

Classification: Open	Decision Type: Key
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Report to:	Cabinet	Date: 12 July 2023
Subject:	Project Safety Valve Update and Dedicated Schools Grant Deficit Recovery	
Report of	Cabinet Member for Children and Young People	

Summary

This report updates Cabinet on the Dedicated Schools Grant (DSG) deficit position and the next steps required to reduce the deficit through General Fund contributions.

Recommendation(s)

It is recommended that:

- 1) Cabinet notes the work and modelling that has been completed for the Dedicated Schools Grant (DSG) management plan submission to the Department for Education (DfE) that describes the unprecedented demand on Special Educational Needs and Disability (SEND) services despite intense activity through the SEND strategy and the specific Project Safety Valve (PSV) interventions and workstreams.
- 2) Cabinet notes the urgent action required before the submission of the plan on 18 July.
- 3) Cabinet notes the intention to a reduction of the deficit position through use of the General Fund over a 3-year period: £2m in 2025/26, £2m in 2026/27, £2m 2027/28. This will be facilitated by the identification of additional savings during the MTFS process for each of the respective years. The financial mechanism supporting this will be subject to DfE confirmation.

Reasons for recommendation(s)

There is a risk that the current Project Safety Valve Agreement with DfE would be withdrawn, which would mean that the Council would not receive the remaining £6m within the agreement to contribute towards the historic deficit. The deficit at the end of the 2022/23 financial year was £18.6m.

Alternative options considered and rejected

We have considered further discussions with DfE. However, the position of the DfE has been made plain in recent discussions and they are clear in their expectations, having required the same type of commitment from other local authorities within Project Safety Valve.

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Background

In 2020 Bury Council entered into a Safety Valve Agreement with the DfE to support improvements to SEND Services and to help reduce a historic deficit of expenditure against the Dedicated Schools Grant (DSG). This agreement provided £20m of funding from the DfE over a 4 year period to support the transformation of local services, and to eliminate the cumulative deficit on the High Needs Block (HNB) in the DSG which was predicted to be £25.1m by March 2021 at the time of entering into the Safety Valve Agreement. Please see appendix 1 for the original agreement which is published on the DfE website [here](#).

The agreement included specific milestones with associated deficit reductions to be achieved by 2024/25 resulting in a zero deficit by March 2025 and an ongoing ability to remain within the High Needs Block (HNB) of the DSG. This would be achieved through investment and transformation of SEND services against the 5 conditions described in the agreement:

- Strengthen Special Educational Needs assessment and placements process, including clarifying assessment thresholds for Education Health and Care Plans (EHCP) by March 2022.
- Ensure robust planning for future provision, including reducing the use of independent school placements by increasing the availability and suitability of local provision within Bury.
- Improve quality and timeliness of management information to enable evaluation of impact of central services.
- Support and drive schools in Bury to meet a higher level of need in a more cost effective way within mainstream settings, while maintaining the quality of provision. Develop a culture in which demand is more effectively managed throughout the authority.
- Remodel financial practice to ensure accurate contributions from appropriate funding sources, by December 2021.

Monitoring was provided through quarterly submission reports.

Although Bury has strengthened the EHCP process including increased timeliness and quality of plans and has remodelled the financial practice and implemented a financial strategy. Bury has not been as successful in managing demand and in 2022 saw a 63% increase in the issuing of new EHCP plans. Bury was the fifth highest Local Authority for the issuing of EHCP plans in 2022 and now has the 21st highest proportion of EHCPs per capita and has the 18th highest per capita spend. This is unsustainable and without urgent activity to ensure need is identified and met earlier, spend will continue to escalate and present significant challenges to the DSG deficit eradication. The increase in demand combined with the delay in creating additional special school places in Bury and a reliance on out of borough places has impacted on progress against eradication of the deficit.

There was a target of £3.3m of savings activity to be achieved in 2022/23 and £6.338m savings activity was achieved in year. Savings were achieved from reviewing expenditure in the DSG, in particular in regard to the education restructure and the disestablishment of the CLAS service and a review of the inclusion hubs. The finance strategy has continued with a focus on EHCP banding; inclusion funding; special school banding; a review of Alternative Provision.

However, despite savings achieved the increase in demand and the increase in expensive out of area places due to the lack of SEND sufficiency in Bury meant that Bury has not met the deficit reduction targets within the agreement and is no longer on track to eradicate the deficit within the agreed timescales.

