

## Slough Borough Council

<b>REPORT TO:</b>	Cabinet
<b>DATE:</b>	21 September 2022
<b>SUBJECT:</b>	Special Educational Needs and Disability (SEND) Service Recovery Plan
<b>PORTFOLIO:</b>	Councillor Hulme – Lead Member Children’s Services
<b>CHIEF OFFICER:</b>	Andrew Fraser - Executive Director of People (Children)
<b>CONTACT OFFICER:</b>	Johnny Kyriacou – Associate Director, Education & Inclusion
<b>WARD(S):</b>	All
<b>KEY DECISION:</b>	NO
<b>EXEMPT:</b>	NO
<b>DECISION SUBJECT TO CALL IN:</b>	YES
<b>APPENDICES:</b>	None

### **1 Summary and Recommendations**

- 1.1 This report requests that Cabinet note the progress on improvements being made in the SEND and Inclusion service following reporting on the Written Statement of Action (WSOA) on 21st February 2022. The report includes an update on the Dedicated Schools Grant (DSG) management plan, which was significantly overspending in the high needs block, the funding used for SEND provision as well as other inclusion support.

#### **Recommendations:**

Cabinet is recommended to:

1. Approve the timetable for consultation and approval of strategies linked to SEND services.

#### **Reason:**

To ensure that the Council properly and promptly addresses the issues raised in the SEND inspection report and that the action plan is considered as part of a holistic improvement plan and subject to effective scrutiny and decision-making at member level.

## Commissioner Review

Commissioners have reviewed this report.

## 2 Summary

- 2.1 The Council has a statutory duty in relation to the delivery of support and services to children and young people with SEND. This includes education services delivered via the SEND and Inclusion service, as well as social care services delivered via Slough Children First (SCF). In addition, the CCG also has responsibility to deliver health services to children and young people with SEND. Local area health, social and education services are expected to work together to fulfil the duties set out in the Children and Families Act 2014. Ofsted and the Care Quality Commission (CQC) undertake joint inspections to hold the local area to account for the quality of its services. Slough was subject to a local area inspection between 27 September and 1 October 2021, which concluded that there were significant areas of weakness and determined that a Written Statement of Action (WSOA) was required. The results of the inspection were reported to Cabinet on 21 February 2022.
- 2.2 Local authority schools' budgets are funded via a ring-fenced specific grant known as the Dedicated Schools Grant (DSG). Local authorities are responsible for determining the split of the grant between central expenditure and the individual school budgets in consultation with schools and subject to prescribed constraints. The DSG is made up of four blocks of funding: schools block, central support services block, high needs block (HNB) and the early years block. Several local authorities have built up deficits on their high needs block in recent years. In Slough, a significant deficit has been built up without adequate steps being taken to manage this. The Department for Education (DfE) expects local authorities to have in place a robust DSG management plan to manage and reduce deficits on the high needs block.
- 2.3 Local authorities are facing increased demand for assessments and subsequent education provision for children and young people with special educational needs and disabilities. This demand has risen in Slough by 86% since 2015. In 2015, 2.8% of all pupils, both in Slough and nationally, were supported through a Statement of Special Educational Needs or Education Health and Care Plan. By 2021, this had increased to 3.6% nationally, 3.7% in Slough, and 4% across other unitary authorities.

As well as the significant increase in numbers, the complexity of pupils' needs is also increasing; again, this is a trend that has been mirrored nationwide. The Council's Dedicated Schools Grant (DSG) deficit has been growing since 2015/16, mainly due to a lack of a management action up to May 2021 and the pressures for additional funding in the HNB. Key areas of pressure in relation to the latter in Slough's HNB spending are:

- Increasing numbers of Education Health Care Plans (EHCPs) and Education Health Care Needs Assessments (EHCNA)
- Increasing cost of top-up funding for EHCPs – this has increased in both mainstream and special schools.
- Placements in Independent Non-Maintained Special School (INMSS)

