

12 February 2018**Agenda Item: 8****REPORT OF THE INTERIM SERVICE DIRECTOR, COMMISSIONING AND
RESOURCES****EARLY YEARS FUNDING FOR CHILDREN WITH SPECIAL EDUCATIONAL
NEEDS AND DISABILITY****Purpose of the Report**

1. To seek agreement for the proposed creation and administration of a statutory early years inclusion fund for children with Special Educational Needs and Disabilities.
2. To seek agreement of the proposed funding allocation for the provision of specialist equipment for children with complex physical disabilities in early years settings.

Information**Background**

3. Nottinghamshire has a population of approximately 46,000 children under the age of 5 years which is forecast to increase by 3.3% by 2035. The estimated percentage of those with a special educational need or disability is approximately 3% (1,380) and there are increasing numbers of children presenting with very complex needs as a result of improved survival of children and babies with multifaceted needs. Currently, 50 children under the age of 5 years have an Education Health Care Plan in Nottinghamshire which brings together a multi-agency package of support for a child; and 149 children under the age of 5 years in school early years provision receive SEND support (with additional unknown numbers in other early years settings and those not accessing any childcare).
4. Early identification of Special Educational Needs and Disabilities (SEND) and the timely provision of appropriate inclusive support can help ensure that the vast majority of children who have SEND can achieve well and make a successful transition into school and adulthood. Early years providers are able to identify signs of developmental delay and can help secure the most appropriate early support for children.
5. All early years providers also have duties under the Equality Act 2010, Children and Families Act 2014 and the SEND Code of Practice. Where a child is covered by SEN and disability legislation, reasonable adjustments and access arrangements must be considered. Early years providers must not discriminate against disabled children, and have a duty to promote equality of opportunity.

6. Since April 2017, all local authorities have been required statutorily to establish an Early Years SEND Inclusion Fund to support 3 and 4 year olds who are eligible for free childcare. This report provides proposals for the creation and administration of this fund, following recent consultation with the early years sector and Schools Forum.

Local Authority support for Early Years Providers working with children with SEND

7. There are 720 Private, Voluntary and Independent (PVI) settings and 271 schools working across Nottinghamshire that are registered to provide funded places for children eligible for free childcare, all of which are responsible for inclusive practice. Nottinghamshire has developed a 'Graduated Approach' to support children under the age of 5 years with SEND; this approach ensures that children get the right support by the most appropriate service. It details the pathway for young children from universal, targeted and specialist services; requiring universal early years provision to adhere to policy and good practice. The SEND Early Years Graduated Approach and list of key Local Authority services are included in **Appendix 1**.
8. There are some differences in the support and interventions that children access in schools compared to PVI settings. Schools which offer childcare for under 5's are provided with specialist training, access to specialist equipment, and assessments as well as High Needs Funding. PVI providers are not eligible to access these services without a cost, so there is a risk that children are disadvantaged when accessing childcare in PVI settings. The Early Childhood Service therefore prioritises support for the PVI sector within resources available.

Current Early Years Funding Arrangements

9. Many 2, 3 and 4 year olds are eligible for funded childcare, which is paid for through the Early Years block of the Dedicated Schools Grant (DSG), administered by the Local Authority. Local authorities can decide on the hourly rates provided for eligible children in consultation with early years providers and the Schools Forum. The Early Years block of the DSG provides funding for children eligible for funded childcare as well as central administrative costs. Current funding arrangements are generous in Nottinghamshire compared with regional neighbours by offering a higher hourly rate than other local authorities in the region. This is partly due to the small proportion of DSG funding which is retained centrally. The higher hourly rate in Nottinghamshire aims to support early years providers to deliver inclusive practices for all children. Current funding arrangements are shown in **Table 1** overleaf.
10. As numbers of children with SEND are increasing alongside the expansion of childcare entitlements, there is additional pressure on resources for the Local Authority, PVI providers and parents. With statutory duties in mind, early years providers commonly require additional resources to enable them to provide care for children with complex needs e.g. a child requiring one to one care may create the need for additional staff. As funding is given to provide basic childcare, this is not usually enough to cover the specific needs of children with complex SEND needs. In some cases parents pay for these additional costs themselves.
11. Since April 2017, central government has introduced a new **Disability Access Fund (DAF)** for 3 and 4 year olds eligible for funded childcare. This is allocated to each local

authority based on the number of 3 and 4 year olds who are claiming Disability Living Allowance. An annual payment, currently £615, is made by the Local Authority directly to the early years provider nominated by a parent. Payment is only made once to one provider regardless of the number of settings a child may access throughout the year. There are currently 299 eligible children.

12. Historically, Nottinghamshire County Council has been supporting children aged 0-25 years with complex SEND needs to access childcare through the **DCATCH** top up fund. DCATCH was first introduced across local authorities through 'Aiming Higher for Disabled Children' in 2007 and Nottinghamshire is one of very few local authorities who have maintained this discretionary fund using their own revenue funding when central funding ended. Applications are considered each term by a panel of professionals. This fund is administered by Early Childhood Services and has had to be prioritised for 3 and 4 year olds eligible for funded childcare since new statutory duties came into effect on 1st April 2017.

