Executive Summary

This report provides Committee with an update on the Council decision of 20 June 2019 in relation to deferred entry. Whilst this decision referenced children born in September, to help reflect and reconcile with existing legislation the assumption applied to the remainder of this report includes children born after the first day of school term in August each year.

This amendment to policy would guarantee four year olds, whose birthdays fall within the defined period, to receive a further year of early learning and childcare funding if requested.

The Education and Families Committee decided on 19 November 2019 that a further paper be brought forward to outline the full costs associated with implementing this decision to ensure that members were fully aware of the wider Council funding and budgetary implications linked to any such policy change.

There is currently no identified budget to support the roll out of an extended deferred entry scheme with estimated annual costs of £2.382m in 2020/21 (27% growth projected) increasing to £4.834m from 2021/22 onwards (further 60% increase).

Recommendations:

In light of the decision taken on 20 June 2019, Council are asked to:

1) Note the updated position in relation to children whose birthdays fall after the first day of term in August each year.

2) Note the estimated annual costs of £2.382m in 2020/21 (27% growth projected) increasing to £4.834m from 2021/22 onwards (further 60% increase).

3) Agree that in light of Scottish Government planned engagement and development with the Association of Directors of Education Scotland and CoSLA, the decision to implement be continued until the outcome of this exercise is known, evaluated and any associated funding position fully understood.
1. **Background**

1.1 The Education (Scotland) Act 1980 provides parents of children, whose fifth birthday falls between the day after the school commences in August and the last day of February, in the following year, the option to not send their child to primary school and to defer their entry until the following academic year.

1.2 Currently, only children born in January or February are statutorily entitled to have this deferred year funded in an early learning and childcare setting.

1.3 Parents/carers of children who have a birthday between March and mid-August (including the first day of the school term) are currently not statutorily entitled to defer their child’s entry to primary school, as the child has already reached the age of 5 on the school commencement date in August. A further year of nursery provision is therefore at the discretion of the Council (discretionary deferral).

1.4 The Council currently has a discretionary deferred entry policy to ensure that there is scope to support children and families. This decision is made by an educational panel with input from parents/carers of the child and a range of professionals. This ensures that the Council takes a child-centred approach to the issue of deferring, whilst recognising that such cases are exceptions.

1.5 In 2017/18 the panel agreed to defer entry for 1.81% (30 children) of the August to December pupil cohort. Comparative figures for 2019/20 indicate that 2.66% (36 children) of this cohort were granted deferred entry (Appendix 1). The Service has received 46 applications for deferred entry during the current academic term.

1.6 The Council decided on 20 June 2019 to amend the current Council policy on discretionary deferrals. This change would create a universal deferral right, with associated funding, to all 4 year old children whose birthdays fall between mid-August and the last day in December. These children would be entitled to an additional year of early learning and childcare. The decision of Council stated:

> “This Council notes the aims of the Give Them Time Campaign, set up by parents to share experiences of applying for a further year of nursery funding for their child to defer starting P1; understands that the national survey found that only 19% of parents knew about the legal right to defer children born between September and December, compared with 80% knowing that children born in January and February can be; notes that Council does not offer a guaranteed right to nursery funding for deferred children born between September and December and agrees that, starting with applications for the 2020/21 school year, any application to defer a child’s P1 start whose birthday falls from September to February be granted automatically, with a further one year’s nursery funding provided. Agrees that the Council write to the Scottish Government to request that Ministers engage with the Council regarding the extra funding required within its 2020/21 budget to finance all additional nursery placements for children who have a legal right to defer the start of primary school under the terms of the Education Scotland Act (1980)”.

---

**The Plan for North Lanarkshire**

**Priority**

**Ambition statement**

Support all children and young people to realise their full potential

(7) Enhance collaborative working to maximise support and ensure all our children and young people are included, supported, and safe
Please note that although the decision makes reference to children born between September and December, the statutory guidance relates to all 4 year old children whose birthdays fall the day after the school commencement date in August.

1.7 Following this decision, the Scottish Government wrote to local authorities on 30 July and 9 October 2019 to confirm that there had been no change in legislation for discretionary deferrals, and therefore policy responsibility continues to rest with individual Councils to set locally.

1.8 Following a progress report in September 2019, a subsequent update was then presented to the Education and Families Committee in November highlighting the engagement with Scottish Government and the related confirmation in their response concerning no additional funding (See Appendix 2). Accordingly, it was agreed that a final report be prepared detailing the full costs of implementation for presentation at the next meeting of the Committee.

1.9 The response letter, dated 9 October 2019, also confirmed the Scottish Government’s intention to engage in discussions with umbrella bodies such as COSLA and ADES to assess the implications of any wider potential policy change and agree a collegiate approach moving forward.

