

Summons to attend meeting of Full Council



Date: Tuesday, 12 March 2024

Time: 6.00 pm

Venue: The Council Chamber - City Hall, College Green,
Bristol, BS1 5TR

To: All Members of Council

Issued by: Oliver Harrison, Democratic Services

City Hall, PO Box 3399, Bristol, BS1 9NE

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Date: Friday, 1 March 2024



Agenda

16. Special Urgency Decision DSG Safety Valve

(Pages 3 - 13)

Signed



Proper Officer
Friday, 1 March 2024





Full Council

12 March 2024

Report of: Tim O’Gara, Director – Legal & Democratic Services

Title: **Information Report – Decisions Taken Under Special Urgency Provisions**

Ward: Citywide

RECOMMENDATION

Full Council is asked to note the use of special urgency provisions (APR 16) in relation to a decision that was been taken by Cabinet in respect of the Safety Valve Programme Report on the 5 March 2024



Background / information

1. Statute and the Council's Constitution provide that notification of key decisions that are intended to be taken by the Executive must be published 28 days before the decision is taken, and that the papers in relation to that decision must be published not less than 5 working days before the decision to be taken.
2. There are, however, exceptions in law and the Constitution to these timescales so that shorter notice can be given in certain circumstances.
3. The Constitution provides (Access to Information rules APR15), that if a matter which is likely to be a key decision has not been included in the Forward Plan (to give 28 days' notice), the decision may still be taken if:
 - (a) The decision must be taken by such a date that it is impracticable for it to be deferred until it can be included in the next Forward Plan;
 - (b) The Proper Officer has given notice to the chair and members of a relevant Overview and Scrutiny body in writing, of the matter to which the decision is to be made;
 - (c) The Proper Officer has made copies of that notice available to the public at the offices of the Council; and
 - (d) At least five clear working days have elapsed since the Proper Officer complied with (a) and (b).
4. If an urgent decision needs to be taken and 5 clear working days cannot be given as set out in APR 15 above, APR 16 provides that in cases of special urgency a decision may still be taken if the decision taker obtains the agreement of the chair of a relevant Overview and Scrutiny body that the taking of the decision cannot be reasonably deferred.
5. The Constitution also requires that cases where special urgency provisions (APR 16) have been required will be reported to the Full Council for information.
6. This report informs Full Council of the following decision taken under special urgency provisions in March 2024.

APR 16 – Safety Valve Programme – 5 March 2024

Cabinet Decision:

1. Approved the principles and mitigations (Appendix A1) that will form the basis of the Safety Valve agreement between the Council and the Department for Education including the allocation of general fund resources as approved in the Council's 2024/25 budget on 28 February 2024.
2. Approved, if the DfE accept the proposal, entering into the Safety Valve Agreement between Bristol City Council and the Department for Education.
3. Authorised the Chief Executive, S151 Officer and the Executive Director Children and Education in consultation with the Mayor, Deputy Mayors and Cabinet Members for Children's Services, Education and Equalities and Cabinet member for Finance, Governance, Property and Culture to take all steps required to enter the Safety Valve Agreement and resolve any minor technical issues to the text, which do not materially alter the substance of the Agreement.

4. Endorsed the application for, and subsequent acceptance of, additional DSG funding of £53.0 million in relation to the Safety Valve Programme.
5. Noted the bid for additional High Need Capital Allocation funding of £28.2 million submitted on 5 January 2024 and if successful, a further report will be brought to Cabinet in April to seek approval to accept and spend this funding.
6. Authorised the Director of Education and Skills and Director of Finance, in consultation with Cabinet Member for Children's Services, Education and Equalities to approve revenue funding and to take all steps required to deliver the Safety Valve Programme including procuring and awarding and extending/varying contracts which may be over the key decision threshold.
7. Authorised the Head of Strategic Procurement & Supplier Relations to approve appropriate procurement routes to market where these are not yet fully defined in this report, or if changes to procurement routes are subsequently required.

