

## Slough Borough Council

<b>Report To:</b>	Cabinet
<b>Date</b>	16 December 2024
<b>Subject:</b>	Special Educational Needs and Disabilities (SEND) Update
<b>Lead Member:</b>	Cllr. Puja Bedi – Lead Member for Education, Children’s Services and Lifelong Learning
<b>Chief Officer:</b>	Sue Butcher – Executive Director for People: Children
<b>Contact Officer:</b>	Neil Hoskinson – Associate Director of Education
<b>Ward(s):</b>	All
<b>Key Decision:</b>	No
<b>Exempt:</b>	No
<b>Decision Subject To Call In:</b>	No
<b>Appendices:</b>	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 to be shared with the DfE and the NHSE (NHS England) at the latest Written Statement of Action Monitoring Meeting in November 2024. The detailed report that will be shared at the meeting will be available by the time of the Cabinet meeting.
- 1.2 The latest Safety Valve Agreement monitoring report of the 2024/25 financial year was sent to the DfE at the end of August 2024. This report also contains a summary of the key points and the full monitoring report is available should more detail be required. The demand for Education, Health and Care [EHC] 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 and setting out a 5 year sufficiency, place planning and capital project strategy.

#### **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 the municipal year 2024/2025. This is to evidence that practice is improving and 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**

### **MHCLG Commissioner Review**

- 1.5 This report has been reviewed by Commissioners and there are no specific comments to add.

### **DFE Commissioner Review**

- 1.6 In my last report to the Minister, I identified the challenging circumstances facing Slough. Whilst acknowledging the benefit of a stable leadership team in Children's Services and regular oversight by the partnership and Improvement Boards progress has been slow. The authority must press on with the backlog of assessments they are tackling, a visible and well-articulated SEF and strong evidence for the forthcoming inspection including an evidence-based Appendix A as well as better engagement with families and schools. The government's recent announcement of additional SEND funding for LA's must not be seen as an excuse to delay improvement work as the key actions required to improve services have been clear for some time. The Partnership Board has undertaken a review of its leadership and terms of reference and this should help with the clarity of roles and focus but I would need to see evidence of impact during the next quarter.

## **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, due to the forecast deficit of £27.6M 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. Because the agreed milestones were achieved, a further £4.41m was paid for 2023/24 (this included an additional payment of £1.17m that the DfE wanted to bring forward from

the planned payment for 2024/25). For the remaining three financial years of the agreement, further instalments will be provided totalling £11.79 million subject to the Council continuing to make satisfactory progress as evidenced in quarterly monitoring reports.

## **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, particularly when no decision is being sought, this provides public transparency and an opportunity for debate in a public meeting. In addition, SEND services were 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 could be 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**

### **3.1 Improvements in Leadership and Management Evidenced Since the Statutory Notice**

The start of the new academic year, in September 2024, was an opportunity to reflect on the progress made since the new leadership team was established in March 2023 as well as setting new targets to maintain the momentum of improvement.

With corporate support, the Statutory SEND Service has been stabilised around a strategic vision agreed through a consultative approach and based on core values that focus on the needs of our children and young people. This is overseen by the newly relaunched Improvement Board that is now well established and supported by a data dashboard and an improvement plan. Our self-evaluation of the improvement journey has been scrutinised by the Written Statement of Action monitoring process led by the Department for Education, their appointed SEND Adviser and the SEND Commissioner.

Some of the identified strategic weaknesses that have been impacting on the SEND Statutory Service for a considerable time have now been removed. There is now a strong educational psychology team in place, a robust weekly assessment panel includes health, school and social care representatives, focused case officer teams have been established for assessments and reviews and they are supported by a sophisticated case management system.

The WSoA monitoring process is moving to a successful completion alongside strategic planning for a future Local Area inspection. We have worked with the DfE team to ensure that the RAG rating of all 94 actions is consistent and evidence based. Because there is clear evidence of impact, around a quarter of the actions are now fully complete, and the DfE will no longer monitor these moving forwards. A small number of actions are not yet complete but the rest are waiting for DfE sign off once there is sufficient evidence.

