

**Meeting date:** 5<sup>th</sup> November 2020

**Report to:** Full Cabinet



**Subject/report title:** Dedicated Schools Grant (DSG) Recovery Plan

**Report from:** Director of Children's Services and Skills

**Report author/lead contact officer:** Director of Children's Services and Skills

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**Wards affected:**

- All Wards |  Bickenhill |  Blythe |  Castle Bromwich |  Chelmsley Wood |  
 Dorridge/Hockley Heath |  Elmdon |  Kingshurst/Fordbridge |  Knowle |  
 Lyndon |  Meriden |  Olton |  Shirley East |  Shirley South |  
 Shirley West |  Silhill |  Smith's Wood |  St Alphege

**Public/private report:** Public

**Exempt by virtue of paragraph:**

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**1. Purpose of Report**

- 1.1 To confirm the actions being taken to improve the availability of education provision and increase capacity within the Borough so that more of our children and young people can have their needs met locally.
- 1.2 To update on the progress of the DSG Recovery Plan and the actions taken following the previous reports to Cabinet in October 2019 and February 2020.

**2. Decision(s) recommended**

- 2.1 To endorse the progress made in taking forward the work streams that support both the broader improvements to SEND processes and provision and the development of the Recovery Plan.
- 2.2 To approve the DSG Recovery Plan in its current iteration, as set out in Appendix A.

**3. Matters for Consideration**

**Background to the Dedicated Schools Grant (DSG) High Needs Block (HNB) financial position**

- 3.1 At outturn in 2019/20, the High Needs Block of the DSG had an in year adverse variance of £4.660m against the gross budget of £27.808m. In addition to this, an adverse variance of £1.408m was carried forward from 2018/19. After other DSG Block adjustments, the total High Need Block adverse variance carried forward into 2020/21 is £6.039m.
- 3.2 In the current financial year, (Period 6, July 2020), the latest financial forecast position for the DSG High Needs Block is an in year adverse variance of £2.500m against the gross budget of £30.249m. In addition to the adverse variance carried forward from prior years, this takes the total adverse variance to £8.539m. This represents a deficit of 4% against Solihull's total DSG of £211.958m. This continues to reflect the increase in numbers and costs of school placements, particularly in the independent sector. The previous report to Cabinet in October 2019 set out the factors driving the current High Needs Block financial position.
- 3.3 The original guidance from the Education and Skills Funding Agency (ESFA) issued in March 2019 stated that; 'All local authorities that have a cumulative DSG [Dedicated Schools Grant] deficit of 1% or more at the end of a financial year are required to submit a recovery plan outlining how they will bring their deficit back into balance in a three-year time frame'. Based on the current deficit, this would have triggered the requirement for a recovery plan to the DfE in June of 2020. In addition, the DfE recognised that this would be difficult for some LAs and would allow carry forward of the amount agreed as a deficit, but LAs would not be required to recover this within a three-year period. However, the in year position for the High Needs Block must be brought back into balance within three years.
- 3.4 However, the impact of Covid 19 has had a significant effect on local authorities and schools since March of this year. The DfE has recognised this and as such has issued new guidance contained in the DSG Conditions of Grant for 20-21 with new arrangements for handling overspends with effect from the end of the 2019 to 2020 financial year.
- 3.5 New provisions have been put into the School and Early Years Finance (England) Regulations 2020, so that 'local authorities are required to carry forward overspends to their schools budget either in the immediately following year or the year after. They can apply to the Secretary of State to disregard this requirement. In the case of the Secretary of State giving such permission, this may be for all or part of the sum requested by a local authority, and permission may be given subject to conditions'.
- 3.6 The impact of these statutory provisions will be that a local authority with a DSG deficit from the previous year must either:
  - (a) carry the whole of the deficit forward to be dealt with in the schools budget for the new financial year, deducting all of it from the money available for that financial year
  - (b) carry part of it forward into the new financial year and the rest of it into the following financial year

