

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Overview & Scrutiny Committee

**DATE:** 8 March 2022

**CHIEF OFFICER:** Steven Mair, Director of Finance (Section 151 Officer)

**WARD(S):** ALL

### **PART I** **FOR COMMENT & CONSIDERATION**

#### **UPDATE ON DEDICATED SCHOOLS GRANT MANAGEMENT PLAN**

##### **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 £20.6m as at 31 March 2021. The DSG has a forecast deficit at the end of 2021/22 of £25.5m, which is a £4.9m increase since 31<sup>st</sup> March 2021 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 practical positive progress on taking actions to address 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 Slough's revised deficit management plan was shared with the DfE in July 2021 (see table 5 below). The management plan indicated that the deficit could potentially grow to £43m by 2024/25 if no mitigating actions are taken. Actions to manage demand for HNB funding and address the DSG deficit are included in this plan.
- 1.7 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 it is now anticipated that an overspend of £4.9m in 2021/22 will occur, a reduction of £2.3m when compared to last year's position. Attention is drawn to paragraph 4.1.8 in coming to this forecast and the risks that this may change.

- 1.8 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.
- 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 Members on the High Needs Budget position and the progress to date of the DSG Management Plan 2021/22 to 2024/25.

### **Recommendations**

The Committee is requested to scrutinise and comment on the following recommendation to Cabinet which meets on 9<sup>th</sup> March 2022.

That the Cabinet note the following and recommend the report to Council for noting:

- the forecast position for DSG spend in 2021/22 to 2024/25
- the overarching issues that have resulted in the DSG deficit and the actions taken to date to address these
- the Council has been invited to take part in the 'safety valve' intervention programme with the DfE which is expected to commence in April/May 2022.

### **Reasons**

- 1.11 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.
- 1.12 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.

### **Commissioner Review**

*"On 1<sup>st</sup> December 2021, the Secretary of State issued Directions to Slough Borough Council under Section 15(5) and (6) of the Local Government Act 1999. Annex B of the Directions provides that Commissioners shall exercise..."*

*The requirement from Section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authorities financial affairs, and all functions associated with the strategic financial management of the Authority. This Direction included as d) the power to amend budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty.*

*The set of budget reports presented to this cycle of meetings exposes the recklessness in the way the Authority has managed its affairs over the past few years and the scale of both central government support required and the challenge in re-establishing financial stability.*

*Commissioners consider that the proposals contained in this set of budget reports meet the requirements of the Directions. It should be made clear however, that no variation from either the general or specific proposals identified can be agreed or acted upon without the prior approval of Commissioners who reserve their right to amend budgets if required. This will require commitment and determination from all Councillors and every budget holding officer who will need to recognise their personal accountability in these matters.*

*At this stage it is not proposed to extend any additional funding, whether by cashflow or longer term finance to any of the Council's subsidiary companies and the Council's shareholder representatives should be required to make this clear.*

*It will be essential for a full appraisal of the Council's let estate, both GF and HRA but excluding HRA housing, to be undertaken and reported. In the first instance it should be explicit that all renewals and new leases or licenses will be based on the principles of normal commercial terms and a fully repairing and insuring basis.*

*This budget specifies a level of capital receipts required to balance the budget overall. This figure needs to be regarded as a minimum goal in cash terms to be achieved by year end and a disposal strategy will need to be brought forward to identify a significant increase in receipts banked in the early years of the MTFS.*

*Commissioners do not underestimate the scale of the challenge, both financial and operational, facing the Council. We will continue to provide advice and challenge to assist the Authority on its journey back to mainstream local government.*

*The DSG deficit in Slough is significant and has increase 5 fold in the last 5 years. Without urgent action this will more than double by 2024/25. The report outlines some actions already underway to improve this position, but more needs to be done to identify further savings and ensure systems and process changes are embedded. Without this, the overall financial situation of SBC will worsen."*

## **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

The Council is facing unprecedented financial challenges across the whole spectrum of its budgets potentially totalling £307m to March 2022 with further pressures beyond this as reported separately on this agenda. In addition, the DSG was facing a potential projected overspend of £43m by 2024/25 without management action which until May 2021 had not been addressed.

