

Meeting:	Executive
Meeting date:	12/09/2024
Report of:	Martin Kelly, Corporate Director of Children and Education
Portfolio of:	Councillor Bob Webb, Executive Member for Children, Young People and Education

Decision Report: Commissioning of New and Expanded Places for Childcare Reforms

Subject of Report

1. To inform Executive about Department for Education (DfE) capital and revenue grants to commission the creation of new places for the delivery of the childcare reforms and the approach for determining allocations. To seek approval from Executive to the overall programme spend.
2. By approving the overall programme spend it means the creation of new places can be delivered in line with government expectations for the phased introduction of new early education entitlements and expanded wraparound care and to meet demand from parents so that they are able to take up and remain in work.

Benefits and Challenges

3. The benefits of creating new places means that parents will be supported to be able to work full time, more hours and with flexible hours to make a positive difference to families.
4. Children and young people's capacity for positive development is enhanced if they are able to access the broadest range of environments and play opportunities and so the expansion of wraparound care benefits their health development and well being.

5. Access to high quality early education benefits young children's cognitive, language and social development leading to better outcomes at aged five and improving their life chances overall. By creating new early education places more eligible young children will benefit to give them a best start in life.
6. There is also the opportunity to create new jobs in the early years and wraparound sectors as high calibre staff at all levels are required to deliver new and expanded provision.
7. The challenges of this ambitious programme are the scale and pace to deliver the reforms over a phased period up until March 2026.

Policy Basis for Decision

8. *Education and Skills: High Quality Skills and Learning for All*
 - City of York Council 'CYC' has a statutory duty to secure sufficient early years and childcare provision for children aged 0-14 (and up to 18 for children with SEND) which includes early education places for eligible children.

Financial Strategy Implications

9. The expenditure described in this report will be funded from external resources. The revenue expenditure is chargeable to the revenue funding streams discussed in detail in the financial implications paragraphs 31-37 and the capital expenditure will be funded by Department for Education Capital Grant and relevant Section 106 Developer contributions as outlined in paragraph 36.

Recommendation and Reasons

Executive is asked to:

- approve the capital and revenue spend to create new early years and wraparound places to deliver this ambitious government programme.

- approve the use of the DfE 2023-34 Childcare Capital Expansion grant allocation to increase the capacity of early years and wraparound provisions in York and use the DfE Wraparound Programme revenue grant allocation to support the delivery of additional wraparound places for primary school children.
- delegate authority to the Corporate Director of Children and Education, the Director of Governance and the Director of Finance to take such steps as are necessary to develop the grant allocation process, procure, award and enter into the resulting grant agreements.

Reason: To ensure the delivery of new places in line with government expectations for the phased introduction of new early education entitlements and expansion of wraparound care.

Background

10. The Department for Education (DfE) have acknowledged the crucial role local authorities (“LAs”) will play in supporting local early years and childcare markets. From April 2024, eligible working parents of 2 year olds are eligible to access 15 hours early education and care. By September 2025, most working families with children aged between 9 months and 5 year olds will be eligible for 30 hours each week of early education and care. The changes are being introduced gradually to make sure that the providers can meet the needs of more families. The DfE’s 2023-24 Childcare Capital Expansion grant allocation to York is £333.6k. This funding should be used to increase the physical capacity of early years *and* wraparound provision in local areas where demand is likely to exceed existing supply. There are conditions of grant relating to the allocation alongside grant determination and guidance to support LAs how to best use their allocation.
11. The DfE has also allocated £579.2k revenue funding to York to support the creation of wraparound places to make sure all families of primary school children who need it can access childcare between 8am and 6pm. It also supports LA capacity for the delivery of this work. Allocations are administered by a non-ringfenced Section 31 grant. Alongside the allocations there is a programme handbook to give clarity on the programme expectations so that LAs can begin to plan for the implementation of the wraparound

programme, ready to deliver an increase in the availability of high quality, inclusive and sustainable wraparound care.

