

## Wiltshire Council

### Cabinet

21 June 2022

---

**Subject: Capital Policy for Early Years (EY) provision**

**Cabinet Member: Cllr Laura Mayes Deputy Leader and Cabinet Member for Children, Education and Skills**

**Key Decision: Key Decision**

---

#### **Executive Summary**

Early years settings enable the Local Authority to meet its statutory duty<sup>1</sup> to ensure there is sufficient childcare within Wiltshire. A new policy is required to agree how to replace 23 temporary units that are currently leased to our early years providers. Replacing these buildings will reduce the Council's financial liability in the longer term and will safeguard the 702 early years places currently provided by these organisations. This will enable the Council to continue meeting its statutory duty to ensure there is sufficient childcare within the county.

#### **Proposal(s)**

Wiltshire Council has a statutory duty to secure sufficient childcare across the county, and in order to be able to meet this duty, a new policy needs to be developed to ensure that these buildings can be replaced, and early years childcare is able to continue to be delivered.

The proposal is to contribute towards the replacement of 23 temporary buildings and this paper outlines the proposal over a ten-year term. There are no further settings that the Council will be required to provide capital support for. A capital bid has already been submitted for four buildings that have reached the end of their life.

Cabinet is recommended to;

1. Agree a policy to contribute towards the cost of replacing 23 existing building over a 10-year period assuming all other available options are explored such as other private landlords or maintained schools in the community area who could, due to falling birth rates have unused classroom space.
2. Agree that the future liability of the maintaining and further replacement or enhancement of the building would be the responsibility of the early years childcare provider

---

<sup>1</sup> [Childcare Act 2006 \(legislation.gov.uk\)](http://legislation.gov.uk)

3. Agree to a maximum contribution of 25% of the capital cost of a new building, (based on maximum total place funding of £24,382 per existing place) however, this will be limited to the number of places required at the time of application
4. Delegate any further decisions relating to this matter to the Director of Procurement and Commissioning in consultation with the Director for Education & Skills and Cabinet Member with responsibility for Children, Education, and Skills

Many of these buildings are in areas of high deprivation, and although the existing providers are responsible for replacing the building, the statutory duty to provide early years childcare is with the Local Authority. This policy will provide funding towards replacing these buildings, and ensure sufficient childcare remains available across the county.

The new policy will remove any future liability for repairs and maintenance, and the Council would continue to have a financial charge against the property to safeguard any contributions that would be made in case of the possible sale of the property. It would be the full responsibility of each organisation to provide capital funding for any future replacement buildings after the end of this process.

#### **Reason for Proposal(s)**

Early years settings provide essential childcare places to meet the demand from families and children. Buildings leased to providers by the Council are required in order to support this demand. Without ongoing investment, the Council will fail to meet its statutory duty in providing sufficient childcare places within Wiltshire, and children could be without an early years education place to meet their needs.

**Terence Herbert**  
**Corporate Director**

# Wiltshire Council

## Cabinet

21 June 2022

---

**Subject:** Capital Policy for Early Years (EY) provision

**Cabinet Member:** Cllr Laura Mayes Deputy Leader and Cabinet Member for Children, Education and Skills

**Key Decision:** Key Decision

---

### Purpose of Report

1. This report outlines the reasons that capital is required to replace old and unsustainable temporary buildings currently leased by a number of childcare providers, and a new policy to support the investment. The Council's Facilities Management team has undertaken a review of all the Wiltshire Council buildings used by early years providers in the preparation of this report. Further work has also been undertaken to obtain a clearer picture of the current situation of each building.

### Relevance to the Council's Business Plan

2. The proposal is relevant to the following priorities and objectives laid down within 'Our Mission' in the Council's Business Plan<sup>2</sup>:

As a Council, we know our mission is to ensure:

- The people of Wiltshire are empowered to live full, healthy, and enriched lives.
- Our communities continue to be beautiful and exciting places to live.
- Our local economy thrives and is supported by a skilled workforce.
- We lead the way in how Councils and counties mitigate the climate challenges ahead.

