

Slough Borough Council

Report To:	Cabinet
Date	16 September 2024
Subject:	Special Educational Needs and Disabilities (SEND) Update
Lead Member:	Cllr. Puja Bedi – Lead Member for Education and Children’s Services
Chief Officer:	Sue Butcher – Executive Director for People: Children
Contact Officer:	Neil Hoskinson – Associate Director of Education
Ward(s):	All
Key Decision:	NO
Exempt:	NO
Decision Subject To Call In:	NO
Appendices:	None

1. Summary and Recommendations

- 1.1 This report provides an update on the actions taken to address the priorities identified by Ofsted and the CQC in their inspection report from 2021. It contains a summary of the key information shared with the DfE and the NHSE (NHS England) at the latest Written Statement of Action Monitoring Meeting in July 2024. There is a more detailed report that was shared at the meeting is noted at the end of this report as a background paper.
- 1.2 The first Safety Valve Agreement monitoring report of the 2024/25 financial year was sent to the DfE at the end of May. This report also contains a summary of the key points. The full monitoring report is noted as a background paper at the end of this report.

The demand for Education, Health and Care plans has risen considerably and a full review of sufficiency, place planning and capital projects is being undertaken to ensure that this demand can be met. A separate Cabinet paper will be brought forward addressing this area in the Autumn.

Recommendations:

Cabinet is recommended to:

- 1.3 Note the progress made as set out in the body of this report and comment as appropriate.

Reason:

- 1.4 The purpose of this report is to provide assurance to Cabinet that progress is being made against the DfE endorsed SEND improvement plan. It has been agreed that formal updates will continue to be provided on a quarterly basis for at least the remainder of this municipal year. This is to evidence that practice is improving and as a result there is a positive increase in the impact on vulnerable children, young people, and their families. The need for such updates is required by the DfE and MHCLG (previously DLUCH) Commissioners due to the high profile and seriousness of the need for improvement in SEND services. In addition the SEND service has been subject to a Statutory Direction since August 2023.

Commissioner Review

Best Value Commissioner Review

"It is challenging for all councils to provide good services for children with special educational needs. The needs themselves are complex and the right level of care and support can be heavily contested. Provision can be very expensive and the overall cost of the service significantly exceeds most councils resources.

The council needs to act with rigour, focus and strong managerial and technical competence to be successful. The authority is moving towards this but has yet to fully demonstrate all of those characteristics. It was slow to set up appropriate arrangements following the agreement of the safety valve.

Given the importance of this matter Cabinet will wish to keep a close eye on it and Scrutiny may wish to conduct a deeper review."

2 Background

- 2.3 In Autumn 2021 Special Educational Needs and Disability (SEND) services in Slough were inspected by Ofsted and the Care Quality Commission (CQC). As a result of weaknesses identified in the local area, it was determined that a Written Statement of Action (WSOA) was required to address these deficits. As part of the oversight of the SEND improvement journey, the DfE hold quarterly monitoring visits.
- 2.4 On 4th August 2023, following the WSoA monitoring visit in February, the Secretary of State for Education issued a Statutory Direction to the Council in relation to its SEND services. This was due to a lack of progress made to address the seven areas of weakness identified in the SEND inspection. As a result, the remit of the Children's Services Commissioner, Paul Moffatt, was extended to include SEND functions.
- 2.5 In 2023, because of the size of the deficit then predicted at the end of the 2022-23 financial year, the Council entered a Dedicated Schools Grant 'Safety Valve' Agreement with the Department for Education [DFE]. SBC undertook to reach a positive in-year balance on its Dedicated Schools Grant (DSG) account by the end of 2025-26 and in each subsequent year. As part of the agreement, the DfE agreed to pay the Council an additional £10.8 million of DSG before the end of the financial year 2022-23. Over the following four financial years, further instalments will be provided totalling £16.2 million subject to the Council making satisfactory progress.