Therefore, in April this year DfE advised that we needed to complete a DSG Management Plan as part of our agreement. This document requires forecasting of our Section 251 budget and how we will reduce the DSG deficit through modelling of our PSV workstreams and activity.

DSG Management Plan Position June 2023

The latest PSV modelling is that despite £6.3m savings achieved in 2022/23, the closing deficit balance on the DSG in March 2023 was £18.601m.

This modelling has confirmed that Bury has experienced unprecedented demand for new Education, Health and Care Plans (EHCPs) following the COVID pandemic which was not included in the original calculations. As previously stated this demand is compromising our ability to reduce the DSG deficit as quickly as the original plan and PSV agreement with the DfE envisaged. The detailed modelling undertaken to support completion of the DSG management plan suggests a 2024/25 deficit of £13.305m. If we are able to utilise support from general funds in terms of £2m per year for 2025/26, 2026/27 and 2027/28, as a consequence of the identification of additional savings through the MTFs process, along with the intensive transformation funded through PSV we would expect a deficit clearance by 2028/29 and a surplus in 2029/30.

There has been joint working across the council, with a number of multi -agency workshops agreeing new workstreams to ensure that there is a focus on ensuring need is identified earlier and met earlier in the system.

Since February 2023 there has been enhanced internal project management capacity and closer working between finance and the SEND service. The Governance structure has been revised; terms of reference of the Project safety Valve Board have been strengthened and there have been three multi agency workshops. There have been weekly joint service meetings to ensure alignment between service activity and spend.

Summary of Service activity and pressures

Our SEND strategy has been driving improvement in Bury over the past 2 years. In particular, we are focusing on:

Earlier Intervention and prevention

There is an immediate need to reduce demand for EHCPs through increased focus on earlier identification and meeting need more consistently at SEN support. Bury's SEND

Graduated Approach Toolkit has been created and will now be embedded in the Local Offer. There is a rolling training programme, with the first set completed by the end of October 2023. The Graduated Approach will also be embedded in the induction of all education staff. To support delivery of the approach, Barnardo's has been commissioned to create a volunteer network in Bury to signpost professionals to the support available. This is an important step as the Approach is embedded and pupils are supported. We expect the Approach to support an increase in the number of pupils receiving SEN support and a decrease in the number of requests for EHCPs. We expect to begin to see a difference in the number of pupils receiving SEN support by July 2023.

High quality Education Health and Care Plans (EHCP) and reviews

Significant progress has continued with improving the EHCP process and working with parents and Bury2gether to continue to deliver an improved SEND service in Bury. An EHCP Team Manager started in August 2022 and the team has remained stable. This has enabled a greater focus on quality, co-production and timeliness.

Since March 2023 the existing finance panel and EHCP panel has been strengthened with increased membership, including commissioning and finance. An additional jointly commissioned fixed term senior post within children's commissioning has been created to enable a review of our commissioning approach to ensure partnership working and best value in meeting need.

Increasing Local Specialist Provision

Increasing local sufficiency is a key strand of the local strategy, as it will reduce the need for expensive Independent, Non-Maintained Special Schools (INMSS), while also meeting need closer to home. Significant progress has been made in creating Resourced Provision (RP) places in primary and secondary schools across Bury. These RP places specialise in Social Emotional and Mental Health (SEMH), Autism Spectrum Conditions (ASC) and Speech, Language and Communication Needs (SLCN) and will be phased in from September 2023 to match need. This additional local capacity, together with the creation of two Free Special Schools (one specialising in ASC, one in SEMH), will mean Bury will be less reliant on commissioning INMSS provision to meet the needs of pupils. This will yield substantial benefits and enable some children and young people currently educated outside the local area to return to local maintained schools.

Demand Pressures within Bury's SEND system

Much progress has been made over the past 2 years, but the positive changes implemented to date have been more than offset by a surge in demand for Education, Health and Care plans. To put this rise in context, the total number of EHCPs has been rising nationally by an average of 10% per year since 2018. However, the rise in Bury in 2022, has been much greater: scaling the number of new EHCPs per head of population, Bury had the 5th highest rate of new EHCPs out of the 150 local authorities in England.

