

**Committee Name and Date of Committee Meeting**

Cabinet – 17 October 2022

**Report Title**

Rotherham Metropolitan Borough Council Special Education Needs and Disability Sufficiency (SEND) Phase 4

**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)**

Nathan Heath, Assistant Director, Education, and Inclusion.  
nathan.heath@rotherham.gov.uk

**Ward(s) Affected**

Borough-Wide

**Report Summary**

To seek approval to move forward with Phase 4 of the Rotherham Special Education Needs and Disability (SEND) programme of activity:

**Recommendations**

1. That approval be granted for the proposal to create 10 additional SEND resource bases in mainstream education and thus creating a minimum of 100 additional SEND places across this phase of SEND sufficiency.
2. That approval be granted for the proposal to enhance both mainstream and specialist SEND accessibility, through targeted investment in schools to enhance their ability to meet a wider level of SEND needs within their individual education settings.
3. That the 2022/23 High Needs Capital Allocation be used to fund these proposals in line with Safety Valve Capital Application submitted to the DfE.

**List of Appendices Included**

- Appendix 1 Part A Initial Equality Screening Assessment
- Appendix 2 Part B Equality Analysis Form
- Appendix 3 Environment Impact Review

**Background Papers**

SEND Sufficiency Phase 3 Cabinet Report – November 2020

Safety Valve Cabinet report – April 2022

Dedicated Schools Grant – High Needs - Safety Valve Agreement

Dedicated Schools Grant Management Template

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

N/A

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Rotherham Metropolitan Borough Council Special Education Needs and Disability Sufficiency (SEND) Phase 4**

### **1. Background**

- 1.1 In Rotherham 19.7% of pupils have a statutory plan of Special Educational Need or Disability (SEND) with an Education Health Care Plan (EHCP) or are receiving SEND support (previously school action and school action plus). This compares to an average of 17.4% across all English Metropolitan Boroughs. In order that the educational needs of children and young people in the borough with SEND can continue to be met, the Council has a responsibility to create a sufficiency of education provision to meet the needs of all pupils.
- 1.2 From 2018 onwards, Cabinet has approved three previous phases of SEND Sufficiency, each targeted at addressing incremental rises in SEND cohorts and creating or improving specialist education provision in order that Rotherham is best placed to have education provision within the Borough that meets the needs of all children, young people, and young adults with identified SEND needs.
- In 2018, phase one of the Sufficiency Programme focused on increasing special school places in the Borough as indicated by the rapid growth in demand for all specialist provision. These plans led to increases in places at The Willows School (including post-16 provision), Kelford School and Abbey School.
  - The second phase of SEND Sufficiency focused on the need for more targeted provision for children with Autism Spectrum Disorder (ASD) and led to the development of new units at Wales High School, Wath Victoria Primary School, Brinsworth Academy and increased places at Milton School. There was also investment identified for post-16 provision at Thomas Rotherham College. As a consequence of this investment Rotherham has been better able to meet the needs of local children with autism and to place them in local schools.
  - Phase three created specialist provision for children and young people with Social Emotional Mental Health (SEMH) needs who were previously placed in Pupil Referral Units. Through the DfE Free School Presumption Process, Elements Academy opened in September 2022. This phase also looked at redeveloping an existing special school in the Borough through significant investment in rebuilding the upper part of Newman Special School which is no longer fit for the purpose of the current education delivery and will be complete in July 2023.
- 1.3 As part of the Rotherham involvement within the Department of Education (DfE) – Dedicated Schools Grant (DSG) – High Needs Deficit – Safety Valve Agreement, the Council has worked closely with the DfE to share and develop our strategic planning in order that the sufficiency of SEND places in the Borough is aligned to a sustainable financial plan to support the DSG High

Needs budget moving to a balanced position across the lifespan of the Safety Valve Agreement.