2.6 Options Considered

Option 1 – Recommended

Continue to provide quarterly updates for the rest of the municipal year 2024/2025. Unfortunately, there was a significant delay in reporting the original inspection outcome to Cabinet, leading to Cabinet not being able to formally approve the WSoA. For this reason, Cabinet asked for regular updates to be formally reported to assure itself of progress. Whilst there is a risk of the Cabinet agendas being overly long due to update reports being given, when no decision is being sought, this provides public transparency and an opportunity for a debate in a public meeting. In addition, SEND services was flagged as an action for improvement in the Council's 2023/24 Annual Governance Statement, which was reviewed and approved by Audit and Corporate Governance Committee in July 2024. This committee will expect quarterly updates on progress and these reports to Cabinet can inform those updates.

Option 2 – Not Recommended

Provide a single annual update each municipal year. Transparency is achieved in other ways, including publication of progress against the WSOA, Cabinet reports on wider Council improvement and performance data, corporate risk reporting to the Audit and Corporate Governance Committee, scrutiny members considering whether to focus on SEND in its work programme and the lead member will be issuing publicity about key steps in the improvement journey.

3 Update on Progress

Improvements in Leadership and Management Evidenced Since the Statutory Notice

3.1 At the time of the Written Statement of Action [WSoA] monitoring visit in March 2024, a DfE and NHSE review supported the local authority's view that, over the previous sixteen months, significant progress had been made in Special Educational Needs [SEND] services. The Council and the stakeholders recognised that this was from a low base and that there was considerable distance still to go. Feedback from families, education settings and other partners supported the view that the service is operating at a higher level with greater corporate buy in from elective members. A number of the improvements identified in the progress review were:

- The continuation of actions to strengthen leadership and governance structures to enable the local area to progress and monitor the impact of actions taken.
- An improving picture of the organisation's culture, with a sense that the local authority is moving towards 'high challenge' and 'high support'.
- A general sense that the partnership approach is strengthening; the local area is more integrated and joined up to discuss complex needs cases constructively.
- Improved support for new frontline line delivery officers including staff networks.

Parent/carer representatives reported that their relationship with services had improved and that there had been an improvement in the quality of practice, although this did vary still. However, although there was clear evidence of improvement, communication remained variable and was felt to be a priority for future improvements.

This is reflected in the increase in internal complaints and those to the Local Government Ombudsman.

