

Children, Young People, Education and Skills

19-21 Broad Street | St Helier
Jersey | JE2 3RR



25 February 2021

Minister Jeremy Maçon
Government of Jersey

Sent by email: J.Macon@gov.je

Dear Minister

Nursery Education Fund (NEF): Proposed Policy Changes

Introduction

Since you were confirmed in post on 9th February 2021 as the permanent Minister for Children and Education, we have been in a series of detailed discussions about policy changes you wish to make regarding the Nursery Education Fund (the NEF) in support of your early years ambitions.

Advice has been provided in my role as both Director General and Accountable Officer about your policy intentions in relation to:

- Increasing the number of Government-funded nursery hours for three-to-four years olds from up to twenty hours per week to a maximum of thirty hours per week from 1 September 2021; and
- Increasing the hourly rate in non-Government-provided pre-school and nursery settings to £6.70.

I wrote to you on the 24 February 2021 setting out my formal advice as Accountable Officer for the Department for Children, Young People, Education and Skills and, in doing so making a number of recommendations which, if accepted, would address the concerns I have about advancing at this time with the implementation of these proposed policy changes.

I remain clear, and wish to restate, that my advice concerns:

- i) the insufficiency of preparation time for the timely and effective implementation of the policy changes;
- ii) the lack of evidence to ascertain the value for money in the industry-proposed new rate;
- iii) the uncertainty about the sufficiency of funding; and
- iv) the incomplete governance process as required by the Terms of Reference (as approved by the Chief Minister) in respect of the consideration of the draft final report and recommendations of the Early Years Policy Development Board.

Together, these issues led to my advice not to proceed *at this time*, most especially in respect of the proposed hourly rate increase which I cannot validate and, therefore, endorse at this time. To mitigate these risks, I made the following recommendations:

1. Not to proceed with implementing the JEYA proposed rate and suspend the announcement, therefore, of a specific uplifted hourly rate in order that the necessary assessments of the level of increase and the affordability of such an increase are sufficiently understood through rigorous, evidence-based analyses.
2. Consider, as an alternative, the option of establishing an evidence-based interim rate in order to create headroom for a full evaluation of the long-term level.
3. Consider implementing the increase in hours from no sooner than January 2022 (rather than September 2021) to facilitate 1. and/or 2. above.

Background

An Early Years Policy Development Board was proposed in mid-2018 by the former Education Minister and subsequently approved by the Chief Minister. This Board was active between late 2018 and early 2020 and, at the end of its review, recommended six inter-related policy proposals which constitute a reformed early years education offer. They form the building blocks for a child's early years by following a child's journey from conception through to school.

In summary, the report and its recommendations proposed that a universal, early years offer for all families be established and complemented by family friendly measures to give children the *Best Start* in life. As they reached the age of two, those children at risk of disadvantage would have the opportunity of a Best Start Plus early education offer. In time, this would be extended to all children.

Young children would be offered an integrated development/progress check to review their health and wellbeing and the prime areas of learning (communication and language, physical, social and emotional). All three-to-four-year olds would have their educational entitlement during term time consolidated with this rising to 30 hours in future. Wrapping around children and families will be a high-quality workforce supported by a transformation fund.

These recommendations represent an ambitious road map of policy and system reform that will work best as an integrated programme of improvement. It is important that decisions in the short term based on one element do not undermine the ambition on the other interrelated policy priorities.

As you know, in December 2020, the former Education Minister announced the intention to proceed with one aspect of the report and its recommendations, namely introducing the increase in hours for three-to-four year olds, allied with an intention to uplift the hourly rate.

Subsequently, as the new Minister for Children and Education, you have reflected on this commitment by the former minister, drawing on your own membership of the Policy Development Board as the Assistant Education Minister at the time, and you now wish to implement the increases in hours and hourly rate.

Advice

I will not reprise the full extent of my advice to you as it is set out in the formal note provided on 24 February 2021. However, to summarise:

- Officials have not been afforded the time required to undertake comprehensive consultation with all relevant stakeholders, with a particular gap in the engagement with the Government-provided nursery provision in primary schools and provision made in the private school sector;
- There has been insufficient time allowed to undertake both a Children's Rights Impact Assessment and an Economic Impact Assessment of the proposed policy changes. Whilst neither are statutory instruments, the former is an incoming Government requirement, which this Department above all should be trailblazing; and the latter is required to gain as good an understanding as possible as to the impact on the long-term sustainability of the sector and how an increase in hours and hourly rate will play out across the different subsets of the sector;
- The proposed new rate has been put forward by the Jersey Early Years Association, the trade body that represents many of the privately- and independently-owned pre-school and nursery providers. The proposal is not evidenced, however, and no details of the analysis and assessment required to substantiate this figure are yet available. Moreover, officials from this Department and Treasury and Exchequer are only at the earliest stages of reviewing the sufficiency of the present rate and the implications that will arise from the increase in hours;
- Given that there is not an evidenced basis yet for the proposed rate increase, and because the financial impact of the increase in hours in Government-provided nurseries has yet to be fully evaluated, it remains unclear whether or not the resources allocated for growth in this area will be sufficient. This is exacerbated by the 'tightness' in the overall Departmental revenue budget which may well mitigate against offsetting any potential overspend by the redirection of resources from other heads of expenditure; and

- As part of the governance framework pertaining to policy development, the draft report and recommendations of the Early Years Policy Development Board need, according to the Terms of Reference signed off by the Chief Minister, to be considered, first, by the Chief Minister; and, then, the Council of Ministers. The former has reviewed the report (although the outcomes of that deliberation are not yet available); the latter has yet to receive the report and so take a view on its findings.

None of the issues and concerns set out above and more fully in the formal advice are insurmountable and the policy ambitions can in all likelihood be delivered. My concerns as the Accountable Officer arise from an insufficiency of planning and preparation time to enable you to make the necessary fully informed decisions that, consequentially, will enable me to authorise the release and control of the earmarked funding.

Accountable Officer responsibilities

I have reproduced below the key elements of my responsibilities as they pertain to these proposed decisions.

Under the Public Finances Law, the Accountable Officer is wholly accountable for spending, including breaking even on budget by Head of Expenditure, achieving income targets and ensuring Value for Money. Ministers do not hold the accountability for Department spending. The Minister is responsible for making policy.

Therefore, whilst Accountable Officers are not responsible for making policy decisions, they are accountable for the implementation of policy with due regard for the need for efficient and effective outcomes of States priorities. An Accountable Officer must, accordingly, be content that any changes to policy will not negatively impact on budgets to the extent that it is unaffordable within the Heads of Expenditure.

The Public Finances Manual outlines the principles to which the Accountable Officer must discharge their responsibilities. The key point to note is:

- Accountable Officers are personally responsible for managing their area of responsibility efficiently and effectively, and for reporting to the States Assembly accurately and transparently. Initiatives and activities should be assessed “through the Accountable Officer lens” to assess whether they meet the four essential standards of:
 - propriety
 - regularity
 - value for money
 - feasibility

and should be able to describe how they contribute to strategic outcomes and departmental objectives over time and how they will measure progress made and or service performance in alignment with the Jersey Standard for Performance Management and Business Planning.

There is a further Principle which Accountable Officer must work to which is as follows:

- Accountable Officers should apply the overarching test of: “Could this course of action be satisfactorily defended in public?” Standards In Public Life principles are of particular importance to the proper performance of the role.

Having reflected carefully on these responsibilities and the stage of development in the readiness for implementation of your proposed policy changes, as Accountable officer I am:

- a) neither persuaded that these requirements are met in full in relation to value for money and sufficiency of funding in the setting of a new NEF rate; nor
- b) sufficiently informed about the potential impact on the nursery market as a whole (not just the private sector providers) following the introduction of 30 hours.

To reiterate, my position has been arrived at, principally, as a function of time: ie, it has not been possible to undertake the necessary assessments and analyses required to enable me, as Accountable Officer, to make an informed judgement about: a) value for money; and b) affordability.

Conclusion

Therefore, because of the nature of these risks I will require your written instruction in order to proceed.

In particular, I would remind you that an instruction cannot be made that would cause the Head of Expenditure for which I am responsible to become overspent in contravention of Article 15(1) of the Public Finances (Jersey) Law 2019. Should you decide to instruct me to implement your proposals, I will need to do so within the total resources available to CYPES. This may mean, however, that I need to discuss with you a corresponding reduction in another area of the Department's Head of Expenditure. I would, therefore, be grateful, should you proceed to a letter of instruction, to acknowledge to me in writing that you will support measures to ensure the head of Expenditure is not breached. If you are unable to do so, we should make a business case to the Treasury & Resources Minister ahead of you instructing me to implement these changes to the scheme.

In line with the usual process for ministerial instruction, I am copying this letter to the Principal Accountable Officer and the Treasurer of the States. Should you decide to proceed, I anticipate our exchange of correspondence being shared with the Comptroller and Auditor General as early as practicable.

Yours sincerely

A handwritten signature in black ink that reads "SAMark Rogers". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Mark Rogers
Director General

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