

Committee Name and Date of Committee Meeting

Cabinet – 24 April 2023

Report Title

Safety Valve Intervention Programme – Department for Education (DfE) – Annual update 2022/2023.

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

Yes

Strategic Director Approving Submission of the Report

Nicola Curley, Strategic Director of Children & Young Peoples Service

Report Author(s)

Nathan Heath Assistant Director, Education & Inclusion

Nathan.heath@rotherham.gov.uk

Neil Hardwick Head of Finance CYPS

Neil.hardwick@rotherham.gov.uk

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 entered into a financial agreement known as a 'Safety Valve Agreement'. This report provides an update at the end of year one (2022/2023) of the 'Safety Valve Agreement' and the associated actions attached to the agreement.

Recommendations

That Cabinet:

1. Note the annual progress of the 'Safety Valve Agreement'.
2. Note the key risks and areas subject to review within the DfE monitoring of Rotherham progress against the 'Safety Valve Agreement'.
3. Note that a further Cabinet report will be submitted when proposals for the 10 additional mainstream SEN resource basis have been further developed.

List of Appendices Included

Appendix 1a Part A - Initial Equality screening Assessment form

Appendix 1b Part B - Equality Analysis Form final

Appendix 2 Carbon impact FINAL Template

Background Papers

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

[\(Public Pack\)Agenda Document for Cabinet, 25/04/2022 10:00 \(rotherham.gov.uk\)](#) – Safety Valve Agreement.

[Choose agenda document pack - Cabinet 25 April 2022 - Rotherham Council](#) – Cabinet approval Safety Valve Agreement

[https://moderngov.rotherham.gov.uk/documents/g15552/Public reports pack Monday 17-Oct-2022 10.00 Cabinet.pdf?T=10](https://moderngov.rotherham.gov.uk/documents/g15552/Public%20reports%20pack%20Monday%2017-Oct-2022%2010.00%20Cabinet.pdf?T=10) – SEND Sufficiency Phase 4

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 (DfE) 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 2021/2022 financial year, negotiation meetings took place between the Council and the 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 was ensuring that more children with SEND (Special Educational Needs and Disability) can be supported to stay in mainstream education in the Borough and the Safety Valve enhances the Council’s long-term aspiration of transforming Rotherham SEND systems.
- 1.2 This culminated in the DfE inviting Rotherham to participate in the ‘Safety Valve’ arrangement and Rotherham’s ‘Safety Valve Agreement’ was published in March 2022 by the DfE. Following this the Council’s Cabinet supported the following actions in April 2022, along with a commitment to provide Cabinet with an annual update on the progress of the ‘Safety Valve’ Agreement.
- (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.
- 1.3 In agreeing to the financial investment from the DfE, Rotherham agreed to implement the following actions 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.
- 1.4 Across the implementation of Rotherham 'Safety Valve Agreement' ongoing monitoring has taken place with meetings between DfE 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. Both a financial and narrative return is submitted to the DfE on a quarterly basis from the Council. Across both the financial and strategic plan that the Council submits to the DfE, Rotherham has remained on track to deliver all aspects of its 'Safety Valve' agreement across this financial year. This includes all 9 areas as outlined in section 1.3 which have been RAG rated as Green and all financial trajectories remaining on track against the plan agreed with the DfE.
- 1.5 Rotherham remains on track to meet all requirements of the 'Safety Valve Agreement' at the end of the 2022/23 financial year, as reported at the end of quarter 3. The Dedicated Schools Grant deficit position will have moved from a position of £12.84m at the end of 2021/2022 to a forecast outturn position of £6.49m at the end of 2022/2023.
- 1.6 This shows a reduced deficit position of over £6.35m within the Dedicated Schools Grant and maintains the Council on target to deliver the 'Safety Valve Agreement'.
- 1.7 Within the negotiation of 'Safety Valve Agreement', the Council were clear that a low level of capital investment would undermine the ability to deliver the plan as set out within the Council's DSG management template. Following submission of an application for additional capital, Rotherham received an additional £4.32m outside Special Provision Capital funding received by the Council.
- 1.8 In November, Cabinet supported the development of Rotherham SEND Sufficiency Phase 4 which will create 10 additional mainstream SEND resource bases and support the development of enhanced accessibility funding streams for both mainstream and special schools to enhance their SEND provision through match funded capital investment. This investment will support delivery of the Safety Valve Agreement through reducing the need for pupils to access high-cost independent special school places and support children and young

people to be educated within the Borough. This programme of activity will be delivered across the next three academic years.