The increasing number of new EHCPs has occurred in advance of the planned increase in local specialist capacity and has led to increasing numbers of children's needs being met within the independent, non-maintained special school sector. The combination of a larger than average number of new EHCPs, with an already higher than average number of existing EHCPs, with increasing use of non-maintained special school provision has created acute demand pressures in Bury's SEND system.

Links with the Corporate Priorities:

The proposal will support key ambitions of the Let's do it strategy:

- A better future for the children of the borough
- A better quality of life
- Building a fairer society that leaves no-one behind

Equality Impact and Considerations:

The outcomes of the initial equality analysis is positive. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows: A public authority must, in the exercise of its functions, have due regard to the need to:

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

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

An equality impact assessment has been undertaken.

Next Steps

It is recommended that Cabinet notes and approves the intention to a reduction of the deficit position through use of the General Fund over a 3-year period: £2m in 2025/26, £2m in 2026/27, £2m 2027/28. This will be facilitated by the identification of additional savings during the MTFS process for each of the respective years. The financial mechanism supporting this will be subject to DfE confirmation.

This will allow for timely submission of the DSG management plan with the latest modelling included in the calculations.

Assessment and Mitigation of Risk:

Risk / opportunity	Mitigation
Risk of Bury Council being withdrawn from Project Safety Valve (PSV) due to increased activity and not being able to eradicate the deficit on the DSG (Dedicated Schools Grant) The latest PSV modelling is that despite £6.3m savings achieved in 2022/23, the closing deficit balance was £18.601m.	Strengthened PSV Board; Revised DSG monitoring plan in place; weekly meetings between service and finance; revised workstreams in place
Special educational needs and disabilities improvement adversely impacted by the challenges in regard to the safety valve agreement leading to escalation of complaints	Reviewing engagement plan. Strengthened SEND Board- seeking to appoint an independent chair
Challenges in regard to the special educational needs and disabilities improvement journey result in a poor Local Area SEND inspection.	SEND development plan in place; co-production activity with the Council with Disabled Children.

Legal Implications:

The Authority has been working with the Dfe since 2020 under the Safety Valve agreement to reduce the deficit to the DSG, this report outlines the current position. The Local Authority (Capital Finance and Accounting) England Amendment Regulations 2020 established that the general fund should not support DSG deficits without prior permission, under the agreement with the Dfe we will continue to work to ensure that the relevant permissions are in place.

Financial Implications:

The deficit on the DSG has been accumulated over a number of years and has been driven by increasing demand, increased unit costs for EHCPs in both maintained schools and independent non maintained schools. The service and finance are working very closely to track the activity which is driving the financials and are working with partners across the locality to ensure all parts of the system own the issues.

Expenditure was contained within the high needs block allocation for the 2022/23 financial year and is forecast to do so going forward. This is one of the conditions of Project Safety Valve. The management plan which is to be submitted to the DfE in July identifies that the intention is to reduce the deficit position through the use of the General Fund over a 3-year period: £2m in 2025/26, £2m in 2026/27, £2m 2027/28. This will be facilitated by the identification of additional savings during the MTFs process for each of the respective years and is subject to DfE confirmation.

Appendices:

None.

Background papers:

Cabinet February 2021

Cabinet March 2021

Cabinet April 2022

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
DSG	Dedicated Schools Grant – funding for schools and education services
PSV	Project Safety Valve – DfE initiative to support local authorities in eliminating their DSG deficit
DfE	Department for Education
HNB	High Needs Block – a component part of the DSG
SEND	Special Educational Needs and Disabilities
SEMH	Social Emotional and Mental Health
Section 251	Financial return to the DfE completed by councils covering spending on education and children's social care functions
EHCP	Education, Health and Care Plan – the co-ordinated, agreed plan to support children a higher level of SEND, whose needs could not be met without such a plan.
SEN Support	Additional support provided by mainstream primary and secondary schools to children with additional needs, but without an EHCP - support funded from within school budgets
ASC	Autism Spectrum Conditions
SLCN	Speech, Language and Communication Needs
RP	Resourced Provision – additionally funded places in mainstream primary and secondary schools designed to support children with additional needs to remain within a mainstream school.
INMSS	Independent and Non-maintained special schools – schools outside of the maintained sector, in which places are purchased outside of normal formula funding arrangements – almost always at significantly higher cost.