
High Needs Block (HNB) Management Recovery Plan and Transformation Project

Children and Young People's Scrutiny Commission

Decision to be taken by: Cllr Elaine Pantling
Assistant City Mayor for Education

Date of meeting: 29th October 2024

Lead director: Sophie Maltby
Director of Education and SEND

Useful information

- Ward(s) affected: all
- Report author: Sophie Maltby/Shelley Piercy/ Martin Judson
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- Report version number: v4

1. Summary

- 1.1 Funding for Special Educational Needs and Disabilities is provided from the High Needs Block (HNB) of the Dedicated Schools Grant (DSG). Since 2014, nationally there has been a significant increase in spend within the High Needs Block. Funding for SEND from the government has not kept pace with this increase in demand and costs.
- 1.2 Most of the Local Authorities nationally have reported a deficit budget for the High Needs Block. As a result, the previous government introduced two national programmes (Safety Valve and Delivering Better Value) for Local Authorities to reduce and remove their deficit budgets. Other authorities with smaller deficits have been required to submit HNB Management Recovery Plans and meet regularly with Education and Skills Funding Agency (ESFA) to demonstrate how they are managing their deficit budgets.
- 1.3 Presently, the government has implemented a statutory override to general accounting practice, which allows Local Authorities to proceed with an imbalanced Dedicated Schools Grant budget without requiring a Section 114 notice for the council. The override was due to expire in March 2023, but the government has extended this to March 2026. Many local authorities nationally have stated that if there is no change to SEND funding and the override is ended it will force their authorities into issuing a Section 114 notice.
- 1.4 As with councils across the country, Leicester continues to experience conflicting priorities in balancing effective efficient inclusive resources to support and meet its statutory duties and the needs of a rising number of children with Special Educational Needs and Disability (SEND).
- 1.5 Leicester City currently had a cumulative DSG deficit of £6m as of March 2023 ranking us 64 places below the highest deficit of £118.8m and 35 places above the lowest deficit of £0.25m. The cumulative deficit for Leicester as of 31 March 2024 has risen to £9.6m with a forecast in year overspend of £14.8m in 2024/25. If unmitigated the projected cumulative deficit for the HNB could rise to over £100m by 2030.
- 1.6 Leicester City has not been required to join one of the government programmes. However, it has been required to submit a HNB Management Recovery Plan, which has been scrutinised and accepted by the ESFA. The Local Authority meet 2-3 times a year with the ESFA to discuss the progress of this plan.
- 1.7 For several years the Local Authority has been working hard to manage the spend in the HNB and as a result has had to take some difficult decisions to prevent increase in the deficit, such as removing the funding for residential provisions at 2 Special

Schools, reviewing the system for top-up funding in mainstream schools and introducing new funding rates in Special Schools. Nevertheless, the increasing demand and lack of funding for SEND mean that there remains both an in year and cumulative deficit which requires urgent action to mitigate.

- 1.8 Leicester City Council remains committed to meeting the individual needs of all children with SEND whilst ensuring best value and funding efficient use of resources from the High Needs Block (HNB). Achieved through a system of change and reform across the council as described in the HNB Management Recovery Plan, aligned to the DfE Change Programme Partnership and the SEND Transformation Project plan (*Appendix 1*). However, this requires systemic and cultural change in a system which is national acknowledged as 'broken'. Therefore, impact will take time to evidence.
- 1.9 Whilst Leicester City remains in a more stable financial situation in SEND than many other councils nationally and has not been required to join a DfE led programme to manage the HNB deficit, the rise of the cumulative deficit, unknown future government policy regarding SEND and the planned removal of the statutory override present a clear risk for the council if the mitigations outlined in the HNB Management Recovery Plan and SEND Transformation plan are not implemented.

