

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Overview & Scrutiny Committee

**DATE:** 23<sup>rd</sup> February 2023

**SUBJECT:** Update on Dedicated Schools Grant Management Plan

**CHIEF OFFICER:** Steven Mair, Executive Director of Finance and Commercial (s 151)  
Sue Butcher, Executive Director People Children, Chief Executive Slough Children's Service Trust Ltd

**CONTACT OFFICER:** Liton Rahman, Deputy Director Corporate and Strategic Finance

**WARD(S):** All

**EXEMPT:** No

**APPENDICES:** None

### **1 Summary and Recommendations**

- 1.1 Local authorities are facing increased demand for places for pupils requiring specialist education provision, which has risen in Slough by 86% since 2015. As well as the significant increase in numbers, the complexity of pupils' needs is also increasing.
- 1.2 The Council's Dedicated Schools Grant (DSG) deficit has been growing since 2015/16, mainly due to the pressures for additional funding in the HNB and a lack of management action up to May 2021. The overall deficit has grown from £4.9m in 2015/16 to £25.5m as at 31 March 2022. The DSG has a forecast deficit at the end of 2021/22 of £29.1m, which is a £3.6m increase since 31<sup>st</sup> March 2022 due to the overspend on the High Needs Block.
- 1.3 All local authorities with DSG deficits are required to prepare and implement a deficit management plan, although the Department for Education (DfE) recognises that in some cases it may take several years for the situation to improve.
- 1.4 Whilst the authority did prepare and present a management plan to Schools Forum in January 2021, this was prepared prior to the finalisation of the 20/21 outturn position which was estimated to be £4m at the time and was used as a basis for projecting forward and therefore resulted in the year-end positions being underestimated. Also, the plan only included the projected unmitigated position without any focus on mitigating actions that would reduce the deficit position.

- 1.5 The Council had made no positive progress on addressing this growing deficit until May 2021 when the lack of progress was identified, and action began on preparing a revised management plan that was more reliable and included mitigations.
- 1.6 The outturn position in 2020/21 was an overspend of £7.2m and it was anticipated that an overspend of £7.2m would occur in 2021/22. However, as a direct result of the actions outlined within this report the overspend was reduced to £4.9m, a reduction of £2.3m when compared to last year's position. Attention is drawn to paragraph 4.9 in coming to this forecast and the risks that this may change.
- 1.7 The Council has been participating in the DfE's Safety Valve programme and has been engaging with the DfE on a bi-monthly basis and in doing so the DfE has been offering challenge and support to the process of recovery. The meetings have been focused on providing an effective service and achieving financial sustainability rather than simply reducing expenditure. Feedback from the meetings have been positive, the DfE have been very complimentary and pleased with the progress made by the Council. In particular, the commissioning work and the financial modelling. They have commented positively on the pro-active and comprehensive nature of the Council's responses to queries all of which is taking the DSG issue forward.
- 1.8 The Council submitted its initial proposal to the DfE on 13<sup>th</sup> January 2023 with a feedback session held on 23<sup>rd</sup> January 2023. The feedback session was very positive, and the Council submitted a final proposal on the 3<sup>rd</sup> February 2023.
- 1.9 If the proposals are agreed to by the Secretary of State, they will form the basis of a published agreement. The agreement will require the Council to implement reforms to the agreed timetable, alongside maintaining an agreed savings profile. It will also set out additional funding which the department will release to support the reduction of the cumulative deficit.
- 1.10 This report updates the Cabinet on the High Needs Budget position and the progress to date of the DSG Management Plan 2022/23 to 2026/27.

### **Commissioners comments**

The commissioners welcome this comprehensive report which sets out the actions taken as part of the Safety Valve programme, and look forward to hearing the outcome of the final proposal submitted to the Department for Education on 3<sup>rd</sup> February 2023.

### **Recommendations**

The Overview & Scrutiny Committee is requested to scrutinise this report and make any comments to Cabinet.

- 1.11 The Cabinet is being asked to note the following:
  - the forecast position for DSG spend in 2022/23 to 2026/27
  - the overarching issues that have resulted in the DSG deficit and the actions taken to date to address these

- the Council has been taking part in the 'safety valve' intervention programme with the DfE and has submitted its final proposal for addressing the deficit on the High Needs Block.

## Reasons

- 1.12 Those who receive services via the Local Authority's DSG (High Needs Block) are the most vulnerable children and young people (aged 0-25) with special educational needs and disabilities. An effective Management Plan for DSG High Needs Block spending is required to address the current overspend and ensure that services are sustainable and can continue to meet the needs of children, young people and their families in Slough.
- 1.13 This priority has to be achieved within a balanced budget and this has not been the case in the past with increasing deficits and no management action to address them.

## 2. Background

- 2.1. School Funding is received through the DSG, and is split into four blocks, each with its own formula to calculate the funding to be distributed to each local authority, and with specific regulations on what each block of funding can be spent on:
- **Schools Block (SB)** – funds primary and secondary schools through the school's funding formula, and growth funding for new and growing schools/bulge classes.
  - **Central Schools Services Block (CSSB)** – funds services provided by the local authority centrally for all schools and academies, such as the admissions service.
  - **Early Years Block (EYB)** – funds the free entitlement for 2-, 3-, & 4-year-olds in all early year's settings in the private, voluntary and independent (PVI) sector as well as maintained nursery schools, and nursery classes in mainstream schools.
  - **High Needs Block (HNB)** – funds places in special schools, resource units and alternative provision, and top up funding for pupils with Education, Health & Care Plans (EHCPs) in all settings including non-maintained special schools, independent special schools, and further education colleges.
- 2.2. The Council's DSG deficit has been growing since 2015/16, mainly due to the pressures for additional funding in the HNB and the lack of management action. The overall deficit has grown from £4.9m in 2015/16 to £20.6m as at 31 March 2021, and could potentially grow to £43m by 2024/25 if no mitigating actions are taken.
- 2.3. All local authorities with DSG deficits are required to prepare and implement a deficit management plan, although the DfE recognises that in some cases it may take several years for the situation to improve.
- 2.4. Slough's revised deficit management plan was shared with the DfE in July 2021 (see para 4.1.6 below). Actions to manage demand for HNB funding and address the DSG

deficit are included in this plan. The key areas of risk, actions taken to date and mitigations are identified in the sections that follow.