For the early years the Plan aims to:

- Ensure children have the best start in life – and 'there are enough high-quality and accessible pre-school places
- Encourage our educational settings to strive for excellence in provision and achievement, using the best education establishments to help improve others.
- Provide high quality Early Years services from birth to five years

---

<sup>2</sup> <https://wiltshirecouncil.sharepoint.com/sites/Epichub/Shared Documents/Forms/AllItems.aspx?id=%2Fsites%2FEpichub%2FShared Documents%2FBusiness plan and Council strategies%2FBusiness Plan 2017-2027%2Epdf&parent=%2Fsites%2FEpichub%2FShared Documents%2FBusiness plan and Council strategies>

## Background

3. Initially the Government allocated funding for expenditure between 1999 and 2002 to set up Sure Start Local Programmes (SSLPs) for children in areas of deprivation. One of the core services of a SSLP was to provide good quality play, learning and childcare<sup>3</sup>. During this time the Council was successful in securing funding to provide new childcare places within the most deprived areas of Wiltshire. This funded some of the temporary buildings currently leased to childcare providers in Wiltshire.
4. These early years settings are operated primarily by charities private or organisations. As these settings are not covered by the DFE school condition grant there is no capital funding available for refurbishment or replacement. No resources have been allocated to date by the Council to support the future of these buildings other than for repair and maintenance.
5. Wiltshire Council has a statutory duty to provide sufficient childcare across the county. In order to meet this duty, the Council needs to agree a policy around the replacement of these buildings so that childcare can continue to be delivered.
6. This paper proposes that Wiltshire Council contributes towards the cost to replace all of the 23 temporary units over ten years as they reach the end of their life.
7. Wiltshire Council currently lease 23 units to 22 early years settings, (one setting comprises of two buildings). Four of these buildings have reached the end of their intended lifespan and are classed as requiring replacement by the Council's Facilities Management Team.
8. The settings each provide between 16 and 57 early years places, with an overall total of 702 early years places that are at risk.

## Initial Methodology by Facilities Management

9. A combination of desktop assessment and site visits have been undertaken to assess the condition of the temporary buildings. These have then been RAG rated based on the level of intervention required to maintain the building over the next 3 years, however it is expected that all 23 buildings will need replacing during the next 10 years.

Light intervention	Medium intervention	Full replacement
Minimal investment Focused on repair Some cladding replacements Relevel of the mobile Basic repairs to windows, doors, and floors.	More substantial investment Focused on replacement of elements Roofing repair or replacement Fixed wire/electrical changes Replacement fittings Replacement windows, floors, and doors	Full replacement of the unit within the next 1-3 years. Already beyond economical repair now

<sup>3</sup> [\[Withdrawn\] Sure Start, childcare and disabled children: capital grants - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

10. The indicative costs of the interventions required are shown as a band in the table below. This is based on real cost from previous repairs, and replacement of similar buildings elsewhere in the estate, and is provided to give a guide of potential costs.

	Current indicative cost per building
<b>RAG</b>	<b>Range</b>
<b>Green</b>	£0.010m - £0.020m
<b>Amber</b>	£0.020m - £0.080m
<b>Red</b>	£0.340m - £0.590m

11. Full replacement of an individual temporary building represents a significant cost. While the bulk of this cost is the replacement building itself, other factors would need to be taken into consideration and may contribute to the cost. These include, but are not limited to:

- Removal of redundant building
- Improved foundations
- Improved or otherwise new services (drainage, electrics, water services)
- Consequential where heating, fire and plumbing systems have been integrated into the main school buildings
- Asbestos removal from the old unit (note that this may also be a factor in Green and Amber works)
- Access /delivery complications (cranes, building on site etc)
- Planning permissions, procurement, project management
- Unforeseen circumstances

12. Most leases agreed between Wiltshire Council and early years childcare providers are for a maximum term of five years at a time. If a building needs replacing within the life of a longer lease a break clause would be used to allow for the replacement of the building and the new lease to be put in place.

13. Many of the lease arrangements currently in place require the occupier to undertake internal repairs, with the Council managing the external repairs. In practice this may lead to minimal investment in internal repairs, and poor condition being tolerated by the occupier. These current arrangements could present a perverse incentive where repairs are left, in the knowledge / assumption that the Council will ultimately solve the problem.

14. No assessment has been made by Facilities Management of the wider suitability of these units and what standards would be expected of a modern preschool facility.