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 05 March 2024

TITLE	Safety Valve Programme		
Ward(s)	All		
Author: Reena Bhogal-Welsh	Job title: Director of Education and Skills		
Cabinet lead: Cllr Craig, Cabinet Member for Children’s Services, Education and Equalities Cllr Cheney, Cabinet Member for City Economy Finance & Performance	Executive Director lead: Stephen Peacock, Chief Executive Officer Hannah Woodhouse, Executive Director for Childrens and Education Denise Murray, Finance Director, and Section 151 Officer		
Proposal origin: Other			
Decision maker: Cabinet Member Decision forum: Cabinet			
Purpose of Report: The Department for Education (DfE) invited Bristol City Council to participate in its Safety Valve intervention programme to address historic deficits within the Dedicated Schools Grant (DSG) High Needs Block (HNB) and reach an in-year balance to ensure ongoing sustainability. This report sets out the proposal from the DfE to part extinguish the cumulative deficit arising from existing and forecast overspends on High Needs Funding for services to children and young people with Special Educational Needs and Disabilities (SEND). The report also sets out the requirements the Council must meet to receive this funding and seeks approval to enter into a Safety Valve Agreement with the DfE.			
Evidence Base: <ol style="list-style-type: none"> 1. The Dedicated Schools Grant (DSG) is a ring-fenced grant which local authorities receive and manage, which is split into four blocks: Schools, High Needs, Early Years, and Central School Services. The majority of the grant is paid to schools and other settings to provide education services. The High Needs Block primarily funds services for pupils with SEND. The DSG conditions of grant require that any local authority with an overall deficit on its DSG account at the end of the financial year, must present a DSG Deficit Management Plan (DMP) to the DfE that identifies how that local authority will manage their future DSG spend. 2. The Children and Families Act 2014 brought in reforms aimed to link support for children and young people with SEND aged 0-25 across education, health care, and social care. This was clearest in the introduction of Education, Health, and Care Plans (EHCP), which replaced the previous system of ‘statements’ of SEN. Separately, changes were also made to funding for schools with pupils with ‘High Needs’, through a national funding formula. 3. The recovery of the DSG deficit is fundamental to ensuring continued support is available to meet the needs of children and young people and ensure the best possible outcomes for all are successfully achieved. 4. In the last few years across the country there has been a rise in the number of children identified as having 			

special educational needs and disabilities and Bristol is no exception. Funding has not kept pace with the rise in demand and two thirds of local authorities have deficits in their DSG grant budget as a result of High Needs cost pressures. Whilst in general there is strong evidence that most children with SEND should remain in mainstream schools for as long as possible, more children have been assessed as needing EHCPs in mainstream schools and some children will require specialist placements. Both have risen over time. This has created pressure on specialist places and on top up funding for EHCPs by schools which has in turn led to a HND building up.

5. On 18 July 2023, the Council was invited by the DfE to apply for the Safety Valve Programme. The programme is designed to assist Local Authorities with significant pressures on their DSG to accelerate SEND reforms. The Safety Valve Programme supersedes the current Delivering Better Value in SEND (DBV) Programme.
6. Local Authorities on the Safety Valve Programme are expected to ensure that in-year spend is brought in line with in-year grant funding over a planned period and to ultimately eliminate any accumulated deficit in their DSG reserve.
7. Following the invitation to join the Safety Valve Programme the Council entered a development period with DfE advisors who worked with us to provide a robust and deliverable DSG DMP and the underpinning financial modelling. On completion of this process the Council's Safety Valve application was formally submitted to the DfE on 12 January 2024 following engagement with Cabinet Board and the Council's Finance Scrutiny Task Group. The submission was supported by the Chief Executive, the Director Education and Skills and the Council's Section 151 Officer.
8. The DMP summarises the key priorities and deliverables building on the Bristol's SEND Written Statement of Action, the Our Families Transformation Programme and the DBV in SEND programme. It not only identifies the areas for improvement but also articulates the associated cost pressures, for example inflation. System-wide culture change is ongoing and focuses on an end-to-end reform from early identification and intervention through to statutory support. The work to date is built on a strong model of partnership working and shared outcomes across education, health, care and third sector organisations, and will ensure improvements are aligned and integrated models for working are maximised.
9. If the proposal submitted to the DfE is accepted, the Council must undertake all necessary means to reach a positive in-year balance on its DSG account as a minimum by the end of 2028/29 and in each subsequent year thereafter.
10. If the Council enters into the Safety Valve agreement the DfE has agreed to pay to the authority an additional £53m of DSG. This funding will be paid in instalments and subject to continued satisfactory progress. This additional funding can only be applied to reduce the deficit on the DSG reserve.
11. In addition to the Safety Valve Programme application outlined above, the Council was also invited to apply for additional High Needs Capital Allocation (HNCA) funding to support mitigations within Safety Valve Programme. If successful, these capital funds must be used for developments that are in addition to those already planned and/or in progress.
12. On 5 January 2024 Bristol City Council applied for capital funding of £28.2m, which will be key in delivering the Council's improvement ambitions. If successful (still to be determined) £13.2m of this funding is earmarked for the redevelopment of Claremont Special School. This fills a funding gap and builds on previously secured Cabinet approval to rebuild and extend the building in July 2019 subject to full funding being secured.
13. It is proposed that the remaining £15m will be used to support education settings to develop more inclusive spaces. If successful the funding will be allocated as part of a grants programme where schools can apply for funding to deliver minor works, such as opening cramped spaces, improving natural light and outdoor spaces, or investing in resource bases or hybrid learning spaces. Working in this way will support the Council's aim of

