Executive Board – 17 September 2024

Culpia at	Forth Volum Fatitlements and Wrong around Children. Accordance	
Subject:	Early Years Entitlements and Wraparound Childcare – Acceptance	
	and Spend of Grant Funding	
Corporate	Ailsa Barr, Interim Corporate Director for Children & Education	
Director(s)/Director(s):	Services	
	Nicholas Lee, Director of Education Services	
Executive Member(s):	Councillor Cheryl Barnard, Executive Member or Children, Young	
	people and Schools	
Report author and	Katherine Crossley, Project Manager, Early Years Team	
contact details:	Ext: 64534 katherine.crossley@nottinghamcity.gov.uk	
Other colleagues who	Kathryn Bouchlaghem and Catherine Smith (Early Years), Robert	
have provided input:	Caswell (Corporate PMO), Tom Straw (Major Programmes) and	
	Richard Bines (Legal)	
Subject to call-in: 🛛 Y	es No	
Key Decision: X Yes No		
Criteria for Key Decision:		
	Income Savings of £750,000 or more taking account of the overall	
impact of the decis	- · · · · · · · · · · · · · · · · · · ·	
and/or	, 	
	on communities living or working in two or more wards in the City	
Yes No	on communication willing of working in the crimero wards in the city	
Type of expenditure:		
If Capital, provide the date considered by Capital Board		
Date: 2nd July 2024		
Total value of the decision: £2,314,431 (£554,499 capital and £1,759,932 revenue)		
Section 151 Officer expenditure approval		
Has the spend been approved by the Section 151 Officer? Yes No N/a		
Spend Control Board approval reference number:		
SCB ID 7155 (Capital - £554,499) & SCB ID 7157 (Revenue - £1,759,932) Approved 31.07.24		
Commissioner Consideration		
Has this report been shared with the Commissioners' Office? ⊠ Yes ☐ No		
Any comments the Commissioners wish to provide are listed below.		
Wards affected: All		
	th Executive Member(s): 19th June 2024 (DLT) & 6th August 2024	
(CLT)		
Relevant Council Plan I	Key Outcome:	
Clean, Green and Connected Communities		
Keeping Nottingham Working		
Carbon Neutral by 2028		
Safer Nottingham		
Child-Friendly Nottingham		
Living Well in Our Communities		
Keeping Nottingham Moving		
Improve the City Centre		
Better Housing		
Serving People Well		
Co. vilig i copic vvoii		

Summary of issues (including benefits to citizens/service users):

The Department for Education (DfE) has allocated capital and revenue funding to support local authorities (LA's) in the delivery of the expansion of the 30-hours early years entitlements for working families with children from 9 months of age and wraparound provision for primary school age children. This forms part of our statutory duties under the Childcare Act 2006 (2016). The revenue element for the early years entitlements will be paid to the LA via the Dedicated Schools

Grant on the same basis as the Early Years Census and will be based on participation as per the current basis for receiving this funding for the existing early years entitlements. This report is in relation to the additional capital funding to support the expansion of the early years entitlements and the wraparound childcare programme, which was received as an un-ringfenced grant, under section 31 of the Local Government Act 2003, in February 2024, at a value of £490,743, which will be combined with a previous DfE Capital Grant Programme underspend of £63,756 to provide an overall capital grant programme of £554,499 and also the revenue element of the wraparound childcare programme funding as an un-ringfenced grant, under section 31 of the Local Government Act 2003, to a maximum allocation of £1,759,932 for 2024/25 – 2025/26, £161,000 of which is identified as LA Capacity Funding to support programme delivery. The remaining £1,598,932 revenue and the £554,499 capital is to be made available for an onward grant allocation programme for schools and early years and childcare settings, through the LA's approved Procurement and Financial Regulations processes, to support the expansion of these national reforms. The proposed grant allocation programme will be available city wide, connected to the LA's Childcare Sufficiency Assessment to ensure sufficiency gaps are addressed and the LA can continue to meet its statutory duty around the provision of sufficient childcare.

The key benefits to Nottingham City children and families will be the ability to access free early years entitlements provision for working families with children as young as 9+ months, until they reach statutory school age, at an Ofsted registered, high quality, early years setting of their choice, and for families to be able to access before and after school provision for primary school aged children through the creation of additional childcare places under the wraparound childcare programme. This provision of additional places will enable parents to return to/take up employment or training, supporting regeneration and economic growth in the City.