#### 3.1 Increasing numbers of Education Health Care Plans (EHCPs) and Education Health Care Needs Assessments (EHCNA)

##### Context

Since the introduction of the Children & Families Act 2014 and the SEND reforms, local authorities (LAs) across England have seen a year-on-year increase in the number of Education, Health and Care Plan's (EHCPs.) Whilst the increase in Slough is in line with national statistics (see below), the growing numbers have placed an increasing demand on statutory Special Educational Needs and Disability (SEND) resources. Auditing of the SEND Panel decisions has identified a tendency to make decisions outside of SEND panel in some cases and demonstrated that processes in Slough since the reforms were introduced 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 has included a tendency to make decisions to agree to assess and issue plans without ensuring accountability and robust evidence.

**Table 1 – Percentage of pupils with an EHCP**

	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
All schools in Slough	3.1%	3.2%	3.4%	3.7%
England	2.9%	3.1%	3.3%	

##### Actions taken to date

- a new Chair of SEND Panel 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 we are seeking Health attendance
- the SEND Commissioner has been attending the Panel every week 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.

### Ensuring sustainability of changes

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.

## **3.2 Increasing cost of top-up funding for EHCPs**

### Context

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 now 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)

### Actions taken to date

- an increased rigour and scrutiny of SEND Panel decisions and processes has already resulted in a reduction in costs, including a 7% reduction in the cost of top-ups for plans finalised naming a mainstream setting, based on comparing 3-month periods one year apart (see below).

**Table 2 – Cost Reductions Analysis**

	3-month period July-Sept 2020			3-month period July-Sept 2021		
	Mainstream	Special	All plans	Mainstream	Special	All plans
No. of EHCPs finalised	47	11	58	38	8	46
Cost of top-up	£443,000	£200,000	£643,000	£333,000	£140,000	£473,000
Average cost per plan	£9,426	£18,181	£11,086	£8,763	£17,500	£10,283
Average cost reduction per plan finalised	-----	-----	-----	£663	£681	£803
% cost reduction per plan	-----	-----	-----	7.0%	3.7%	7.2%

- proposals have been shared with Schools Forum to mitigate risk of banding inflation at phase transfer from this point forward. These will be applied to all EHCPs amended as part of the September 2022 phase transfer process (from February 2022 onwards).

### Ensuring sustainability of changes

Commencing February 2022, a full review of the current matrix banding system will be undertaken. 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.
- 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.

## **3.3 Reliable Data and Finance Information**

### Context

Data in Slough has historically not been collected in a systematic way. Data Management Systems have not been used to their full potential and lack of training for

staff has led to poor data inputting. A lack of reliable data has impacted on SEND Planning, Commissioning and decision making.

#### Actions taken to date

- data in Capita system audited and cleansed
- training on Capita delivered to SEND Officers currently in post
- joint funded packages identified, and discussions have taken place with Commissioners at Slough Children's First and Health
- child level data has been updated
- finance data is being updated
- additional member of staff for processing of client data has been appointed to support SEND
- SEND and Finance Managers working closely together to interrogate data and for future budget setting.

#### Ensuring Sustainability of Changes

- further Capita training and staff development needs have been identified and are being costed. A system of ongoing training needs to be developed along a "super-user" model to ensure expertise is maintained and shared on an ongoing basis with new and existing staff. This model will ensure ongoing accuracy and reliability of data.
- data sharing agreements with Schools, Social Care and Health to be put in place.
- joint commissioning developments need to be ongoing across partners both locally and regionally.

### **3.4 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.

Analysis has indicated that:

- 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

- 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.
- bench marking exercise occurring with South-East authorities to ensure consistency of costing and whether there are joint authority commissioning opportunities.
- 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. Through this there is an identified cost reduction for three young people of £150,000 and further cost reductions have been identified for the next academic year.
- 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

- it is important to reiterate that without continued thorough SEND Panel process and rigour of decision making these numbers could very easily increase.
- continued work is needed with other local authorities to ensure more effective joint commissioning to better meet the "area" needs and to thus have more cost-effective placements and better joined up working and decision making.
- the SEND Commissioner role is vital to securing agreement with Providers around costings and uplifts, also to ensure effective Contract management and ensuring Quality Indicators are met.

## 3.5 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 age 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 we are 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.

### Actions taken To Date

- 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 are being 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.

#### Ensuring sustainability of changes

- 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.

### **3.6 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 is ongoing and has identified that, particularly in the primary phase, a number of Slough's 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 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.

