

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 13 September 2021</b>
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Reconfiguring Nursery Provision in Penarth
Purpose of Report:	To seek Cabinet approval to consult with stakeholders on proposals to reconfigure nursery provision in Penarth.
Report Owner:	Deputy Leader and Cabinet Member for Education and Regeneration
Responsible Officer:	Paula Ham, Director of Learning and Skills
Elected Member and Officer Consultation:	<p>Operational Manager, Accountancy  Head of Strategy, Community Learning &amp; Resources  Head of Standards and Provision  Committee Reports</p> <p>Local Ward Members would be consulted as part of the consultation process in accordance with the School Organisation Code 2018.</p>
Policy Framework:	This is a matter for Executive decision by Cabinet.
<p>Executive Summary:</p> <p><b>The proposal</b></p> <p>This report seeks Cabinet approval to consult on a proposal to reconfigure nursery provision in Penarth by:</p> <ul style="list-style-type: none"> <li>• amalgamating Bute Cottage Nursery School and Evenlode Primary School; and</li> <li>• amalgamating Cogan Nursery School and Cogan Primary School.</li> </ul> <p>Nursery provision would continue to be provided within the existing buildings with the overall management arrangements being changed.</p> <p><b>Why are we proposing these changes?</b></p> <p>Over the past 10 years the Council has sought to move towards a primary school model for 3 to 11 years education. This has included merging infant and junior schools, such as at Dinas Powys Primary School</p>	

and St Helens Primary School, as well as amalgamating separate nursery and primary provision, such as at Cadoxton Primary School.

Bute Cottage Nursery School and Cogan Nursery School are the only two stand-alone nursery schools within the Vale (i.e. separate entities with their own governing bodies and a delegated budget).

At the same time, Evenlode Primary School and Cogan Primary School are the only two remaining primary schools in the Vale which do not provide, or have approved plans to provide, nursery provision.

The headteacher post at Bute Cottage Nursery School became vacant at the end of August 2019 and is currently being covered through a temporary acting-up arrangement. The headteacher post at Cogan Nursery School became vacant at the end of August 2021 and will be covered for one year through a temporary acting-up arrangement with St Andrews Major CIW Primary School. This provides the opportunity for the Council to reconfigure nursery provision in a way that benefits pupils and staff whilst also avoiding compulsory redundancies.

It is proposed that Evenlode Primary School and Bute Cottage Nursery School are merged. This would result in 96 part time nursery places being provided at Evenlode Primary School (on the existing Bute Cottage Nursery School site). It is also proposed that Cogan Primary School and Cogan Nursery School are merged, resulting in 96 part time nursery places being provided at Cogan Primary School (on the existing Cogan Nursery School site).

#### **What are the main benefits of the proposal?**

- A smoother transition from nursery to primary education for pupils.
- Streamlined communication between parents/carers and staff with a single point of contact throughout all phases of primary education.
- A single governance and accountability regime with a single headteacher and governing body with responsibility for all phases of education at each primary school.
- Opportunities for greater professional development opportunities by being part of a primary school teaching across all phases of primary education.
- A single set of policies across all year groups, incorporating areas of best practice from the individual schools.
- A single vision, strategy and ethos across all phases.
- Generates revenue savings associated with increased running costs for standalone nursery schools which would release additional funding into the overall schools' funding formula.
- Opportunities to make efficiency savings through economies of scale and joined up procurement.

#### **The consultation process**

The Vale of Glamorgan Council is committed to ensuring that consultations are meaningful, relevant and appropriate for the communities that are involved, and the Council has a duty of care to ensure that proposals are clear, transparent, and reflective of those affected. This is a vision that can only be realised by working in partnership with schools, governors, parents and the wider communities we all serve.

Consultation would be undertaken with prescribed consultees in accordance with the School Organisation Code 2018. The Council would publish a Consultation Document, which would provide a comprehensive overview of the proposal, outlining any potential implications. Any person could respond to the consultation during the consultation period, either in writing or through completion of an online form hosted on the Council's website. Following the consultation, the Council would publish a consultation report, which would provide an overview of the feedback received, as well as outlining the Council's response to any issues raised. This would be presented to Cabinet for consideration.