12. CYC has also been successful in securing £10k from the DfE to support the commissioning of specialist after school provision for children with complex needs. York is the only local authority to successfully secure this funding via a strategic support partner and is the first in the country to test the market for specialist provision, which is sustainable in the longer term. The DfE is keen to capture our learning so far and next steps so that good practice can be shared with other local authorities. As a result of scoping the Early Years and Wraparound Team have revised the timeline for this new specialist provision and aim to commission the specialist provision to be up and running for families in the latter part of the Spring Term 2025.
13. CYC is also in receipt of Section 106 contributions towards the creation of new early years places and these are based on a similar formula to the yields for primary schools. Where appropriate the Section 106 capital contributions should dovetail with the Childcare Reforms capital allocations where this is appropriate and be informed by an evidenced sufficiency need.
14. Timescales are very tight and by early June the DfE expected each LA to confirm its Delivery Plan for capital and revenue spend signed by the Section 151 Officer, so that a value for money assessment can be made by the strategic support partner prior to the release of funding. The assessment includes consideration about reach, increased supply of places, costs, addressing of barriers and alignment with the analysis of supply and demand. CYC's delivery plan has been submitted, assessed and Year 1 funding has now been signed off by the DfE.
15. The new government have confirmed their commitment to the Early Years and Wraparound childcare reforms. They have also have an ambition to open an initial 3,000 nurseries by upgrading space in primary schools to deliver the extension of the government funded hours families are entitled to.

Early Years and Wraparound Analyses

16. In preparing for the reforms a deep dive into sufficiency has been carried out for both early years and wraparound care.

17. Using **wraparound** data collected from a supply and demand analysis, including waiting list information, wards have been identified where there are higher levels of demand than supply. These include Dringhouses and Woodthorpe, Rural West York, Rawcliffe and Clifton Without, Guildhall and Heworth Without. There are also a small number of schools who do not offer or have access to breakfast and after school provision. Based on school census data the DfE has calculated 390 wraparound places should be created in York. However, this does not reflect PVI run provision and the LA calculates there should be 1008 places (629 are an expansion of opening times) created.
18. Using **early years** data collected from a supply and demand analysis the modelling suggests there may be a shortage of 0-2 year old places from September 2024 but there could be sufficient if providers convert some of their existing places to accommodate younger children. For September 2025 modelling suggests there will be a shortage of places for 0-under 3s.
19. For September 2025 a range of places are required. A best-case scenario is around 33 to 117 full time places to be created if existing places are converted for younger children. If providers are unable to convert places, then the maximum number of places needed would be 304 full time places.
20. Ward level analysis is more difficult for early years provision as children do not always access provision within the same ward as their home address however, the analysis suggests there could be a shortage of places during the first two phases of the reforms, assuming families want to access provision in the ward they live. These are: Acomb, Clifton, Fulford and Heslington, Haxby & Wigginton, Heworth and Heworth Without, Strensall and Wheldrake. For some areas the data suggests that there will be sufficient places available if existing vacancies for the 3 – 5 age group are converted to places for the younger age ranges, as is the case for Dringhouses and Woodthorpe, Heworth and Heworth Without and Holgate.
21. The deep dive analyses inform the development of new sustainable, high quality and inclusive places so that there is most focus on where places are needed and not just where the market can respond more easily. CYC is already aware that there should be a focus on more baby places in the Clifton Green area, after school provision in some areas and for children with complex needs, SEND provision and ensuring eligible two-year-olds of non-working parents are not displaced by the new reforms.

22. A facilitation of the childcare market to meet the identified priorities/reforms set out in the analyses should now take place by for example commissioning of opportunities with new and existing providers where there are gaps, targeted recruitment of childminders and encouraging individual providers with the potential for expansion and reconfiguration of existing premises priority areas to create new places.
23. New early years places as well as wraparound provision should grow in a sustainable way and therefore CYC will give careful consideration to the allocation of capital and where appropriate revenue funding, to those settings that can demonstrate they can show viability over a five term period. It will then be up to the market itself to financially sustain the provision.
24. Given tight service infrastructure a small panel and light touch process in line with council procurement requirements has already been tested for the recent creation of new places at Lowfield Green. This was effective and should be followed for future allocation processes.

Next Steps

25. A Procurement Project Board has been established with representation from Early Years and Wraparound, Commercial Procurement, Finance and Legal to support this work and work has commenced to develop the competitive grant application process and associated documentation.
26. It is proposed to set up an Early Years and Childcare panel made up of representatives from the education support service, quality improvement, inclusion, finance and the private, voluntary and independent sector. In line with procurement processes the local authority will promote this competitive grant application process opportunity to new and existing providers. Received grant application bids will be considered by the new panel who will evaluate and score the competitive grant application bids received against described quality and grant funds allocation criteria and make a recommendation to the Corporate Director of Children and Education for final approval.
27. There is an expectation that providers who bid for the funds should have a good or outstanding Ofsted judgement, provide evidence of a sound business plan and commit to creating the new places within a reasonable time frame including a focus on prioritising and

encouraging places for SEND, babies and other vulnerable children aged 0-5.