### 3.2 Priorities for Future Action

In their feedback from the July monitoring meeting the DfE recommends “that the local area undertakes an assessment of the implementation and impact of all projects, programmes and initiatives that are underway. This should also incorporate service user feedback to inform future planning”. This evaluative approach will inform our Self Evaluation Framework [SEF] and assess the positive impact that the improvement journey is having on children and young people’s outcomes.

Building on the progress already made, the rapid pace of improvement must be maintained and the local area approach to SEND needs to stop being reactive and become more strategic and proactive. Although the internal, strategic weaknesses that have undermined performance are no longer such a significant factor, the quality of the service can still be inconsistent and historic poor performance, particularly data, is still affecting current casework. The SEND service in Slough is also facing the same national pressures on SEND that are facing all local authorities such as the increasing demand for EHC plans, greater complexity of need and limitations on resources.

The new approach will focus on the delivery of SEND by the local area as a whole rather than simply the local authority statutory service. Maintaining the steady and sturdy leadership for SEND across the wider local area, with corporate support and championing for SEND, is vital moving forwards. We are in the middle of a workforce transformation and must maintain pace. Most activities, such as the ongoing workforce development, will be coproduced with all partners and stakeholders with the lived experiences of our children and young people continuing to inform our journey.

Far more young people with SEND do not have an EHC plan and receive support from their education setting without any direct local authority involvement. The new Graduated Approach Document has been co-produced with our schools and will inform future support for Special Educational Needs Co-ordinators [SENDCos] and the new Inclusion Champions. This work will be complimented by the local area Universal Offer to support inclusion, particularly in early years settings as well as the new East Berkshire therapies contract due to go live in April 2025.

Support from the DfE, including the SEND adviser, and the Research and Improvement for SEND Excellence [RISE] Partnership, together with learning from best practice nationally will inform activities. We have arranged further RISE training focusing on coproduction as well as continued support from the LGA on inspection preparation. The South East Sector Led Improvement Programme have also offered to host a SEND Courageous Conversation to explore an aspect of SEND provision. A number of local authorities have now taken up this opportunity, or are in the planning process and their feedback is very positive. Areas that have been chosen as a focus include exploring the SEF, quality assurance of EHCPs, decisions to assess and issue EHCPs, alternative provision, coproduction and ordinarily available provision.

## Summary of Progress Made Since the Last Cabinet Update Paper

- 3.3 This report includes a number of areas of improvement achieved since the September report was shared with Cabinet.

### Establishing a SEND Improvement Board / Operational Group

The SEND Strategic Board was relaunched as a SEND Improvement Board in June 2024 and has now met three times. The Board will be supported by Operational Group that met for the first time in September and will meet monthly moving forwards. The membership of both has been agreed alongside a Terms of Reference document. The Operational Group has agreed a number of key workstreams moving forwards.

These are:

- ✓ A Five Year SEND Sufficiency, Place Planning and Capital Strategy
- ✓ The SEND and Inclusion Strategy
- ✓ Creating a Youth Participation Group
- ✓ Support for SENDCos / Inclusion Champions / SENDCo surgeries – key priorities such as provision maps, consultations and annual reviews
- ✓ Health Partnership Working - neuro-diversity pathways / therapies contract (for next agenda)

### SEND Statutory Services

- 3.4 An interim Operational Lead and an interim SEND Commissioner have now been recruited and took up their posts in October 2024. The recently formed case officer teams for assessments and reviews are now well established and the improvement in performance over recent months has been maintained. There is still a degree of turbulence in the SEND team due to workload pressures. Two case officers have given notice that they are moving to other areas where caseloads are lower and, although so far we have not had any difficulties in recruitment, this is an area for vigilance.

The short-term intervention team is now in place. They are working through the backlog of EHC Needs Assessments to ensure that children and young people with SEND receive the support they need. As they begin to finalise EHC plans this will have a substantial impact on EHC plan timeliness. As stated before, this will also increase the financial pressure on the High Needs Block as additional resources are agreed. The new communications flowchart is having a positive impact and is now supported by a new tracker that also covers complaints. Nevertheless, the continued inconsistency in responses is leading to new complaints.

### New SEND and Inclusion Strategy

- 3.5 Work continues to develop the SEND and Inclusion Strategy with a briefing note setting out the essential elements of the strategy published along with a range of flyers and other publicity containing a QR code that allows people to contribute directly to the consultation. This includes publicity sent directly to parents and carers. A range of coproduction events have taken place including with school leaders, SENDCos, young people and their families as well as partner agencies. A draft document will be agreed by the SEND Improvement Board ready for a launch meeting with headteachers on the 8<sup>th</sup> November.