### **Initial report by Facilities Management**

15. The 23 units have been RAG rated as below:

RAG	Number
Green	17
Amber	2
Red	4

16. Based on the RAG rating and cost banding, the Council has an initial estimated capital repair and maintenance liability of between £0.210m and £0.500m over the next 1-3 years, which is the Green and Amber rated buildings in the table below. The full replacement cost of the Red rated buildings is estimated at £2.341m.

	£	£	Cost band estimate
	Per building		Total cost
Green	£0.010m - £0.020m		£0.170m - £0.340m
Amber	£0.020m - £0.080m		£0.040m - £0.160m
			<b>£0.210m - £0.500m</b>

17. The table below indicates the properties Facilities Management RAG rated. All buildings indicated here are still required for the Council to meet its statutory duty to provide sufficient early years childcare within the county to meet demand.

Building no. URN	Current Provider Status	Tenure	Type	Lease Expiry	Green	Amber	Red	Number of places provided
104	Private	Lease	Pratten/mobile	0-1 years			X	28
140	CIO	Lease	Mobile	2-3 years	X			27
143	Not for Profit	Lease	Mobile	0-1 years			X	20
154	Private	Licence	Pratten	Over 5 years	X			20
176	Charity	Lease	Mobile	Over 5 years	X			57
178	Charity	Lease	Mobile	0-1 years	X			40
181	Charity	Lease	Mobile	0-1 years	X			41
213	Charity	Lease	Mobile	0-1 years	X			26
214	Private	Lease	Mobile / Shared	0-1 years	X			16

221	Charity	Lease	Land/mobile	0-1 years	X			52
224	Private	Lease	Mobile	Over 5 years	X			32
247	Charity	Lease	Mobile	0-1 years	X			37
270	Charity	Licence	Pratten	0-1 years			X	20
293	CIC	Lease	Mobile	0-1 years	X			30
294	Private	Lease	Pratten	0-1 years	X			40
299	Charity	Lease	Mobile	0-1 years	X			40
302	Charity	Lease	Mobile	0-1 years		X		40
304	Charity	Lease	Mobile	0-1 years	X			24
305	Charity	Lease	Rooms	2-3 years			X	30
313	Private	Lease	Mobile	0-1 years	X			20
315	Charity	Lease	Mobile	Over 5 years		X		24
324	Charity	Lease	Mobile	0-1 years	X			24

## **School Responsibilities and Exceptions**

18. Schools that are maintained financially by the local authority and have early years provision on site which is run by the school, have the repairs and maintenance of the setting provided by Schools Places Team, and will not be part of the 23 buildings included in this scheme.
19. If an academy manages an early year setting, the academy trust holds the responsibility for the repair and maintenance of the setting, and the building and will not be part of the 23 buildings included in this scheme.
20. If a maintained school has a nursery on their site, which is run by a charity or private provider, this will be included in this scheme, and will be part of the 23 settings identified.

## **Other Considerations to factor in replacement**

21. All buildings must comply with the Early Years Foundation Stage Statutory Requirements (EYFS)<sup>4</sup>. This relates to size of the usable classroom space, access to adequate outdoor space and rooms for meetings and staff room, safe preparation of food, adequate toilets, storage, and office space.
22. Replacement of these buildings cannot be allowed to disrupt the running of the school day. Careful planning to co-ordinate building work in the school holidays is required as far as possible, (although this may not be possible for all projects). This will also reduce the impact on the available childcare while the building work is undertaken.
23. Any permanent, brick buildings would not be included within the proposed policy, as it is only designed for the replacement of temporary buildings.

## **Proposed policy for replacement of existing buildings**

24. The proposed policy is to contribute towards the replacement of all 23 temporary buildings as they come to the end of their life, over approximately a ten-year period. This will discharge the repairs and maintenance responsibility of the Council.

## **Process**

25. Wherever possible, capital costs will be avoided – and all other available options will be explored such as other private landlords or maintained schools in the community area who could, due to falling birth rates have unused classroom space.
26. An assessment of sufficiency will also be carried out before any agreement to contribute towards a new building to agree the number of places required to meet the demand for childcare in the area.

