsted as 'outstanding'; two graded as 'good' and one rated as 'requires improvement'. Three of the MNS are located in the North; one in the Centre; and one in the South of the Borough.
- 1.7. Nationally, MNS have had financial challenges for a number of years in spite of transitional and supplementary funding the future sustainability of these schools is uncertain because of budget pressures. Governing Bodies have a duty to set a balanced budget each year, however, a national survey carried out in 2020 revealed that 64% of MNS were in deficit.
- 1.8. The national and local drivers for change are rooted in the changes in relation to funding for this type of provision since 2017 and the impact of this which is already impacting on the financial viability of our local settings.
- 1.9. There is not an option for MNS to Academise.
- 1.10. Currently, a number of the five MNS in Croydon have a rising accrued deficit totalling £560,760 despite having a recovery plan to reduce ongoing costs and set a balanced budget. The council has commissioned an independent review of the finances and delivery models of two of our MNS. In order to prevent further deficit increases an urgent decision needs to be taken
- 1.11. The Council's commitment to value for money and the review of MNS provision supports the Mayor's priorities and outcomes for the council to balance its books, listens to residents and delivers good sustainable services

2 RECOMMENDATIONS

- 2.1 For the reasons set out in the report the Executive Mayor in Cabinet is recommended:

- 2.2 to agree to a formal consultation and publication of statutory notice on the proposed option: *to agree to reduce the number of MNS within the borough via closure or amalgamation*. This will give partners, residents, including the wider school communities and public the opportunity to comment on the proposed options.
- 2.3 to note the potential risks and benefits associated with this option
- 2.4 to note that the responses to the consultation will be presented in a report to the Mayor in cabinet later this year, so that a determination on this option can be made by the council.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To set the strategic direction for Croydon's MNS alongside the delivery of Croydon's Partnership Early Years Strategy approved by the Executive Mayor in Cabinet, Children Centres and the development of Family Hubs.
- 3.2 The current model of Croydon's MNS is not financially sustainable. The budget deficit of the MNS provision will continue to increase and this will eventually fall on the Council for repayment.
- 3.3 We, therefore, need to consult and work collaboratively with partners to find a sustainable model to ensure MNS are financially viable and avoid any deficits increasing whilst ensuring that we retain enough provision for this age group.
- 3.4 MNS play a part in ensuring the council meet its statutory duty for sufficiency of early years provision across the borough. The Council remains committed to deliver funded early years provision that evidence value for money.

4 BACKGROUND AND DETAILS

- 4.1 National context and requirements
 - a) MNS were set up more than a century ago to provide Early Years education and childcare to disadvantaged children in the most deprived areas of England. Although MNS are early education providers, they are legally constituted as schools.
 - b) Under the Childcare Act 2006 and 2016 Acts, a local authority has several duties relating to early education and childcare, including to secure sufficient childcare for working parents in their area; and early years provision free of charge for qualifying children.
 - c) Currently, all families with three and four-year-olds qualify for 15 hours of free childcare a week, over 38 weeks. Households can qualify for 30 hours of free

childcare if parents earn the equivalent of 16 hours a week at the national minimum or living wage.

- d) In the Spring budget, the Chancellor announced 30 hours of free childcare for every child over the age of 9 months, with support being phased in until eligible working parent of under 5s gets this support by September 2025. We are awaiting government guidance for the implementation of the new measures.
- e) The majority of Government funding for early years providers in England is delivered via three childcare entitlements:
 - 15 hours universal entitlement for all three and four-year-olds.
 - 15 hours entitlement for disadvantaged two-year-olds.
 - Extended 30 hours entitlement for three and four-year-olds of eligible working parents.

- 4.2 Funding for the entitlements is included in the Early Years Block of each local authority's Dedicated Schools Grant (DSG). Additional Government funding for disadvantaged children (Early Years Pupil Premium) and children with additional needs (Disability Access Fund) is also included in the Early Years Block, along with supplementary funding for maintained nursery schools. Funding is dependent on the number of children within the setting. Local authorities are required to plan to pass-through 95% of their 3 and-4-year-old funding from the government to early years providers.
- 4.3 Department for Education analysis published in April 2022 suggested the mean income-to-cost-ratio (total weekly income divided by total weekly cost) for early years providers was 1.25 in 2021. The median income-to-cost ratio was 0.96, meaning half of providers were at or around the breakeven point. (*Providers' finances: survey of childcare and EY providers 2021*).
- 4.4 MNS tend to have a higher number of children with special educational needs and disabilities and children from disadvantaged backgrounds than other early years providers.
- 4.5 The national and local drivers for change are rooted in the changes in relation to funding for this type of provision since 2017. However, the Government has made changes to the way this supplementary funding for MNS is distributed from 2023/24. An additional £10 million of supplementary funding will also be provided and the impact of this which is already impacting on the financial viability of our local settings.