2. Recommended actions/decision

- 2.1 The Executive are asked to accept the SEND Transformation Plan/ HNB Management Recovery Plan to continue to actively address the deficit budget in the High Needs Block.
- 2.2 The Executive are asked to note that whilst the Transformation project is working at pace the impact of the project will take time to evidence.
- 2.3 The Executive are asked to authorise the implementation of a High Needs Block Funding board to govern the pace and impact of the Transformation Project. The board will be accountable to the Director of Education and SEND, and will include Head of SEND Support Service, Head of Service for SEND and Integrated Services, Inclusion and Transformation Manager and the Head of Finance.

3. Scrutiny / stakeholder engagement

- 3.1 A DSG Management Recovery Plan has been required by the Education and Skills Funding Agency (ESFA). They have received and scrutinised the plan and agreed to its content.
- 3.2 The council (Senior SEND and Finance staff) are required to re-submit the HNB Management Recovery Plan and meet with the ESFA twice a year to discuss progress on the actions.
- 3.3 The HNB Management Recovery Plan forms part of the Transformation Plan which will be shared with Children and Young People's Scrutiny Commission on 29th October 2024
- 3.4 Following the formal adoption by the council the SEND Transformation Plan will be shared with all stakeholders across the Education and SEND system.

4. Background and options with supporting evidence

SEND and Alternative Provision Reforms

- 4.7. In March 2023, the DfE published the national SEND and Alternative Provision Improvement plan in response to the SEND and AP consultation and the Green Paper.
- 4.8. The national consultation highlighted some excellent support from dedicated education, health and care staff but also that many families feel frustrated by the system and feel they need to battle to access specialist education, health or care services including from mental health services. People generally agreed about the challenges in the system and wanted a new national SEND and alternative provision system that delivers timely, high-quality services and inclusive support in mainstream settings, alongside swift access to more local state specialist settings, where needed.
- 4.9. However, providers and services are facing increasing pressures around children with more complex needs, more requests for Education Health and Care assessments and in turn more requests for special school places.
- 4.10. The improvement plan (Right Support, Right Place, Right Time) identified the steps being taken and to be taken to improve the SEND and AP system for children and families.
- 4.11. This included a range of work, programmes and frameworks to support local areas with differing degrees of both financial and strategic challenges.
- 4.12. All Local Authorities with deficits to the Dedicated Schools Grant budget were required to submit a High Needs Block management recovery plan in order for the DfE to assess their level of intervention through entering either the Delivering Better Value (DBV) or the Safety Valve (SV) programmes: 55 Local Authorities are working within the “Delivering Better Value in SEND” intervention programme.
- 4.13. 34 Local Authorities with the highest DSG Deficits are working within the “Safety Valve” agreements.
- 4.14. The Change Programme Partnership launched in September 2023 enlisted 31 Local Areas to represent the 9 regions in a test-and-learn approach for delivering an improved SEND and AP system. Leicester City, Leicestershire and Rutland (LLR) local areas are coworking to represent the East Midlands region.
- 4.15. Leicester City has incorporated the Change Programme Partnership priorities and the HNB Management Recovery plan priorities into our co-produced local area SEND strategic outcomes. The SEND strategic outcomes are that:
- Children, young people & their families are listened to, and are empowered to make change where it matters
 - Children and young people are included in their communities and are supported to achieve their aspirations

- Children & young people receive support at the earliest opportunity to ensure good outcomes for their education, health and wellbeing
- Partners work together to make sure children & young people are healthy & they have their needs met
- Children and young people have successful and smooth transitions and are supported to become independent adults.

