

**Committee Name and Date of Committee Meeting**

Cabinet – 25 April 2022

**Report Title**

Safety Valve' Intervention Programme – Department for Education (DfE) –  
Rotherham final agreement

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

**Strategic Director Approving Submission of the Report**

Suzanne Joyner, Strategic Director of Children and Young People's Services

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

As part of the Department of Education work to address long term challenges in the High Needs funding within the Dedicated Schools Grant (DSG), a small number of identified local authorities including Rotherham were invited to have a financial agreement known as a 'Safety Valve.'

**Recommendations**

Cabinet is asked to:

1. Note the delegated decision taken by the Strategic Director as agreed by Cabinet in December 2021 to enter into the 'Safety Valve' Intervention Programme Agreement.
2. Agree as part of the involvement in 'Safety Valve' intervention programme to submit a capital request to the DfE to develop SEND provision in the Borough to aid delivery of the programme.

3. Agree that all associated information incorporated in this report and appendices be noted including key risks and areas subject to review within the DfE finalised document.
4. Agree that an annual progress report is presented to Cabinet.

### **List of Appendices Included**

- Appendix 1 Department for Education case studies -Sustainable High Needs systems.
- Appendix 2 Rotherham Safety Valve Agreement – Department of Education
- Appendix 3a Part A - Initial Equality screening Assessment form
- Appendix 3b Part B - Equality Analysis Form final
- Appendix 4 Carbon impact FINAL Template

### **Background Papers**

[Cabinet Report - December 2021 - Medium Term Financial Strategy](#)

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## Safety Valve' Intervention Programme – Department for Education (DfE) – Rotherham final agreement

### 1. Background

- 1.1 As part of the Department of Education work to address long term challenges in the High Needs funding within the Dedicated Schools Grant, a small number of identified local authorities including Rotherham have been invited to have a financial agreement known as a 'Safety Valve.' Across the Autumn term a series of negotiation meetings have taken place between Senior Leaders from the council and DfE 'Safety Valve' negotiation team to look at the feasibility of Rotherham entering into a 'Safety Valve' arrangement with the DfE. The key emphasis for the Rotherham involvement in this programme is ensuring that more children with special needs can be supported to stay in mainstream education in the borough. Rotherham involvement also allows appropriate SEND provision mapping in the borough to meet the Council's needs to continue to be developed and improve SEND outcomes.
- 1.2 Following these negotiations and significant work to share/develop documentation with the negotiation team from the DfE, Rotherham were invited to participate in the 'Safety Valve' arrangement.
- 1.3 Following the December budget report progress has been made in negotiation with the DfE and following the report in December which included a delegation for officers to progress the Safety Valve agreement with DfE, this report back to Cabinet provides the final agreement reached. (Appendix 2.) This will be the final agreement.
- 1.4 The finalised agreement sets out an investment of £20.528m to be received from the DfE across the lifespan of the agreement (2021/22 to 2025/26), which will remove the DSG deficit based on the Council's revenue assumptions, as outlined in the table below;

**Safety Valve Revenue Plan 2021/22 - 2025/26**

	2021-22 £,000s	2022-23 £,000s	2023-24 £,000s	2024-25 £,000s	2025-26 £,000s
Mitigated expenditure forecast	£274,031	£282,200	£288,938	£299,155	£305,451
Estimated DSG Funding	-£272,815	-£282,650	-£290,914	-£298,033	-£305,250
Other Income	-£461	-£468	-£476	-£484	-£492
School Block to HNB Transfer	-£3,038	-£3,236	-£3,300	£0	£0
In Year Deficit / Surplus	£756	-£918	-£2,453	£638	-£292
Planned Overall DSG position (surplus)/deficit at Year End (Excludes Delivery Team)	£22,013	£21,095	£18,643	£19,280	£18,988
Safety Valve Delivery Team	£0	£385	£385	£385	£385
Planned Overall DSG position (surplus)/deficit at Year End (Includes Delivery Team)	£22,013	£21,480	£19,413	£20,435	£20,528
Aggregated Safety Valve Funding*	-£8,528	-£11,528	-£14,528	-£17,528	-£20,528
Revised Planned Overall DSG position	£13,485	£9,952	£4,885	£2,907	£0

Note: The council will receive £8.53m of safety valve funding in 2021/22 followed by £3m for the next 4 financial years

- 1.5 At the end of February 2022, the Dedicated Schools Grant is still on target to outturn within the £756k projected overspend for the 2021/22 financial year, which after receipt of the Safety Valve funding is estimated to reduce the overall DSG deficit to £13.5m as outlined above.