Summary of Progress Made Since the Last Cabinet Update Paper

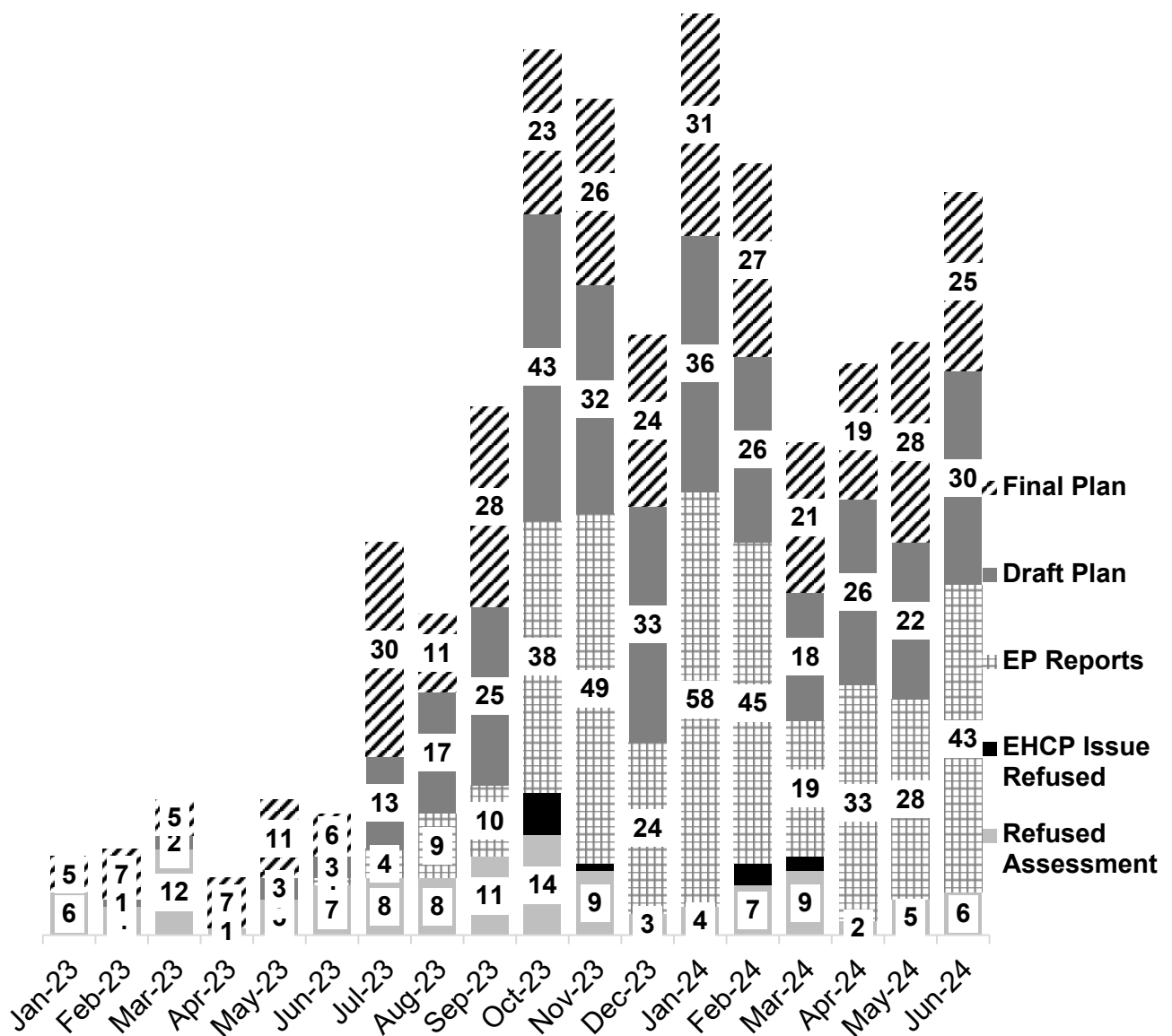
- 3.2 This report sets out the further progress that had been made by the time of the next WSoA monitoring visit in July as well as a summary of the latest Safety Valve monitoring report from May 2024. Both reports are available as well as the WsoA action tracker.

SEND 0-25 Statutory Team

- 3.3 The Head of SEND position has been accepted by the current Operational Lead and the statutory case officers have been restructured into separate assessment and reviews teams with a view to improvement of delivery, streamlining processes and allowing for clearer and more focused monitoring.

