

Report subject	<b>Dedicated Schools Grant (DSG) Management Plan</b>
Meeting date	13 December 2023
Status	Public Report
Executive summary	<p>The DSG accumulated deficit has grown rapidly from £3.6 million in April 2019 to £35.8 million by March 2023, with £63.4 million estimated for March 2024 from the high needs funding gap.</p> <p>As a result of the high deficit, BCP was invited to join the DfE's Safety Valve (SV) Programme in July 2023. Local authorities with SV agreements are asked to focus on one mission statement: to develop plans to reform their high needs systems as quickly as possible to provide a good service within their available funding, normally by the end of a maximum five-year period.</p> <p>The deficit growth over 2023-24 reflects an annual DSG high needs funding gap of £27.5 million. The council is required to undertake temporarily borrowing to fund the cash payments. This borrowing cost is estimated to cost the council £2.5m in 2023-24 and is to the detriment of services that it would otherwise be able to provide.</p> <p>This report outlines the progress made in developing a deficit management plan and next steps underway.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <p><b>School Forum make recommendations to the council concerning the deficit management plan.</b></p>
Reason for recommendations	Schools Forum is to be consulted on the council's draft deficit management plan to be submitted to the Department for Education by 15 December 2023.
Portfolio Holder(s):	Councillor Richard Burton, Children's Services Councillor Mike Cox, Finance
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Wards	Council-wide

Classification	For Consultation
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## Background

1. BCP Council was invited to join the DfE's Safety Valve (SV) Programme in July 2023. Local authorities with SV agreements are asked to focus on one mission statement: to develop plans to reform their high needs systems as quickly as possible to provide a good service within their available funding. In addition, there are two principal goals which are critical for a local authority's ability to reach a sustainable position:
  - a) appropriately managing demand for EHCPs, including assessment processes that are fit for purpose.
  - b) use of appropriate and cost-effective provision - this includes ensuring mainstream schools are equipped and encouraged to meet needs where possible, whilst maintaining high standards for all pupils.
2. If an agreement is reached, local authorities are held to account for the delivery of their plans via quarterly reporting to the Department. Providing the DfE is confident that adequate progress is being made, authorities will receive incremental funding to support the elimination of their historic deficits, spread out over the lifetime of the agreement, usually no more than five financial years.
3. The council's initial proposal consisting of a DSG management plan and accompanying narrative is required by 15 December 2023 for the DfE to review. This plan will need to set out the financial support BCP needs from the DfE to eliminate the historic deficit over the period of the agreement. This could include a request for funding to help implement the proposals, as well as funding to eliminate the deficit directly, although it is not expected this to constitute a significant element of the total financial support requested.
4. Feedback from the DfE is to be provided to the council by early January. There will then be the opportunity to make any final amendments before submitting a final proposal by 12 January 2024 and if approved by Secretary of State, the DfE we will enter into an agreement.
5. There will be an opportunity to request additional capital funding through the SV programme in cases where investment in local infrastructure will result in the availability of more appropriate provision with significant revenue savings.
6. Work progressed over the autumn to model various scenarios to inform the DSG management plan to be submitted. The main levers in a plan being:
  - a) The number of new EHCPs agreed and where these are placed.
  - b) What happens to pupils at transition points.
  - c) Exclusions and how these are managed.
  - d) Central purchased support and intervention services and its impact for example, outreach service, speech, and language therapy (SALT), reintegration officers, portage.
  - e) The use of independent and specialist provision outside of the education estate.