- 1.6 The Management Plan is fundamentally based on current Education Health and Care Plans and growth assumptions which reflect previous years trends, adjusted for the estimated impact of the council's strategies. The growth assumptions for future years are outlined below:

Provision Settings	Finance Growth		
	2022/23	2023/24	2024/25
Mainstream Growth (Average over Prim/Sec)	11%	9%	9%
Special Schools	2%	3%	3%
ISP's	1%	1%	1%
Alternative Provision	5%	5%	5%
Post 16/FE	2%	2%	2%
Resource Provisions	77%	42%	26%

- 1.7 In agreeing to the financial investment from the DfE, Rotherham is agreeing to implement the following strategies as set out in the Council's DSG management plan. This includes action to:

- (1) Reduce use of independent specialist provision outside of the LA by creating appropriate capacity within Rotherham's high needs system, with a focus on ensuring provision is high quality and value for money.
- (2) Improve Rotherham's early intervention strategy, including through investment in outreach work.
- (3) Ensure appropriate use of provision and avoid escalation of children and young people's needs by, among other things, improving the governance around placement decisions.
- (4) Review support services in Rotherham to ensure value for money is achieved.
- (5) Increase the outreach offer for Social Emotional and Mental Health needs at primary and secondary.
- (6) Increase the outreach offer for specialist SEND.
- (7) Develop local sufficiency arrangements, including for Rotherham's Looked After Children.
- (8) Drive mainstream schools to adopt inclusive practice to enable more children and young people to remain in mainstream settings where appropriate.
- (9) Maintain engagement with stakeholders through strong and collaborative governance arrangements, such as ISOS partnership work, Schools Forum High Needs subgroup, primary and secondary head teachers.

- 1.8 Ongoing monitoring will be in place across the lifespan of the plan, and this will involve regular meetings between DfE and RMBC on a quarterly basis to both support delivery and hold accountability of the agreement.

- 1.9 The agreement is subject to review at any time, for example as a result of the following events:

- (1) Higher or lower DSG formula funding levels for the authority in future financial years than those the authority has assumed.
- (2) Significant changes to national SEND policy, for example as a result of the government SEND Review, which impact on elements of the plan.

- (3) Insufficient progress being made towards the authority reaching and sustaining an in-year balance on its DSG account as set out in the plan.
- (4) Whether Rotherham is awarded additional capital funding support following the capital plan commissioning process. This will include any impact of the capital funding on Rotherham's ability to carry out its DSG management plan.

1.10 Within the Safety Valve important to note as a low level of capital investment would undermine the ability to deliver the plan as set out within the Council's DSG management template.

The below extract from the final Safety Valve agreement outlines this position

*8.4. Whether Rotherham is awarded additional capital funding support following the capital application process. This will include any impact of the capital funding on Rotherham's ability to carry out its DSG management plan.*

RMBC has been clear in the negotiation with the DfE that the long term plans are dependent on capital investment to deliver the Council's plans, and should the council not receive this investment then we would need to evaluate long term strategy.

- 1.11 Within the DfE 'Safety Valve' agreement the two key strategies, which are supporting pupils to remain in mainstream schools or access SEN resource units that are centred within mainstream provision, are encapsulated across the actions that the council will set out to achieve across the agreement.
- 1.12 Across all areas of the strategy, the council are focusing on creating SEND capacity in mainstream settings or education provision as close to mainstream as possible. This is a key strand within the final Safety Valve agreement, the agreement recognises the need for additional capital investment to support the Council's plans to increase resource base and mainstream SEND capacity (this is lower cost than high-end specialist provision and drives stronger educational outcomes).
- 1.13 As part of the process, the council have also been invited to submit a capital investment plan to support the strategy. This was submitted to DfE on the 18 March 22.
- 1.14 The capital schemes are factored into the DfE application for capital investment as part of the 'Safety Valve' agreement.
- 1.15 The impact of the capital strategies is to reduce the demand for placements in special schools which are currently close to capacity and therefore consequently reduce the demand for high-cost Independent Sector Placements (ISP).
- 1.16 Other key strategies that underpin the DSG management plan are:
  - Development of Alternative Education Provision system which supports high quality time-limited interventions that keep children and young people in mainstream education. This will provide triage and support to a graduated approach for children displaying challenging behaviour in mainstream education, placing the emphasis on empowering mainstream schools to have

the skill and capacity to meet the needs of children with social, emotional, and mental health needs and avoiding long term placement in PRUs. This will avoid the need for permanent exclusions and rapid escalation into SEND system due to inability of schools to meet the needs of the most complex cohorts.

