

# Audit and Standards Committee

21 September 2023

## SEND Funding

### Recommendation

That the Audit & Standards Committee notes and comments upon the growth in SEND provision and expenditure.

### 1. Executive Summary

- 1.1 The Children and Families Act 2014 brought significant reforms to the area of Special Educational Needs and Disabilities (SEND). The Act introduced Education, Health and Care plans for children and young people with SEND and extended the age range from 0-25. Local authorities are responsible for funding provision for children with Education Health and Care (EHC) plans from the High Needs Block (part of Dedicated Schools Grant allocated by Department for Education).
- 1.2 The proportion of school age children in England with SEND has risen from 2.9% in 2018 to 4.3% in 2023, and in Warwickshire it has grown from 3.1% to 3.9% over the same time period.
- 1.3 In Warwickshire, our children, and young people with SEND progress well and achieve above average attainment and remain in education employment and training. Furthermore, a higher proportion of young people with SEND achieve a level 3 qualification than other areas.
- 1.4 There are areas for improvement however, with the number of children being permanently excluded from school having increased and the number of children persistently absent and severely absent from school is too high. This is for children with SEN and children with an EHC plan.
- 1.5 There is growing demand for support with an increase from 2021 to 2022 of 690 to 1,349 requests for EHC needs assessments and over 800 requests for special school provision considered at the Council's High Needs Provision Panel in 2022/23. The Council takes over 5,000 decisions each year which can be appealed to the SEND tribunal should the family disagree with the decision.
- 1.6 From a financial perspective, the County Council Network reported a £2.4bn cumulative deficit on High Needs Block funding in 2022/23. The Council identified pressures on the High Needs Block in 2020 and set up the SEND and Inclusion Change Programme in response. Through a combination of additional funding from Department from Education, moving allowable funds

between Schools Block and High Needs Block and the impact of the SEND and Inclusion Change Programme, the forecast in-year deficit was significantly reduced in 2021/22 and 2022/23. However, forecasts for 2023/24 show an increased deficit once more, partly in response to growing demand. More detailed financial implications for Warwickshire are set out below.

- 1.7 Warwickshire is currently taking part in the Delivering Better Value programme set up by the Department for Education for 55 local authorities to identify areas to improve value for money funded by the High Needs Block (HNB).
- 1.8 Warwickshire is subject to a SEND local area inspection by Ofsted which could take place at any time within the next four years. At the previous inspection in 2020, Warwickshire was directed to implement a 'Written Statement of Action' with five issues to be addressed. The department for Education has acknowledged the good progress made on all areas.
- 1.9 In 2023, the Department for Education set out proposed changes to the national system in the SEND and Alternative Provision Improvement Plan, to be delivered by 2025.

## **2. Financial Implications**

- 2.1 The Council continues to expect the cost of funding schools and relevant pupil-related services to be contained within the level of the Dedicated Schools Grant (DSG). This is in accordance with Schools and Early Years Finance (England) Regulations. Deficits must be carried forward to be dealt with within the schools budget. However, the existing and predicted increase in the DSG HNB debt (cumulative deficit) is a pressure on the Council since it is necessary to ensure the Council's overall financial resilience is maintained.
- 2.2 Should the Council wish to fund any part of the deficit from sources other than the Dedicated Schools Grant (DSG) then it must apply to the Secretary of State to disregard the regulations. The position of the Council is not to make such a request. There is a collective view across local authorities (see section 4 below) that the funding deficit has been created through insufficient funding from central government to implement national reforms at a local level. Whilst the SEND and Inclusion Change Programme seeks to ensure financial sustainability and value for money, from the outset it has been clear that a balanced budget in the High Needs Block is not achievable. The Department for Levelling Up, Housing and Communities require local authorities to hold DSG deficits in a separate reserve up to and including the accounts for 2025/26. Councils are awaiting central government proposals for funding DSG deficits at a national level before the statutory override ceases at the end of 2025/26, but there remains a risk that Councils may be asked to fund historic deficits.
- 2.3 The Council has set aside sufficient funding in reserves to create an equal and opposite position to offset up until the end of 2022/23 (£20.416m). This is an accounting measure to ensure a balanced budget. The approved (current)

MTFS allocations include continued yearly contributions to this “matching” reserve of the following amounts (until a sustainable solution is in place).

