

Slough Borough Council

Report To:	Cabinet
Date	Monday 18 th March 2024
Subject:	Special Educational Needs and Disabilities (SEND) Update
Lead Member:	Cllr. Puja Bedi – Lead Member for Education, Children’s Services and Lifelong Learning
Chief Officer:	Sue Butcher – Executive Director for People: Children, Director of Children’s Services
Contact Officer:	Neil Hoskinson – Associate Director of Education
Ward(s):	All
Key Decision:	NO
Exempt:	NO
Decision Subject To Call In:	NO
Appendices:	Appendix 1 – 15 th December Safety Valve Intervention Programme / High Needs Budget Deficit Recovery Plan Summary Update Report

1. Summary and Recommendations

- 1.1 This report provides an update on the actions taken to address the priorities identified by Ofsted and the CQC in their inspection report from 2021 as well as the key information from the December monitoring report for the Safety Valve Agreement / High Needs Deficit Recovery Plan. However, it should be noted that the DfE response to the Safety Valve monitoring report had not been received at the time of writing the report. This report is to share the progress with Cabinet to ensure that Cabinet members are fully informed about our special educational needs [SEND] improvement journey and can offer the appropriate support and challenge.

Recommendations:

Cabinet is recommended to:

- 1.2 Note the progress made as set out in the body of this report.
- 1.3 Agree that from the next municipal year, an annual update report will be provided to Cabinet on the SEND improvements, with the Lead Member receiving more regular updates on progress.

Reason:

- 1.4 The purpose of this report is to provide assurance to Cabinet of the progress made against the DfE endorsed SEND improvement plan. Formal updates will continue to

be provided on a quarterly basis for at least the remainder of this municipal year to evidence that practice is improving and a result there is a positive increase in the impact on vulnerable children, young people, and their families. The need for such updates is required by the DLUHC Commissioner due to the high profile and seriousness of the need for improvement in SEND services.

Commissioner Review

DLUHC Commissioner Review

This report has been reviewed and there are no specific comments to add.

DFE Commissioner Review

Comments from the DFE Commissioner were received and incorporated in drafting the report.

2. Background

- 2.1 In Autumn 2021 Special Educational Needs and Disability (SEND) services in Slough were inspected by Ofsted and the Care Quality Commission (CQC). As a result of weaknesses identified in the local area, it was determined that a Written Statement of Action (WSOA) was required to address these. As part of the oversight of the SEND improvement journey, the DFE hold quarterly monitoring visits.
- 2.2 On August 4th this year, following the WSoA monitoring visit in February, the Secretary of State for Education issued a Statutory Direction to the Council in relation to its SEND services. This was due to a lack of progress made to address the seven areas of weakness identified in the SEND inspection. As a result, the remit of the Children's Services Commissioner, Paul Moffatt, was extended to include SEND functions.
- 2.3 In 2023, because of the size of the deficit then predicted at the end of the 2022-23 financial year, the Council entered a Dedicated Schools Grant 'Safety Valve' Agreement with the Department for Education [DFE]. SBC undertook to reach a positive in-year balance on its Dedicated Schools Grant (DSG) account by the end of 2025-26 and in each subsequent year. As part of the agreement, the DFE agreed to pay the Council an additional £10.8 million of DSG before the end of the financial year 2022-23. Over the following four financial years, further instalments will be provided totalling £16.2 million subject to the Council making satisfactory progress.

2.4 Options Considered

Option 1 – Recommended

Provide quarterly updates in 2023/24 and move to an annual update in 2024/25. Unfortunately, there was a significant delay in reporting the inspection outcome to Cabinet, leading to Cabinet not being able to formally approve the WSoA. For this reason, Cabinet asked for regular updates to be formally reported to assure itself of progress. This is the last planned update in the municipal year. It is recommended that there is one formal update report to Cabinet next year. The Lead Member will be closely involved with the improvement programme and information on progress will be accessible to scrutiny members to inform their work programme.