- Continue to develop a pro-active outreach model of support across all phases of education and drawing in specialism from special schools to enhance SEND offer in mainstream education. Across the 2021-2022 academic year we will see an outreach model develop from special schools, this will enhance the primary model that is already in place, and from 2022-2023 academic year we will have a secondary outreach model in place. This will provide in school support from specialist practitioners who can support schools to manage complex needs across a range of areas including specialist SEND. This continued development will need High Needs Funding investment to drive a sustainable funding model to support mainstream inclusive practice. The work across the trajectory of the Council's management plan identifies the importance of outreach, this need to grow and this will need appropriate investment to offset trajectory of growth into specialist SEND provision.
- Targeted work to enhance the pathway for Transition to Adulthood including development of the post 16 offer including provision development so that seamless and personalised pathways into employment can be developed. As part of wider resource base and provision mapping this will need further capital investment to enhance local offer and build on current Send sufficiency work that is creating post 16 and post 19 pathways. The need to centre this in a clear Rotherham skills profile and drive strong employability outcomes in this phase which provides realistic opportunity for the 16-25 cohort is essential to long term sustainability of the borough's high needs and the SEND young people.
- Clear investment to align SEND provision mapping and resource to support LAC sufficiency work, which is around a strong Rotherham SEND offer that alleviates the need for children and young people to be educated out of the borough. Reciprocally this will also support the return to the borough for children and young people in out of area education settings currently. To support this strategy, there is a need to invest in enhancement of high-end provision in Rotherham to develop the capacity/knowledge to manage the borough's children and young people. In developing capacity at the highest end of the SEND continuum the council reciprocally need to enhance provision mapping at each stage of graduated approach and support SEND capacity into mainstream education. Across the Council's long-term plan this will need continued review and development of or SEND services to proactively work across areas of developing need. This will also determine a need to review the SEND funding system in the medium term in order that appropriate resource sits across the SEND continuum. A recalibrated funding system means mainstream schools have enhanced SEND capacity through direct access to resource to manage a higher threshold of need.

## **2. Key Issues**

- 2.1 The Council's Growth assumptions are appropriate, especially linked to the growth of Social, Emotional, Mental Health and Communication and Interaction cohorts, if growth exceeds estimates this will lead to increased financial pressures which could undermine the plan.
- 2.2 Within the Council's 'Safety Valve' a focus on Capital Funding permeates a number of areas, it will be essential that the council hold a strong line in the capital submission to drive this forward. As this will allow plans to develop to drive the Council's SEND system towards mainstream and support mainstream schools to be best placed to deliver this.
- 2.3 A key factor is a sustainable funding model with High Needs Budget funding assumptions linked to 2% growth on Dedicated Schools Grant High Needs Budget funding above the floor, set at 5%,3%,3% for the 3 financial years from 2023/24 to 2025/26.
- 2.4 The bid assumes the funding transfer from the Schools Block to the High Needs Block ceases after 2023/24 to support schools' financial sustainability and aligns with the move to DfE Hard Funding Formula (school funding formula set nationally).
- 2.5 The number of social care residential placements where education is provided in placement continues to reduce linked to development of local children's homes. The return of students into Rotherham education system has direct associated impact due to Social Emotional Mental Health needs of cohort and the cost of Social Emotional Mental Health provision, this reciprocal element of Looked After Children sufficiency work needs to work in tandem with any 'Safety Valve' arrangement and neither can undermine each other.
- 2.6 The DfE have published the agreed 'Safety Valve' agreement in w/c 21 March 2022, and this is the agreed final agreement with the DfE. The decision as agreed by Cabinet in December 2021 was for an officer delegated decision to be made on agreement of Rotherham involvement in the 'Safety Valve' Programme, this also allowed Rotherham Metropolitan Borough Council to work to the fixed timelines defined by the DfE.
- 2.7 To support delivery of the DSG Management Plan the Safety Valve proposal included funding for the Safety Valve Delivery Team. The bid includes funding of £385k per annum for the four years 2022/ 23 to 2025/26 as outlined in the table in para 1.5. The dedicated team will include professionals from Finance, Commissioning, Performance and Education.

## **3. Options considered and recommended proposal**

- 3.1 Strategies are closely monitored to ensure expected outcomes are achieved and form part of Children Young People Service transformation work, ongoing quarterly meetings will be held with DfE within the cycle of monitoring of the agreed 'Safety Valve' agreement. All monitoring arrangements sit within DfE process of activity in agreeing a 'Safety Valve' arrangement with a local area.

- 3.2 A comprehensive capital submission was provided to DfE by 18 March to support key areas of delivery of Rotherham DSG management plan. Recruitment of all associated roles to support delivery of the plan will be finalised following approval process for the Rotherham 'Safety Valve'.
- 3.3 Rotherham not moving forward into a 'Safety Valve' arrangement with the DfE was considered. However, due to significant investment from this programme to address long term High Needs budget deficit and the transformational opportunity to create aspirational SEND education provision in the borough, non-involvement was not a viable option. Only a small number of local authorities with both credible financial and SEND strategic plans move forward into 'Safety Valve' agreements.

