



**REPORT TO: EDUCATION, CHILDREN'S AND LEISURE SERVICES
COMMITTEE ON 26 JANUARY 2022**

**SUBJECT: MORAY EDUCATION EARLY LEARNING AND CHILDCARE
EXPANSION PROJECT UPDATE**

**BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND
ORGANISATIONAL DEVELOPMENT)**

1. REASON FOR REPORT

- 1.1 To inform Committee of the projected financial pressures on the Early Learning and Childcare (ELC) expansion budget taking account of rising demand and changing Scottish Government grant settlement.
- 1.2 This report is submitted to Council in terms of Section III (D) (1) of the Council's Scheme of Administration relating to all the functions of the Council as an Education Authority.

2. RECOMMENDATIONS

2.1 It is recommended that Committee considers and notes:

- i) the projected financial pressures within the ELC sector and the potential implications for Moray to maintain the legislative requirement of 1140 hours;**
- ii) that detailed work including investigation led by Internal Audit will be undertaken to provide greater clarity on the final financial position for 2022/23 and work will progress through Cosla in relation to the grant allocation and the phasing of the new approach to funding ELC;**
- iii) the initial options identified to accommodate the budget pressures in Moray and that work will continue to develop options to be reported back to Committee for consideration against the various scenarios that may emerge;**
- iv) that the situation outlined in this report may have significant policy and service implications for the Early Learning and Childcare service in 2022/23 and future years and this will require further consideration by Committee once a final position on the**

grant settlement is known and can be factored into the local position; and

- v) that in light of the above, and the lead in time required to clarify the financial position and develop and implement options to address any possible funding gap should that be required by the Council, that the budget pressures will be reported to and considered by the Council on 22 February as part of the budget setting process.

3. **BACKGROUND**

Scottish Government Funding and Commitment

- 3.1 To date the Scottish Government have provided a capital and a revenue element to support the provision of the expansion of ELC to 1140 hours, as per the statutory requirement. This was based on a submission by Council to plan for the expansion from 600 hours to 1140 hours to allow parents to return to work, particularly mothers with an increased entitlement to free childcare for 3 to 4 year olds and those identified as vulnerable 2 year olds.
- 3.2 A national multi-year funding package was agreed by COSLA Leaders and Scottish Ministers and the distribution methodology confirmed by COSLA Leaders on 27 April 2018.
- 3.3 On 1 May 2018 confirmation was received from Scottish Government that the funding, as set out in Moray Council's financial template, would be received in full. The funding was allocated as a specific grant for investment in ELC and authorities have been required to report to the Scottish Government on how this funding has been applied. The full package of funding for Moray was as follows:

A. Revenue Funding

2018/19	2019/20	2020/21	2021/22 and recurring
£1,109,181	£5,847,000	£9,675,000	£10,792,000

It should be noted that this funding was in addition to the funding already allocated to Early Years that was approved by members as part of the Council's budget.

B. Capital Funding

2018/19	2019/20	2020/21	TOTAL
£2,400,000	£2,800,000	£1,900,000	£7,740,000

Capital is reported separately.

- 3.4 The revenue funding package for Moray was initially expected to become the ongoing recurring funding. The original funding award was based on a formula that takes into account the number of eligible children and was also informed by a national finance planning template completed by all Councils in 2018. It

was thus tailored to local plans for roll out of increased hours. The Moray ELC project plan involved a phased approach to the roll out of increased hours. Moray relies heavily on partner nurseries to provide the ELC service. The local plan also involved removing the leadership and management of school nursery provision from Head Teachers to a new structure with Nursery managers. This facilitated the ability to offer year-round childcare in Moray Council nurseries allowing us to offer 1140 hours across Moray.