Option 2 – Not Recommended

Continue to provide quarterly updates in the number municipal year. Whilst this provide public transparency and an opportunity for a debate in a public meeting, there is a risk of the Cabinet agendas being overly long due to update reports being given, when no decision is being sought. Transparency can and will be achieved in other ways, including publication of progress against the WSOA, Cabinet reports on wider Council improvement and performance data, corporate risk reporting to the Audit and Corporate Governance Committee, scrutiny members considering whether to focus on SEND in its work programme and the lead member issuing publicity about key steps in the improvement journey.

3. Update on Progress

Summary of Progress Made Since the Last Update

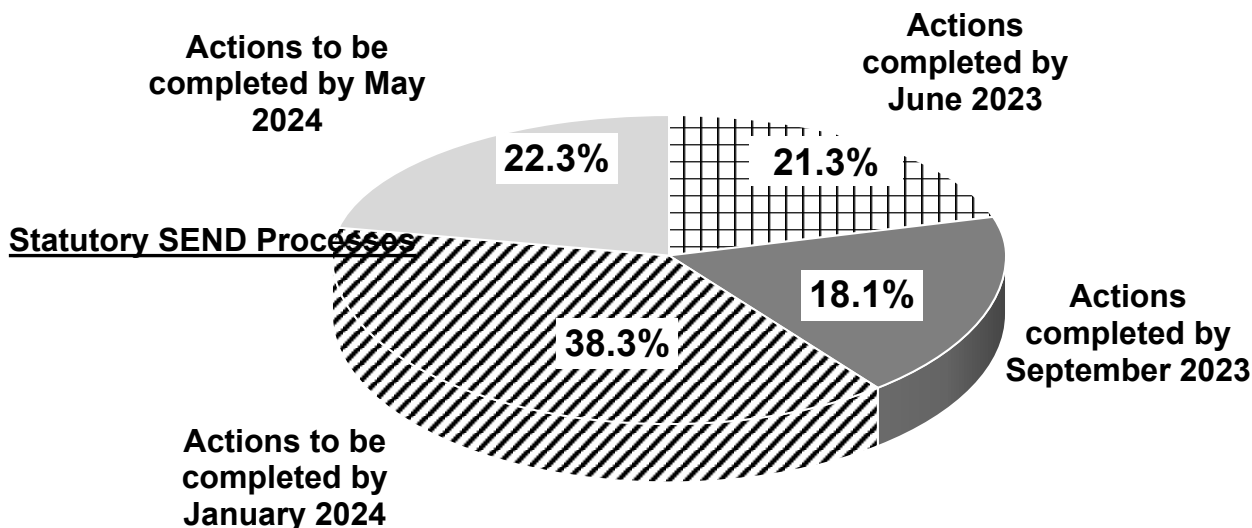
- 3.1 There is clear evidence of increased pace in completing the individual actions within the WSoA since the new Improvement Action Plan was agreed in June 2023. The improved level of Educational Psychology [EP] assessments and Education, Health and Care [EHC] plans being finalised or sent out as drafts reported in November has been maintained. As a result, the backlog of EP assessments has been cleared and the backlog for EHC plans is beginning to slowly reduce.
- 3.2 Nevertheless, issues remain in the communication with schools and families as well as failure to achieve statutory timescales and the quality of EHC plans. There will also need to be increased attention on annual reviews moving forward now that the EHC assessment process is operating more efficiently.
- 3.3 Maintaining a stable team of case officers has been identified as a significant strength and so it needs to be flagged as a risk that five officers have given notice and need to be replaced. However, interviews are already on going and we are confident that we will recruit officers who will take us to the next stage of our SEND improvement journey.
- 3.4 Therefore, although it is important to celebrate the improvements that have taken place to build the confidence of the team, there needs to be recognition that there is a long way to go to establish a consistently good service for children and young people with SEND.
- 3.5 Slough Borough Council remains on track to meet the deficit control and reduction targets set out its Safety Valve Agreement with the Department for Education and that there are no significant changes since the last monitoring report was submitted in September 2023. All RAG ratings have remained Green other than the risk of legal challenge by way of appeal, judicial review and to the Local Government and Social Care Ombudsman (LGSCO) which has remained Amber.