supporting schools to find solutions to inclusion problems and in turn build relationships between the Council and schools.

14. The cost of delivering the Safety Valve Programme has been forecast as £1.2m in 2024/25 and £4.3m over the six-year life of the programme to 2029/30. Delivery costs will be funded out of the Council's planned contribution to the Safety Valve Programme through the General Fund as outlined in the Council budget agreed at Full Council on 28/02/2024.
15. Children and young people with SEND deserve to have better experiences to enrich their lives. SEND reform is best achieved by listening to young people, parents and carers and partners to rapidly implement an effective plan, whilst creating a sustainable financial future. The Council will work collaboratively across all phases: from Early Years through to Post – 16 and then into adulthood to ensure early systematic identification of need, effective use of resources for children and young people in mainstream and specialist settings and equitable outcomes for families.
16. A new city-wide SEND Inclusion Strategy will be a means to ensure there is commitment to addressing the high needs deficit. Reform and improvement to services will enable successful collaboration and innovation to change the future of SEND for the benefit of all Children and Young People.

Financial Implications

17. The Council is not able to subsidise activity funded by the DSG without the explicit permission of the Secretary of State. Therefore, there is a pressing need to ensure that DSG expenditure is brought within the grant funding made available.
18. Currently a "statutory override" is in place, which means that DSG deficits can be ring fenced away from core Council budgets and do not have to be cash backed. This override is currently due to remain in place until 31 March 2026 but is not guaranteed to be in place beyond that date.
19. If the Council chooses not to accept the Safety Valve proposal it would need to have an alternative funded plan in place to repay expenditure already incurred and the accumulated DSG deficit reserve at the point at which the Statutory Override expired (estimated to be £96.0m by March 2026), and for each of the subsequent financial years until an annual balance can be achieved (a further £15.2m by March 2029). This would either be through large scale reductions in the services funded from the DSG, which would not be in the best interests of children or the wider sustainability of the education system (and probably would not be feasible), or through significant reductions in General Fund spend (17% of the Council's net service budget) to pay for the whole deficit.
20. As per the Council's Safety Valve submission, it is expected that any Safety Valve agreement will include the following financial and monitoring commitments:
 - The DfE will make available an additional £53m of DSG allocation payable over the next six years which is only to be allocated to reduce the accumulated deficit on the Council's DSG reserve.
 - The Council will contribute up to £46.5m from its own resources with £42.8m of this amount to be allocated to reduce the accumulated deficit on the DSG reserve and £3.7m to provide additional funding for the associated costs in delivering the programme of change. This is included in the 2024/25 Budget agreed by Full Council at the meeting on 28th February 2024, and further details relating to each of the associated funds, source and funding and reserves required to ensure the Council's resilience throughout this period, will be provided when presenting subsequent report with the actual Safety Valve agreement.
 - Subject to annual approval at Schools Forum, a transfer from the Schools Block to the High Needs Block of 0.5% will also be required in each of the first five years of the agreement. This is projected to average £1.8m per annum and total of £9.1m over the five years.

- The Council will undertake not to exceed maximum levels of deficit on its cumulative DSG reserve (before any additional DSG allocation) at the end of each of the seven financial years 2023/24 through to 2029/30. This is to be achieved by reaching and sustaining an in-year balance on the Council's DSG account by 2028/29.
- The Council will have to meet prescribed DfE monitoring arrangements which will involve submitting comprehensive monitoring reports to DfE on at least a tri-annual basis but also a commitment to make them immediately aware of any unforeseen difficulties or impacts of carrying out the agreement, or any significant risks to reaching the agreed financial position as soon as they arise.

