

Select report type
Name of Committee

Committee Name and Date of Committee Meeting

Audit Committee – 30 July 2024

Report Title

High Needs / Safety Valve Programme - 2023/24

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

No

Strategic Director Approving Submission of the Report

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Ward(s) Affected

Borough-Wide

Report Summary

The report outlines the 2023/24 performance against the approved Safety Valve Agreement (with the Department of Education) and the recovery plans in place to enable Rotherham to achieve financial sustainability and operate within its annual financial allocation over future years. The report also highlights the financial position of the Dedicated Schools Grant (DSG) High Needs Budget in 2023/24 and the projected accumulated deficit position over the life of the Safety Valve Agreement.

Recommendations

1. Audit Committee notes the progress in the recovery actions being taken via the Safety Valve Programme to manage the Dedicated School Grant (DSG) deficit in Rotherham.
2. Audit Committee notes the 2023/24 financial position of the DSG High Needs Budget and accumulated DSG deficit at the end of the Safety Valve Programme.

List of Appendices Included

Background Papers

- Dedicated schools grant (DSG) financial management plan
- SEND & AP Green Paper
- Safety Valve Agreement Letter – latest update

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

High Needs / Safety Valve Programme - 2023/24

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1. Background

- 1.1 In the past Rotherham has faced significant cost pressures in the High Needs Budget (HNB), which had resulted in annual in-year DSG deficits of circa £5m. Whilst the in-year deficits have reduced in recent years due to the continuing transfer of funding from the Schools Block, the accumulated deficit on the DSG Reserve stood at £22.0m at the end of 2020/21 (before the Safety Valve funding).
- 1.2 The DSG overspend has accrued as a result of a number of factors; an overall increase in Education Health and Care Plans, an increase in the number of young people aged 16 to 25 with an EHCP who are the responsibility of the LA to fund, an increase in the number of children accessing higher cost provision and an increase in the number of pupils in Alternative Provisions (Pupil Referral Units).
- 1.3 In addition to the above demand pressures, the funding methodology (via the High needs national funding formula) has contributed to the annual deficits. Whilst the HN national funding formula (introduced in 2028/19) allocate funding based on proxy indicators of pupils with Special, Education Needs and Disability (SEND) within the population, a large element of the funding remains fixed based on historic spend.
- 1.4 The Council entered into a Safety Valve agreement with the Secretary of State for Education in 2021/22. The Safety Valve programme requires the Council to set out (via the Dedicated Schools Grant Management Plan) how it will manage the deficit (and demand pressures) in the High Needs Block and reach an in-year balance within a specific timeframe. Under the signed agreement, the DfE has committed to paying the council £20.5m over five years to 2025/26 to address the historic / accumulated DSG deficit held in the DSG Reserve account.
- 1.5 In addition, the Council was allocated additional capital investment (£4.3m above its usual annual High Needs capital allocations) to deliver its long term SEND strategic plan. Total capital funding allocated to the council over 3 years to 2025/26 for SEND/High Needs amount to circa £9m.
- 1.6 The key emphasis for the Rotherham involvement in the Safety Valve programme is ensuring that more children with SEND can be supported to stay in mainstream schools in the Borough. In addition, the Programme enhances the Council's long-term aspiration of transforming Rotherham SEND systems, processes, and services.

2. Safety Valve performance / Progress (2023/24)

- 2.1 In agreeing to the financial support from the DfE, Rotherham agreed to implement a number of actions and financial targets as set out in the Safety Valve Agreement and the Council's DSG Management Plan respectively.
- 2.2 Ongoing monitoring has taken place with meetings between DfE (assigned SEND advisor) and RMBC on a quarterly basis to both support delivery and hold accountability of the Agreement. This support and challenge process also allows

emerging challenges to be shared and a vigorous oversight of plans to be undertaken.

2.3 A financial template and monitoring report is submitted by the Council to the DfE on a quarterly basis. Rotherham was on track in 2023/24 and has delivered against all the conditions of its 'Safety Valve' agreement. In addition financial performance were on track against the plan agreed with the DfE and in the safety valve agreement.