## **Recommendations**

1. That Cabinet authorises the Director of Learning & Skills to undertake a consultation on the proposal to amalgamate Bute Cottage Nursery School and Evenlode Primary School from September 2022 by:
  - Changing the lowest age range of pupils at Evenlode Primary School from 4 to 3, to include 96 part time nursery places;
  - Increasing the capacity of Evenlode Primary School to accommodate the 96 part-time nursery places; and
  - Discontinuing Bute Cottage Nursery School and transferring all staff and pupils of the nursery phase under the governance of Evenlode Primary School from September 2022.
2. That Cabinet authorises the Director of Learning & Skills to undertake a consultation on the proposal to amalgamate Cogan Nursery School and Cogan Primary School from September 2022 by:
  - Changing the lowest age range of pupils at Cogan Primary School from 4 to 3, to include 96 part time nursery places;
  - Increasing the capacity of Cogan Primary School to accommodate the 96 part-time nursery places; and
  - Discontinuing Cogan Nursery School and transferring all staff and pupils of the nursery phase under the governance of Cogan Primary School from September 2022.
3. That Cabinet refers this report to the Learning and Culture Scrutiny Committee for consideration as part of the proposed consultation exercise.

## **Reasons for Recommendations**

1. To seek Cabinet authority to carry out a statutory consultation in compliance with the requirements of the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018 on the proposal to amalgamate Bute Cottage Nursery School and Evenlode Primary School from September 2022.
2. To seek Cabinet authority to carry out a statutory consultation in compliance with the requirements of the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018 on the proposal to amalgamate Cogan Nursery School and Cogan Primary School from September 2022.

3. To ensure that the Learning and Culture Scrutiny Committee is consulted on the proposals.

## **1. Background**

- 1.1 The Vale of Glamorgan Council is committed to ensuring that all pupils within the Vale have every opportunity to attain the best possible outcomes. To achieve this ambition, it is essential that we ensure schools remain sustainable, reflect the needs of our local communities, and are equipped with the best possible learning environments.
- 1.2 The Council has phased out standalone nursery schools with just Bute Cottage Nursery School and Cogan Nursery School remaining. Correspondingly, the Council has also looked to establish nursery provision across all primary schools. There are currently only 4 primary schools across the Vale of Glamorgan which do not provide nursery provision: Llancarfan Primary School, St Nicholas CIW Primary School, Evenlode Primary School and Cogan Primary School.
- 1.3 On 18 March 2019, Cabinet approved the proposal to reconfigure primary provision in the Western Vale, which would see the establishment of nursery provision at Llancarfan Primary School from September 2021. Furthermore, on 23 September 2019, Cabinet approved the proposal to establish nursery provision at St Nicholas CIW Primary School.
- 1.4 Following the implementation of the above proposals, Evenlode Primary School and Cogan Primary School would be the last remaining primary schools in the Vale of Glamorgan which do not provide nursery provision. Nursery provision is available locally at the standalone Bute Cottage and Cogan Nursery Schools.
- 1.5 This report seeks Cabinet approval to consult on the proposals to amalgamate Bute Cottage Nursery School and Evenlode Primary School, as well as Cogan Nursery School and Cogan Primary School.

## **2. Key Issues for Consideration**

### **Case for Change**

- 2.1 Bute Cottage Nursery School and Cogan Nursery School are the only remaining standalone nursery schools in the Vale of Glamorgan. Bute Cottage Nursery prioritises pupils living in the Evenlode Primary School catchment area and Cogan Nursery School prioritises pupils living in the Cogan Primary School catchment area.
- 2.2 Both nursery schools are managed by a headteacher and governing body and receive a separate delegated budget from the Council. The headteacher post at Bute Cottage Nursery became vacant at the end of August 2019 and is currently being covered through a temporary acting-up arrangement. The headteacher post at Cogan Nursery School became vacant at the end of August

2021 and will be covered for one year through a temporary acting-up arrangement with St Andrew's Major CIW Primary School. This provides the opportunity for the Council to reconfigure nursery provision whilst avoiding compulsory redundancies.