## Inclusion Champions

- 3.6 Education Inclusion Champions and Community Partner Champions are being established and will be pivotal in the development and delivery of the new SEND Inclusion strategy. Feedback from parents suggests that some schools are more inclusive than others and this is supported by professionals working with schools that have identified that some have a better understanding of SEND legislation. Education Champions will include a range of staff at different levels as well as governors and non teaching staff; while Community Champions will be volunteers from our partners in social care, health, police and businesses.

The training for the champions will:

- ✓ embed the Graduated Approach in all Slough education settings.
- ✓ create a consistent Ordinarily Available approach giving a true Local Offer.
- ✓ increase knowledge and understanding of SEND legislation and guidance.
- ✓ develop relevant knowledge and skills to reduce isolation and discrimination.
- ✓ ensure more balanced numbers of SEND pupils within educational settings.
- ✓ more inclusive practice will improve attendance, reduce suspensions and exclusions as well increasing opportunities for paid employment and voluntary work within the local community for young people with SEND.

## Support for SENDCos (Team Around the SENDCo)

- 3.7 Following the launch of the Graduated Approach Document, SENDCOs and the Inclusion Team are continuing to develop effective collaborative and follow up support. Part of the next stage in the improvement journey to support children and young people with SEND but no EHC plan, is to support their SENDCOs in all our education settings. This is being referred to as the Team Around the SENDCo approach. Two SENDCo Network meetings have taken place this term to discuss SEND operational matters including provision maps, the consultation process and annual reviews. Discussions around each school, using a RAG rating system, to inform the SEND team about where an annual review is likely to lead to a change in setting or provision have taken place. A range of different examples have been shared so that this is not too prescriptive for schools but ensures that all the required information is provided. The Inclusion Lead has also provided guidance to support SENDCOs in completing their own RAG rating.

Further support sessions are planned including SENDCo surgeries once a month where they can bring anonymised cases for discussion with the Inclusion Lead, the Principal Educational Psychologist and the advisory teachers. Bitesize training for SENDCOs will take place every month, based on a skills self-audit and survey of SENDCOs. Additional sessions will be provided for SENDCOs and Learning Support Assistants new to Slough.

This support has helped to mitigate some of the concerns that SENDCOs have fed back around the increased pressure placed upon them generally in meeting the needs of children and young people with more complex SEND within their setting. There has been some negative feedback from SENDCOs relating to changes made to the school placement consultation process and on the number of consultations being sent out. Similarly, an initial proposal to ask SENDCOs to write a provision map before receiving funding was viewed as an unreasonable workload given the level of consultations. This feedback was reflected on and the process was amended, still in line with the SEND Code of Practice, to make the process more manageable. It will be important to

continue to monitor the attitudes of SENDCos and making sure that we are supporting them in their vital role in schools. This will be the focus of a SENDCo Celebration Event to be held in January at Chalvey.

### Preparation for Adulthood

- 3.8 The Preparation for Adulthood Strategy and Toolkit, coproduced with the youth group "Together as One, have now been launched and are on the Local Offer website. Feedback from families has been positive so far on these documents and also on the PfA pathways links in the new EHC plan template. The quarterly Transition Panel continues to meet, co-chaired by Children and Adult social care. A review meeting for the commissioned places at the Windsor Forest colleges will take place before the November 8<sup>th</sup> deadline.

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. A cost / benefit analysis demonstrates that, as well as improving independence for our young adults, it will produce savings over the next three years that will cover the costs of implementation. Consideration is being given to the possibility of widening this to include children and young people with SEND but no EHC plan.

### Health Update

- 3.9 The partnerships between the local authority and its health partners continue to develop. Waiting lists for therapies, that had risen due to vacancies, are falling again. Two bids have been received for the East Berkshire Integrated Therapies Contract and moderation activities have been completed to judge the quality of the different proposals. Feedback on the first year of the dysphagia [eating and drinking] contract based at Arbour Vale School, is positive and the Neurodiversity Transformation Programme is continuing alongside the Learning Disability/CAMHS services.