2.4 The following outline the progress made in 2023/24 by the Council towards meeting the **key conditions** in the Safety Valve Agreement:

- (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***

Progress Update:

The trajectory of growth for independent specialist provision sits within a range of tolerance to our Safety Valve plan, however we have experienced significant inflationary uplift requests in 2023/24 ranging from 4% - 8.5% creating an additional financial pressure of £500k against independent specialist provision placements.

Significant work was undertaken by our commissioning team, targeting above inflation requests from providers and seeking evidence of appropriate provision mapping to match the costs presented. Work continues into the current year to identify clear cost packages, regular reviews of individual placements and wider quality assurance of provision which supports appropriate commissioning challenge. This has led to us being able to forecast our ISP intake aligning to the overall Safety Valve plan in 2023/24.

- (2) ***Improve Rotherham's Early Intervention Strategy, including through investment in outreach work.***

Progress Update:

Work continued in 2023/24 to increase capacity across SEND outreach with Social Emotional Mental Health now embedded across both phases of education. Secondary Communication and Interaction Outreach has launched this Academic Term and has been implemented successfully across 6 Secondary Schools.

Both services have renewed strategic oversight following a review in Spring Term, this has resulted in updated service specifications and performance monitoring requirements. In particular a more detailed focus on how resources can be targeted to support whole school Inclusion and address any localities of concern.

(3) ***Increase the outreach offer for Social Emotional and Mental Health needs at primary and secondary.***

Progress Update:

Procurement and commissioning of Social, Emotional, Mental Health (SEMH) outreach within both Primary and Secondary phases is now embedded – a review of Outreach Services in 2023/24 has renewed the focus on outcomes and impact.

SEMH Outreach Services have seen strong engagement with support being accessed by 115 young people in 2023 Spring Term (70 Primary, 45 Secondary). Throughout this 2023/24 academic year to date 16 Secondary and 62 Primary Schools have sent referrals into the Outreach service which demonstrates both strong engagement and high demand for the service.

The new SEMH special free School (Elements), which started operated from September 2022, has now moved to capacity on the main site. A formal feasibility is underway to manage future growth in line with our Safety Valve capital plans.

Two SEMH resource provisions are currently open and receiving consultations, these will grow in a phased manner across this academic year. Two further SEMH resource provisions are planned to open in September 2024. In total this will achieve 50 resource provision placements across both Primary and Secondary phases over the next two academic years.

(4) ***Develop local sufficiency arrangements, including for Rotherham's Looked After Children***

Progress Update

Over the last few years, the Council has transformed its children's residential provision with Rotherham, firstly through encouraging external providers to open homes in the borough and more recently from 2020 the Council has embarked on opening its own children's residential homes (In-house residential children's home programme).

Across Phases 3 and 4 of the in-house residential children's home programme, 6 homes are expected to open over the period 2023 to 2025 – which would create an additional 12 beds. One home was opened in 2023 with a second home due to open by summer 2024.

The creation of residential places within Rotherham has allowed more young people in these settings to attend local schools and avoid more expensive residential education placements. Both our LAC and SEND sufficiency streams are supported currently by DfE funding. Following a LA application in 23/24, we were successful in getting an extension to the Short Breaks Innovation programme for 2024/25, which will continue to complement and enhance our sufficiency planning across LAC and SEND cohorts.

- (5) ***Drive mainstream schools to adopt inclusive practice to enable more children and young people to remain in mainstream settings where appropriate.***

Progress update:

Forward planning work was undertaken in 2023/24 against the DfE's SEND Improvement plan with a clear focus on Alternative Provision plans at local level. This work also sits against Rotherham's Written Statement of Action for SEND which has a clear focus on embedding a more identifiable graduated response at Key Stage 1/Key Stage 2.

There was focus on the Pupil Referral Unit in 2023/24, moving to a position where it operates as an intervention aimed at returning pupils back into mainstream schools. There were direct discussions with mainstream schools in 2023/24 on increasing their inclusivity and adapting offers to meet the wider level of cohort need.

Datasets across all areas of inclusion was presented to the High Needs Subgroup in 2023/24 and an Inclusion dashboard developed and shared across the secondary phase. This alongside mainstream investment in resource base and planned investment around accessibility is supporting mainstream ownership of the wider inclusion agenda.

