

This record relates to urgent decisions taken by Chief Officers under the Scheme of Delegation to Officers Paragraph 7(2).

## RECORD OF URGENT DECISION TAKEN BY

**SUBJECT:** Council nurseries only open to critical worker and vulnerable children

**CONTACT OFFICER:** Caroline Parker, Head of Early Years 01273 293587

### REASONS FOR URGENCY AND WHY NOT PRACTICABLE TO HOLD A SPECIAL MEETING OR URGENCY SUB-COMMITTEE:

The Prime Minister announced that a [new national lockdown](#) came into force on Wednesday 6 January. During the period of national lockdown, schools, alternative provision, special schools, and colleges will remain open to vulnerable children and young people and the children of [critical workers](#) only.

However, the Government advice is that all early years providers can remain open during this period of national lockdown.

There are fast rising rates of Covid within the city. The latest published data shows that the rate in Brighton & Hove has increased by more than 500% since we came out of lockdown at the beginning of December. This rapid increase is mirrored in the rates in our children and young people and the city's all ages pattern is similar to that previously seen in urban areas of Kent and East Sussex. The most up to date information, available publicly, can be found [here](#).

This decision had to be made quickly because of the rapidly raising rates in the city and the risk of Covid infection for council staff.

### DETAILS AND OUTCOME OF CONSULTATION WITH THE CHAIR/DEPUTY CHAIR OF RELEVANT COMMITTEE AND OPPOSITION SPOKES:

The Government guidance, the rising rates of Covid in the city and the concerns raised by staff were discussed with the Chair of the Children, Young People and Skills Committee, who in turn discussed this with Opposition Spokespersons.

In the discussion the impact of the decision for our most disadvantaged children was considered. It was agreed to broaden our definition of 'vulnerable' to include SEND children receiving additional support funding, funded places for two year olds and Early

Years Pupil Premium children, where there is space to include them safely in each nursery.

**DATE OF CONSULTATION WITH CHAIR/DEPUTY CHAIR AND OPPOSITION SPOKES:**

5 January 2021

**THE DECISION:**

To note the use of officer urgency powers by the Interim Executive Director Families, Children & Learning under delegations provided to the Interim Executive Director Families, Children & Learning to make the decision to adopt the same position with our council nurseries that government has with schools. Council nurseries will only be open for critical worker and vulnerable children from 7 January

**REASONS FOR DECISION:**

The reasons for the decision were:

- The rapidly rising rates of Covid within the city
- Concerns raised by staff at the risk of infection if nurseries continued to be open for all children
- The Council's duty as an employer to ensure the health and safety of staff
- The lack of consistency between the approach the Government is taking to schools and early years providers.
- The risk of children attending council nurseries spreading Covid to their families.

**DETAILS OF ANY ALTERNATIVE OPTIONS CONSIDERED:**

The alternative considered was to keep the nurseries open for all children.

**LEGAL IMPLICATIONS:**

*As the employer and service provider in relation to Council nurseries it is for the Council to determine whether to maintain the service at this time. This is a proportionate and lawful decision for the Council to take, taking into account the risks that have been weighed up, the scientific data and the mitigations that have been put in place for vulnerable children.*

*Lawyer Consulted: Elizabeth Culbert Date: 060121*

**FINANCIAL IMPLICATIONS:**

*The next early years census will take place on 21 January 2021. The January census will be used to determine the amount of early years funding paid to local authorities by government for the 2021/22 financial year. The decision to only open council nurseries for critical worker and vulnerable children may lead to a significant under representation of children being recorded on the early years census and consequently there is a risk*

*that funding allocations for 2021/22 will be detrimentally affected. It is difficult to quantify the impact of this as there are several unknown factors at this stage. These include:*

- *whether the government will allow adjustments to be made to the January 2021 census to reflect a 'virtual headcount' – i.e. what provision levels would have been prior to the decision to limit attendance*
- *whether government amend their existing wider guidance relating to early years funding arrangements. The situation is rapidly evolving, and government may have no option other than to review funding arrangements, particularly if other LAs are taking a similar approach to Brighton and Hove*
- *whether non-council early years settings adopt the same approach being taken for council nurseries and choose to limit attendance in the spring term. In this scenario there would be a greater impact to the overall early years census numbers reported for Brighton and Hove and would potentially exacerbate the funding implications for 2021/22*

*This decision will also have financial implications on the council nursery budgets in 2020/21 in terms of lower free entitlement funding and reductions in fee income.*

*Finance Office Consulted: Steve Williams      Date: 06/01/21*

**DATE OF NEXT COMMITTEE MEETING TO WHICH THE DECISION WILL BE REPORTED:**

11 January 2021

<p><b>Date: 06.01.21</b></p>	
<p><b>Signed:</b></p> <p><b>Interim Executive Director Families Children &amp; Learning</b></p>	
<p>Logged by Democratic Services Officer for Annual Report:</p> <p>Name:</p>	<p>Date:</p>