### Participation

- 3.10 As well as maintaining an ongoing cycle of participation activities, the Youth Voice lead for SBC is now drawing up a proposal for a Youth Participation Group to provide lived experience information to inform SEND delivery. The group will include members of Slough Youth Parliament, the SEND Youth Forum, Arbour Vale School and Haybrook College. The group will communicate directly with both boards to provide youth feedback on their strategies, collect information at request of the boards to improve their understanding of young people's needs, experiences of the local offer, preferred ways to communicate with different cohorts of young people to improve engagement, understanding and accessibility with service information being shared.

They can undertake their own research methods such as surveys and workshops or can request other resources such as Slough Young Inspectors or Slough Young Commissioners to undertake operational work to provide quality insights. SBC Youth Work Team and Together as One will be involved in the planning of the group to ensure that the work of all the different groups is aligned. The following have been drawn up as a draft scope for the group.

- ✓ The boards will gain relevant and timely information to inform their work that meets the views & needs of local young people and ensures it's fit for purpose.
- ✓ Youth voice will play a strong and demonstrable role in shaping SEND and Education strategy and services in Slough.

- ✓ Youth group members will meaningfully participate and feel their contributions are valuable and impactful.
- ✓ Young people will communicate directly with decision makers; leading to a greater understanding of each other's challenges, strengths and values.
- ✓ Youth group members will gain/improve research, communication, groupwork, leadership and decision-making skills.
- ✓ youth group members will gain a greater of the services available to local young people to meet their education and SEND needs.

### Joint Commissioning Strategy / Sufficiency Planning

3.11 The growth in the number of young people with complex needs has clear delivery and financial implications for all local authorities and requires some creative thinking. The focus must now shift rapidly towards delivery and provision within schools utilising existing in-borough resources, new opportunities, additional funding streams and a reduction of out-of-borough costs. The capital build at Arbour Vale School has provided a 'one off' opportunity for the September 2024 phase transfer, however, planning delivery for 2025/26 and beyond has already started as part of a five-year strategy to stabilise the current situation and create some workable solutions. Partnership and collaborative work is essential to ensure that this strategy is based on the current experience of young people and school staff as well as ensuring the confidence/buy in of stakeholders. Therefore, we have established a working party of school leaders, local authority officers, health partners and other stakeholders to look at what this could look like based on current data.

The aim is to provide a number of potential options to meet SEND need through a single, interlinked and sustainable 5-year delivery strategy. Following an initial meeting to agree how the group will function, the group will now agree a timetable of meetings, a Terms of Reference document and a wider membership with the aim of an initial report being ready in 8 weeks. The working party will report to the Slough Education Partnership Board and the SEND Operational Board.

### Written Statement of Action [WSoA] Update

3.12 Feedback from the last monitoring visit in July was that the information presented prior to the meeting was "more succinct than for previous reviews, and the structure of the information was much improved". The team have continued to populate the evidence folder that had been created and this is a useful way to collate information for a future inspection as well. Work is ongoing to align the evidence to the new SEF and to ensure that the Improvement Board, on behalf of the local area as a whole, is responding in a proactive manner to the information available and using it to help secure ongoing improvements to the experiences of the CYP with SEND in Slough. The Operational Group will be key to this process.

The DfE confirmed that around a quarter of the actions in the WSoA are now considered closed since there is evidence of successful implementation. Although the majority of the other actions are now complete, they will not be signed off by the DfE until there is further evidence of impact. The 24 completed actions below will no longer form part of future monitoring:



Area 1	1.1.2, 1.1.3, 1.2.1, 1.2.2, 1.4.1, 1.5.2, 1.8.4
Area 2	2.4.1
Area 3	3.5.1
Area 4	4.3.2
Area 5	5.1.1, 5.1.2, 5.1.3, 5.2.1
Area 6	
Area 7	7.2.1, 7.2.2, 7.3.1, 7.5.2, 7.5.3, 7.5.4, 7.7.1, 7.7.2, 7.7.3, 7.7.4

The next monitoring visit, due to take place in November prior to the Cabinet meeting, includes a deep dive exercise into four of the seven areas within the WSoA. A second Deep Dive will take place on 14 January 2025 to review the remaining three areas followed by a full WSoA review in April 2025.