Written Statement of Action [WSoA] Update

- 3.6 There has been considerably more progress against the individual actions in the WsoA since the development of a new SEND 0-25 Improvement Action Plan presented to the SEND Partnership Board in July 2023. The plan is based on five clearly defined workstreams and ensures a much tighter concentration on the individual actions as well as a closer alignment to the WSoA impact measures.
- 3.7 From the publishing of the Local Area Inspection Report in November 2021 up to the Summer of 2023, only twenty actions had been completed of which nine were health

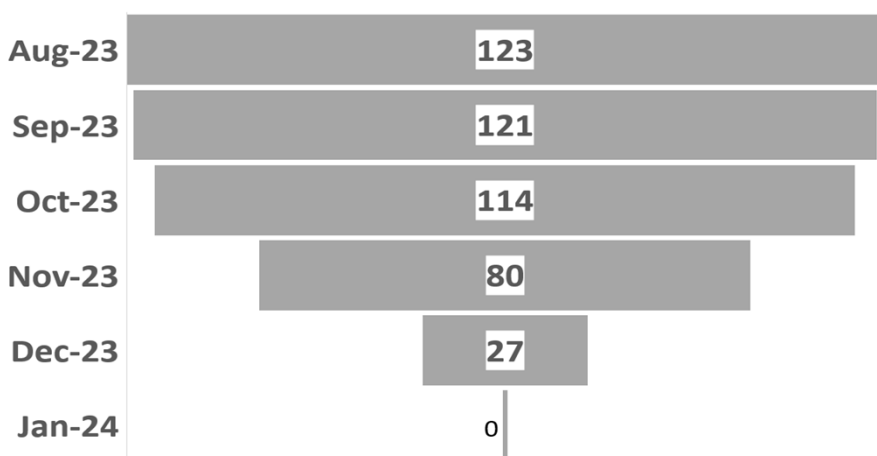
actions linked to integrated therapies. This represented just over 20% of the total number of actions in the WSoA. Since the implementation of the improvement plan, another seventeen actions were completed by September 2023 and a further thirty-six actions are on track to be completed by the end of January 2024. This will mean that less than a quarter of the total number of actions will remain to be completed. It should be noted that, although the actions themselves may be considered complete, they will not be signed off by the DfE until there is evidence of sufficient impact.

Completed WSoA Actions



3.8. EP Assessments

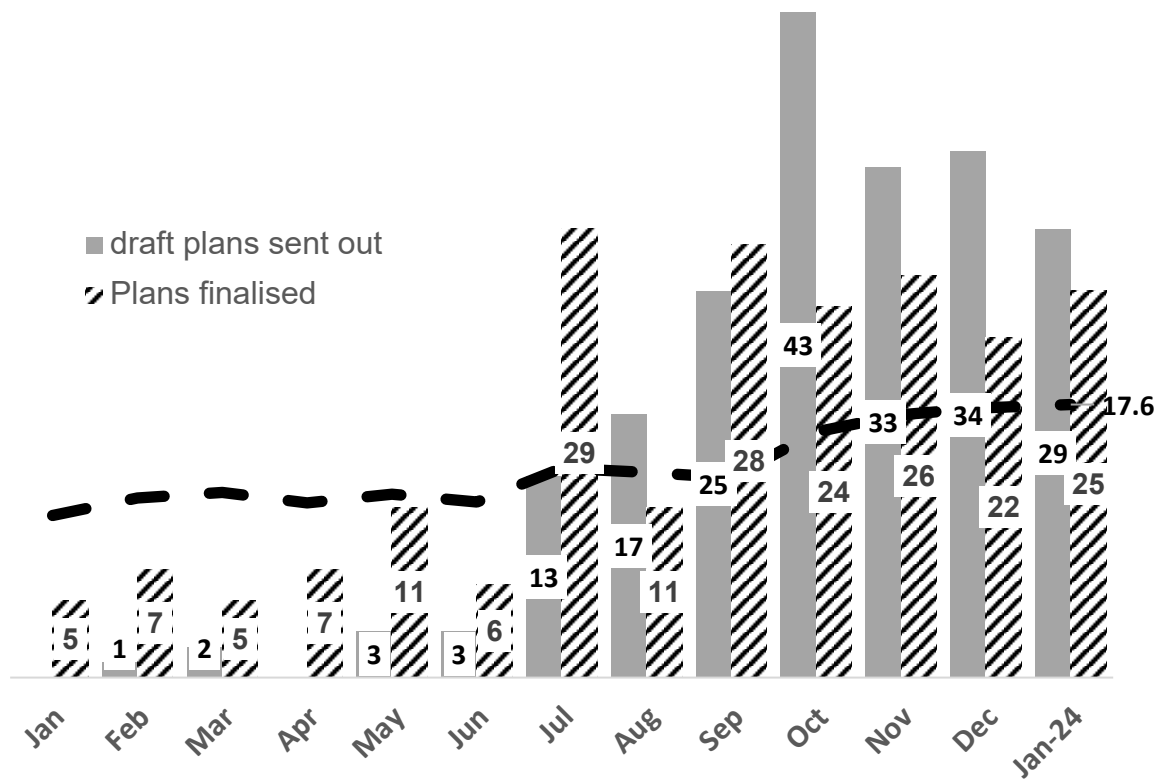
In November we reported on the appointment of a highly experienced Principal Education Psychologist [PEP] and the securing of additional interim educational psychologist [EP] capacity. The increased level of EP assessments completed each month has remained at a much higher level than in the first months of 2023. The backlog of unallocated assessments that stood at 130 in June 2023, and which had reduced to eighty by November, has now been cleared completely (see table below) so the team are now focused on meeting ongoing requests within statutory timescales. This is a significant achievement by the PEP and the EP Service.