- 3.5 Recently the Scottish Government has confirmed a new funding formula for 2022/23 based on National Records of Scotland (NRS) 2018 population estimates, in line with the general distribution of funding i.e. based on statistical drivers of spend rather than local circumstances. The total amount of grant available across Scotland reflects the current national up-take of ELC, and was also top-sliced to fund pilot projects for ELC for children who have deferred entry into primary school.
- 3.6 The revised funding is based on the national up-take of ELC which has led to a reduction in the grant allocation across Scotland since some local authorities in Scotland have experienced a downward pressure on the up-take of 1140 hours of childcare provision and are reporting an underspend.
- 3.7 Initial work undertaken during the early years of the project indicated that Moray would buck the national trend with parents opting for existing hours, particularly in some areas where the use of grandparents or extended family members for childcare was seen as more advantageous. The offer of additional hours allows families to use their allocation flexibly for example they may use a childminder for some of the hours and a nursery place for others. They can use the hours to support parental shift patterns which would mean that the child can be in a setting for up to 10 hours a day. Families using the hours in this way would then be entitled to a lunch and a light tea as part of the offer. Due to the flexibility for families, it is difficult to accurately predict what demand will be as individual families make choices to suit their circumstances.
- 3.8 In contrast to the national position, Moray is currently experiencing an increase in the up-take of early years provision from August 2021 which is in line with our original Delivery Plan (*para 4.4 of the confidential report to full council on 27th September 2017 refers*). This, puts pressure on the number of hours available and the costs associated with delivering 1140 hours for example additional meal provision and additional staffing.
- 3.9 Early indications were that the new funding formula for revenue budget would be substantially less than previous years for Moray moving forwards which would not allow the current service to be replicated, regardless of any increase in demand. This has transpired to be the case and as part of the first of a 3 year phasing of the new funding approach, current information is that the settlement from Scottish Government to Moray for ELC will reduce by £1.4m in 2022/23. This compounds with the issues set out in this paper that are driven by the positive demand for ELC services in Moray to create a situation that will require to be reviewed by the Council moving forward.

- 3.10 However, the reduction in grant settlement is greater than had been anticipated in Moray, especially as the first stage of a reduction over 3 years and there are concerns and questions from a number of Councils in Scotland. Therefore, the matter has been raised with Cosla and Council Leaders who have made an approach to the Scottish Government expressing concerns and seeking a review of this element of the grant allocation prior to it being finalised in late February 2022.
- 3.11 As part of the expansion, attached to the SG grant funding there was an expectation that a sustainable hourly rate would be consulted on in each Local Authority and set so that partners could deliver the service and remain financially viable. Moray relies on 39 partner nurseries to assist in delivering the ELC service. The Council does not have premises or staff to deliver the full service without partner support. The high proportion of partner providers and absence of alternative, mean that ensuring that a sustainable hourly rate is paid to partners is a priority in ensuring the future sustainability of ELC services in Moray.
- 3.12 Therefore, the Education, Communities and Organisational Development Committee agreed a revised hourly rate on 31 March 2021 (para 14 of minute refers) which has been applied since August 2021. While this has resulted in a higher rate being paid to partners in Moray than in other local authority areas, there is now a requirement as part of the SG grant funding that all Councils review and pay a sustainable hourly rate to partner providers and work is being undertaken nationally to assist in the process of identifying this rate. Therefore, many Councils will not yet be managing the financial and budget impact of a sustainable hourly rate, which includes partner commitment to and provision for payment of the living wage.

Service Development and Expansion

- 3.13 The expansion of ELC hours from 600 to 1140 hours is an ambitious Scottish Government policy and has been phased in during the COVID pandemic. This has undoubtedly put pressure on the Education Service and other support services to roll out a legislative requirement whilst dealing with a pandemic, putting in place mitigations and interventions as well as creating an alternative service during lockdown periods e.g. Childcare for Key Workers.
- 3.14 The ELC service in Moray has grown both in terms of staffing, across the central ELC team and in settings, and in the number of children accessing their funded hours.
- 3.15 The success of the growth of the service and the support being offered is reflected in the ELC Continuous Improvement report highlighted to Committee on 6 October 2021 (*para 3.10 of the report refers*).
- 3.16 The table below provides a comparison of our Scottish Government returns for Moray and reflects the growth. Although the number of children indicates a drop in numbers, when this is compared to the breakdown of hours used and lunches provided, there is a very different picture. This provides the evidence that more families are taking up the increased hours, however, this puts pressure on settings, Council and partner to offer hours. A growing service

will incur additional revenue costs particularly related to staffing to cover the hours on offer.