During the deep dive in November, the DfE and NHSE will engage with various stakeholder groups, including Local Area leadership, frontline delivery staff, service leaders, young people, parents, and education professionals (Headteachers/SENCOs). This is an important opportunity to provide feedback and share insights in more open conversations with the DfE and NHSE teams. The information gathered will be used to assess the effectiveness of the improvements we've made so far. The feedback meeting is scheduled to take place on 18<sup>th</sup> November 2024.

The four areas of focus for the deep dive in November will be:

- ✓ **WSOA Area 3:** Lack of effective use of meaningful performance information to inform the area's strategy and planning, and evaluate its effectiveness.
- ✓ **WSOA Area 4:** Limited opportunities for parents, carers, and children and young people with SEND to be involved in planning and reviewing services.
- ✓ **WSOA Area 6:** Absence of social care considerations in EHC plans for children and young people not known to children's social care, along with a lack of age-appropriate social opportunities and limited short-break or respite services for parents and carers.
- ✓ **WSOA Area 7:** Inequitable access to SALT and OT services, excessive waiting lists, and the absence of a dysphagia service.

#### Preparation for a Local Area Inspection

3.13 Over the Summer a key focus was preparing for the next local area inspection. Workshops were held to review the inspection framework, plan the arrangements for an inspection, update the SEF document and to start to collate the information inspectors will request at the start of the inspection (known as Annex A). This contains:

- ✓ information about the local area partnership's strategy and commissioning arrangements for SEND (including alternative provision).
- ✓ person-level data, which inspectors will use to select the children and young people whose experiences they will evaluate known as List 1.

- ✓ information about providers and services (including alternative education).
- ✓ additional information provided by the area partners for an accurate understanding of children and young people's experiences and outcomes.

As previously reported in SEND updates to Cabinet, previous poor practice by case officers means that the Capita SEND database had a high number of inaccuracies relating to key information about children and young people. We now have an accurate List 1 and a number of focused activities were carried out to ensure that the high priority data was complete by the end of October 2024. As well as helping during an inspection, this will have obvious benefits for service delivery including moving towards a portal for sharing information with parents and the new digital EHC plan that is due to be introduced in 2025.

### Self-Evaluation Document [SEF]

- 3.14 As well as the previous inspection judgements and evidence from the LGA peer review in 2022, the SEF now includes all the evidence gathered as part of the WSoA monitoring and is closely aligned with the latest inspection framework. The document describes how effectively the local area identifies, assesses and meets the needs, and improves the outcomes of the different groups of children and young people with SEND. It now accurately sets out key strengths as well as how we are working to improve areas identified for development. The experiences of children and young people with SEND, as well as their families, are included throughout the document as well as their educational outcomes.

### Special Voices [Parent Carer Forum] and Coproduction Activities

- 3.15 Work is ongoing with Special Voices to look at how we can capture more qualitative data about children and young people's lived experiences alongside the quarterly survey. Members of the SEND Statutory Team, the Inclusion Team, the Early Years team, the Principal Educational Psychologist and the Director of Education will be attending a Special Voices Information and Local Offer Day on 22<sup>nd</sup> November. This will be the opportunity to share information from education, social care and health stands.

Special Voices have agreed to take the lead on coproduction activities in the local area but have indicated that they would welcome support in this. The DfE have therefore asked the RISE Partnership (led by the Council for Disabled Children and including the National Development Team for Inclusion) to provide this support. They have suggested a three phase approach:

#### Phase 1: Co-production Focus Groups

The RISE trainers will meet with Special Voices to co-design focus group questions and ensure that this proposal aligns to other coproduction activities. The sessions will explore the barriers that are hindering co-production and engagement being further embedded as well as where things are working well.

#### Phase 2: Embedding/Refreshing the Working Together Charter

A full day, virtual workshop exploring the current working together charter in Slough. It will involve multi-agency attendees (including parent carer representatives). The session will include co-production essentials, learning from good practice regarding co-production, how to better embed the

Working Together Charter and agreeing key themes and features for co-production.

### Phase 3: Action Planning for Co-Production

A half-day, online multi-agency workshop bringing together key stakeholders to develop a clear action plan for embedding co-production across the wider partnership, building on the work done in the previous full-day workshop.

