SCRUTINY REPORT

MEETING: **Children's and Young People's Scrutiny Committee**

DATE: **July 2025**

SUBJECT: Project Safety Valve Agreement Update

REPORT FROM: **Stephen Holden, Director of Education and Skills**

CONTACT OFFICER: **Robert Arrowsmith, Head of Strategy, Assurance & Reform, Children's Services**

1.0 BACKGROUND

1.1 Bury Council signed a Safety Valve agreement with the DfE in 2021, that agreed a programme of activity designed to reduce the overall level of expenditure on children with additional needs in Bury so that the expenditure remained within the national provided budget and the deficit that had grown year on year could be eliminated by the end of the agreement. As part of the agreement, Bury agreed to deliver changes of approach and new initiatives and the DfE guaranteed additional funding to pay down the deficit and support those changes, in addition to supporting the creation of new Special Schools under the free school programme and the expansion of existing special schools. The original agreement in 2021 was refreshed and revised and agreed in early 2024. The agreement covered the period up to the end of 2027/28 financial year.

1.2 Progress on delivery of the agreement is monitored by the Project Safety Valve Delivery Board, chaired by the Executive Director for Children's Services, with progress also now being reported to the Finance Assurance Board. Periodically, the council also reports to the Department for Education (DfE) on progress. Reporting requires an estimated financial position at the end of the agreement period. Following Bury's local area SEND services Inspection by the Care Quality Commission and Ofsted. The inspection team identified widespread, systemic failings in services and highlighted the challenge that we need to do more to improve the outcomes of children and young people with special educational needs.

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2.0 ISSUES

2.1 In the most recent completed return (April 2025), Bury reported to the DfE that we met the expectations of the management plan last financial year and are making progress in our SEND improvement journey. At the end of the first full financial year (2024/25) of our revised PSV management plan and a year and a half after its submission to DfE we were approximately £0.7m ahead of plan. This positive story is supported by key performance indicators that have moved in a positive direction; including:

- Fewer requests for new Education, Health and Care Plans (EHCPs) compared to this time last year
- An increase in the number of cessations compared to this time last year
- 20-week compliance to completing assessments within 20 weeks remaining high at 97%

- Growth in specialist capacity and in resourced provision in mainstream schools.

2.2 Bury is also viewed by external stakeholders as making good progress in its SEND improvement journey, with positive feedback provided by the DfE at the December and July stocktakes on progress.

2.3 Despite this progress, the pace of deficit reduction is behind the level originally set out in the PSV plan. We are projecting a significant overspend vs plan this year (~£1.5m). The in-year cost pressures are caused by higher demand and cost in two key areas:

- Higher numbers of children with EHCPs than planned.
- Higher numbers of children requiring higher band and/or special school provision, with higher numbers of children in higher cost independent special schools because of capacity issues within the specialist, maintained sector.

2.4 Elements of this are due to systemic challenges both locally and more widely. This includes a challenging job market impacting on staff recruitment and retention and consequent delays in expanding team capability (e.g. developing an outreach team).

2.5 The education provider market is also under considerable pressure, creating issues in sufficiency development, with several schools reversing their agreement to develop Resourced Provision and decisions still outstanding from the DfE on new Special Free Schools (an important component part of Bury's PSV agreement and in the PSV agreements in other councils).

2.6 Our current forecasting based on our revised plan will see the Direct Schools Grant (DSG) deficit reducing from £19 million to £11 million by the end of the plan, with the deficit continuing to reduce in following years. This would see us achieve the deficit reduction but that there is a significant risk to the current timelines. This modelling is predicated on assumptions about the number of new EHCPs issued and the increase of local specialist capacity that are built into the agreement with the DfE, but which are now subject to slippage. It is also important to note in viewing projections and agreement that there has been substantial growth nationally in the number of children with EHCPs in the last two years – up by a quarter in total in that time – and that this growth is widespread, not limited to the councils with PSV or Delivering Better Value agreements in place with the DfE.

Project Safety Valve Background & Wider National Context

Impact of the SEND reforms

2.7 The national SEN reform programme of 2014 sought to provide more joined up services for children and families -and was widely supported by the sector and parents at the time, with support from politicians with personal experience of caring for disabled children/children with additional needs. With the benefit of hindsight, the circumstances of the reform implementation and some of the key changes made by the reforms, contained the seeds of the current national financial crisis.

2.8 The reforms made two key changes that altered the balance of the previous system for supporting children with additional needs in schools:

1. They extended the age range supported by plans up to the age of 25 (previously 19) and down to pre-school ages; and secondly

2. They shifted the presumption towards assessment for an EHCP, if it was requested.

2.9 These important changes took root in a school system that was increasingly financially challenged and separate from local authority control (academisation) and strongly encouraged to focus on school standards and academic achievement (English Baccalaureate, zero-tolerance behaviour policies etc.)