28. Advice is being taken from the council's procurement team representative on the Procurement Project Board in advance of commencing the competitive Grant application process to ensure that the planned process meets with all of the appropriate procurement guidelines.

Options Analysis and Evidential Basis

Option 1 – Approve the programme spend

29. By approving Option 1 the new places can be created to meet demand from parents for the new early education entitlements and expanded wraparound care.

Option 2 – Do nothing

30. This would mean the new places are not delivered and there would be unmet need across the city with parents being unable to take up or remain in work.

Organisational Impact and Implications

Finance

31. The DfE have made available both revenue and capital funding to support these childcare reforms.
32. Revenue funding for the increased early years entitlements is being provided within the Early Years block of the DSG. This includes provisional allocations for the new working parents of 2 year olds, and the under 2s entitlements. In addition, a small amount of Delivery Support Funding has been made available to local authorities to support the rolling out of these expanded early years entitlements. York will receive £55k from this grant in 2024/25 to fund additional staffing and associated costs to deliver the programme.
33. The creation of wraparound provision for primary aged children is also being supported by separate funding of £253m from the DfE for programme delivery, and £25m for capacity over two financial years,

2024/25 and 2025/26. York will receive a maximum of £579k from this funding (£8k in 2023/24, £385k in 2024/25 and £186k in 2025/26). This funding is to assist local authorities to deliver the objectives of the wraparound programme and it is expected that much of this funding will be distributed to providers to support in either expanding existing provision or setting up new provision. A small amount can be set aside to fund central costs, such as funding a programme lead, the approach which has been taken in York, where we have agreement to use £110k in total.

34. A condition of release of the first tranche of funding for the 2024/25 financial year is the submission of a delivery plan which has now been finalised and signed off by the Section 151 Officer.
35. The current proposals being designed are based around allocating an amount of funding to providers based on the additional places they plan to create, within three separate models of providing new places and wraparound facilities. These are: existing providers offering more places, existing providers offering longer opening hours, and new providers entering the market, with different levels of support being modelled for each, and tapering down the support available as the places become embedded and funded by the market.
36. Capital grant funding totalling £100m nationally has also been made available to support these roll-outs. York received £334k of un-ringfenced capital funding in 2023/24 which is the full allocation from this grant. A scheme is now included within the Children and Education Directorate section of the overall LA Capital Programme. Where appropriate this scheme will be increased by the addition of funding identified from relevant Section 106 developer contributions which have been agreed to fund Early Years provision. Any increases to the scheme and overall progress will be reported to Executive within the quarterly Capital Monitoring reports.
37. York has also been successful in gaining an additional £10k from the DfE to support the commissioning of specialist after school provision for children with complex needs and is the first in the country to test the market for specialist provision, which is sustainable in the longer term.

Human Resources (HR)

38. There are no HR implications.

Legal

39. The grant funding arrangements sought to deliver the proposals set out in this report will need to be reviewed to consider whether the Council's acceptance and use of any such grant funding will comply with the requirements set out within the Subsidy Control Act 2022.
40. Any grant funding agreements put in place to regulate the use of the grant funding by providers will need to ensure the provisions of the DfE grant agreements are reflected and that any Subsidy Control elements are captured appropriately.
41. The Council has a statutory duty under the Childcare Acts 2006 and 2016 and Part B of the Early Education and Childcare Statutory Guidance to secure sufficient early years and childcare provision for children aged 0-14 (and up to 18 for children with SEND) which includes early education places for eligible children.

Procurement

42. The Childcare Capital and Revenue Expansion grant allocation funding for York is provided through the DfE and therefore no direct CYC funding therefore there isn't a requirement to submit a report to the Procurement Challenge Board to obtain approval to commence this grants application process and award of grants. The council's Contract Procedure Rules (CPR's) include specific clauses, 4. Grants, that govern the processes to be followed in order to invite competitive grant applications and assess suitable providers and award grants that provides Best Value to the council and achieve the aims, outcomes for our childcare placements provision.
43. The Procurement Project Board are developing suitable grant application documentation, evaluation criteria, grant agreement legal terms in order to openly advertise the opportunity for suitable childcare placement providers to access the grant application documents on the council's e-Tendering website called Yortender. Suitable providers will be able to access the grants application documentation and consider if they wish to submit an application to be evaluated and considered for the award of grants for capital

works to increase capacity of placements that can be offered and/or revenue grant to deliver those childcare placements.