Overview of the High Needs Block Management Recovery Plan

- 4.16. Since 2014 there has been a significant increase in spend within the High Needs Block (HNB). Funding for SEND from the government has not kept pace with this increase in demand and costs.
- 4.17. The number of new agreed EHCPs has risen from 246 in the year 2015/16 to 753 in 2022/23 and the demand for special school places has also risen significantly over that period. In addition parental requests for a Statutory EHC Assessment have risen from 26 in 2015 to 312 in 2023.
- 4.18. In common with the majority of LAs nationally, Leicester has in recent years spent more than the funding it receives from the Dedicated Schools Grant (DSG). As of 31 March 2023 the cumulative deficit was £6m.
- 4.19. Leicester is not alone in having a deficit, in fact the majority of local authorities are in this position. Our cumulative DSG deficit of £6m as of March 2023 ranks us 64 places below the highest deficit of £118.8m and 35 places above the lowest deficit of £0.25m. The cumulative deficit for Leicester as of 31 March 2024 has risen to £9.6m.
- 4.20. Leicester City Council is currently operating within a statutory override to general accounting practice. The statutory override allows LAs to proceed with an imbalanced Dedicated Schools Grant budget without requiring a Section 114 notice. The override was due to expire in March 2023, but DLUHC has extended this to March 2026.
- 4.21. All LAs with deficits are expected to prepare a HNB Management Recovery Plan to submit and discuss with the DfE about how the LA will bring its high needs expenditure into line with the funding allocation and thereby become financially sustainable.
- 4.22. The initial draft management recovery plan was discussed with the DfE in August 2023 and has so far enabled LCC to avoid entering the Delivering Better Value or the Safety Valve intervention programmes.
- 4.23. The SEND Transformation Plan described in this report will support the HNB management recovery plan's aim of making LCC financially sustainable with regards to its HNB expenditure. And this Transformation project contributes to the overall strategic outcomes in Leicester.

Challenges

- 4.24. The number of pupils with identified SEND needs continues to rise and the LA needs to remain committed to meeting the needs of CYP through effective and efficient resourcing.

- 4.25. The current expenditure from the HNB is financially unsustainable as year on year the forecast demonstrates a cumulative deficit.
- 4.26. There is insufficient physical capacity currently for the number of special school or independent sector places required and there is insufficient capital funding available for significant expansion.
- 4.27. Significant expansion of Special Schools would not be a viable option as the DfE would not provide the revenue funding for the High Needs Block
- 4.28. Increase in demand for statutory assessments continues to increase.

Previous Projects which support the HNB Management Recovery Plan

- 4.29. The LA has previously taken steps to reduce high needs costs. They have focussed on the themes of funding reform, elimination of non-eligible high needs block expenditure and sufficiency through expansion of special school and resource provision:
- Reform of the funding methodology for high cost SEND pupils both with and without EHCPs within mainstream settings. The new system provided a more equitable distribution of funding support and was agreed in March 2022 following a thorough consultation with schools. (Element 3 funding)
 - Some of the savings made enabled us to form a new 'Quality Inclusion Team' to promote inclusion, advise, monitor and audit the use of top up support funding and ensure best practice in mainstream settings.
 - Introduction of a new banding and tariff funding system for all special schools (with the exception of Ash Field) to ensure equitable and consistent funding based on need. This was agreed in March 2021 following an extensive consultation and subsequent approval by the DfE.
 - Withdrawal of non-educational respite residential provision at Millgate and Ash Field Academies. Decisions were made in 2022 and in 2023 respectively.
 - Small scale expansion within existing special school sites to expand places, preventing unnecessary increases in expensive independent places.
 - Expansion of resourced provisions called a Designated Specialist Provision (DSP) at mainstream schools to offer more appropriate and inclusive provision and at a lower cost than a special school placement.

Aims of the SEND Transformation Project

- 4.30. Leicester City Council (LCC) is experiencing conflicting priorities in balancing effective efficient inclusive resources to support and meet the needs of a rising number of children with Special Educational Needs and Disability (SEND).
- 4.31. We are committed to continue to meet individual needs of pupils with SEND through new initiatives and a focus on inclusive practice known as the SEND Transformation Project. This initiative is led by the Head of Service for SEND and the new posts of Inclusion and Transformation Manager and SEND Inclusion Lead Teacher.