## **Strategic Context of SEND Services in BCP**

7. The last Local Area Inspection of SEND services in 2021 identified that there were serious and systemic flaws in the provision of services to children, young people, and their families.
8. Since this time, a Written Statement of Action Plan has been in operation across the local area and had created eight workstreams for improvement. Progress against these workstreams was reviewed over the summer of 2023 across the partnership resulting in an agreement for a new improvement plan.
9. A new and revised improvement plan alongside a supporting SEND strategy will be issued from the partnership to DfE during December. This work has identified eight strategic priorities and some of these impact on the budget, such as early help and identification, inclusion, pathways, sufficiency, preparation for adulthood and managing resources.
10. The creation of the improvement plan has been informed by a diagnostic of the SEND services. This has included a review of operational feedback from head teachers over the last two terms.
11. The Local Authority has also engaged with and listened to the views of the Parent Carer Forum representatives, alongside a review of recent live complaints from families in the local area.
12. Progress against the improvement plan will be monitored by a SEND Improvement Board which is chaired by John Coughlan from the DfE. There are existing school representatives in this Board.
13. When considering our sufficiency of school places, our statistical analysis against other Local Authorities tells us that we have a higher proportion of children accessing specialist provision in non-maintained and independent schools and colleges which is currently resulting in £29.9m spend each year, including for post 16 provision. This represents 34% of the total high needs block expenditure and 50% of the available funding.
14. A key area of focus is the high use of specialist provision within the primary estate, our post 16 cohort and the escalation of children into specialist provision at key transition points.
15. Schools have told the Local Authority that together we must review again the financial banding system implemented in 2022. This must support and promote SEND inclusion, thus ensuring that more children remain in, and thrive in mainstream education. Options to develop this will need to be co-produced over the next few months.

## **DSG Management Plan**

16. The DfE expect a successful plan to show a balanced DSG within five years. With the rapid growth in education, health, and care plans (EHCPs) in recent years in BCP this would not be possible without:
  - a. Significantly restricting access to EHCP support.
  - b. moving most pupils currently in non-maintained and independent special schools (INMSS) into new state funded provision to be built.
  - c. significantly increasing the proportion of pupils remaining in mainstream provision.

## Scenario 1 – DSG management plan with rapid balancing

17. Rapid balancing of the DSG given the current level of EHCPs and permanent exclusions is very unlikely to meet the second requirement of the mission statement, namely, to provide a good service.
18. Table 1 below shows a potential progression for the DSG with balance achieved by year five, with this leading to a maximum deficit of £98 million.

**Table 1: Scenario 1 – DSG balanced by year five**

	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30	30-31
Average Cost	£13,311	£15,528	£16,137	£13,254	£13,259	£10,152	£10,001	£9,906	£9,826	£9,619
FTEs	3,254	3,294	3,960	4,232	4,328	4,421	4,545	4,670	4,799	4,938
Net Growth			20%	7%	2%	2%	3%	3%	3%	3%

  

£million	21-22	22-23	23-24	Year 1 24-25	Year 2 25-26	Year 3 26-27	Year 4 27-28	Year 5 28-29	Year 6 29-30	Year 7 30-31
EHCP cost	43.319	51.151	63.910	56.084	57.388	44.882	45.448	46.261	47.155	47.500
Central Services	3.497	4.116	5.483	5.182	5.182	5.182	5.182	5.182	5.182	5.182
Places (SEN)	10.682	10.858	11.552	12.292	12.292	15.992	15.992	15.992	15.992	15.992
AP (including places)	3.637	3.749	5.813	4.368	3.640	3.069	2.740	2.659	2.615	2.586
<b>Total HNB Spend</b>	<b>61.134</b>	<b>69.874</b>	<b>86.758</b>	<b>77.927</b>	<b>78.502</b>	<b>69.125</b>	<b>69.362</b>	<b>70.095</b>	<b>70.944</b>	<b>71.260</b>
HNB Funding (incl transfer 21/22 to 23/24)	48.916	54.361	59.216	60.858	62.683	64.564	66.501	68.496	70.551	72.667
School block transfer				-1.300	-1.365	-1.433	-1.505	-1.580	-1.659	-1.742
<b>In-year deficit/(surplus)</b>	<b>12.218</b>	<b>15.513</b>	<b>27.541</b>	<b>15.769</b>	<b>14.454</b>	<b>3.128</b>	<b>1.356</b>	<b>0.019</b>	<b>-1.266</b>	<b>-3.150</b>
Deficit bf	7.853	20.317	35.844	63.385	79.154	93.608	96.736	98.092	98.111	96.845
other DSG variances	0.246	0.014								
<b>Deficit cf</b>	<b>20.317</b>	<b>35.844</b>	<b>63.385</b>	<b>79.154</b>	<b>93.608</b>	<b>96.736</b>	<b>98.092</b>	<b>98.111</b>	<b>96.845</b>	<b>93.695</b>