Proposed Changes to Early Years SEND funding

13. Since April 2017, all local authorities have been required statutorily to establish an **Early Years SEND Inclusion Fund** to support 3 and 4 year olds eligible for free childcare. Local authorities may determine the size of the fund, which can be pooled from either or both the Early Years and High Needs blocks of the Dedicated Schools Grant (DSG) as no additional resources have been provided centrally. Since April 2017, DCATCH childcare funding was designated as the Early Years Inclusion Fund on an interim basis until consultation was completed with schools and early years providers in autumn 2017. As increasing numbers of 3 and 4 year olds are entitled to free childcare for an increasing number of hours, demands on the limited DCATCH childcare budget have been considerable.
14. In December 2017, consultation with early years providers and the Schools Forum supported the proposal that current Local Authority funding for DCATCH is supplemented with additional funding from the early years DSG allocation to create the Inclusion Fund from 1st April 2018. The additional funding of £126,000 from the DSG has been possible by reducing the hourly rate given to all early years providers by one pence. The early years DCATCH budget is £250,000 per annum and has been created using local authority revenue funding. Combining these funding streams results in a total potential budget of £376,000 for the Inclusion Fund in 2018/19. By using a proportion of the local authority funding allocation, it is possible for Nottinghamshire to have some flexibility in the use of the new Inclusion Fund. It is therefore proposed to also include disadvantaged 2 year olds who are eligible for 15 hours per week of funded early education. This has been supported by the early years sector and the Schools Forum. Current and proposed funding arrangements are shown in **Table 1**.

Table 1: Existing and proposed Early Years Funding Arrangements

Early Years Universal Base Rate:	Current 2017/18	Proposed 2018/19
Eligible 2 year olds in PVI settings	£5.23 per hour	£5.22 per hour
Eligible 2 year olds in school settings	£5.10 per hour	£5.09 per hour
Eligible 3 and 4 year olds in PVI settings	£4.17 per hour	£4.16 per hour
Eligible 3 and 4 year olds in school	£4.07 per hour	£4.06 per hour

settings		
Funding supplements:		
Early Years Pupil Premium for 3 and 4 year olds eligible for Free School Meals	£0.53 per hour	£0.53 per hour
Looked After Children Early Years Pupil Premium (0-4 year olds)	£0.53 per hour	£0.53 per hour
Deprivation Supplement	£0.05 per hour	£406 per annum for early years settings working with children in need and those on child protection plans
Disability Access Fund	£615 (lump sum to a lead PVI provider)	£615 (annual cost to a lead PVI provider)
Disabled Children's Access to Childcare fund (DCATCH) for PVI settings for 0-25 year olds. Council allocation of £250,000 per annum.	Top up fund allocated based on individual assessments	To be replaced with SEND Inclusion Fund
Early Years Inclusion Fund for eligible 2, 3 and 4 year olds (£126,000 DSG per annum, <i>plus</i> £250,000 from Council DCATCH budget)		Top up fund allocated on a case by case basis

15. Children who are allocated early years inclusion funding may also be entitled to additional top up funding if they are in local authority care, if they are eligible for free school meals, are identified as children in need, are on child protection plans or are claiming Disability Living Allowance.

Specialist Equipment and Training

16. In 2017/18, a local Special School received £20,000 using a short term allocation from the Local Authority's Early Childhood Services budget. This fund is being used for the provision of specialist equipment, assessments and moving and handling training for PVI settings working with children with complex disabilities. This budget will be overspent in March 2018. It is proposed that £25,000 of the £376,000 is allocated to be used for PVI settings to apply for equipment, training and assessments in 2018-19 for children in their care pending a full review of this provision; this will result in an annual budget of £25,000 for this service.

Impact of proposed changes

17. The proposed eligibility criteria for the new Early Years Inclusion Fund is included in **Appendix 2**. New criteria is in line with national guidance and existing allocation processes for Additional Family Needs (AFN) funding and High Level Needs funding, ensuring consistency across PVI settings and schools.
18. The majority of children have been accessing DCATCH across financial years with approximately 110 new referrals made each year. Currently 83 (33%) children accessing DCATCH will be negatively affected by this proposed change due to their age as **Table 2** indicates. From 1st April 2018, if the Local Authority stops funding children who are no longer eligible because of their age, there will be a saving of £20,000. At present, 14

children who live outside of Nottinghamshire claim DCATCH funding and they will no longer be eligible in 2018/19; if funding ceases for these children, there will be a saving of £7,000. A risk register in relation to the changes along with suggested mitigation is provided at **Appendix 3**.

