

# EXECUTIVE COUNCIL

## PUBLIC

Title: Regulation of Nursery Provision

Paper Number: 01/17

Date: 26 April 2017

Responsible Director: Director of Education

Report Author: Director of Education

Portfolio Holder: MLA Barry Elsby

Reason for paper: This paper is submitted to Executive Council:  
For policy decision (including budgetary policy)

Publication: Yes

Previous papers: 226/15 Nursery and Childminding Provision in the Falkland Islands December 2015  
94/15 Nursery Provision in the Falkland Islands May 2015  
118/14 Early Years Childcare Strategy June 2014  
08/05 CE - Childcare Facilities  
162/05 CE - Childcare Facility  
256/04 CE - Childcare Facilities  
329/03 CE Childcare Facilities  
130/02 Childcare Provision for working parents May 2002  
203/01 CE Childcare Provisions for Working Parents

List of Documents: Consolidated Review of Nursery Care (Appendix 1)  
Cost Schedule (Appendix 2)

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### 1. **Recommendations**

Honourable Members are recommended to:

- 1.1 Note the content of the Consolidated Review of Nursery Care (Appendix 1)
- 1.2 Approve the development and implementation of compulsory regulation of the Childcare sector through a separate Childcare Ordinance.
- 1.3 Instruct the Director of Education to develop a detailed plan and implement Option B as set out in this paper and detailed in the Consolidated Review of Childcare (Appendix 1.)
- 1.4 Approve the following budget associated with the development and delivery of Option B as detailed in paragraph 2 below.

- 1.5 Approve the appointment of a full time Project Manager to lead on the detailed development work.
- 1.6 Agree in principle that FIG would provide financial support to subsidise nursery childcare costs for lower income families; the level to be agreed once the detailed modelling is completed.
- 1.7 Approve up to £200,000 over a five year period to enable improvements of nursery facilities to be established based on an appropriate scheme, to be developed by FIDC/Treasury, approval of funding referred to Budget Select Committee.

2. **Additional Budgetary Implications**

Operational Costs			
	2016/17	2017/18	Annual Recurring
	£	£	£
Safety Improvements	15,000		
Implementation Consultant	40,000		
Role Model Trainer		70,000	70,000
	<u>55,000</u>	<u>70,000</u>	<u>70,000</u>
Capital Costs			
		£	£
Upto a maximum		200,000	200,000

- 2.1 The costs of items have been bundled in line with the Project Manager’s recommendations. A breakdown of individual costs is included as Appendix 2 to this report.
- 2.2 Option A includes basic regulation, the provision of support from an early years expert, a means tested contribution to parents’ childcare costs and a ring fenced capital fund for grants to businesses to be administered by the FIDC.
- 2.3 Option B includes everything included in Option A. In addition, this option would represent a commitment to Early Years Development, which would essentially be a commitment to providing structured learning. Option B therefore includes additional funds to support the transition providing an early years expert role over a period of two years and enhanced local training provision and support.

3. **Executive Summary**

- 3.1 The childcare sector in the Falkland Islands has been an area for concern for some time both in terms of the safety of children and the stability of the sector where many businesses have faced persistent financial and operational challenges.

- 3.2 A great deal of consideration has been given to supporting the sector by government in recent years. In 2014, a decision was made to try self-regulation and it can now be concluded from a review of evidence that this has not been successful. The absence of regulation at the present time means that Government agencies are sometimes unable to take action, even where they have concerns about children's safety.
- 3.3 It is recognised that existing private provision reflects credibly on the resourcefulness and dedication of many of the community but the current system is not suitably responsive to the developing needs of the Falkland Islands and in seeking to maintain a service, providers are being forced to compromise on quality and safety. Regulation of childcare is so universal internationally that it has proved impossible to identify an example of a comparative country where it does not exist. This does not accord with the Falkland Island's recognised position as a leader of safeguarding policy in the British Overseas Territories.
- 3.4 The Consolidated Review of the Childcare Sector 2016 (Appendix 1) reports that the system is in need of reform to better provide for the safety and educational needs of our youngest residents and to provide the necessary confidence in parents that their children are safe while they are working.
- 3.5 Consensus exists that safe and happy childhoods for young people are desirable. In addition to addressing existing market failures, investment in early years has long term social, economic and health benefits for the Falkland Islands and the future of young Falkland Islanders.<sup>1</sup> Extensive international research links investment in early years with improved health in later life and improved educational attainment. Early Years provision provides a foundation for the existing population but also encourages local population growth in supporting parents to have children. Recent research suggests that there is strong correlation between brain stimulation before the age of 3 and a person's cost to the health, criminal justice and welfare systems later in life.<sup>2</sup>
- "The strong connection between early-childhood development and costly adult outcomes underscores the need for preventative health and education programs for children and families."*<sup>3</sup>
- 3.6 Regulation of the sector is popular with stakeholders. Wide consultation has taken place with key stakeholders including regular meetings between a Steering Group including the Portfolio Holder, Treasury, Chamber of Commerce, Education, Health and Social Services representatives as well as meetings with Parents, Childcare Providers and other stakeholders with an interest in provision of care. In addition, a Parental Survey provided insightful information including confirmation that 86% of parents who responded would like to see the sector regulated.

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<sup>1</sup> ExCo 226/15P outlined the international academic research on child development and included local research by the Health Visitor and IJS & Camp Education. The Policy Department endorses the broad international consensus that investment in Early Years provides a high rate of return for governments.

<sup>2</sup> Childhood forecasting of a small section of the population with a large economic burden (Duke University): Natural Human Behaviour December 2016

<sup>3</sup> Capsi and Moffitt - Duke University quotation from above research paper

- 3.7 Reform of the sector will require legislation and government investment in some form. Previous reports have documented that businesses are struggling financially; some parents are also at risk of hardship if costs increase without support. The Parents Survey revealed that 8% of respondents were spending half of household income on childcare at present and 30% were spending more than a third. It is envisaged that prices would need to rise from around £2.50 per hour currently to £4.00 per hour if regulation is introduced<sup>4</sup>. This higher rate is not affordable for many families. Funding and prioritisation of public resources will be necessary in order to achieve the outcomes recommended below.
- 3.8 In addition to prioritising existing resources, it is recommended that an Early Years professional is employed in order to lead change through role modelling behaviour and support local delivery of necessary training. Hands on training will deliver skills to the sector more quickly than classroom qualifications; can be delivered without requiring staff to attend in their evenings or requiring cover during the day and at a lower cost than the current practice of overseas training.
- 3.9 This paper presents options for measures needed to deliver the reforms needed in the sector to provide safe environments for young children. In addition, it presents the opportunity of improving from a position of basic safety to a vision of long term investment in young people as a growth strategy for the Falkland Islands. In putting forward these models, it is recognised that support is necessary in order to achieve this and a number of investment mechanisms are explored which will facilitate development without compromising short term supply of childcare spaces.

#### 4. **Background and Links to Islands Plan and Directorate Business Plan**

- 4.1 As part of the Island Plan, the Legislative Assembly confirmed its commitment to safeguarding children and recognised the role played by regulation in protecting children from harm. “We will ensure that our laws and their enforcement safeguard our children from harm.”
- 4.2 The Education Directorate Business Plan lists ‘coordinating ‘measures to improve nursery provision (for under 3s) in the private sector’ as a priority for 2016/2017.
- 4.3 Introducing a framework of regulation would set a minimum standard and ensure that all children within childcare within the Falkland Islands were ensured a minimum level of safety. It would provide powers to take action where concerns over child safety exist which can currently be difficult to justify in the absence of any relevant legislation.
- 4.4 Honourable Members have received reports on the current state of the sector and have requested that proposals on regulation and other means of improvement be set out to enable them to make decisions on actions required in the childcare sector and to enable them to deliver on their commitment in the Island Plan.

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<sup>4</sup> FIDC undertook extensive modelling of the childcare sector with multiple scenarios based on overheads, pricing and child numbers to calculate what businesses would need to charge to take home a moderate profit.

- 4.5 In accordance with the decision of Executive Council in response to Executive Council Paper 226/15 a Project Manager has been engaged to provide a plan for a future model. She has consulted with childcare providers, relevant agencies and parents to produce a plan for a new childcare model. Consultation has taken the form of meetings with relevant stakeholders, in depth analysis of individual challenges with a Steering Group comprising representatives from Education, Health, the Chamber of Commerce and Treasury and consultation with childcare businesses and parents through workshops and questionnaires.
- 4.6 The Director of Education supports and agrees with the findings in the report that both aspects of the sector, early years care and wrap around care for School age children are overdue for regulation and at risk of failing.
- 4.7 The report demonstrates that a failure of the nursery sector would place an intolerable and immediate strain on the economy of the Islands through the inevitable large-scale withdrawal from labour of the primary carers of children currently within the system. The Director of Education while recognising that the damage this may cause cannot be definitely quantified, considers this point to be of vital importance as it is likely that the costs to the economy of this worst case scenario is likely to exceed the higher-end costs of the regulatory models proposed. In addition, such failure would put at risk the commitment given to safeguarding in the Island Plan.

