

Overview and Scrutiny Management Board Agenda



Date: Monday, 8 April 2024

Time: 5.30 pm

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

Distribution:

Councillors: Tony Dyer (Chair), Mark Bradshaw (Vice-Chair), Geoff Gollop, Brenda Massey, David Wilcox, Martin Fodor, Steve Smith, Christine Townsend, Andrew Brown, Steve Pearce, Kerry Bailes, Sarah Classick, Katja Hornchen, Sharon Scott, Lisa Stone, Mark Weston and Tim Wye

Issued by: Lucy Fleming, Democratic Services

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E-mail: scrutiny@bristol.gov.uk

Date: Wednesday, 27 March 2024



Agenda

6. Public Forum

Up to 30 minutes is allowed for this item

(Pages 3 - 12)

Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to scrutiny@bristol.gov.uk and please note that the following deadlines will apply in relation to this meeting:-

Questions - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on **Tuesday 2nd April.**

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on **Friday 5th April.**



Joint Overview & Scrutiny Management Board and People Scrutiny Commission



8 April 2024

Public Forum Questions

Ref	Name	Topic
Q1-2	Jen Smith (Attending)	Safety Valve Programme
Q3-4	Sally Kent	Safety Valve Programme
Q5-6	Fiona Castle (Attending)	Safety Valve Programme
Q7	Caroline Lee-Smith	Safety Valve Programme
Q8	Bridget Kelly	Safety Valve Programme
Q9-10	Tara Waite (Not attending)	Safety Valve Programme
Q11-14	Dan Ackroyd (Attending)	Safety Valve Programme & Bottle Yard Studios

Public Forum Statement

Ref	Name	Topic
S1	Jen Smith (Attending)	Safety Valve Programme
S2	Fiona Castle (Attending)	Safety Valve Programme
S3	Dr Em Williams	Safety Valve Programme
S4	Dan Ackroyd (Attending)	Safety Valve Programme & Responses to Full Council Public Forum Questions



PUBLIC FORUM - QUESTIONS

Question 1-2: Jen Smith

Q1: The Decision Pathway – Report says: '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.'

I sat in a co-production event in 2018 that used more or less the same words. There was then Alan Stubbersfield's Send Strategy of 2019. There was then Alison Hurley's Education Transformation Plan of the 2020s. Here we are yet again with another transformation plan and no functioning or sustainable Send system.

How exactly will this one differ to all previous Send strategies Bristol has used since the 2014 SEN reforms?

Response from Officer

The Deficit Management Plan (DMP) which underpins the Safety Valve agreement is focused on co-production and co-design – specifically the SEND and Inclusion strategy which has been developed through the SEND partnership group. This aims to develop a sound and sustainable SEND system through outreach support, targeted funding models, early intervention and inclusion hub, school autism service and co production principles developed with parents and carers. Together with the additional funding and a plan to meet the deficit we will be able to design a service which not only meets needs but an improved experience for all children with SEND.

Q2: Please disclose the communication or evidence where the Department for Education recommended or insisted that Bristol's application to the Safety Valve was an entirely secret process.

Response from Officer

In August 2023 after being invited to develop a safety valve bid the DfE advised BCC officers in writing that whilst they should inform elected members as part of the democratic process, they should not announce this work publicly.

Question 3-4: Sally Kent

Q3: The Capital funding document details funding for Claremount school, Claremount school also appeared in the 2020 capital funding document with funding agreed by Cabinet in Sept 2020. Can you please provide a break-down of capital funding received/spend between 2020 and now.

Response from Officer

It has not been possible to provide a capital expenditure breakdown within the timeframe but a full response will be provided within 7 days. Information on the grant income received and High Needs Capital Grant can be found below:

Grant income received

Basic Need Grant for the creation of new mainstream places

2020/21 £0

2021/22 £9.8m

2022/23 £12.7m

2023/24 £14.5m

2024/25 £1.7m

2025/26 £0

High Needs Capital Grant

2020/21 £0

2021/22 £11.2m

2022/23 £6.7m

2023/24 £1.2m

Q4: The capital funding plan and the safety valve agreement document say that more children are to be educated in mainstream schools, please can you provide the data on % of students with EHCPs attending special schools for each of the previous 5 years and explain how this compares with statistical neighbours and national trends.