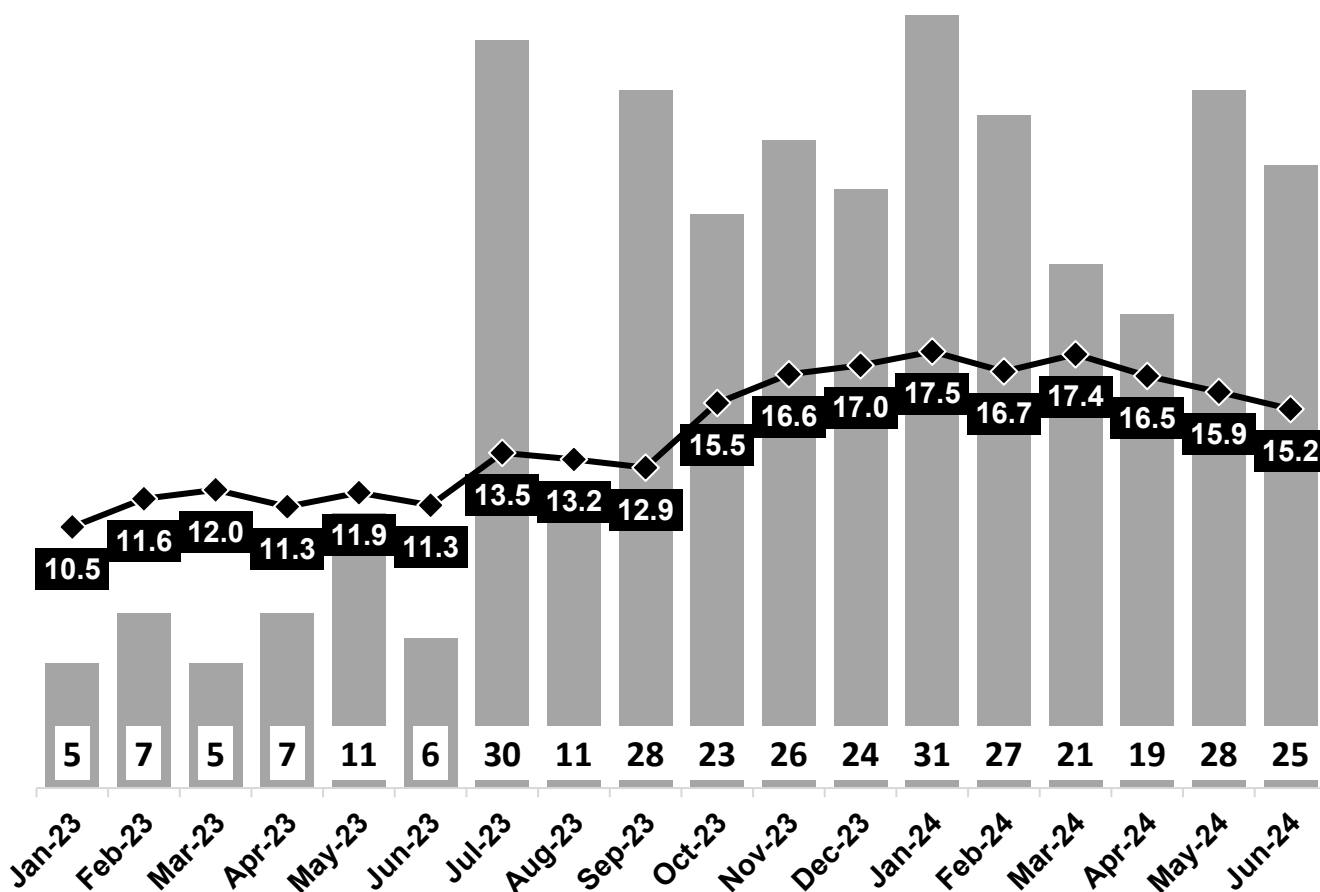
Since the start of 2024, both team managers and six case officers have resigned, due to the higher scrutiny, hybrid working, uncertainty about moving to a permanent structure and career opportunities elsewhere. Two members of permanent staff have been offered acting up positions, retaining valuable knowledge and skills and strengthening continuity. All the remaining vacancies were successfully recruited to in one cycle and Slough and the service is stronger and more robust moving forward.

- 3.4 Recruitment has taken place for a short term intervention team to start in August 2024 to clear the backlog of EHC Needs Assessments. This will ensure that children and young people with SEND receive the support they need and will have a positive impact on EHC plan timeliness. It will increase the financial pressure on the High Needs Block.
- 3.5 Since a co-produced Communications Charter was introduced in 2023 there has been evidence of improvement. The recent turbulence in the team has caused more inconsistency in responses with families and settings trying to contact officers that have left the service. A new communications flowchart shared with schools at an information sharing session and has had a positive impact. Nevertheless, this is still an area of weakness for the service supported by the LGA Communication Strategy work and the September partners workshop.
- 3.6 The chart below shows the productivity of the Statutory SEND Team since January 2023. This shows a significant increase in the number of EP assessments carried out, as well as the EHC plans that have been drafted and finalised.