The implementation of the defined area wide inclusion panel in both primary and secondary is in place and has been reviewed formally with school leaders in 2023/24 to enhance its scope and oversight across the duration of the Safety Valve Agreement.

- (6) ***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.***

Progress Update:

Clear detailed updates on the Safety Valve and its associated strategic implications across the SEND system in the borough was regularly provided to the Schools Forum, Secondary and Primary heads, and the wider SEND stakeholders including Health, Parent and Carers forums.

Regular updates and key task/finish activities linked to key Safety Valve agreements are in place linked to key areas of governance.

2.5 Both the borough SEND Executive and SEND / AP Partnership Board are fully sighted on the Safety Valve and its intrinsic link to the Rotherham Written Statement of Action. Regular update reports are provided to Cabinet and Improving Lives Select Commission.

2.6 In 2024 Spring Term a review of Schools Forum membership and terms of reference has led to improved oversight of SEND Sufficiency planning with this now being a standing agenda item.

SEND Sufficiency Plan (Phase 4)

2.7 Rotherham's Safety Valve programme includes capital funding to develop sufficiency of SEND Education places in borough, Rotherham has approved three

previous phases of SEND Sufficiency each targeted at incremental rises in SEND cohorts and improving specialist provision.

- 2.8 SEND Sufficiency Phase 4 was approved by Cabinet in June 2023 with the main aim of supporting mainstream schools to meet a wider level of need and improve accessibility within both mainstream and special schools. Phase 4 includes the development of a minimum of 10 resource provisions across mainstream settings creating 100 new SEND places. A second main aim of SEND Sufficiency Phase 4 was the implementation of the schools Accessibility Funding Framework across both mainstream and special schools.

Following due diligence the development of 8 provisions for phase 4 are scheduled to be completed by September 2024 with the additional 100 places being delivered in a staged way over the remaining two academic years.

In June Cabinet approved the School's Accessibility Strategy and Accessibility Capital Funding Framework. The intention of Schools Accessibility Funding is to support schools to meet a wider level of SEND need through adaptations to existing buildings. This supports our sufficiency strategy through moving the SEND continuum towards the mainstream.

- 2.9 The Accessibility Funding Strategy proposes three distinct areas including:

- Targeted work across mainstream and special schools linked to accessibility requirements for individual pupils and cohorts.
- Individual requests and contributions for individual pupils linked to established equipment panel.
- A small capital grant programme for schools open through application and assessment in line with schools own accessibility planning.

In line with the outcomes of SEND Sufficiency phase 4 an additional 80 in borough SEND education places have been created in 2023/2024, this is split across both specialist provision and rises in resource provision placements.

3. Timetable and Accountability for Implementing this Decision

- 3.1 The LA will continue to update the Dedicated Schools Grant (DSG) management plan (as part of the Safety Valve agreement) to reflect changes in the council's deficit recovery plan.
- 3.2 Ongoing monitoring will be in place across the lifespan of the safety valve programme (i.e. till 2025/26) – with quarterly submission to the DfE on progress and risks facing the programme. This would inform the progress update meetings with the DfE SEND Advisor for Rotherham to support delivery and hold accountability of the agreement.

4. Financial and Procurement Advice and Implications

High Needs Block outturn position

4.1 An underspend of -£2.2m was reported in the High Needs Block for 2023/24 and has been transferred to the DSG reserves account. The underspend is mainly attributable to the increased funding (1.5%) transferred from the Schools' Block. It is consistent with the -£2.2m planned 'surplus' as per the DSG management plan and Safety Valve Agreement.

4.2 Despite the underspend, cost and demand pressures were evident in the High Needs Block in 2023/24 because of a number of factors, namely; increase in pupils / learners with EHCPs in mainstream schools and post 16 institutions; increased placements in specialist provision (including out of authority settings); and inflationary pressures.

DSG Reserves and Safety Valve financial position

The closing position of the DSG reserves for 2023/24 was £0.9m (net of safety valve monies received during the year and the in-year surplus balance). The following table shows the latest DSG reserve position (as per the latest DSG Management Plan) compared to the original Safety Valve Agreement position.