44. The Procurement Project Board includes representation from the councils Education Support Service team, Legal, Commercial Procurement and Finance teams who will ensure there is compliance with our CPR's, Financial Regulations and the grants are procured and awarded in alignment to the Council Plan and its aims and objectives.

Health and Wellbeing

45. Early childhood education and care can take many forms and is more than just preparation for primary school. It focuses on the holistic development of a child's social, emotional, cognitive and physical needs in order to build a solid and broad foundation for lifelong learning and well-being.
46. New research from the University of Leeds has found that the more time pre-schoolers spent in childcare the more sustained benefits were realised for their development, this included communication and problem-solving skills and personal-social skills. The study demonstrates the importance of early years and how this helps narrow the gap in early development and socioeconomic inequalities.
47. It is likely that the introduction of these extra places will benefit both children and their families for years to come and, for some, will narrow the inequalities they face.

Environment and Climate action

48. There is a risk that the creation of new places could increase private vehicle miles if children are driven individually to and from early years and wraparound provision, leading to increased emissions and reduced air quality. Active and sustainable travel options should be promoted as the primary travel option to parents by providers, and local travel plans addressed where necessary. Care providers should also consider implementing 'no engine idling' policies to ensure, where cars are used, the environmental and air quality impacts are minimised. Mitigation and adaptation provision is being developed locally wherever possible, care providers should take environmental consideration into account to reduce environmental and climate impact.

Affordability

49. Eligible two year olds are provided with early education places up to 15 hours per week (targeted). Three and four year olds are provided with up to 15 hours per week early education (universal). The targeted offer in particular will have a positive impact on low income families and those impacted by the cost of living crisis.

Equalities and Human Rights

50. The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).
51. A full Equalities Impact Assessment has been carried out and is included at Annex A. This highlights positive impacts for lower income groups and disabled children and in particular, provision of specialist after school provision will provide a positive impact for children with profound and multiple learning difficulties (PMLD).

Data Protection and Privacy

52. As there is no personal data, special categories of personal data or criminal offence data being processed, there is no requirement to complete a data protection impact assessment (DPIA). This is evidenced by completion of DPIA screening questions logged under the reference number AD-07975.

Communications

53. This report sets out a positive benefit for parents across the city and will require external communications, both immediately and in the longer term.

Economy

54. York's Economic Strategy 2022-32 recognises the significant role that childcare provides in enabling employment, and includes an objective to "work collaboratively with the childcare sector so parents are supported in taking on employment, children's development is progressed and providers are able to sustainably grow". The recommendations in this report support that objective and represent a positive potential impact on York's economy.

Risks and Mitigations

55. The key risk is the potential failure of CYC to facilitate and expand the childcare market to provide sufficient early years and wraparound places to meet parental demand in line with the reform national deadlines. Statutory sufficiency duties would not be delivered leading to possible legal challenge from parents and reputational risk for the local authority.
56. In preparation for this and to support plans to ensure local sufficiency to deliver the entitlements and wraparound the DfE are monitoring national readiness for implementation. A LA readiness self-assessment is completed on a termly basis to help the DfE understand where support for LAs may be needed going forward and to ensure delivery plans will be in place.
57. The Early Years Team works closely with the DfE and its strategic partner to update on progress, learn from good practice and to escalate issues that require a national solution for local areas.
58. Another possible risk associated with development is gaining planning permission. The planning process requires collaboration on all sides and the Council's planning department will work positively on any proposals with the providers. There is however the need to ensure that the providers work with the Planning Department and engage positively to ensure that there is a positive outcome and permission is secured in a timely manner. Any formal planning submission will need to have sufficient quality of information to support the planning application process, being mindful of local and national planning policy requirements. Education Support Services will work with the

planning department on this significant programme to ensure that there is an effective and expedient process.

59. In mitigation the application documentation will make it clear that any increase in financial costs arising from the planning process and any possible delays should be borne by the provider themselves.

Wards Impacted

60. All wards are impacted by this decision.

Contact details

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Background papers

Capital Programme Outturn report for 2023/24 – Executive Committee
18th July 2024

Annexes

- Annex A: Equalities Impact Assessment (EIA)