---

<sup>4</sup> [Early years foundation stage \(EYFS\) statutory framework - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

27. These steps will ensure that the Council is taking appropriate steps to follow Value for Money principles whilst ensuring sufficiency of childcare places across the County
28. At the time the building is replaced, the Council would no longer own the building, and would change the lease arrangements to a ground rent lease with the provider, which will replace any existing arrangements. Ground rent is money leaseholders pay the freeholder (Council) to occupy the land a leasehold property is built upon.
29. Should a building be changed mid-way through the term of any lease this will be reliant on the operator being willing to change the lease terms.
30. The proposed policy would clearly manage expectations of the providers in these temporary buildings. A timeline of replacement would be created showing the individual RAG rating, conditions of buildings and expected lease timeline.
31. To enable the timely replacement of the temporary buildings the current early years providers will be supported with the development of a clear action plan. This plan will include fundraising advice and signposting to available grants. If an organisation / provider applies for a charitable grant, it usually requires match funding from another organisation. If the Council has committed to provide a percentage of the capital costs, it will make the project far more attractive to other grant sources (like the National Lottery Fund).
32. Currently the 23 settings provide 702 early years places. The demand for childcare at each of the settings will be reviewed before any capital investment is provided as part of due diligence. This will ensure that the building will only be replaced to meet the sufficiency in the respective area of Wiltshire.
33. Current leases are normally arranged on a five-year term. This supports schools with their place planning in case they needed the space back to accommodate demand for school places. However, if providers are supplying their own new buildings, longer leases are likely to be required.
34. There are a further 35 early years provisions where a lease is in place. These consist of 17 buildings which are brick built which would not require replacement, and a further 18 have land leases from the Council, the diocese or other landowners, and the buildings are already owned by the provider.
35. Under the proposed new policy there are additional actions that would be required as part of the process to replace the buildings:
  - The Council would work in partnership with early years childcare providers currently occupying the leased buildings to ensure they are able to meet the Statutory Duty to ensure sufficient childcare is available across Wiltshire.
  - The Council would also work with the providers to ensure they understand their responsibilities in relation to building compliance matters, and are able to carry them out to ensure the building remains safe and compliant with relevant legislation
  - The Council will formulate a detailed plan to replace all the buildings, based on a full assessment of condition and risk

36. The responsibility of replacing the building is with the early years childcare provider, and therefore they would be selecting the new building, and be responsible for the related funding and building works etc. The Council would only be providing an element of the capital funding to enable the providers to attract other grants or fundraising to pay for the entire cost of the project.
37. A number of providers have been consulted regarding the outline of these proposals, and they have expressed their support and confidence about the delivery of a new building with a financial contribution from the Council and providing and managing their own new building fully.
38. Providers will be at liberty to increase the size of their provision or reduce it as necessary to meet the needs of the local population. However, the capital investment from the Council will be limited to the number of places that were accommodated in the existing building (or the lower number of places if there is a reduction).
39. The Senior Project Manager from the Build Programme (who manages a programme of creating new school buildings) produced an indicative cost to build a new early years facility. There is a cost of £585,171 to accommodate 24 three and four-year-olds (24 place nursery). This works out at a cost of £24,382 per place. However, the total cost could alter slightly, depending on the number and ages of children, and the type of building that is selected.
40. It is proposed that the capital allocated to each project will be based on a rate per place, using the build cost, and the cost per place of £24,382 above as a benchmark. The number of places will be the multiplier to work out the total funding allocation. (Example: 20 places x £24,382 per place = £0.488m total capital required).
41. As part of the proposed policy, it will be made clear that the liability of the Council is limited to the percentage contribution that is agreed as part of this paper. This will mitigate against a provider selecting either a very expensive building (and costing the Council more money), or the Provider selecting a much cheaper building (and the Council making a greater percentage contribution).
42. The Council will agree to pay a maximum contribution at the agreed percentage of the replacement building cost, based on an estimated cost per place of £24,382.
43. In addition to this, the number of required places will be agreed prior to any discussions with parents, town or parish Councils, fundraisers etc and this will be based on need, considering; current birth rate trend data, and the availability other Council, non-school or private landlord owned buildings in the community area.
44. The early years providers are currently paying rent for the lease of these buildings to the Council. However, there is currently no funding available for replacement or contribution to replacement buildings available from the Council.

45. The current yearly income from all 23 leases equates to approximately £39,460. There are different lease arrangements for each of the units. Some of the leases are due for renewal and will have new terms.
46. The expected income if each of these leases transferred to ground rent only, would be in the region of £3,450 per annum, but may vary dependent on the market rate at the time of signing the lease.

