

## Delegated Decision

20<sup>th</sup> August 2024

### Distribution of Capital Grant Agreement and Funding to Schools and Private and Voluntary Nurseries



#### Report of Corporate Management Team

#### Report of John Pearce, Corporate Director of Children and Young People's Services

#### Electoral division(s) affected:

Countywide

#### Purpose of the Report

- 1 To seek approval from the Corporate Director, Children and Young People's Services, for the Early Years Service, Education to distribute Capital Funding to schools and private and voluntary nurseries to support the Childcare Expansion for 0 – 3 years, and the Wraparound Care programme. This will be funded from the capital allocation of £968,392.95 granted to the council by the Department for Education (DfE) to support the Childcare Expansion programme.
- 2 To describe the process we will be following to ensure that the Council fulfils its legal obligations in line with the statutory requirements of the Subsidy Control Act (2022), particularly under Minimal Financial Assistance and when entering into a Grant Funding agreement with schools and private nurseries.

#### Executive summary

- 3 In the Conservative Government's Spring Budget 2023, the Chancellor announced reforms to support working families through the introduction of 30 hours of funded childcare for children over the age of nine months, which is to be introduced in incremental stages until full rollout in September 2025. There was also to be investment in start-up funding to increase the supply of 'paid for' wraparound care in primary schools.
- 4 Durham County Council was awarded £968,392.95 of capital funding in February 2024 to meet the capital costs associated with projects that would help to ensure sufficient childcare places for both the early years entitlement and wraparound places in the county.

## **Recommendation(s)**

- 5 The Corporate Director of CYPS is requested to apply delegated decision authority to approve the distribution of capital funding payments in accordance with the grant funding processes established by the local authority.
- 6 Permission is sought for agreement to request that DCC Legal Services seal the grant agreement documents by delegated authority of The Corporate Director CYPS (Table 1 paragraph 4 of the Council's Constitution).

## **Background**

- 7 The Childcare Act 2006 places a duty on local authorities to secure sufficient childcare for working parents. The Childcare Act 2016 places a duty on local authorities to secure sufficient free childcare for qualifying children.
- 8 The Capital Funding awarded to the council in February 2024 is to support the roll out of early years entitlement places from April 2024 and wraparound places from September 2024.
- 9 Local authorities are expected to focus on projects that will increase the physical capacity of early years and wraparound provision in areas where demand is likely to exceed existing supply, and to ensure that new places created are accessible to all children, including those with special educational needs and disabilities.
- 10 The grant may only be used for the purposes of capital in accordance with regulations under section 11 of the Local Government Act 2003. The council is required to verify that this funding has been spent on capital projects through the section 151 Officers return. Final expenditure is via a Capital Spend Survey.
- 11 Capital grant funding will be allocated to schools and nurseries through an application process. The criteria for awarding funding is determined based on a demonstration of value for money and evidence of current or anticipated demand for the introduction of 30 hours entitlement for children from 9 months old, starting in September 2025.
- 12 To ensure broad distribution of funding across the county, the Childcare Expansion Steering Group has agreed to cap awards at £50,000 for the Early Years Expansion and £15,000 for the Wraparound Expansion

programme. However, awards may exceed these limits in exceptional circumstances.

- 13 The Department for Education (DfE) has advised local authorities that, as the public body responsible for allocating funding from the Childcare Expansion Capital Grant, they must ensure compliance with the Subsidy Control Act (SCA) 2022.
- 14 The Subsidy Control Act (SCA) 2022 is a UK law that regulates how public subsidies are provided to businesses and organisations to ensure that they do not distort competition in a way that could be harmful to the economy or undermine fair competition.
- 15 The Childcare Expansion Steering Group has received guidance from DCC Legal Services on identifying the circumstances that would fall under the Subsidy Control Act (SCA).
- 16 It has been determined that capital grant funding provided to Private and Voluntary nurseries will be classified as a subsidy and will need to adhere to the legal process outlined under the SCA in accordance with the Minimal Financial Assistance (MFA) provisions.
- 17 Minimal financial assistance (MFA) allows public authorities to award low-value subsidies (up to £315,000) without the need to comply with the majority of the subsidy control requirements.
- 18 Additionally, DCC Legal Services have advised that when entering into a grant funding agreement with schools and private nursery settings, an individual report and grant determination document sealing is required for each grant recipient, adding an extra compliance layer to the process for all grant awards.

### **Main implications**

- 19 Durham County Council was awarded the capital funding in 2024 to help ensure sufficient places for both the early years entitlement and wraparound places in the county.
- 20 The capital funding will support the necessary expansion to fulfil the Council's sufficiency duty in response to the extended entitlements.
- 21 The council is required to verify this funding has been spent on capital projects through the Section 151 Officers return. Final expenditure is via a Capital Spend Survey.

### **Conclusion**

Following the guidance provided by DCC Legal Services, it has been determined that the allocation of capital grant funding to Private and Voluntary nurseries will be classified as a subsidy and therefore subject to the legal requirements under the Subsidy Control Act (SCA) 2022, specifically the Minimal Financial Assistance (MFA) provisions. Additionally, it has been advised that when entering into grant funding agreements with schools and private nursery settings, an individual report and sealing will be required for each grant recipient, introducing an additional layer of procedure for all grant awards.

Given these considerations, approval is sought to distribute the capital funding in accordance with the process outlined above. This approach will ensure full compliance with legal requirements and provide a clear and transparent framework for managing the grant funding agreements to meet the DfE conditions of grant.

### **Background papers**

None

### **Other useful documents**

- None

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### **Author)**

Helen Nixon

Tel: 03000 268931

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## **Appendix 1: Implications**

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### **Legal Implications**

A grant agreement is being entered into between Durham County Council and individual schools, as well as private and voluntary nurseries, for the payment of capital funding. This funding awarded for capital purposes will be subject to monitoring by the Department for Education

### **Finance**

£968,392.95 awarded by Department of Education for the Childcare Expansion programme.

### **Consultation**

N/A

### **Equality and Diversity / Public Sector Equality Duty**

Capital Expansion programme must be inclusive for all

### **Climate Change**

N/A

### **Human Rights**

N/A

### **Crime and Disorder**

N/A

### **Staffing**

N/A

### **Accommodation**

N/A

### **Risk**

Not meeting the Council's Sufficiency Duty 2006 and 2016

### **Procurement**

N/A