Does this report contain any information that is exempt from publication?

Recommendation(s):

- 1 To accept the childcare expansion capital grant of £490,743 awarded 1 February 2024 under determination 2023: No 31/6960 and combine it with the £63,756 of previous DfE Capital Grant Programme underspend as consented to by the DfE, to provide a capital grant programme of £554,499.
- **2** To accept funding for financial year 2023-24, 2024-25 and provisional allocations for 2025-26 to a maximum value of £1.759m under Grant Determination Reference 31/6910 for the Wraparound Childcare Programme, with £1.599m allocated to an onward grant programme.
- 3 To accept the early years entitlements revenue funding as it is received through the Dedicated Schools Grant for onward allocation to early years settings delivering early years entitlement places
- **4** To delegate authority to the Corporate Director for Children and Education Services and the Director for Education:
 - a) to spend the identified sums on a scheme of onward grant allocations for projects to support the expansion of the early years entitlements and wraparound childcare programme, and central capital works necessary to support the roll-out of these expansions; and
 - b) to establish a scheme for assessment and approval of grant applications, to award grants and enter into onward grant funding agreements with recipients and;
 - c) to tender, award and enter into relevant public works, goods and service contracts.

1. Reasons for recommendations

- 1.1 To enable the funding received from the DfE to be distributed as an onward grant allocation programme, as per the national guidance and terms and conditions of the grant, to support the delivery of the national childcare reforms.
- 1.2 In doing so, enabling the LA to continue to be able to meet its statutory duty around the provision of sufficient childcare.

2. Background (including outcomes of consultation)

- 2.1 The proposal background is led nationally, linked to the childcare transformative reforms, for LAs to implement locally. This funding is intended to support the expansion of childcare places.
- 2.2 Discretion lies with LAs to determine how best to prioritise this funding to address local priorities, but the capital element must be spent on capital projects, and is being provided to meet the capital costs associated with projects that help ensure sufficient places for children taking up an early years place through the expanded entitlements or increased supply of wraparound childcare provision. This will give us flexibility with relation to meeting the needs of Nottingham's context.
- 2.3 Section 6 of the Childcare Act 2006 requires LAs to secure in their area, so far as reasonably practicable, sufficient childcare for children up to 14 years old (or older if the child is disabled) to enable parents to work or train for work. LAs are required to secure free provision for children eligible for the early years entitlements. The amendments to the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 places a duty on LAs to provide free early years entitlements places for children eligible for the extended 30-hours entitlement from the term after they reach the age of 9-months age eligible until the child starts school.
- 2.4 The grant application process will be reflective of the Capital Grant Allocations Guidance and the Wraparound Childcare Programme Handbook/Memorandum of Understanding, and any funds allocated will monitored in line with this national guidance documentation. The grant programme will be promoted to schools and childcare providers and the application proposal will be required to address how identified sufficiency gaps are to be met to ensure the project meet the needs of local families.
- 2.5 For applications proposing changes to existing school provision, through appropriate representation on the Grant Awarding Panel, it will be ensured that there is appropriate regard to the statutory or equivalent guidance on making significant changes to maintained schools or open academies.
- 2.6 An Education Capital Programme Board is in place to structure how we make decisions on all spend as it is anticipated that the same grant application process will cover both capital and revenue requests. The Board meets monthly and is chaired by the Director of Education as the Sponsor / Lead Officer and will approve or reject the recommendations of this Grant Awarding Panel.

3. Other options considered in making recommendations

3.1 None, as the LA must deliver on these additional requirements to continue to meet its statutory duties. These proposals for delivery have been streamlined alongside the existing early years entitlements and wraparound provision within the priorities of the Early Years Team and advice from colleagues in Major Programmes, Finance and Legal have been sought to develop the reports approved at DLT, CLT and Capital Board.