- 2.5. The Council has been invited to take part in the 'safety valve' intervention programme with the DfE with the aim of agreeing a package of reform to our high needs system that will bring the DSG deficit under control. Officers are currently in the process of updating the existing management plan and package of proposals in readiness for the review with the DfE which is expected to commence in April/May 2022.
- 2.6. If the proposals are agreed to by the Secretary of State, they will form the basis of a published agreement. The agreement will require the Council to implement reforms to the agreed timetable, alongside maintaining an agreed savings profile. It will also set out additional funding which the department will release to support the reduction of the cumulative deficit.
- 2.7. The following governance structure has been and is being implemented to ensure there is oversight of the delivery of the DSG Action Plan:
  - 2.7.1. DSG Finance Group: meets weekly and is chaired by the Section 151 Finance Officer and provides assurance that actions to deliver the DSG plan is on track and provides financial reports to track impact. These actions are set out below in section 3
  - 2.7.2. SEND Transformation Board; will meet monthly and is jointly chaired by Section 151 Officer and the Executive Director People Children. Membership also includes chair of school forum, Frimley Clinical Commissioning Group, Slough Children Trust Ltd, parent voice and Adult Social Care. This Board will provide challenge and oversight of the DSG Management Plan and links to improving SEND outcomes
- 2.8. This report is provided to Members to share detailed information about the financial pressures faced by the Council and local schools in providing services to children with additional needs including Special Educational Needs and Disabilities (SEND) through its nationally allocated High Needs Block (HNB) funding.
- 2.9. The report sets out strategic aims and strategies to address these pressures. High Needs funding is one of the four funding blocks within the DSG for the Council. The Council has authority regarding funding decisions about the DSG allocations including allocation of funding from the high needs block, although it is required to consult the local Schools' Forum (a school stakeholders' body) who also hold some regulatory powers for specific circumstances.

### **3. Overarching Issues**

- 3.1. The Council is facing unprecedented financial challenges across the whole spectrum of its budgets culminating in the issuance of a s114 notice in July 2021. The problem at that stage was estimated at £174m. This increased to a potential Capitalisation Direction (CD) of £782m with annual revenue savings needed of £20m for 7 years.
- 3.2. In addition, the Council's DSG deficit has been growing since 2015/16, mainly due to the pressures in the HNB and the lack of management action. The overall deficit has grown from £4.9m in 2015/16 to £25.5m as at 31 March 2022. It was forecast to

increase every year thereafter, rising to £41m by 2026/27. Due to work to address this in the last 18 months this is now forecasting to stop overspending in year by 2025/26 and outturn in that year at £27.7m, reducing to £27.0m by 2026/27, a reduction of £14.4m, 34%

**Table 1 – DSG Deficit**

£m	15/16	16/17	17/18	18/19	19/20	20/21	21/22
B/F	5.7	4.9	2.4	5.4	7.5	13.4	20.6
In-year	-0.8	-2.5	3.0	2.1	5.9	7.2	4.9
<b>C/F</b>	<b>4.9</b>	<b>2.4</b>	<b>5.4</b>	<b>7.5</b>	<b>13.4</b>	<b>20.6</b>	<b>25.5</b>

3.3. In 2020, the Government introduced a statutory override for a period of three years (up to end of March 2023) that meant that local authorities' DSG deficits could be separated from their wider accounts. The Government has agreed to extend the DSG statutory override by a further three years. In the case of Slough, the DSG is forecast to reach a cumulative deficit of over £27m by March 2023 and so having a separation of this from the council's own reserves is critical.

3.4. Key long-term areas of pressure in relation to Slough's HNB spending have been:

- increasing cost of top-up funding for Education Health and Care Plans (EHCPs) – this has increased in both mainstream and special schools. This is not in line with national trends and is being reviewed as part of this DSG Management Plan. Actions taken to date have seen the average cost of a newly issued plan decrease by 17% over 2 years.
- placements in Independent Non-Maintained Special School (INMSS) – the increase in Slough has been lower than in other unitary authorities; however, this is a focus for review as each individual placement can incur significant costs. To date our numbers, continue to be lower than our statistical neighbours and are reducing.
- Post-16 and Post 19 Placements – these have been increasing in line with national trends. This is a focus for the DSG Management Plan as the Council needs more effective commissioning to ensure value for money and sufficient capacity within the Slough area. There is now a Post-14 team in place to focus on this project, and commissioning practices have been significantly strengthened.
- Alternative Education Provision Commissioning of Placements – Slough is a statistical outlier in this, commissioning similar numbers of places to much larger authorities. This has had a significant impact on higher needs block spending and commissioning and delivery of these places is a focus of the DSG Management Plan. A project is in place and significant cost reductions are projected over 3 years, with year one already implemented.
- management of existing contracts and commissioning of services to support children and young people with additional needs – review of contracts and commissioning arrangements in Slough will include individual tuition and therapies

3.5. It is also important to acknowledge that Slough has had to address a culture within the SEND team where there was:

- poor decision-making
- lack of leadership, ownership and drive
- lack of governance and accountability
- lack of effective commissioning processes and contract management, with a reliance on spot-purchasing
- lines of financial accountability lacking clarity
- poor use of finance and data systems
- lack of clarity around placements and their cost
- insufficient focus on budget reconciliation