- 4.32. Through a system of change and reform across the council, aligned to the DfE Change Programme Partnership, the SEND Transformation Plan (*Appendix 1*) aims to ensure that LCC remains committed to meeting the individual needs of all children with SEND whilst ensuring best value and funding efficient use of resources from the High Needs Block (HNB).
- 4.33. The five aims identified below link to the workstreams outlined in the SEND Transformation Plan (*Appendix 1*). The aims arise from identified areas of development that are required to support a more efficient use of the HNB funds. The areas of development were identified from the challenges set out above.
- 4.34. SEND Transformation Plan Aims:
- Aim 1: New DfE Reforms – The SEND and AP Change Programme
 - Aim 2: Developing Ordinarily Available offer: LA, Schools, Settings & Colleges
 - Aim 3: Local Authority Process reforms & Sufficiency
 - Aim 4: Increase confidence for parents and carers
 - Aim 5: Placement reforms
 - Aim 6: Stakeholder Engagement
- 4.35. The embedding of inclusive practices and supporting schools to develop their mainstream offer will support parents in developing trust in the education system for SEND children. To ensure children will receive the right support at the right time in the right place.

Risks and Issues

- 4.36. The risks for the Local Authority in not delivering effective change in the SEND and AP system for children and young people with SEND include:
- 4.37. Increased challenge, focus and intervention by the DfE and regulatory inspection bodies through entry into the Delivering Better Value programme and as a result of poor outcomes from a SEND Local Area inspection. Meaning the Local Authority would have less choice and control over local context and savings decisions.
- 4.38. Irrespective of whether the DfE including the Local Authority in the Delivering Better Value intervention, the risk is of financial sustainability which will impact on our ability to
- meet the increasing numbers and increasingly complex needs of children and young people with SEND
 - fund successful early support services which are not statutory but support schools with direct work with children & young people with SEND
 - jointly focus on inclusive practice amongst partners so children and young people with additional needs are supported in mainstream schools where possible
 - provide support to children at the earliest opportunity to meet their needs, support good outcomes and prevent issues escalating for children in their education, health and wellbeing
- 4.39. If left unmitigated the cumulative deficit will rise to over £100m by the end of the decade. Even with mitigations it will be a significant challenge to manage the in-year deficit due to increasing demands and a need to meet our statutory duties.

4.40. If the statutory override is removed in 2026 the deficit in the HNB would significantly impact on the wider council finances and could result in the council being unable to produce a balanced budget.

5. Financial, legal, equalities, climate emergency and other implications

5.1 Financial implications

- 5.11 As outlined in the report, at 31 March 2024 the LA had a cumulative DSG deficit of £9.6m. In 2023/24 HNB expenditure exceeded our funding allocation by £6m and this was despite of a funding increase of £7.6m.
- 5.12 The demand nationally for SEND services has increased significantly since the introduction of the EHCPs in 2014. We are not an outlier compared to our statistical and geographic neighbours or nationally in terms of the proportion of students with EHCPs as a percentage of the school population. Whilst the DfE have increased funding allocations significantly (averaging 10%) in recent years, this has only helped to offset the in-year growth and inflationary pressures. It has not dealt with the underlying shortfall in funding which had built up over a number of years prior to these increases beginning. Unfortunately, in 2024/25 the DfE have drastically reduced the funding allocation increases and the 3% growth received for 2024/25 has had to be used to fund inflationary pressures.
- 5.13 The DfE indicated earlier in the year that there are no current plans to return to significant increases to the funding allocations. The issue of LA DSG deficits (totalling £1.6 billion at 31 March 2023) was deferred until the new parliament. The statutory override mentioned in the report presently runs out in March 2026. The idea that this level of cumulative deficit can somehow be 'paid back' by individual LAs is unrealistic - as it would mean that LAs would need to draw on future years' funding allocations and, in the process, penalise the likelihood of meeting future students' needs.
- 5.14 A more realistic objective for LAs, but an incredibly difficult one, would be to return to a sustainable in year position whereby HNB expenditure matches allocation, but the question is how long that would take to realise. The issue for LAs is not only about addressing new demand for support each year through the mechanisms outlined in this report, but also that the majority of the LA's annual expenditure is on existing students with existing needs across all year groups within the system and these costs will not change quickly.
- 5.15 Since the pandemic there has been a surge in the number of EHCPs agreed, reaching a peak of 753 in 2022/23. If we continue with that level of new plans and without any growth in funding allocations, then the cumulative DSG deficit could reach £100m or more by the end of this decade.
- 5.16 In part the transformation plan is about dealing with demand in different ways whilst still meeting student needs. However, even returning the need for new statutory assessments back to pre-pandemic levels (halving the number seen in 2022/23) will now take many years to reduce the overall annual HNB expenditure. To have a major impact on costs, the transformation project would need to also address how existing needs are being supported in line with the aims of the project. This will be more difficult to address.

