

Meeting date: 12th July 2022
Report to: Solihull School Forum



Subject/report title: High Needs Block Action Plan
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Schools affected:

All Schools PRUs

Type of Report For information
Forum Voting Not a voting matter - for information item
Public/private report: Public

1. Purpose of Report

- 1.1 To update School Forum of the High Needs Block (HNB) Action Plan and linkage with the Department for Education (DfE) Delivering Best Value (DBV) SEND program in 2022-23.
- 1.2 To update School Forum members of the High Needs Block outturn for 2021-22 and implications to revise the Action Plan previously reported to School Forum 17th January 2022.

2. Decision(s) recommended

- 2.1 For School Forum members to note and comment on accordingly.

3. Matters for Consideration

- 3.1 School Forum members to note and comment but for schools to collaboratively work and support the local authority as part of the journey to assist in the recovery of the High Needs Block of the Dedicated Schools Grant (DSG) to a balanced budget position within the next 3 to 5 years.

4. High Needs Block and Key Drivers

- 4.1 School Forum members will be aware of the legislative changes within the Children and Families Act 2014 placing important new statutory duties on local authorities. These included replacing Special Education Needs and Disabilities (SEND) statements and learning difficulty assessments (LDAs) with integrated 0-25 education, health and care needs assessments and plans, (EHCPs) bringing parity of rights for those in early years settings, schools, and post-16 institutions. As part of these reforms local authorities had to publish a 'local offer' setting out the local support for children and young people with SEN and disabilities, and work with other partner agencies, health, and social care and to jointly commission support services, but more importantly to consider parental choice in relation to SEN children.
- 4.2 From the historical funding and baseline setting of expenditure within the HNB since 2013-14, gradually local authorities throughout the country have started to report pressures within the high needs block due to the reform changes together with increased growth and demand of children and young people being identified with SEN and disabilities causing a lack of local authority specialist educational places.
- 4.3 The latest Department for Education (DfE) SEND briefings and Section 251 benchmarking data as of March 2022, reported 55 local authorities with significant overspends within the HNB. To support LA's, the DfE have introduced assistance in the form of a programme called Safety Valve Programme whereby the DfE works with local authority's (LA's) to recover the overspends within the DSG - HNB over a period of 3-5 years and additional support funding is provided based upon deliverable results within the DSG Management Plan. (HNB Recovery plan). The latest published DSG balances report 100 local authorities out of 151 reporting DSG carry forward deficit balances as at 2019-20 into 2020-21 of £800m, but after 2020-21 closedown, deficits are in excess of c£1.3billion.
- 4.4 Latest published data is 14 local authorities are engaged on the Safety Valve programmes and local authorities with smaller deficits, as in Solihull's case of £13.1m (2021-22) outturn, table 1 below have been invited to participate in an additional DfE programme Delivering Best Value (DBV) - SEND and work with DfE representatives and local authority SEND partners in assistance and recovery of the local authority High Needs Block pressures. Further information is in a report to Forum on the DBV programme elsewhere on this Forum agenda.
- 4.5 The HNB Action Plan attached as **Appendix A** has been updated to reflect the additional increase in 2021/22 outturn since reported to School Forum on 17th January 2022, and Cabinet 9th December 2021.

2021-22 High Needs Block Statement

Descriptor	2021-22 Budget	2021-22 Expenditure	2021-22 P12 Variance
Pupil Support Services			
Sub-Total	£5,069,820	£4,718,925	-£350,895
Alternative Provision			
Sub-Total	£3,238,670	£3,485,608	£246,938
Special Needs Education			
Sub-Total	£22,847,920	£26,902,827	£4,054,907
Total High Needs - In Year	£31,156,410	£35,107,360	£3,950,950
2020-21 Overspend Carried Forward		£9,141,000	
Place Funding Paid Directly by EFA	£2,317,000	£2,317,000	
TOTAL	£33,473,410	£46,565,360	£13,091,950

Table 1

- 4.6 For DSG financial year 2022-23, there is an additional £4.386m (13%) High Needs Block allocation, and this is an increase in comparison to other years, as detailed in table 2 below.

