

To: Council
10 January 2024

Bracknell Forest Council's Participation in the Department for Education's Safety Valve Intervention Programme

Chief Executive / Leader of the Council

1 Purpose of Report

- 1.1 To recommend a final proposal to be submitted on 12 January to the Department for Education for the Council's inclusion in its Safety Valve Intervention Programme and to seek approval for related investment in local school provision for children with Special Educational Needs and Disabilities (SEND).

2 Recommendations

That Council:

- 2.1 Approves the Council's Safety Valve proposal detailed in confidential Annex A for submission to the Department for Education by 12 January, including both the management plan and mitigations endorsed by the Executive at its meeting on 12 December 2023 and a plan to fund the cumulative Dedicated Schools Grant (DSG) deficit when a balanced in-year financial position is reached in 2028/29, using a combination of grant from the Department for Education and set-aside Council reserves.
- 2.2 Approves the addition to the current year's capital programme of schemes to secure new local SEND provision at Sandhurst and Edgbarrow secondary schools and the former Warfield All Saints primary school site as detailed in paragraph 5.12 a) to c), which are key to achieving a sustainable local SEND system to support Bracknell Forest's children and young people.
- 2.3 Authorises the Chief Executive in consultation with the Leader of the Council to make changes to the Council's proposal if necessary in response to any further feedback from the Department for Education and prior to the proposal being formally presented for Ministerial approval, so long as any such changes continue to reflect the nature of the proposal in confidential Annex A.

3 Reasons for Recommendations

- 3.1 The Council was invited by the Department for Education (DfE) to participate in its Safety Valve Intervention Programme 2023/24 in July 2023. The Safety Valve programme aims to agree a package of reforms to local education systems for pupils with special educational needs and disabilities (SEND) through which the systems will become financially sustainable within the level of grant provided by the Department for Education, while improving the experiences of children and young people. Bracknell Forest is one of five authorities invited to participate in the programme this year, due to its large and rising deficit.

- 3.2 Participation in the programme can secure access to additional capital funding for new local provision and a financial contribution from the DfE towards the accumulated Dedicated School Grant (DSG) deficit, should the proposals for reform submitted by the Council be accepted. A significant financial commitment is also required from the Council, including capital and revenue funding both to secure delivery of the proposed programme of activity and to write off the remainder of the accumulated deficit not funded by the DfE.

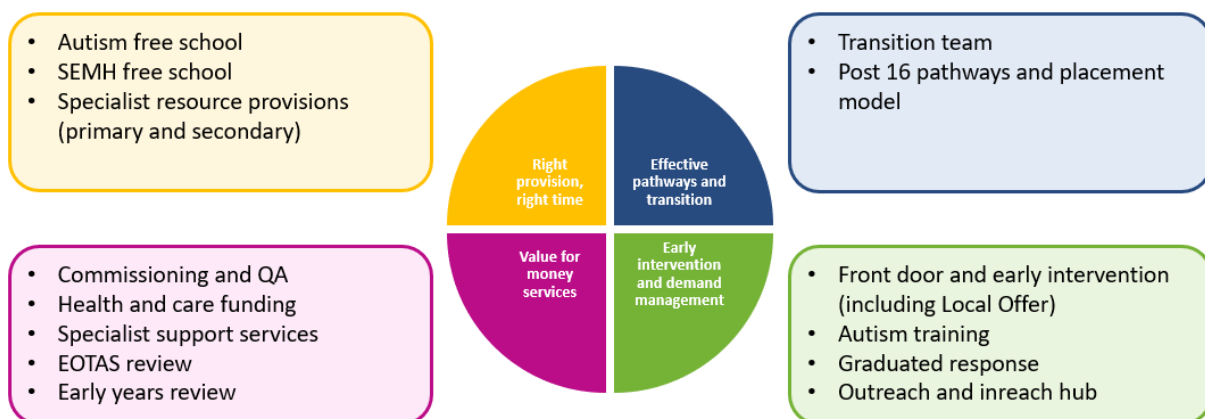
4 Alternative Options Considered

- 4.1 The Council could choose not to participate in the Safety Valve programme. This is not recommended since it would mean that responsibility for funding the DSG deficit would rest entirely with Bracknell Forest Council, with no financial contribution available from the DfE. In addition, the Council would be unlikely to receive additional capital funding to support local provision, since priority is given to applications from Safety Valve authorities. While some local authorities with Education responsibilities have not yet participated in the Safety Valve programme, all will face a significant financial challenge if they are in a deficit position when the temporary override enabling deficits to be carried forward is removed, which will inevitably happen at some point. Should an authority face a situation where its total reserves are insufficient to cover the accumulated deficit at that point, the authority would be forced into declaring a section 114 notice, since it would at that point be unable to fund its known liabilities. Bracknell Forest is not currently in this position, but has a rapidly rising DSG deficit that is predicted to reach around £41m even after implementation of the mitigations identified and proposed in the Safety Valve submission.