	June 2019	June 2020	June 2021	2022
Local authority – number of children	718	477	565	621 (projected)
PVI/3 rd sector – number of children	1274	1252	902	965 (as at November 2021, does not factor January and April 2022 intake)
Overall number of hours of care provided	127,937	149,610	160,036	164,741 (as at November 2021)

- 3.17 Overall it is indicated that Moray is projecting a further increase in uptake of 1140 hours places in June 2022 compared to August 2021. This should be seen as a success story as the original plan indicated a lower uptake however parents are using full entitlement which is different to the original consultation response. **Appendix 1** indicates current capacity within local authority services again highlighting the uptake of hours. Enrolment for ELC places from August 2022 takes place in January 2022.
- 3.18 Further testament to the uptake of 1140 hours is attached in **Appendix 2** with a case study from one of the PVI, partner nurseries (Fochabers Nursery and Out of School club). This provides vital evidence of the benefits to the service of the increase in sustainable rate. This allows them to cover additional staffing costs, training costs and also meet the requirement to pay the Real Living Wage.
- 3.19 In reviewing the figures in the table, it is of note that the uptake of the number of hours for each place has increased and so while the number of places has reduced over the implementation phase, the number of hours of childcare has increased significantly.

Additional revenue costs associated with an increase in the uptake of hours is highlighted in the latest catering figures and this point is highlighted further in the financial analysis below (para 3.25 refers).

Year	Lunches	Light teas
2019-2020	47714	1384
2020-2021	61835	2822
2021-2022 (to date)	90805	5070

- 3.20 In considering future funding arrangements, there is a concern that the focus for the Scottish Government has been predominately on those Councils that have underspent. However there also needs to be recognition that Councils such as Moray that have seen positive and expanding demand for 1140 hours within their ELC services are struggling to ensure that their ELC provision is

sustainable within the available SG funding for the expansion. Moray is one of a small number of Councils who are projecting an overspend for 2022/23 and the recent reduction in grant allocation adds to this pressure.

- 3.21 For Moray, the cost pressures reflect the fact that provision of ELC is very much a demand led service. This means an increase in up-take as indicated above will also be reflected in an increase in costs and work is underway to refine current projections taking account of this and the issues set out below.

Revenue Budget Position and Projected Budget Pressure

- 3.22 It should be recognised that circumstances have moved on since the original grant application. For awareness the following points arise from the original planning template:
- Future pay awards were not factored in as this was not allowed within the format. In total this is an additional cost of £284k
 - The payment of a sustainable hourly rate is beyond the original hourly rate The hourly rate paid by the Council was very low as it was being subsidised by higher rates paid by parents for additional hours and as the roll out of increased hours took place the ability of partner providers to generate additional income in this way diminished
 - The financial planning template did not allow for Additional Support Needs (ASN) staffing costs to be taken into account.
 - Wraparound childcare was not developed due to the Covid-19 pandemic and concerns around the cost/benefit margins
- 3.23 While some of the additional cost pressures are linked to the points above (notably the ASN pressures), the main issue in Moray has been the level of demand that continues to be experienced. An analysis of components of the budget and movements within them are analysed the financial impact of this is provided in **Appendix 3** and is summarised below
- 3.24 For the first 3 years of the expansion of ELC, revenue expenditure was consistently below the level of grant. This enabled additional capital costs amounting to £2 million to be funded from revenue. In addition to this underspends totalling £0.53m are held in ear-marked reserves – this was following absorption of additional Covid costs totalling £0.8m. This historic underspend has turned into a projected overspend.
- 3.25 Although there has been growth in service provision, there are components of the budget which have grown at a greater rate than the growth in service delivered and these are being investigated further to understand the causes and trends for the future as the projections for 2022/23 are based on the projections for 2021/22 so key to understanding the projections for the service must be the movement from 2020/21 to 2021/22.