£m	
<b>2023/24</b>	4.855
<b>2024/25</b>	5.992
<b>2025/26</b>	2.394
<b>2026/27</b>	1.394
<b>2027/28</b>	1.394
<b>Total</b>	16.029

- 2.4 Based on the current Q1 forecasted overspend of £8.732m, it will be necessary to further top up the matching reserve by £3.877m bringing the top up reserve to £29.148m. Future years’ overspends in excess of the amounts planned into the MTFS (table above) would need similar timed top ups adding to the pressures on the MTFS.

### 3. Environmental Implications

- 3.1 Environmental implications will occur where the Council seeks to build new schools or extensions to existing schools as part of the Capital Programme. These will be explored and assessed within each capital project.

In addition to this, when children are unable to attend their local school and must travel across the county or into other local authorities for specialist provision, then there are both environmental and financial implications.

### 4. Supporting Information

#### National system

- 4.1 In March 2023, the Government published the Special Educational Needs and Disabilities (SEND) and Alternative Provision (AP) Improvement Plan. It reflects on the current national system stating:

*The SEND and Alternative Provision Green Paper identified 3 key challenges facing the system:*

- The system is failing to deliver improved outcomes for children and young people with SEND. Children and young people with SEND are not consistently being helped to fulfil their potential.*
- Parents’ confidence in the system is in decline. Too many parents have lost faith in a system that is not sufficiently responsive to them, which is increasingly adversarial, and in which they face long waiting times to access information and support for their children, including accessing therapists and mental health support.*

• *Despite substantial additional investment, the system has become financially unsustainable. The government has increased investment in high needs by over 50% from 2019-20 to 2023-24, with no marked improvement in outcomes or experiences.*

- 4.2 County Councils face particular challenges, especially with regard to access to local provision and transport. In response to the SEND & AP Improvement Plan, the County Council Network (CCN) commented:

*County leaders have consistently argued that there needs to be more clarity on what support is reasonably expected for children with SEND bearing in mind the funding envelope local authorities are working from. Therefore, the plans to provide clarity for parents and professionals are an important step, as is the investment in new specialist schools and staffing.*

*However, local authorities are already struggling with the deficits built up in the system meeting the statutory demands from the 2015 reforms – CCN warned last year these are set to balloon to £3.6bn by 2025 on current projections. Reform will only be successful if it builds on an existing system that is stable and CCN urges the government to ensure it expands the safety valve programme.*

- 4.3 Warwickshire is also in the f40 group – a group of 42 local authorities with the lowest education funding. The impact of being in the lowest group of education funding is twofold as schools receive less funding to provide targeted SEND support and the local authorities receive less in their High Needs Block allocation.
- 4.4 Organisations such as County Council Network, f40 group and the Local Government Association continue to make representations for sustainable funding to be allocated to local authorities for children and young people with SEND. Participation in schemes such as Delivering Better Value (see appendix 1) are helping to build the evidence base for what a sustainable level of funding is.

## **Growing demand**

- 4.5 As noted above, the number of children with SEND has grown year on year both nationally and locally. There are two levels of SEND. The lower level is referred to as Special Educational Needs (SEN) School Support. The number of children at SEN School Support has increased from 9,592 in 2019 to 11,596 in 2023 (20.9% increase). Children with high level needs are supported with an EHC plan, with provision funded by the local authority (through the High Needs Block of the Dedicated Schools Grant). At school age this number of children has risen from 2,599 in 2019 to 3,497 in 2023 (34.6% increase). Over the full age range of 0-25, Warwickshire support 5,314 children and young people with EHC plans. The top 3 primary needs for those with an EHC plan are Autistic spectrum disorder (27.4%), Social, emotional,

and mental health (17.6%) and Severe learning difficulty (15.9%).