## Safety Valve Agreement [SV] May 2024 Monitoring Report

- 3.16 The latest Safety Valve Agreement monitoring report was completed at the end of August 2024. The reported cumulative DSG Deficit at the end of the 2023/24 financial year was £10.4m, inclusive of an early payment of £1.17m payment relating to 2024/25. The remaining £2.07m of the £3.24m safety valve payment for 2024/25 is expected this year - subject to criteria being met.

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 in the next report due at the end of November. An Education Transformation Team is now in place to oversee all aspects of the DSG Management Plan and, as well as reviewing the previous reported position, they will ensure that financial reporting moving forward is more accurate. This includes a review of our modelling forecasts and the estimate of the final outturn for 2024/25 for the November 2024 report.

In the August report three areas were RAG rated as Amber:

Agreement Condition 1: Managing demand for EHC plans. The level of demand is significantly higher than at the time the SVA was negotiated. The impact of rising demand and the backlog of assessments will be included the November estimates.

Risk 3 - Increase in complaints and negative publicity. This area moved to Amber in the August monitoring report due to the increase in complaints and levels of dissatisfaction amongst families and schools.

Risk 4 - Increased risks of legal challenge. Historic service issues are now generating an increasing number of LGSCo complaints and appeals to the Tribunal Service.

Currently these risks are being managed (see below) but continued vigilance will be needed in the future so they remained Amber in future reports.

## **Risks and Mitigations (See Section 4.3)**

- 3.17 Complaints

Given the continuing increase in internal complaints, a new approach is being trialled based around a tracker to accurately log cases, identifying the key officer and set timescales. This has been supported by the Director of Education, the Principal Education Psychologist and the Complaints team. Once it has been reviewed, it will then be agreed with the Council Monitoring Officer.

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 not been any further compensation cases since the last update but there are cases in the pipeline. One case in particular, that relates to practice a number of years ago, has significant risks and we have been in direct

communication with the LGSCO office to discuss this young person.

### Tribunals

- 3.18 Nationally, the number of SEND tribunal cases has surged, with over 11,000 appeals registered in the last year alone—a 29% increase compared to the previous year, according to recent reports. This trend reflects an increasingly resource-intensive landscape with significant financial risks. We are actively working to improve early intervention and case management practices, as well as identifying commissioning arrangements with independent settings to reduce overall fees. This will hopefully manage these costs effectively, while ensuring compliance with tribunal decisions and maintaining high-quality support for children and families.
- The financial impact of recent tribunal decisions for Slough has placed further pressure on the High Needs Budget. Tribunal-directed placements and orders have required funding allocations across various cases, including costs for a residential placement, home-school tutoring services, and other school placements. The shortage of specialist placements in Slough to meet the needs of children with complex requirements within available resources. Currently, we have 26 open tribunal cases seeking change of placement in section I of the plan to a specialist setting which, if successful, could significantly impact in terms of ongoing annual pressure.

### Demand for EHC Plans, Increasing Complexity and Shortage of Special School Places

- 3.19 The agreement condition in the Safety Valve Agreement relating to managing demand for EHC plans is rated as Amber and is probably the most significant pressure on service delivery and the High Needs Block. Nationally all local authorities are seeing a significant increase in demand which is exacerbated by the shortage of special school places and general inflationary pressures. Cost-effective local provision and effective allocation of capital funding will be needed to meet rising special school demand. The SEND Sufficiency Working Party covered elsewhere in this report will be key to managing this demand.

### EHC Plan Timeliness

- 3.20 The cumulative percentage of EHC plans completed within the 20 week statutory timescales at the time of the last monitoring visit was only 11.6% which is considerably below the national average (49.2%) and the average across the South East (45.8%). This is a potential risk for increasing complaints and appeals to the Tribunal Service but also means that children and young people are not receiving the support they need quickly enough. The Short Term Intervention Team will manage the backlog for assessments and this, coupled with the improvement in service delivery, will see timeliness improve significantly by the end of 2024.

### Capita Database and Annex A

- 3.21 The quality of the SEND pupil level data in the Capita One system was not accurate. As well as impacting on daily service delivery and case work, this was a significant risk for a Local Area inspection. As stated above, a great deal of work has been carried out to bring together different databases into a single List 1 with all high profile data complete as part of our preparation for inspection work. A rapid cleansing programme is now addressing less high profile gaps in the information and is being coordinated with schools.