	<u>2021/22</u>	<u>2022/23</u>	<u>2023/24</u> <u>Outturn</u>	<u>2024/25</u> <u>Plan</u>	<u>2025/26</u> <u>Plan</u>
	<u>£000</u>	<u>£000</u>	<u>£000</u>	<u>£000</u>	<u>£000</u>
Safety Valve Plan:					
Planned overall DSG deficit	22,013	21,480	19,413	20,435	20,528
Annual Safety Valve Funding	-8,533	-3,000	-3,000	-3,000	-3,000
Cumulative Safety Valve Funding	-8,533	-11,533	-14,533	-17,533	-20,533
Planned DSG Reserves	13,480	9,947	4,880	2,902	0
Latest DSG Plan:					
Opening DSG reserve position		12,840	5,926	978	1,790
In year HNB surplus (-)/deficit (+)		-724	-2,199	1,467	1,077
Actual Safety Valve Funding		-6,000	-2,730	-1,270	-2,000
Use of Other DSG balances		-190	-19	615	0
Latest DSG Reserves	12,840	5,926	978	1,790	867
Variance from SV Plan	-640	-4,021	-3,902	-1,112	867

4.4 The following are key points to note in relation to the table:

1. The 'Safety Valve Agreement' will provide Rotherham £20.5m over the 5 year period to 2025/26 based on satisfactory achievement of the conditions in the agreement.
2. The financial trajectory is ahead of plan, as evident in the DSG reserves position by the end of 2023/24. Although this is partly explained by re-profiling of the DfE safety valve monies.
3. The DSG has moved from a deficit position of £12.8m at the end of 2021/22 to a deficit of £0.9m at the end of 2023/24 – reflects the impact of

the Safety Valve monies from the DfE and efforts made by the council to reduce in-year deficits.

4. In-year high needs position for 2023/24 is consistent with the planned position and in line with the safety valve agreement.
5. An overall deficit is anticipated in the DSG reserves (£0.8m) in 2025/26 compared to a balanced position assumed in the signed Safety Valve Agreement.
6. The 25/26 deficit has arisen due to increasing pressures (e.g. inflation) currently forecast in the HNB as well as the reduced transfer from the schools block
7. DSG deficits would need to be managed within allocated DSG funding going forward, or alternatively covered off using the council's reserves. (as the current statutory deficit over-ride / protections would cease in 2025/26).
8. DfE has asked the council to put forward a mitigation plan to address rising cost pressures and deficit in 2025/26.

5. Legal Advice and Implications

- 5.1 There are no direct legal implications, other than ensuring compliance with the terms and conditions of the signed Safety Valve agreement and the DSG conditions of grant.

6. Human Resources Advice and Implications

- 6.1 Children and young people with SEND are disproportionately represented across a range of education and inclusion measures. The Safety Valve Programme is intended to enable the Council to meet the needs of CYP with SEND, whilst appropriately managing demand for Education, Health and Care Plans (EHCPs), including assessment processes that are fit for purpose; and. use of appropriate and cost-effective provision.

7. Implications for Children and Young People and vulnerable adults

- 7.1 Rotherham is compliant with the SEND Code of Practice which sets out that if a child's parent or a young person makes a request for a particular nursery, school or post-16 institution in maintained, non-maintained, or independent provision, the local authority must comply with that preference and name the school or college in the EHC plan unless it would be unsuitable for the age, ability, aptitude or SEN of the child or young person, or the attendance of the child or young person there would be incompatible with the efficient education of others, or the efficient use of resources

8. Equalities and Human Rights Advice and Implications

- 8.1 There are no implications arising from this report to Equalities and Human Rights.

9. Risks and Mitigation

9.1 The following are identified risks in relation to the Safety Valve Programme and the council's high needs budget:

1. Increasing inflation and provider fee rates are beginning to impact on forecast cost of specialist provision.
2. Increase in EHCP numbers and pupils requiring specialist support and placements.
3. Increased number of EHCP placements directed following tribunal and appeals.
4. Increasing number of requests from special schools and specialist resource provision for additional (bespoke) funding

10. Accountable Officers

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