- 2.3** The 2021/22 budget for Bute Cottage Nursery School is £286,292, which equates to £6,983 per pupil (FTE). Cogan Nursery School received a budget totalling £280,829 which equates to £7,590 per pupil (FTE). The amount of funding per pupil is significantly higher than the average funding per pupil across all primary schools which was £3,804 in 2021/22. Funding per pupil is generally higher in standalone nursery schools due to the costs of the headteacher and other fixed costs absorbed over a low number of pupils.
- 2.4** Should the proposal be implemented, Evenlode Primary School and Cogan Primary School would each receive an individual budget including allocations for the nursery phase. As the majority of school funding is based on the number of pupils on roll, the proposals would improve the overall budget position for Evenlode Primary School and Cogan Primary School. Evenlode Primary School currently receives the lowest level of funding per pupil across all Vale schools, which is partly due to the lack of nursery provision. The proposals would result in a more efficient use of financial resources across all schools. Larger schools are also generally able to secure better value for money through economies of scale. The proposal would save approx. £140k per annum, with 7/12th of the saving materialising in the 2022/23 Financial year as the proposal would commence from September 2022.
- 2.5** Most pupils attending Evenlode Primary School and Cogan Primary School previously attended Bute Cottage Nursery School and Cogan Nursery School respectively. The proposal would facilitate a consistent education philosophy for children for up to 9 uninterrupted years of education, thereby minimising the potential for disruption during transition from nursery to primary.
- 2.6** The introduction of consistent policies, strategies and pedagogy across all ages would result in clear expectations and a shared ethos which is understood by children, parents and carers throughout all phases of primary education. The proposal would also support a coordinated approach to planning for the needs of vulnerable pupils across the foundation phase.
- 2.7** A single leadership team and governing body across each school would result in the removal of duplication of management and governance functions. For example, the standalone nursery schools are currently inspected by Estyn and have to submit separate data returns to the Council, Central South Consortium and Welsh Government. The streamlining of management and administrative functions, as well as the ability to arrange joint contracts and service level agreements for buildings and other support services, would result in available funding being utilised more effectively. The amalgamated schools would make it easier to engage with parents particularly where they have children of both nursery and primary ages. Parents would only need to familiarise themselves with one set of policies and one set of communications.

## Land and Buildings

- 2.8** Bute Cottage Nursery School is located 0.7miles from Evenlode Primary School. The existing buildings are classed as being in satisfactory condition and of good suitability. Should this proposal be implemented, staff and pupils would remain on the existing site with Evenlode Primary School being managed as a split-site school.
- 2.9** Cogan Nursery School is located 0.2miles from Cogan Primary School. The existing buildings are classed as being in satisfactory condition and of good suitability. Should this proposal be implemented, staff and pupils would remain on the existing site with Cogan Primary School being managed as a split-site school.
- 2.10** The Council has allocated £1.362m as part of the 21<sup>st</sup> Century Schools Programme to support reconfiguration of nursery provision in Penarth. Should the proposals be approved, the Council would prioritise relocating nursery provision at Evenlode Primary School onto a single site. The Council would undertake a full feasibility assessment and any plans would be subject to a separate consultation exercise as part of the planning process.

## Impact on Education Outcomes

- 2.11** In September 2017 a new Estyn School Common Inspection Framework was introduced for all schools across Wales. Bute Cottage Nursery School and Evenlode Primary School have not been inspected since the new framework was introduced. However, the outcome of their most recent inspection is summarised in the table below.

School	Inspection Date	Current Performance	Prospects for Improvement
Bute Cottage Nursery School	October 2013	Good	Good
Evenlode Primary School	March 2015	Good	Excellent

- 2.12** Cogan Nursery School and Cogan Primary School have both been inspected since the introduction of the new inspection framework. The outcome of their most recent inspection is summarised in the table below.

School	Inspection Date	Standards	Wellbeing and attitudes to learning	Teaching and learning experiences	Care, support and guidance	Leadership and management
Cogan Nursery School	November 2019	Excellent	Excellent	Excellent	Excellent	Excellent
Cogan Primary School	May 2018	Good	Good	Good	Excellent	Excellent

- 2.13** The tables above highlight that all four schools received positive feedback from their respective inspections. The proposals would ensure the schools can continue to provide high standards of education, whilst also providing greater opportunities. As outlined above, the amalgamated schools would be

inspected as a single entity and would be supported by a single improvement partner from the Central South Consortium.

- 2.14** There are also opportunities to improve continuity and progression across the primary and early years phases of education with consistent policies, strategies and pedagogy.

### **Admissions Arrangements**

- 2.15** Should the proposals be implemented, the catchment areas of Cogan Primary School and Evenlode Primary School would remain unchanged. The Council would be the admissions authority for both schools.
- 2.16** Children on roll in the nursery phase would not have an automatic right to continue education at the same school when moving up to a reception class. Parents would be required to apply for their chosen school. Where there are more applications than there are places available in the reception class, places would be allocated applying the Council's oversubscription criteria which prioritises those resident within the catchment area.