Cabinet Member/Officer Recommendations:

That Cabinet:

1. Approve the principles and mitigations (Appendix A1) that will form the basis of the Safety Valve agreement between the Council and the Department for Education including the allocation of general fund resources as approved in the Council's 2024/25 budget on 28 February 2024.
2. Approve, if the DfE accept the proposal, entering into the Safety Valve Agreement between Bristol City Council and the Department for Education.
3. Authorise the Chief Executive, S151 Officer and the Executive Director Children and Education in consultation with the Mayor, Deputy Mayors and Cabinet Members for Children's Services, Education and Equalities and Cabinet member for Finance, Governance, Property and Culture to take all steps required to enter the Safety Valve Agreement and resolve any minor technical issues to the text, which do not materially alter the substance of the Agreement.
4. Endorse the application for, and subsequent acceptance of, additional DSG funding of £53.0 million in relation to the Safety Valve Programme.
5. Note the bid for additional High Need Capital Allocation funding of £28.2 million submitted on 5 January 2024 and if successful, a further report will be brought to Cabinet in April to seek approval to accept and spend this funding.
6. Authorise the Director of Education and Skills and Director of Finance, in consultation with Cabinet Member for Children's Services, Education and Equalities to approve revenue funding and to take all steps required to deliver the Safety Valve Programme including procuring and awarding and extending/varying contracts which may be over the key decision threshold.
7. Authorise the Head of Strategic Procurement & Supplier Relations to approve appropriate procurement routes to market where these are not yet fully defined in this report, or if changes to procurement routes are subsequently required.

Corporate Strategy alignment:

This programme is well aligned to priorities for our Children and Young People set out within the Corporate Strategy,

CYP3: Equity in education.

Over the course of this Corporate Strategy, the Council expects SEND provision to continue improving by co-designing appropriate support with children and families to meet their needs. The Council want to create the right conditions that will enable more young people with SEND and from disadvantaged backgrounds to enter further education, employment, or training. Supporting children and young people to experience an inclusive education that meets their academic, health, social and emotional needs is a crucial step to entering employment and becoming independent and economically active within the city, which supports their lifelong wellbeing.

The Council's ambition is that children and young people have access to an education that develops their potential both in what they learn and who they become, so that they have skills for life and work. Additionally, an education that is inclusive and values diversity, and that provides opportunities where they learn from each other and benefit from understanding their different experiences is important. In achieving this, the Council will work both directly and with partners across the entire system to maximise opportunities for all. This includes access to further education, higher education, and other training providers to help people find pathways to employment; acknowledging and

building upon much existing work by the Council and partners in these sectors to address the educational disadvantage in the city.

City Benefits:

That funding which supports provision for pupils and students with SEND is spent in fair, transparent and sustainable way.

Consultation Details:

1. Audit Committee, 20/11/23
2. Cabinet Board, 08/01/24
3. Scrutiny - Finance Task Group, 23/11/23, 05/01/24
4. School’s Forum Meeting, 16/01/24
5. Cabinet member Briefings 01/03/24
6. Department for Education meetings, 31/08/23, 15/12/23, 05/01/24

Background Documents:

1. [DSG: conditions of grant 2023 to 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/dsg-conditions-of-grant-2023-to-2024)
2. [Education Capital Programme – SEND Capital Proposals July 2019](#)

Revenue Cost	General Fund £46.5m Dedicated Schools Grant £53m Schools Block transfer £9m	Source of Revenue Funding	General Fund Dedicated Schools Grant
Capital Cost		Source of Capital Funding	
One off cost <input checked="" type="checkbox"/>	Ongoing cost <input checked="" type="checkbox"/>	Saving Proposal <input checked="" type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice:
The financial implications are identified within this paper.

Finance Business Partner: Guy Marshall, Finance Business Partner, 1 March 2024

2. Legal Advice:
The application for funding does not raise any specific legal implications. The procurement process must be conducted in line with the 2015 Procurement Regulations and the Councils own procurement rules. Legal services will advise and assist officers with regard to the conduct of the procurement process and the resulting contractual arrangements.
The Public Sector Equality duty requires the decision maker to consider the need to promote equality for persons with “protected characteristics” and to have due regard to the need to i) eliminate discrimination, harassment, and victimisation; ii) advance equality of opportunity; and iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it.
The Equalities Impact Assessment is designed to assess whether there are any barriers in place that may prevent people with a protected characteristic using a service or benefiting from a policy. The decision maker must take into consideration the information in the assessment before taking the decision.