Type of Lease	Income
Current rent and leases	£39,460
Future ground lease	£3,450

47. It is clear that the income currently generated from leases does not cover the maintenance backlog already identified, and there is a very significant shortfall.
48. The policy will specify the budget available for each project as set out above.

### **Overview and Scrutiny Engagement**

49. The relevant Overview and Scrutiny Committee (Assets Committee) will be consulted regarding this proposal.

### **Safeguarding Implications**

50. Safeguarding is a priority of both the Council and the childcare providers occupying the buildings. The safety of all users is paramount, and action is required to ensure all buildings continue to meet all the health and safety requirements to ensure staff, parents and children using them are safe at all times. To ensure there is no increased risk to children and families a plan is required to maintain adequate safe buildings for childcare provision.
51. By ensuring sufficient childcare provision is available locally for families, there is a reduced risk of harm, as children will be able to access support and learning, and parents and carers will be able to engage in meaningful activities while the children are in the pre-school settings.

### **Public Health Implications**

52. Currently all buildings are safe to occupy. Without a programme of replacement, there is a potential risk to the health and wellbeing of staff and children. Access to childcare provision is important to support children having the best start in life and any reduction in provision, particularly in areas of deprivation is likely to impact negatively on health inequality.

### **Procurement Implications**

53. There are no procurement implications related to this proposal.

### **Workforce Implications**

54. There is not any expected impact on the workforce as a result of this proposal, and any associated work is expected to be included in business as usual across local authority teams

### **Equalities Impact of the Proposal**

55. As mentioned at the beginning of the paper at point 3, between 1999 and 2002 funding was made available to the Council to provide childcare in the more disadvantaged areas of Wiltshire. These buildings are referred to in the equalities impact assessment attached in the appendices, as it is felt there would be a negative impact on families and children in these areas if the 23 buildings were not replaced.

### **Environmental and Climate Change Considerations**

56. The proposal would support the Council's policy to be Carbon Neutral by 2030. This would enable childcare providers to replace outdated, inefficient temporary buildings with low energy alternatives, including better efficiencies with heating and lighting and construction materials that provide environmental benefits in the process. New buildings would provide improved insulation so they would also use less energy.

### **Risk Assessment**

#### **Risks that may arise if the proposed decision and related work is not taken**

57.

	<b>Risk</b>	<b>Action to mitigate the risk</b>
1.	The Council will not meet its statutory duty to provide sufficient childcare places	Agree a policy to enable the buildings to be replaced, and maintain sufficiency
2.	Due to the condition of some of the buildings, they may become unsafe, and there is the potential for injury to children or staff	Ensure the buildings are regularly inspected and maintained
3.	There is a reputational risk to the Council if there is not a plan to replace the buildings	Agree a policy to enable the buildings to be replaced, and maintain the reputation of the Council
4.	There is a risk that if the buildings are no longer viable and are not replaced that the provider will not be viable and there will be more people out of work	Agree a policy to enable the buildings to be replaced, and maintain employment opportunities and prosperity
5.	The current buildings are not environmental efficient, and do not support the Council's policy to be Carbon Neutral by 2030	Agree a policy to enable the buildings to be replaced, and reduce their environmental impact

58. It is also important to note that due to the impact of the covid pandemic, many providers have needed to utilise savings and contingency funds that may have been previously put aside to support the replacement of their building.

**Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

59.

	<b>Risk</b>	<b>Action to mitigate the risk</b>
1.	The DfE may want to clawback payment of SureStart grant from 1999 to 2002	Childcare will still be provided in new buildings, so clawback does not apply. Also due to the condition of the buildings provided at the time it is unlikely there will be a request to clawback any payments.
2.	A reduction in the income from leasing the buildings	This will be offset against the cost of repairs and maintenance that will no longer be required after replacement. Ground rent only will be charged, and the provider will be responsible for the building. This is very minimal at £39,460 per year.
3.	There is a risk of challenge from other providers who lease buildings on the open market	This is unlikely as the current provider will be responsible for purchasing and maintaining the new building and will be paying a market rate ground lease. There is also the possibility that private landlords can offer similar proposals when buildings reach the end of their useful life.
4.	The current provider is unable or unwilling to be responsible or replacing the existing building	The Early Years sufficiency team would engage with other childcare providers across the area to find an alternative operator to meet the local need. The option of a contribution to the alternative provider towards the replacement of the building will still be offered, although all options for a site will be considered.