### **Transport Implications**

- 2.17** There would be no overall increase in the number of primary and nursery places available as a result of the proposals. Nursery provision would also continue to be provided within the existing buildings. Therefore, it is not envisaged that traffic or congestion would be negatively affected by these proposals.
- 2.18** The Council does not provide free school transport for nursery-aged children other than some with a Statement of Special Educational Needs.

### **Benefits of the Proposal**

- 2.19** The main benefits of this proposal are:
- A single governance and accountability regime with a single headteacher and governing body with responsibility for all phases of education at each primary school.
  - Opportunities for greater professional development opportunities by being part of a primary school teaching across all phases of primary education.
  - A single set of policies across all year groups, incorporating areas of best practice from the individual schools.
  - A single vision, strategy and ethos across all phases.
  - Generates revenue savings associated with increased running costs for standalone nursery schools which would release additional funding into the overall schools' funding formula.
  - Opportunities to make efficiency savings through economies of scale and joined up procurement.
  - Streamlined communication between parents and staff with a single point of contact throughout all phases of primary education.

## **Transition**

- 2.20** The Council would fully support the staff and governors of the individual schools throughout the development of the proposals. Should the proposals be approved, the Council would work closely with staff and governors to develop a comprehensive transition plan.
- 2.21** Whilst the governing bodies of Bute Cottage Nursery School and Cogan Nursery School would be disbanded from September 2022, the Council would work with the governing bodies of Evenlode Primary School and Cogan Primary School to identify opportunities for governors to transfer to ensure continuity.
- 2.22** The governing bodies of Evenlode Primary School and Cogan Primary School would need to amend their terms of reference and structure to reflect the inclusion of the nursery phase.

## **Statutory Process**

- 2.23** Welsh Government's revised School Organisation Code 2018 came into effect on the 1st November 2018. The Council must "act in accordance with the Code" as determined by the School Standards and Organisation (Wales) Act 2013.
- 2.24** Section 48 of the School Standards and Organisation (Wales) Act 2013 Act requires that before school organisation proposals are published, they must first be subject to consultation. A consultation document must be published and provided to prescribed consultees and Welsh Ministers.
- 2.25** Consultees must be advised by letter or email of the availability of the consultation document and that a hard copy can be obtained on request. Consultees must be given at least 42 days to respond to the document, with at least 20 of these being school days.
- 2.26** A consultation report must be published including a summary of comments received and the Council's response to these comments, at least two weeks prior to the publication of any statutory notice.
- 2.27** The Council must then decide whether or not to proceed with the proposal within 26 weeks of the end of the period allowed for consultation responses. If following the consultation process the Council decides that the proposal is to be progressed, a statutory notice would be published providing 28 days for objections. The notice must be published on a school day and must include 15 school days (in addition to the day on which it is published).
- 2.28** If objections are received, an objection report must be published with a summary of the objections and the Council's response before the end of 7 days beginning with the day of its determination.
- 2.29** Appendix A sets out the anticipated timescale for this process if approved by Cabinet.



### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Well-being of Future Generations Act 2015 (“the 2015 Act”) requires the Council to think about the long-term impact of their decisions, to work better with people, communities and each other and to prevent persistent problems such as poverty, health inequalities and climate change.
- 3.2** The Council has committed as part of the Corporate Plan 2020-2025 to achieving a vision of ‘Working Together for a Brighter Future’. This plan is reflective of the Welsh Government’s Well-being of Future Generations Act and is comprised of four Well-being objectives to deliver this vision:
- Objective 1 - To work with and for our communities
  - Objective 2 - To support learning, employment and sustainable economic growth
  - Objective 3 - To support people at home and in their community
  - Objective 4 - To respect, enhance and enjoy our environment
- 3.3** To make sure we are all working towards the same purpose, the 2015 Act puts in place seven well-being goals on the Council. The 2015 Act makes it clear the listed public bodies must work to achieve all of the goals, not just one or two, these being:
- A prosperous Wales
  - A resilient Wales
  - A healthier Wales
  - A more equal Wales
  - A Wales of cohesive communities
  - A Wales of vibrant culture and Welsh Language
  - A globally responsible Wales
- 3.4** These proposals contribute to achieving the wellbeing goals by:
- Generating financial savings to ensure a more efficient financial model for education in the Vale.
  - Ensuring a fairer distribution of funding across the Vale.
  - Increasing collaboration across all phases of primary education.
- 3.5** The 2015 Act imposes a duty on all public bodies in Wales to carry out “sustainable development”, defined as being, "The process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals." The action that a public body takes in carrying out sustainable development includes setting and publishing well-being objectives and taking all reasonable steps in exercising its functions to meet those objectives.