Legal Team Leader: Husinara Jones, Team Manager/Solicitor 1 March 2024

<p>3. Implications on IT: I can see no implications on IT in regard to this activity.</p>
<p>IT Team Leader: Alex Simpson – Lead Enterprise Architect 4 March 2024</p>
<p>4. HR Advice: The report is seeking to provide Cabinet with sufficient information to endorse the application to Safety Valve Programme and delegation for the Director Education and Skills to spend the grant. This report has no significant HR issues arising from it for Bristol City Council employees</p>
<p>HR Partner: Lorna Laing - HR Business Partner 4 March 2024</p>

EDM Sign-off	Hannah Woodhouse	01/03/2024
Cabinet Member sign-off	Cllr Craig & Cllr Cheney	01/03/2024
For Key Decisions - Mayor's Office sign-off	Mayor's Office	01/03/2024



Scenario shows the cumulative deficit position **with** the Schools Block Contribution 0.5% to HNB, backlog, i

Scenario	2022-23 £,000s
Mitigated Planned DSG position (surplus)/deficit	£39,577
Unmitigated Planned DSG position (surplus)/deficit	£39,577
Total DSG Grant Allocations <i>(Based on 2024-25 Allocations Published December 2023)</i>	
Unmitigated expenditure forecast	
Uncontainable Inflation	
Project Resource - Cost of Delivery	
Total Unmitigated Expenditure	
Revised Unmitigated expenditure forecast	
Other Income Allocations	
Schools contribution of 0.5% (<i>subject to annual Budget approval</i>)	
Additional Funding for new Maintained Specialist Provision Places	
Total Other Income	
Savings forecast	
Stretched Target - Optimistic Scenario	
Total Savings Forecast	
Total Scenario (Annual Deficit) excluding LA Contributions	
Additional Council Contributions	
Council General Fund contribution Project Resource - Cost of Delivery	
Council General Fund contribution	
Council General Fund contribution - Reserves	
Total Council Contributions	
Grand Total Scenario (Annual Deficit)	
Cumulative Mitigated Planned DSG position (surplus)/deficit after Council Contribution	

Inflation Forecast	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30
	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%

inflation, project resource cost of delivery & stretched targets from financial year 2024-25 to 2029-30

2023-24 £,000s	2024-25 £,000s	2025-26 £,000s	2026-27 £,000s	2027-28 £,000s	2028-29 £,000s	2029-30 £,000s
£56,077	£76,179	£96,023	£108,444	£114,213	£111,184	£100,290
£58,189	£90,505	£133,110	£181,483	£236,554	£296,577	£360,661

(£452,302)	(£490,014)	(£502,978)	(£516,331)	(£530,085)	(£544,251)	(£560,838)
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£470,915	£518,211	£537,084	£552,810	£569,386	£584,268	£600,598
£0	£3,455	£7,282	£11,245	£15,371	£19,607	£23,926
£0	£663	£1,218	£649	£399	£399	£399
£470,915	£522,329	£545,584	£564,704	£585,156	£604,274	£624,923

£18,612	£32,315	£42,606	£48,373	£55,071	£60,023	£64,084
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£0	(£1,722)	(£1,773)	(£1,826)	(£1,881)	(£1,938)	£0
£0	(£933)	(£1,358)	(£1,878)	(£2,225)	(£2,537)	(£2,699)
£0	(£2,655)	(£3,131)	(£3,704)	(£4,106)	(£4,475)	(£2,699)

(£2,112)	(£9,491)	(£17,883)	(£28,148)	(£38,540)	(£49,190)	(£60,361)
£0	(£69)	(£1,748)	(£4,100)	(£6,656)	(£9,387)	(£11,918)
(£2,112)	(£9,560)	(£19,631)	(£32,247)	(£45,196)	(£58,577)	(£72,279)

£16,500	£20,101	£19,844	£12,421	£5,769	(£3,029)	(£10,893)
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£0	(£663)	(£1,218)	(£649)	(£399)	(£399)	(£399)	
£0	(£3,500)	(£3,500)	(£3,500)	(£3,500)	(£3,500)	(£3,500)	
£0	(£7,837)	(£7,282)	(£6,655)	£0	£0	£0	
£0	(£12,000)	(£12,000)	(£10,804)	(£3,899)	(£3,899)	(£3,899)	(£46,500)

£16,500	£8,101	£7,844	£1,617	£1,870	(£6,928)	(£14,792)
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£56,077	£64,179	£72,023	£73,640	£75,510	£68,582	£53,790
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