	HNB allocation £'000m	Recoupment £'000m	LA HNB funding £'000m	Other DSG block transfers £'000m	TOTAL Allocation £'00m	% increase	Additional HNB allocation £'000m
2022-23	37.859	2.291	35.568	0	35.568	13%	4.386
2021-22	33.473	2.317	31.156	0	31.156	11%	3.224
2020-21	30.249	2.365	27.884	0	27.884	9%	2.442
2019-20	27.807	2.268	25.539	0	25.539	2%	0.564
2018-19	27.243	2.749	24.494	0	24.494	2%	0.503
2017-18	26.740	0.38	26.360	0	26.360	3%	0.67
2016-17	26.070	0	26.070	0	26.070	6%	1.36
2015-16	24.710	2.48	22.230	0	22.230	3%	0.609
2014-15	24.101	1.878	22.223	0	22.223	9%	1.951
2013-14	22.150	0.517	21.633	0	21.633		

5. Key Drivers (Nationally)

- 5.1 **Changes in legislation 0-25 years** - The Children and Families Act 2014 reformed the system of support across education, health, and social care to ensure that each of the services were organised with the needs and preferences of the child and their family firmly at the centre, from birth up to the age of 25. The Act introduced Education, Health and Care (EHC) plans, as legal documents that set out the education health and social care support a child or young person with SEN requires when their needs cannot be met by resources available in mainstream, early years providers, schools and post-16 institutions. There is a clear focus on the outcomes for a child or young person's wanting to achieve and set out how the services will work together to support those outcomes. Legislative changes and accountability fall under the remit of local authorities. This change in legislation was **not** supported by

additional resources appropriate to the legislative change within the system.

- 5.2 **Growth** within LA's and demand for SEN establishments is evidenced within census data within schools. Average pupil growth across West Midlands LA's is between 1% and 2% over the last four years based upon Office of National Statistics (ONS) census reporting within census 2-18 years of age. Solihull's average growth is 1% pupil growth. But within SEN, there has been a dramatic and sustained rise in demand for support, brought about by the very rapid increase in children and young people with Education Health and Care Plans (10% over four years). While budgets have increased, spending has increased significantly faster, leaving local authorities with an in-year shortfall in 2021-22 of 6% or c£3 million. This, however, under-estimates the true scale of the pressure in high needs as many councils have been holding the overspends within their DSG reserves and are now facing cumulative overspends of many millions due to those reserves now being depleted.
- 5.3 **School budgets** due to the National Funding Formula (NFF) and proposed move to the DfE 'hard formula' schools are facing real funding pressures and using school reserves (school balances) in support of increased teaching costs, teaching staff pay awards, increased pension costs, national insurance increases, supplies and services, utility costs and cost of living increases. School budgets have been protected by the maximum 2% minimum funding guarantee (MFG) within the school formula, and additional support has been provided in the Schools Supplementary Grant funding announced 16th December 2021 (*£5.649m School Block and £1.319m High Needs Block Solihull's published allocation*). The additional support costs in identified SEN pupils due to growth in schools does utilise the additional formula funding and uses school balances in support.
- 5.4 **Notional budget**, the purpose of the notional SEN budget within the school block formula allocations to schools' is to identify the base level of funding within mainstream school budgets which is available to cover the costs of supporting lower-level SEN. This is generally referred to as a £6,000 threshold (element 2) of additional support. It can also be combined with the universal funding per pupil within school budget share/General Annual Grant (GAG) to define a total cost of £10,000 for a pupil with SEN, creating a match with the place led funding in specialist provision. This establishes a standard threshold which must be absorbed by any school before 'top up' payments can be claimed. Currently, each LA calculates the notional SEN budget within the school block formulae and LAs have complete discretion over which formula factors are deemed to be part of the notional SEN budget. Solihull does fully report to each school on the notional element and advises each individual school of funding amounts and advising "when" additional funding would be required (from the school budget workbook). This level of detail is excellent for both LA monitoring and schools. Nationally though, it proves the disparity across schools' support funding for SEN, and the government intends to have a national method within the proposed changes to the NFF.
- 5.5 **SEND code of practice.** The SEND Code of Practice states that "if a child or young person has SEN or if they have a learning difficulty or a disability which calls for special educational provision to be made for him or her". Since 2014, the government

introduced significant reforms to the way in which children and young people with SEND are identified and supported therefore requiring local authorities to have greater regard to the specific needs of children with SEND and their parents.