## 5. **Options and Reasons for Recommending Relevant Option**

A range of options are presented and explored in the attached report (Appendix 1) based on a thorough exercise of consultation. The following represents a summary of the proposed options the Director of Education considers open to Honourable members to address the key risk areas and solutions to them advanced in the report. Recommendations have been bundled into three options based on the combination of measures that are required in order to deliver effective change (or no change in the case of option C). Each option includes a model of childcare provision, funding, resourcing and training options. A breakdown of costs for each option included in this section and paragraph 2 above can be found as Appendix 2 to this report.

Options:

- 5.1 Option A: Create a regulatory framework for the childcare sector and provide the required support to ensure the stability of the sector, to effectively safeguard children in line with the Island Plan and to reduce future liabilities for government. This includes:
- 5.1.1 A regulatory framework under which childcare businesses are inspected and licensed under the arrangements set out in Appendix 1.
- 5.1.2 Parental funding to encourage parents to continue to work with higher childcare rates (either universal or means tested to support those currently spending in excess of 30% of household income on childcare.<sup>5</sup>)

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<sup>5</sup> Options are presented for universal and means tested funding. Means tested funding to support low earners is included in the recommended option as it is significantly cheaper and all highlighted costs include means

- 5.1.3 Direct capital grants to businesses to facilitate the necessary commercial investment to support the transition. This is proposed to be put in place for a 5 year period to kick start improvements and then to be reviewed. Grants would be administered by the FIDC and could be provided on an agreed set of suitable criteria and conditions, including match funding if deemed appropriate.
- 5.1.4 A local training plan to develop and retain skills in the sector and ensure effective safeguarding including a mandatory childcare induction and new practical work based training delivered by an Early Years role model trainer.
- 5.1.5 A small discretionary budget for the Childcare Liaison Officer to fund implementation of the Nursery Award Scheme and fund activities undertaken as part of her role such as Sports Days and other events and activities.
- 5.1.6 Policies and procedures to ensure that children with additional needs are supported in childcare settings.
- 5.1.7 Funding for a Project Manager to project manage implementation of agreed changes.
- 5.2 Option B: Commitment to an Early Years Development Strategy to provide long term social, economic and health benefits to the Falkland Islands and its young population. This includes:
  - 5.2.1 Implementation of Option A recommendations.
  - 5.2.2 Additional funding to support higher level training locally
  - 5.2.3 Additional funding to improve facilities in buildings for young children e.g. provision of suitable toilet facilities
  - 5.2.4 Additional budget for Childcare Liaison Officer to facilitate her role.
- 5.3 Option C: Do nothing - not recommended on account of risks covered in section 9 'Significant Risks'.  
  
Recommendation:
- 5.4 Option B: Commitment to an Early Years Development Strategy to provide long term social, economic and health benefits to the Falkland Islands and its young population. This includes:
  - 5.4.1 Implementation of Option A recommendations.
  - 5.4.2 Additional funding to support higher level training locally
  - 5.4.3 Additional funding to improve facilities in buildings for young children e.g. provision of suitable toilet facilities
  - 5.4.3 Additional budget for Childcare Liaison Officer to facilitate her role.

## 6. **Resource Implications**

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tested rather than universal provision. Universal support remains as an option which would multiply the estimated 'means tested support' cost by three – although it would reduce administrative costs and would remove the need for an additional working time in the Treasury.

## 6.1 **Financial Implications**

- 6.1.1 The proposals require additional funding to be included in the revenue and potentially also in capital budgets (see Appendix 2 cost schedule.)
- 6.1.2 Treasury recognises the risk to the economy of the withdrawal of labour which would be caused by the failure of even one of the current nursery providers. Treasury has been involved in the Project Steering Group as a key stakeholder and recognise the difficult financial position of the nurseries and some parents.

## 6.2 **Human Resource Implications**

- 6.2.1 The creation of an Early Years role model trainer role to provide mentoring and training to the nascent Falkland Islands system. This is recommended as an interim role to support the transition period through practical on the job training to provide immediate improvements and to demonstrate and support a commitment to improved safeguarding by government.
- 6.2.2 In the event that a system of Parental Support being approved, this will require the creation of a part time role within Treasury to deal with the administration of the scheme.
- 6.2.3 The extension and funding to the role of Project Manager to support the implementation of the agreed option.

## 6.3 **Other Resource Implications**

- 6.3.1 An increase in the role played by the Department of Education in the supervision and inspection of the Childcare Sector.
- 6.3.2 The longer term implications of creating a model of domestic training will make this project sustainable within the economy of the Falklands and lead to a reduction in training costs longer term (subject to the decisions made by members).
- 6.3.3 On this point, from a Human Resources point of view the proposal to create a local NVQ 2 and 3 course is advantageous to the Islands economy and to the employability of workers domestically and internationally.

## 7. **Legal Implications**

- 7.1 The proposed options will require a significant amount of policy development by the Department of Education and the Legislative Drafting team.
- 7.2 The creation of a regulatory regime will require monitoring and enforcement. While it is envisaged that the proposal contained within this paper when complete will largely be overseen by the Department of Education there will inevitably be an increased burden on the Government Legal Service initially in assisting the Director of Education to ensure that the regulations are complied with.

7.3 Regulation of the sector will provide an efficient mechanism for enforcing the delivery of high standards and reduce the legal risks faced by Government.  
**REDACTED**

7.4 **REDACTED**

## 8. Environmental & Sustainability Implications

Not relevant.

## 9. Significant Risks

9.1 There is a risk to the safety of children within childcare environments in the Falkland Islands. This safeguarding risk is currently largely unmitigated by government. Not making improvements exposes the Government to risk because it owes a duty of care to its youngest citizens.

9.2 **REDACTED**

9.3 There is a risk that regulating the sector without providing funding support will lead to either a reduction in the supply of childcare places, a withdrawal of labour from the economy or both.

9.4 There is a risk that without government support for the lowest earners in society the Nursery Sector will no longer be affordable to a section of the community.

## 10. Consultation

10.1 Consultations have been extensively conducted and the reports on this consultation are contained within the Consolidated Review.

10.2 A Steering Group has met monthly to consider key issues including representatives from Education, Health, the Chamber of Commerce and Treasury.

10.3 Focus Groups have taken place for childcare businesses and parents and questionnaires have also been distributed to these groups.

10.4 Individual stakeholder meetings have taken place with a large number of people with an interest in the sector including Teachers, the Health Visitor, SENCO Coordinator, School Nurse, Social Services, the Attorney General's Chambers, Policy Directorate, the Leisure Centre, Education Project Managers, School Managers, Chief Medical Officer, the Training Centre, Mount Pleasant Nursery and Local Business Owners and Landlords.

10.5 The proposals have been considered and approved by the Education Board.

10.6 A public meeting has been held with open questions and media present.

## 11. Communication

- 11.1 It is recommended that this report and its attachments be published to demonstrate the Government's commitment to and awareness of the need to improve conditions for nursery aged children.

Schedule of suggested deletions to enable publication of paper

*"No suggested deletions"*

OPTION A		One off cost	Recurring cost	Comments
Basic Regulation	Inspection and assessment	0	0	Funded from within Education Budget
	Basic safety improvements	5,729		Costs supplied by PWD to meet immediate safety requirements
	Additional Childcare Liaison Budget		5,000	To provide/loan equipment and resources
	Training costs		5,250	As per 2015/16 Budget request
	'Role Model' Trainer	50,000		Cost of overseas contract support for one year
	Means tested support @ REDACTED		REDACTED	Assumes parents paying 30% of income or more are eligible for support or households earning £28,000 or less per annum (figure is the same by either calculation)
Project Management		20,000		Cost of employing a Consultant to oversee implementation
TOTAL OPTION A		75,729	REDACTED	Recurring costs based on mean birthrate – birthrates can go down as well as up

OPTION B		One off cost	Recurring cost	Comments
Early Years Development	Inspection and assessment	0	0	Funded from within Education Budget
	Basic safety improvements	15,000		Costs supplied by PWD to meet immediate safety requirements
	Building improvements			Costs supplied by PWD
	Nursery Liaison Budget		70,000	
	Training costs			This includes the cost of a permanent Role Model trainer included in Option 1
	4) Means tested support REDACTED		REDACTED	Assumes parents paying 30% of income or more are eligible for support or households earning £28,000 or less per annum (figure is the same by either calculation)
Project Management		40,000		Cost of employing a Consultant to oversee implementation
TOTAL OPTION B		55,000	70,000	Recurring costs based on mean birth rate – birth rates can go down as well as up

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## **Consolidated Report on Childcare Sector and Options for Improvement for Executive Council**

### **Objective**

This document is intended to inform the key decision making processes required to plan for and financially support the implementation of a new childcare model in the Falkland Islands.