The most significant elements with additional costs from Appendix 3 impacting on the budget forecasts are summarised below.

		2021/22 Impact	Full Year Impact	Clarification for Projections
Council Settings	Staffing and other costs have increased on a formula basis to accommodate expansion to 1140 hours and uptake of places. Cost increase is higher than hours increase which may relate to staff time required to cover child hours being more than 100% and/or to pay awards	365,000	700,000	Review formula and process for staffing Investigate to understand increase in staff costs compared to increase in hours provided
Partnership Settings	Uplift to sustainable hourly rate estimates been revised in light of January 2021 intake	200,000	380,000	Consider and apply uptake projection for 22/23
ASN hours	No allowance for the cost of ASN at early learning settings in the grant funding, however a significant requirement for ASN support has emerged	330,000	700,000	Factor in increasing ASN and covid impact into projections
ELC Meals (including staffing)	Uptake of meals and costs have increased by greater % than the increase in hours Council Catering service also supplies meals for partner providers	320,000	720,000	Review impact of using full hours available on demand for/provision of meals Consider whether growth factor required for 22/23 Check cost/process for charging for supply to partners

- 3.26 As can be seen from the above, the pressure on the ELC budget has arisen from the operational pressures of running the service to meet the legislative requirements. This pressure has only come to light in recent months and was highlighted to Committee on 24 November in the Education Revenue paper (*para 5.3 of the report refers*), hence the reason for this paper.
- 3.27 The balance of the impact of all of the issues is shown in Appendix 3 with a full year effect of £1.9m for 2022/23, although the further work noted above requires to be undertaken to refine the projections and future growth also needs to be factored in. Therefore, there are a number of factors that could lead to an increase in the £1.9m figure, for example ASN requirements, increase uptake of places and associated costs for meals, staff and partner rates.
- 3.28 In addition to this the reduction in grant funding needs to be taken into account, which brings the total budget pressure to £3.3m for 2022/23, with the potential to escalate both for 2022/23 and in future years if further grant reductions are to follow as part of the 3 year phased change to funding previously referred to.
- 3.29 The delay in developing wrap around care, which has been due to the pressures of the Covid pandemic and questions around the viability of the income stream have meant that the potential for income to offset costs has not been realised. While this would merit further consideration in due course, there is also a statement of intent on the programme for government to provide wrap around care which could have an impact. Therefore, the potential for income may be more limited than previously anticipated.
- 3.30 The budget gap that has emerged is of significant concern and as noted above, it is vital to understand the reasons for the situation having arisen at this stage of the project in order that lessons can be learned. This will be used to inform the further work that is planned to ensure the reliability of future forecasting and financial stability for the service moving forward.
- 3.31 It is acknowledged that this report provides some information on the financial pressures that have emerged since November but that it does not provide adequate detail to fully explain the serious financial position that is being reported. There are many questions that remain unanswered and that require further explanation to ensure that the reasons for this situation are established and that improvements are made for the future. Therefore, Internal Audit has been asked to lead an investigation to ascertain the reasons for delays in forecasting the overspend and the extent of the variance between the current budget and that required to fully implement based on demand now and in future. The outcomes will be used to ensure that the methodologies and processes in place are reviewed and robust moving forward. Internal Audit will be supported by officers in ELC and Accountancy who have specialist knowledge in these areas which will be necessary to ensure insight and understanding into the particular factors to be taken into account in service and financial planning in relation to ELC.