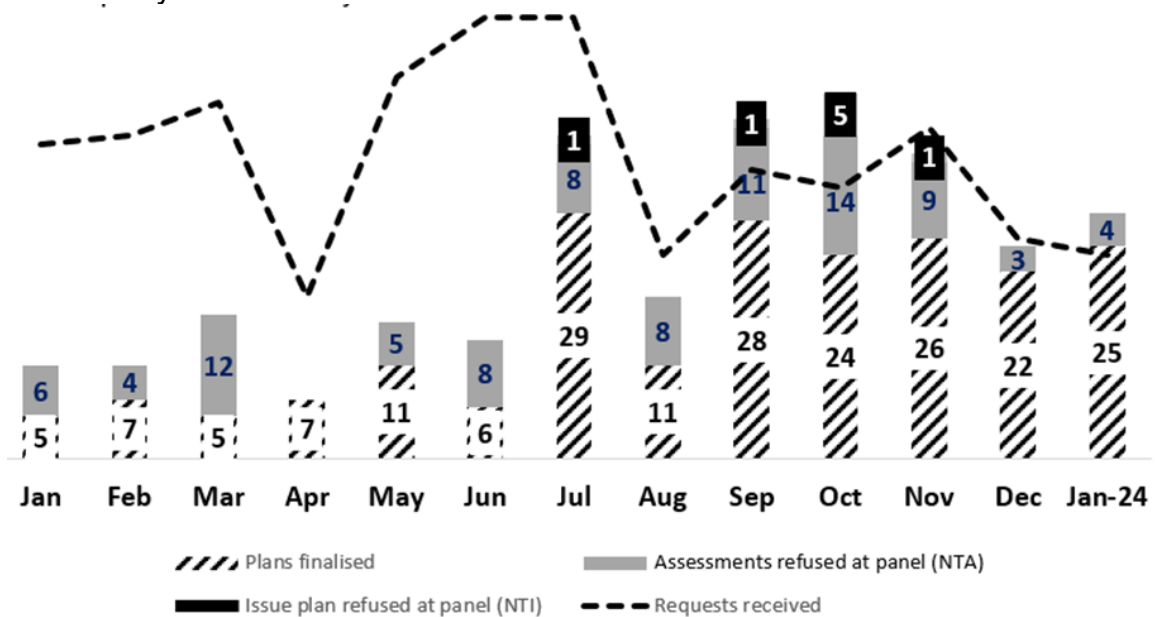
3.9. The improvement in the performance of the SEND 0-25 Statutory Team evidenced in the previous Cabinet update has been maintained. Creating a strong management team including the PEP, the Operational Lead and Team Managers has energised the statutory process. A full programme of training, based on individual skills audits, has been completed. A new Operational Manual has been developed that sets out a clear process for staff to follow in their work. This will ensure a consistent approach

is followed and will allow schools, families, and other partners to have a full understanding of the processes being followed.