19. The deficit in the above scenario includes the maximum schools block contribution of 0.5% each year but without any contribution from the DfE through a safety valve agreement or from a council contribution. It assumes all other DSG expenditure blocks are balanced to the available funding.
20. The assumptions for the high needs budget in Table 1 above are as follows:
  - a. No existing plans pre-16 are ceased, and costs are included for all years.
  - b. Average of 20 new plans per month from April 2024 (currently 60 per month but this does include processing a backlog of plans).
  - c. 90% of new plans are for a mainstream school (currently 70%).
  - d. 5% of new plans are for a state special school (currently 7%). This has been reduced as currently the complexity of children is reducing available places.
  - e. 5% of new plans are for a resource bases (currently 0% because pupils transition from a mainstream setting at a later stage, with no further spaces available until sufficiency work is completed with a 24-month timeline).
  - f. Zero cost arrangements for all plans post-16 (this will not be possible).
  - g. Zero cost arrangements for existing post-16 at 18 (difficult to enforce).
  - h. 95% (370) existing INMSS pupils will be moved to a new free special school campus / existing site expansion from April 2026.
  - i. Funding is secured for the new special school campus above (cost estimate of £25 - £30 million).
  - j. No bespoke packages from April 2024.
  - k. No new exclusions from April 2024 (already seeing significant increase in exclusions).
  - l. No escalation of plans at annual reviews or transition points.

21. Other than assumption a. above (not ceasing any current plans) the assumptions needed to quickly balance the DSG have been agreed as unrealistic, including by the DfE SEND advisor supporting the safety valve programme.
22. The main risks associated with scenario 1 are as follows:
  - a. Inability to deliver all aspects of the plan due to legality.
  - b. Mainstream system could not accommodate this level even if parent or young people would agree.
  - c. Model would not meet statutory duties as detailed in the Children and Families Act (2014) and SEND Regulations (2014).
  - d. Significantly reducing the number of EHCPs issued would create additional pressure on alternative provision and inclusion, reducing any cost savings.
  - e. Statutory duty to allow participation in education until aged eighteen unmet.
  - f. Judicial reviews potential and cost to the council
  - g. Failure to meet Section 19 duty of Education Act 1996 where suitable education provision must be made for those children who have not been in school for 15 days or more.
  - h. High capital outlay to support the acceleration of this model (high specification building to compete with INMSS).
  - i. Reputational risk to council with schools / DfE / parent & carers forums.

**Scenario 2: DSG management plan - potentially deliverable but very challenging assumptions**

23. A second scenario has been considered based on potentially deliverable but still very challenging assumptions, but this does not balance the DSG within 5 years with the gap maintained around the current level of £27.5 million. The accumulated deficit would, therefore, continue to grow.
24. Scenario 2 includes the same elements as scenario one but at a slower pace of change to reduce costs through:
  - a. Improved consistency applied to reduce EHP growth from current levels and to remain within the legislative framework.
  - b. Moving pupils from INMSS to state provision at transition points only.
  - c. Providing more financial support for schools to increase the proportion of pupils remaining in mainstream provision.
  - d. Reducing the cost of post-16 provision through market management
25. Table 2 below provides the progression of the DSG by year five with potentially deliverable assumptions leading to a maximum deficit of £198 million. However, as the annual funding gap is still at the current level of £27.5 million or greater the deficit will continue to grow annually without additional funding sources.