### **Executive Summary**

Safeguarding children is a key priority of the Falkland Islands Government. The Island Plan 2014-2018 states:

*“We will ensure that our laws and their enforcement safeguard our children from harm.”*

The Lucy Faithful Report May 2015 made the following recommendation:

*“The Nursery sector needs to be regulated, with minimum standards in terms of staffing ratios, the suitability of buildings, and training for staff. There is a strong expectation that any changes will be implemented gradually and incrementally, and that some form of state subsidy will be necessary to support a sector that is central to the islands’ economic future as well as the safety and welfare of its children. The work already undertaken by the Early Years Steering Group should serve as a basis for discussion in this respect. “*

The Childcare Sector in the Falkland Islands is a cause for concern. Services currently exist provided by a mixture of charitable support and entrepreneurial zeal. While the private sector should be commended for its services to the community, the absence of regulation and strong competition is a problem for the Falkland Islands. The businesses are strained and some are unstable. Conditions for children are not good and are sometimes unsafe. Staff training rates are low and staff turnover is high. The dual function of early years care and wraparound care carried on by providers puts an additional strain on an already under resourced sector and creates additional safeguarding and welfare concerns.

At present, an absence of regulation is a safeguarding risk. It means that professional agencies are unable to take action even where they have concerns because the legal position is unclear as to what is and isn't acceptable. This lack of regulation is unusual internationally and regulation of childcare is the norm, even in smaller overseas territories such as St Helena.

The Falkland Islands economy is dependent on the sector to allow parents to work. The sector is currently highly flexible and so provides an essential function in allowing parents flexibility to deliver the labour needs of the economy and a solution needs to be found which will allow the sector to continue to serve this economic need while ensuring the welfare of children.

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In addition to addressing a challenge, reform of the sector provides an opportunity for the Falkland Islands Economy. Investment in Early Years is well documented internationally in providing socio-economic benefits in the longer term. Benefits such as improved educational outcomes, long term social and emotional welfare of young citizens and long term health benefits should be considered alongside the shorter term needs of children and the existing workforce. Furthermore, investment in early years as a pro-natalist policy has the potential to encourage population growth by reducing the cost to parents of having children and increasing the attractiveness of having a young family<sup>1</sup>.

Reform of the sector is long overdue and the persistent challenges being faced are documented in Executive Council papers as far back as 2001. A new model providing structure and a long term vision for young people has the potential to provide the children of the Falkland Islands and workers in the sector with a brighter future.

## Background

The following Papers have been submitted to Executive Council in relationship to Childcare in recent years. Additional Executive Council papers have been identified going back as far as 2001 with little change in the situation described despite actions being taken to remedy issues.

1. 226/15P Nursery and Childminding Provision in the Falkland Islands December 2015
2. 94/15P Nursery Provision in the Falkland Islands May 2015
3. 118/14 Early Years Childcare Strategy June 2014
4. 08/05 CE - Childcare Facilities
5. 162/05 CE - Childcare Facility
6. 256/04 CE - Childcare Facilities
7. 329/03 CE Childcare Facilities
8. 130/02 Childcare Provision for working parents May 2002
9. 203/01 CE Childcare Provisions for Working Parents

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<sup>1</sup> This financial factor is particularly significant when we consider that a third of Falkland Island households who responded to the Parents Survey are spending a third of their household income on childcare at present and 8% are spending half their household income on childcare.

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In addition to Papers submitted to Executive Council between 2001 and 2015 a number of professionals have reviewed the Childcare Sector, those listed below are particularly worth noting as they contain a large number of sound assessments and good recommendations that have been made over time. It is my assessment that the issues are generally well known and understood and what is now needed is positive action to move things forward.

1. The Lucy Faithfull Child Safety Review 2013 which described the current situation as ' unsafe and unwise', but warned against the 'implementation of UK standards which would cause the collapse of provision'.
2. The Falklands Islands Childcare Report 2014 emphasised the importance of having 'the support of the nursery workforce, families, the community and Government' if the necessary improvements were to take place outside a legislative framework. However the report also said that ' if the sector is unable to bring about the changes needed, then it would be sensible to revisit legislation as an option'.
3. The Lucy Faithfull Child Safety Review of May 2015 recommended that 'The nursery sector needs to be regulated with minimum standards in terms of staffing ratios, the suitability of buildings and training for staff ', but 'There is a strong expectation that any changes will be implemented gradually and incrementally and that some form of state subsidy will be necessary to support a sector that is central to the Island's economic future'
4. The production of A Professional's Guide to Implementing Child Care Standards 2015 was drawn up by the Nursery Liaison Officer and approved by the Child Care Steering Group and provides comprehensive proposals for a Registration and Annual Childcare Award Scheme. The document is informed by the UK National Standards Framework and sets out standards for nursery care ranging from basic registration standards to levels of award based on achieving a range of standards.

## The Current Picture

The current situation is that childcare facilities in the Falkland Islands have poor resources in terms of low paid staff, ill equipped and often unsuitable premises and a general lack of investment.

Two of the four nurseries are currently profitable although profitability is mainly driven by low child to staff ratios.

Nurseries have shown an appetite to invest including three that have approached FIDC for funding options and business advice. The level of investment required for a new building is not economic and loan repayments are not affordable with current business models.

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Uncertainty about the future of the sector with a number of reviews also reduces the appetite for implementing changes and creates a 'wait and see' approach.

Nursery fees are low and have increased little over time. There is an expectation from many parents that nursery care should be affordable and many do not feel prices should rise. The 2014 parents' survey revealed unwillingness from parents to pay more for their children's care. The 2016 survey shows a shift in this opinion with greater willingness to pay higher prices but a clear view that there should be greater government support of the sector.

Some parents are willing to pay more for a higher level of service. Those who have lived abroad are used to paying significantly higher nursery fees and better off members of the community also expressed willingness in the Parents Forum in May 2016 to pay more for an improved service. Other parents have stated that they cannot afford to pay more and the 2016 Parents Survey reveals that in 8% of cases parents are paying over 50% of their household income in childcare fees at present.

This situation is exacerbated by strong competition between the nurseries and a reluctance of nurseries to increase prices unless this is done across the board for fear that parents will move their children to another provider. Price increases have been discussed but cannot be agreed collectively. There is little loyalty to individual nurseries and many parents move their children from one to another. This situation is likely to deteriorate if new nurseries open as the increase in supply makes nurseries unwilling to risk losing children in a more competitive but unregulated market.

Staff within nurseries are among the hardest working but lowest paid in the economy. Most are on the minimum wage and many are on zero hours contracts without holiday and other benefits.

The level of training within nurseries is low even in basic skills areas such as safeguarding which have previously been targeted by government as a key focus area. There are no staff with a professional level of knowledge in early years development. Trained staff are not often retained and in most cases move on to other better paid jobs normally in the public sector. A training audit was conducted as part of this review and the results are attached as Schedule A. It is notable that low levels of skills within the sector are caused by high staff turnover and are in spite of significant government investment in training over the years.

In addition to challenges relating to basic provision of services, there is a concern repeated by professionals that a lack of investment in Early Years creates longer term problems for the Falkland Islands Economy. In addition to reports by external consultants local professionals including the Primary School Head, Health Visitors and Childcare Liaison Officers have raised concerns that the development of children is being inhibited by the environment in which children spend their time before starting school. A focus on areas such as nutrition, communication and social skills within childcare settings has the potential to increase the health, social and emotional wellbeing of young people in the Falkland Islands.

## Review of Existing Regulation

The Attorney General's Chambers have confirmed that currently there is little existing legislation which covers regulation of childcare. Their recommendation is that a separate Childcare Ordinance would be the optimal way to introduce new regulation in this area.

The review of legislation has revealed that in introducing laws to the Islands from the UK relating to children in the past sections relating to regulation of childcare have been excluded<sup>2</sup>. It is not known without conducting a full review of past decisions when or why this decision has been made but it is recommended that children in Childcare settings should be afforded protection under the law of the Falkland Islands.

The absence of regulation at the present time does not remove responsibility for the government as has been evidenced in St Helena where the government has been criticised in the Wass Report 2015 for repeatedly commissioning reports without acting on recommendations.<sup>3</sup> There is a risk that by not regulating and therefore mitigating risk for children, the government could be found negligent in its duties to children.

In the short term, awareness of legal obligations is important for the childcare providers and meetings have taken place with childcare providers to inform them of these although only one childminder has attended these meetings.

Some anomalies exist within existing legislation in that at the present time, greater protection is provided by law for the staff than for the children. This is a situation which the Executive Council may be minded to remedy.

Below is a summary of existing legislation which has been reviewed in the course of this project.

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<sup>2</sup> Part 10 of the Children's Act 1989 includes many of the basic protections for children proposed for adoption in the Falkland Islands. This Act has been largely incorporated into the Children's Ordinance 2014 however, sections relating to Nurseries and Childminding have been excluded.

<sup>3</sup> The Wass Inquiry Report into Allegations Surrounding Child Safeguarding Issues on St Helena and Ascension Island (Redacted Version) - December 2015 - this report criticises the government for conducting 34 reports into child safeguarding over a 17 year period. "Over the last 17 years there has been no shortage of advice and recommendations as to how to manage childcare on St Helena. What is lacking is an institutional memory, analysis, codification, dissemination, training and practical application of that advice." Recommendation 1.104 Governor/Government. In the same report, Wass states that in the case of St Helena "The Governor's [Government's] primary duty is to ensure the safety and wellbeing of the people of St Helena."