- Post-16 and Post 19 Placements – these have been increasing in line with national trends.
- Alternative Education Provision Commissioning of Placements – Slough is a statistical outlier in this, commissioning similar numbers of places to much larger authorities.
- Management of existing contracts and commissioning of services to support children and young people with additional needs

2.4 The Council is currently in discussion with the DfE in relation to utilising its safety valve programme for Local Authorities with very high deficits. If the Council can agree a plan that shows it can reduce the in-year deficit on the High Needs block to zero the DfE will consider funding the historic deficit,

### Options Considered

2.5 The Council is obligated to deliver its statutory services and comply with its wider public duties. There are a range of options around how that is done, and, in the Council's current financial situation, the Council must work closely with its statutory and voluntary partners to deliver services that are high quality, whilst also being cost effective.

### Progress on Written Statement of Action and DSG Management Plan

- 2.6 Progress on the WSOA is monitored by the SEND and Inclusion Strategic Board. This is a partnership board with representation from the Council, SCF, local schools and the CCG. This is jointly chaired by the Executive Director of People - Children and the Place Locality Director for Slough from the CCG. The DfE adviser to Slough is also invited to the board meetings.
- 2.7 Each of the seven areas of improvement identified in the WSOA has a responsible officer and agreed actions. The Board monitors progress on a monthly basis. An interim SEND project officer has been recruited and is responsible for co-ordinating actions and progress.
- 2.8 The SEND service has started improving its timescales for the 20-week period for completing EHCPs:

**Table 2.8 Plans issued within 20 weeks 2022**

	April	May	June	July	August
% of plans issued within 20 weeks	0%	10%	19%	22%	23%

2.9 Officers met the DfE in June 2022 and reported slow, but steady progress, the detail of which is reported below. The next formal meeting with the DfE is in October 2022.

2.10 The following governance structure has been implemented to ensure there is oversight of the delivery of the DSG Action Plan:

- DSG Finance Group: meets weekly and is chaired by the Director of Finance (Section 151 Officer) and provides drive and focus on cost reductions. These actions are set out below in section 3
- SEND Transformation Board; meets monthly and is jointly chaired by Director of Finance and the Executive Director People Children. Membership also includes the chair of the school forum, representatives from the Frimley Clinical Commissioning Group, Slough Children First, parent voice and Adult Social Care. This Board provides challenge and oversight of the DSG Management Plan and links to improving SEND outcomes and reports up to the SEND Strategic Board.

2.11 The Council is currently in discussion with the DfE in relation to participating in its safety value programme.

2.12 The guidance also notes that the high needs revenue budget has increased by 40% over three years from 2020-21, but despite this investment, a significant proportion of LAs have accumulated DSG deficits due to high needs block overspends.

2.13 Council officers have met with the DfE, and a series of workshops are taking place over the summer/autumn to review the DSG management plan in more detail as part of the Safety Valve programme. Meetings to discuss the Management Plan with the DfE will continue until February 2023. The Council will be required to submit an initial proposal for addressing the deficit by 13 January 2023 with the final proposal required by 3 February 2023 and notification of approval expected in March 2023.

2.14 If the proposals are agreed 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. It will also set out additional funding which the department will release to support the reduction of the cumulative deficit. Once the agreement is reached, the Council will be required to submit quarterly monitoring reports in which progress towards reaching and sustaining an in-year balance on its DSG account, as set out in the agreement, should be demonstrated.

### **SEND Strategies**

2.15 In recognition of the challenges facing local authorities and a need for change, the DfE has published the SEND and AP green paper as a first step towards realising a new, more effective and sustainable high needs system. The guidance refers to research that has made ten recommendations and progress against these recommendations are being picked up under the WSOA action plan:

- LA's should invest properly in SEND leadership**  
Strategic oversight and accountability has been strengthened, including monthly board meetings.