**Table 2: Scenario 2 – DSG with challenging assumptions**

	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30	30-31
Average Cost	£13,311	£15,528	£16,137	£14,016	£13,185	£12,666	£12,655	£12,599	£12,594	£12,633
FTEs	3,254	3,294	3,960	4,572	4,827	5,075	5,302	5,493	5,701	5,925
Growth			20%	15%	6%	5%	4%	4%	4%	4%

				Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
£million	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30	30-31
EHCP cost	43.319	51.151	63.910	64.087	63.649	64.287	67.095	69.208	71.798	74.847
Central Services	3.497	4.116	5.483	8.191	8.300	8.411	8.524	8.640	8.757	8.878
Places (SEN)	10.682	10.858	11.552	12.292	13.012	14.262	16.012	16.012	16.012	16.012
AP (including places)	3.637	3.749	5.813	5.221	5.111	4.974	4.066	3.815	3.763	3.870
<b>Total HNB Spend</b>	<b>61.134</b>	<b>69.874</b>	<b>86.758</b>	<b>89.790</b>	<b>90.072</b>	<b>91.934</b>	<b>95.698</b>	<b>97.675</b>	<b>100.331</b>	<b>103.606</b>
HNB Funding (incl transfer 21/22 to 23/24)	48.916	54.361	59.216	60.858	62.683	64.564	66.501	68.496	70.551	72.667
School block transfer				-1.300	-1.365	-1.433	-1.505	-1.580	-1.659	-1.742
<b>In-year deficit/(surplus)</b>	<b>12.218</b>	<b>15.513</b>	<b>27.541</b>	<b>27.633</b>	<b>26.024</b>	<b>25.937</b>	<b>27.692</b>	<b>27.599</b>	<b>28.122</b>	<b>29.197</b>
Deficit bf	7.853	20.317	35.844	63.385	91.018	117.042	142.978	170.670	198.269	226.391
other DSG variances	0.246	0.014								
<b>Deficit cf</b>	<b>20.317</b>	<b>35.844</b>	<b>63.385</b>	<b>91.018</b>	<b>117.042</b>	<b>142.978</b>	<b>170.670</b>	<b>198.269</b>	<b>226.391</b>	<b>255.588</b>

26. The deficit in the above scenario includes the maximum schools block contribution of 0.5% each year but without any contribution from the DfE through a safety valve agreement or a council contribution (as for scenario 1).

27. The assumptions for the high needs budget in the above plan are as follows:

- a. Average of 30 new plans per month in 2024-25, reducing by 1 plan per month annually (24 by 2030-31).
- b. Only 5% of current INMSS placements (broadly equivalent to those at primary to secondary transition) to be moved to an appropriate state special school.
- c. Reduction of £4 million in post 16 cost in April 2025 through market management and relationship with further education providers.
- d. Reduction of further £1 million post 16 cost in April 2026.
- e. New provision for SEMH/ASD to be built – additional capital required and limited appetite from current providers. Included 80 places from Sept 2024 (20 post 16, 60 pre-16 places).
- f. Pre-16 new special school provision – 300 places SEMH/ASD ready for September 2026 - requiring capital investment £25-£30 million.
- g. Additional £2.8 million included for mainstream support with a related saving on alternative provision for excluded pupils of £3.2 million (net £0.4 million cost reduction). Suggested plans include:
  - i. Payments by results with clear delivery targets.
  - ii. System behaviour change by year two with more children with a support plan in mainstream provision.

28. The main risks associated with scenario 2 are as follows:

- a. EHCP demand remains higher.
- b. Unable to achieve reduction in post 16 provision costs.
- c. Use of alternative provision continues to grow and delay in re-contracting.
- d. Impact of parental choice
- e. Judicial reviews and more tribunals
- f. Reputational damage

## **Next Steps**

29. Further modelling is underway in seeking to close the gap. This is based on the main assumptions in scenario two with refinements to the plan. This includes:
- a. Expanding the timeline with fresh assumptions made for later periods reflecting the cumulative impact of changing system behaviours as progress made in the initial years of the plan become embedded.
  - b. Reflecting funding from other sources:
    - i. Schools block funding transfer beyond 0.5%. To close the £28.9 million gap estimated for 2024-25, a funding transfer of 11% would be required.
    - ii. Clawback of excess maintained school balances
    - iii. Contributions from the safety valve programme (DfE accepting annual balance of the DSG will take more than 5 years)
    - iv. Council funds to support the DSG which requires agreement of both the DfE and Department for Levelling Up Housing and Community (DLUHC)

## **Options Appraisal**

30. Modelling has taken place looking at varying assumptions with the most achievable but still very challenging assumptions taken forward into the DSG deficit management plan (scenario 2).