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1. Building Control Regulations require certain rudimentary compliance with Building standards (on a par with international standards relating to fire safety and suitability for building use). These regulations also cover hygiene e.g. how many toilets per person and food preparation facilities. The Building Surveyor has recommended that the nurseries make contact with the Chief Medical Officer as during a recent inspection he felt that there were areas which required attention. Powers exist to close down premises that do not meet these standards. The Planning Committee are currently engaging in an improvement plan with the nursery businesses in a hope to remedy the areas in which building standards are not currently met.

The building inspector has the power to inspect childminders premises in addition to nurseries. It is recommended that future legislation clarifies what is deemed to be a 'commercial premises' for the purposes of childminding to ensure clarity on buildings which should be checked.

Building regulations cover only general use of a building and it is recommended that future regulation would be specific to child-care taking into account the greater risks and higher level of safety required for a building used commercially for caring for small children.

2. Common Law tortious liability imposes a Duty of Care on staff, management, company Directors and property occupiers entrusted with the care of children and more generally as occupiers of land in inviting people (e.g. parents, staff, and children) upon it. This covers the duty owed between the enterprise and its customers and would be enforced directly by a private action through the courts. There are three key routes for a civil claim against a childcare business. Firstly, Occupier Liability - the responsibility held by an occupier should someone have an accident on their land. Second, a potential suit for negligence should someone have an accident on their land which is caused by their negligence. Thirdly, the employer is required by Law to hold Employer's Liability insurance.

It is believed that these risks are insured against by the nurseries and in the case of Employers Liability, insurance is compulsory. While it is satisfactory that Employer Liability Insurance is a legal requirement, Occupier Liability Insurance is not and therefore there is a higher level of requirement to protect staff within the childcare setting than the children in their care which seems to be counter intuitive.

3. The Public Health Ordinance includes the welfare of children within the remit of the Public Health Committee. Amongst the functions of the Committee is a function 'to advise the Governor, Chief Medical Officer and other public officers in relation to policy matters arising in relation to the health and welfare of children. The Committee is no longer in existence and has been superseded by the Health and Medical Services Board. In recent years a Children's Safeguarding Board has also been introduced. It is recommended that amending legislation is considered to give clear oversight in public governance for the welfare of children.

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4. The Public Health Ordinance also provides that nurseries are expected to obtain 'perfectly sanitary conditions'. In the case that this is not being achieved then they can be referred to the Public Health Committee who can request a Compliance notice and issue a fine for each day that the issue remains. It is envisaged that this would fall to the Health and Medical Services Board.
5. Employment Ordinance - Employees must have written terms of employment. This must be in place within 13 weeks of commencing employment. The nurseries have been reminded of this obligation in the recent Childcare focus group.

Most staff in the nurseries are employed on zero hours contracts to allow flexibility as parents only pay for care for the minutes their children are in the setting. Employment Law is currently under review in government and an increase in regulation in this area is likely to have a noticeable impact on the nursery businesses whose current staff costs are a high percentage of their turnover with minimal provisions for staff.

6. The Children's Ordinance covers those who have care of a child as well as parental responsibility for the purposes of safeguarding or promoting the child's welfare.

Certain provisions exist to provide for care of Children in Need. This is a limited group of children and covers children: who are unlikely to obtain a reasonable level of health or development without the provision of services for the child by the Crown the child's development or health is likely to be significantly impaired or further impaired without the provision of such services or the child has a disability.

The requirement is for the Crown to provide a range and level of services appropriate for needs for children in need.

A plan is in place to deliver this. A social worker with focus on this area has been appointed and a group exists with strategic oversight for supporting these Children in Need. At present the current childcare system does not deliver the range and level of services available to provide care for these children and a regulated nursery system with appropriate provision would help further this objective. There are Children in Need who receive additional support in the school environment but not in the childcare setting. While a Carer's allowance is available, the funding is not sufficient to cover the cost of employing additional staff members for children with special needs. There appears to be no way forward to meet its obligations towards Children in Need within the existing system.

A requirement exists to take reasonable steps to prevent abuse and neglect. Unregulated nursery settings do not provide this and no processes or powers currently exist to ensure that a safe childcare environment is being provided and no powers exist to ensure that children are cared for by suitable people (although a process exists whereby staff can be vetted by the police). In the

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case of childminders, little information on who these individuals are exists and no police checks currently take place to provide assurance about the suitability of these carers or those within their household.

It is recommended that clear, targeted regulation is put in place to ensure that the government performs its duties to its youngest citizens, to correct anomalies that exist in current legislation and to provide a consistent minimum level of safety and welfare for children and childcare workers in the Falkland Islands.

## Consultation Output

Meetings have taken place with key stakeholders including parents, business owners, staff and government agencies with an interest in the childcare sector. In addition, a Parents Survey has been conducted and past reports and papers have been reviewed. The following section summarises the views presented in this consultation.

### The Nurseries Perspective

*“The government doesn’t care about us, they won’t do anything.”*

*“I’m not going to change anything unless there is regulation.”*

*“If the nurseries want to move forward there needs to be a lot more investment and not have to worry about trying to pay staff – currently staff can only be paid if parents pay their bills!”*

*“Unless a higher hourly rate can be charged (whether this is achieved by Government subsidy directly to nurseries or to parents) the sector cannot greatly improve.”*

In contrast to the valuable service they provide for children, the nurseries do not feel their efforts are appreciated and see themselves as a low status sector. They would like to change this and are working together and with the Childcare Liaison Officer where possible.

All the nurseries face persistent challenges with staffing - this is their largest overhead and there is agreement that wages and hours are not adequate to attract or retain a sufficient number of quality staff. The nurseries would like to pay staff more and allow them more breaks but this is not financially viable for many of them in the current situation.

The nurseries would like to recruit more highly trained staff or train their own staff but without being able to pay a higher wage this is unachievable.

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The nurseries do not feel they have the quality of resources they would like and in most cases these are not affordable through the business. Resources are commonly provided by staff, managers, local businesses and parents as income is insufficient in some cases to cover such costs.

Three of the four nurseries would like to improve their buildings or move to better premises. Capital spend is not affordable and rental options are not currently available in proximity to IJS. Where rental premises do become available, conversion costs are prohibitive to the current nursery businesses.

Three of the four nurseries are committed to working together as a Nursery Alliance. They would like to see regulation and improved standards but see the options for this as limited in the current climate.

### **The Parents Perspective**

*“I think these people put in a lot of love and support as they take on this big task”*

*“They do the best with what they have”*

*“There needs to be more space for kids to play”*

*“There should be provision for school children that is age appropriate”*

*“If you go to work then you are worse off than if you don’t work!”*

*“Stiff measures are needed to safeguard the vulnerable”*

*“We feel that FIG could subsidise the nurseries better in order that they could provide better facilities and encourage staff retention”*

*“I will leave the Falklands because my wife can’t work as there is nowhere we would leave our toddler”*

*“There needs to be more safeguarding for older girl children”*

There is widespread recognition of the commitment and care given by those working in the childcare sector. This was evident both at the Parents Focus Group and in the Parents Survey responses.

Parents feel that the people within the childcare sector work hard with limited resources to care for their children. The majority of parents are happy with the service being provided by their carer. 100% of parents with children in nursery agree that the staff treat their children well.

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There is strong feeling from parents that the government does not do enough to support the sector.

- 73% believe government support is inadequate (16% believe that government support is adequate)
- 86% of parents want to see regulation of the sector
- Less than half of parents believe that current provision is good
- 71% would like to see early years and wraparound care separated
- Under half of parents with toddlers believe the staff are adequately trained
- 57% of parents believe that their children are safe in their setting

### A Professional Perspective

A number of reports, strategies and papers have previously identified challenges in the sector and outlined plans to deliver improvements. Absence of regulation has meant that these plans have been suggested as voluntary schemes for childcare businesses to sign up to. Despite these numerous reports making similar suggestions over a number of years the changes proposed have not been implemented.

Government intervention in the form of a regulatory baseline is a necessary step to provide government agencies with the required legal backing to drive change in the sector. As the Lucy Faithful Report identifies funding is essential for any such change to be realised without a reduction in supply as the current system is stretched to breaking point in many areas.

Any regulation introduced will need to be enforced in order to be effective. A risk exists that where a childcare business falls below required standards this may result in the need for closure of a nursery business which will in turn reduce the supply of childcare in an already stretched sector. Regular engagement with childcare businesses through the Childcare Liaison Officer role and action plans and support to address issues should mitigate this risk to ensure that business closures remain a last resort.

