SCHOOLS FORUM

Report subject	**DSG Management Plan 2024 to 2039**
Meeting date	15 January 2024
Status	Public Report
Executive summary	This report provides the detail of the updated DSG management plan submitted to the DfE for consideration as part of the DfE Safety Valve (SV) programme. The DSG accumulated deficit has grown rapidly from £3.6m brought forward from the preceding councils in April 2019 to £36m by March 2023, with £63m estimated for March 2024. The high needs funding annual gap is estimated at £27m in 2023-24. The updated DSG management plan is projecting a further rise to £29m in 2024-25 before it starts to reduce gradually over the remaining years of the 15-year plan. The estimated accumulated deficit at March 2025 is £92m without other funding sources being secured.
Recommendations	**It is RECOMMENDED that:** **School Forum note the information in the report and considers the funding transfer request in the separate paper on the agenda.**
Reason for recommendations	Schools Forum is to be kept informed of the progress made in managing the DSG deficit and information submitted to the Department for Education.
Portfolio Holder(s):	Councillor Richard Burton, Children's Services Councillor Mike Cox, Finance
Corporate Director	Cathi Hadley, Corporate Director for Children's Services Ian O'Donnell, Corporate Director for Resources
Report Authors	Sharon Muldoon, Interim Director for Education for Skills sharon.muldoon@bcpcouncil.gov.uk Nicola Webb, Assistant Chief Finance Officer nicola.webb@bcpcouncil.gov.uk
Wards	Council-wide
Classification	For information

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. A key part of the programme is the development of a revised DSG management plan. The previous plan, developed with the support of DfE consultants through the Delivering Better Value (DBV) programme, made little progress in reducing expenditure with the annual funding gap continuing to rise annually.
3. Initial progress in updating the plan was presented to Schools Forum in December 2023. This plan extended the time period to seven years and showed more progress being made to reduce the funding gap in the initial years but then it was forecast to start growing again from year 4 with the cumulative deficit by the end of year 7 at £256m.
4. In finalising the plan for the SV submission, the assumptions in the plan continued to be refined and the period extended to 15 years to enable more places to be created through capital schemes with children able to be educated in lower cost placements in the later years.

DSG Management Plan

5. Over the last 2 years the DSG overspend has increased considerably. Current forecast projections are for an accumulated deficit of £92m by the end of financial year 2024-25.
6. This budgetary pressure has been brought about through an increase in the number of new Education Health and Care Plans (EHCP) and the associated cost of delivering these plans for the duration of a child's or young person's education which can be up to the age of 25 years.
7. EHCP numbers have increased from 3109 as at March 2022 to 3382 (with a large backlog pending) at March 2023 and to 3,683 as at end November 2023, representing an increase of 18.5% since March 2022. The increase in EHCPs can be witnessed across the SEND system nationally and BCP in January 2023 was realising 44.3 per 1,000 (2 to 18 age group) and this compares with 44.7 for national and 41.9 South West region.
8. A review of BCP's EHCPs finds that as a local authority area there are particular challenges within its local special education system. These have resulted in the significant financial pressure. As a Local Authority area, BCP has more children and young people with an EHCP accessing specialist provision and this provision is more expensive than that provided through mainstream education.
9. BCP's profile as at November 2023 is that 36.9% of BCP's children and young people with an EHCP are accessing mainstream education. This compares with 41.8% for the South West and 41% nationally. The increased use of specialist provision creates a significant financial challenge to the DSG budget as they are more expensive.
10. Analysis of EHCPS for young people accessing Post 16 provision shows that within BCP 4.0% (November 2023) are accessing specialist provision. The national profile of specialist provision is 1.6% and 1.9% for the South West. This means that there is more

that the partnership can do to rebalance and reduce spend in this area, but this will take time as children accessing their specialist provision now are unlikely to move to a different setting or provider.