- 4.6 In terms of population within the County, Warwick district has 1,775 children and young people with EHC plans (31%), Nuneaton and Bedworth 1,610 (28%), Rugby 924 (16%), Stratford 701 (12%) and North Warwickshire 514 (9%).
- 4.7 This growth is due to a number of factors including higher levels of need, improved infant mortality and population growth. A summary by the Local Government Association provides a more detailed view of the reasons for growing demand and is attached at Appendix 2.

### **Positive outcomes**

- 4.8 There are a number of achievements by our children and young people with SEND to celebrate.
- 4.9 Young people with SEND in Warwickshire achieved higher Attainment 8 scores (the measure to compare attainment scores at the end of Key Stage 4 when GCSEs are taken) than national average. In 2021/22, our young people with an EHC plan achieved 14.7 at the end of the Key Stage 4 compared to national average of 14.3 (although the scores of young people with EHC plans is lower than statistical neighbours of 14.9).
- 4.10 More of our young people with SEND achieve a level 3 qualification at aged 19 (16% with an EHC plan) compared to national averages and statistical neighbours (both 14%).
- 4.11 A lower percentage of 16–17-year-olds with SEND are Not in Education, Employment or Training (NEET), (4.7% with an EHC plan) compared to national average (6.9%) and statistical neighbours (6.7%).
- 4.12 The number of children with EHC plans in local mainstream settings has increased from 31.3% in 2021 to 34.1% in 2023 (2.8% increase).

### **Areas for improvement**

- 4.13 There remain areas for improvement, however. For example, less children in Warwickshire with EHC plans make good progress at the end of the Early Years Foundation Stage (5%) than the national average (7%).
- 4.14 Attendance is a particular issue. In Autumn 2022, 7.6% of children in Warwickshire with an EHC plan were severely absent compared to 5.4% nationally. Further to this, the number of permanent exclusions of children with SEND has increased from 4 children in 2020/21 to 13 children in 2022/23.

## Recent changes

- 4.15 In July 2020 Cabinet agreed to invest in the SEND and Inclusion Change Programme and £3.9m has been invested since 2020. This was in response to financial forecasting that predicated a cumulative overspend on the DSG High Needs Block of £105m by 2028 if no action was taken. Following the inception of the SEND and Inclusion Change programme as well as additional Department for Education funding the prospective cumulative deficit has reduced considerably to approximately £38m (£67m decrease) but is still of great concern.
- 4.16 The programme identified a number of key priority areas to support the delivery of the vision and objectives:
- Improve outcomes for our children and young people with SEND by changing the conversation in local schools.
  - Intervening earlier and providing clear pathways of support, taking decisions in a clear, fair and transparent way by reforming our decision-making panels.
  - Ensuring that systems are sustainable, so that we are working within our allocated funding. This includes investing in new SEND provision in mainstream schools and specialist provision.
  - Securing education, employment and training and young people with SEND (aged 16-25).
- 4.17 To achieve this the programme proposed whole system change through a series of projects. The focus was on the maintenance of 'promoting inclusion' in mainstream settings, giving schools the skills and resources to meet the needs of learners in their local schools and building the confidence of parents and carers. The programme also sought to establish further resourced provision and specialist provision in line with population growth and the changing needs of the cohort.
- 4.18 So far the programme has 16 completed projects with 7 still live. The project has delivered a number of improvements to the local system including:
- Establishment of a new Parent Carer Forum – Warwickshire Parent Carer Voice.
  - Opening of a new 80 place special school, The Warwickshire Academy at Exhall on the former RNIB Pears Centre site, acquired by the Council through a capital investment over £15m
  - A capital strategy for SEND, leading to the opening of 8 new SEND resourced provisions since September 2022 and agreed expansion of two special schools (Evergreen and Oak Wood).
  - Issuing of new SEND and Inclusion Guidance to schools, as well as guidance on transitions between settings and the use of alternative provision.

- New processes for decision-making panels - reducing the number of panels from 9 to 3 and increasing the number and percentage of children with SEND supported in their local mainstream school.
- Launching of the new Local Offer website.
- Piloted the 'Inclusion Framework' with schools in Rugby to improve early identification and early intervention.
- Devised a new 'top-up funding' system to ensure schools receive the right funding at the right time.
- Streamlined processes for SEN transport and changed the model of delivery for independent travel training.
- Introduced a quality assurance process for EHC plans.
- Robust financial management through new synergy finance module (now live).
- Increased skills and knowledge of teaching staff (Inclusion Framework project staff confidence increased from 40% to 60% in using the SEND guidance 2022/23).