3.7 The chart below shows just the completed EHC plans over the same period. 19 EHC plans were completed in April 2024 (as well as 26 drafts) despite this including the case officer vacancies, the Easter holidays and a higher level of leave. In May 28 plans were issued together (with 21 drafts) during the period when the new case officers were being onboarded. However, the line represents the cumulative rate of plans completed within the statutory 20-week period. This has only improved slightly and remains well below the local and national average. This has potential implications for complaints as well as meaning that children and young people are not receiving the support they require as quickly as they should. The creation of the short-term intervention team is aimed at improving this considerably by the end of the year.

It should also be noted that, while the new quality assurance toolkit will not be launched until September 2024, current processes have evidenced an improvement in the overall quality of EHC plans as well and this has been confirmed through dip sampling by the DfE adviser



Inclusion

3.8 Following a highly successful Inclusion Conference in January 2024, an Ordinarily Available Provision document was co-designed and has been shared on the Local Area website. This has given fresh impetus to the work to refresh the SENDCo Network and staff from over 70 percent of schools now regularly attend. The evidence from the Autumn term capacity and risk visits, as well as from the revised SENDCo Network, has shown that there is a greater focus on inclusion for children and young people in education settings with SEND but not an EHC plan. This will be built on further by a new outcomes-based SEND and Inclusion Strategy is being drafted for Cabinet sign off in December 2024 to replace the existing strategy.

Health Update

3.9 The partnerships between the local authority and its health partners continue to develop. Due to vacancies, waiting lists for therapies, have risen recently but Berkshire Healthcare NHS Foundation Trust is confident that waiting lists will soon start to fall again once new staff are in place. The East Berkshire Integrated Therapies Contract procurement Prior Information Notice is now live and closes on 23rd July. The dysphagia [eating and drinking] and Learning Disability/CAMHS services are fully established and the Neurodiversity Transformation Programme is continuing.

Participation

- 3.10 The recently agreed participation in education action plan has established an ongoing cycle of participation activities for children, young people and their families. Youth participation groups are supported to be more inclusive and, as a result, pupils with SEND engage in groups such as the Youth Parliament and Young Inspectors and feedback shows that other groups are more inclusive and welcoming.

Joint Commissioning Strategy

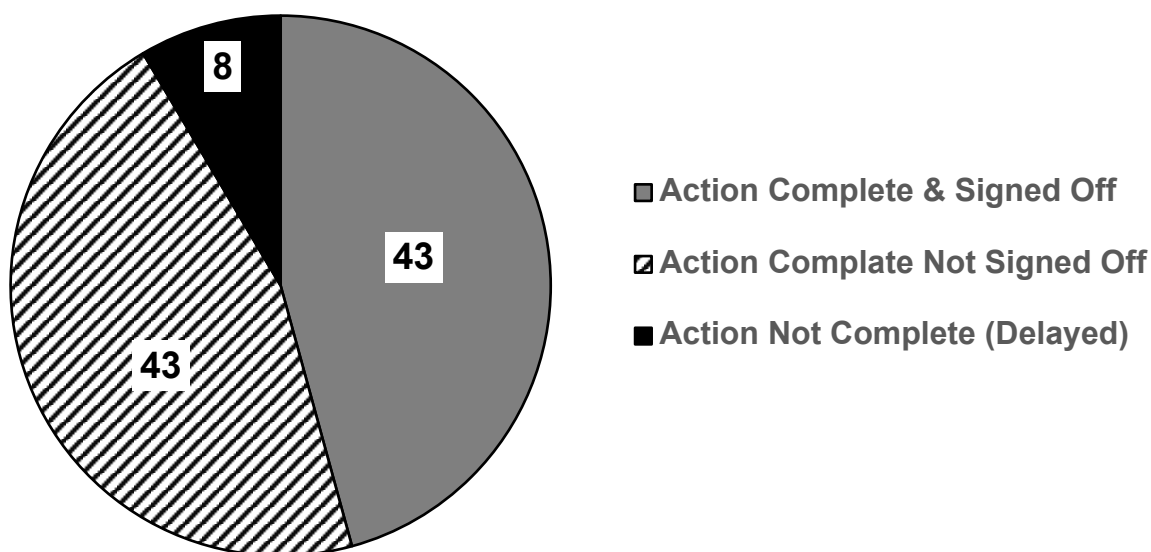
- 3.11 With Cabinet support, a capital project to develop high quality classrooms for an additional forty students at Arbour Vale School supported the phase transfer process. Another project will increase the alternative provision offer at Haybrook College. The 'Business as Usual' action will be a sufficiency, place planning and capital project paper going to Cabinet in the Autumn to set a programme for the next five years.