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p><b>1) Introduction of a Regulatory Framework for Childcare in the Falkland Islands</b></p> <ul style="list-style-type: none"> <li>• The Lucy Faithful Foundation Report and other professionals have raised concern over the lack of regulation in the Childcare Sector</li> <li>• Regulation of childcare is international good practice for governments</li> <li>• Less than half of parents feel there is a good standard of childcare provision in the Falkland Islands</li> <li>• There is currently no legal requirement for nurseries to provide a minimum level of safeguarding within the Falkland Islands</li> <li>• There is currently little visibility of who is looking after children in the childminding sector and no assessment of safeguarding provisions within these businesses</li> <li>• There is currently no requirement for childcare businesses to hold public liability insurance to protect children in their care</li> <li>• 86% of parents responding to the parents survey believe some regulation is needed</li> <li>• 71% of parents would like to see early years and wraparound care split.</li> <li>• Only 16% of parents believe that current</li> </ul>	<p>A licensing regime should be set up under which businesses (childminders and nurseries) are required to register and meet certain baseline conditions in order to operate.</p> <p>Businesses would be inspected and licensed annually provided they continue to meet agreed standards.</p> <ul style="list-style-type: none"> <li>• The Childcare Liaison Officer would provide support and advice to businesses to help them meet their obligations.</li> <li>• The Law and Regulation Department would issue and renew licenses informed by the Department of Education.</li> <li>• The Education Department would carry out the inspection function.</li> </ul> <p>The proposed areas for regulation are:</p> <ul style="list-style-type: none"> <li>• suitability of staff working with children</li> <li>• suitability of environment for care</li> <li>• child staff ratios and space requirements</li> </ul>	<p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Basic regulation would create a framework for ensuring the basic safety of children in childcare settings</li> <li>• It would provide an even playing field for businesses to compete - creating the potential for businesses to offer an improved level of service</li> <li>• It would support the Falkland Islands in its aim of safeguarding its children</li> <li>• It would reduce the likelihood of accidents happening and reduce risk to life</li> <li>• It provides a foundation on which future regulation can be overlaid if required</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>• Basic regulation requires additional funding for the childcare sector in order to maintain supply</li> <li>• It requires support of existing businesses to enable them to meet the minimum standards</li> <li>• There is a lack of Early Years</li> </ul>	<p>£65,979</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>government support is adequate</p> <ul style="list-style-type: none"> <li>Regulation to ensure safeguarding is standard international practice and exists in other small countries such as St Helena</li> </ul>	<ul style="list-style-type: none"> <li>policies and procedures relating to health and safety and risk assessments</li> <li>minimum training requirements for staff</li> </ul> <p>It is proposed that the standards set out in the Bronze Level of the Professional's Handbook form the standard for basic regulations. A summary of these is attached as Appendix B.</p> <p>It is recognised that it may take businesses some time to move to the standards which professionals have stated they would like to see in the sector. The need for a staged approach to regulation is recognised and basic safety should be the first priority.</p>	<p>expertise in the Falkland Islands and role modelling by an individual qualified in early years would support improvements</p> <ul style="list-style-type: none"> <li>It requires an inspection and assessment framework to be introduced</li> </ul>	
<p><b>2) Commitment to an Early Years Development Strategy</b></p> <p>A second option exists of moving beyond basic standards to a model focused on education of children within childcare. Early Years Education focuses on the development of young children and has received focus from policymakers internationally in recent years because of the</p>	<p>The Falkland Islands Early Years Model would be in alignment with the Education System. This would ease transition from early years to school and would facilitate knowledge sharing and transferability of labour between sectors.</p> <p>It is recommended that a Strategy is</p>	<p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>Half of parents of children under 3 do not believe nursery staff are sufficiently qualified.</li> <li>This model would be the minimum standard required for NVQ 2/3 training to be delivered locally (i.e. the</li> </ul>	<p>£83,229</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>high economic and social return on investment in this area. A new model focused on early years development rather than pure childcare has the potential to deliver lasting benefit to the Falkland Islands economy and Falkland Islanders.</p>	<p>created for development of Early Years with the aim of improving health, social and educational outcomes for children.</p> <p>It would involve employing at least some staff with accredited childcare qualifications and would create a focus on child development as well as safeguarding. In order for the Training Centre to deliver accredited NVQ Childcare qualifications adoption of a UK style regulatory framework would be essential. An alternative would be to have a locally accredited equivalent although this would not provide internationally transferrable qualifications.</p> <p>This would be a long term solution best implemented in a phased approach over a number of years as an initial step of training staff in the required skills would need to precede adoption of an early years model. Basic safety and other improvements would be able to take place at an early stage in this process. This could be done more quickly with imported labour; however, it is assumed</p>	<p>optimum route to a transferrable childcare qualification)</p> <ul style="list-style-type: none"> <li>• Focus on individual child development has the potential to improve the performance of the economy over time as well as benefitting individual children</li> <li>• A system aligned to the school system facilitates local delivery of quality early years care</li> <li>• Early years provision is likely to improve the recruitment and retention of returning Falkland Islanders and contract workers as well as encouraging accompanying spouses into work. In addition, it would likely attract more people from MPA into Stanley.</li> <li>• Sustainable model with potential to deliver continuous improvement to linked to a tested standards system.</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>• long term solution requiring significant investment</li> </ul>	

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
	that this is not desirable on the grounds of cost.	<ul style="list-style-type: none"> <li>• optimal provision would include provision of separate wraparound facilities for school children to remove the pressure of delivering a service to school children as well as preschool children.</li> <li>• early results require importing skills from overseas</li> <li>• sustainable model requires quality local training</li> </ul>	
<p><b>3) Funding Support: Direct support of the Childcare Sector</b></p> <p>Direct support presents an opportunity for FIG to allocate funds to nursery businesses for a specific purpose.</p> <p>A system could be set up where childcarers apply for capital funding to take on improvements which are aligned to a newly created FIG Childcare Strategy.</p> <p>This would enable the government to allow the private sector flexibility in delivery provided the childcare sector is working towards agreed objectives.</p> <p>A grant system could be operated alongside parental support and/or other sup-</p>	<p>An annual process would be established to request funding from a central ring fenced capital fund established with the objective of improving outcomes for children in the Falkland Islands.</p> <p>Nurseries would apply for funds, outlining their plans and objectives.</p> <p>Applications for grants could be assessed by FIDC to agree the best way to allocate the grant based on the merit of the options presented, linked to sustainable delivery targets and accompanied by good commercial advice and scrutiny.</p> <p>FIDC could provide businesses with</p>	<p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Fair system of allocating resources to specific projects</li> <li>• Mechanism to direct funding to agreed goals including the Falkland Islands Island Plan, Childcare Strategy and Economic Development Strategy</li> <li>• Low wages is a major problem for the sector and payment of a living wage could be a pre-condition of providers receiving funding.</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>• Led by supplier interest rather than following parental de-</li> </ul>	£200,000

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>port in order to optimise results and deliver effective change in the sector. It could also be operated as an alternative to a system of parental support.</p>	<p>support in developing their plans in the form of business advice, training as well as mentoring relationships with providers outside the Falkland Islands.</p> <p>This is a measure to kick start investment and it is proposed that a 5 year review to this funding is put in place after which time it is hoped childcare businesses would be able to privately invest in their own businesses.</p>	<p>mand (although these ought to be closely aligned).</p> <ul style="list-style-type: none"> <li>Likelihood of take up by businesses is unknown although there is an appetite from most providers for government assistance.</li> </ul>	
<p><b>4) Funding Support: Parental support of the Childcare Sector</b></p> <p>A summary of Working Credits is attached as Appendix D.</p> <p>While Childcare costs in the Falkland Islands are low by international standards, they form a significant portion of income for many families.</p> <p>It has been identified that childcare fees need to rise to £4.00 per hour in order to deliver improvements in the sector. This is based on analysis of modelling carried out by FIDC for the Nursery Liaison Officer in 2015 included in Paul Jays' report</p>	<p>Parents would register their children with a licensed childcare provider and make an application to the Treasury Department for funding.</p> <p>The Treasury Department would make payments to that childcare business in relation to the child.</p> <p>This would require funding of a part time Grade F post within Treasury to administer the process.</p> <p>It is proposed that this is based on a £4.00 per hour cost of care. The Treasury pays £ REDACTED an hour to</p>	<p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>Parental choice: funding follows children</li> <li>System to support low earners already exists although current take up is very low</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>Difficult to ensure that additional funding will be invested in businesses or increased staff wages</li> <li>Extending the current system would create a high admin burden for Treasury</li> <li>Means testing is not locally</li> </ul>	<p>Universal support: £ REDACTED</p> <p>or</p> <p>Means tested support £ REDACTED (based on providing funding to households spending more than 30% of household income on childcare.)</p> <p>Support is calcu-</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>to Executive Council in December 2015.</p> <p>43% of parents say they are prepared to pay more for childcare. 68% would be prepared to pay more for improved childcare. 36% would be prepared to pay £4.00 or more for an improved service. 8% of parents already pay more than 50% of their household income towards childcare and 23% pay more than 30% of household income on childcare. (By comparison, the average spent in the UK is 26.6% with only 1 in 20 spending more than 50% despite childcare costing approximately twice as much and government financial support being greater.)</p> <p>Parental support could be universal or means tested.</p>	<p>the childcare provider (the difference from the current cost of £2.50 per hour).</p> <p>The payment would take the form of an allowance calculated based on typical attendance patterns for a child of a certain age/year group. e.g. a school child typically attends 3.5 hours a day and therefore the weekly allowance would be (3.5x5x1.50) =£26.25 per week.</p> <p>Childcare providers would be required to send a monthly report to Treasury including children registered with them - confirming regular attendance.</p> <p>Responsibility to sit with parents to keep Treasury informed of changes in circumstances such as a change of childcare, changes in attendance patterns etc. Failure to keep Treasury notified may result in the benefit being withdrawn.</p> <p>In the case of means testing, parents would need to provide Treasury with evidence of income on a monthly ba-</p>	<p>popular and universal benefit is expensive</p>	<p>lated assuming funding is available to children age 0-8 years of age</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
	sis.		
<p><b>5) Introduction of Process for supporting children with additional needs in Childcare settings</b></p> <p>Currently there is no formal process to provide for children with additional needs within a childcare setting. Policies and procedures are required to ensure that children are provided with the correct support as early as possible. This may be initiated through the health visitor, parent, school or social services and does not exclusively apply to children with special education needs or children who are at risk.</p> <p>At present, some children may receive one to one care or other additional support within the school setting but not within a childcare setting.</p> <p>A carers allowance is currently available for children who have special education needs but this is not sufficient to cover the costs of additional nursery staff.</p> <p>Funding should be available to meet the needs of these children and provide them with the care and resources needed in</p>	<p>Policies and procedures should be developed to ensure a process for assessing and supporting children with additional needs on an individual basis.</p> <p>This may include support for additional staffing for these children or potentially training and resources for these children dependent on their individual need.</p> <p>At a base level this would involve childcare providers working with parents and if necessary the Childcare Liaison Officer and other agencies to produce plans for support. In many cases, these should be relatively easily addressed and absorbed within the current system.</p> <p>For more complex or extensive needs a multi-agency plan should be developed. This is in alignment with the revised approach for multi-agency assessment proposed in the new Education Ordinance.</p> <p>Once a need is identified and means</p>	<p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Ensures children with additional needs receive the required support in childcare settings</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>• Process must not overcomplicate and require involvement of multiple agencies in simple issues e.g. an infant who has problems eating could be supported informally through the parent, childcare and health visitor without the need of a multi-agency intervention.</li> <li>• Lack of incentive for businesses to aspire to silver or gold if it is not a requirement. This may need to be revisited in future if progress is not made beyond basic standards.</li> </ul>	<p>NIL (this would be assessed on an individual case basis and requests would come for individual funding)</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>their individual case.</p> <p>The SENCO coordinator, social workers, health visitor and the school should work with childcare providers and parents to ensure that plans are in place to keep children with additional needs and their peers safe and happy in a childcare setting.</p>	<p>of support determined, funding decisions would continue to be made based on financial availability through the Executive Council system on an individual basis.</p>		