- (c) carry all of it into the following financial year
  - (d) apply to the Secretary of State for authorisation to disregard the requirements if it wishes to fund any part of the deficit from a source other than the DSG.
- 3.7 This creates, on a statutory basis, a new requirement that a deficit must be carried forward to be dealt with from future DSG income, unless the Secretary of State authorises the local authority not to do this.
- 3.8 The DfE have also now issued a DSG Management Template to support the delivery of recovery plans. We are currently looking at the adoption of this as part of the work on our recovery plan.
- 3.9 The Council's HNB Project Board, chaired by the Director of Resources and Deputy Chief Executive, has continued to meet and work has progressed as best it can during the lockdown. The Solihull Schools Forum was informed of progress at their meetings on 7<sup>th</sup> July and 7<sup>th</sup> October 2020. The Head Teacher Reference Group met on 22<sup>nd</sup> October. However, it is clear that the pandemic has, and may continue to, push back many aspects of the recovery plan.
- 3.10 The updated recovery plan presented at Appendix A uses the carry forward flexibility as permitted and still proposes that the accumulated deficit is recovered over a longer period, whilst bringing the in-year position back to balance by year 3. This recognises the following factors:
- The impact of Covid on the timescales for implementing measures. In particular, this reflects the impact on our ability to undertake statutory consultation on our development proposals.
  - That the DfE does not expect local authorities to take such measures to recover the full deficit within three years that would have a detrimental impact upon support and provision for children and young people.
  - The allocation of additional HNB funding for 2020/21 and 2021/22 (with the latter estimated at £2.5m for Solihull).
  - That there is a long lead in time for some of the proposed measures, which means that action and implementation does not immediately result in a financial saving.
  - There are still elements of uncertainty and variability in terms of some of the key assumptions underpinning the plan, especially around future pupil numbers and future levels of government funding. Officers will continue to refine details, revisiting assumptions in the light of emerging information and in the light of consultation and engagement with schools and the School Forum.
  - There is an acknowledged problem nationally that the High Needs Block within the DSG is underfunded. Over 80% of local authorities are reporting a High Needs Block deficit and the scale of the shortfall in funding is rapidly escalating – with the pandemic adding to this pressure. At present,

there are no planned announcements from the Government about this unless anything is brought forward as part of a future Comprehensive Spending Review.

### **What is happening in relation to the demand and financial pressures?**

3.11 Various options for additional in Borough provision (in addition to that brought on stream already over the past three years) are being developed as part of the wider recovery plan. The first phase of these options were reported to, and approved by, the Cabinet Member for Children, Education and Skills on 18th December 2019. In summary these were:

- 8 full time equivalent place secondary SEMH provision (open Sept 20).
- 6 place primary complex Autism provision (due Sept 21)
- 8 full time equivalent places KS1 primary SEMH provision (North) (due Sept 21)
- 10 full time equivalent place KS2 primary SEMH provision (North) (due January 22)
- 20 place secondary complex Autism provision (due Sept 22)

Where possible, we were looking to open new provision from September 2020 but developments of this nature are subject to full statutory consultation before a final decision can be made. As such the impact of Covid has meant this was not feasible for this Autumn other than for the secondary SEMH provision. For academy schools the final decision is also a matter for the Regional Schools Commissioner. All these developments are dependent on appropriate accommodation being deliverable at a level affordable within the capital programme and in the necessary timescales.

3.12 In addition, working in partnership with our special school Head Teachers we are looking at ways to further expand our special school places whilst recognising the need to add additional accommodation to alleviate existing and future pressure. It is anticipated that a formal expansion of one or more of our special schools will be required. Feasibility work around how best to deliver these expansions is underway. Expansion of special school places above 10% will require a full statutory process before a final decision is made.

3.13 It is important to note that the unit cost of such additional in-Borough places is significantly cheaper than external provision and as such has helped to mitigate the HNB deficit below the level it otherwise would have reached had action not been taken. As a general rule of thumb, we are able to make SEND provision for two children in Borough for every child who goes to a specialist external education placement.

3.14 Solihull has also responded by supporting the creation of a new 100 place Special Free School, and the local authority has agreed to fund these places whilst the school becomes established. The new Free School has now been approved by the Secretary of State and will be developed and run by the Forward Education Trust. The original plan was for it open in September 2023, but we are working with all parties to bring this forward by one year to September 2022 if possible. The DfE confirmed on the recent formal set up

conversation with the local authority and the Forward Education Trust that September 2022 is the target date for opening.