5 Supporting Information

- 5.1 The DfE recognised in 2019 that significant cost increases in SEND services were being experienced in many local areas, taking spending above funding provided through the Dedicated Schools Grant (DSG). At the end of 2018/19, around half of all education authorities were experiencing DSG overspends, totalling at that time around £250m. Through a consultation issued in October 2019, the Government proposed changes to accounting arrangements to ensure that “DSG deficits should not be covered from general funds but that over time they should be recovered from DSG income”. At the time, the Government’s belief was that additional funding it had announced would help local authorities bring their DSG accounts into balance in a fairly short period.
- 5.2 Following the consultation, revisions were made to the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, introducing a requirement for the 2020/21 to 2022/23 financial years that any school budget deficits that arose during that period should be charged “to an account established ... solely for the purpose of recognising deficits in respect of school budgets”. Essentially, the regulations overrode general accounting practice by directing that a “negative reserve”, the Dedicated Schools Grant Adjustment Account, be created in councils’ accounts. Further regulations have recently extended this arrangement to the end of the 2025/26 financial year.

- 5.3 With this highly unusual approach not offering a long-term resolution to DSG deficits, the DfE introduced its Safety Valve Intervention Programme in 2020. A total of 34 local authorities experiencing the highest deficits in their Dedicated Schools Grant (DSG) budgets have participated in the programme to date and signed Safety Valve agreements with the DfE. In order to qualify for an agreement, it is necessary to:
- Demonstrate how the current deficit will be controlled and an in-year balance achieved as quickly as possible (the expectation is normally within 5 years);
 - Explain what financial support is required from the DfE to eliminate the historic deficit and implement the proposals (the DfE will not fund all of the costs and will expect the local authority to be clear how it will fund its share)
- 5.4 The forecast cumulative DSG deficit for Bracknell Forest to 31 March 2024 is currently £24.1m, including an estimated in-year deficit of around £8.9m, and is predicted to rise to around £41m over the coming years. This figure would be significantly higher without implementing the mitigations that have been identified through the Council's involvement in the Safety Valve programme. This situation is primarily caused by a large growth in pupils with Education Health Care plans (EHCPs), that has been faced across the country, with the local implication of placing significant reliance on expensive provision outside the Borough, since the Council's highly regarded Kennel Lane Special School has been at full capacity for many years. While a number of specialist resource provisions (SRPs) have been created in local schools, they are insufficient to cope with the scale and complexity of need being experienced.
- 5.5 It has therefore been recognised that a key element of the Council's strategy to address the needs of local pupils and young people will be to create more local capacity. Its bid for a new school for pupils with autism was approved by the DfE earlier in 2023. The school is to be built by the DfE and, although a site has been identified and approved, the Council has not yet had confirmation of the expected construction dates. In order to remove this uncertainty, the Council is submitting to the DfE a business case for self-delivery of the facility in January 2024.
- 5.6 Council officers have engaged with local school leaders, both Headteachers and Chairs of Governors and the Bracknell Forest Parent Carer Forum, to agree further areas of focus to ensure that the overall SEND system best meets the needs of pupils and schools and identify areas where current expenditure is not felt to demonstrate value for money. This has led to a programme of activity as summarised in the pictorial below.



- 5.7 These workstreams are expected to lead to securing better local facilities to improve outcomes for pupils while at the same time collectively reducing costs over time. While some areas participating in Safety Valve have stated that their plans involve reducing the number of Education Health and Care Plans (EHCPs), Bracknell Forest's projections show that these will continue to increase over the next 5 years, albeit less quickly than they have done in recent years. Key to the Council's plans are the opening of new, local facilities for local children that will take time to construct and will require a carefully planned approach to their opening. In the meantime, there will continue to be a reliance on other, generally more expensive school places in other local authority areas, including independent schools. The impact of the proposals and their expected financial benefits will therefore take time to be felt.
- 5.8 For that reason, the Council proposed an option to secure additional funding for SEND provision by transferring resources from other parts of the Dedicated Schools Grant, including funding for Central (Council) Services and the main Schools funding block, known as a block transfer (or top slice). A consultation with schools on this proposal commenced in late November 2023 and the results were reported to the Schools Forum on 13 December for formal consideration. Although this proposal included a capped maximum 0.5% top slice of potential 2024/25 individual school budget allocations, responses from 21 of the 23 schools that responded to the consultation accepted (with some reluctance) that this proposal would be the least detrimental option for schools and pupils and indicated their support for it. On this basis, it was approved by the Schools Forum.
- 5.9 Elements of the block transfer proposal go beyond available local discretions and therefore require specific Secretary of State approval. In such considerations it is understood that significant weight will be given to the Schools Forum decision. The significance of the block transfer proposal is that it secures additional funding for SEND budgets from 2024/25, while the other initiatives are implemented to reduce costs over time.
- 5.10 The proposals set out in Annex A, which is marked as confidential since they are still subject to formal consideration by the DfE, demonstrate a route to reaching a balanced in-year DSG position by 2029/30. This is slightly beyond the DfE's expectation of a five-year plan and therefore a one-off contribution from the Council's reserves is proposed in 2028/29 to offset costs ordinarily met from the DSG and reach balance within five years. This approach meets the DfE's expectations and therefore offers the Council the best opportunity to maximise the contribution it will receive from the DfE towards the cumulative DSG deficit at the end of that period. The proposed approach to funding the deficit is also included in Annex A, which includes a request for a large contribution from DfE and setting aside a material amount of Council reserves.
- 5.11 In its draft submission, the Council had requested flexibility to use the proceeds from asset disposals to fund part of the accumulated deficit during the Safety Valve programme period. It has been confirmed that such an approach would not be supported in the current financial year. However, the Department for Levelling Up, Housing and Communities issued a consultation document on 21 December seeking views from the local government sector on additional capital flexibilities. Should any of the proposals in the consultation be implemented, that would provide the Council with different options to fund its share of the deficit in the coming years.
- 5.12 The Council's plans are based on new, local specialist provision being introduced in the Borough. In order that detailed design works on these can be commenced as