#### 4. Management Plan

- 4.1. All local authorities with DSG deficits are now required to prepare and implement a deficit management plan, although the DfE recognises that in some cases it may take several years for the situation to improve.
- 4.2. The issues outlined above are being addressed through improved governance, review of process and roles, increased scrutiny and accountability, and a focus on best value and transparent decision-making.
- 4.3. Since May 2021, officers have been working extremely hard on developing a management plan and a package of cost reduction strategies that addresses these issues and achieves a balanced in-year position within the next four years.
- 4.4. The cost reduction strategies are already starting to achieve reductions in expenditure, they are discussed in further detail below. The outturn position in 2020/21 was an overspend of £7.2m and it was anticipated that an overspend of £7.2m would occur in 2021/22. However, as a direct result of the actions outlined within this report an overspend of £4.9m was achieved in 2021/22, a reduction of £2.3m, 32%, when compared to last year's position.
- 4.5. Slough's revised deficit management plan achieves a balanced in-year position for High Needs by 2025/26, which is year 3 of the plan with an estimated mitigated deficit of £27m by 2026/27 compared to a deficit of £41.4m if no mitigating actions are taken.

**Table 2 – Projected in-year DSG Deficit**

£m	20/21	21/22	22/23	23/24	24/25	25/26	26/27
Unmitigated	7.2	7.2	3.6	3.0	3.3	3.1	2.8
Mitigated	7.2	4.9	2.2	0.4	0.1	(0.4)	(0.7)
<b>Reduction</b>	<b>0.0</b>	<b>(2.3)</b>	<b>(1.4)</b>	<b>(2.6)</b>	<b>(3.2)</b>	<b>(3.5)</b>	<b>(3.5)</b>

**Table 3 – Projected cumulative DSG Deficit**

£m	20/21	21/22	22/23	23/24	24/25	25/26	26/27
Unmitigated	20.6	27.8	29.1	32.1	35.4	38.5	41.4
Mitigated	20.6	25.5	27.6	28.1	28.1	27.7	27.0

<b>Reduction</b>	<b>0.0</b>	<b>(2.3)</b>	<b>(1.5)</b>	<b>(4.0)</b>	<b>(7.3)</b>	<b>(10.8)</b>	<b>(14.4)</b>
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- 4.6. The Council has been participating in the DfE’s Safety Valve programme and has been engaging with the DfE on a bi-monthly basis and in doing so the DfE has been offering challenge and support to the process of recovery. The meetings have been focused on providing an effective service and achieving financial sustainability rather than simply reducing expenditure. Feedback from the meetings have been positive, the DfE have been very complimentary and pleased with the progress made by the Council. In particular, the commissioning work and the financial modelling. They have commented positively on the pro-active and comprehensive nature of the Council’s responses to queries all of which is taking the DSG issue forward.
- 4.7. The Council submitted its initial proposal to the DfE on 13<sup>th</sup> January 2023 with a feedback session held on 23<sup>rd</sup> January 2023. The feedback session was very positive, and the Council submitted a final proposal on the 3<sup>rd</sup> February 2023.
- 4.8. If the proposals are agreed to by the Secretary of State, they will form the basis of a published agreement in early 2023. The agreement will require the Council to implement reforms to the agreed timetable, alongside maintaining an agreed savings profile. It will also set out additional funding which the department will release to support the reduction of the cumulative deficit.
- 4.9. As is well documented in other reports on this agenda there are considerable financial risks with significant historic matters being identified as the Council closes off its accounts from 2018/19 to 2021/22. The above estimates have been based on the management plan submitted to the DfE adjusted for historic issues identified to date and changes to income projections based on recent announcements with resilience built in to allow for any issues that arise from the work that is ongoing. However, the magnitude of the issues facing the Council are such that these projections may well change.

## **5. Cost reduction strategies**

### **5.1 Managing demand for Education Health Care Needs Assessments (EHCNAs) and Education Health Care Plans (EHCPs)**

#### Context

Since the introduction of the Children & Families Act 2014, local authorities (LAs) across England have seen a year-on-year increase in the number of EHCPs. In 2015, 2.8% of all pupils, both in Slough and nationally, were supported through a Statement of Special Educational Needs or EHCP. By 2021, this had increased to 3.6% nationally, 3.7% in Slough, and 4% across other unitary authorities. Whilst the increase in Slough is in line with national statistics, the growing numbers have placed an increasing demand on statutory Special Educational Needs and Disability (SEND) resources. Auditing of SEND Panel decisions pre-April 2021 has demonstrated that processes in Slough from 2014 to 2021 have lacked the rigour necessary to ensure that assessments and the issuing of plans takes place only when appropriate under the SEND Code of Practice (2015). This included a tendency to make decisions regarding changes of placement, banding and type without ensuring accountability and robust evidence.