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p><b>6) Reintroduction of the Nursery Award Scheme</b></p> <p>A Professionals Guide to Childcare Standards was prepared in 2014/2015 and was originally proposed as a voluntary scheme. Childcare businesses were keen to participate but did not believe the standards were achievable in particular relating to the level of training staff were expected to have and the requirements relating to child staff ratios.</p> <p>In the cases of both Options 1 and 2. It is important that clear standards are set out both in terms of regulatory requirements and as guidance for best practice above and beyond what is required by law. Adopting A Professional’s Guide to Childcare standards as a baseline provides a familiar and consistent approach and provides a best practice model and improvement plan for childcare businesses.</p> <p>It is recommended that the baseline (outlined in Appendix B) forms the basis of regulation to ensure a common minimum standard of care.</p> <p>A summary of standards contained in the</p>	<p>It is proposed that this guidance takes the form of a handbook including standards in key areas relevant to childcare with clear levels to facilitate improvement. It is proposed that as a minimum requirement the Bronze Level is a minimum standard required for all Childcare businesses.</p> <p>It is proposed that businesses are encouraged to go beyond the minimum standard with Silver or Gold status being awarded to businesses who meet that level of achievement.</p> <p>Awards would be given based on inspection of compliance with standards set out in the Childcare Handbook and would be awarded by the Education Department and published for the benefit of parents.</p>	<p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Clear awards also provide parents with clarity in making decisions between businesses.</li> <li>• Utilises a well known and comprehensive best practice guide developed specifically for the Falkland Islands</li> <li>• Embeds a culture of continuous improvement</li> </ul> <p><b>Risks:</b></p> <p>Businesses who are unable to achieve award standards on account of external factors (such as training not being available) may feel demotivated.</p>	<p>Awards would be funded from the Childcare Liaison Budget if approved</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>current version of the guide are attached as Appendix B.</p>			
<p><b>7) Introduction of Local Training</b>            There is a lack of skills in the childcare sector at present (see Appendix A for results of March 2016 Training Audit). Parents would like to see more highly trained staff in the sector. 49% of parents do not feel that childcare staffs have adequate training.</p> <p>Despite a range of training courses being available to the childcare sector, this has not resulted in raising skills levels with recipients leaving the sector. Over time 32 people have enrolled on NVQ Level 3 courses which is the minimum standard required for a nursery worker in the UK. None of these individuals work within the nursery sector. 12 people have completed NVQ Level 1 and of those 2 are still working in the sector. 5 people working in the sector are working towards the qualification and one new part time staff member has NVQ Level 3 from outside the Islands.</p> <p>The staff that are most likely to stay in the</p>	<p>In designing the future model, a clear development pathway for nursery staff with mandatory and advised training for different roles in the sector would also be of benefit to clarify expectations around what skills are needed in the sector and to raise the status of nursery work by recognising it as a career choice as well as a job.</p> <p>It is proposed that a Falkland Islands Nursery Induction is introduced to ensure a minimum basic training for all workers.</p> <p>An Early Years expert should be recruited to deliver training and work alongside staff in nurseries as a role model.</p> <p>If Early Years development is desirable then, alongside investment in regulation this has potential to allow local delivery of higher NVQ Level 2 and 3 qualifications or local equivalents within the Falkland Islands.</p>	<p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Basic skills training in the form of an induction programme meets demand from parents and addresses a training gap in the sector.</li> <li>• Local training is able to reach more staff more quickly than overseas training courses</li> <li>• Role modelling and face to face training is more easily transferred to Falkland Islands working practice than abstract theories presented in online courses or in a UK college.</li> <li>• Better trained staff will improve confidence in the sector and potentially increase the supply of labour to the economy.</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>• Local training would need to be accompanied by improvements in wages and</li> </ul>	<p>Included in model options 1 and 2 above.</p> <p>Local training is a moderate cost saving as ten staff can be trained to NVQ Level 3 level standard locally for the cost of training one Apprentice overseas.</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>sector long term are staff with children and these individuals are unable to attend overseas based training.</p> <p>Local training also facilitates skilled professionals to provide practical training working alongside staff in childcare businesses which has potential to further enhance provision through role modelling.</p> <p>A role modelling focused approach also has the potential to deliver skills improvements to staff that prefer a hands on learning approach.</p>	<p>In the case that members are content with focus on basic safety it is also strongly recommended that early years expertise is imported to increase skills levels, demonstrate good practice and improve nursery provision by helping childcare businesses to improve.</p>	<p>working conditions to retain skills in the sector</p> <ul style="list-style-type: none"> <li>• Work placements within the nurseries would require implementation of a recognised regulatory framework</li> <li>• There is the potential that full UK-style regulation of nurseries and OFSTED accreditation could be required for local training to NVQ Level 2/3 to be possible. An alternative option would be a Falkland Islands equivalent of these qualifications but this would not be internationally transferable.</li> </ul>	
<p><b>8) Childcare Liaison Officer Budget</b></p> <p>The Childcare Liaison Officer role is intended to provide advice, support and training for the childcare sector. The current Childcare Liaison Officer would find a budget helpful in order to deliver her role.</p> <p>This would fund projects such as Nursery Awards, as well as helping support the sector in providing resources and deliver improvements which are seen as benefi-</p>	<p>The Childcare Liaison Officer should be provided with a Nursery Development Budget.</p> <p>The Childcare Liaison Officer should be allowed discretion of spending the budget in line with agreed guidelines and under supervision from her line management.</p> <p>Childcarer providers should be able to apply for funds from the budget to spend on projects/activities which are</p>	<p><b>Benefits:</b> Provides flexibility for the Childcare Liaison Officer to respond to the needs of the childcare sector and funds resources required for the role.</p> <p><b>Risks:</b> Childcare Liaison Officer would need to be able to demonstrate fairness in the approach to spending this discretionary budget.</p>	<p>Included in Model options 1 and 2 above</p>

Recommendations and rationale	Proposal	Risks and Benefits	Costs (please see appendix C for breakdown)
<p>cial by the Childcare Liaison Officer and her line manager, Head of IJS.</p>	<p>consistent with the goals of the Early Years and Childcare Strategy.</p>		

## Conclusion

There are a wide range of support opportunities available to help the sector improve. A framework of regulation is needed to provide a minimum standard and safeguard children. An initial decision needs to be made as to whether it is basic safety and risk mitigation that is the objective of the Falkland Islands Government or a more comprehensive programme of reform focusing investment in early years as a means to long term social and economic benefits.

There are significant risks to not acting including risks to children in the event of an accident or safeguarding incident, risk to productivity in the event of increased costs or reduced supply and a risk to the reputation of the Falkland Islands if its anomalous position as an unregulated childcare sector is ever deemed to fall short of a government’s duty towards its young citizens.