11. Overall, the cost attributable to children and young people accessing specialist provision has increased from £39.1m in 2021-22, to £45.2m in 2022-23 and is forecast at £54.7m for 2023-24.
12. Alongside the increase in EHCPs, BCP is also experiencing an increase in the use of alternative provision. This is due to a significant increase in both the temporary and permanent exclusion of children and young people. At the end of the academic year 2022-23 BCP witnessed 118 permanent exclusions and year to date 2023-24 a further 41 children have been permanently excluded. This is placing a further pressure on the High Needs Block budget of the DSG. The cost of alternative provision arrangements can typically be £25,000 to £30,000 annually in independent providers. The budget outturn for 2022-23 was £3.7m and for 2023-24 is forecast at £5.8m.
13. This budget cannot be funded from Council Tax as set out in the Local Authorities Capital Finance and Accounting (England) Regulations
14. At present the Department for Education is not willing to identify any alternative source of funds. Given the pressure this deficit would place on the Council's budget, a review of BCP Council's financial position has taken place to understand the potential to allocate or realise the funding needed for children and young people's plans through the wider schools budget.
15. BCP Council is working in partnership with all stakeholders across the SEND system to help to address the current financial challenges. Through the SEND Strategy and SEND Improvement Board, plans are being progressed with Health and school colleagues to consider what more can be done to: provide earlier support for children and their families and therefore reduce the number of new Education Care and Health Needs Assessments (EHNCAs); to increase the penetration of children with EHCPs within the mainstream estate through the increase use of the graduated response, the increased inclusivity of settings and; where needed to develop additional specialist provision to reduce the dependency on high cost placements. This will however, take time to deliver the changes needed.
16. The summary plan in the report appendix was submitted to the DfE in December 2023. It sets out the High Needs expenditure projections over 15 years with the in-year funding gap forecast to be eliminated in the final year of the plan (2038-39).
17. This is a credible but challenging plan to stop the funding gap rising annually and achieving a reduction over time in High Needs expenditure to eliminate the gap and return the High Needs Block to a surplus. Given the high starting point for the funding shortfall, annual balance cannot be achieved within the medium term. This is because it is proposed to not move children from their current specialist placements to new local provision planned to be created over that period.
18. The funding gap presented initially includes a 0.5% transfer from the schools block in 2024-25, rising to 1% in each year thereafter.
19. The base plan shows that there will be a £239m accumulated additional shortfall over this period, starting at £28m (after a 0.5% transfer) in 2024-25, and then generally reducing annually. The accumulated deficit at March 2024 is forecast to be £63m which is not dealt with in the plan. Without any further support from schools or government the deficit will be £302m by March 2038. The plan then shows an in-year surplus of £0.2m in 2038-39 (with a transfer from the schools block of 1% still included).

20. The initial SV meetings with DfE advisers established that no special arrangements will be made that will allow local authorities in the SV programme to opt out of the school funding regulatory framework. This includes the protections for individual mainstream schools through the underlying principles of the national funding formula (NFF), such as the minimum funding guarantee (MFG) which provides for a minimum increase in per pupil funding between financial years (must be between 0% and 0.5% in 2024-25). The regulations also require that absolute minimum per pupil funding levels (MPPFL) are provided to schools, with the DfE agreeing lower values only in exceptional circumstances.

21. Nevertheless, the council submitted the DSG management plan in the appendix with an illustration to the DfE for a total transfer from the schools block of 11% to close the gap for 2024-25 entirely. This is an indication of the scale of support needed locally to meet the costs of providing the services. This scale of transfer would require the DfE to disapply, through a specific decision of the Sectary of State, significant element of the regulations for 2024-25, namely:

    a. Reduce the minimum per pupil funding levels below the statutory level

    b. Set a minimum funding guarantee of less than 0%

    c. Disapply the 10% tightening requirement regarding the formula values

22. The plan is based on a revised SEND Improvement Plan. This is focused on improving services and reducing demand in the system. The improvement plan has eight priority areas of focus these are: leadership, management and governance, co-production and communication; early identification and intervention; inclusion, pathway, preparation for adulthood and managing resources.

23. The panel and decision-making processes have been refreshed and the service is beginning to see a change in the number of plans issued, although this is also driving an increase in appeals.

24. The development of a new sufficiency programme is being progressed. This is to focus on reducing demand through local systems development, such as resource bases, and foster greater inclusion in schools, supported by a new inclusion quality mark launch in November 2024.

High Needs Trends

25. The assumptions for EHCP trends and high needs pupil placements are set out in the plan in the report appendix.

26. The council aims to support more children through the SEN support offer by improving parental confidence in mainstream provision and raising awareness and use of wider supporting services.

27. The EHCNA process has been revised and new procedures developed, with staff recruited to add new capacity.

28. A number of early identification and intervention approaches are being developed to facilitate greater engagement in the universal offer. Too many parents (currently, in November 2023, circa 46%) are coming directly to the council for an EHNCA without first working with our settings.