2. Key Issues

- 2.1 The Council's SEND growth assumptions remain appropriate, especially linked to the continued growth of Social, Emotional, Mental Health and Communication and Interaction cohorts. If growth exceeds estimates this will lead to increased financial pressures. Wider than this risk it is inflationary pressures which may lead to increased costs and funding requests outside funding assumptions, which would undermine the 'Safety Valve Agreement'.
- 2.2 In December 2022 the DfE announced additional Dedicated Schools Grant (DSG) funding to mainstream schools through the Mainstream Schools Additional Grant (£1,451m) and DSG High Needs Block (HNB) (£400m) which equates to £8m for Rotherham's mainstream schools and £2m into the HNB. The £2m in the High Needs Block was provided with prescriptive guidance that it should be used to uplift providers funding rates, to support their inflationary pressures.
- 2.3 Within the 2023/2024 academic year the funding transfer from the Schools Block to the High Needs Block has had DfE Ministerial approval. After 2023/24 to support schools' financial sustainability and align with the move to DfE Hard Funding Formula (school funding formula set nationally) the Safety Valve Plan outlines that the block transfer will cease, and this projection remains on track.
- 2.4 One of the key elements to the Plan is young people being supported in Borough and the LAC Sufficiency plan for 2023/24 is to progress with opening a further four 2 bed children's homes in this financial year. This will support the continued progress of more Rotherham Looked After Children being educated in local schools.
- 2.5 All key actions linked to delivery of the Safety Valve in year owned by the Council have been completed including recruitment to key delivery roles, the opening of Social, Emotional, Mental Health (SEMH) Free School (Elements Academy), and implementation of SEMH secondary outreach service.

3. Options considered and recommended proposal

- 3.1 Actions are closely monitored to ensure expected outcomes are achieved and form part of Children Young People Service transformation work, ongoing quarterly meetings are held with DfE within the cycle of monitoring of the 'Safety Valve Agreement'. All monitoring arrangements sit within DfE process of activity in agreeing a 'Safety Valve' arrangement with a local area and can become more regular if the Agreement outcomes are not met.
- 3.2 Rotherham not remaining in a 'Safety Valve' arrangement with the DfE holds considerable risk. This is due to significant investment from this programme to address long term High Needs budget deficit. This programme also continues to work in parallel with the place based SEND Improvement plan which is held within the Rotherham Written Statement of Action. The strongest possible

outcomes for Rotherham children and young people remain the key strand of both these plans.

4. Consultation on proposal

- 4.1 All appropriate updates have been provided to Schools Forum, School leaders forums, and associated partners. Where any area of development is needed in relation to Safety Valve then co-production/consultation will be developed to support all key partners including Schools, Early Years, Post-16 education settings, parent/carers, health and other key partners with SEND interdependencies as part of the ongoing development of the 'Safety Valve' programme in the Borough.
- 4.2 The High Needs Sub-Group which is part of Schools Forum receives regular and detailed updates in relation to the 'Safety Valve Agreement'. Progress is monitored in the High Needs Subgroup and this Group also provides strong oversight of associated actions as outlined in the Rotherham 'Safety Valve Agreement'.

5. Timetable and Accountability for Implementing this Decision

- 5.1 Following Secretary of State approval of the Rotherham 'Safety Valve Agreement' and DfE publication of the Agreement, the first tranche of funding was received by the Council in 2021/22 (£8.53m) with £6m received in 2022/23 and a further £6m to be received between 2023/24 to 2025/26, with total funding of £20.53m across the agreement.

Following the submission of all reporting for this financial year Rotherham has received an advance payment of £3m on top of the original £3m due to positive progression against its strategic and financial plan, £6m in 2022/23 as outlined above. The DfE have commended Rotherham's progress and approach to its Safety Valve Agreement. The 'Safety Valve Agreement' quarterly DfE monitoring, and submission of both financial and narrative information remains in place for the lifespan of the Agreement.