A licensing model should be established to create visibility of those working in the sector and to put in place minimum standards. The extent of the regulation needs to be agreed based on a decision on whether basic safety or economic investment in early years is the objective. In the case of the latter, this would need to be phased with safety standards being introduced as a first step.

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Introduction of regulations covering staffing ratios, suitability of buildings and staff training would address the recommendations of the Lucy Faithful Foundation Report and provide minimum standards which could be enforced to ensure safeguarding responsibilities are met and to reduce potential financial and reputational liabilities for government. In addition legislative reform has the potential to correct anomalies such as the absence of a legal requirement for businesses to hold occupiers liability insurance thus affording greater protection to the most vulnerable members of society.

Some of the nurseries are already struggling financially and introduction of recommended ratios and space requirements would almost inevitably lead to the collapse of the sector without an injection of funds. While the cost could be passed to parents or businesses, this would lead to a reduction in the supply of labour which would not benefit the economy. At least an element of government intervention is essential if regulation is to be introduced. There is scope for a price increase for parents, although it is recommended that this is accompanied by support for at least the lower earning groups who currently spend a sizeable chunk of household income on childcare. The Parents Survey 2016 revealed that 8% of parents who responded were spending 50% of household income on childcare and a third of people were spending a third of household income on childcare..

It must be noted that nurseries will remain reluctant to raise prices unless minimum standards are introduced across the board for fear that children will move to a cheaper provider. It appears that competition is currently bringing standards down rather than driving improvements. The introduction of a baseline would remedy this.

Better training is desirable and it is recommended that FIG supports at least basic safety training and provides role models as a minimum to drive improvements and develop understanding of good practice in the short to medium term.

It is important to recognise that poor wages and working conditions in the sector have been a key reason for training not delivering lasting benefit to date. Take up of training has been low, even for courses available locally, and retention of trained staff has been poor. These challenges need to be addressed if training is to provide the improvements required.

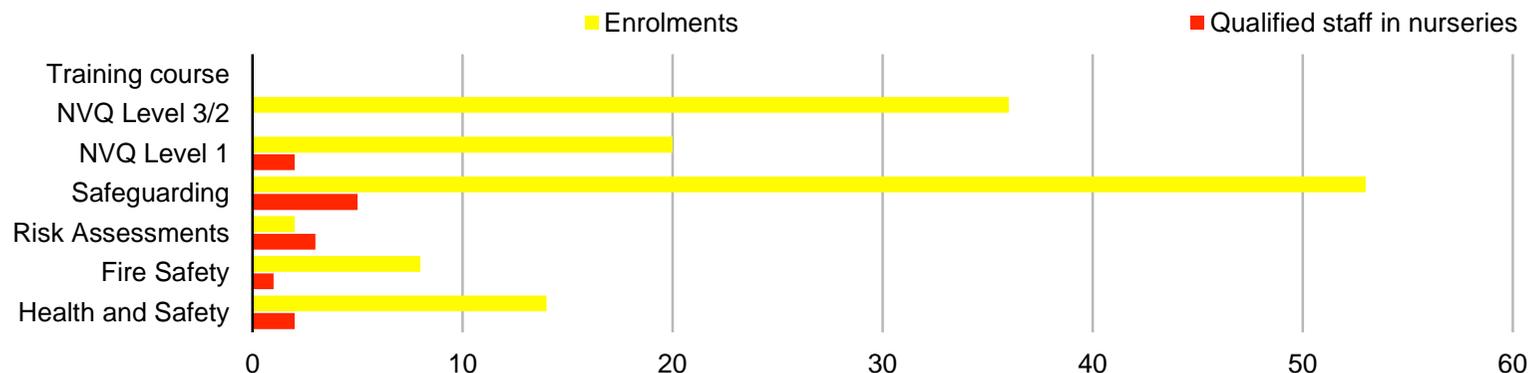
Local delivery of focused higher level childcare training, supported by regulation of working conditions and higher wages, would provide a route to improvement for existing workers in the sector and would be beneficial to putting in place sustainable change.

Investment in early years will deliver lasting benefit to the economy as well as addressing immediate issues and mitigating risks and reducing potential future liabilities. Commitment to an improved model of Childcare in the Falkland Islands will help to effectively safeguard the children of the Falklands and has the potential to improve the health, wellbeing and life chances for future Falkland Islands citizens.

**APPENDIX A: Summary of Findings<sup>4</sup> from Training Audit (referenced in recommendation 7)**

There is a lack of skills in the childcare sector at present. Take up of courses on offer by the training centre is improving with focus from the Childcare Liaison Officer and the Training Centre but parents would like to see more highly trained staff in the sector.

Turnover of staff is high particularly amongst the staff who are most motivated to complete courses with many moving on to work in the public sector either in health or education. The reason for high staff turnover is likely to be low wages and difficult working conditions. It must be recognised that unless pay and conditions improve it is unlikely that a renewed focus on training will deliver lasting improvements to the sector.



*\*Please note above that the high level of enrolments for the Safeguarding, Health and Safety and Food Hygiene courses reflect that these qualifications have taken up from a number of sectors apart from the nursery sector. It is also recognised that a NVQ Level 3 courses are also studied for other career paths such as school learning assistants and a number of those who studied for these qualifications never intended to work in the nursery sector.*

*Data on courses completed is taken from the nursery questionnaires. The discrepancy in the risk assessment figure is down to one member of staff attending a face to face risk assessment course which was not included in the questionnaire or the Training Centre database.*

December 2016

*The snapshot above was the position in March 2016. There has been a concerted effort by the Childcare Liaison Officer, Training Centre and Nursery Owners to improve the take up of courses since this report in particular in increasing take up of safeguarding training which had only be received by 20% of nursery staff at the time of the audit.*

## APPENDIX B: Summary of Award Scheme Levels

Bronze Award (proposed as baseline regulation)	Silver Award (must meet Bronze Award standard)
<b>Suitable People</b> - enhanced checks for carers and those living with childminders, valid driving licenses	<b>Safeguarding</b> - staff have attended face to face safeguarding training and there is a safeguarding and child protection policy
<b>Basic Safeguarding</b> Training for all staff, Advanced Training for Manager and child protection process	<b>Childcare trained staff</b> - at least two staff have NVQ Level 1 Childcare Training
<b>Paediatric First Aid</b> training for at least one staff member, First Aider always present and First Aid Kit	<b>Healthy Living</b> - promote good hygiene such as hand washing, teeth brushing, healthy eating and exercise
<b>Food Hygiene and Allergy Management</b> - staff preparing food have food hygiene training and good hygiene practice is observed. Allergies are managed.	<b>Inclusion and Special Educational Needs</b> - policy to promote inclusion and encourage positive behaviour to recognise diversity
<b>Fire Safety</b> - there is a fire safety and emergency evacuation procedure, annual fire safety and boiler inspections take place. Evacuation practices take place.	<b>Key person system</b> - staff are given responsibility for individual children and encouraged to form relationships with key person groups
<b>Insurance</b> - businesses hold <u>valid</u> insurance for all their business, transport and employer needs. .	Child Development - plan activities to assist children to hit key development milestones
<b>Safe environments</b> - Regular safety checks and risk assessments. Deemed safe by inspection	<b>Indoor and Outdoor Play</b> - encourage children to play inside and outside
<b>Ratios</b> - businesses adhere to agreed child/staff ratios	<b>Sharing Planning</b> - share planned activities with parents
<b>Space and Facility Requirements</b> - adhere to guidance on how many children can safely attend a setting of a certain size	<b>Gold Award (must meet Silver and Bronze Award standard)</b>
<b>No Smoking</b> - staff do not smoke around children	<b>Childcare trained staff</b> - at least some staff have NVQ Level 2 or 3 training

Bronze Award (proposed as baseline regulation)	Silver Award (must meet Bronze Award standard)
<b>Accident Logging and Reporting</b> - accidents are recorded and notified to parents.	<b>Learning Journeys</b> - records are kept of children's individual learning
<b>Administration of Medicine</b> - medicines are stored and administered safely.	<b>Parental Partnership</b> - work with parents including feedback on progress for preschool
<b>Sickness Policy</b> - policy exists to minimise spread of infection	<b>Multi Agency Working</b> - work collaboratively with government agencies
<b>Sun Protection</b> - take steps to protect children from sunburn	<b>Staff Training and Development</b> - staff receive feedback and are developed through in house training, personal action plans and supervision
<b>Lost Child</b> - steps are taken to prevent and plan for a child being lost	
<b>Health and Safety</b> - Health and Safety Procedures exist and staff understand and follow these	<b>A Learning Environment committed to continuous learning and improvement</b> - have a clear mission statement and plan for continuous improvement
<b>Confidentiality</b> - keep information about children confidential	<b>Childcare trained staff</b> - at least some staff have NVQ Level 2 or 3 training
<b>Behaviour Management</b> - a behaviour policy exists and is followed by staff	