**3.6** The 2015 Act sets out five ways of working needed for the Council to achieve the seven well-being goals, these being:

- The importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs.
- Considering how the Council's objectives impact upon each of the wellbeing goals listed above.
- The importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the Council services.
- Acting in collaboration with other persons and organisations that could help the Council meet its wellbeing objectives.
- Acting to prevent problems occurring or getting worse.

**3.7** These proposals meet the five ways of working by:

- Responding to the need to ensure that there is a well-managed balance of supply and demand of school places across the Vale.
- Developing schools that will have an environment reflective of the national mission for education in Wales and future curriculum.
- Ensuring that schools remain sustainable, reflects the needs of local communities and are equipped with the best possible learning environments.
- Delivering rigorous consultation with open communication channels and numerous opportunities for stakeholders to engage throughout the process.
- Ensuring that schools are of the right size, in the right places and serving the educational needs of their local communities as part of the school organisation process.

**3.8** The proposals have been appraised in terms of how they contribute to delivering upon the aspirations of the Act, the well-being goals, and the ways-of-working. This does not form part of the statutory consultation process but was considered beneficial to meeting the spirit of the Act.

## **4. Resources and Legal Considerations**

### **Financial**

**4.1** The funding formula is driven by per pupil funding and a number of lump sum allocations per school. On that basis the formula saving from amalgamating Bute Cottage Nursery School and Evenlode Primary School would be £70,000 based on the removal of lump sum allowances. The 2021/22 Evenlode Primary School budget is £1,346,511 and the Bute Cottage Nursery School budget is £286,292 (totalling £1,632,803). The combined budget generated by amalgamating Bute Cottage Nursery School with Evenlode Primary School would be £1,562,803 at the 2021/22 funding rates.

- 4.2** The funding formula saving from amalgamating Cogan Nursery School and Cogan Primary School would be £70,000 based on the removal of lump sum allowances. The 2021/22 Cogan Primary School budget is £838,705 and the Cogan Nursery School budget is £280,829 (totalling £1,119,534). The combined budget generated by amalgamating Cogan Nursery School and Cogan Primary School would be £1,049,934 at the 2021/22 funding rates.
- 4.3** £1.362m is included within the Capital Programme as part of the 21<sup>st</sup> Century Schools Programme to support reconfiguration of nursery provision in Penarth. Should the proposals be approved, the Council would prioritise relocating nursery provision at Evenlode Primary School onto a single site. The Council would undertake a full feasibility assessment and any plans would be subject to a separate consultation exercise as part of the planning process.

### **Employment**

- 4.4** Bute Cottage Nursery School and Cogan Nursery School staff would transfer under the management of the governing bodies of Evenlode Primary School and Cogan Primary School respectively.
- 4.5** The governing bodies of Evenlode Primary School and Cogan Primary School would be responsible for amending their staffing structures to reflect the addition of the nursery phase. It is anticipated that for permanent posts on the structure, there would not be any compulsory redundancies as a result of these proposals, however any safeguarding or redundancy provisions would be applied in line with relevant policies. Any proposed changes to staffing would be subject to full consultation with staff and the relevant trade unions where necessary.

### **Legal (Including Equalities)**

- 4.6** Part 1 of the Education Act 1996 (“the 1996 Act”) imposes a number of general duties on all local authorities in Wales. The general duty in section 13 of the 1996 Act is to contribute (so far as the Council’s powers enable them to do so) towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education and secondary education are available to meet the needs of the population of their area.
- 4.7** Section 13A(3) of the 1996 Act states that a local authority in Wales must ensure that their relevant education functions and their relevant training functions are exercised by the authority with a view to promoting high standards, and promoting the fulfilment of learning potential by every person to whom the subsection applies, including those who are of compulsory school age or are below school age and are registered as pupils at schools maintained by the authority.
- 4.8** Section 14 of the 1996 Act then provides that the Council shall secure that sufficient schools for providing primary education and secondary education are available in the Council’s area. Schools available for an area shall not be regarded as sufficient unless they are sufficient in number, character and equipment to

provide for all pupils the opportunity for appropriate education. Appropriate education means education which offers such variety of instruction and training as may be desirable in view of (a) the pupils' different ages, abilities and aptitudes; and (b) the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their different needs.