- 5.6 **The Local Offer** requirement placed upon local authorities to publish information for children and young people with SEND and their parents or carers in a single place. It shows families what they can expect from a range of **local agencies** including education, health and social care, but the government has not advised of a consistent description of what should be 'ordinarily available' in a mainstream school, nor given clear information on this including the financial arrangements. Signposting parents and carers for extra support is extremely useful but a government initiative placed upon LAs with associated cost drivers attached in support of this and updating on-going changes year on year, plus inspection review as part of the SEND Inspection proves another pressure for LA's.
- 5.7 **Early Years identification of 'SEN need'** Although the early years (0-4) financial support is not statutory, LAs are earmarking funding in support from the High Needs Block due to evidence of early intervention and additional targeting support to pupils through early intervention. The last 2 years of COVID and nursery children missing out on pre-school and nursery provision may now be causing pressures within schools that may be construed as an SEN requirement.
- 5.8 **SEND Tribunal – The First tier (SEND) tribunal** hears appeals against decisions of local authorities in England regarding special educational needs. Children or young people with SEN may need extra help because of the effect of their needs on them accessing education. The law does not categorise special educational needs in **types of needs**, but associated costs are considerably high and latest data reports 98% of all cases are awarded to the parents/child and costs are borne by the local authority, therefore legal tribunal costs plus SEN costs are expensive for LA's.
- 5.9 **EHC plans** and clear evidenced growth via SEN2 data returns from local authorities, and due to government changes have resulted in more children and young people having an EHC plan, therefore identification of extra resources in support to meet the 'needs' growth in managing the EHCP growth (and yearly review process) within local authorities. As part of Solihull's SEND Improvement Plan, additional resources have been provided, as reported within the SEND Improvement Plan previously reported to School Forum 17th January 2022. However, due to this growth and demand, there is a national shortage of qualified EHCP staff in recruitment and retention. The latest SEN Green consultation paper is proposing a recognised qualification for EHCP officers to assist in future recruitment and retention, plus digitised EHCPs to ensure consistency nationally.
- 5.10 **Top up matrix (element 3 funding)** within each local authority and variations nationally. Each local authority sets the element 3 or top up funding paid to institutions in support of SEN children placement costs within the High Needs Block funding under 'Place-Plus'. This plays a huge impact upon the High Needs Block and contributes to the national reporting of local authority DSG deficits. The SEN Green Consultation paper proposes some uniform banding/top ups and funding nationally

including independent sector places.

- 5.11 **Alternative Provision (AP) and Pupil Referral Units (PRUs)** due to complexities of SEND and pupils identified with different need, schools are finding difficulties in supporting these pupils and limited resources places an additional pressure to meet the individual requirements to access education learning within schools. The demand for specialist placements to meet the learning environment has increased growth with AP and PRU's and consequently demands upon LA's to support this growth with additional funding supported from the High Needs Block. Solihull has invested significantly in AP in recent years, and there is a report on an emergent AP Commissioning Strategy elsewhere on this Forum Agenda.
- 5.12 **Post-16 support** and identification of places and need has grown but with no additional funding to LAs in support. The lagged funding of post-16 institutions doesn't assist in forecasting outturn and future pressures. All statistical neighbour LA's have reported growth and ongoing pressures within post16 placements due to EHC plans and demand within 18-25 places for further education places. Solihull is experiencing a significant rise in post-16 places where those places are very high cost.
- 5.13 **Specialist places and Out of Borough (OOB)** due to limited specialist places available in borough provision and suitable places for SEN pupils, growth has continued since the introduction of National School funding Reform, therefore children and young people are being placed in 'Out of Borough' (OOB) establishments with placement costs varying between £30k per place to £80k for one placement. *(Solihull's average cost of £52K)*. Within the High Needs Block, the DfE adjust local authorities DSG allocation for the "net" import/export of SEN pupils in establishments who reside in another local authority. Top up or element 3 support funding is the responsibility of the school to recover from the resident local authority. Some schools have problems in recovering the funding directly from the local authority but will continue to support the pupil in the school setting and absorb this loss in funding. In Solihull, we continue to manage with recoupment/ payments for schools at an authority-wide level, whereby Solihull will pay schools the agreed top-up, and recover that from other LAs on behalf of all schools.
- 5.14 **Special schools** growth/place demand within the local area and planned expansion or delay of rebuild of a new school/institution due to DfE Capital program delays nationally and no supported funding to local authorities due to the delay. Consequently, this delay will cause SEN placements either 'out of borough' or independent sector and once SEN pupils are placed and settled, due to certain types of need, for example ASD will cause further problems in re-housing the pupil afterwards. The Solihull ASD Free School is expected to open September 2023.
- 5.15 **SEN Transport costs**, although not directly linked to the pressures of the High Needs Block due to regulations of the Dedicated Schools Grant not allowing transport costs/expenditure allowable expenditure, indirectly these costs are related. When commissioning suitable places for SEN children in a setting, the associated travel costs in support are funded from the local authorities General Fund that is under