5 Croydon's Early Years provision and Maintained Nursery Schools

- 5.1 Croydon recognises the importance of early years development and education. The Early Years Strategy which was coproduced with partners and families has set the strategic direction for provision and priorities across the borough.

- 5.2. There are five MNS in Croydon: Thornton Heath, Tunstall, Purley, Crosfield and Selhurst. Two of these schools have been graded by Ofsted as 'outstanding'; two graded as 'good' and one graded as 'requires improvement'. Three of the MNS are located in the North; one in the Centre; and one in the South of the Borough. A map of Croydon's MNS is attached at Appendix 2.
- 5.3 In total, there are 576 years childcare providers in Croydon, of which 345 are registered to deliver funded places. All 576 providers offer a maximum of 10,165 full time equivalent early years childcare places, of which there are five MNS. Table 1 below shows the different types of provision.
- 5.4 The data in table 1 below was correct as of November 2022

<i>Type of provision</i>	<i>Number of providers</i>	<i>Number of registered places</i>
Childminders*	360	900
Nursery classes in schools	43	1297
Maintained nursery schools	5	281
Private, voluntary, and independent nurseries (PVI's)	168	7,687

**Childminders usually have 2 or 3 early years aged children. For the purpose of this table, an average of 2.5 children has been assumed.*

- 5.5 Parental preference and location are key criteria in decision making for parents / carers and this impacts on whether the MNS are at capacity. Not all the MNS are at capacity.
- 5.6 It is likely that the new measures announced in the Spring budget will have implications on Croydon early years sector and providers, including Sufficiency, capacity and availability of childcare provision to meet increased demand.
- 6. Funding**
- 6.1 Local authorities receive the funding from central Government to provide early years places, and in turn, pass the funding received on to the early years providers of early education and childcare services. School budgets are largely based on the number of children attending the provision.
- 6.2 Maintained nursery schools have higher costs than other early years providers, as they are required to employ qualified teachers and a headteacher and meet the same standards and requirements as other schools. The government confirms that they are progressing with reforms to ensure a fairer distribution of supplementary funding for MNS and to address the long-standing concerns.
- 6.3 Nationally, the funding for MNS declined over recent years and this alongside a reduction in birth rate has led to challenges with the running of each provision. Although government has increased funding for the child hourly rate, it is not enough to cover the MNS with a significant deficit.

6.4 Four out of five of Croydon’s MNS are now unable to deliver the provision on the current funding allocation and are in a deficit budget position. The leadership team of these nursery schools have taken step to reduce their outgoings via restructure and reorganisation of their school to ensure that the school’s budget was balanced. However, due to increasing costs and insufficient government funding, they are no longer able to set a balanced budget. The situation has been worsened by the pandemic, inflation and increase in energy / cost of living.

The cumulative deficit across the MNS estate is £560,760 (as of end of previous year)

6.5 Table 2 illustrates MNS supplementary grant for the 5 Nursery Schools for the last 4 and next financial year. Which has declined up to 2023/24 but is predicted to increase.

Table 2

MNS grant year	Amount	Status
19/20	508,501	Final
20/21	516,296	Final
21/22	443,971	Final
22/23	443,609	Final
23/24	673,551 (minus TPPG)	Predicted

6.6 Individual MNS have taken action within their own settings, this has included restructuring and looking at staffing levels and roles. Council Officers are working with and supporting the MNS with deficit budget to identify opportunities and/or alternative delivery models for savings/income to return to a balanced budget position. The council has commissioned an independent review of the finances and delivery models of two of our MNS.

6.7 There have been historical discussions about the provision and lack of funding for MNS but no agreed action has been taken and now we are at a critical stage due to the increasing deficit position of four of our MNS. There seems to be no realistic prospect of all of our MNS having a balanced budget and being able to reduce the cumulative deficits in the near future without intervention.