- 3.15 Solihull needs to work closely with schools to invest in preventative and inclusive pathways, and, as a consequence, disinvest from exclusion pathways. This needs to be accompanied by new funding models for alternative provision and a greater role for schools in commissioning provision.
- 3.16 Through a detailed pupil by pupil review of all those students previously at Auckland Pupil Referral Unit (PRU) and currently at Summerfield PRU, it has become clear that SEND intervention is a more appropriate pathway for many of the pupils who were / are on roll. This also means we need to transfer appropriate resources from our alternative provision to SEND provision. This was put in place initially through the decommissioning of Auckland PRU and the proposed creation of Social, Emotional and Mental Health (SEMH) additional resource provision. We looking at our future needs for Secondary PRU provision and options were presented to the Cabinet Member for Children, Education and Skills at the decision session on 11th February 2020. As part of this planning, the Summerfield PRU moved into the former Auckland site in September 2020.
- 3.17 In March 2020, the Cabinet Member also approved the commissioning of the new Key Stage 3 Secondary SEMH provision at Tudor Grange School.
- 3.18 In September 2020, the Cabinet Member also approved consultation on two proposals: one to increase primary Autism places, through the creation of an additionally resourced provision and the second to add additional Special School capacity in the south of the Borough, both proposals to be implemented from September 2021. Further plans are being developed for 6th Day provision for secondary aged excluded pupils. Due to the delivery of the Special Free School being brought forward to September 2022, the additional secondary autism places based in the north of the borough are now being considered for new places catering for Social Emotional and Mental Health Needs.
- 3.19 The DSG financial settlement for 2020/21 announced in December 2019 confirmed that Solihull will receive £2.748m additional DSG High Needs funding in 2020/21. Similarly, we have had initial indications of additional funding for 2021/22 of some £2.5m which will help offset the on-going deficit as part of the Recovery Plan actions. Whilst this has not been confirmed for future years, our working assumption is that we will continue to receive this funding in future as a minimum baseline increase.
- 3.20 The Council's approach to SEND and the recovery plan itself has now 7 (formerly 5) key work strands as set out in Appendix B, which indicates progress made since the February Cabinet report. These are monitored through the Project Board.
- 3.21 In terms of developing the financial model (Strand 5); a key piece of work has been to model the individual pupil impact across all settings reflecting changes such as at Key Stages. This has enabled us to begin to model the detailed financial and provision impact over the current and next two years. In addition,

we can look to model future demand. However, it must be noted that this is not a straight forward exercise and is dependant on many factors including future DSG financial settlements, future projections about the number and type of places needed and practical issues around developing capacity such as expanding SEND provision locally and building on measures already implemented.

- 3.22 The model will need to be updated based on current pupil data. The annual January Pupil census which forms part of the statutory return to the DFE will inform the update.
- 3.23 As it stands, the current model indicates that we may be able to bring the in year High Needs Block back within budget by year 2 but clearly subject to factors set out above. However, it is still our view that the recovery of the current and any future deficit within the current three year planning horizon will not be achievable under the current assumptions and funding. Beyond the immediate three years of the current recovery plan, the full year effects of some of the proposals in the plan, together with the impact of the new free school for children with autism, will have a further positive impact upon the remaining accumulated deficit. This will be reflected in further iterations of the financial model as we plan into 2023/24 and beyond.
- 3.24 Furthermore, there is a real need to continue to work more closely with our Schools on all these matters. Schools had previously expressed their concern that they had not been sufficiently involved in the development of responses to the emerging financial position. A High Needs reference group has been established with Head Teachers and that will be an important critical friend and voice of schools about the future direction and development of SEND, including the deficit recovery plan. Positive discussions regarding co-production of SEND solutions with parents are also beginning to take shape and the Parent Carer Voice group has recently been re-launched.

### **Resources required to develop, implement and monitor the DSG Recovery Plan actions**

- 3.25 Given the scale of the challenge outlined and the associated financial risk, Cabinet in October 2019 approved that £400,000 per annum for 3 years be set aside through the current MTFS process to provide additional infrastructure capacity, with effect from 2020/21. Progress against the Recovery Plan will be monitored through the High Needs Block Board. The current position in terms of providing the needed additional infrastructure capacity is:
- An Assistant Director, Inclusion and Additional Needs – following a national recruitment process, interviews were held in January and the successful candidate has now been in post since April.
  - A senior commissioning / contract officer – this post was filled in April 2020 and is working with the Head of Service for Children’s Commissioning and with the Corporate Procurement Team to establish more robust commissioning and contract management arrangements for SEND placements in the independent sector.