- ii. LAs should review their joint commissioning arrangements**  
The joint commissioning strategy is being reviewed and ongoing work is being undertaken around integrated therapies. Additional resources have been provided by the CCG for OT services and via the Better Care Fund for SALT provision.
- iii. LAs should ensure joint accountability for those with SEND and finance responsibilities**  
The SEND and finance teams are working together on the DSG Management Plan to ensure that financial management of the DSG is considered as part of a wider system of reform.
- iv. LAs should review their capacity for SEND support**  
A new group manager has been appointed, alongside recruitment to current vacancies. Additional resources for the SEND team have been identified which will have a significant impact on timeliness of assessments and issue of plans.
- v. LAs should review their current staffing levels and structures for SEND casework**  
Additional resources have been agreed and need to be kept under review as changes in practice are embedded. The LGA review referred to below will be key to identifying any opportunities for changing the current staffing levels and structure.
- vi. LAs should review and further develop their approaches to partnership with key stakeholders**  
Partnership working has been strengthened with the monthly partnership board meetings.
- vii. When creating new specialist provision, LAs should be clear about the expected range and levels of need that this will cater for.**  
This will be reviewed as part of agreeing a new place planning strategy to specifically consider the needs of pupils with SEND.
- viii. Investment should be targeted at strengthening inclusion in mainstream provision**  
This will be reviewed and considered as part of agreeing a new school effectiveness strategy.
- ix. LAs should set out more clearly their expected pathways for young people**  
This will be reviewed and considered as part of a new SEND and inclusion strategy.
- x. LAs should learn from positive examples of innovative approaches to mainstream funding**  
The LGA review referred to below will help identify areas of innovative practice.

2.16 The Council has commissioned the Local Government Association (LGA) to conduct a review of the Council's SEND services from the 20th to 23rd September 2022. A report will be provided that will assist in identifying improvements in the area and officers are discussing the inclusion of this in the People Scrutiny Panel work programme.

2.17 The timescale for reviewing, consulting on and agreeing new strategies is set out below:

**Key strategies to come to Cabinet for approval.**

Activity	Timeline	Notes
School Effectiveness Strategy	November 2022	<ul style="list-style-type: none"> <li>- Lays out school improvement relationship between the LA and schools</li> <li>- Will look at how schools can share effective practise with regards to SEND and Inclusion</li> </ul>
SEND and Inclusion Strategy	January 2023	<ul style="list-style-type: none"> <li>- Key strategy underpinning local area approach and principles.</li> <li>- Will come to Cabinet in January 2023.</li> <li>- Will involve a range of stakeholder views and input including external partners, parents, schools and children and young people.</li> </ul>
School Place Planning Strategy	February 2023	<ul style="list-style-type: none"> <li>- Strategy was last updated in 2018 with no specific reference to SEND</li> <li>- Will be updated to include specific place planning needs for pupils with SEND, with a focus on ensuring the majority of pupils with SEND can be educated in mainstream schools.</li> </ul>

**Conclusion**

2.18 The WSOA and the DSG Management plan are inextricably linked. Government guidance including specifically from the DfE makes it clear that management of the DSG should not be seen as solely a cost cutting exercise, but about improving the performance of local high needs systems and ensuring this is achieved in a sustainable way while delivering a balanced in year budget within an agreed period. Meeting children and young people’s needs early and appropriately is a fundamental principle for achieving this. Simply spending more money on high needs does not bring about improved outcomes for children and young people: spending money effectively to meet needs early does.

2.19 Whilst some children and young people need the support set out in Education, Health and Care Plans and these play a key role in ensuring complex needs are met appropriately and comprehensively, the Government has noted that in some local authorities many children and young people have an EHCP and top up funding when their needs could equally be met through a well-supported and inclusive mainstream offer.