Preparation for Adulthood

- 3.12 A Preparation for Adulthood Strategy and Toolkit has been coproduced with the youth group "Together as One". The new EHC plan template has links to PfA pathways to ensure focus from an early age and the quarterly Transition Panel continues to meet, co-chaired by Children and Adult social care. A travel training offer has now been co-designed with young people and Arbour Vale School and uses strong practice from Croydon and Rochdale local authorities. Recruitment and training the staff will start in the Autumn term.

Written Statement of Action [WSOA] Update

- 3.13 Of the 94 actions in the WSoA, 43 have been completed and formally signed off as complete. Another 43 actions have been completed but still requiring more evidence of impact over time before they are signed off by the Partnership Board and the DfE.



Considerable progress has been made in the outstanding 8 actions and mitigations or next steps put in place to ensure that they will be complete by the revised deadline.

Creation of a SEND Improvement Board

- 3.14 At the May Partnership Board meeting, discussions began on to the next stage of the improvement journey moving to business-as-usual good practice and preparation for a future Local Area inspection. This focus will be in addition to, and not at the expense of, monitoring of the WSoA priority areas. A key aspect of this workstream will be to evolve the Partnership Board into an Improvement Board with a revised membership and agreed priorities. Discussions have begun to identify a potential independent chair for the Improvement Board and an agreed membership.

Special Voices [Parent Carer Forum] Priorities

- 3.16 Our Parent Carer Forum, Special Voices, shared their 5 key priorities with the SEND Partnership Board in March 2023. One of these related to therapeutic support and will be addressed by the new integrated therapies contract. The other four priorities will be addressed by the work with the LGA to agree a multi-agency quality assurance toolkit and the communications strategy. A timetable of coproduction activities has been agreed for the next academic year.

Safety Valve Agreement [SV] May 2024 Monitoring Report

- 3.17 The Council submitted its latest Safety Valve Agreement monitoring report in May 2024. The progress made against each of the agreement conditions has been good since April 2023, but the reported position and bought forward values for 2022/23 are still being validated which may result in a re-alignment of the bought forward value. Currently, the provisional net outturn in 2023/24 is an overspend of £0.228m, compared to a forecast surplus of £0.155m in Period 8.

An exercise has been undertaken to review the accounting treatment, financial controls, transparency and reporting. Project officers have been recruited to oversee the DSG Recovery Plan and the Safety Valve Agreement and will ensure that financial reporting moving forward is more accurate.

- 3.18 **Risks**

Complaints

In the last report all RAG ratings were Green other than 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 [LGSCO]. Further LGSCO complaints have been received based on historic poor performance together with a higher number of internal complaints received by the Council Complaints Team.

There have already been two cases to the LGSCO that have resulted in compensation payments of around £10k relating to practice and communication in 2023. Given the continuing increase in complaints, a new approach is being developed with the support of the Principal Education Psychologist which will be agreed with the Council Monitoring Officer and the Complaints Team.

Demand for EHC Plans

The agreement condition relating to managing demand for EHC plans, has now also moved from Green to Amber. The rating has changed because of the increased demand for EHC plans and the potential impact of the backlog cases Nationally all local authorities are seeing a significant increase in demand and this obviously has implications for the High Needs Block and the Safety Valve Agreement. This is exacerbated by the shortage of special school places and general inflationary pressures. Additional costs are also anticipated in 2024/5 in respect of therapeutic support.

Currently these risks are being managed but continued vigilance will be needed in the future. All the other areas have remained Green since the December report.