### Actions taken to date

- increased scrutiny of which CYP are placed in Slough ARPs, to ensure that only CYP with an ARP named in their EHCP are filling a commissioned place.
- two primary ARPs which are currently functioning as SEN Units are carrying out a consultation to ensure that this status can be reflected in their SLA with Slough to ensure that CYP are placed appropriately.
- one primary ARP is currently consulting with stakeholders around closure in July 2022, due to difficulty in sustaining delivery to the small number of complex CYP for which it has ARP capacity. Plans are in place with the setting and individual families to identify new placements where required for September 2022 (this would have a low impact as the number of CYP requiring alternative placement totals 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 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 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 are re-drafted and with our legal advisors for scrutiny and feedback.
- process of consulting with ARPs when issuing new EHCPs, or for phase transfers, has been made more robust to ensure full compliance with the SEND Code of Practice (2015)

### Ensuring sustainability of changes

- once newly agreed SLAs are in place, there will be regular contract monitoring meetings.
- 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.

## **3.7 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 or for children who are otherwise not able to be educated in school. 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-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 LA is also funding a significant amount of individual tuition which is purchased on an ad hoc basis without a clear commissioning process to ensure quality, value for money and outcomes.

#### Actions taken to date

The LA has reviewed benchmarking data from different authorities all whom have differing models. Most provide the minimum statutory provision 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 our existing AP Providers. This area requires significant systemic change.

#### Ensuring sustainability of changes

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 3 – Projected Savings over 3 years**

<b>Year</b>	<b>Saving</b>
Year 1	£538,000
Year 2	£571,000
Year 3	£220,000
<b>Total</b>	<b>£1,329,000</b>

## 4. Implications of the Recommendation

### 4.1 Financial implications

4.1.1 The Council's DSG deficit has been growing since 2015/16, mainly due to the pressures for additional funding in the HNB and lack of management awareness or action to address this. The overall deficit has grown from £4.9m in 2015/16 to £20.6m as at 31 March 2021.

**Table 4 – DSG Deficit**

£m	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
B/F	5.7	4.9	2.4	5.4	7.5	13.4
In-year	-0.8	-2.5	3.0	2.1	5.9	7.2
<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>

4.1.2 In response to the growing pressure on the DSG as a result of increasing demand on the High Needs Block, the DfE undertook a consultation seeking to clarify the accounting arrangements. The government [response](#) was published on 30 January 2020 which set out a number of regulatory changes.

4.1.3 The Local Authorities (Capital Finance and Accounting) (England) Regulations were amended to require any deficit on a local authority's DSG account to be carried forward to be funded from future DSG income unless permission is sought from the secretary of state for education to fund the deficit from general resources. The change in regulation only applies to financial years beginning on 1st April 2020, 1st April 2021 and 1st April 2022.

4.1.4 It is not yet clear whether this arrangement will continue in subsequent financial years. If it does not continue and based on original projections, the Councils financial position would worsen by an additional £43m and therefore it is imperative that the pressures are managed in an appropriate and effective way.

4.1.5 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.

4.1.6 Slough's revised deficit management plan was shared with the DfE in July 2021 (see table 5 below). The management plan indicated that the deficit could potentially grow to £43m by 2024/25 if no mitigating actions are taken. Actions to manage demand for HNB funding and address the DSG deficit are included in this plan.

**Table 5 – DSG projection without mitigations**

£m	2021/22	2022/23	2023/24	2024/25
B/F	20.6	27.8	33.8	38.9
In-year	7.2	6.0	5.1	4.5
<b>C/F</b>	<b>27.8</b>	<b>33.8</b>	<b>38.9</b>	<b>43.4</b>

**Table 6 – DSG projection with mitigations**

<b>£m</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>
B/F	20.6	25.5	28.9	31.1
In-year	4.9	3.4	2.2	1.0
<b>C/F</b>	<b>25.5</b>	<b>28.9</b>	<b>31.1</b>	<b>32.1</b>

4.1.7 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 it is now anticipated that an overspend of £4.9m will occur in 2021/22, a reduction of £2.3m when compared to last year's position.

4.1.8 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 original management plan submitted to the DfE adjusted for historic issues identified to date and changes to income projections based on recent announcements with contingency 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

4.1.9 Officers are currently in the process of updating the management plan and package of proposals in readiness for the review with the DfE which is expected to commence in April/May 2022 and therefore the above estimates are subject to change.

## 4.2 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**

None