29. The council is working to establish a SENCO advice line for professionals, improving ongoing communications between schools and parents/carers of children and young people with SEND.

30. Work is in progress to ensuring the consistent application of the graduated response and implementation of the graduated pathways programme of investment. The SEND service will also look to develop the outreach offer, working in partnership with schools.
31. Workshops with schools are planned for January, to discuss future inclusion programmes, development of resource bases and whole school approaches to SEN support.
32. BCP continues to see a high number of SEND children absent, suspended. or excluded from school and use of alternative provision is increasing. A new strategy for alternative provision is being worked on with schools with a pilot for new services following co-production of these planned.
33. BCP is working its Sector Lead Improvement Partner, Bedford Council and is currently identifying options to support improved pathways and Early Help systems to reduce demand where appropriate, this will include the use of Alternative Provision. This work currently seeks to review the current Decision Making Panels and quality of Education Health and Care plans to ensure that resources are equitable and fair across the system. It is hoped that lessons learned from this exercise will support the development of Inclusion Circles and the onward implementation of the Graduated Response.

Next Steps

34. Feedback from the DfE is awaited at the time of drafting this report. Once received the plan may need to be updated and resubmitted by 12 January for final consideration.
35. Consideration of a schools block funding transfer from mainstream schools national formula allocations to reduce the £29m gap projected for 2024-25 with further amounts needed over the 15 year period.
36. Requesting capital funding from the DfE to increase the availability of more appropriate provision with significant revenue savings.
37. Development of a robust action plan in children's services to achieve the assumptions set out in the plan.
38. Other activity will need to include:
    a. Clawback of excess maintained school balances.
    b. Further negotiations with the DfE for revenue contributions from the safety valve programme (DfE accepting annual balance of the DSG will take 15 years if current pupil placements are not to be disrupted)
    c. Consideration of a way forward with the Department for Levelling Up Housing and Community (DLUHC) for when the statutory override, which keeps the DSG off the council's balance sheet, ends in March 2026, unless it is further extended
    d. Any other means of reducing the costs of the service, or demand, which can be suggested by the Schools Forum

Options Appraisal

39. Modelling has taken place looking at varying assumptions with the most achievable but still challenging assumptions taken forward into the DSG management plan.

Summary of financial implications

40. The deficit management plan seeks to balance the in-year DSG position over the long term to enable BCP in the interim to provide a good service for pupils with high needs.

41. The projected high needs funding gap for 2024-25 with a 0.5% transfer from the school block is £28.1m with a forecast accumulated deficit at March 2025 of £92m. The plan shows a maximum accumulated deficit of £302m in March 2038 before a small surplus is generated.
42. 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.
43. The council must support the annual cost of servicing the accumulated deficit, which is estimated at £3.9m for 2024-25 and is forecast to increase in future years.

Summary of legal implications

44. The DSG is regulated through the Schools Funding Statutory Framework. There are numerous statutory provisions regarding entitlements and funding arrangements for pupils with additional needs or educated otherwise than in school.
45. Due to the accumulated DSG deficit the council is forecast to have negative reserves at March 2024 if the DSG deficit is taken into account. The Local Authorities Capital Finance and Accounting (England) Regulations, however, provide a statutory override. This became law at the end of November 2020, and means that the council holds the deficit in a negative unusable reserve, and it is disregarded in terms of financial sustainability. The regulations also prohibit the council from contributing funding to reduce the deficit.

    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.
46. When the statutory override falls away, the accumulated 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

47. There are no specific human resources implications from the recommendations in this report.
48. 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.
49. 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

50. This report has no implications for sustainability.

Summary of public health implications

51. There are no implications for public health.

Summary of equality implications

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

Summary of risk assessment

53. 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:

    a. Reducing the rate of EHCP growth.

    b. Reducing the average cost of placements over the lifetime of the plan.

    c. Commissioning an appropriate distribution (based on national benchmarking) between placements for children with EHCPs.

    d. The ability of mainstream schools to cater for more pupils with additional needs.

    e. Significantly reducing the number of pupils permanently excluded from schools, and particularly for younger pupils.

    f. The rate at which new state funded places can be created.

    g. The success of “invest-to save” plans.

54. 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 – DSG July Settlement (appendix detailing the Safety Valve programme).

BCP Council – Democracy (ced.local)

Schools Forum – December 2023 – DSG Management Plan

BCP Council – Democracy (ced.local)

Confidential Appendix - DSG Management Plan at December 2023