Overall Position

3.19 The resilience shown by the service during the recent period of staff changes is encouraging; based on effective panel processes, a strong team of EPs, accurate case tracking and refreshed operational processes in line with the SEND Code of Practice. SEND strategies are being renewed and realigned to take account of the emerging data and themes readying the service for the next stage of its evolution into strong business as usual practice. Across education settings, inclusion is a prime focus building on the Inclusion Conference and the new Ordinarily Available Provision document.

However, there are significant risks around the increasing demand for EHC plans which is exacerbated by the shortage of special school places. The level of complaints is also a concern and a new approach is needed to reduce the number moving forwards and to resolve those already in the system. The challenges faced are still significant and there is a long way to go, but all staff are determined to drive improvement supported by a more coherent approach with strong corporate buy in and scrutiny.

4. Implications of the Recommendation

4.1 Financial implications

In March 2023, the Council entered into a safety valve agreement with the Department for Education

By March 2022, the deficit of the High Needs Block of the DSG had risen to £25.5m.

£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	2.1	5.9	7.2	4.9
C/F	4.9	2.4	5.4	7.5	13.4	20.6	25.5

At the time of entering into negotiations with the DfE and prior to finalising the Safety Valve agreement the forecast, if unchecked predicted that the deficit would grow to £41.4m. However by putting in to effect the mitigation measures that now form part of

the Safety Valve programme it was estimated that cumulative savings of £14.4m could be achieved and that the deficit could be contained to £27m.

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
Difference	0.0	(2.3)	(1.5)	(4.0)	(7.3)	(10.8)	(14.4)

The mitigation measures started to have an impact as early as 2021/22 where the in-year deficit was contained to £4.9m as opposed to the previous forecast of £7.2m.

The Safety valve agreement was signed in March 2023 and subject to maintaining performance against the management plan, the DfE will pay an additional £27m to eliminate the cumulative deficit alongside actions taken by officers to contain the in-year deficit.

Year	The Department agrees to pay to the authority an additional £m of DSG by year end	
	Annual	Total
2022-23	£10.80m	£10.80m
2023-24	£3.24m	£14.04m
2024-25	£3.24m	£17.28m
2025-26	£3.24m	£20.52m
2026-27	£6.48m	£27.00m

This is a really positive outcome for the Council

However the forecast are based on a plan that was developed three years ago and no longer reflects the pressures that the Council are currently facing. Additional demand has required the creation of 36 additional spaces at Arbour Vale this summer and will require the commissioning of further places as well as the expansion of the provision at Hayward college.

The latest school capacity plan submission and the increasing number of children requiring EHCPs indicate the need to refresh the SEN sufficiency strategy and to continue to work with the schools community to ensure that children are educated locally in maintained schools to ensure the efficient use of resources. Officers will continue to work with schools to increase the provision for SEN children in maintained mainstream schools, alongside resource provision and an increased number of maintained special school places.

4.2 Legal implications

4.2.1 The Council and partner agencies have a number of key statutory responsibilities to children and young people with SEND. These include duties set out in the Children and Families Act 2014, the Children Act 1989, the Children Act 2004, the Care Act

2014 and the Childcare Act 2006. Partner agencies include health agencies, Slough Children First and early years providers, schools and colleges.

4.2.2 The SEND Code of Practice: 0 to 25 years provides 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 legislative framework under the Children and Families Act 2014, 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.

4.2.3 The Children Act 2004 (Joint Area Reviews) Regulations 2015 state that the Chief Inspector of Schools must make a written report where a review has been completed. The Chief Inspection of Schools must determine whether it is appropriate for a written statement of proposed action to be made in light of the report and if so, determine the person or body who must make that statement. In response to a requirement to produce a written statement of action, the Council prepared a statement and submitted this to the Department for Education and Ofsted in February 2022.

4.2.4 On 4 August 2023, the Secretary of State made a direction in accordance with powers under s.497 of the Education Act 1996. This was on the basis the Council had made a lack of progress towards the WSoA since it was approved in March 2022 and the Secretary of State was satisfied that the Council was failing to perform to an adequate standard in some of all of the functions conferred on it under Part 3 of the Children and Families Act 2014. The direction extends the remit of the existing DfE commissioner.