In 2019, a new matrix system for banding EHCP top-up funding was introduced in Slough. Analysis has shown that in the first 18 months this has resulted in a 14% increase in the cost of top-up funding to mainstream schools. Contributory factors include:

- a failure to undertake a comprehensive financial modelling of the new matrix system to consider the cost impact and sustainability within the existing financial envelope.
- a lack of consideration of existing models in other South-East authorities and statistical neighbours.
- banding levels that are spread too far apart, such that the increase from one increment to the next is frequently between £5,000 and £10,000. This limits options when considering a need to fund additional provision which could be delivered more cost-effectively than stepping to the next available banding level.
- no 'like-for-like' banding levels identified for assimilating existing EHCPs that were previously banded under the old system, leading to a tendency for plans to increase in cost without any evidence that provision funded by the top-up needs to increase.
- panel decisions on banding reflecting a culture of low expectation of schools' ordinarily available provision and SEND capacity.
- the matrix descriptors require reviewing to better take into account the age/stage of the CYP and other provision funded separately from top-up funding (such as Speech & Language Therapy and Berkshire Sensory Consortium packages)

#### Action taken to date

The following actions have been taken forward:

- a new Chair of SEND Panel (permanent member of staff) since April 2021 has ensured robust adherence to terms of reference and SEND Code of Practice (2015) ensuring transparency of decision-making and all decisions have been appropriately recorded and tracked.
- the membership of SEND Panel has widened to include regular contributions from head teachers and other agencies such as Adult Social Care and regular Health attendance.
- the SEND Commissioner (permanent post) attends the Panel weekly since May 2021 and this has enabled rigour and consistency in our approach to commissioning across cases and particularly with complex cases.
- the Triage process introduced in June 2021 has added a layer of quality assurance which ensures that all cases presented include the relevant and available evidence for the SEND Panel to make their decisions.
- proposals shared with Schools Forum in November 2021 to mitigate immediate risk of banding inflation at phase transfer. These proposals ensured that, where a CYP's needs were being met under the previous banding system, this banding would be maintained at phase transfer, rather than moving to the closest matrix banding, which would typically have incurred an increase of at least £1000 per



EHCP. These were applied to all EHCPs amended as part of the September 2022 phase transfer process (from February 2022 onwards).

- the following assumptions have been applied to phase transfers from 2021-22, where appropriate to the need of the individual CYP:
  - most pupils leaving PVIs will transfer to mainstream primaries
  - most pupils leaving mainstream primaries will transfer to mainstream secondaries with same level of funding
  - most pupils with a primary RB place will transfer to mainstream secondary or mainstream secondary RB provision
  - most pupils in primary SEN units will transfer to maintained/academy special school
  - most pupils leaving mainstream secondaries will transfer to a local mainstream college placement
  - most pupils leaving special school will transfer to a higher cost college placement (i.e., not an ISP)

### Impact to date

There has been considerable positive impact from the above actions:

- analysis of new assessments in the first 6 months of 2022-23, compared to the same period the previous year, shows that these have increased by 2.9% year-on-year in Slough. This is consistent with our overall prediction for a 3% rise in plans this year. Compared to our neighbours in SE19, this is a below average increase.
- the average cost of a newly issued plan has decreased from £11,086 in July-Sept 2020 to £8,478 in July-Sept 2022; this exceeds the savings figures set out in CR4 of the Management Plan.
- the proportion of newly issued plans designated mainstream as type has increased from 81% to 92% over the same period.

### Ensuring Sustainability of Changes and Future Plans

The processes at the SEND Panel need to remain fully embedded to ensure ongoing rigour and transparency. Focus needs to remain on quality and outcomes for Children and Young (CYP) with SEND, while also having regard for the financial envelope. More detailed proposals on updating the banding matrix will go to Schools Forum in March 2023. This will ensure that:

- the existing models used by statistical neighbours and other South-East authorities are fully considered and benchmarked against Slough.
- descriptors are reviewed to ensure that decisions regarding banding accurately reflects the provision that the LA must fund through top-up in line with each EHCP.
- banding levels are set at appropriate increments to ensure a graduated response to need. At present, analysis indicates that, in the first 6 months of financial year 2022-23, the average banding increase for a plan where there has been a change

of CYP's need has been £4,947 (28 instances during the period analysed). This is likely to reflect the £5,000 increments that the matrix has from band 6 onwards, which will be addressed in the new proposals.

- any EHCPs assimilated from previous system can be funded at a level which reflects provision required without arbitrary inflation due to a lack of 'like-for-like' banding increment.
- proposals are fully modelled both operationally and financially to ensure that needs are met while keeping regard to sustainability and the existing financial envelope.

## **5.2 Independent Non-Maintained Special School (INMSS)**

### Context

The Independent Non-Maintained Special School Providers and Independent Providers are used as provision for a small number of CYP who have, due to the complexity of their needs, not been successful within Maintained Provision or their needs are not able to be met within Maintained Settings. The number of these placements has historically been quite low in Slough but since 2018/19 these placements have increased, and their use has not necessarily been monitored or audited to ensure that they are meeting need and providing value for money. A small number of these placements can have a significant financial implication as a placement costing £50,000 per annum for secondary phase will cost potentially over £350,00 for the time the CYP is in the school. Particular issues are:

- projections in the DSG Management Plan indicate that, unmitigated, numbers in this sector will increase to 77 by 2025.
- the costs of these placements are growing, and it is important to ensure that CYP are only placed in these provisions if all local Maintained Provisions clearly cannot meet need and all other options have been exhausted.
- when auditing SEND Panel minutes, some of the decisions made lack transparency, other decisions have been made outside of the Panel so clear rationale is not always available as to why and how the decision was reached.
- it is apparent that for these placements the Commissioning arrangements have lacked rigour, and Contracts and Individual Placement Agreements have not always been in place with charges varying from young person to young person and agreements about uplifts or changes in prices being arbitrary.