- 1.4 In March 2022 following Cabinet approval, Rotherham entered into a Safety Valve Agreement with the DfE. As part of this agreement, additional SEND Capital of £4.32m was provided to Rotherham to support the development of SEND provision in the Borough and enact it's strategic plans as set out in the Safety Valve Agreement. This funding is in addition to the £3.16m High Needs Provision 2022-2023 capital allocations that are proportionally awarded to all local authorities. Within the Safety Valve negotiations between the Council and the DfE, the capital requirements needed to enact the Council's Safety Valve agreement were shared with the DfE and these plans sit within the Dedicated School Management Plan which is submitted to the Education Funding and Skills Agency (ESFA) and was scrutinised by DfE within Safety Valve negotiations.
- 1.5 The key strategic aim set out within the Safety Valve Agreement is to enhance mainstream SEND capacity to meet a wider level of need across all schools and mitigate the need for children, young people, and young adults to be educated in settings outside the Borough and promote inclusive practice. Specialist SEND education provision placement for children and young people in Independent Special Schools outside Rotherham has a higher cost base and consistently does not provide stronger educational outcomes.
- 1.6 The proposed focus of SEND Sufficiency phase 4 is to work closely with schools within the Borough and the DfE to create 10 additional SEND resource bases within mainstream education settings which would create a minimum of 100 additional SEND places over the next 3 academic years.
- 1.7 The proposed profile of provision informed by current SEND needs and provision mapping would be to create the following:
  - 2 Primary phase Social Emotional Mental Health resource base provisions – 20 places in total.
  - 2 Secondary phase Social Emotional Mental Health resource base provisions – 20 places in total.
  - 2 Primary phase Communication and interaction resource base provisions -20 places in total.
  - 2 Secondary phase Communication and interaction resource base provisions -20 places in total.
  - 2 Secondary Moderate Learning Difficulty resource base provisions - 20 places in total.
  - Total minimum places – 100 places.
- 1.8 The second proposed aspect of SEND sufficiency phase 4, is to support School Access Issues (in both Mainstream Schools and Special Schools) creating two funding streams which would be accessible through application and assessment for schools to request capital investment to support the schools to meet a higher threshold of SEND need through adaption to existing buildings and allow a wider level of complexity of need to be met within individual settings.

- 1.9 The accessibility funding streams would create two funds of £375k per annum (total – £1.5m in each funding stream, £3m in total) across 4 years, one for special schools and one for mainstream settings. The proposal would allow schools to apply for capital investment to adapt buildings, classrooms, or other education buildings so that children with a higher threshold of SEND can be accommodated. All consideration for investment would seek capital contributions from schools and academies. The focus of this investment is to support our schools to be inclusive to a wider level of needs than they can currently accommodate and dissipate the need to place pupils outside the Borough in Independent Special Schools due to complex needs that cannot be currently met in our existing school stock.

## **2. Key Issues**

- 2.1 Direct engagement with the school system including updates to Schools Forum, Secondary and Primary Head teacher's forum, has had substantial interest in this phase of SEND Sufficiency. The proposed model of supporting further development of mainstream SEND resource bases is favoured by the significant majority of local areas in supporting growth of SEND cohorts and supporting mainstream inclusion. All schools successful in developing a mainstream resource base would have to undertake a significant change to their designation and funding agreements, which would have to be approved by the DfE through the Regional Schools Commissioners Advisory Board.
- 2.2 All schools making applications to host a mainstream resource base will have to submit a detailed expression of interest which evidences the ability to deliver the SEND provision needed and provided provision against the recurrent High Needs funding provided per pupil. All provision will also have to achieve key performance indicators as agreed against funding agreements, this includes attendance, educational performance, and outcomes of a child or young person's education, health care plan.
- 2.3 A mapping exercise has been undertaken to examine the current spread of resource bases across the Borough and the capacity within the current school's estate to increase capacity to host resource bases.
- 2.4 This proposed phase of SEND Sufficiency will look to repurpose existing school buildings, refurbish blank school capacity, and build purpose built spaces in schools to create the 10 new resource bases. The capital requested for the proposed resource base aspect of this phase of SEND sufficiency is £3.3m.
- 2.5 Key stakeholders including parent and carers, finance, commissioning, health colleagues, and education professionals will support the final decision making for the schools chosen to host the new SEND resource bases.
- 2.6 There are currently no allocated capital funding streams held by the Council to manage accessibility issues in either mainstream settings or special schools, any request for significant adaption to buildings are considered against LA maintained schools capital allocations, School Growth Basic Need

Funding or High needs provision capital allocations which have a clear focus on creating additional pupil places and not physical adaptations to buildings.