enormous pressures due to SEN children attending the institutions, but fuel increases and cost of living increases to transport providers. 16–25-year-olds have risen significantly due to parental choice of school placements for children identified with SEN and EHC plans, therefore associated travel costs in support. Home to school transport for Solihull is currently forecasting a £1.2m overspend against a £4.3m budget.

- 5.16 **Agency Partners support in SEN costs** and pressures in growth. Nationally, the EHC plan support costs from other partner agencies, i.e., social care and health have diminished due to inhouse pressures, therefore this cost has been supported from the local authorities High Needs Block. The SEN Green paper encourages ALL agencies to be involved and resources available including health.
- 5.17 **Inclusive schools**, although growth of SEN pupils in schools according to data reports is escalating (SEN2 returns) and demand plus cost drivers is evident within schools, resources are limited, nationally, there is clear evidence of schools managing the SEN growth with schools being fully inclusive of SEN children and supportive to local authorities with ongoing pressures for suitable provision. The 'inclusive' model is proposed within the SEN Green Consultation paper. Within Solihull, progress on the "inclusion" strand of the recovery plan will be key. Addressing the supply of specialist places cannot be a solution in isolation; there just isn't enough money, and there are other issues around segregating the education of pupils with SEND. Data is still being established to spotlight the issues in Solihull, and the extent to which they may be significantly different to similar authorities.

5.18 High Needs Block – Action Plan

- 5.18.1 The local authority has already begun recovery work with regards to the High Needs Block pressures, a SEND Improvement Plan was reported to Cabinet 9th December 2021 and to School Forum 17th January 2022 of key strategies and areas of SEND improvement.

5.19 SEND Improvement Plan

- 5.19.1 The focus of the first year of the SEND improvement plan has been to identify the strategies determined as essential to improving outcomes for children and young people and achieving value for money against the High Needs Block of the DSG. Following prioritisation, each strategy is at a different point in its development – but all are vital components and interrelated strands on the SEND improvement journey.
- 5.19.2 Attached as **Appendix A** is an updated High Needs Block Action Plan with revised 2021-22 outturn and High Needs Block published allocations for 2022/23. As previously reported the recovery of the deficit is still forecasting within three years, but there are inter dependencies based upon the delay of the opening of the new Autistic Spectrum Disorder (ASD) Free School, plus assumptions on pupil census, EHCPs growth within the Plan and High Needs Block funding yearly increases.

5.20 SEN - EHCP Financial Forecasting Model

5.20.1 To assist in the High Needs Block action plan and support in one of the funding strands of the SEND Improvement plan, a model of anticipated future costs of an EHCP model is currently being refined.

5.20.2 Assumptions as with any modelling are:

- School census and data quality
- Growth and dynamics of school population
- Early years SEN and COVID relationship
- Primary type of SEN, and additional needs
- Average cost of an EHCP (based upon known expenditure)
- Cessation of leavers and EHCP's
- Movers, including OOB pupils
- New builds of family homes
- Post-16 growth (pressure area)

5.21 Delivering Best Value (DBV) – SEND

5.21.1 Solihull has been invited by the government to participate in a new programme to put high needs funding on a more sustainable footing. There is a report providing further information elsewhere on this Forum agenda.

5.22 The SEND Green Paper (March 2022)

5.22.1 The SEND Green Paper Consultation was announced on 29 March 2022 (*closing date 22 July 2022*) recognises that the system is driven by a hard-working and dedicated workforce who are committed to delivering excellent support for children and young people but that there are growing pressures across the system which are creating increasing financial pressure for local government.

5.22.2 The green paper describes an effective system as one in which the vast majority of young people can thrive without the need for an EHCP or specialist provision because their needs would be identified promptly, and appropriate support put in place at the earliest opportunity. (*Early and targeted support*).

