

**Safety Valve Agreement Update**

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**Executive Summary**

Safety Valve is a Department for Education (DfE) programme that supports Councils who have a very high deficit in the High Need Block (HNB) of the Dedicated Schools Grant (DSG). In Wiltshire the cumulative deficit has grown from £2.1m in 2018/19 to £35.2m in 2022/23 and it is forecast to continue growing.

This deficit has been held in a negative reserve on the council's balance sheet while a statutory override is in place to shield the rest of the Council's general fund from this deficit. However, the statutory override is due to end in 2026.

Safety Valve offers councils additional funds from the DfE to help with their historic deficits, so long as the Department is satisfied that the council can return their DSG to a balanced position over the period of the deal.

In addition, there is the opportunity to bring additional capital investment into the county to address some of the capacity issues that have historically been present.

In December 2023, Cabinet agreed a strategic approach to DSG sustainability that could form the basis of negotiation with the Department for Education (DfE). This paper was presented with endorsement from Wiltshire Schools Forum, who considered the plan on 5 December, Children's Select Committee and a representational board including members from B&NES Swindon and Wiltshire (BSW) Integrated Care Board (ICB) and Wiltshire Parent Carer Council (WPCC).

Cabinet agreed to submit a draft version of the plan to government and, following comment and challenge from the DfE, for the plan to be amended and resubmitted on 12 January 2024.

Feedback from the DfE on the draft submission was positive with the strategic approach and strong commitment to co-design were singled out for praise, especially given the short timeline.

While the plan is substantively the same, some changes have been made to reflect comments received and new information:

- The unmitigated pupil number forecast has been updated to include the children and young people currently awaiting assessment.

- The financial forecast has been updated to reflect the settlement and updated 23/24 position. These changes have been rippled through the future years.
- Milestones have been added to give more assurance that the plan is deliverable and then, following advice from the DfE, some of these milestones have been brought forward so the impact is felt more quickly.
- The narrative has undergone minor amendments to reflect comments received during the drafting process and to clarify terminology where needed.

It should also be noted that since the draft submission in December, a Disapplication request has been submitted to the Secretary of State for a block transfer above 0.5% from the Schools Block to the High Needs Block. This is for 0.55% in 2024/25, and is considered by Schools Forum elsewhere on this agenda.

The capital request to support this plan was also submitted on 5 January 2024. This bid to expand special schools places in the south of the county and will directly contribute towards delivery of Workstream 2.

The plan was submitted in its final form on 12 January and will now go forward to the Secretary of State for approval. It is expected that, given the positive feedback from the DfE advisors, approval will be given and the government will send a deal for review and signature before April 2024.

Given the ambitious approach that the plan requires, the Programme Team will begin delivery of the plan immediately to ensure key conversations are already happening before April 2024.

### **Proposal(s)**

That Schools Forum note:

1. The updates to the Dedicated Schools Grant (DSG) Management Plan and the SEND Sustainability plan.
2. The submission of these documents to the Department for Education (DfE) on 12 January 2024.
3. The continued progress to reduce and remove the financial risk that the deficit in the High Needs Block (HNB) represents.

### **Reason for Proposal(s)**

This update ensures that Schools Forum are kept apprised of the changes to the plan.

## **Safety Valve Agreement Update**

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### **Purpose of Report**

1. To update on the draft Safety Valve plan and highlight the changes that were made, in response to Department for Education feedback, in advance of 12 January submission. This version will now go forward for Secretary of State approval and to form the basis of a Safety Valve Deal for Wiltshire.