- 3.32 It is recognised that more detailed consideration will be required to provide assurances to the committee on the processes and forecasting to be applied in future and a further report will be provided to committee as soon as possible on the outcome of the above investigation and the learning that needs to be applied. This and the final position on the SG funding position will be necessary to enable the council to take decisions on how to manage the budget pressures moving forward.

Possible options to ease budget pressures

- 3.31 As noted already in the report, there are a number of issues that require clarification or further work in order to ensure the projected financial position for 2022/23 is as accurate as possible. Critically the national grant position needs to be finalised and costs associated with projected increase in service demand needs to be refined.
- 3.32 Pending the outcome of the above, the service is taking urgent action to identify measures to contain the escalation of costs in the context of current service delivery, in particular in relation to staff costs, provision of meals and partner costs. There may be service implications from this and these will be reported in the next report to Committee.
- 3.33 Preliminary options for possible future cost reductions have been collated based on the premise that the current and future shortfall of funding cannot be met from Council reserves or core budget. These have varying issues and risks associated with them and further work will be undertaken to develop options as the longer term budget is clarified with information being brought back to Committee for consideration when this is available.
- 3.34 However, it should be noted that none of these options in isolation is likely to meet the whole of the projected shortfall in budget and a combination may be necessary. A number of the options represent significant changes to the service. Options that reduce places have not been included at this stage as that could bring into question the Council's position on and ability to deliver the early years expansion policy, which is a commitment associated with the ELC funding. However, if the projected ELC financial position does not improve, the scale and nature of the service that can be provided within budget may be something the council requires to consider in light of the very challenging overall financial position facing the council in future years.
- 3.35 Some of the options below could be perceived as a deterioration from the current service provision. There would also be a considerable lead in time required which would mean that the council would have no option but to meet the additional costs at least for a temporary period until reduced costs can be implemented. Therefore, this will require to be raised as part of the report on the Council's budget setting on 22 February 2022.

3.36 For information at this stage, the current options are summarised in the table below along with potential impact in meeting statutory duty to offer 1140 hours of ELC.

Option	Strengths	Weaknesses	1140 hour impact
1. Request additional financial assistance from Scottish Government	Shortfall of funding is systemic and would not be adequately addressed through a savings exercise. Political lobbying solution may be able to influence the funding formula deployed for Moray.	Moray is a small authority and our political influence may be limited compared to larger local authorities that do not have an overspend.	If the future formula provided a sustainable level of funding, then there would be sufficient finance to meet the statutory duty of offering 1140 hours of early learning and childcare. However, the recent SG budget shows a reduction in the ELC allocation.
2. Freeze/reduce the sustainable hourly rate to partners	From solely a financial perspective this option could partially or fully meet the funding shortfall.	High risk for a number of reasons; Potential legal challenge from partners who are in a 3 year contract and could view this as a breach of contract. Reputational risk for the authority. Partners unable to pay Real Living Wage which will impact on National Standard and also potentially business sustainability. Partner settings pressed to close due to unstable financial status of their setting. The cost of partner providers is less than the cost of Council settings so bringing the service in-house is not an option to mitigate this risk.	There is a high risk that this option would mean that the volume of supply of early learning and childcare in Moray would reduce and that meeting the statutory 1140 hour requirement was no longer viable.