#### **4. Consultation on proposal**

- 4.1 All appropriate updates have been provided to Schools Forum, School leaders forums, and associated partners. Due to the closed nature of the negotiations with the DfE, further updates and co-production/consultation will be developed to support all key partners including Schools, Early Years, Post 16 education settings, health, and other key partners with SEND interdependencies as part of the implementation of the 'Safety Valve' programme in the borough.

#### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 Following Secretary of State agreement on the Rotherham 'Safety Valve' agreement and DfE publication of the agreement, the first tranche of funding will be received by the council . Subsequent payment schedules have been agreed across the 4 years post the initial agreement. The 'Safety Valve' will start from April 2022 and be subject to quarterly DfE monitoring.
- 5.2 The capital submission that accompanies the Rotherham 'Safety Valve' has been subject to all appropriate approvals and oversights in order to support delivery of the Safety Valve Programme.

#### **6. Financial and Procurement Advice and Implications**

- 6.1 The financial implications are outlined in the body of the report and would enable the current estimated overall DSG deficit of £13.5m at the end of the 2021/22 financial year to be reduced to nil by the end of the 2025/26 financial year.
- 6.2 One of the main elements to deliver the achievement of the DSG Management Plan and reducing costs is approval of the High Needs Capital application, to enable the new provisions to be established and accessibility to existing settings to be facilitated as outlined in the report.
- 6.3 To support the delivery of the Safety Valve programme a project team will be established over the duration of the programme and funding will be provided for the team as part of the financial agreement with the DfE.
- 6.4 Whilst there are no direct procurement implications arising from the recommendations detailed in this report, however where the engagement of third party organisations is required to assist in the delivery of the proposals outlined in

this report, these must be undertaken in accordance with Public Contracts Regulations 2015 (as amended) and the Council's own Financial and Procurement Procedure Rules.

## **7. Legal Advice and Implications**

- 7.1 Agreement for the funding the central government has been produced with a collaborative approach in mind. In light of this it is a memorandum of understanding rather than a more formal and legally binding contract.
- 7.2 The partnership approach further reduces and mitigate any potential legal risks in the proposed course of action

## **8. Human Resources Advice and Implications**

- 8.1 Job Profiles will be drafted and evaluated as per the council procedures as will the recruitment process. As experienced educational staff are likely to be required for these roles then it will be advised that secondment opportunities from within the education sector should also be considered.

## **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 The 'Safety Valve' agreement will have a direct impact on SEND strategy, funding, SEND provision development, and all education settings within the borough.
- 9.2 Key considerations are referenced within the report and Appendix 1.

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 Key considerations are referenced within the report. An equalities impact assessment has been completed and is an appendix to this report.

## **11. Implications for CO<sub>2</sub> Emissions and Climate Change**

- 11.1 All areas of SEND Sufficiency, Student placed planning (inclusive of circa at least 150+ additional SEND places), and educational placements have a direct environmental impact, consideration of this element is informed in provision development and provision enhancement in the borough due to the direct impact this will have to limiting students travelling outside the borough. This would support reduced emissions of CO<sub>2</sub>.
- 11.2 Wider consideration of indirect implications or unintended consequence of work in this area has on CO<sub>2</sub> Emissions and Climate Change is considered across all partners as the council are committed to long term targets to mitigate these areas of concern in the borough. An environmental impact assessment has been completed and is an appendix to this report.

## **12. Implications for Partners**

- 12.1 The Dedicated Schools Grant is subject to oversight of Schools Forum and the wider education system in the borough, all updates across the 'Safety Valve' development

have been provided to Schools Forum, the high needs subgroup which is part of Schools Forum will have a key role in supporting development and oversight from education system in the borough across the lifespan of this programme.

- 12.2 Ongoing updates are provided to key stakeholders including Parent/carers forum, health leaders, school leaders, Schools Forum, and other associated stakeholders. The SEND Executive and SEND Partnership board involve all Key Stakeholders and SEND is a Place Priority for Rotherham.

### 13. Risks and Mitigation

- 13.1 The key risk is that trajectory of growth of SEND cohorts within the borough grow outside the trajectories set against the agreement. This would be exaggerated by lack of capital investment from DfE to support Rotherham to deliver its sufficiency planning.
- 13.2 Within the final Safety Agreement between DfE/the council key areas including lack of capital investment and thematic challenges linked to central government policy are addressed with these risks identified and appropriate mitigations identified by DfE.

### 14. Accountable Officers

Nathan Heath – Assistant Director, Education & Inclusion  
Neil Hardwick – Head of Finance CYPS

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	06/04/22
Assistant Director of Finance & Customer Services (S.151 Officer)	Graham Saxton	04/04/22
Assistant Director Legal Services (Monitoring Officer)	Phil Horsfield	04/04/22

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