1.10 At this time, none of the other seven local authorities, which make up the West Partnership, offered funding for automatic deferral of children born between mid-August and December.

1.11 Falkirk Council is the only Scottish local authority to have implemented changes to its Deferred Entry policy to incorporate those 4 year old children with birthdays from the first day after the August term until the end of February, being granted a further year of funded early learning and childcare, if requested. Following the implementation of the policy change, it has been confirmed that deferred entries had increased by 60% (from previous deferral rates) in 2019/2020. To date its admissions data highlights that the demand for 2020/2021 is consistent and in line with last year’s figures (60%).

2. Report

2.1 Current Position

2.1.1 The Education and Families Service is child-centred and any decisions are based on the underlying principles of Getting it Right for Every Child (GIRFEC), the national approach to support children and families.

2.1.2 For those children whose birthday is between January and February, there is an automatic entitlement to defer entry to primary 1 and for the Council to fund an additional year of early learning and childcare. No panel assessment is undertaken for children in this category.

2.1.3 For those children whose birthday is between mid-August and December, the decision whether to defer and fund an additional year of early learning and childcare is taken by a discretionary deferred entry panel, and the views of parents/carers, early learning practitioners and, if possible, the child, are central to the decision making process. Various sources of information will also be reviewed by the panel to assist them in the decision making process; including GIRFEC/Co-ordinated Support Plans, views of parents/carers, early learning practitioners working with the child,
Health and Wellbeing Assessments, current nursery reports, reports from other agencies, e.g. speech and learning, and minutes of reviews/multi-agency meetings.

2.1.4 Appendix 1 provides information on actual deferrals from 2017/18 to 2019/20. It also includes projected deferrals through to 2021/22 and associated costs using comparison baselines as per evidence at 1.11.

2.1.5 For example, during academic session 2019/20, 1,355 children had a birthday between August and December, whilst another 651 children had a birthday during January or February. The applications process for deferred entry resulted in 36 discretionary deferrals being granted, coupled with 230 statutory (automatic) deferrals.

2.1.6 In summary, the calculation of future costs is primarily based on actual deferral uptake in recent years, coupled with an estimate of future growth based on the experience of Falkirk Council to date.

2.1.7 The estimated cost of increased deferral places is £2.382m in 2020/21 (27% projected, including lunches) increasing to £4.834m from 2021/22 onwards (further 60% increase over projected, including lunches).

2.2 Appraisal and Impact of the Deferred Entry Decision

2.2.1 The potential impact of deferral on children is highlighted within the draft report Deferred Entry presented by ADES, 2019 as follows:

**Physical Development** - A child who enters primary school close to their sixth birthday is likely to be physically larger than his or her peers. This could potentially lead to differences in relationships. These children are also more likely to display passive aggressive victim behaviour. This is hypothesised due to under identification of behavioural concerns due to delayed start, and peer rejection due to maturational differences.

**Brain development** - The differences in development of the brain between a child who is 4.5 years when entering school and one who is nearly 6 years of age is significant. The draft ADES Report indicates the different stages of normal child development and specific milestones. These differences are due to normal maturation of the brain.

**Academic outcomes** - Analysis of research consistently concludes that delaying entry does not improve academic achievement in the long term and any initial differences in achievement are negligible by age 8–9 years old. It should be noted that international comparisons are difficult to make due to differences in school structures, curriculum and the nature and focus of pre-school provision. In a review of international studies, it concluded that there was no significant benefit in starting school either younger or later.

Furthermore, children who have deferred their entry to primary 1 will reach the school leaving age of 16 years before completing their education, which could result in a
young person reaching statutory school leaving age, and choosing the option to leave school, before being presented for any national qualifications.

2.2.2 In line with the original council decision (those children with birthdays between mid-August and February, to be automatically granted an additional year of early learning and childcare), a review of potential numbers of children with birthdays within this date range was considered, in conjunction with capacity and cost considerations.

2.2.3 Based on those children currently attending an early learning and childcare provision, 2,377 children have birthdays within the age range detailed for academic year 2020/21. 510 of these children are currently attending either a private/voluntary nursery or childminder, and 1,867 children are attending a council nursery.

2.2.4 Accordingly any increase in deferred entry numbers into P1 will have an immediate and consequential effect on class sizes and staffing. Due to the challenges that exist in predicting where such patterns would occur, it is impossible to ascertain the impact on individual schools at this stage. It may also have a grant implication for the service and has the potential to require the displacement of teachers.