### Action taken to date

The following actions have been taken forward:

- panel processes are ensuring that only CYP whose needs cannot be met at local Maintained Provisions are being placed in INMSS.
- consultation processes are being strengthened and INMSS schools are only being consulted with where appropriate
- commissioning is being better informed and quality, appropriateness and value for money are the key considerations

- all children and young people attending Independent Non-Maintained Providers have been identified and at Annual Review all these cases are being audited to ensure this is the most appropriate placement to meet need.
- at key transitions consideration is given to whether these placements are still the most appropriate placement for the child or young person.
- all INMSS Providers have/are being met by the Group Manager for Inclusion and SEND Commissioner to review the cost of placements and to renegotiate costings if appropriate.
- Officers have compared the data against bench marking exercise which have occurred with other South East authorities, and we now know joint commissioning opportunities are likely to be limited across the South East as schools who are used frequently by other authorities are not ones Slough use. However, we are meeting with other east Berkshire authorities to potentially develop more locally effective commissioning and the potential of a Framework for INMSS is being explored.
- additional commissioned capacity is being developed within one of our maintained special schools to ensure that the needs of more complex, difficult to place CYP's can potentially be met.
- analysis of data for Phase Transfers in 2021 and 2022, with trends and key savings/pressures identified

#### Impact to date

There has been considerable positive impact from the above actions:

- the current number of CYP in these placements is reducing and there are fewer children in these provisions than we were projecting. For this year it was 67 and at the time of writing we have 59.

#### Ensuring Sustainability of Changes and Future Plans

It is important to reiterate that without continued scrutiny thorough SEND Panel process and rigour of decision making these numbers could very easily increase so Panel Processes are being further developed and there is now Health (SLT) and Social Care representation:

- the ongoing work with East Berkshire needs to develop to ensure more effective joint commissioning to better meet the "east berks' area" needs and to thus have more cost-effective placements and better joined up working and decision making. The local commissioning working is focussing on high-cost providers and how we can more effectively commission places and manage the market.
- the role of SEND Commissioning needs to continue to be developed and refined to ensure we can secure agreement with Providers around costings and uplifts, also to ensure effective Contract management and ensuring Quality Indicators are met.
- benchmarking data from the Southeast demonstrates that our numbers are below those of our similar local authorities and we need to continue to ensure wherever possible not to use the INMSS sector for non-complex children

- when parents express a preference officers need to work with parents around the graduated response and most appropriate local setting to meet need. Highlighting Ofsted Outcomes of some local INMSS and Section 41 status so parents have a full understanding all the information to make an informed choice.

### 5.3 Post-16

#### Context

The Children and Families Act 2014 extended the age range for when an Education, Health and Care Plan can be secured. This has meant that where previously plans were ceased between the ages of 16-19 now Young People can continue to have a Plan if they have an unmet educational outcome. Slough like other Local Authorities has seen an increase in the numbers of Young People with EHCP's and this growth continues. With the increasing numbers the costs have also increased, and this is putting increasing pressure on the High Needs Block.

The data for this group of young people has been interrogated and it has become clear that there has been a lack of focus on Preparation for Adulthood. The Statutory Year 9 Reviews where the focus on transition planning occurs with other agencies have not always been carried out effectively. It has also highlighted that young people's plans have not always been ceased when their education has been completed meaning that the LA is still responsible for a Plan when the young person is not accessing provision and in some cases is over 25.

Since the introduction of EHCPs for 19-25 year-olds the service is now maintaining approximately 335 Post-16 EHCPs and if left unmitigated this number is projected to increase to over 450 by 2025. The Post-19 cohort have mainly accessed costly Independent Provisions and what has become clear through file audits is that many of the Young People are repeating the same entry level courses and there is no progression in their educational outcomes. For many of these young people, a lack of transition planning has meant delays in them moving to the next stage in their life and thus an increased cost of educational provision which has impacted on the High Needs Block over spend.

The all-age special school in Slough takes children from Early Years through to Post-16. Historically it has offered places to all young people in Year 14 (age 19) who have been in Year 13.

According to the DfE High Needs Funding 2021 to 22 Operational Guide (sections 226-227, p53-54), *there is an exception by which 19-year-olds with an EHCP can be funded in a school (rather than an FE institution, independent learning provider or special post-16 institution); this applies to 19-year-olds who are completing a secondary education course started before they were 18 years old.*

The practice to date has not been an exception and significant numbers have been attending a special school when they should be moving onto FE Provision.

#### Action taken to date

The following actions have been taken forward:

- data has been audited and all Post-16 Placements identified with costs.
- any EHCPs which may need to cease have reviews and actions underway to send cease to maintain letters.
- decisions at SEND Panel are ensuring that Young People's placements are agreed after taking into consideration the young person's aspirations but also ensuring quality of placements and value for money.
- decisions to continue to fund young people for the same courses in different institutions are being challenged and only agreed if it can be demonstrated that a key outcome is still to be achieved.
- individual placement costings are being scrutinised and where necessary being challenged.
- all placements now have a contract and an Individual Partnership Agreement (IPA) in place.
- all Year 14 placements are being scrutinised to ensure that there is an exceptional reason for why they need to stay in a school placement. Transition Plans at Years 9, 11 and 13 are being put in place to ensure that the assumption of Year 14 places in school are no longer the norm.
- all colleges have been met with to discuss both the Local Authorities and their Statutory duties toward Young People with EHCPs. These meetings are also allowing discussions around the importance of progression in courses and the need to have clear Transition Plans on leaving college.
- more effective commissioning arrangements are being discussed with other South-East LAs.
- more effective commissioning arrangements are being discussed with colleges and options to Commission bespoke courses for Slough children and young people are being investigated and costed
- work underway with SEND Officers and Enhance EHCP Plan writers to ensure consistent quality of Post 16 Plans particularly around the clarity of provision in Section F. To ensure that our range of college providers are able to deliver with confidence and all costings then can specifically reflect the updated Plan.

### Impact to date

There has been considerable positive impact from the above actions:

- Where appropriate plans have been ceased and/or lower cost local alternative placements have been identified. This has enabled predicted cost reductions for 2021-22 and 22-23 to be met in full.

### Ensuring Sustainability of Changes and Future Plans

- a transition group is being developed which will be chaired by the AD of Adults' Service and will work with all stakeholders including young people to ensure that clear pathways are in place to enable a smooth transition into other services if appropriate.