quickly as possible, Council is asked to approve the following additions to the current year's capital programme.

- a) New Social, Emotional and Mental Health School (on the currently vacant Warfield All Saints Site)

Funded from:

Available capital grants for school provision	£7.089m
Available s106 contributions for schools	£3.957m
Capital receipt	£0.500m
External borrowing	<u>£1.454m</u>
Total	£13.000m

- b) New Secondary Special Resource Provision (at Sandhurst school)

Funded from:

Safety Valve capital grant application	£0.900m
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- c) New Secondary Special Resource Provision / Unit (at Edgbarrow school)

Funded from:

Safety Valve capital grant application	£3.100m
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- 5.13 The Council's proposal also sets out a number of areas of investment in both the SEND service and programme support to ensure that the plan submitted is delivered to the tight timescales needed. These are to be funded from a variety of sources, including Government grant secured through the Delivering Better Value in SEND programme, the flexible use of capital receipts strategy approved by Council in November, earmarked reserves and the revenue budget. Formal approval will be sought for this as part of the final 2024/25 budget proposals to be presented to the Executive and Council in February.

6 Consultation and Other Considerations

Legal Advice

- 6.1 Section 14 of the Education Act 1996 places a general duty upon the Council to secure sufficient schools to provide primary and secondary education in its area and it should have particular regard to securing special education provision. Following the enactment of The Children and Families Act 2014, the Council retains responsibility for commissioning services for children and young people with SEN or a disability. It 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, it must be clear how it is 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. A final agreement for funding will be entered into in due course with the DfE. The Council's legal team will advise on the terms prior to its execution.

Financial Advice

- 6.2 The Executive Director: Resources in his capacity as the Council's s151 officer has been closely involved in the preparation of the proposals outlined in this report and Annex A. The Council's involvement in the Safety Valve programme will inevitably have material financial implications for Bracknell Forest Council. These will include funding activities to reduce current SEND expenditure that will require investment to ensure they are successfully delivered, identifying savings in general fund services to absorb the release of grant funding for SEND services and setting aside resources to cover the Council's identified share of the accumulated DSG deficit.
- 6.3 The scale of the different financial implications is set out in Annex A to this report. Of greatest significance is the need to set aside a large sum from the Council's available reserves to fund a proportion of the DSG deficit that will have accumulated by 2028/29. After doing so, the Council will have useable revenue reserves 41% higher than at their lowest level, in 2017.

Other Consultation Responses

- 6.4 School Leaders have been involved in reviewing options for inclusion in the Council's Safety Valve proposals including participating in a consultation regarding a proposed block transfer (top slide) of DSG funding to increase the sum available for SEND services from 2024/25.

Equalities Impact Assessment

- 6.5 An initial equalities screening has been completed for the proposed Safety Valve programme of activities and is attached as a background paper.

Strategic Risk Management Issues

- 6.6 The level of the deficit on the Dedicated Schools Grant due to rising costs in recent years of SEND services represents the most serious financial threat the Council faces. Participation in the Safety Valve programme provides the impetus to address this through the identification of mitigations that both bring spend in line with budget and maintain a focus on educational outcomes, while offering the opportunity to secure both revenue and capital grant funding from the DfE that is not available to authorities outside Safety Valve.

Climate Change and Ecological Impacts

- 6.7 There are no immediate implications, however the creation of additional provision within the Bracknell Forest boundary will reduce CO₂ emissions through reducing the need for home to school transport to educational facilities in neighbouring boroughs and beyond.

Health & Wellbeing Considerations

- 6.8 The Council's recently approved SEND strategy includes a focus on providing additional school places within Bracknell Forest, that would significantly reduce travelling time for children who require specialist places whose needs cannot currently be met within the

Borough. In most instances this will have a positive impact on the health and well-being of those pupils.

Background Papers

Bracknell Forest Council's final proposal to the DfE's Safety Valve Intervention Programme – Confidential Annex A

Initial Equalities Screening for the proposed Safety Valve Programme of activities

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