## APPENDIX C: Costing Breakdown to support funded options

			One off cost	Recurring cost	Comments
Option 1 OR Option 2 AND one of the additional funding options below. Implementation of regulation without support is likely to deliver negative results	1) Basic Regulation	Inspection and assessment costs	0	0	Funded from within Education Budget
		Basic safety improvements	5729		Costs supplied by PWD
		Childcare Liaison Budget		5000	
		Training costs		5250*	As per 2015/16 Budget request
		Early Years Specialist Support	50000		
	TOTAL OPTION 1		55729	10250	
	2) Early Years Development	Inspection and assessment costs	0	0	Funded from within Education Budget
		Basic safety improvements	5729		Costs supplied by PWD
		Building improvements	7500		Costs supplied by PWD
		Nursery Liaison Budget		10000	
		Training costs		60000*	This cost would be absorbed by the higher education budget if the decision was made to train locally then staff would not need to be sent overseas to train
Early Years Specialist Support		50000			
TOTAL OPTION 2		63229	70000		
Option 3 OR	Parental	3) Universal support @ £ REDACTED		REDACTED	

<b>4 AND/OR Option 5</b>	<b>Support</b>	<b>4) Means tested support @ £ REDACTED</b>		<b>REDACTED</b>	Assumes parents paying 30% of income or more are eligible for support or households earning £28,000 or less per annum (figure is the same by either calculation)
	<b>Direct Support</b>	<b>5) Improvement Grants</b>		200000	
	<b>6) Project Management</b>		20000		Cost of employing a Consultant to oversee implementation

#### APPENDIX D: Existing Tax Credits for Families - Background Information for Option 4 Parental Support

The following support has been available to low income families since 2013.

##### Working Credit

Households where the applicants are over 16, resident for taxation purposes, have savings of less than £16,336 and where the household works 25 or more hours a week. Household earnings must also be lower than £14,000. The credit received will range up to £1,561 per annum and will be paid directly into the applicants' bank account in twelve equal instalments on a monthly basis (mid month).

##### Childcare Credit

This credit will be a premium paid on top of the Working Credit to applicants with at least one child under the age of 5 residing in the property. Additional credits of up to £1,576 per annum (one child in property) or up to £2,297 (two or more children in property) will be paid alongside the Working Credit.

# Nursery paper 2017

## Consultations and Process

- Consultations have been extensively conducted and reports are contained within the Project Manager's report
- A Steering Group has met monthly to consider key issues including representatives from Education, Health, the Chamber of Commerce and Treasury.
- Focus Groups have taken place for childcare businesses and parents and questionnaires have also been distributed to these groups.

- Individual stakeholder meetings have taken place with a large number of people with an interest in the sector including Teachers, the Health Visitor, SENCO Coordinator, School Nurse, Social Services, the Attorney General's Chambers, Policy Directorate, the Leisure Centre, Education Project Managers, School Managers, Chief Medical Officer, the Training Centre, Mount Pleasant Nursery and Local Business Owners and Landlords.
- The proposals have been considered and approved by the Education Board.
- A public meeting has been held with open questions and media present.

# Options

If we start with Option C – do nothing.

# The necessity to create some Nursery legislation

(see paper 3.1-3.6 and 4.1-4.7, also project manager's report for detailed analysis.)

- Safety
- Reliance of business and public sector on the service
- Ubiquity of such legislation internationally
- Self regulation has been tried (very professionally too) and hasn't worked
- Reputational element for government

2 further things to consider before  
looking at options A and B

# Universal V Means Tested

- Options were presented in the project manager's report for universal and means tested funding.
- **Only** means tested funding to support low earners is included in the options in the paper as it is significantly cheaper.
- All highlighted costs therefore include means tested rather than universal provision.
- Universal support remains as an option and if selected reduces administrative costs and would remove the need for additional employee time in Treasury. **It does not provide additional revenue, it simply alters who pays.**
- Universal support **would** remove any controversy around ability to pay.

To note throughout - 'Universal provision' would effectively increase 'means tested support' costs by  
2/3rds

# Grants, soft loans etc

These are included in the project manager's report and were originally placed within the costs for options A and B – I've removed them for reasons I'll come back to.

I haven't removed the suggestion that we include a means of injecting capital – but again, I'll come back to this shortly.

# Option A

- Create a regulatory framework for the childcare sector and provide the required support to ensure the stability of the sector, to effectively safeguard children in line with the Island Plan and to reduce future liabilities for government. This includes:
  - A regulatory framework under which childcare businesses are inspected and licensed under the arrangements set out in Appendix 1 (report)
  - Parental funding to encourage parents to continue to work with higher childcare rates (either universal or means tested to support those currently spending in excess of 30% of household income on childcare.)

- A local training plan to develop and retain skills in the sector and ensure effective safeguarding including a mandatory childcare induction and new practical work based training delivered by an Early Years role model trainer.
- A small discretionary budget for the Childcare Liaison Officer to fund implementation of the Nursery Award Scheme and fund activities undertaken as part of her role such as Sports Days and other events and activities.
- Policies and procedures to ensure that children with additional needs are supported in childcare settings.
- Funding for a Project Manager to project manage implementation of agreed changes.

# Cost of option A

OPTION A		One off cost	Recurring cost	Comments
Basic Regulation	Inspection and assessment	0	0	Funded from within Education Budget
	Basic safety improvements	5,729		Costs supplied by PWD to meet immediate safety requirements
	Additional Childcare Liaison Budget		5,000	To provide/loan equipment and resources
	Training costs		5,250	As per 2015/16 Budget request
	'Role Model' Trainer	50,000		Cost of overseas contract support for one year
	Means tested support <b>REDACTED</b>		<b>REDACTED</b>	Assumes parents paying 30% of income or more are eligible for support or households earning £28,000 or less per annum (figure is the same by either calculation)
Project Management		20,000		Cost of employing a Consultant to oversee implementation
<b>TOTAL OPTION A</b>		<b>75,729</b>	<b>79,175</b>	Recurring costs based on mean birthrate – birthrates can go down as well as up

# Option B

This includes everything in Option A, but it goes further – it represents a commitment to Early Years Development, which would essentially be a commitment to providing structured learning.

Mr Elsby has some comments in support of this.

OPTION B		One off cost	Recurring cost	Comments
Early Years Development	Inspection and assessment	0	0	Funded from within Education Budget
	Basic safety improvements	15000		Costs supplied by PWD to meet immediate safety requirements
	Building improvements			Costs supplied by PWD
	Nursery Liaison Budget		70000	
	Training costs			This includes the cost of a permanent Role Model trainer included in Option 1
	4) Means tested support @ REDACTED		REDACTED	Assumes parents paying 30% of income or more are eligible for support or households earning £28,000 or less per annum (figure is the same by either calculation)
Project Management		40000		Cost of employing a Consultant to oversee implementation
TOTAL OPTION B		55000	70000	Recurring costs based on mean birth rate – birth rates can go down as well as up

# So – pausing to consider options A or B

A – safety, regulation,  
means tested support for  
less well off

B – the same as A but with  
a a commitment to  
providing structured  
learning, not just play.

**75,729** one off cost

**REDACTED** every year from  
commencement of  
financial support

**55,000** one off cost

**REDACTED** every year from  
commencement of  
financial support

Finally

# Grants, soft loans etc

- Both options A and B contained the option of additional capital grants to child care providers to facilitate the necessary commercial investment to support the transition. This is proposed to be put in place for a 5 year period to kick start improvements and to be reviewed at agreed points. Grants would be administered by the FIDC and could be provided on an agreed set of suitable criteria and conditions, including match funding if deemed appropriate.

<b>Direct Support</b>	Improvement Grant/Soft Loans		200,000*	Proposed as a notional capital sum from which grants /soft loans could be awarded

# Advice and suggestions from FIDC, Treasury and Portfolio Holder

- The fact that the nurseries don't own their own buildings is a major consideration and weakens the case for grants.
- We might want to provide some public funding to accelerate investment – probably best done through subvention.
- Loan funding should also be only systematically considered as a business case.
- Even if the nurseries become more profitable by the introduction of the new hourly rate – while they wouldn't make huge profits, they should be able to part-fund some of these 'commercial' investments and would be very welcome to apply to FIDC's business development loan funding through the existing system. There probably is a market for a two tier system with some nurseries charging higher rates and raising revenue that would allow them to access loans.

Consideration could be given to designing, funding and building – purpose built Nursery buildings over several years.

These could be let to private business at manageable rates and represent an on-going capital investment by government which would avoid issues around investing in privately owned buildings.

The small financial input (around £5k) for both A and B takes care of immediate problems with existing buildings – a building programme delivers higher quality, purpose built structures for the future – probably paid for by subvention.

Suggestion that - members agree to Option A or B and ask Education Department to progress.

And.....

Return to possibility of Grants/Loans/Subventions at another time and ask treasury/FIDC to explore options for government funded buildings for low rent

## Reminder - Options for regulated Nursery care A and B

<p>A – safety, regulation, means tested support for the less well off</p>	<p>B – the same as A but with a a commitment to providing structured learning, not just play.</p>
<p><b>75,729</b> one off cost</p> <p><b>REDACTED</b> every year from commencement of financial support</p>	<p><b>55,000</b> one off cost</p> <p><b>REDACTED</b> every year from commencement of financial support</p>