2.3 Impact on Council Nurseries and Funded Providers

2.3.1 This report provides an estimate of the number of parents/carers who will seek to defer their child’s entry to primary school within North Lanarkshire. As Falkirk Council is the only authority to introduce such a policy to date, it should be noted that there is limited benchmarking data available to further inform assumptions. In such a scenario it is therefore appropriate to provide a range of potential financial implications based on varying uptake levels.

The table below highlights costs which would be incurred by the Council across a range of uptake levels for the mid-August to February cohort.

<table>
<thead>
<tr>
<th>Deferral Rate</th>
<th>Potential number of children who could defer</th>
<th>Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>100%</td>
<td>2,377</td>
<td>£16.75m</td>
</tr>
<tr>
<td>70%</td>
<td>1,664</td>
<td>£11.73m</td>
</tr>
<tr>
<td>50%</td>
<td>1,189</td>
<td>£8.37m</td>
</tr>
<tr>
<td>30%</td>
<td>713</td>
<td>£5.02m</td>
</tr>
<tr>
<td>10%</td>
<td>238</td>
<td>£1.67m</td>
</tr>
</tbody>
</table>

2.3.2 It is not possible at this juncture to determine whether funded providers would have the capacity to accommodate the increased number of places required. Cognisance should be given that funded providers will also have private arrangements with parents/carers, and this could impact on their ability to accommodate all deferred children.

2.3.3 It is also unknown how many parents/carers, of those with children attending council nurseries and with birthdays between mid-August and December, will wish to defer their entry to primary school.
2.3.4 As with funded providers, the capacity to accommodate an increased level of children within council nurseries may prove challenging. If significantly more children were to be given an automatic right to funded deferral, then in addition to the challenge of ensuring sufficient capacity, local authorities may be unable to meet the statutory duty to provide early learning and childcare for all eligible two, three and four year olds. This creates a potential risk to the 1140 hours expansion programme, as it would directly impact upon the modelling undertaken to date and approved by the Scottish Government.

2.3.5 Scotland is currently going through an unprecedented expansion of Early Learning and Childcare (ELC) provision with the implementation of 1140 hours. This expansion represents a significant public investment of £1 billion and has been in planning since 2016. At the point of identifying available capacity for the 1140 hours expansion, there had been no indication of a change to the deferred entry legislation. All councils were encouraged to plan prudently for expansion, making use of existing capacity within the ELC system rather than creating large numbers of new settings and incurring, potentially unnecessary, additional costs. As a result within North Lanarkshire, the Service has already limited capacity for any significant change to the number of children who may be expected to attend nursery each year.

2.3.6 Any potential increase in numbers will also have an impact on children currently attending an ELC setting and returning as a 4 year old. Currently these children are classed as automatic returners, i.e. they can return to their current early learning and childcare provider for their last year at nursery. In session 2020/2021 it is expected that 2,929 three year olds will become returners.

2.3.7 Nurseries are limited by the numbers of children they can admit at any one time and the most likely impact would be the displacement of younger children (those aged 3 years) who may be unable to attend their expected nursery as the places would still be occupied by older children. It may also impact on the eligible 2 year old provision. Alternatively, in order to protect places for eligible 2 and 3 year olds, it may be possible that those choosing to defer may be unable to be accommodated within their current setting and would be required to move to another nursery. This presents issues for children and families in terms of continuity of provision and the need for children to form new relationships in an alternative setting, which are unlikely to be in the best interests of the individual child. An example of this is outlined below;

Example - Family Learning Centre (FLC) – registered for 48 children:

38 x 3 year olds will become pre-school children (returners) in Aug 2020
17 x 4 year olds meet the criteria for deferral
Therefore a possible 55 children could be looking to return to FLC in Aug 2020

The potential figure of 55 children is above the FLC’s registered capacity and does not take account of any new applications submitted to FLC.

2.3.8 To accommodate any significant potential increase in pupil numbers the Service will require to review the existing capacity within the nursery estate. Similarly, an assessment of individual facilities on a case by case basis to highlight staffing and resource would be undertaken to identify overall council costs.
2.4 Admissions Process

2.4.1 The annual admissions process commenced the week beginning 3 February 2020. Parents/carers have begun applying for their 3 year old ELC place with the majority of 4 year olds returning to their current nursery. If implemented, further consideration will require to be given to children who are statutorily entitled to defer their entry to school and places secured for them until the deferral process has been completed. Currently at this point in the academic year, the number of parents/carers who would apply is unknown. Accordingly, there is an additional risk that where a parent/carer applies for a discretionary deferred entry place the child may have to move to another ELC setting.