4. Consideration of Risk

- 4.1 Delivery of this expansion programme will be funded wholly through the additional grant sum allocations identified, therefore there are no financial implications for the LA as no funding over and above the grant allocation total will be awarded.
- 4.2 There will be a transparent application and assessment processes, with clear communication that there is a finite sum of funding available, funding must support new place creation and not fund retrospectively for costs already incurred. The Grant Awarding Panel will make decisions about the applications received. There will be an Appeals Process in place, for review by the Director of Education, where decisions are challenged, and we have DfE approval to utilise a former capital grant underspend of £63,756 available to support upheld appeals or potential additional projects in a capital capacity.
- 4.3 The Grant Agreement to allocate the funding to successful applicants will provide clarity that any variation in project costs will be the responsibility of the grant recipient, with higher costs needing to be met by the grant recipient and any underspend being subject to funds being clawed back to support other projects. We will ensure that successful applicants undertake necessary monitoring to confirm and evidence how the funding has been spent appropriately by the provider, through the submission of invoices/receipts and a grant monitoring form. Grants may be paid in more than one instalment depending on the size of the award, to allow for interim monitoring. This will ensure compliance with grant terms and conditions and enable completion of the Grant Assurance Data Return and verification on how the funding has been spent through Section 151 Officer's return.
- 4.4 The risk of not investing the funds, will result in the LA failing to deliver on national policy, unable to meet its statutory duties with regards to Childcare Sufficiency and a loss of £2.3m investment into the City.
- 5. Best Value Considerations, including consideration of Make or Buy where appropriate
- 5.1 Best value considerations will be a requirement of the grant application process. In making the grant funding available, the Grant Panel will enable others to demonstrate best value by seeking appropriate quotes from relevant suppliers for the work they propose to undertake. Part of the assessment process will consider how the applications demonstrate best value and their planning and procurement, looking at price, quality and efficiency of the proposed project.
- 6. Commissioner comments
- 6.1 Commissioners are content with this report
- 7. Finance colleague comments (including implications and value for money/VAT)
- 7.1 The Capital Programme approved at Full Council March 2024 includes the budget of £63,756 as part of the residual balance from the previous 2-Year-Old Expansion Programme. Following the formal approval of this decision, the current project budget will be increased by the £490,743 grant awarded in February 2024.

- 7.2 Due to financial constraints within the Council the Project Manager is required to ensure that the capital projects do not exceed the increased budget of £554,499.
- 7.3 As detailed in the report, the project will be undertaken at schools and childcare settings within the city. These establishments have their own ringfenced revenue budget or be applying for revenue funding which will be allocated to a finite sum and not over the revenue grant allocation. Therefore, this project has £nil impact on the Council's revenue budget.

Tom Straw, Senior Account (Capital Programmes) – 10th June 2024

8. Legal colleague comments

- 8.1 Subject to S151 Officer approval, the CPEC are asked to approve the receipt and spend up to £554,499 of capital and £1.759m of revenue grant funding allocated by the DfE, through a grant funding programme for providers to support the expansion of the early years entitlement places and wraparound childcare places.
- 8.2 There is a duty on the City Council under section 6 of the Childcare Act 2006, so far as reasonably practicable, to secure availability of sufficient childcare for children up to 14 years old (or older if the child is disabled) in their area to enable parents to work or train for work. Local authorities are required to secure free provision for children eligible for the early years entitlements by section 7 of The Childcare Act 2006 for disadvantaged 2-year-olds and a universal entitlement for 3- and 4-year-olds and by section 2 of the Childcare Act 2016 for 30 hours childcare.
- 8.3 The amendments to the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 places a duty on local authorities to provide free early years entitlements places for children eligible for the extended 30-hours entitlement from the term after they reach the age of 9-months age eligible until the child starts school.
- 8.4 When seeking to discharge its duties under the above legislation the City Council must also have regard to the DfE Statutory guidance and must not depart from it unless it has good reason to do so.

Capital Funding

- 8.5 It is understood that the spend of the funding comprises an additional capital amount of £63,756 a residual DfE grant awarded in 2013/14 to support the expansion of 2-year-old places (held in N-E-17169-40 CAP GRANTS) as well as the £490,743 awarded in February 2024 cited as the Childcare Expansion Capital grant (2023) No. 31/6960. As far as the residual 2013/14 award amount is concerned, it is understood the Council has received written consent from the DfE to utilise the remaining sum for the relevant purposes outline in this report.
- 8.6 The Council must ensure it acts in accordance with the DfE consent and in accordance with Childcare Expansion Capital grant (2023) No. 31/69604, by ensuring the funding is only spent on capital projects, and is being provided to meet the capital costs associated with projects that help ensure sufficient places for children taking up an early years place through the expansion of the early years entitlements or to increase the supply of wraparound childcare for primary-school aged children.