- 3.10. Improved panel processes chaired by the PEP have been a significant factor in the improvement journey. As part of the support provided by our DFE SEND Advisor, Liz Flaherty, has attended a panel to quality assure the conversation and the implementation of the Code of Practice. She confirmed that the decisions being made are in line with the SEND Code of Practice.
- 3.11. Initial quality assurance of EHC plans by the PEP have indicated that they are compliant but that there is room for improvement in their quality. Work is ongoing to align EHC plan quality assurance with the wider Children's Services Quality Assurance Framework. This will ensure that, as well as increasing the number of plans completed each month, the overall quality improves alongside. There is an inherent risk that, when trying to focus on timeliness, quality becomes a secondary concern. In the meantime, Liz Flaherty our DfE adviser, has quality assured ten EHC plans that were selected for her at random. Although we are still waiting for feedback, we know that one was judged to be inadequate, and the rest showed a lack of consistency in the format of the plans and were generally too long. Actions to address these areas have been built into training and the Operational Manual.
- 3.12. Another important factor in the improvement in performance of the SEND 0-25 Statutory Team has been the internal case management approach that tracks every live case from the initial request for an EHC Needs Assessment until either an EHC plan is finalised or there is a decision not to issue a plan. There was a session in December to share internal processes with DFE representatives in which they were very positive about the impact of the tracker. The up-to-date information on the process of individual cases is beginning to improve communication with families, schools and other partners.
- 3.13. Moving forward there will be a greater concentration on EHC plan annual reviews and the team are on track to achieve all phase transfers to identify places for September for pupils with an EHC plan transitioning to a new setting by the February and March deadlines.
- 3.14. The graph below shows that the SEND 0-25 Statutory Team have maintained a higher level of EHC plans sent out each month as drafts or as final plans since the Summer. The dotted line shows the cumulative percentage of EHC plans that have been completed within the twenty week statutory timescale. This has risen consistently throughout 2023 and ended the year at 17.6% compared to 11% in 2022. This is despite clearing backlog cases that were already well over the timescale when allocated to the case officer. However, there needs to be a greater focus on timeliness for new cases and it is being proposed to report on backlog cases separately in the future so that their impact does not mask the performance of the team for new cases.



3.15. The table below shows the number of cases resolved each month by finalising EHC plans, a refusal to assess or a decision not to issue a plan. The dotted line shows the level of new requests received each month so, since September 2023, better performance and decision making is beginning to reduce the backlog of cases. In removing backlog cases children and young people that have been waiting the longest have been given priority. However, at this rate it will take more than a year to completely clear the backlog so the Operational Lead is drafting a further recovery plan to speed up this process which will be shared with the SEND Partnership Board in February.



3.16. There will be a significant turnover in the team in February 2024 because five case officers have decided to leave the authority. Each is leaving for different reasons but the focus on performance that is now possible using the Case Tracking System is

clearly a factor by increasing the level of individual scrutiny. The policy to move to a hybrid work pattern means that officers that were recruited previously may not wish to be in the office the required amount of time. Officers are aware that the plan is to move to a permanent team as soon as possible so two of the officers have accepted longer term roles in different local authorities. There is confidence that the refreshed team will be more fit for purpose because the service has an improved reputation, and we are aware that case officers have recently ended interim contracts with a neighbouring authority. We are prioritising recruiting permanent case officers.

Safety Value Intervention Programme/High Needs Budget Deficit Recovery Plan

- 3.17. The latest update report on the progress made against the “Safety Valve” Agreement was sent to the DfE on 15th December 2023 and, at the time of writing this report, we have not yet received their feedback. The report evidences that Slough Borough Council remains on track to meet the deficit control and reduction targets set out the agreement and that there are no significant changes since the last monitoring report was submitted in September 2023. All RAG ratings have remained Green other than the risk of legal challenge by way of appeal, judicial review and to the Local Government and Social Care Ombudsman (LGSCO) which has remained Amber.
- 3.18. The 2023-24 Period 8 (November 2023) position for High Needs DSG has total forecast spend of £24.9m against a budget of £25.1m. This contrasts with the period 5 position of a forecast spend of £22.3m. However, the previous report identified the potential risk of the backlog of 290 EHC plans with additional forecast spending of £2.6m and this is now factored into the outturn position. Therefore, the predicted position for 2023-24 is largely unchanged from the Period 5 position at an underspend of £0.155m. The actual predicted DSG Deficit position for the end of 2023/24 is a reduction to £11.0m once the Safety Valve contribution of £3.2m is received.
- 3.19. As described in the November Update Report to Cabinet, there are five main agreement conditions within the Safety Valve Agreement together with five identified risks, four mitigations and a section on overall resilience. In each quarterly monitoring report, the local authority has to RAG rate the progress made against the targets.