- it is important to reiterate that without continued thorough SEND Panel processes and rigour of decision making these numbers could very easily increase exponentially.
- working with Orchard Hill college (Specialist) and BCA and Langley College (part of the Windsor Forest Group WFG) to develop Proposals around a specific Provision to meet the needs of young people with social communication difficulties who have struggled to engage with the school curriculum in KS4/5. This has been identified as a Gap in the Local Offer and for some of these youngsters they have had their needs met in PRU Provision which has not always been successful in ensuring their future inclusion in mainstream colleges.
- a more detailed proposal of how this will look will be developed after further meetings. Both colleges are keen to engage with Slough and there may be a capitol bid related to this scheme.
- further development work with the WFG to look at development of the Foundation courses and increase in placements to meet more young people's needs locally is being planned. Further development round the BCA/Langley College SEND Offer.

#### **5.4 Additional Resource Provisions (ARPs)**

##### Context

Slough currently has 16 ARP's, 3 in nursery schools, 8 in primary schools and 5 in secondary schools. A review has identified that, particularly in the primary phase, a number of Slough's primary ARPs are functioning as SEN Units rather than Resource Bases (the DfE define a resource base as an ARP where the CYP have access to the mainstream classroom for at least 51% of the time; the amount of time in a mainstream classroom can be significantly lower than 51% in a SEN Unit). Auditing of the CYP's attending the ARP's suggests that there are some children placed in our special schools whose needs could be better met in an ARP, while at the same time there are a number of CYP in our ARPs whose needs would be best met in a designated SEN Unit or a special school.

Slough has become reliant on its ARPs to meet the needs of a significant number of CYP with complex needs. A contributing factor has been a lack of rigour applied to the process of consultations when EHCPs are first issued, and at subsequent phase transfer points. Service Level Agreements between the LA and ARPs were found upon review not to be consistently in place and where they did exist required significant updating.

##### Action taken to date

The following actions have been taken forward:

- increased scrutiny of which CYP are placed in Slough ARPs, to ensure that only CYP with an ARP identified in their EHCP are filling a commissioned place.
- two primary ARPs which are currently functioning as SEN Units have consulted to ensure that this status can be reflected in their SLA with Slough to ensure that CYP are placed appropriately.

- one small primary ARP (8 commissioned places) closed in July 2022 following a consultation with stakeholders, due to difficulty in sustaining delivery to the small number of complex CYP for which it had ARP capacity. New placements were required for September 2022 where required (this was of low impact overall as the number of CYP requiring alternative placement totalled 5)
- one ARP is to reduce from 60 by a decrease in 10-20 places over the next 2-3 years. This is as result of the proportion of statutory SEND CYP in relation to mainstream Published Admission Number (PAN) is becoming unsustainable, particularly as the school's PAN is due to decrease as part of Slough's place planning strategy.
- agreement made with our all-through special school to ensure that all our commissioned places are focused on years 0 to 13. Commissioning of Nursery and Year 14 exception placements will occur separately to maximise placements for CYP aged 4 to 18 years and in line with the High Needs Block Guidance.
- increase in SEND EHCP commissioned placements for September 2022 onwards within our secondary special school.
- SLAs have been re-drafted and scrutinised with legal advisors and sent to settings for consultation feedback
- The process of consulting with ARPs both when issuing new EHCPs and for phase transfers, has been made more robust to ensure full compliance with the SEND Code of Practice (2015)

#### Ensuring Sustainability of Changes and Future Plans

- Regular contract monitoring meetings, to monitor new SLAs
- newly embedded processes must be maintained to ensure compliance
- contract monitoring and data monitoring need to be considered when looking at future place planning within the SEND sector. Resilience built into system to ensure that additional places can be commissioned in our ARPs and special schools to address population changes in a timely manner (see Risk and Resilience section).

## **5.5 Alternative Education Provision**

### Context

All children and young people regardless of their circumstances are entitled to a full-time education. For most this will be within a school setting however for some they will not be able to access these settings due to illness, social emotional mental health needs or because they have been excluded either temporarily or permanently.

The DfE defines alternative provision as:

- *education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education.*
- *education arranged by schools for pupils on a fixed term exclusion.*
- *pupils being directed by schools to off-site provision to help improve their behaviour.*

The Local Authority has a statutory duty to provide education from the 6<sup>th</sup> day of a permanent exclusion. In Slough this provision is provided by Littledown School for primary children and by Haybrook Alternative Provision (AP) Academy for Secondary aged young people.

Historically, Slough has commissioned and funded a significant amount of non-statutory places at both Littledown and Haybrook AP Academy which have been used by schools under the label of early intervention. The funding for these places has come from the High Needs Block and has been in excess of £1.5 million. The cost for these places has been 30-50% above the £10,000 per commissioned place. Though there is some data available, it is difficult to demonstrate the outcomes of these places and the impact for such a high spend.

The Alternative Education market needs to reflect a far broader offer. Providing one/two-day provision, on and off-site provision covering a range of both vocational and community-based activities.

#### Action taken to date

The following actions have been taken forward:

- the LA has reviewed benchmarking data from different authorities all whom have differing models. Most provide the minimum statutory provision (6th day following a permanent exclusion) and some preventative places where schools either fund the majority of the place or fund top up above the £10,000 base funding. The numbers for these preventative places are significantly lower than those provided by Slough.
- unusually, Slough has not got a strong alternative education offer within a broader market, unlike some of the other authorities in the South-East, and this appears to be due mainly to the fact that the LA has fully funded full time AP places at Haybrook and Littledown so schools have not needed to look elsewhere to purchase or fund their AP Provision. The model of AP provided in Slough fails to have regard for the DfE definition of AP with the vast majority of costs being borne by the LA as opposed to Schools.
- the existing model is not sustainable and cost reductions have been put forward around a more manageable costing to reflect the LA's Statutory Responsibilities around Permanent Exclusions. Cost Reductions have been proposed over a three-year period to mitigate impact and allow the schools to develop other models of delivery with schools.
- discussions have started with both existing AP Providers. This area requires significant systemic change.