Response from Officer

Group	Percentage of children and young people with EHCPs educated within a Special School				
	2018/19	2019/20	2020/21	2021/22	2022/23
Bristol, City of	56%	55%	53%	52%	48%
Statistical neighbours	52%	51%	49%	49%	47%
National	50%	49%	47%	45%	44%

The 2023-24 numbers are still being finalised therefore we are unable to provide these currently.

Please note the data in the above table is available publicly & can be found at: Schools, pupils and their characteristics, Academic year 2022/23 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk)

Questions 5-6: Fiona Castle

Q5: The Safety Valve Cabinet report details on page 3 that it plans to transfer £9.1 million from the Schools Block into the High Needs Block, over the next 5 years. This is in addition to cutting top-up funding for non-statutory support by £9.6 million over the same time period. Given that top up funding and presumably any available funds within the Schools Block is currently being used to support non-statutory provision, please can the Council explain how it plans to decrease spending on statutory EHC plans, when much of the funding used to support non-statutory provision in schools will be removed?

Response from Officer

BCC is responsible for commissioning and funding provision for a child or young person with an education, health and care (EHC) plan under the special educational needs and disabilities (SEND) Code of Practice. We will continue to meet our Legal requirement to fund all EHCP's in line with the Code of Practice

The question above states, “decrease spending on statutory EHC plans”, however our modelling shows that expenditure per EHC plan is projected to rise in the six years of the Safety Valve plan to 2029/30.

The current non-statutory ‘Top-Up’ process is being replaced with a targeted fund and support system for schools which will be outcome focused to improve sustainable inclusive practice in mainstream schools.

Q6: Can the Council provide a detailed explanation of how the “Belonging with SEND Programme” will save £6.4 million by the end of 2029-30, without the SEND inclusion Strategy having even yet been written?

Response from Officer

The Belonging with SEND programme which was launched in June 2022 and was based on Bristol's Belonging Strategy, specifically the Belonging in Education strategy. The programme aims to increase early intervention and strengthen school-based inclusion in mainstream provision reducing demand for specialist placements in future years.

Question 7: Caroline Lee-Smith

Q7: What will be the effect of the safety valve regime on issuing EHCPs? Are we likely to see more push back from BCC on requests ie more times when parents and carers have to go to tribunal to get their child an EHCNA or issued an EHCP?

Response from Officer

BCC is responsible for commissioning and funding provision for a child or young person with an education, health and care (EHC) plan under the special educational needs and disabilities (SEND) Code of Practice. We will continue to meet our legal requirement to fund all EHCPs in line with the Code of Practice.

The Safety Valve is categorically not about reducing or stopping vital services but rather making changes to SEND services which in the longer term will ensure sustainability so we can continue to provide high quality support and services required by children, young people and their families.

Question 8: Bridget Kelly

Q8: How will the plan help the rising number of children who need additional help? There is a clear need for not only specialist places but also small secondary schools and provision in secondary schools for the 10% of kids who find schools hostile as they have lost teaching assistants and creative learning opportunities.

How will this plan help the children who need extra support, where currently it is extremely hard to get this support even with an EHCP.

Response from Officer

BCC is responsible for commissioning and funding provision for a child or young person with an education, health and care (EHC) plan under the special educational needs and disabilities (SEND) Code of Practice. We will continue to meet our legal requirement to fund all EHCPs in line with the Code of Practice.

The Safety Valve is categorically not about reducing or stopping vital services but rather making changes to SEND services which in the longer term will ensure sustainability so we can continue to provide high quality support and services required by children, young people and their families.

Questions 9-10: Tara Waite

Q9: How does the council plan to monitor and evaluate the impact of any changes implemented as a result of participating in the SEND Safety Valve Program on children with SEND and their families?

Response from Officer

The SEND and inclusion strategy is closely overseen by the SEND partnership board and is also the subject of an improvement plan monitored by the DfE. The Safety Valve agreement does include an element of reporting and monitoring which will build on those already in place. The Council will continue to share transparently with partners through the SEND partnership board evidence of impact against key measures of progress including the timeliness of EHCPs.

Q10: What specific criteria or measurements of cuts need to be established in order for the council to qualify for the DfE's "extra funding" designated exclusively for addressing the council's deficit?