## **Summary of financial implications**

- 31. The deficit management plan seeks to balance the in-year DSG position over the medium term but to provide a good service BCP will require longer.
- 32. The projected high needs funding gap for 2024-25 with a 0.5% transfer from the school block is £27.6 million with a forecast accumulated deficit at March 2025 of £91 million. This rises to £198 million by March 2029 without further funding sources being available.
- 33. Financial support is needed from the DfE and DLUHC to prevent the DSG deficit from being a serious threat to the financial stability of the council.
- 34. The council must support the annual cost of servicing the accumulated deficit, which is estimated at £2.5 million for 2024-25.

## **Summary of legal implications**

- 35. The DSG is regulated through the Schools Funding Statutory Framework with the DfE setting the terms of any safety valve agreement.
- 36. There are numerous statutory provisions for pupils funded through the high needs block. This includes those related to SEND, including legal challenges from parents, and those educated out of school, for example with medical needs or otherwise unable to attend school. There are also statutory provisions for pupils permanently excluded from schools.
- 37. Due to the accumulated DSG deficit the council is forecast to have negative reserves at March 2024. However, to mitigate this position, which is a problem nationally, the government issued a DSG statutory override by way of a statutory instrument (SI) for all authorities which became law at the end of November 2020. This SI means the council cannot contribute to the deficit, cannot hold a reserve to act as a counterweight and has

been required to move the deficit to an unusable reserve where it will sit as though it did not exist.

The statutory instrument reads as follows.

*Where a local authority has a deficit in respect of its school's budget for a financial year beginning on 1st April 2020, 1st April 2021 or 1st April 2022, the authority—*

*(a) must not charge to a revenue account an amount in respect of that deficit; and*

*(b) must charge the amount of the deficit to an account established, charged, and used solely for the purpose of recognising deficits in respect of its school's budget.*

On the 12 December 2022 as part of a local government finance policy statement government announced the extension of the DSG statutory override for a one-off period of three years up to 31 March 2026.

38. When the statutory override falls away, the accumulate DSG deficit will be greater than the council's total reserves and the council will technically be insolent. If the deadline is not extended, then it is expected that the council's Director of Finance would need to issue a section 114 notice in December 2024 as it would not be possible to set a balanced budget for 2025-26.

### **Summary of human resources implications**

39. There are no specific human resources implications from the recommendations in this report.
40. However, there may be implications for mainstreams schools in giving up a proportion of their funding each year to support pupil with high needs. The expansion of specialist provision will impact on staffing levels in those schools.
41. There may also be implications for staffing within the council in making budget provision for the annual cost of supporting the deficit.

### **Summary of sustainability impact**

42. This report has no implications for sustainability.

### **Summary of public health implications**

43. There are no implications for public health.

### **Summary of equality implications**

44. The purpose of the DSG management plan is to address the financial sustainability of support for pupils with additional needs.

### **Summary of risk assessment**

45. There are many risks inherent in the DSG management plan as it is based on challenging assumptions which may prove undeliverable. Chief among them are as follows:
- Reducing the rate of EHCP growth.
  - Reducing the average cost of placements over the lifetime of the plan.
  - Commissioning an appropriate distribution (based on national benchmarking) between placements for children with EHCPs.



- The ability of mainstream schools to cater for more pupils with additional needs.
- Significantly reducing the number of pupils permanently excluded from schools, and particularly for younger pupils.
- The rate at which new state funded places can be created.
- The success of “invest-to save” plans.

46. The DSG deficit is a significant risk to the financial viability of the council and support from the government must now be secured.

### **Background papers**

Schools Forum - September 2023

[BCP Council – Democracy \(ced.local\)](http://ced.local)

Other papers for the December 2023 meeting