- A business change manager – the Children’s Service’s Operating Officer is now in post.
- A solicitor with an SEND specialism – funding is being used to support interim arrangements pending a review by Legal Services of the long term requirements.
- A post to help deal with the backlog of annual reviews – being covered by an agency member of staff pending recruitment to the longer term position. This remains an area of significant concern.
- The SEND Head of Service post, which was already in the base budget prior to the previous Cabinet approvals, became vacant in July. This has now been appointed to and the successful candidate will take up post at the end of November.

3.26 Since the introduction of the SEND reforms, the number of EHCPs has increased by 59%, with the percentage of children with a new EHCP in the borough increasing year on year and is now above both the national and regional figures at 19.4%. Resourcing levels in the Statutory Review and Assessment Team have not kept pace with this increase and a growth bid will be included within the MTFS round.

3.27 In addition, since the last report to Cabinet, the decision has been taken to proceed with the introduction of the Liquidlogic Education, Health and Care Plan (EHCP) module now following the submission of a business case to the Social Care Implementation Board in July 2020. In 2017, at the time of the original Liquid Logic tender, a decision was also made to purchase the EHCP module. The original project plan was to implement this for the core go live (Phase 2), however it was re-phased in April 2019 into a later phase.

3.28 Despite the impact of Covid upon workload and capacity, it is now felt that this should not be pushed back further and should be implemented now. This will ensure that we can embed a seamless service for children and young people aged 0 – 25 with special educational needs and can fully comply with the statutory duties outlined in the Children and Families Act 2014 and the SEND Code of Practice (January 2015). Furthermore, this will also enable us to better predict the impact of pupil demand and improve financial modelling.

#### **4. What options have been considered and what is the evidence telling us about them?**

4.1 We continue to work on the recovery plan in line with the new requirements from the DfE. The view still remains that recovering the full deficit (i.e. the accumulated deficit in addition to the in year position) would require the implementation of measures that would be detrimental to outcomes and provision for children and young people. It would also leave the council in a position where it was unable to meet its statutory duties and open to legal challenge. Further, such measures, whilst delivering an initial reduction in costs would also be likely to increase costs in later years as the true financial consequences become apparent. This option has therefore been discounted.

- 4.2 There also remain several variables which will impact on the delivery of the plan. Key will be the impact of Covid and the effect on both demand and the ability to progress new provisions. The development of the new Free School will also be a key driver in terms of reducing our reliance on external provision longer term.
- 4.3 The headline recovery plan is set out in Appendix A, together with the key planning assumptions around forecast numbers, timescales and level of Government funding.
- 4.4 Appendix B sets out the progress and revised timelines in each of the key work stands.
- 4.5 However, the increasing demand for EHCP assessments, the current number of actual EHCPs and the need to review these annually continues to place a significant burden on StART. In 2018, the caseload of each StART Plan Co-ordinator was 182. The current number of EHCPs has created a caseload of 238 which is continuing to rise as requests for assessments continue to be made. As such a business case has been drafted setting out the potential resource impact based on the above. This is costed at some £320k per annum which will be incorporated into the service's MTFS planning.

## 5. Reasons for recommending preferred option

- 5.1 As outlined above in 4.1 to 4.5.

## 6. Implications and Considerations

- 6.1 How the proposals in this report contribute to the delivery of Council Plan priorities:

Priority:	Contribution:
Securing inclusive economic growth.	Improving the council's SEND provision will support more young people to secure employment and training when they leave school.
Planning and delivery for Solihull's low carbon future (to include biodiversity implications).	Being able to educate more of our young people in the Borough will, over time, reduce travel distances and the use of car and taxi journeys.
Managing demand and expectation for public services.	Parents of children with SEND in Solihull quite rightly have high expectations for their children. As the report highlights, demand for in Borough provision currently exceeds the council's ability to provide it and is causing a significant financial overspend. The proposals in the report are intended to address capacity and meet children's needs in a more cost effective way.
Developing our approach to services for adults and children with complex	In developing a financially sustainable High Needs Block over time within the Dedicated Schools



needs.	Grant, the Council will be in a better position to meet needs locally. A key element of the Recovery Plan as it develops will be to continue to expand in-Borough provision for children with SEND, working in close partnership with our schools and academies and ensuring families are part of the development of solutions. This will deliver better outcomes for children and families as well as securing financial efficiencies; as previously stated the cost of educating one pupil out of Borough in independent sector provision would meet the costs of education two pupils in maintained or academy provision within Solihull.
Making the best use of our people and physical assets.	A key aspect here will be to ensure we maximise the use of school and Council buildings in order to provide some of our new service provision. This may well require the re-designation of some assets along with some capital investment.