Option	Strengths	Weaknesses	1140 hour impact
3. Bring all ELC provision in house	This option would mean that there would be no need for a contract to be in place with local private and third sector childcare providers. There would therefore be no hourly rate to be paid by the Council.	Since early learning childcare is based on a demand led approach (there is a legislative requirement for local authorities to provide early learning and childcare), costs of provision will still nevertheless be unavoidable. There is no evidence that Council services would be lower cost – this would have to be assessed before pursuing this further Council may have difficulties in accessing the number of properties required as well as a number of further complexities that may have costs	The continuity of 1140 hours of service delivery will be difficult to maintain if bringing delivery in-house was assessed as being financially beneficial.
4. Establish a Council private income stream through offering wrap around hours for year round services.	The recent investment in the Council ELC estate would facilitate this approach and, based on high levels of parent satisfaction, this could be a popular choice for many parents. Proposed costings can be found in Appendix 4.	Income margins may be smaller than originally indicated. Possible resistance to change from private providers as seeing this as unfair competition. The Scottish Government programme of government also includes a commitment to wrap around childcare and while details are not yet available, this could impact on any potential for income generation	This option would not have any impact on the delivery of 1140 hours of early learning and childcare.
5. Close some (Council run) Nursery settings	This option could offer a saving. The option could also be applied to partner settings	Since the provision of early learning and childcare is a demand level service, additional pressure for places would be exerted at other settings within different ASG areas. Places may have to be offered in alternative settings which could increase travel	In the context of anticipated increased future demand and current high levels of uptake, the adoption of this option would likely mean that the Council is unable to meet its statutory obligation of offering 1140 hours of early learning and childcare.

4. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

This report relates the priority 'Provide a sustainable education service aiming for excellence' from the Corporate Plan and to 'Building a better future for our children and young people in Moray' from the LOIP.

(b) Policy and Legal

The Care Inspectorate inspects all registered services regulated under the Public Services Reform (Scotland) Act 2010, which includes nursery classes and playgroups.

The authority has a duty to provide a quality early learning and childcare place for every 3 and 4 year old whose parents wish it and for eligible 2 year olds.

(c) Financial implications

Financial implications for 2021/22 are for an underlying overspend, however, mitigations can be put in place to accommodate that in 2021/22 making use of the ELC reserves from previous years as it is unlikely that any remedial action can be taken in time to mitigate this projected out-turn.

The implications for future years if no action is taken is for a continued overspend / budget pressure in the context of an already over-committed Council budget and projected need to make savings in the order of £20m over the period 2023/24 to 2024/25.

(d) Risk Implications

If ELC funding is not supported this would mean services are short staffed which, in turn, would mean children and families will not receive their full 1140 hours legislative requirement of ELC.

The pressure on our peripatetic managers given the extensive support required for year round settings could impact negatively on ability to lead improvement.

A more detailed assessment of risks and options will be undertaken to inform decisions on the way forward once the clarifications and refinements referred to in this report are available.

(e) Staffing Implications

There are risk implications for the current staffing structure. Due to budget pressures three local authority ELC services may not be able to offer all January 2022 intake children spaces as minimum ratios cannot be maintained. There are then further staffing implications for the April 2022 intake.

(f) Property

There are no property implications arising directly from this report.

(g) Equalities/Socio Economic Impact

An Equality Impact Assessment will be required if mitigating actions are implemented.

(h) Climate Change and Biodiversity Impacts

There are no climate change or biodiversity implications arising directly from this report.

(i) Consultations

Depute Chief Executive, Head of Education (Chief Education Officer), Head of Education Resources and Communities, Continuous Improvement Officer (West), Continuous Improvement Officer (East) and Principal Teacher Early Years Education Service, Chief Financial Officer, Human Resources Manager, Equal Opportunities Manager and Tracey Sutherland, Committee Services Officer have been consulted and are in agreement with the contents of this report as regards their respective responsibilities.

5. CONCLUSION

5.1 The national funding model associated with the grant allocation for the early years expansion has been changed and current indications are that this represents £1.4m funding reduction for Moray in 22/23 as the first of a 3 year phased approach to the reduction.

5.2 The expanding demand for ELC and 1140 hours provision in Moray has resulted in a projected budget pressure for 2022/23 of £1.9m, subject to refinement. Urgent action is being taken to contain costs where possible and an investigation will be undertaken lead by Internal Audit to inform a further report to the committee to identify changes to be applied, the service implications of this and to consider options to address the total shortfall in budget once further clarity referred to in the report is available.

5.3 Pending the above, the Council will require to accommodate the budget pressure estimated at £3.3m for 2022/23 at least on a temporary basis as any measures to reduce cost would have a lead in time of several months.

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