- 8.7 The Council will retain under Childcare Expansion Capital grant (2023) No. 31/6960, discretion to use of this grant to fund central capital works (e.g. modifications to IT systems, etc,.) where they are necessary to enable the roll-out of entitlements. Though the grant under determination No. 31/6960 is unringfenced, the Childcare Expansion Capital Grant determination conditions must be fully complied with to minimise the risk of any reduction, suspension or withholding of grant or clawback of funding by the DfE.
- Specific guidance on allocation of the Childcare Capital Expansion Grants for financial year 2023-24 has been issued that the Council is strongly advised to refer to, despite it not being Statutory guidance to ensure funding is delivered in ways that best match the needs of their local communities, focusing on projects that will increase the physical capacity of early years and wraparound provision in local areas where demand is likely to exceed existing supply. Specific regard should be taken of the planning and procurement approach recommended in the guidance and the needs to consider appropriate consultation with all relevant stake holders to minimise the risk of legal challenge on public law grounds. The Council should also consider how it can secure wider social, economic and environmental benefits when commissioning public services/projects. Before it starts a procurement process, the Council should think about whether the works and services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders. In addition to local social value priorities, the Council should consider the themes and policy outcomes in the Social Value Model referenced in the aforementioned guidance. Where relevant (e.g., where a project is taking place in a school), the Council will be expected to conduct a robust evaluation of procurement options for any education capital projects and, in doing so, to consider the use of both DfE's Construction Framework and its Modern Methods of Construction (MMC) Framework where these are likely to deliver overall savings and advantages, while ensuring compliance with the Public Contract Regulations 2015 and procurement regime as updated by the Procurement Act 2023, if applicable, together with the Councils own internal Contract Procedure Rules. Where appropriate, the Council should encourage other responsible bodies and schools to do the same, should they procure a construction project directly.
- 8.9 Verification that funding has been spent on capital projects will need to be given through the S151 Officer's return. As an express condition of the grant the Council should seek to ensure funding paid out under this grant is spent efficiently. To which end, it should thoroughly evaluate all procurement options for projects including the Department for Education construction frameworks and output specification to demonstrate value for money. A local authority should encourage providers to do the same, should they procure a construction project directly. A local authority may be required to provide such information as reasonably requested by the Minister, relating to expenditure on new places and the procurement options appraisal conducted.
- 8.10 The Council must ensure that all Private, Voluntary and Independent (PVI) settings and childminders intended to deliver entitlements or wraparound places are registered with Ofsted (or, in the case of childminders, with Ofsted or a Childminder Agency), and that, where the setting is intending to offer entitlements places, the setting must be delivering the Early Years Foundation Stage Framework (EYFS) as required by regulation 6 of the Childcare (free of charge for working parents) (England) Regulations 2022.