2.4.2 Should the decision be to implement the policy for 2020/21 to allow deferral of children born between mid-August and December, significant work would be required to revisit all current arrangements, applications and associated impacts as an immediate priority.

2.4.3 In future, should an extension of deferred entry become policy or a legal requirement, then the timeline for all related procedures would need to be moved to earlier in the preceeding year.

3. Equality and Diversity

3.1 Fairer Scotland

The Council will continue to ensure that SIMD and other data underpinned by the GIRFEC agenda is applied to support children whose parents make an application for deferral.

3.2 Equality Impact Assessment

An Equality Impact Assessment will be completed in due course to reflect any change to local or national policies.

4. Implications

4.1 Financial Impact

There is no identified budget for additional deferred entry, and, in planning for the future 1140hrs operating model, there has been no financial provision for an expansion of the current deferral policy to include funded entitlement for children with mid-August to December birthdays. The Scottish Government has also not made any grant funding available within the 1140hrs programme for an expansion of deferral legislation at this time.

Current estimated costs for additional deferred entry places are £2.382m in 2020/21 (27% projected) increasing to £4.834m from 2021/22 onwards (further 60% increase over projected).

Implementation of any expanded deferred entry therefore needs to be considered as part of the current budget strategy for 2020/21 and beyond, or continued until the
outcome of the Scottish Government exercise is known, together with details of any associated funding.

4.2 **HR/Policy/Legislative Impact**

The expansion is driven by legislation ensuring the provision of 1140 hours Early Learning and Childcare, as a statutory requirement from August 2020 for eligible two year old children and all children aged from three years to those not yet attending primary school.

In accordance with legislation parents/carers of children whose fifth birthday falls between the day after the school commences in August and the last day of February the following year are deemed not to have reached school commencement age and parents/carers have a choice about whether they enrol and send their child to school or defer until the following school year.

4.3 **Environmental Impact**

Access to local childcare services will provide environmental benefits through the use of local community based networks and facilities.

4.4 **Risk Impact**

There is a risk that the number of deferred entry children increases to an extent that it is unsustainable in terms of current infrastructure and workforce and the Council is therefore unable to meet the statutory demand of every child receiving 1140 hrs.

5. **Measures of success**

5.1 The ELC expansion programme is delivered within timescale and accessible to all children including those who have an entitlement to deferred entry.

6. **Supporting Documents**

6.1 Appendix 1: Deferral Numbers and Estimated Potential Costs of Statutory Deferred Entry (August to February) 2020/21 and 2021/22

6.2 Appendix 2: Primary 1 Deferral and Early Learning and Childcare (ELC) Eligibility

Gerard McLaughlin
Head of Education (North) Education and Families
## Table 1 - Admissions Data

<table>
<thead>
<tr>
<th></th>
<th>Birthdays (Automatic)</th>
<th>Deferred Applications (Approved)</th>
<th>Discretionary</th>
<th>Birthdays Granted</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jan - Feb</td>
<td>Aug - Dec</td>
<td>Aug - Feb</td>
<td>Aug - Feb</td>
</tr>
<tr>
<td>2017/18</td>
<td>672</td>
<td>1,655</td>
<td>30</td>
<td>2,327</td>
</tr>
<tr>
<td></td>
<td>147</td>
<td>30</td>
<td>1.81%</td>
<td>177</td>
</tr>
<tr>
<td>2018/19</td>
<td>801</td>
<td>1,505</td>
<td>20</td>
<td>2,306</td>
</tr>
<tr>
<td></td>
<td>181</td>
<td>20</td>
<td>1.33%</td>
<td>201</td>
</tr>
<tr>
<td>2019/20</td>
<td>651</td>
<td>1,355</td>
<td>36</td>
<td>2,006</td>
</tr>
<tr>
<td></td>
<td>230</td>
<td>36</td>
<td>2.66%</td>
<td>266</td>
</tr>
</tbody>
</table>

## Table 2 - Estimated Costs

<table>
<thead>
<tr>
<th></th>
<th>Deferred Applications Estimated (Automatic)</th>
<th>Deferred Applications (Approved)</th>
<th>Assumed Increase Per Give Them Time %</th>
<th>Assumed Number of Deferred Applications</th>
<th>Potential Cost 1140 Hours £5.55 Aug - Feb</th>
<th>Potential Cost Lunches £3 Aug - Feb</th>
<th>Potential Cost Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020/21</td>
<td>292</td>
<td>338</td>
<td>60.00%</td>
<td>338</td>
<td>£2,138,565</td>
<td>£243,364</td>
<td>£2,381,930</td>
</tr>
<tr>
<td>2021/22</td>
<td>371</td>
<td>429</td>
<td>60.00%</td>
<td>686</td>
<td>£4,340,322</td>
<td>£493,920</td>
<td>£4,834,242</td>
</tr>
</tbody>
</table>