#### Impact to date

There has been considerable positive impact from the above actions:

- Actions implemented to reduce commissioned numbers have achieved a cost reduction of £538k for the year 2022-23, and projected savings for the project overall are set out in Table 3 below.



## Ensuring Sustainability of Changes and Future Plans

AP costs in Slough are likely to remain disproportionately high compared to our statistical neighbours unless there is a strong, clear strategy which highlights Academies and Maintained Schools' statutory responsibilities toward vulnerable CYP.

The development of a stronger market for AP Providers from different sectors would allow for a better range of vocational options for children, young people and their families and would introduce an element of competition to the market for schools and the LA

Current proposals to reduce LA-commissioned places over the next 3 years will deliver the following savings:

**Table 4 – Projected Cumulative Savings**

£'000	22/23	23/24	24/25	25/26	26/27	Total
Saving	538	1,109	1,329	1,329	1,329	5,634

## **6. Risks**

### **6.1. General Risks**

- **Financial** – High Needs budget could continue to experience escalating cost pressures due to a continued increase in demand for EHCPs and top up funding and complexity of need which can only be met in the independent sector. Cost Reductions are not as high as estimated, increase demand leading to increase commissioning of places, increased costs linked to addressing increase legal challenge.
- **Service Delivery** – Challenges around sufficiency of the market. Turnover of staff impacting on workforce capacity and skill set,
- **Reputational** – Increase in Corporate complaints, dissatisfaction among stake holders, negative publicity.
- **Legal/Regulatory** - increased risks of legal challenge by way of appeal and judicial review and increased risk of complaints to the Local Government and Social Care Ombudsman.
- **Economic** – Unanticipated changes in demographics and cost of living/inflationary pressures. Risks to jobs and workforce if cost reductions are made to quickly and too soon.

### **6.2. Mitigations**

The following mitigations have been identified to date and are being implemented to ensure that, should the risks above arise, any impacts have been anticipated and can be managed.

#### **6.2.1. Alternative Education Provision**

There is significant stake holder scrutiny around this project (particularly head teachers.) There is a three-year Plan in place and the project is in Year 1 now; savings have already been achieved within timescale. Mitigations in place are a Project Group led by the SEND Commissioner and this group will run for the next three years. This

will ensure any issues and areas of concern are addressed. New ways of working are being developed which moves the emphasis on commissioning AP Provision to the school rather than Stake Holders viewing the Local Authority as the sole Commissioner. The LA will continue to meet its Statutory duty for six-day provision for permanently children and some preventative placements allocated via a multi-agency panel.

Any unplanned significant change in demand will be addressed through our resilience planning below.

#### 6.2.2. Post 16 Provision

The main risk within the Post 16 Sector at present is the merger of BCA College to become a part of the Windsor Forest Group. This means that Slough is now the host Authority and commissions places across the Group. There have been several meetings to ensure that Slough commission the correct number of places for the group across the local area. Further meetings are occurring with all Berks and Bucks LAs to ensure we can work together to have more effective place planning. It has been identified that ongoing work is required at phase transfer for Years' 9, 11 and 13/14 to ensure that young people's pathways are appropriate for achieving their preparation for adulthood (PfA) outcomes; mitigations include the bolstering of SEND team staff in a dedicated Post-14 team, to focus on PfA and effective phase transfer processes. Potential capital projects are also being explored to increase of range of placements and accessible pathways.

Any unplanned significant change in demand will be addressed through our resilience planning below.

#### 6.2.3. Managing demand (EHCNAs/EHCPs)

Mitigations here are inbuilt and based on rigorous process and decision-making, which is already seeing an impact. In addition, there is potential for capital projects to support commissioning of places as population fluctuates (this is anticipated and planned for), and these are being incorporated into the current draft of the Council's Place Planning Strategy (draft to be scrutinised at next Cabinet meeting).

#### 6.2.4. Inflation

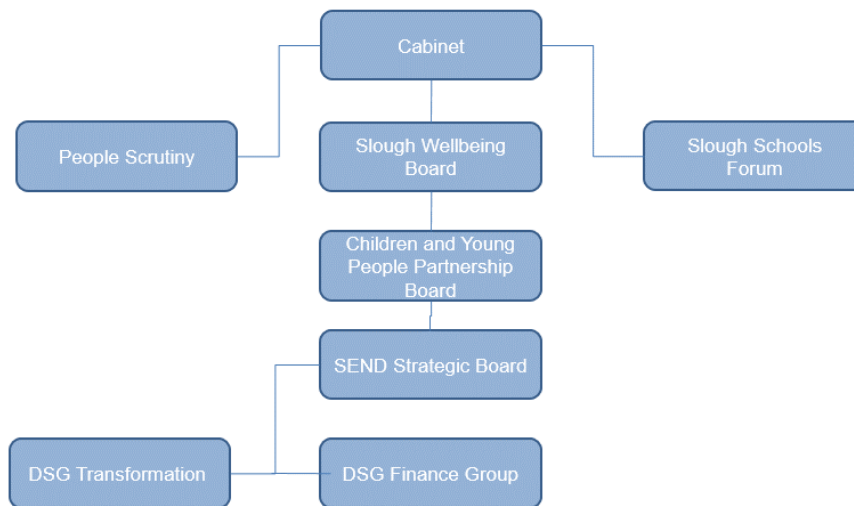
The High Needs block mainly funds pupil placements in schools and further education establishments, and this represents 81.25% of total forecast expenditure. This expenditure is split between base funding of £10,000 per pupil and top-up funding. The base funding has been flat for the last couple of years and has not attracted any inflationary increases. Top-up funding in Slough BC represents some of the highest payments to providers than anywhere else within England. One of our key cost reductions is focused around reducing top-up funding to all providers, therefore, it would not be appropriate to add inflationary increases to funding we want to reduce. Expenditure on the remaining 18.75% of High Needs expenditure should attract inflationary increases. We are forecasting 4% inflation in 2023-24 and 2% in subsequent years.