No	Agreement Condition	Sep23 Assurance	Dec23 Assurance
1	Demand for EHC plans	GREEN	GREEN
2	Independent Special School places	GREEN	GREEN
3	Post 16 Provision	GREEN	GREEN
4	Additional Provisions Resource	GREEN	GREEN
5	Alternative Education Provision	GREEN	GREEN

Rising Demand for EHC Plans

- 3.20. The level of requests for Needs Assessments is higher currently than at the time that the Safety Valve was originally agreed and future mapping shows that requests for EHC plans will continue to increase. The backlog of cases that are currently being cleared will impact on High Needs Funding in future years as well. However, as the number of EHC plans increases there are likely to be further increases in the High

Needs Block allocation. Therefore, a higher level of EHC plans does not necessarily mean that the authority will fail to achieve a balanced in-year budget, but it will remain a key area for vigilance.

Shortage of Special School Places

- 3.21. Slough is still above local, statistical neighbour and national benchmarks for the percentage of pupils with an EHC plan remaining in mainstream settings. Appropriate funding and training for mainstream settings will ensure that most children and young people continue to have their needs met in mainstream settings. However, some pupils will need to be placed in resourced provision, special schools and alternative provision. A revised Joint Commissioning Strategy has been developed based on a joint delivery plan with our local Special Schools, Additional Resource Provision and Alternative Provision to deliver additional places to meet future demand.

Alternative Provision

- 3.22. Alternative provision costs in Slough have been disproportionately high compared to our statistical neighbours because there has not been a strong, clear strategy which highlights Academies and Maintained Schools' statutory responsibilities. Meetings with headteachers and school leaders, including Slough Education Partnership Board (SEPB), Slough Primary Headteachers Association (SPHA) and the Slough Association of Secondary Headteachers (SASH), have clarified the DFE principle that preventative placements should mainly be funded from the Schools Block, i.e. by the schools themselves rather than by the local authority through the the High Needs Block. The current model does not follow this definition with most costs being met by the High Needs Block.
- 3.23. Following a benchmarking exercise looking at data from a range of local authorities, conversations have taken place with Littledown School and Haybrook College regarding the current model in place for Slough schools. This has included the funding model (base funding and top up funding). The revised Joint Commissioning Strategy will include opportunities to broaden the alternative provision offer by potentially working with other external providers.

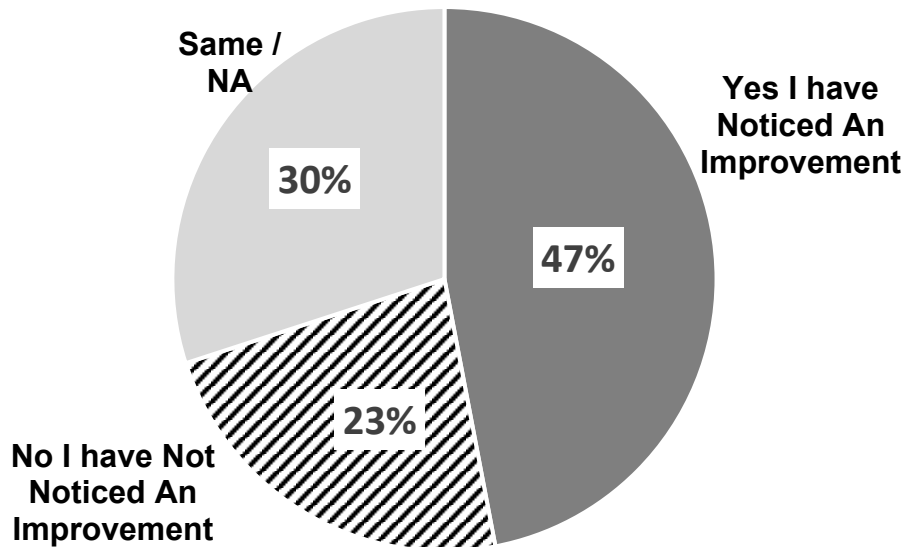
No	Identified Risks	Sep23 Assurance	Dec23 Assurance
1	Financial – escalating cost pressures	GREEN	GREEN
2	Service Delivery – workforce capacity	GREEN	GREEN
3	Reputational – complaints, negative publicity	GREEN	GREEN
4	Legal / Regulatory – tribunals / LGSCO complaints	AMBER	AMBER
5	Economic – demographics / inflationary pressures	GREEN	GREEN