5.22.3 Proposals are set out for an inclusive system with improved mainstream provision that is built on early identification, high quality teaching and prompt targeted support with improved national consistency.

5.22.4 It is intended that local authorities with sustainable high needs systems will thus be in a better position to modernise in line with the SEND reviews detailed in the DfE's SEND Green Paper.

6. Implications and Considerations

6.1 Impact on schools:

- 6.1.1 Due to the funding of the Dedicated Schools Grant to schools, consultation would be required via School Forum working in collaboration with the Finance Work Group on details of any direct funding impact changes upon schools due to statutory responsibilities of school funding.

6.2 Implications for children and young people, vulnerable groups, and particular communities.

- 6.2.1 Solihull's children and young people who are cared for and who have SEND or are vulnerable and need alternative education packages which are funded through the Dedicated Schools Grant, High Needs budget, as corporate parents it is important, to continue to ensure the appropriate additional support is in place to support the educational progress of the authorities cared for children.
- 8.2.2 It is important that ensuring the best outcomes for vulnerable children remain at the heart of any action plan. Full engagement and consultation with key stakeholders, including parent/carers, young people, staff, and providers will be endorsed.

6.3 Consultation and Scrutiny:

- 8.3.1 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 subgroups. The Forum is a key stakeholder in matters relating to the DSG and has statutory duties in relation school funding issues.
- 8.3.2 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.
- 8.3.3 Officers will continue to work closely with Solihull Parent Carer Voice and Our Voice's Heard to co-produce improvements and consult on proposed changes to improve outcomes for children and young people with additional SEND needs.

6.4 Financial implications:

- 6.4.1 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 SEND Improvement Plan.
- 6.4.2 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.

6.4.3 The recovery of the ongoing deficit must be in accordance with DfE guidelines and treated in accordance with statutory accounting requirements. The requirements of the School and Early Years Finance (England) Regulations 2021 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 the Council's general reserves. The Chartered Institute of Public Finance and Accountancy (CIPFA) has updated the Code of Practice to allow authorities to charge this deficit to an unusable reserve, the DSG adjustment account, created solely for this purpose.

6.5 Legal implications:

6.5.1 Whilst the council is not required to submit a Recovery Plan to the DfE, without robust stabilisation and improvement plans, the council would be at risk of not meeting its statutory responsibilities as specified in the Children and Families Act 2014 and outcomes for children and young people with SEND will deteriorate.

6.5.2 If the council participates in the DBV programme, a DSG Management Tool – DfE template of the High Needs Block action plan would be required to be updated, as part of the programme and reporting with SEND advisors.

6.6 Risk implications:

6.6.1 Failure to effectively deliver all aspects of the SEND improvement plan will result in the council being unable to meet its statutory duties for children and young people with SEND and receiving a written statement of action from Ofsted & CQC in any future local area inspection.

6.6.2 Failure to deliver the High Needs Block of the Dedicated Schools Grant into a positive or break-even position could result in the DfE mandating the council into the DfE Safety Valve programme.

6.7 Equality implications:

6.7.1 Equality impact assessments would be required in relation to any relevant changes as part of the SEND Improvement Plan or because of engagement in the DfE Delivering Best Value programme.

6.8 Linkages to work with other partners:

6.8.1 Solihull Parent Carer Voice and Our Voice's Heard to co-produce improvements and consult on proposed changes to improve outcomes for children and young people with additional SEND needs.

6.8.2 Social Care, Health partners and Adult Social care due to legislation of statutory responsibility under the Children and Families act 2014 of SEND children and young people.

7. List of appendices referred to

7.1 Appendix A – High Needs Block Action Plan

8. Background papers used to compile this report

10.1 School Forum 17th January 2022: <https://www.solgrid.org.uk/education/schools-forum-meeting-monday-17-january-2022/>

10.2 Cabinet Report 9th December 2021: <https://eservices.solihull.gov.uk/mgInternet/documents/g8854/Public%20reports%20pack%2009th-Dec-2021%2018.00%20Cabinet.pdf?T=10>

9. List of other relevant documents

9.1 SEND Green Paper: <https://www.gov.uk/government/consultations/send-reviewright-support-right-place-right-time>

9.2 SEND Green Paper: <https://www.gov.uk/government/publications/send-and-apgreen-paper-responding-to-the-consultation/summary>