**Financial Implications**

**Further consultation on indicative costs to replace temporary buildings**

60. The report outlines an average cost of £0.585m to accommodate 24 three and four-year-olds an average cost of £24,382 per place. This overall cost to the provider will be dependent on the number and ages of children, and the type of building that is selected.

61. The replacement programme provides substantial new buildings that would reduce the current carbon footprint and although future lease income is foregone, the new buildings would not be owned or, maintained by the Council, thus reducing pressure on the revenue budget. The current estimated cost of redecoration and maintenance alone, indicates a cost of £0.210m to £0.500m over the next 1 - 3 years. This would equate to revenue costs avoided of £0.700m to £1.67m over the next ten years.

62. The proposed policy over the next ten years is to support the replacement of the 23 units. In the first year, the intention would be to replace the four units already at the end of their lifespan. A capital bid was approved for £1.195m at the February 2022 Cabinet, and agreement was given to fund the replacement of the initial four buildings, including a contingency for increasing materials costs (inflation).
63. The full cost to replace these four units that have reached the end of their lifespan is estimated at £2.341m. The proposal is to contribute a proportion of the cost of the replacement (maximum of 25% to 50%). Therefore, reducing the capital required for these four units to between £0.597m and £1.195m and utilising the remaining capital budget to fund further replacement buildings.
64. The proposed policy would then deal with the replacement of the other 19 units over the next ten years, and the table below demonstrates the full potential cost for all units.

#### Cost of Early Years Capital

Contribution per place	% Of total cost	Number of Places	Total Capital Cost
£24,382	100%	702	£17.116m
£12,191	50%	702	£8.558m
£6,096	25%	702	£4.279m

65. The table above includes all options however the recommendation is to provide 25% funding to a maximum of current numbers in settings – so no expansion of current provision is to be funded.
66. If the current early years provider is unable to contribute the remainder of the funding, and the setting is at risk of closure, where there would be a shortfall in sufficiency of early years places in that community the Council would offer the proposed capital building contribution to other early years childcare providers to ensure sufficiency can be maintained for children and families.
67. The recommended option for capital investment is £4.279m, based on a 25% contribution. Due to the existing capital budget of £1.195m, the additional requirement to replace all 23 buildings is £3.084m based on the recommended option of a 25% contribution. The total budget can be spread over a 5-year period phased at £1.0M per annum for the duration of the works.

#### Legal Implications

68. If there is insufficient childcare available for parents, the Council will be in breach of its statutory duty under section 3 of the Childcare Act 2006<sup>5</sup>.
69. In order to facilitate construction of the new building and the grant of a ground lease to the provider, any existing lease will either need to be determined by the Council exercising a break clause (where this is contained in the lease) or

<sup>5</sup> [Childcare Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

agreement will need to be reached with the provider for an early surrender of the lease.

If there is no break clause in the lease, if the provider who is currently in occupation does not want to surrender the lease early, the Council will need to adapt the build programme to coincide with the end date of the lease.

Legal Services will need to work with the Estates Team to consider the terms of the leases applicable to each of the proposed sites.

70. Legal documentation may be required to set out the terms for the use of any funding provided under the policy contained in this Report to mitigate risks of breach of funding arrangements and the triggering of any clawback. Officers will need to liaise with Legal Services to ensure these arrangements are considered and any necessary documentation is put in place.

### Options Considered

71. Several options have been considered around the replacement of the temporary buildings used for early years as detailed below after discussions with a number of the 23 settings included in the paper:

#### Options for the Council

72. There are 4 options to consider:

1. Do nothing and continue to repair and maintain provision until it is beyond repair
2. Stop leasing any buildings to providers
3. Council to pay for the full replacement of the leased early years buildings
4. Council to contribute towards replacement of the early years buildings
  - a. At a rate of a maximum of 25% (subject to conditions)
  - b. At a rate of a maximum of 50% (subject to conditions)