- 5.2 Feedback has been provided by the DfE to the Council that appropriate levels of information across all monitoring has been received and the Council is a model of strong practice in its reporting and oversight of its Agreement.
- 5.3 The DfE also monitors the read across with our SEND Written Statement of Action (SEND Improvement plan) and holds strong accountability that no area of the 'Safety Valve Agreement' undermines the SEND improvement work.

6. Financial and Procurement Advice and Implications

- 6.1 The 'Safety Valve Agreement' will provide Rotherham £20.53m over the period 2021/22 to 2025/26 based on Rotherham achieving the agreed outcomes in the Plan both operationally and financially.

- 6.2 The table below outlines the original plan and the latest position, which shows Rotherham is ahead of original financial assumptions and is forecasting a reduced DSG reserve deficit of £6.49m at the end of the 2022/23 financial year.

DSG Summary (MTFS)

	2021/22	2022/23	2023/24	2024/25	2025/26
	£000's	£000's	£000's	£000's	£000's
Safety Valve Plan					
Overall DSG Position (surplus)/deficit at Year End (as above)	22013	21480	19413	20435	20528
Safety Valve Funding	8533	3000	3000	3000	3000
Cumulative Safety Valve Funding	8533	11533	14533	17533	20533
DSG Position after Safety Valve Funding (surplus)/deficit at Year End	13480	9947	4880	2902	0
Latest Position Management Plan					
Actual Outturn		12840	6487	2419	1442
HNB Planned Contribution to / from Reserves*		-783	-2068**	1023	93
Safety Valve Contribution		-6000	-2000	-2000	-2000
Planned Use of Reserves ***		430	0	0	0
DSG Reserve	12840	6487	2419	1442	-465
Variance	-640	-3460	-2461	-1460	-465

*HNB Contributions to / from reserves

**23/24 contribution from reserves, final 1.5% Schools to HNB Transfer

*** Early Years reserve to fund ISG spend in 2022/23

- 6.3 One of the main elements to achieve the DSG Management Plan and reducing costs is delivery of the High Needs Capital Programme, to enable new provisions to be established and accessibility to existing settings to be facilitated as outlined in the report.
- 6.4 To support the delivery of the Safety Valve Programme a project team has been established and will support delivery of programme objectives as outlined in the report and associated delivery of the DSG Financial Plan.
- 6.5 The government's local government finance policy statement published in December 2022 outlined that the statutory override for the Dedicated Schools Grant (DSG) will be extended for the next three years, from 2023-24 to 2025-26. The statutory override means that any DSG deficits do not have to be met from local authorities' general reserves. Before this announcement, it had been due to expire in 2023.
- 6.6 As this is an update report there are no direct procurement implications. All procurement activity to support this agenda, must be procured in compliance 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 The 'Safety Valve Agreement' was produced with a collaborative approach in mind and therefore the form of the Agreement is essentially a memorandum of understanding rather than a more formal contract. Nevertheless, in continuing

with the Agreement the Council does agree to the terms set out and therefore needs to ensure continued compliance in order to continue to secure funding.

- 7.2 The partnership approach reduces and mitigates any potential legal risks in the recommended course of action.

8. Human Resources Advice and Implications

- 8.1 HR continue to provide advice and support with recruitment and staffing arrangements linked to the safety valve and the wider LAC Sufficiency plan.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 The 'Safety Valve Agreement' continues to 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.

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 CO2 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 CO₂.

- 11.2 Wider consideration of indirect implications or unintended consequence of work in this area has on CO₂ 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' progress have been provided to Schools Forum, the High Needs Sub-Group which is part of Schools Forum receives regular and detailed updates in relation to the Safety Valve Agreement.

- 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 the growth of SEND cohorts within the Borough grow outside the trajectories set against the agreement and mitigations do not. 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 Valve 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: -

	Named Officer	Date
Chief Executive	Sharon Kemp	11/04/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	04/04/22
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	31/03/22

*Report Author: Nathan Heath Assistant Director, Education & Inclusion
Nathan.heath@rotherham.gov.uk*

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