### **Background**

2. Since 2018/19 the High Needs Block has been under increasing pressure. This growth in expenditure has been seen in every council in England, and Wiltshire is no exception. Nationally the cumulative local authority High Needs budget deficit is estimated to be around £2.3bn and is increasing daily. The latest estimates conclude that the cumulative local authority High Needs budget deficit across England will be around £3.6bn by March 2025 (*Source f40 campaign, summer 2023*).
3. In Wiltshire from 2018/19 to 2022/23, this equated to a 51% growth in the number of children supported by an EHCP, and a 46% growth in the amount of money being spent from the High Needs Block. Over the same period, the money received into the High Needs Block from government grew by 36%.
4. While High Needs Block income has not kept pace with the growth in demand, there are also changes that councils can make to respond to the changing strategic context.
5. This problem has received some attention over recent years, and this is reflected in the introduction by government of a statutory override. This override allows councils to hold their DSG deficit as a negative reserve on their balance sheet, walled off from the rest of the council's finances. This statutory override, however, is due to expire 31 March 2026 and at that point, councils will be expected to hold sufficient reserves to cover the remaining deficit.
6. The Wiltshire Council DSG deficit forecast suggests that, by April 2026, the cumulative unmitigated deficit could be £117.0m while the current forecast total general fund and earmarked reserves are £90m.
7. The invitation to join Safety Valve was received in August 2023 and an initial meeting with the Department for Education was held in early October 2023. The plan was submitted in draft form on 15 December 2023, it was then amended and resubmitted on 12 January 2024. If a deal can be successfully negotiated, and receives Secretary of State approval, the implementation phase begins in April 2024.

## Main Considerations

8. Since the submission of the draft High Needs Block Sustainability Plan, it has been amended in the light of comments from the Department for Education (DfE) and from other stakeholders.
9. The pupil number forecast has been updated to include the children and young people currently awaiting assessment. Built into this is the assumption that the assessment backlog can be cleared within two years. This update does not change the end position, which was based on the percentage of school cohort expected to have an EHCP, but it does bring through a bulge of pupils in the 2024/25 and 2025/26 years.
10. The financial forecast has been updated to reflect the settlement and the updated 23/24 position. This means that the financial forecast better reflects the starting point of the plan, and the Q3 monitoring. These changes have been rippled through the future years to provide a better financial forecast.
11. Milestones have been added to the plan to give more assurance that it is deliverable. These milestones have been developed and now form the basis of the delivery plan. Following advice from the DfE, some of these milestones have been brought forward so the benefit is realised more quickly, this is especially important for some of the early help projects.
12. The narrative within the plan has undergone minor amendments to reflect comments received during the drafting process and to clarify terminology where needed.
13. A request to the Secretary of State has been submitted for a block transfer above 0.5% from the Schools Block to the High Needs Block. For 2024/25 this figure is 0.55% and detail is included in the Schools Block Update paper elsewhere on this agenda.
14. It should be noted that the High Needs Block sustainability plan requires a 1% block transfer beyond 2024/25 and this has not been yet agreed by Schools Forum. This decision will be subject to a vote by Schools Forum for each financial year, and a further request to the Secretary of State.
15. The capital request to support this plan was also submitted on 5 January 2024. This bid is for funding to expand special schools places in the south of the county and will directly contribute towards delivery of Workstream 2.
16. The DfE did raise concerns about the resource required to clear the backlog of children and young people awaiting assessment. This work is undertaken by the Statutory SEND team, which is not funded through the Dedicated Schools Grant. Additional resource has been identified in the Medium Term Financial Strategy (MTFS), however monitoring needs to be in place to ensure this is sufficient.
17. Similarly, the DfE sought assurance that, given how ambitious and front loaded the HNB Sustainability Plan is, the Council had sufficient resource allocated to programme delivery. Funding has been identified through the Transformation Reserve to support the first year of this plan but Council will need to consider if further resource is required.

18. Finally, the final deficit figure has risen in this latest version of the plan. The contribution from the DfE has not yet been agreed but it is a fixed figure so this rise increases the Local Authority contribution to paying off the deficit. The previously reported range of £70-90m still reflects the expected position.

### **Risks that may arise if the proposed decision and related work is not taken**

19. If the decision to enter a Safety Valve agreement is not taken then the full financial risk of the DSG deficit remains on the balance sheet of the council. There is a risk that, if the statutory override ends as anticipated in April 2026, the entire deficit becomes the councils to manage. The unmitigated deficit is forecast to be £117.0m by that point. It is not thought that the council could effectively manage this risk without the support of a Safety Valve Deal.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

20. If the decision is taken to enter into a Safety Valve Deal, the council will be responsible for delivering that deal. There is a risk that if the council falls behind on the deal that further work will have to be undertaken to bring the plan back in line, this may include further investments to ensure delivery. To mitigate this risk, there is a robust process of monitoring in place, with clear measures regularly reported on.

21. There is a risk that the council will see an increase in legal challenge and tribunals arising from the SEND decision making process. This risk is being mitigated through the plan, by ensuring the council is confident in the support being provided to children with SEND, by ensuring that the council has efficient and well defined processes in place. Additionally, the plan is being co-designed with parent carers, schools, early years settings and colleges to create shared ownership and buy-in.