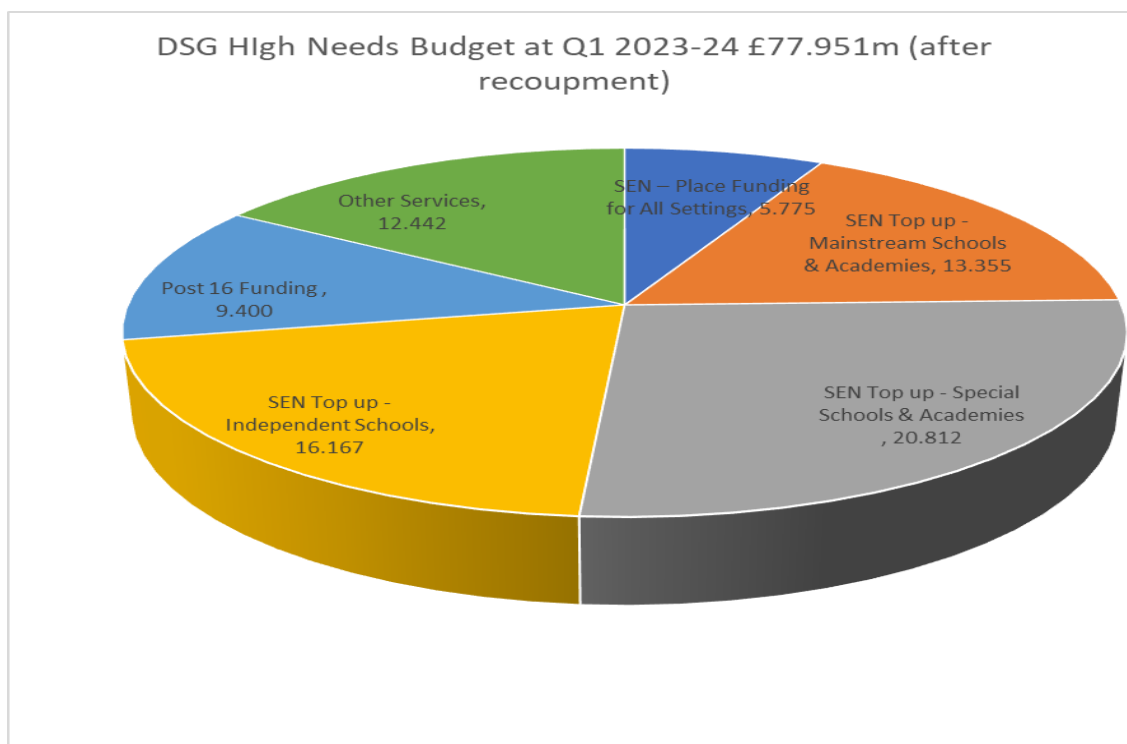
4.19 A smaller number of projects remain live. The 'Service Reviews' project is focussed on changing how Council services operate to ensure they support early identification and early intervention through a 'graduated approach'. Other projects involve the extension of the Inclusion Framework trial, the roll-out of the new top-up funding arrangements, emotionally based school avoidance and resolving disagreements (123 appeals to the SEND tribunal were lodged in 2022 in respect of Warwickshire). In addition, there are projects focussed on 16-25 aged young people with SEND - 'Preparation for Adulthood' and 'Supported Internships.'

4.20 In addition to this, significant activity has taken place under the 'Written Statement of Action' to introduce an Inclusion Charter into local schools, improve our communication and co-production with parents and carers and young people and reduce waiting lists for autism assessment.