Legal and Regulatory Issues

- 3.24. The Council been able to satisfactorily resolve recent tribunal cases through being able to defend decisions made around placements and funding as well as entering into mediation to resolve disputes around EHC plan contents or agreement to carry out an EP assessment. Where concessions have been necessary they have tended to be relatively minor and without significant additional costs. The improvement in the quality

of the service has reduced the level of complaints received by the Council regarding SEND. The improvement in the reputation of the SEND service is evidenced from a survey carried out by Special Voices in November. This asked the question “in the last four months, since our last information day, have you noticed a difference in education?” Obviously not all families will have had contact with the SEND Team or had an annual review at their school during this period, but nearly half stated that they had seen an improvement (see chart below).

3.25. Have You Noticed a Difference in Education in the Last Four Months?



Nevertheless, there are historical complaints that could lead to potential appeals to the Tribunal Service and this will need to be carefully monitored. We have seen several complaints to the Local Government and Social Care Ombudsman (LGSCO). Two cases have resulted in findings of fault with injustice with recommendations including payment to address lost educational provision and other matters. These cases also recommended a review of procedures and further training of staff to address learning. This will need to be monitored closely and so we have RAG rated this as Amber (WATCH).

4. Implications of the Recommendation

4.1 Financial implications

Although there is a clear focus on the Dedicated Schools Grant and the Council’s Safety Valve Agreement in this paper, there are no direct financial implications because it is purely for information purposes. All the financial information in this paper has been cross referenced with the Safety Value Intervention Programme/High Needs Budget Deficit Recovery Plan completed by Neill Butler, Strategic Finance Manager, People (Children). The SEND Improvement Plan aligns to the High Needs Block recovery and Safety Valve monitoring programme.

4.2 Legal implications

4.2.1 The Council and partner agencies have a number of key statutory responsibilities to children and young people with SEND. These include duties set out in the Children and Families Act 2014, the Children Act 1989, the Children Act 2004, the Care Act 2014 and the Childcare Act 2006. Partner agencies include health agencies, Slough Children First and early years providers, schools and colleges.

- 4.2.2 The SEND Code of Practice: 0 to 25 years provides statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities. This is a substantial code setting out guidance on the principles of the legislative framework under the Children and Families Act 2014, the requirements around information, advice and support, the need for joint working to deliver outcomes, the requirements for a Local Offer (being a list of services available to children and young people with SEND and their families). The Code also provides guidance to early years providers, schools, and further education providers, as well as providing guidance on preparing for adulthood. Detailed guidance is given on the processes for assessing, identifying, and meeting needs in education, health and care plans and the needs of children and young people in specific circumstances, including looked after children, care leavers, children educated at home and children in youth custody.
- 4.2.3 The Children Act 2004 (Joint Area Reviews) Regulations 2015 state that the Chief Inspector of Schools must make a written report where a review has been completed. The Chief Inspection of Schools must determine whether it is appropriate for a written statement of proposed action to be made in light of the report and if so, determine the person or body who must make that statement. In response to a requirement to produce a written statement of action, the Council prepared a statement and submitted this to the Department for Education and Ofsted in February 2022.
- 4.2.4 On 4 August 2023, the Secretary of State made a direction in accordance with powers under s.497 of the Education Act 1996. This was on the basis the Council had made a lack of progress towards the WSoA since it was approved in March 2022 and the Secretary of State was satisfied that the Council was failing to perform to an adequate standard in some of all of the functions conferred on it under Part 3 of the Children and Families Act 2014. The direction extends the remit of the existing DfE commissioner.