### **Financial Implications**

22. The proposed plan has been updated to reflect the DSG funding settlement announced in December, the current DSG forecast for 2023/24 and the changes required to reflect the children and young people currently awaiting assessment.

23. The updated plan includes mitigations of £83.0m to be delivered over 5 years across the 5 workstreams. This is the net impact after the required investment to deliver increases in support and early intervention, and to cover the revenue costs of additional specialist places across Wiltshire schools.

24. The plan includes capital investment in the delivery of new special school and resource bases across Wiltshire. This includes current plans funded by High Needs Places Capital Allocation (HNPCA) grant and council contributions and incorporates funding already agreed by the DfE to support the development of a new 130 place special free school for pupils with social, emotional and mental health needs.

25. In order to deliver the required place sufficiency across the period of the plan a bid to the additional HNPCA grant made available to councils on the Safety Valve programme has been made in order to accelerate the delivery of additional special school capacity.

26. The profile of the mitigated deficit is summarised as follows:

Provision Type	2023/24 £'000	2024/25 £'000	2025/26 £'000	2026/27 £'000	2027/28 £'000	2028/29 £'000
Plan Year	1	2	3	4	5	
Mainstream Provision	22,875	24,019	25,254	20,379	16,112	11,896
Resourced Provision	4,249	5,353	6,295	6,390	6,169	6,325
Special Schools	27,026	32,364	34,952	37,110	38,325	40,229
Independent and Non-maintained Special School Provision	20,207	19,705	19,024	15,110	6,100	4,143
Post 16 Provision	10,881	11,491	11,958	12,107	12,044	12,506
Alternative Provision	10,198	9,464	8,912	8,808	8,623	9,708
Therapies	560	560	773	782	792	801
Other High Needs Block expenditure	1,103	786	810	834	859	885
<b>Total Expenditure</b>	<b>97,098</b>	<b>103,744</b>	<b>107,977</b>	<b>101,520</b>	<b>89,024</b>	<b>86,494</b>
High Needs Block	-70,798	-73,465	-75,669	-77,939	-80,277	-82,685
Block Transfers	-1,797	-2,000	-3,754	-3,867	-3,983	-4,102
<b>In Year Surplus (-)/Deficit(+)</b>	<b>24,504</b>	<b>28,280</b>	<b>28,555</b>	<b>19,715</b>	<b>4,765</b>	<b>-293</b>
Surplus/Deficit from other DSG Blocks	-3,470	0				
Surplus/Deficit Brought Forward from Previous years	35,214	56,247	84,527	113,081	132,796	137,561
<b>Total Deficit Balance</b>	<b>56,247</b>	<b>84,527</b>	<b>113,081</b>	<b>132,796</b>	<b>137,561</b>	<b>137,267</b>

27. The decision to enter the Safety Valve deal will crystallise the requirement of a contribution from the council's resources which will in effect be the balance of the cumulative deficit set out in the plan less any contribution from the DfE.
28. The council will be taking an approach of maximising all opportunities to set money aside in a specific earmarked reserve to fund the contribution required. If sufficient funds are not set aside by the end of the plan period (April 2029) then the council will need to capitalise the residual balance.
- Conclusions**
29. If the council is to continue to deliver on its statutory duty to children and young people with SEND then we must make changes to the way the SEND system in Wiltshire operates.
30. These changes would need to be made anyway to stop the growing deficit, improve outcomes for children and young people, and to reflect the changing strategic context in which the system finds itself. Despite the challenges in delivering this plan, and the increased financial impact of the forecast deficit, this still represents a good way to manage the risk.
31. Safety Valve offers an opportunity to undertake those changes, leveraging additional investment from the Department for Education that will allow such changes to be made more quickly than would otherwise be possible, and to significantly reduce our historic deficit.
32. Schools Forum is asked to note the changes to the draft plan, and to note submission of the amended plan which took place on 12 January. This will now go to the Secretary of State for approval.
33. Further updates will come to future Schools Forum meetings as officers pull together implementation plans and this should be a standing item on the Schools Forum agenda.

**Lead Director:**

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**Appendices –**

Appendix 1 – DSG Management Plan summary tables

**Background Papers**

None

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