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

- 3.1 **Option 1:** Consideration has been given to not creating additional SEND resource base places and not investing in mainstream/special school accessibility. This option of doing nothing would place a significant financial risk on the Dedicated Schools Grant High Needs Budget as those pupils with identified SEND needs would still need specialist education support or school buildings that need significant adaptations. Should this provision not be available in the Borough then education provision would need to be accessed outside of Rotherham.
- 3.2 Not investing in SEND provision through the proposed investment in SEND Resource bases and the Accessibility investment across mainstream/special schools, places a risk within the school's system in Rotherham that it would not be appropriately equipped to meet the demands of the incremental growth in SEND cohorts evident in the Borough. This would directly impact on outcomes for children, young people, and young adults with SEND.
- 3.3 **Option 2 (preferred option):** The proposal to create 10 additional SEND resource bases in mainstream education and thus creating a minimum of 100 additional SEND places across this phase of SEND sufficiency. This would enhance SEND provision in the Borough, supporting the delivery of the High Needs Safety Valve Agreement.
- 3.4 The proposal to enhance both mainstream and specialist SEND accessibility through targeted investment in schools to enhance their ability to meet a wider level of SEND needs within individual education settings. This would enhance the quality of SEND provision in the Borough and support educational outcomes for children and young people. The proposal would also mean that children can continue to have their needs met locally.

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

- 4.1 All appropriate updates have been provided by RMBC ahead of this phase of SEND Sufficiency with key discussion the DfE, key updates have also been provided to Schools Forum, School leaders forums, and associated partners including SEND Partnership Board.
- 4.2 Further formal consultation would be undertaken with key stakeholders for all new resource bases that open at individual schools as part of DfE significant change applications and would lead to adaptations to academy funding agreements. This would be overseen by individual schools as part of their application to the DfE to host a SEND resource base provision.
- 4.3 As part of work that the Council undertakes as part of the wider SEND place based partnership, a series of listening events are held with Parent and Carers across key areas of development across SEND. Previous listening events have included development of the Social, Emotional, Mental Health

Free School, SEND Local Area Inspection, and Newman School development. Plans are in place for a listening event for SEND Sufficiency Phase 4, in order that parents and carers are fully involved in appropriate consultation and are able to support co-producing this phase of SEND Sufficiency in the Borough.

- 4.4 Ongoing updates linked to SEND Sufficiency and performance data are provided to Improving Lives Select Committee. This phase of SEND Sufficiency will also have oversight from Improving Lives Select Committee.

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

- 5.1 Expression of interest from schools to host a SEND resource based provision will take place across autumn term 2023, with a proposed rollout from Easter 2023 onwards, with current school sites that will be repurposed and needing less physical adaptation opening in the first instance, followed by a staged approach across building projects.
- 5.2 Accessibility funding would be open for application from schools from January 2023, future years would take into consideration the outcome of key points of transition with applications for funding to correlate with start of each academic year.

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

- 6.1 The generic High Needs Capital allocation of £3.16m has been increased by £4.32m specifically to support delivery of the Safety Valve programme following a capital application to the DfE.
- 6.2 The SEND Phase 4 sufficiency proposals form part of the Safety Valve programme. As outlined in the report these works, if agreed, would cost £6.3m and be funded from the revised 2022/23 High Needs Capital allocation of £7.48m.
- 6.3 Should the proposals not be approved the Council will not deliver its commitments under the Safety Valve Programme and the revenue cost pressures within the DSG would increase further.

### **Capital**

The two proposals are summarised as follows:

- 6.4 **Create 10 Additional Resource Centres** through use of existing school buildings, refurbish blank school capacity and build purpose-built spaces, with an estimated capital cost of £3.3 million.
- 6.5 **School Access Issues** for significant adaptation to buildings. A fund of £3 million over 4 years created and shared equally between Mainstream Schools (£375k per annum) and Special Schools (£375k per annum). All consideration for investment would seek capital contribution from schools and academies.