6.8 Council Officers have had informal consultation meetings with the leadership team of our MNS to seek / hear their views about potential options to address the financial challenges and re-model maintained nursery school provision in Croydon in order to move to a more financial sustainable provision.

6.9 All respondents agreed that to ‘do nothing’ is not a viable option and runs the risk of losing all four schools with a deficit, and having a bigger cumulative financial debt. It has been acknowledged that there is not a perfect solution as there are advantages and disadvantages for each of the proposed options. On this basis, we recommend that we consult partners, including residents / families, and providers, on the option listed below.

7. Preferred Option:

7.1 **To reduce the number of MNS within the borough**

This option would reduce the number of MNS within the borough, ensuring enough provision but over a smaller number of sites.

An admissions criterion would need to be developed for the places to ensure that the LA was able to provide targeted support to the most vulnerable children in the LA. The LA would also look at creating a central admissions process for all MNS schools for the targeted places. Individual school governing bodies would still retain responsibility for universal places at settings, which could be offered under the current admissions criteria, which would enable local children to access the provision.

If following consultation, the decision was to reduce the number of MNS, by closure or amalgamation, there would need to be consideration about the use of the site(s).

Advantages

A reduction in the number of MNS would reduce overhead costs and help in developing a sustainable MNS provision. Birth rate currently decreasing meaning less places will be required. Any displaced children would be accommodated in the other MNS or alternative early years provision. Currently, there is sufficient alternative nursery provision and childcare available to accommodate demand. The building could be used to support the development of the Family Hubs.

Disadvantages

The deficit incurred by the closure of one of the MNS would be the responsibility of the Council and likely to put pressure on the general fund. Possible redundancy costs. Could lead to less available places via MNS and a reduction in the MNS supplement. The statutory process for closing school would need to be followed, including formal consultation. Government guidelines on school closures include a presumption against the closure of nursery schools unless there is a strong case that there would be alternative provision in the area. The government announced in the Spring budget a range of measures to help parents with childcare so they can return to work more easily. This is likely to increase demand for places.

8. **Alternative Options considered but not recommended.**

8.1 **Option 1:**

Federate the Maintained Nursery Schools under one leadership model

The accountability for the quality of each MNS would be under one formal leadership team and overall Governing Board with representation from all the settings. Individual MNS may have a local Governing Body.

Each setting would require a named lead but there would not need to be separate leadership teams or back-office staff which would enable the budget to be spread across each school.

Advantages

This option would:

- provide greater financial stability and ensure that MNS continue to provide services to children and their families.
- Protection of available places
- Ensure each MNS would support each other with sustainability of nursery school provision.
- Allowing the sharing of back-office staff
- provide more development opportunities for staff, enabling the schools to continue to offer high quality nursery education.

Disadvantages

- This would not address the historical deficit.

8.2 **Option 2:**

Reprovision of one MNS into Early Years SEND setting:

We are seeing an increasing number of children in the Early Years with Special Educational Needs and Disability (SEND) and whilst it is important that children with SEND are mostly educated in mainstream settings there is some requirement for specialist nursery settings as we have at St Giles School.

Advantages

There is a higher number of children with SEND unable to access flexible childcare and this option would provide specialist provision.

This would reduce places at independent and out of borough provision.

Disadvantages

This would not address the historical deficit.

9. CONSULTATION

9.1 Informal consultation with the settings both individually and collectively to seek their views on the proposed options and to add suggested options which evolved from these meetings

9.2 If preferred option is approved by The Mayor in Cabinet a period of consultation will follow the decision making. This will include families, providers and all key partners.

10 CONTRIBUTION TO COUNCIL PRIORITIES

10.1 Become a council which listens to, respects and works in partnership with Croydon's diverse communities and businesses.

10.2 Ensure children and young people have opportunities to learn, develop and fulfil their potential.

11 IMPLICATIONS

11.1 Financial Implications

11.1.1 Maintained Nursery Schools are funded via the Dedicated Schools Grant. Any changes to the provision will not impact on the council's General Fund but will prevent any rising deficits which should a setting close would be the responsibility of the Local Authority. The change in the formulae calculated by the DfE has created a positive effect on the MNS supplement for Croydon and is welcomed. However, the increase is unlikely to move schools in a greater deficit to a surplus budget.

11.1.2 Although MNS are early education providers, they are legally constituted as schools. Like maintained schools, they have a head teacher, governing body, delegated budget and at least one teacher with qualified teacher status (QTS). Staffing costs are high for MNS with all 5 spending over 50% of their budget on staffing alone. Table 6 provides information on how the 5 Nursery Schools budgets are spent.