- 8.11 Funds for each financial year will be made available in the form of a non-ringfenced grant, contingent on the terms set out in the Memorandum of Understanding (MoU) for the programme and with reference to the programme handbook which includes the grant payment schedule.
- 8.12 The terms in the MoU include:
 - i. The Recipient must agree to the terms of the MoU before receipt of the first payment
 - ii. The Recipient must submit, of sufficient quality for DfE approval, a costed capacity delivery plan before receipt of the second payment, a costed programme delivery plan before receipt of the third payment, and a delivery plan update for DfE approval before each subsequent payment
 - iii. The Recipient must complete all required programme reporting and evaluation activity
 - iv. The Recipient must complete a Statement of Grant Usage (see template annex in the Programme Handbook) at the end of each financial year, by the required deadlines
 - v. The Recipient must have and make available as required, a transparent process for allocating funding to suppliers and/or childcare providers
 - vi. The Recipient must ensure they have sufficient capacity to deliver the programme requirements, using a reasonable proportion of the grant to cover the costs incurred
 - vii. The Recipient must ensure that where funding is dispersed to private, voluntary or independent childcare providers, including childminders, all such childcare providers are registered with Ofsted to provide school-age childcare before childcare provision commences
 - viii. The Recipient must have in place a process to monitor and mitigate the risk of childcare providers receiving double funding for the same activities
- 8.13 The purpose of the grant is to support local authorities in England to increase the supply of wraparound places, to ensure or guarantee provision for all parents who may need it, meeting current demand and building further demand.
- 8.14 With this grant, local authorities should work with and fund primary schools and private, voluntary and independent (PVI) providers, including childminders, to introduce or expand before- and after-school childcare provision in their area where there is a gap in availability. As part of this programme the government wants local authorities, schools and providers to test flexible approaches and gather evidence of what works. Full details of the programme aims and objectives, delivery plan templates, reporting requirements and the expectations of local authorities are set out in the Wraparound Childcare Programme handbook and the Wraparound Childcare Programme Memorandum of Understanding.
- 8.15 The local authority will comply with the collection of data that the Department requires and is set out in the Wraparound Childcare Programme Handbook. This will include, but is not restricted to:
 - a) The cost of the local authority's programme
 - b) Information from schools, private, voluntary and independent organisations (PVIs) and childminders funded through this grant prior to the start of the programme and throughout the programme duration – including but not restricted to:
 - i. Provider type

- ii. Opening and closing times of the provision
- iii. Childcare places available
- iv. Childcare places used
- v. Financial Information regarding charges for the provision.
- 8.16 The Department may require the local authority to undertake additional pupil level data collection during the local authority's programme as part of a national impact evaluation of the Wraparound Childcare Programme. The data collected will be cross matched with the Pupil Parent Matched Dataset (PPMD), which contains parents' DWP benefits data and HMRC earnings data, linked to pupil-level National Pupil Database (NPD) information. Only a selection of local authorities will be asked to supply this additional pupil level data and the Department for Education will act as data controller in order to facilitate the necessary data transfer to any external evaluator we may commission. Annex B of the grant determination letter, sets out the Department's standard GDPR clauses and how personal data will be collected, processed and stored by local authorities. Please note that this Annex applies only to those local authorities who participate in this additional data collection.
- 8.17 Local authorities that are participating in the national evaluation will be required to submit personal data on children taking part in the Wraparound Childcare Programme, including but not restricted to:
 - i. Child's name;
 - ii. Child's dates of birth;
 - iii. Unique Pupil Number (UPN) (schools only);
 - iv. Child's school;
 - v. Child's home postcode;
 - vi. Whether the child was attending wraparound prior to the funding;
 - vii. Details on days / hours attended that term.
- 8.18 If participating in the national impact evaluation, the local authority is expected to comply with the collection of data and the Department will notify the local authority whether the local authority has been selected. The Department may publish data on participation and expenditure, including breakdowns of this data at local authority level.
- 8.19 If the Recipient fails to comply with any of the provisions in the MoU, or if any of the events set out below occur, the Secretary of State may reduce, suspend or withhold Grant payments to the Council or put in place additional grant assurance processes, as may be determined by the Secretary of State and notified in writing to the Council:
 - The Council purports to transfer or assign any rights, interests or obligations arising under this Grant without the prior agreement of the Secretary of State;
 - ii. Any information provided by the Council in any application for Grant monies payable under this Grant, or in any subsequent supporting correspondence, is found to be significantly incorrect or incomplete in the opinion of the Secretary of State;
 - iii. It appears to the Secretary of State that other circumstances have arisen, or events have occurred that are likely to significantly affect the Council's ability to fulfil the expectations set out in the programme guide and achieve the outputs, activities, milestones and targets set out in the delivery plan. This includes, but is not limited to, where the Council has been issued a section 114 notice;

- iv. The Council's Section 151 Officer/Chief Finance Officer is unable to provide reasonable assurance that the Statement of Grant Usage, in all material respects, fairly presents the Eligible Expenditure in the Grant Period in accordance with the provisions of this MoU;
- v. The Council fails to deliver the Programme in line with the programme handbook and delivery plan.