4.3 ***Risk management implications***

4.3.1

	Risks	Potential Impact	Mitigating Actions
1	Pressure of increasing demand for EHC plans.	Currently all local authorities are seeing an increased demand for EHC plans. Failure to produce EHC plans within statutory timescales would mean that children and young people do not receive the right support early enough.	Additional locum EPs in place and revised SEND statutory processes are maintaining a higher level of EHC plans. A new short-term intervention team has been recruited to improve timeliness and address the backlog in requests for EHC plans.
2	An increased number of EHC plans has financial implications for the Council.	The Council has entered into a Safety Valve Agreement (SVA). Therefore, as well as impacting on the overall Council budget position, a	As stated in the report, there is a High Needs Block Budget Recovery Plan in place supported by a programme of monitoring and reporting. Currently the

		significantly higher level of SEND spending could threaten the additional funding being offered by the DfE if the SVA targets are achieved.	Council is on track to achieve the budget position set out in the SVA and the first payment of £10.8zm in additional funding has already been received.
3	An increasing number of complaints received internally and to the LGSCo.	Historic service issues are now generating an increasing number of complaints and have already led to significant compensation claims in two cases. Further compensation claims are highly likely.	As stated in the main report, a new approach is being devised that will be agreed with the Monitoring Officer and the Complaints Team to address this risk.
4	Lack of consistent approach to SEND in mainstream schools around the graduated approach.	Children and young people's SEND needs not met. Increased cost to the council with more requests for EHC plans	Ongoing work to coproduce a new graduated approach for Slough to be launched at an Inclusion Conference. Inclusion a focus of Autumn Term Visits.
5	Failure to secure enough non-maintained places for pupils requiring resource provision or a special school.	Children and young people's SEND needs not met. Increased cost to the council with more independent school places needed.	SEND Sufficiency Working Party established and SEND needs added to the Place Planning Board TOR.
6	Recruitment and retention issues due to the SEND service being largely interim.	As stated in the main report, there has been recent turnover in the SEND Case Officer team and this is likely to continue until a permanent team is in place.	A Recruitment and Retention policy is being developed alongside consistent SEND processes and data management to minimise the impact of staff changes.

4.4 ***Environmental implications***

4.4.1 There are no known environmental implications arising from this report.

4.5 ***Equality implications***

4.5.1 In the last academic year, 2022/23, over 389,000 pupils in England had an EHC plan and a further 1.1 million were receiving SEND support without a plan. Therefore over 17% of all pupils are classed as having SEND. The most common type of need for those with an EHC plan is autistic spectrum disorder but a rapidly increasing number have social, emotional, mental health issues. Earlier identification and meeting their additional needs will have a positive impact on their educational outcomes and wider life chances. Work is ongoing on the latest SEND Survey and this will give more detailed data to identify whether characteristics around gender, age or race are over-represented in Slough and to ensure that there is appropriate targeting of support. Since the last survey, a great deal of effort has been put into ensuring that the information in our database is accurate.

4.6 Corporate Parenting Implications

4.6.1 The majority of Children Looked After [CLA] by local authorities have SEND and will often have suffered instability in their education. CLA children and young people are nine times more likely to have an EHC plan than their peers but also likely to not have had their needs accurately assessed as early due to these gaps in schooling. Any improvements in overall SEND services will have an obvious positive impact on the CLA cohort in terms of meeting their needs and mitigating the impact of previous educational issues. The Virtual School Headteacher ensures that SEND support is a key priority in Personal Educational Plan meetings. Where amendments to EHC plans and additional support for pupils without a plan are requested, the CLA team will advocate for the child or young person and liaise with the school and SEND Service.

4.6.2. Similarly, young people with SEND must be a priority in Preparation for Adulthood work to prepare them for moving away from school and into positive adult pathways. This includes post 16 education and training places, support for employability, independence training and supported internships.

3. Background Papers

- July Written Statement of Action Monitoring Report
- May Safety Valve Intervention Programme Monitoring Report.