Table 3

	N:1	N:2	N:3	N:4	N:5
Staffing	53.1%	83.7%	60.7%	67%	76.5%
Premises & Utilities	5.7%	7.4%	6.8%	8%	8.5%
Teaching supplies	2.2%	1.5%	1.1%	1.9%	1.7%
Food	0%	0%	0%	1.2%	0%
Other	39%	7.4%	31.4%	21.9%	13.3%

Comments approved by Allister Bannin, Director of Finance (Deputy S151 Officer) 14/06/2023

11.2 Legal Implications

11.2.1 The Executive Mayor in Cabinet is recommended to agree to a formal consultation and publication of statutory notice on the proposal to agree to reduce the number of Maintained Nursery Schools within the borough via closure or amalgamation.

11.2.2 Section 3 Local Government Act 1999 imposes a duty on the Council to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" (the best value duty). It also obliges the Council

to consult certain groups of people 'for the purpose of deciding how to fulfil the duty' (s.3(2)).

- 11.2.3 In taking decisions the Council must act lawfully, including acting within its powers, following its own procedures as well as those required by law.
- 11.2.4 The Council must have regard to Section 15 Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Establishment and Discontinuance of Schools) Regulations 20133 (the Establishment and Discontinuance Regulations). Under section 15 of EIA 2006, a local authority can propose the closure of, amongst others, a maintained nursery school. The statutory process is set out in the Establishment and Discontinuance Regulations and in the statutory process section of the Opening and Closing Maintained Schools - Statutory Guidance for Proposers and Decision Maker (2023).
- 11.2.5 The Council must ensure that all required consultations are properly undertaken in accordance with relevant law and guidance. This includes details of consultation required when making changes to maintained schools and proposing to close them. The Council must make rational, evidence-based decisions, for a proper purpose, that are proportionate decisions. The decisions must be properly reasoned and take into account all relevant considerations, as well as be compliant with the European Convention on Human Rights.
- 11.2.6 As set out above section 7 of the Childcare Act 2006 places a duty on the Council to secure sufficient free early years provision for eligible children.
- 11.2.7 Section 8 of the Childcare Act 2006 describes the 'Powers of local authority in relation to the provision of childcare' as (3) An English local authority may not provide childcare for a particular child or group of children unless the local authority are satisfied that (a) that no other person is willing to provide the childcare (whether in pursuance of arrangements made with the authority or otherwise), or (b) if another person is willing to do so, that in the circumstances it is appropriate for the local authority to provide the childcare. This does not affect the provision of childcare by the governing body of a maintained school, or the provision of day care for children in need in accordance with section 18 of the Children Act 1989.
- 11.2.8 Section 27 Children and Families Act 2014 (CFA 2014), to keep under review educational provision, training provision and social care provision made both in and outside of their area for children and young people with SEN or a disability and for whom they are responsible.

Comments approved by Doutimi Aseh, Head of Social Care & Education Law on behalf of the Director of Legal Services and Monitoring Officer. (Date 19/06/2023)

11.3 Equalities Implications

Attached as Appendix 3.

The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 of the Equality Act 2010. The Council must, in the performance of its functions, therefore, have due regard 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.
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

An equality impact assessment has been carried out which has identified a positive impact across characteristics. It also identified that males and other genders are underrepresented in the children's workforce. The department will mitigate against this by identifying ways to increase representation in the workforce.

Approved by: Denise McCausland – Equality Programme Manager 24/05/2

11.4 Other Implications

11.4.1 Human Resources impact

The reduction of the MNS provision across the borough may have staffing implications. Any implications that may have effect on direct staffing will be managed in accordance with relevant human resources policies and were necessary consultation with recognised trade unions. We have recently seen an increase in industrial action when significant service changes have been explored by the council, such as the Red Gates School. It is possible a change in the provision of MNS may see similar action from the trades union.

11.4.2 Approved by: Dean Shoesmith, Chief People Officer. (Date 15/06/2023)

12 APPENDICES

12.1 Appendix 1 – Different types of early years providers

12.2 Appendix 2 – Map of Maintained Nursery Schools and other settings in the same ward.

12.3 Appendix 3 – Equality Impact Assessment

BACKGROUND DOCUMENT – N/A