- 6.6 Re-purposing buildings and significant adaptations will ensure the borough is equipped to meet the demands of the gradual growth in SEND cohorts.

### **Revenue - Dedicated Schools Grant**

- 6.7 Resource bases are funded from both the Schools Block and the High Needs Block of the Dedicated Schools Grant at an average cost of £14k per place. Through the creation of this provision, it will reduce the need for special school places which cost on average £22k and the need for independent sector places which cost on average £65k per annum.
- 6.8 The introduction of resource bases will assist Rotherham SEND pupils to continue to access education in the borough with no need to access provision outside. Enhancing borough wide provision would avoid financial risk on the Dedicated School Grant. Set up costs of the resource units would be funded from the High Needs Block.
- 6.9 Where there is a need to secure third party organisations to deliver the works required to fulfil the recommendations detailed in this report, these will need to be procured in accordance with the Public Contracts Regulations 2015 (as amended) and the Council's own Financial and Procurement Procedure Rules.

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

- 7.1 Section 14 of the Education Act 1996 places a general duty upon a local authority to secure sufficient schools to provide primary and secondary education in their area and they should have particular regard to securing special education provision.
- 7.2 Following the enactment of The Children and Families Act 2014, the Local Authority retains responsibility for commissioning services for children and young people with SEN or a disability. The Local Authority is required to keep the provision for children and young people with SEN or disabilities under review, including its sufficiency (Section 315 of the Education Act 1996), and to promote wellbeing and improve quality, working in conjunction with parents, young people and providers. This Act and its associated guidance is clear that, when considering any re-organisation of provision, decision makers must be clear how they are satisfied that the proposed alternative arrangements will lead to improvements in the standard, quality and/or range of educational provision for children with SEN or a disability.
- 7.3 In order to minimise the risk of legal challenge, the Local Authority should ensure that it is fully compliant with all relevant legislation in this area and that it continues to satisfy its statutory duties through its decision making. Furthermore, the Council should also ensure that it continues to make decisions that satisfy the terms of the Safety Vale Agreement attached as appendix 1 to this report.



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

8.1 There is no direct HR implication within this report.

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

9.1 Additional Special Educational Needs and Disability (SEND) places created within the borough give more children and young people the opportunity to access high quality provision to meet their educational needs and in line with parental wishes.

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

10.1 Children and Young People with SEND are disproportionately represented across a range of education and inclusion measures. The SEND sufficiency phase 4 aims to provide specialist education provision that supports identified cohorts with SEND needs to have enhanced education opportunities and provide support in order that all children and young people have the strongest possible preparation for Adulthood.

10.2 An Equalities Impact Assessment is appendix 3 to this report.

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

11.1 All areas of SEND Sufficiency, Student place planning 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.

11.3 An environmental impact assessment has been completed and is appendix 5 to this report.

## **12. Implications for Partners**

12.1 Ongoing updates are provided to key stakeholders including Parent/carers forum, health leaders, school leaders, Schools Forum, and other associated stakeholders.

12.2 Development of specialist SEND provision in the Borough will enhance SEND practice for all SEND need types in the Borough and will support areas of focus to enhance SEND capacity across education system in Rotherham enhancing SEND provision in Rotherham schools.

### 13. Risks and Mitigation

- 13.1 Across all areas of this phase of SEND Sufficiency the council will adhere to guidance and advisory outline provided to Local Authorities by DfE in relation to significant changes or changes of designation for schools. Regular update meetings are held with DfE, and this will support forward planning across this phase of SEND Sufficiency.
- 13.2 Across all key decisions and internal processes, decision making has had oversight of SEND Sufficiency Board which involves all key internal parties including legal, assets, HR, procurement, transport, finance, commissioning, and education specialists.

Approvals obtained on behalf of:

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	03/10/2022
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	29/09/2022
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	29/09/2022

*Report Author:*            *Nathan Heath, Assistant Director, Education & Inclusion*  
[nathan.heath@rotherham.gov.uk](mailto:nathan.heath@rotherham.gov.uk)

This report is published on the Council's [website](#).