### **How the funding works**

4.21 The majority of expenditure in SEND is from the High Needs Block (HNB) of the Dedicated Schools Grant (DSG).

4.22 The total DSG HNB for 2023-24 is £94.682m. The Education and Skills funding Agency (ESFA) then deduct £16.731m for Academy School Recoupment (the ESFA pay those schools directly). This leaves £77.951m of the High Needs Block in 2023/24 which is distributed as set out below:



4.23 The spend from the High Needs Block for SEND is broken up into five broad areas:

4.24 *Place funding* - special schools and resourced provision are allocated per place at:

- £6k for resourced provision in mainstream schools / academies
- £6k for all mainstream school / alternative provision / further education post-16 places
- £10k for pre-16 alternative provision (including resourced provision at alternative provision)
- £10k for special schools (including Post-16 at special school)

This covers general education costs, and a part of the additional needs for a child with an EHC plan.

4.25 *Top-up funding* – maintained schools and academies are paid an additional amount to fund the interventions required for needs identified in EHC plans, above the level covered by the place funding (in a special school) or the notional funding (in a mainstream school). This amount varies for each child but averages £8,218 across Mainstream Schools and £12,581 across Special Schools.



- 4.26 *Independent specialist provision* is used when a child's needs cannot be met in a Warwickshire school. In these cases, Warwickshire will be invoiced by the school and will pay them directly to place and support the child. These costs, again, can vary greatly and average £60,377 per student for the independent sector.
- 4.27 *Post 16 placements* – this is a mixture of place and top-up funding for young people in college placements and post-16 special school placements.
- 4.28 *Other services* funded from the HNB include the Integrated Services (such as the Specialist Teaching Service and Flexible Learning), the Area Behaviour Partnerships and Resourced Provision.
- 4.29 Since the introduction and ring fencing of the 4 DSG blocks, the DSG HNB has over-spent. The in-year deficits and overall debt (also known as cumulative deficit) is illustrated in the following table.

£m	Reserve Balance overdrawn (start of year)	Out-turn (23/24Q1 forecast)	Reserve Balance Overdrawn (end of year)
2019/20	0.000	5.240	5.240
2020/21	5.240	8.610	13.850
2021/22	13.850	2.130	15.980
2022/23	15.980	4.436	20.416
2023/24 (forecast)	20.416	8.732	29.148

- 4.30 It should be noted that between 2019 and 2021 the number of requests for EHC needs assessment reduced from 827 to 690. However this increased in 2022 to 1,349 (95.5% increase, although this is mitigated by a change in recording). This led to an increase in the number of EHC plans issued from 492 in 2021 to 661 in 2022 (34.4% increase). In addition, there has been an increase in requests for specialist provision which has led to increased use independent specialist provision in 2022. More children and young people with EHC plans and more of those in independent specialist provision, along with increased unit costs, have led to a marked increase in the forecast overspend in 2023/24 which may worsen.

- 4.31 The Council has set aside sufficient funding in reserves to create an equal and opposite position as noted in the Financial Implications section of this report.
- 4.32 It is clear that if the current forecasted 2023/24 position continues then an increase in the 2023/24 contribution to the reserve may be required, and possibly increases to future years contributions.

### ***Going forward***

- 4.33 The Council has paused any new projects in the SEND & Inclusion Change Programme for a variety of reasons:
- The Council is taking part in a Delivering Better Value (DBV) programme commissioned by the Department for Education for 55 local authorities with significant cumulative overspend in the High Needs Block. Warwickshire is in tranche 3 (see Appendix 1).
  - The latest needs assessment and data requires a rethink of current priorities (eg. data on severe absence).
  - The SEND and Inclusion Strategy 2019-23 has come to an end and a new strategy is being developed.
  - A new local area inspection framework has been published and partners are working together to prepare for inspection.
  - There have been changes in leadership within the Council's Education Services.

## **5. Timescales associated with the decision and next steps.**

- 5.1 There is significant activity in autumn term 2023 reflecting on how the current local system is working to achieve outcomes for our children and young people with SEND and the value from High Needs Block expenditure. Predominantly this reflection is through the DBV programme and the development of a new SEND & Inclusion Strategy. The DBV programme is scheduled to finish first, leading to a wider strategy and delivery plan being presented to Cabinet in early Summer 2024.

## **Appendices**

1. Appendix 1: Delivering Better Value
2. Appendix 2: LGA SEND System Recap

## **Background Papers**

1. Background paper 1
2. Background paper 2 etc.

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