## Overall Position

3.22 The SEND Service is now in a much stronger position to deal with the increasing demand for EHC plans and the increasing complexity of children and young people with SEND. A number of previous systematic weaknesses are now strengths such as highly 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 changing SEND landscape, 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 new Ordinarily Available Provision document and the Team Around the SENDCo approach.

However, there are significant risks around the increasing demand for EHC plans which is exacerbated by the shortage of special school places. 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.

Although the service is justifiably proud of the progress it has made and this has raised the expectations of education settings and families, it is not yet delivering at the level they deserve. The level of complaints is also a concern and a new approach to logging communications and monitoring responses has been introduced to reduce the number moving forwards and to resolve those already in the system. Communication and timeliness/quality will be the key indicators for progress for the team moving forwards. The WSoA monitoring process is moving to a successful completion alongside preparation for a future inspection. The transformation programme will continue at high pace with a number of workstreams identified that will be coordinated by the Improvement Board and the Operational Group. Support from the DfE advisers, training delivered by the RISE Partnership, alongside Special Voices, and learning from best practice nationally remains vital.

## **4. Implications of the Recommendation**

### **4.1 Financial implications**

#### **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.

<b>£m</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>19/20</b>	<b>20/21</b>	<b>21/22</b>
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
<b>C/F</b>	<b>4.9</b>	<b>2.4</b>	<b>5.4</b>	<b>7.5</b>	<b>13.4</b>	<b>20.6</b>	<b>25.5</b>

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
<b>Difference</b>	<b>0.0</b>	<b>(2.3)</b>	<b>(1.5)</b>	<b>(4.0)</b>	<b>(7.3)</b>	<b>(10.8)</b>	<b>(14.4)</b>

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
<b>2022-23</b>	£10.80m	£10.80m
<b>2023-24</b>	£3.24m	£14.04m
<b>2024-25</b>	£3.24m	£17.28m
<b>2025-26</b>	£3.24m	£20.52m
<b>2026-27</b>	£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

	<b>Risks</b>	<b>Potential Impact</b>	<b>Mitigating Actions</b>
1	Pressure of increasing demand for EHC plans is high compared to the local system capacity. The level of neuro-diverse needs and diagnoses of ADHD and autism are significant factors.	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, and support required in Section F, 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 significantly higher level of SEND spending could threaten the additional funding being offered by	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 Council is on track to achieve the budget position set out in the SVA and the first payment of £10.8m in additional funding has already been received.

		the DfE if the SVA targets are achieved.	
3	Currently the percentage of EHC plans completed within the 20 week statutory timescale is significantly below the national average.	As also covered below (4 & 5), failure to adhere to statutory timescales can lead to complaints and appeals to the tribunal service.	A short-term interventions team will address the backlog of EHC plans and improve timeliness. Improved SEND statutory processes are improving timeliness for new cases including case management and tracking.
4	An increasing number of complaints received internally and to the LGSCo. As well as timeliness (see above 3) complaints often relate to communication and non provision of therapeutic support.	Historic service issues are now generating an increasing number of complaints. As well as reputational damage to the Council this has already led to compensation claims in two cases. Further compensation claims are highly likely.	A new approach has been agreed with the Monitoring Officer and the Complaints Team to address this risk. A complaints and communication tracker is now in place.
5	The SEND Code of Practice includes a number of issues for local authorities around parental preference and legal duties to provide therapeutic support.	All local authorities are currently seeing a significant level of appeals to the Tribunal Service. Currently the decisions have not had significant impact financially or in terms of service delivery.	Slough SEND and Inclusion Strategy to be agreed by all partners to ensure that the Code of Practice is followed. Likely that the new government will seek to make changes to SEND policy and practice but no announcement yet.
6	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.
7	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.
8	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.



9	The quality of the SEND pupil level data in the Capita One system is not accurate.	As well as impacting on daily service delivery and case work, this is a significant risk for a Local Area inspection. A pupil level list is a key part of the Annex A information that is requested by inspectors at the start of the inspection.	A great deal of work has been carried out to bring together different databases into a single List 1. A rapid cleansing programme is now addressing gaps in the information on a priority basis. This is being coordinated with schools.
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#### 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.

### **Background Papers**

None