## **7. Resilience**

- 7.1. The projects to reduce costs within the current plan have been carefully considered and interrogated to ensure sustainability, minimal impact on service delivery wherever possible, and best potential outcome for value and managing costs. The pace and amount has been planned to ensure stability of the workforce and continuity for stakeholders – any acceleration would need to be treated with caution, due to the risk of destabilising the plan as a whole; many of the projects involve mechanisms that interlink and interact upon one another.
- 7.2. To develop our resilience there is capacity within the plan for a centrally retained amount of places (up to 50), which can be allocated during the lifetime of the plan should demand increase beyond our planned projections. There are also aspects of the Council's centrally retained budget, which fund non-statutory services and posts, which can be drawn upon should there be an unplanned significant change in demand which needs to be addressed. This gives further assurance that we can meet cost reduction targets, though use of this mechanism may impact wider service delivery within the People (Children's) directorate.
- 7.3. All cost reduction projects within the plan have detailed, year-on-year actions and outcomes outlined; this ensures that any staff new to the organisation are clear on project progress and next steps. There are succession plans in place for key roles, including the roles of commissioning and finance as well as excellent work being carried out on recording procedures, systems and processes. SEND, commissioning and finance have worked collaboratively in the formulation of this plan and will continue to do so throughout its implementation. The council has also committed additional general funding to permanent posts within the SEND team to support implementation.

## **8. Governance**

- 8.1. The following governance structure has been implemented to ensure there is oversight of the delivery of the DSG Management Plan:



- 8.2. DSG Finance Group: meets weekly and is chaired by the Section 151 Finance Officer and provides assurance that actions to deliver the DSG plan is on track and provides financial reports to track impact.
- 8.3. DSG Transformation Board; meets monthly and is jointly chaired by Section 151 Officer and the Executive Director People Children. Membership also includes chair of school forum, Frimley Clinical Commissioning Group, Slough Children Trust Ltd, parent voice, Adult Social Care and Parent/Carer Forum. This Board will provide challenge and oversight of the DSG Management Plan and links to improving SEND outcomes

## 9. Implications of the Recommendation

### 9.1 Financial implications

The financial implications are discussed throughout this report.

### 9.2 Legal implications

4.2.1 Under the Education Act 1996, the Council has a statutory duty to ensure that sufficient schools are available for primary and secondary education. Under s.19 of the 1996 Act the Council has a duty to make arrangements for the provision of suitable education at school or otherwise than a school for those children of compulsory school age, who by reason of illness, exclusion from school or otherwise may not for any period receive suitable education unless such arrangements are made for them.

4.2.2 The Children and Families Act 2014 created a new framework for supporting CYP with special educational needs, including the introduction of Education, Health and Care Plan (EHCP) and extending the age range for special educational provision. The SEND Code of Practice (2015) contains guidance that Local Authorities have to adhere to. As part of its place planning duties the Council should ensure sufficient schools are available for children with special educational needs. The statutory framework and guidance requires local authorities to:

- consider the views of children, young people, and families.

- enable children, young people, and parents to participate in decision making.
- collaborate with partners and stakeholders in education, health and social care to provide support.
- early identification of children and young people's needs.
- inclusive practice and removing barriers to learning.
- help children and young people prepare for adulthood

#### 4.3 Risk management implications

4.3.1 The following are identified risks to the delivery of the action plans and the cost reduction measures:

- High Needs budgets would continue to experience escalating cost pressures due to continued increase demand for EHCNAs. This would further compound an unsustainable position for the LA.
- increasing placements in independent non-maintained special schools at higher costs to the LA
- risk that demands / growth in pupils with EHCPs may increase at a higher rate than planned or forecast.
- slippage and delay in the delivery of the above actions or measures which would negatively impact on funding forecasts It is imperative that there are strong governance arrangements in place to ensure the effective delivery of the DSG Management Plan which is dependent on the actions of partners across the SEND system including education, health and care partners.

#### 4.4 Environmental implications

Not applicable

#### 4.5 Equality implications

4.5.1 The DSG Management plan will support the local authority to continue to meet its statutory functions and to improve and develop new and existing systems and processes. This will impact positively on children and people with SEND and their families – it is an opportunity to improve co-production with parents and young people, decision making, transparency and equity of service delivery.

4.5.2 The Management Plan will exclusively help towards improving the educational experience of children and young people with a protected characteristic as defined by the Equality Act 2010 through placing the onus on equipping local mainstream and special schools to best meet their needs,

4.5.3 An Equalities Impact Assessment will be completed for each identified cost reduction if appropriate and required.

#### 4.6 Procurement implications

4.6.1 Officers are exploring the procurement implications for the DSG Management Plan and will be subject to Cabinet reports if necessary to ensure alignment to the councils contractual procedural rules and the Public Contract Regulations 2015 (amended).

4.6.2 Several options will be considered to ensure best value and where appropriate, competition. In accordance with the SEND code of Practice, service provision will be offered in a wide and flexible manner to meet the needs of children and young people with special education needs and disabilities, this may be direct payments to increase personal choice.

4.7 Workforce implications

Not applicable

4.8 Property implications

Not applicable

**5. Background Papers**

Update on Dedicated Schools Grant Management Plan – March 2022