Response from Officer

BCC were invited to join the SV programme due to the level of high needs deficit. Progress against the plan depends on meeting the published targets for remaining within the DSG management plan over the 6 year period of the plan.

Questions 11-14: Dan Ackroyd

Q11 Preamble: The Local Authorities (Executive Arrangements) (Meetings and Access to Information), the law that governs how papers must be published ahead of public meetings, says that emergency decisions can be made when it is 'impracticable' to publish things in a timely manner.

This council knew for months that it was in the process of negotiating entry into the Safety Valve program as it would have been invited into that program some time last year.

Part of that invitation included instructions from Central Government about the need to get political clearance in a timely manner.

"We will publish all agreements made in 2023-24 in March 2024. You will need to factor into the above timetable political clearance of the proposal within your authority,"

Q11: What is the basis for claiming that it was 'impracticable' to publish the papers related to the Safety Valve program in a timely manner for the Cabinet meeting on the 5th of March? (This question is the same as question asked at Full Council on the 12th of March, but it hasn't been answered yet.)

Response from Officer

In August 2023 after being invited to develop a safety valve bid the DfE advised BCC officers in writing that whilst they should inform elected members as part of the democratic process, they should not announce this work publicly.

Q12: The law, in particular the Local Authorities Regulations 2012 Section 11(2)(b), says that when decisions are made in a 'case of special urgency', a notice about why it is urgent and cannot be

reasonably be deferred must be written and published on the Council's website. Where is that notice please?

Response from Officer

[\(Public Pack\)Special Urgency Decision DSG Safety Valve Agenda Supplement for Full Council, 12/03/2024 18:00 \(bristol.gov.uk\)](#)

The constitutional requirement is as follows under APR16 and this was followed in this case as published on the BCC website at the above link.

APR16

SPECIAL URGENCY

May 2019 PART 4.1: (B) ACCESS TO INFORMATION PROCEDURE RULES

If by virtue of the date by which a decision must be taken APR 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains:

- (i) the agreement of the chair of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred; or
- (ii) if there is no chair of a relevant Overview and Scrutiny Committee (or if the chair of each relevant Overview and Scrutiny Committee is unable to act) then the agreement of the Lord Mayor, in consultation with party whips, that the taking of the decision cannot be reasonably deferred.
- (iii) if the Lord Mayor is unavailable or unable to act, the deputy Lord Mayor can substitute.

The legal requirement under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 includes a requirement to publish a notice.

(2) As soon as reasonably practicable after the decision maker has obtained agreement under paragraph (1) that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must—

- (a) make available at the offices of the relevant local authority a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the relevant local authority's website, if it has one.

Q13 Preamble: From the cabinet paper, there is a distinct lack of appendixes.

Appendix B – Details of consultation carried out - internal and external NO

Appendix C – Summary of any engagement with scrutiny NO

Appendix D – Risk assessment NO

Appendix G – Financial Advice NO

Appendix H – Legal Advice NO

This is a huge decision that should have been made in a thoughtful manner. The lack of each of these things is bad, but to me, the lack of a risk assessment is terrifying.

Q13: Has a risk assessment been started since the decision has been made?

Response from Officer

The Cabinet report contains details relating to the risks associated with this decision in paragraph 17. In addition to this a programme risk log has been developed and managed through the Safety Valve governance framework.

Q14: Recently, The Bottle Yard Studios have entered into a contract with Stepping Up to provide training to people for a career in scripted film and TV production.

- i. How much Stepping Up charge Bottle Yard for each trainee or cohort?
- ii. What qualification do each of these trainees receive after finishing the course?
- iii. Are adequate safeguarding measures in place to protect young people in an industry that has seen a high level of exploitation.

Response from Officer

In early 2024, Stepping Up CIC were awarded the contract as delivery partners for this five-week training scheme through a rigorous procurement process managed by an independent company, Constellia, with whom Bristol City Council have a contract.

Stepping Up offers a wide range of inclusive training opportunities for individuals with protected characteristics, including young people and adults, women, people from the global majority across all intersections, Disabled people (visible and invisible disability), people with neurodiversity, those affected by mental ill health and carers.

During the procurement process, each tender organisation was required to present their safeguarding policies and procedures in order to pass the process. Stepping Up provided the necessary information to receive the award.