Capital and Revenue Funding

- 8.20 The Council will be public body allocating funding from the Childcare Expansion Capital Grant. The Council must ensure it remains compliant with the Subsidy Control Act 2022. The Early Years Team will be responsible for the day-to-day assessment and management of this process which will need to include consideration, an application or the Subsidy Control Act 2022 as to whether any particular grant they propose to make is a 'subsidy, including whether any proposed recipient is an 'enterprise', whether the funding is, or can be, provided in support of non-economic activities only, and whether there is a genuine adverse effect that is more than incidental on competition or investment in the UK. In order for any particular grant to be considered a subsidy all four limbs of the subsidy test must be met. If a particular grant is assessed to a subsidy, the Council should consider the necessity of an assessment against the subsidy control principles in line with the statutory guidance, paragraph 3.11 of which states that the assessment should be commensurate to the size and potential distortive impact of the subsidy in question. The Council should also consider whether the provisions applicable to minimum financial assistance and services of public economic interest (detailed at chapters 6 & 7 of the guidance) may apply. They may also find Annex 2 of the statutory guidance regarding the design and assessment of small subsidies useful.
- 8.21 Relevant grant conditions from within the grant determinations must be cascaded down into public service, goods and works contracts and grant agreements to ensure the Council is able to continue to comply with the obligations placed upon the Council under the relevant MOUs to avoid the risk of clawback. For key importance in this context will be the necessity to ensure the mirror termination provisions.

Richard Bines - Solicitor - Contracts and Commercial Team - Legal Services – 12.08.2024

9. Other relevant comments

- 9.1 Whilst consideration has been given to sending the report to authorised colleagues in the following teams, this has not been progressed for the reasons stated below:
 - Procurement It is not anticipated that the City Council will need to procure
 anything as part of this onward grant allocation programme at this stage.
 However, it will be ensured that appropriate advice is sought to build
 appropriate procurement requirements into the guidance for applicants as
 part of the application and assessment process. If the Council does need
 to directly procure any goods or services, Procurement advice would be
 sought as necessary at this time.
 - Strategic Assets and Property This is an onward grant application process, and any strategic assets and property will be the responsibility of the grant application
 - HR No HR comments have been sought as there are no workforce implications.

	• IT – No IT comments have been sought as there are no IT implications.	
10.	. Equality Impact Assessment (EIA)	
10.1	1 Has the equality impact of the proposals in this report been assessed?	
	No 🖂	
	An EIA is not required because this onward grant allocation programme to create additional childcare places is not a new function, it is to support an extension and continuation of an existing service, the existing provision of the early years entitlements to a younger age range and an extension of before and after school provision in schools. These extensions to existing provision will address sufficiency needs in local areas to ensure more children and families can access childcare provision to enable them to return to, or take up employment/training, resulting in positive impact for local families and communities.	
11.	Data Protection Impact Assessment (DPIA)	
11.1	Has the data protection impact of the proposals in this report been assessed?	
	No 🖂	
	A DPIA is not required because with this being to approve an onward grant allocation programme, we will not be collecting personal data or the personal data of children. The data required of applicants applying for grant funding will be details relating to the grant applicant, a school or childcare provider, whose contact details will be in the public domain. Nottingham City has not been selected to take part in the national evaluation detailed in section 8.	
12.	Carbon Impact Assessment (CIA)	
12.1	Has the carbon impact of the proposals in this report been assessed?	
	No 🖂	
	A CIA is not required because this onward grant allocation programme is not expected to have negative impacts on carbon. The places to be funded will be an	

extension of existing facilities and will be accessed by local communities, who will walk to the provision being funded, positively impacting on carbon emissions. As part of the grant application process, our procurement processes will ask applicants to consider carbon reduction and sustainability considerations.

- 13. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)
- Wraparound Childcare Delivery Plan Approved by S151 Officer 13.06.2024
- DLT Report 19.06.2024

- Capital Board Report 02.07.2024
- Spend Control Approval Emails 31.07.2024
- CLT Report 06.08.2024
- 14. Published documents referred to in this report

- Childcare Act 2006 (2016)
- Subsidy Control Act 2022
- Statutory Guidance: Early Education and Childcare (2024)
- Childcare (Free of Charge for Working Parents) (England) Regulations 2022
- National Wraparound Childcare Handbook (2024)
- Grant Determination Letters (2024)