	Option	Consideration	Recommend
1	Do nothing and continue to repair and maintain provision until it is beyond repair	<p>If the Council does nothing when each building is at the end of its lifespan, the Council would be unable to meet its statutory duty for providing sufficient childcare.</p> <p>There would also be an increasing repair and maintenance cost for the Council, and an increased risk of harm to children, families, or staff due to the condition of the buildings.</p>	No
2	Stop leasing any buildings to providers	This option would reduce the possibility of providers being able to provide appropriate accommodation, and lead to a lack of capacity. This would mean the Council would be unable to meet it	No

		statutory duty for providing sufficient childcare.	
3	Council to pay for the full replacement of the leased early years buildings	<p>To fully fund the 23 buildings identified would cost the Council an estimated £16,774,902.</p> <p>The Council would then also remain responsible for ongoing repair and maintenance of the buildings, and this does not reduce the liability on the Council.</p> <p>There is also a responsibility on the existing provider to fund and replace their own building.</p>	No
4a	<p>Council to contribute towards replacement of the early years buildings</p> <p>a. At a rate of a maximum of 25% (subject to conditions)</p>	<p>By the Council contributing towards the replacement cost of the new building, the provider is able to obtain additional funding from other grants more easily.</p> <p>This option will also help to ensure sufficiency and support the current providers, and the children who attend the provision.</p> <p>This will also limit the liability to the Council for capital costs and remove the liability for repairs and maintenance on the new buildings, as a ground lease would be put in place only.</p> <p>A maximum of 25% contribution limits this liability to £4.194m.</p>	Yes
4b	<p>Council to contribute towards replacement of the early years buildings</p> <p>b. At a rate of a maximum of 50% (subject to conditions)</p>	<p>By the Council contributing towards the replacement cost of the new building, the provider is able to obtain additional funding from other grants more easily.</p> <p>This option will also help to ensure sufficiency and support the current providers, and the children who attend the provision.</p> <p>This will also limit the liability to the Council for capital costs and remove the liability for repairs and maintenance on the new buildings, as a ground lease would be put in place only.</p> <p>A maximum of 50% contribution limits this liability but would cost £8.387m.</p>	No

## Conclusions

73. Wiltshire Council has a duty to ensure that there is sufficient accessible childcare available for parents. 23 providers operate from temporary buildings leased by the Council, on school sites, which have a limited lifespan. If the buildings are not replaced it will impact upon the available childcare and the Council would not meet its statutory duty.
74. To meet the sufficiency duty, it is necessary to have suitable premises from which the childcare providers can operate. Wiltshire Council is responsible for the external repair and maintenance of the buildings, the cost of which is ongoing and will continue to increase as the buildings get older.
75. A contribution to the replacement of aging buildings would allow the providers to fundraise and bid for additional grant funding from external sources (e.g., The National Lottery). If the current early years provider is unable to contribute the remainder of the funding, the Council would offer the building proposal to the early years childcare market to source an alternative provider.
76. New buildings would support the Council policy to be Carbon Neutral by 2030 and would provide environmentally friendly, economic buildings.

### **Recommendations**

77. Cabinet is being asked to consider making a capital investment contribution towards, or fully fund the replacement of 23 temporary buildings being used for early years childcare providers (pre-schools). There are 4 recommendations below.
1. Agree a policy to contribute towards the cost of replacing 23 existing building over a 10-year period assuming all other available options are explored such as other private landlords or maintained schools in the community area who could, due to falling birth rates have unused classroom space.
  2. Agree that the future liability of the maintaining and further replacement or enhancement of the building would be the responsibility of the early years childcare provider
  3. Agree to a maximum contribution of 25% of the capital cost of a new building, (based on maximum total place funding of £24,382 per existing place) however, this will be limited to the number of places required at the time of application
  4. Delegate any further decisions relating to this matter to the Director of Procurement and Commissioning in consultation with the Director for Education & Skills and Cabinet Member with responsibility for Children, Education, and Skills

This capital investment is expected to be distributed across the next 10 years, based on a rolling programme of works, prioritised by those in the greatest need.

---

**Gary Binstead (Head of Families and Children's Commissioning)**

---

Report Authors:

Lucy-Anne Bryant Commissioning Manager

Nicola Harris Assistant Commissioner

Date of report: 17 March 2022

Appendices

- i. Equalities Impact Assessment