

NORTH YORKSHIRE COUNCIL  
CHILDREN AND YOUNG PEOPLE'S SERVICE  
CORPORATE DIRECTOR MEETING WITH EXECUTIVE MEMBERS

15 April 2025

**Changes in legislation and statutory guidance when maintained schools want to add, remove or change existing nursery provision and proposals by the Governing Board of Kettleasing Felliscliffe Community Primary School to remove nursery provision**

**1.0 PURPOSE OF REPORT**

- 1.1 To provide the Executive Member with information about changes in legislation and statutory guidance when maintained schools want to make changes to a school's age range in order to add, remove or change existing nursery provision.
- 1.2 To provide information about the proposals by the Governing Board of Kettleasing Felliscliffe Community Primary School to remove nursery provision and to recommend that these proposals are supported.

**2.0 EXECUTIVE SUMMARY**

- 2.1 Changes in legislation and statutory guidance have removed the requirement (and the ability) for Local Authorities to follow the statutory process when making an age range change to community schools to:-
- add a new nursery
  - remove an existing nursery
  - change the age range of an existing nursery
- 2.2 The Governing Board of Kettleasing Felliscliffe Community Primary School have consulted on proposals to remove nursery provision and it is recommended that these proposals are supported.

**3.0 CHANGES IN LEGISLATION AND STATUTORY GUIDANCE WHEN MAINTAINED SCHOOLS WANT TO ADD, REMOVE OR CHANGE EXISTING NURSERY PROVISION**

- 3.1 The Education and Inspections Act 2006 sets out the procedures for making changes to a maintained school. These are detailed in School Organisation

regulations and guidance.<sup>1</sup> The regulations and guidance apply to Local Authorities and governing boards proposing to make changes, and to Local Authorities (including the Council's Executive and Executive Members) acting as decision-makers.

3.2 Regulations and statutory guidance issued by the DfE in early March 2025 have removed the requirement (and the ability) for Local Authorities to follow the statutory process when making an age range change to community schools to:-

- add a new nursery
- remove an existing nursery
- change the age range of an existing nursery

3.3 The changes only apply to Community Schools, as prior to March 2025, the Governing Boards of Voluntary Controlled, Voluntary Aided and Foundation Schools could already propose a change to nursery provision by following the non-statutory process.

3.4 The Statutory Guidance states:

“Change of age range

In order to support the government's commitment to create or expand school-based nurseries across England, there is no longer a requirement for local authorities and governing bodies to follow the statutory prescribed alterations ('change of age range') process when they want to make changes to a school's age range in order to add, remove or change existing nursery provision. Where these changes to nursery provision are made, we expect local authorities and governing bodies to have regard to 'Changes that can be made outside of the statutory process' on page 32 of this guidance, including ensuring an open and fair consultation.” (p. 12 of the Guidance)

The statutory guidance also now states that Local Authorities for community schools can publish proposals for “alteration of upper or lower age range by one year or more, including the adding or removal of sixth form (but excluding changes related to nursery provision)” (p. 13 of the Guidance).

3.5 The changes to the Statutory Guidance reflect the School Organisation (Prescribed Alterations to Maintained Schools) (England) (Amendment) Regulations 2025 coming into force from 3 March 2025.<sup>2</sup> This alters Schedule 2, paragraph 2 of The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, the effect of which is to

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<sup>1</sup> School Organisation (Prescribed alterations to maintained schools (England)) Regulations 2013 and (Prescribed Alterations to Maintained Schools) (England) (Amendment) Regulations 2025 and Department for Education statutory guidance Making significant changes ('prescribed alterations') to maintained schools Statutory guidance for proposers and decision makers, March 2025:

<https://www.gov.uk/government/publications/school-organisation-maintained-schools>

<sup>2</sup> <https://www.legislation.gov.uk/ukxi/2025/94/made>

remove nursery proposals for community schools from the alterations that can be published by a Local Authority.

#### **4 PROPOSAL TO REMOVE NURSERY PROVISION AT KETTLESING FELLISCLIFFE COMMUNITY PRIMARY SCHOOL**

- 4.1 The Governing Board of Kettlesing Felliscliffe Community Primary School have been consulting on a proposal to remove nursery provision during early 2025.
- 4.2 A decision to temporarily suspend the nursery provision at Kettlesing Felliscliffe Community Primary School had previously been made by the school federation's Interim Executive Board following a consultation and took effect from September 2023. Based on a review of the evidence, the governing body is now proposing to permanently cease nursery provision at Kettlesing Felliscliffe Community Primary School from 31 August 2025.
- 4.3 Kettlesing Felliscliffe Community School ran a consultation from 29 January to 5 March 2025 about a proposal to permanently cease nursery provision. A copy of the consultation document is attached as Appendix 1. No written responses were received during the consultation period. The school reported that informal verbal responses have been wholly positive. The school's Governing Board subsequently met and agreed to make a recommendation to the Council to close the nursery.
- 4.4 The Council's Executive on 15 April 2025 were scheduled to consider a report that detailed the response to the consultation exercise, and to consider a recommendation to authorise the publication of proposals and statutory notices, and to schedule taking a final decision on the proposal on 15 July 2025. However, following the changes to the statutory guidance and new regulations, the Council no longer has the ability to publish statutory proposals to this effect.

#### **5 LEGAL IMPLICATIONS**

- 5.1 The consideration and determination of school organisation proposals by the Local Authority is set out in regulations and in guidance produced by the Department for Education noted above.

#### **6 EQUALITIES IMPLICATIONS**

- 6.1 An Equalities Impact Assessment has been undertaken and is attached as Appendix 2. The assessment concludes that: "Whilst it is recognised that there may be some adverse impact upon those living within the school's catchment area in the future, as they would have to travel further to access alternative early years provision, as there are no current nursery pupils at the school, this would only impact upon future nursery-aged pupils. As these proposals develop, any adverse impacts will be carefully monitored and all reasonable mitigations will be taken."

## 7 CLIMATE CHANGE IMPLICATIONS

- 7.1 A Climate Change Impact Assessment has been undertaken and is attached as Appendix 3. The assessment concluded that “This proposal has some limited negative environmental impacts. Although there are currently no nursery pupils on roll, in closing the nursery provision at the school, some vehicles may have to travel further to transport nursery-aged pupils to and from other nursery providers in the future. Ultimately there is an overriding consideration in this proposal to provide the best outcome for education provision in the area and there is a range of quality early years providers in the surrounding areas.”

## 8 RECOMMENDATIONS

- 8.1 To note the changes to the statutory guidance and new regulations effective from 3 March 2025.
- 8.2 To support the proposal by the Governing Board of Kettlesing Felliscliffe Community Primary School to change the age range of the school, effective from 31 August 2025, by ceasing nursery provision.

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Corporate Director – Children and Young People’s Service

Report prepared by John Lee, Strategic Planning Team.

### List of Appendices

Appendix 1: Consultation document on proposal to change age range at Kettlesing Felliscliffe CP from 2-11 to 4-11 by ceasing nursery provision  
Appendix 2: Equalities Impact Assessment  
Appendix 3: Climate Change Impact Assessment