- 4.9** Powers for Councils to develop school organisation proposals are governed by the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code 2018. The Council is to comply with the relevant provisions in connection with the proposal.

### **(1) School Standards and Organisation (Wales) Act 2013**

- 4.10** Part 3 of the School Standards and Organisation (Wales) Act 2013 ("the 2013 Act") is concerned with school organisation. The Welsh Ministers have issued the School Organisation Code ("the Code"). Local authorities must, when exercising functions under Part 3 of the 2013 Act, act in accordance with any relevant requirements contained in the Code and must have regard to any relevant guidelines contained in it. A copy of the Code is found here: <https://gov.wales/sites/default/files/publications/2018-10/school-organisation-code-second-edition.pdf>
- 4.11** Chapter 2 of Part 3 of the 2013 Act deals with school organisation proposals.
- 4.12** Section 48(2) of the 2013 Act provides that before publishing such proposals, a proposer (in this case, the Council) must consult on its proposals in accordance with the Code. The consultation document must be issued during the term time of the schools affected and consultees must be given at least 42 days to respond to the document, with at least 20 of these being school days.
- 4.13** The proposer must publish a report on the consultation it has carried out in accordance with the Code. The consultation report must summarise each of the issues raised by consultees, responding to these by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons; and setting out Estyn's view (as provided in its consultation response) of the overall merits of the proposal.
- 4.14** If a local authority decides to proceed with a proposal to make regulated alterations to a maintained school, it must publish proposals to that effect in accordance with the Code (section 48(1)). The proposal must be published by way of statutory notice. Chapter 4 of the Code sets out specific requirements as to how statutory proposals must be published. Proposals must be published on a school day and the objection period must include 15 school days (in addition to the day on which it is published).
- 4.15** Section 49 of the 2013 Act makes provision for any person to object to proposals published under section 48 within the objection period of 28 days. The Council must then publish a summary of all objections made to the proposal and its response to those objections before the end of 7 days beginning with the day of the Council's determination.

**4.16** The local authority proposer must then determine whether the proposals should be implemented. Where a local authority's proposals have received objections, and require determination, those objections will be carefully considered before a final determination is made. A further report to Cabinet will be prepared before any such determination is made. This determination must take place before the end of 16 weeks beginning with the end of the objection period.

## **(2) The Code**

**4.17** The Code contains the following elements:

- It imposes requirements in accordance with which relevant bodies (including all local authorities in Wales) must act. Where mandatory requirements are imposed by the Code or by the 2013 Act or another statute or statutory instrument, it is stated that the relevant bodies must comply with the particular provision. Where practices are prohibited, it is stated that the relevant bodies must not use this practice.
- It includes statutory guidance to which the Council must have due regard and sets out the policy context, general principles and factors that should be taken into account by those bringing forward proposals to reconfigure school provision and by those responsible for determining proposals. Where guidance is given by the Code, it is stated that relevant bodies should follow this guidance unless they can demonstrate that they are justified in not doing so.

**4.18** Paragraph 1.1 of the Code sets out the key background principles and policies, which should be taken into account by the Council in developing school organisation proposals. These include:

- United Nations Convention on the Rights of the Child
- The Well-being of Future Generations (Wales) Act 2015 (see below)
- Cymraeg 2050, A Million Welsh Speakers
- Action Plan, Cymraeg 2050
- One Wales: One planet, a new sustainable development scheme for Wales May 2009 or any successor strategy
- Child Poverty Strategy for Wales (issued February 2011 Information document number 95/2011), or any successor strategy
- Faith in Education
- Local plans for economic or housing development
- Welsh in Education Strategic Plans (made under part 4 of the School Standards and Organisation (Wales) Act 2013)
- Children and Young People's Plans (or successor plans)
- 21st Century Schools – Capital Investment Programme and the relevant wave of investment

- Learner Travel Statutory Provision and Operational Guidance 2014: <https://beta.gov.wales/learner-travel-statutory-provision-and-operational-guidance>
- Measuring the capacity of schools in Wales, Circular No: 021/2011: <https://beta.gov.wales/measuring-capacity-schools-guidance>
- Children and Young People’s National Participation Standards

**4.19** Section 1.4 of the School Organisation Code 2018 outlines that Councils should consider the extent to which the proposal would support the targets in the approved Welsh in Education Strategic Plan (WESP).