4.3 **Risk management implications**

4.3.1

	Risks	Potential Impact	Mitigating Actions
1	Failure to produce EHC plans within statutory timescales means that children and young people do not receive the right support early enough.	Dissatisfied families and children and young people's SEND needs not met. As a result, children and young people do not achieve the best outcomes. Also, possibility of tribunals and LGSCO complaints.	Additional locum EPs in place and revised SEND statutory processes are maintaining a high level of EHC plans. New panel processes already impacting on the quality of decision making and timeliness.
2	Lack of consistent approach to SEND in mainstream schools around the graduated approach.	Children and young people's SEND needs not met. Increased cost to the council with more requests for EHC plans	Ongoing work to coproduce a new graduated approach for Slough to be launched at an Inclusion Conference. Inclusion a focus of Autumn Term Visits.
n3	Failure to secure enough non-maintained places for pupils requiring	Children and young people's SEND needs not met. Increased cost to the council with more	SEND Sufficiency Working Party established and SEND needs added to the Place Planning Board TOR.

	resource provision or a special school.	independent school places needed.	
4	Failure to complete WSoA actions by the end of May 2024.	Reputational damage to the SEND Service and wider Council. Statutory Notice remains in place.	Improvement Action Plan and project management in place to ensure timescales are kept.
5	Failure to secure the trust and confidence of families in delivering support for their child with SEND	Lack of engagement and lost opportunities for coproduction and joint working.	Working Together Charter in place, new Local Offer website and SEND handbook to be launched at the Special Voices Information Day.
6	Financial risks caused by increasing demand for EHC plans.	The Council has entered into a Safety Valve Agreement (SVA). Therefore, as well as impacting on the overall Council budget position, a significantly higher level of SEND sending could threaten the additional funding being offered by the DfE if the SVA targets are achieved.	As stated in the report, there is a High Needs Block Budget Recovery Plan in place supported by a programme of monitoring and reporting. Currently the Council is on track to achieve the budget position set out in the SVA and the first payment of £10.8zm in additional funding has already been received.
7	Recruitment and retention issues due to the SEND service being largely interim.	As stated in the main report, there has been recent turnover in the SEND Case Officer team and this is likely to continue until a permanent team is in place.	A Recruitment and Retention policy is being developed alongside consistent SEND processes and data management to minimise the impact of staff changes.

4.4 ***Environmental implications***

4.4.1 There are no known environmental implications arising from this report.

4.5 ***Equality implications***

4.5.1 In the last academic year, 2022/23, over 389,000 pupils in England had an EHC plan and a further 1.1 million were receiving SEND support without a plan. Therefore over 17% of all pupils are classed as having SEND. The most common type of need for those with an EHC plan is autistic spectrum disorder but a rapidly increasing number have social, emotional, mental health issues. Earlier identification and meeting their additional needs will have a positive impact on their educational outcomes and wider life chances. Work is ongoing on the latest SEND Survey, and this will give more detailed data to identify whether characteristics around gender, age or race are over-represented in Slough and to ensure that there is appropriate targeting of support. Since the last survey, a great deal of effort has been put into ensuring that the information in our database is accurate.

4.6 Corporate Parenting Implications

- 4.6.1 The majority of Children Looked After [CLA] by local authorities have SEND and will often have suffered instability in their education. CLA children and young people are nine times more likely to have an EHC plan than their peers but also likely to not have had their needs accurately assessed as early due to these gaps in schooling. Any improvements in overall SEND services will have an obvious positive impact on the CLA cohort in terms of meeting their needs and mitigating the impact of previous educational issues. The Virtual School Headteacher ensures that SEND support is a key priority in Personal Educational Plan meetings. Where amendments to EHC plans and additional support for pupils without a plan are requested, the CLA team will advocate for the child or young person and liaise with the school and SEND Service.
- 4.6.2. Similarly, young people with SEND must be a priority in Preparation for Adulthood work to prepare them for moving away from school and into positive adult pathways. This includes post 16 education and training places, support for employability, independence training and supported internships.

5. Background Papers

None