## 6.2 Consultation and Scrutiny

- 6.2.1 The DSG financial position, the factors that have led to the deficit and the actions already taken have been set out in recent reports to the Solihull Schools Forum and its sub groups. The Forum is a key stakeholder in matters relating to the DSG and has statutory duties in relation school funding issues.
- 6.2.2 Further reports on the consideration of future service options and progress against the recovery plan will go to the Solihull School Forum as required and will be informed by discussion with the Head Teachers' Reference Group. Parental engagement will be a continual feature of this developing Plan.
- 6.2.3 Any consultation requirements linked to the detail of the Recovery Plan, once developed, will be detailed and approval sought in subsequent reports to the Cabinet Portfolio Holder for Children, Education and Skills.

## 6.3 Financial implications:

- 6.3.1 The report also notes resources allocated to develop, implement and monitor the Recovery Plan actions.
- 6.3.2 The financial aspects of the plan are set out in Appendix A. As with all financial models, certain assumptions have been made around demand, cost, funding and provision. Changes in these assumptions will need to be reflected as part of the implementation and update of the Recovery Plan.
- 6.3.3 There will also be some capital investment required to deliver several of the planned proposals. Funding for elements of this is already in the approved

Children's Services capital programme. As other proposals are developed, the capital implications will be set out as part of the detailed project plans.

- 6.3.4 The recovery of the ongoing deficit must be in accordance with DfE guidelines and treated in accordance with statutory accounting requirements. As referred to in paragraph 3.4, the requirements of the School and Early Years Finance (England) Regulations 2020 are for prior year deficits to be deducted from the current year's school budget or carried forward to the next financial year, unless an application is made to the Secretary of State to disregard this. This means that deficits do not have to be covered by an authority's general reserves. However, the Code of Practice on Local Authority Accounting does not currently allow for any earmarked reserve to be shown in a deficit position at the balance sheet date so it is currently not possible to achieve the DfE's proposal in accounting terms. This has been flagged with the relevant civil servants.
- 6.3.5 As at 31 March 2020, the cumulative deficit was temporarily funded from the Budget Strategy Reserve and this was explained in the Council's Statement of Accounts. It is anticipated that as at 31 March 2021, the deficit will be carried forward as a negative earmarked reserve, but this accounting treatment is subject to further clarification from CIPFA and agreement with the Council's external auditors. Alternatively, the Council will have to cover each year's DSG deficit on a temporary basis from non-earmarked general fund reserves, which includes the Council's working balances, windfall reserve and the budget strategy reserve. The forecasts on these reserves exceed the forecast deficit at all points during the three year MTFs period, so this would be sufficient balance sheet cover, although it is acknowledged that these balances are also there to protect against other risks.
- 6.3.6 As detailed in 3.10, the recovery plan aims to recover the accumulated deficit over a longer period than the MTFs, so the non-earmarked general fund reserves will be repaid and the cover required will reduce as the DSG position is brought back into balance. Additional disclosure will continue to be included in the Council's annual Statement of Accounts to explain the DSG funding position and the impact of the carried forward deficit on the non-earmarked general fund reserves balances

#### 6.4 **Legal implications:**

- 6.4.1 The Council was required to submit a Recovery Plan to the DfE by June 2020 to bring the DSG back into balance within three years and the regulations around this are set out in statutory guidance. As a consequence of Covid, revised arrangements have been set out by the DfE as outlined in the report.

#### 6.5 **Risk implications:**

- 6.5.1 The council would be in breach of its statutory duties should it fail to submit a robust and approved Recovery Plan to the DfE when required and/or provide the relevant updates as required under the Covid related guidance.

6.5.2 Any risks associated with the elements of Recovery Plan itself will be clearly identified and reported to Cabinet accordingly.

**6.6 Equality Implications:**

6.6.1 Any reviews of service provision would be subject to Fair Treatment assessments. However, the overall objective of the proposals is to improve provision for children and young people with disabilities.

**7. List of appendices referred to**

7.1 Appendix A – DSG Recovery Plan

7.2 Appendix B – Progress against SEND work streams

**8. Background papers used to compile this report**

8.1 Reports to Full Cabinet 10<sup>th</sup> October 2019 and 13<sup>th</sup> February 2020

8.2 Various reports to Solihull Schools Forum

**9. List of other relevant documents**

9.1 National Audit Office Report: Support for pupils with SEND in England September 2019