2.20 The Council is on an improvement journey and has started to make some positive steps in the right direction.

### 3. Implications of the Recommendation

#### 3.1 Financial implications

- 3.1.1 As part of developing both the WSOA and the DSG Management Plan, the resource implications will be identified, considered, and evidenced as part of a fully resourced, robust and deliverable programme of improvement to ensure that the Council is meeting its SEND duties in accordance with its best value duties. Any resource implications will remain within existing budgets
- 3.1.2 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.
- 3.1.3 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.
- 3.1.4 The overspend on the DSG in 2020/21 was £7.3m and was anticipated to overspend by a further £7.2m in 2021/22. The Council has proactively addressed the DSG deficit during 2021/22 resulting in £2.3m reduction in the anticipated overspend from £7.2m to £4.9m. This has taken place due to increased scrutiny and improved panel process. The majority of the deficit is accounted for within the High Needs Block and can be summarised as follows:

**Table 3.1.4**

Area of spend	Deficit(£m)
Planned place funding	0.3
Top-up funding within in-borough settings	1.8
Special school top-ups	2.4
Out of borough	0.2
Early Years	0.2
<b>Total Deficit</b>	<b>4.9</b>

## 3.2 Legal implications

3.2.1 The Children and Families Act 2014 contains provisions which were a major reform of the previous statutory framework for identifying children and young people with SEN, assessing their needs, and making provision for them. The Act requires local authorities to keep local provision under review, to co-operate with statutory partners to plan and commission provision and to publish clear information on services that are available locally. Provision for those children and young people with SEN who require support beyond that which is normally available should have their needs set out in an education, health, and care plan, which will bring together the three strands of support in place for these children.

3.2.2 The SEND Code of Practice: 0 to 25 years provided statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities. This is a substantial code setting out guidance on the principles of the new legislation, the requirements around information, advice and support, the need for joint working to deliver outcomes, the requirements for a Local Offer (being a list of services available to children and young people with SEND and their families). The Code also provides guidance to early years providers, schools, and further education providers, as well as providing guidance on preparing for adulthood. Detailed guidance is given on the processes for assessing, identifying, and meeting needs in education, health and care plans and the needs of children and young people in specific circumstances, including looked after children, care leavers, children educated at home and children in youth custody.

## 3.3 Risk management implications

3.3.1 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.

Financial – Increased number of EHCNAs require increased staffing which is funded from the General Fund.

Service Delivery – improvements identified not delivered in a timely manner, leading to increased scrutiny and intervention from the DfE.

Reputational – risk of negative publicity as a result of the WSOA and lack of progress, leading to service user and public confidence in the service dropping.

Legal/Regulatory - failure to deliver services in accordance with statutory and national standards, leading to 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.

People – inability to recruit, increases stress on existing staff, leading to increased turnover.

Economic – failure to support children and young people with SEND increases the risk that these individuals will not be able to live independent and economically active lives and will be dependent on further support from the Council.

3.3.2 In order to mitigate these risks, the Council has employed a project manager to support the implementation and monitoring of progress. In addition the Director of

Finance and Executive Director of People – Children are both closely involved with delivery of this project and meet regularly, every 2 weeks, with DfE to review actions and progress and every 3 months to formally report on progress. Increased partnership working is being achieved through joint project boards.

### 3.4 Environmental implications

3.4.1 There are no direct environmental implications arising from this report.

### 3.5 Equality implications

3.5.1 The Council has a duty contained in section 149 of the Equality Act to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation, and other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.5.2 The broad purpose of this duty is to integrate considerations of equality into day-to-day business and to keep them under review in decision making, the design of policies and the delivery of services.

3.5.3 An equality impact assessment has been completed and published from the last cabinet report on the WSOA on 21<sup>st</sup> February 2022. As part of the DSG Management Plan, each area of cost reduction will undergo its own equality impact assessment. These will be interlinked to reflect that the WSOA and DSG Management dovetail to form a cohesive programme of improvement. This will be reported to the DSG Transformation Board by end of December 2022.

### 3.6 Workforce implications

3.6.1 This will be reviewed as part of the delivery of the WSOA and the DSG Management Plan

### 3.7 Property implications

3.7.1 There are no immediate property implications from this report

## **4. Background Papers**

None.