### **(3) The Well-being of Future Generations (Wales) Act 2015**

**4.20** The Well-being of Future Generations (Wales) Act 2015 (‘the 2015 Act’) sets out new ways of working – of planning and making decisions – for local authorities and other public bodies it lists. The aim is that, by improving these things, the overall well-being of Wales will be better improved by the things public bodies collectively do. The Act and the statutory guidance makes it clear that local authorities must, in the course of their corporate planning and their delivery against those plans:

- balance short term needs against the ability to meet long term needs;
- think about the impact their objectives have on other organisations’ objectives, and on the well-being of Wales, in an integrated way;
- involve in those processes people who reflect the diversity of the population they serve;
- work together collaboratively with other organisations to better meet each other’s objectives; and
- deploy their resources to prevent problems from getting worse or from occurring in the first.

**4.21** The statutory guidance, for organisations subject to the Act, sets out the expectations for how the duties should be met:

<http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>

**4.22** The Act itself is available to view online:

<http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

**4.23** Current practice on the use of surplus school accommodation, Information document No 158/2014.

### **(4) Equalities Act 2010**

**4.24** The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Council’s must in making decisions have due regard to the need to (1) eliminate

unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics.

- 4.25** A full Equality Impact Assessment will be developed as part of the consultation exercise and will be included within the consultation report.

**(5) The Equality Act (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021**

- 4.26** On the 10 and 11 March 2021 respectively, the Equality Act (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021 (SI 2021/295) and the Equality Act 2010 (Commencement No 15) (Wales) Order 2021 (SI 2021/298) were made, and the 'socio-economic' inequality duty under the Equality Act 2010 and make public bodies subject to the duty.

- 4.27** A commencement order and regulations were made concerning the coming into force of the public sector duty regarding socio-economic inequalities, as follows:

- *The Equality Act 2010 (Commencement No 15) (Wales) Order 2021 (SI 2021/298)* was made on 11 March 2021 brought section 1 (that is, the socio-economic inequality duty) and section 3 (enforcement for the purposes of section 1) of the Equality Act 2010 into force on 31 March 2021
- *The Equality Act (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021 (SI 2021/295)* were made on 10 March 2021 and came into force on 30 March 2021. The Regulations make specific Welsh public bodies subject to the socio-economic inequality duty when the duty is brought into force under the above Order.

- 4.28** The Socio-economic duty places a duty on the Council, as a public sector organisation in Wales, to consider how it might help reduce the inequalities associated with socio-economic disadvantage when strategic decisions are made, including decision which would include deciding priorities and setting objectives, such as:

- Strategic directive and intent.
- Strategies developed at Regional Partnership Boards and Public Service Boards which impact on a public body's functions.
- Medium to long term plans (for example, corporate plans, development plans, service delivery and improvement plans).
- Setting objectives (for example, well-being objectives, equality objectives, Welsh language strategy).
- Changes to and development of public services.
- Strategic financial planning.
- Major procurement and commissioning decisions.
- Strategic policy development.

- 4.29** When making decisions, and reviewing previous strategic decisions, the Council needs to do the following:
- Take account of evidence and potential impact.
  - Through consultation and engagement, understand the views and needs of those impacted by the decision, particularly those who suffer socio-economic disadvantage.
  - Welcome challenge and scrutiny.
  - Drive a change in the way that decisions are made and the way that decision makers operate.
- 4.30** When making a decision or reviewing a previously made strategic decision made after the 31 March about how to exercise their functions, the Council must show that it has had 'due regard' (giving weight to a particular issue in proportion to its relevance) to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage. Those subject to the duty includes government ministers and departments, local authorities and NHS bodies.
- 4.31** This would form part of the full Equality Impact Assessment which would be developed as part of the consultation process.

## **5. Background Papers**

None.



**Nursery Provision in Penarth**

**Proposed Timescales**

---

<b>Action</b>	<b>Timescale (2)</b>
Approval to consult	Monday 13 September 2021
Consultation with stakeholders	Monday 20 September – Friday 5 November 2021
Cabinet to consider consultation report	Monday 20 December 2021
Statutory notice (and objection period)	Wednesday 5 January – Wednesday 2 February 2022
Final determination	Monday 14 March 2022
Implementation	September 2022