5.17 In summary therefore, from a financial viewpoint we are in limbo. There is no information for LAs regarding their cumulative DSG deficits and the statutory override. The extent to which LAs can address their in-year DSG deficits is limited given the ongoing level of the majority of the costs. There is no indication of any significant changes to the funding levels in the future. The impact of the AP and SEND Change Programme is difficult to assess.

5.18 Nevertheless, regardless of the issues raised, we should continue with the Transformation Project as outlined in this report and make as much progress as possible until the future landscape for SEND becomes clearer in the new parliament.

Colin Sharpe, Head of Finance

Signed: C G Sharpe

Dated: 25 September 2024

5.2 Legal implications

There are no direct legal implications from the recommendations sought in this report. However, it is recommended that ongoing legal advice is obtained on any specific proposals to address the deficit as these are developed.

Signed: Julia Slipper, Principal Lawyer (Education & Employment)

Dated: 24 September 2024

5.3 Equalities implications

When making decisions, the Council must comply with the Public-Sector Equality Duty (PSED) (Equality Act 2010) by paying due regard, when carrying out their functions, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a 'protected characteristic' and those who do not.

Decision makers need to be clear about any equalities implications of the proposed option. In doing so, we must consider the likely impact on those likely to be affected by the recommendation and their protected characteristics.

Protected groups under the Equality Act are age, disability, gender re-assignment, pregnancy/maternity, race, religion or belief, sex and sexual orientation.

The SEND Transformation plan needs to ensure that equality considerations are embedded throughout the five aims and related workstreams. The plan identifies statutory responsibilities for schools under the Equality Act with regards to reasonable adjustments, which has a particular emphasis on the protected characteristic of Disability. It is recommended that equality impact assessments (EIAs) are completed as appropriate, for example, proposed changes to services, policies/guidance, such as those listed in the anticipated impacts for each of the five aims. It is important to ensure that any consultation findings feed into the relevant equality impact assessment and inform any proposals.

It should be noted that the EIA is an iterative document which should be revisited throughout the decision-making process and should, ultimately, also take into account any consultation findings. The findings of the EIA should be shared, throughout the process, with decision makers to inform their considerations and decision making. Where any

potential disproportionate negative equalities impacts are identified in relation to a protected characteristic/s, steps should be identified and taken to reduce or remove that impact.

Signed: Sukhi Biring

Dated: 19th September

5.4 Climate Emergency implications

There are limited climate emergency implications directly associated with this report. As service delivery generally contributes to the council's carbon footprint, any impacts from changes made to service delivery could be managed through encouraging use sustainable travel options, using buildings and materials efficiently and following the council's sustainable procurement guidance, as applicable to the programme.

Signed: Aidan Davis, Sustainability Officer, Ext 37 2284

Dated: 16th September

5.5 Other implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

6. Background information and other papers:

SEND Code of Practice

[SEND Code of Practice January 2015.pdf \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262222/SEND_Code_of_Practice_January_2015.pdf)

7. Summary of appendices:

Appendix 1: SEND Transformation Plan



SEND

Transformation Plan

8. Is this a private report (If so, please indicate the reasons and state why it is not in the public interest to be dealt with publicly)?

no

9. Is this a “key decision”? If so, why?

Yes- affects all wards and relates to significant budgets