*60% Based on Falkirk Council evidenced increase*
Early Learning and Childcare Programme Directorate
Alison Cumming, Deputy Director, Early Learning and Childcare Division

T: 0131-244 0540
E: alison.cumming@gov.scot

To:
Local Authority Directors of Education

Copy:
Local Authority Directors of Finance
Nicola Dickie, COSLA
Lesley Gibb, ADES Early Years Network

9 October 2019

Dear Colleagues

Primary 1 Deferral and Early Learning and Childcare (ELC) Eligibility

I am writing to make you aware of the Scottish Government’s intention to bring forward legislation to ensure that all children who are not yet 5 on the first day of school are able to receive funded early learning and childcare (ELC) if their school start is deferred.

We recognise that local authorities are working incredibly hard to prepare for August 2020, and that remains our collective delivery priority. This letter is intended to clarify the current position and to inform you of next steps, as COSLA, ADES, and the Scottish Government work together to assess the resource implications and agree a reasonable implementation timetable.

I am also aware that a number of local authorities have had discussions locally about their own policies to fund ELC for August to December born children where families wish to defer their school start. As well as this, I recognise the work colleagues have undertaken following the COSLA Children and Young People’s board decision in April to adopt a consistent approach to communicating rights about deferred entry and funded ELC eligibility to parents and carers.

Scottish Labour Party Debate: Nursery Funding (Deferred Entry to Primary School) – 2 October 2019

You may be aware that Scottish Labour MSP, Iain Gray, lodged a motion on 30 September calling on the Scottish Government to bring forward legislation in this parliamentary session to fund early learning and childcare for all children who are deferred (see Annex A for full text).

The Minster for Children and Young People, Maree Todd MSP, lodged an amendment to this, that sought to clearly set out the need for joint working with local government to assess resourcing implications. These motions were taken in the Chamber on 2 October 2019, and the Labour motion was passed.
Current Policy

For now, there is no change in the law.

All children who are still 4 at the start of the school year can be deferred and start primary one the following year. Children with a birthday in January or February are automatically entitled to another year of funded ELC.

For children with a birthday between the school commencement date in August and the end of December, additional funded ELC is at the discretion of the local authority using their powers under section 1(1C) of the Education (Scotland) Act 1980. These decisions should involve parents and practitioners, and be based on an assessment of the child’s wellbeing. Colleagues are aware that we are in the process of updating the Children and Young People (Scotland) Act 2014, Early Learning and Childcare Statutory Guidance (https://www.gov.scot/publications/early-learning-childcare-statutory-guidance/).

Next Steps

Partnership working is vital to the ELC expansion. Before any amendment to the law is made, it is of course essential that Scottish Government, COSLA, and ADES agree the way forward together, in line with the principles of local democracy. This will require proper assessment of the resource implications in the context of delivering the ELC expansion. We will begin these discussions soon and update colleagues in due course.

I hope this update was useful and I would be very happy to discuss any concerns arising from this letter with you and your teams. In the first instance, please contact Francesca.Iwanyckyj@gov.scot who will be able to direct your query.

Yours sincerely

Alison Cumming
Deputy Director, Early Learning and Childcare Programme, Scottish Government
Scottish Labour Party Debate: Nursery Funding (Deferred Entry to Primary School) – 2 October 2019 (Official Report)

Motion S5M-19193: Iain Gray, East Lothian, Scottish Labour, Date Lodged: 30/09/2019

That the Parliament recognises that, under the Education (Scotland) Act 1980, parents have the legal right to defer their child’s entry to primary education if they are not five years old by the commencement of the school year; understands that those children who are born in January and February have an automatic entitlement to funded early learning and childcare during the deferred year, while those born between August and December do not have this automatic entitlement; commends the "Give Them Time" campaign for their work in highlighting this issue; calls on the Scottish Government to bring forward legislation in this parliamentary session to automatically entitle young people aged four, who are born between August and December, to funded early learning and childcare in line with statutory government provision for three- and four-year-olds when their parents use their legal right to defer entry to P1, and further calls on the Scottish Government to work with COSLA to ensure the necessary resources are available.

Motion S5M-19193.1: Maree Todd, Highlands and Islands, Scottish National Party, Date Lodged: 01/10/2019

As an amendment to motion S5M-19193 in the name of Iain Gray (Give Them Time Campaign), insert at end ", and agrees that, in line with the principles of local democracy, this should be advanced with the agreement of local government following proper assessment of the resource implications, and in partnership with parents and the sector."