Inclusion is at the heart of the programme and how we measure its success. All project partners share our aspirations and are highly experienced in recruiting and supporting participants with multiple needs facing barriers to accessing training programmes and understand an industry that sees a high level of exploitation. All participants will be supported by 1 to 1 wraparound support, plus signposting to services such as wellbeing support.

In addition to certification that participants have completed the Stepping Up scheme, graduates will receive the following outcomes on completion of the course:

- Inclusion in a Bottle Yard Studios Trainee Portfolio to be circulated to visiting production companies to enable them to engage with on set work placements.
- A digital badge that can be added to their CVs and emails demonstrating their set-readiness.
- A 'stamp' for a Film/TV sector Skills Passport which will be developed in conjunction with other skills provision in the region.

Each participant of the 3 rounds of the 5-week Stepping Up Scheme will cost £1,707.00 to fund, which covers the course design, delivery and master classes with industry experts.

PUBLIC FORUM - STATEMENTS

Statement 1: Jen Smith

The very foundations of the Bristol Safety Valve agreement have been forged in dishonesty by the most senior leaders in Bristol.

Bristol City Council, the Mayor and Cabinet leads repeatedly claimed that Bristol's Safety Valve agreement had to be kept under embargo on the orders of the Department for Education. This is one of the key issues around its late addition to the Cabinet meeting in March 2024.

The Department for Education told me: 'Bristol's invitation to engage in discussions about joining the Safety Valve programme and their Safety Valve proposal were not under embargo from the Department. It is for local authorities to decide how they handle the process locally.'

There is nothing about Bristol's Safety Valve Agreement which can be considered credible because those who have brought it to the city have proven entirely untrustworthy.

This is not a new thing with Send. Bristol has not only failed to get to grips with the 2014 SEN reforms, it deliberately chooses to react in vindictive ways against those who call out its failure.

As is noted in papers for this meeting, funding from central government has been poor that's true. But it is utterly tiresome to hear Bristol still singing this song as being one of the main reasons for having no money for Send. It's boring, it's not true and it's attempting to re-write this city's history. It coincides with the toxic mayoral system which has been abused by individuals for their own benefit and imposing their own ideologies, whilst treating Disabled families, children and parent carers with contempt.

The whole basis of the Safety Valve agreement is about reducing spend, which can only be done by making cut backs. Years of incompetence in Bristol has shown that this council is entirely unable to come up with a functioning Send strategy that does not ensure institutional disability discrimination against its Send population.

It's also bizarre to see senior council staff in public meetings respond to educators that ensuring Send provision in schools in light of these cut backs and the loss of top up funding can be overcome through sharing experience and collaboration.

That's not a transformation plan and does not put classroom support in place for overworked teachers and traumatised Disabled pupils. It's likely further threatening the stability of some school budgets, particularly the smaller ones not backed by the clout of popular academy trusts.

All of this Safety Valve stuff is based on future practice. Children can't wait for you to get it right. Those who were young children when the Sen reforms came in are now in adulthood and what a mess that is for many of them. Ten years of failing to educate children and you now think you can do more with less money earlier? It's poppycock.

Anyone who has been involved in this hot mess shouldn't kid themselves that it will be anything more than further education theft. Disability is a protected characteristic except in Bristol.

In addition to the widespread breaches of Part Three of the Children and Families Act 2014, Bristol continues to act against Article 14 and Protocol 1, Article 2 of the Human Rights Act.

And, The UN Convention on the Rights of the Child (UNCRC).

Statement 2: Fiona Castle

In submitting my statement regarding Bristol City Council entering into a Safety Value agreement with the Government, I want to highlight that one statement, and an accompanying one minute of speaking

at public forum, cannot begin to address all the issues that parent carers in Bristol are currently, and have historically felt, regarding SEND. Whilst I speak only for myself today, in the SEND community of Bristol I hear of the same issues being raised time and again. I have drawn on our collective lived experiences in writing this statement.

I have reviewed several documents for today's Scrutiny meeting including; the Safety Valve Programme Cabinet report for 9th April, the decision pathway report for Safety Value dated 5th March, and the Equality Impact assessment. In nearly 50 pages of information regarding the Safety Value agreement and its impact on the SEND children of Bristol, the Children and Families Act 2014, the law underpinning the right of SEND children and the obligations of Councils to fulfil them, is mentioned only twice. Both times, it is in a passing reference to the Council being under an obligation to fulfil its legal duties with respect to SEND children.