Table 2: Numbers of children aged 0-25 years in receipt of Early Years DCATCH funding

	Total number of children in receipt of DCATCH funding		
	2015/16	2016/17	2017/18*
Age 1	0	2	3
Age 2	29	23	15
Age 3	83	85	60
Age 4	69	101	93
Age 5	34	45	55
Age 5 +	23	23	25
Total	238	279	251

**Note: numbers for 2017/18 will not be the final number of children for this financial year, as there are a further two panels where additional children may be allocated funding.*

19. Currently, the Integrated Children's Disability Service provides support to working parents of some disabled children aged 0-25 years through home based childcare packages. Arrangements will be made to better align these funds and the decision making support to parents.

Other Options Considered

20. A range of options have been considered as an alternative to this proposal, all of which however run the risk of substantial overspend on budgets. These include:
 - a) maintain existing arrangements for DCATCH for 0-25 year olds and have a limited SEND Inclusion Fund for 3 and 4 year olds
 - b) continue to fund all children under the age of 5, ceasing funding for all children of school age
 - c) secure High Needs Funding to supplement the Early Years DSG funding allocated for the SEND Inclusion Fund. It is important to note that the High Needs Block is substantially overspent
 - d) cease to commission assessments, training and subsequent access to specialist equipment for children in PVI settings. This would create overreliance on the DAF fund which is only £615 per year to one provider (even though the child may be accessing two or more settings); £615 is rarely enough to purchase equipment e.g. specialist chairs.

Reason for Recommendations

21. Local authorities have a new statutory duty to provide Inclusion funding for 3 and 4 year olds that are eligible for funded childcare, many of which are entitled to 30 hours of funded childcare per week. No additional funding has been provided by central government to create this new funding stream so the Local Authority has been required to look at existing

funding streams that could be used to create this fund. All 3 and 4 year olds eligible for the new Inclusion Fund would have previously received DCATCH funding. However, to ensure new statutory duties are met, a change of criteria for funding allocations has been recommended.

Statutory and Policy Implications

22. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

23. DCATCH funding is provided by the Local Authority at £250,000 per annum. This funding will continue to be used to support inclusion and will be renamed the SEND Inclusion Fund.
24. An additional funding amount of £126,000 has been allocated from the Early Years block of the Dedicated Schools Grant to support the creation of the new SEND Inclusion Fund for eligible 2, 3 and 4 year olds in 2018-19. This allocation has been made possible by reducing the hourly rate given to early years providers by one pence. This proposal has been agreed by the Early Years sector and the Schools Forum.
25. As demand increases for more childcare for increased hours, there is a risk of overspend on the new Early Years Inclusion fund as more children with complex needs are entitled to funded childcare. The 2018/19 budget allocation will be closely monitored to help forecast future budget requirements.

Human Rights Implications

26. The UK has obligations under international human rights law to provide inclusive education for all children. The proposals in this paper address these obligations and fulfill statutory duties for 2, 3 and 4 year olds eligible for funded childcare. Early years providers will still be required to provide inclusive practice for all children in their care, including those not eligible for the Inclusion Fund.

Public Sector Equality Duty Implications

27. Improving outcomes for children and young people with a disability is everyone's business and not just the responsibility of those who work in specialist services. It is therefore paramount that all universal early years services provide inclusive practice and do not discriminate against disabled children, and must make reasonable adjustments to ensure that they have the same play and learning opportunities as other children.
28. All publicly funded pre-schools, nurseries, state schools and local authorities must try to identify and help assess children with special educational needs and disabilities (SEND).

Implications for Service Users

29. Children eligible for funded childcare will experience improved inclusive practice and support whilst accessing their childcare place. This will support children to be ready for school and ensure that SEND needs are identified early.
30. By removing funding for children not eligible for funded childcare, parents could face additional barriers to accessing and maintaining employment and training; however they will be signposted to other childcare funding sources as detailed in **Appendix 1**.
31. Children eligible for funded childcare with physical disabilities will have their needs better supported by a funding arrangement to continue to provide specialist equipment and accompanying assessments and training.
32. Children under the age of 5 years with complex SEND needs that do not meet the new proposed criteria for the Inclusion Fund may receive less support if they access a PVI setting; these children will therefore be signposted to school led early years provision if appropriate.

RECOMMENDATIONS

That the Committee:

- 1) approves the proposed creation of a new Early Years Inclusion Fund and the new criteria for funding allocations as detailed in **Appendix 2**.
- 2) approves the use of an element of the new Inclusion Fund to purchase specialist equipment and associated training and assessments.

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Constitutional Comments (SLB 17/01/18)

33. Children and Young People's Committee is the appropriate body to consider the content of this report.

Financial Comments (SAS 23/01/18)

34. The financial implications of the report are contained within paragraphs 23 - 25 above.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

'Early years: guide to the 0 to 25 SEND code of practice - Advice for early years providers that are funded by the local authority' DfE September 2014

Early Years SEN Inclusion Fund Equality Impact Assessment 2018.

Electoral Divisions and Members Affected

All.

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