2.10 Further, it was not envisaged that the proposed changes would result in substantially more children being in receipt of statutory support, so the reforms were not accompanied by substantial additional funding for local authorities to support implementation. The reforms also existed in the wider context of reduced funding for public services and large-scale cuts in non-statutory, early intervention services.

2.11 The consequence of all these issues has been a huge growth in the number of children with EHCPs. This increase was partly driven by parents seeking help for their children struggling within an increasingly academically focused school system; but have also been driven by schools seeking assistance to meet growing levels of additional need in children attending their schools.

2.12 The result of the above has been the vast growth in the High Needs Block (HNB) spend (the money within the Direct Schools Grant (DSG) spent on children with additional needs and the provision to support them) and by extension DSG deficits, which increased from almost nothing in 2014 to a projected £5.4 billion plus by the end of 2025/26.

Central Government Response

2.13 The government initially did not focus on the growth in deficits, but eventually responded more meaningfully as concerns grew from accountants and auditors about the size of the growing deficits in council accounts (and the customary expectation that council budgets must balance every year). In response, the Government adopted a two-pronged approach.

2.14 Firstly, in late 2019 the DfE launched a consultation asking for views about strengthening the arrangements for ring-fencing DSG, confirming that DSG deficits did not have to be met from local authorities' general funds and were to continue to be treated separately from main council accounts. It is important to note that throughout the existence of the Direct Schools Grant, it has sat outside of council general accounting. Initially, this prevented councils from using any DSG surplus to support themselves financially, as most local authorities had DSG surpluses.

2.15 The DfE put the ring-fencing requirement into the School and Early Years Finance Regulations 2020 to give it statutory backing. The regulations clearly stated that DSG deficits could not be paid off from general funds without first requesting permission from the Secretary of State, and that the DfE would work with authorities to enable them to pay off their DSG deficits from within DSG funds. This clarification is commonly referred to as 'the override'. This is really a mischaracterisation, as it infers that something new had been put in place, rather than an affirmation that the accounting treatment would continue as it had before. Initially, this provision was confirmed for the period up to 2022/23, but in early 2022, the override was confirmed until the end of 2025/26.

2.16 At this point in time (late 2019), the total national deficit stood at a little over £600 million, albeit up from only £2m five years before, and the DfE clearly viewed the deficits as caused by system mismanagement at a local level. Therefore, the second approach to addressing the issue by central government was to draw up a list of the local authorities whose High Needs Block (HNB) overspend was greatest as a percentage of the annual HNB allocation. There were 5 local authorities in wave 1 2020/21 (including Bury), 9 in wave 2 2021/22, 20 in wave 3 2022/23 and 5 in wave 4 2024/25.

2.17 Eventually, Safety Valve was one of two interventions to support progress in addressing what was a growing issue, with a further 55 local authorities were included in the Delivering Better Value programme, which started in June 2022. At this point with over half of local authorities in some form of support/intervention for high needs deficits, it became increasingly challenging to argue that this was a local, rather than a national problem (by the end of 2022/23 financial year, local authority DSG deficits had more doubled to be just less than £1.6 billion).

2.18 In the spring of 2025, The Guardian published research from a survey of all local authorities in England about the expected scale of DSG deficit at the end of 2025/26.

- 131 councils replied (86% of the total).
- The total projected DSG deficit for the authorities replying at the end of 2025/26 was £5.2 billion, a 54% increase on the figure at the end of 2024/5; and suggesting a likely national deficit of close to £6 billion if the findings are generalised across all LAs.
- Seven county councils make up £1.35 billion of the total (Hampshire, Devon, Surrey, Suffolk, Norfolk, Cheshire East, West Sussex)
- Only 3 of the 79 Local authorities with an agreement with the DfE around High Needs deficits (PSV or DBV) expected to have eliminated their deficit at the end of the period of the agreement (and all three expected it to be a temporary position before the deficit began to grow again).
- Many LAs that had previously had better deficit positions, both within the region and nationally, were expecting significant negative movement during the year.

Statutory Override and Autumn White Paper on Schools and SEND Reform

It was announced on 20th June 2025 that the Dedicated Schools Grant (DSG) statutory override, which was due to cease from April 2026, is now proposed to continue until the end of 2027-28 financial year. The announcement came as ministers launched a consultation on reforms to the funding formulas which determine councils' government funding. Launching the consultation, the government pledged to reform the funding for SEND and children's social care so that it "better reflects the level of demand of these services" and help ensure they are "properly funded to support the most vulnerable children".

The financial consultation will be followed by a White Paper in the Autumn outlining the Government's proposals for reforming the current system for supporting children with additional needs.

List of Background Papers:-

None

Contact Details:-

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