However, in the 6 years since the Council was legally prevented from removing £5 million from the High Needs Block, Bristol City Council has not been fulfilling its legal obligations to SEND children and young people. The number of children within the city who are legally entitled to a specialist school place, but not in receipt of one, totals in the hundreds. EHCP needs assessments are unlawfully refused and the statutory deadlines for the finalising of EHC plans are routinely missed.

Now, with the introduction of Safety Value, the Council would like parent carers to believe that it is going to do more, with less. It would like us to believe that a debt management plan will bring a whole new SEND Inclusion Strategy and with it "genuine reform and improvement in services". The documents state that a successful SEND system requires a "culture of shared responsibility, accountability and learning – underpinned by trust". And yet, the Safety Value negotiations were carried out in secret. The Department of Education denies there was ever an embargo for Bristol to discuss entering into Safety Value. This is evidenced by both Bournemouth, Christchurch and Poole and Wiltshire councils, who applied to join Safety Valve at the same time as Bristol and advertised this intention publicly.

The Council may have successfully entered into Safety Valve, but in doing so I believe they have irretrievably destroyed any trust they may have built with parent carers. They have a financial plan that details key risk factors of entering into Safety Value, but does not include any reference to the risk of not being able to meet their statutory obligations to SEND children. And despite being found to require improvement in SEND in 2019 and not being able to improve parent trust in the system to the satisfaction of OFSTED, the Council now expects parents and service users to believe all will be well within SEND in Bristol. This is despite the Council not knowing if it will receive the £28.2 million it has applied for from the High Needs Provision Capital Allocation (HNPCA), and if it doesn't, whether it will be able to renegotiate the terms of the Safety Valve agreement.

Bristol has not thus far been able to lawfully, inclusively or equitably meet the needs of its SEND population, all the while increasing its financial deficits. But now we are expected to believe that with Safety Valve, budgets will balance and needs will be met. That we are about to enter a brave new world of collaboration and improvement. I don't believe a single word of it and I strongly urge you not be fooled either.

Statement 3: Dr Em Williams

I have started to write this twice. I feel too tired and don't know where to begin. The work I have put in for the last ten years to support my disabled child has been immense. Medical appointments, physiotherapy, occupational therapy, speech and language therapy to name but a few. More recently I have taken a career break from my job with the attendant financial loss to our family as I have been unable to care for my child and his sibling and do the level of advocating required to secure him the educational provision that he needs and is LEGALLY ENTITLED to while working and being a single parent. The cost to the tax payer of this is also real as I am now reliant on benefits.

The constant chasing of caseworkers and the admin of his EHCP consistently take up around 2 days of my week and remain an unpaid permanent part time job that is frequently very stressful. I am currently in the process of taking Bristol LA to tribunal for example because they have deleted provision from my child's plan with no evidence and have failed to include all provision specified by experts that they commissioned. The whole system would be almost farcical if it weren't so appalling. It has impacted on my mental well being, stress levels and my children. Yet I am now apparently one of the lucky ones as my child has an EHCP and he has me, a PhD educated parent advocating for him, even if the process is absolutely breaking me.

When I heard about the removal of top up funding and the rushing in of safety valve I felt alarmed. More children will need EHCPs. Less will be issued. This is a perfect storm and Bristol is already failing so many children and putting such strain on their parents and carers. I am worried parents will take Bristol to Tribunal and Judicial Review and win because failure to provide the provision children need is illegal but how in reality is the support, the transport, the school places and so on going to be funded? How in reality will put children's human rights not be breached? Safety Valve has been met with nothing but despair and anger by SEND families. It's impossible to not feel a bad situation has just become infinitely worse.

Statement 4: Dan Ackroyd

Answers to the public forum questions asked at Full Council on the 12th of March, have still not been published as the 5th of April.

There are ten questions related to Safety Valve that should have been answered by now.

I have tried to contact Democratic Services to find out what is happening; there is no response.

By failing to answer questions, this administration has stopped members of the public being able to ask informed subsequent questions at the Joint People OSMB and the Cabinet meeting.

This is a disgrace.