

## Slough Borough Council

<b>Report To:</b>	Cabinet
<b>Date</b>	18 December 2023
<b>Subject:</b>	Special Educational Needs and Disabilities (SEND) Update
<b>Lead Member:</b>	Cllr Bedi – Lead Member for Education and Children’s Services
<b>Chief Officer:</b>	Sue Butcher – Executive Director for People – Children
<b>Contact Officer:</b>	Neil Hoskinson – Director of Education
<b>Ward(s):</b>	All
<b>Key Decision:</b>	NO
<b>Exempt:</b>	NO
<b>Decision Subject To Call In:</b>	NO
<b>Appendices:</b>	Appendix 1 – Monitoring Report for Written Statement of Action [WSoA] DFE Visit November 2023 Appendix 2 – 15 <sup>th</sup> September 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 key actions taken to address the priorities identified by Ofsted and the CQC in their inspection report from 2021. There has been considerable progress made since the DFE Monitoring visit in July 2023 and the first full monitoring report for the Safety Valve Agreement / High Needs Deficit Recovery Plan was completed in September. This report is to share the progress with Cabinet to ensure that Cabinet members are active participants in our improvement journey.

#### **Recommendations:**

Cabinet is recommended to note the progress and agree to continue receiving quarterly updates for the remainder of this municipal year.

#### **Reason:**

This report provides assurance to Cabinet of the progress made against the improvement plan. Whilst these updates can in the future be provided outside of formal Cabinet meetings, it is recommended that formal updates are provided on a quarterly basis for the remainder of this municipal year to demonstrate that the system in place for making improvements is working in practice.

## **Commissioner Review**

*The SEND Commissioner commented that "whilst I'd also acknowledge the progress made since July 2023, including improved data gathering information sharing and a more robust action plan is now being undertaken, the Council and it's partners need to begin to demonstrate the impact these changes are having with families. The Children's Services management team have engaged well with partners and some parents but they need to press ahead with joint commissioning arrangements and promoting the 'local offer' in the New Year."*

DLUHC Commissioners have reviewed this report have no comments to add to those already supplied by the DfE Commissioner.

## **2. Report**

### **Introductory paragraph**

- 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. This report provides an update on progress.

### **2.9 Options considered**

There is no legal requirement to provide updates on the progress to Cabinet. As an alternative the Lead Member for Children's Services could assure himself of satisfactory improvements in update meetings with officers. However, there was previously a 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. It is recommended that this continues for the rest of this municipal year, after which improvements are reported outside of formal cabinet meetings to avoid Cabinet having a high number of reports going to each meeting.

## **3. Background**

- 3.1 The Autumn 2021 Special Educational Needs and Disability (SEND) inspection report by Ofsted and the CQC recognised several strengths, however inspectors identified seven areas of weakness and determined that a Written Statement of Action (WSOA) was required to address these.

The priority areas are:

1. Arrangements for ensuring effective joint leadership and accountability, self-evaluation and improvement planning at a strategic level across Education, Health and Care services.
2. The voice of children and young people with SEND and their families to help understand their lived experiences and to gather helpful and accurate information.

3. Use of meaningful performance information to inform the area's strategy and planning, as well as to evaluate its effectiveness.
4. Opportunities for parents, carers and children and young people with SEND to be involved in planning and reviewing area services.
5. The timeliness with which Education Health and Care (EHC) plans are produced and updated, particularly nearing transition points, and systematic processes for the quality assurance of plans.
6. Social care considerations in EHC plans, for children and young people not known to children's social care, and services in the area, including age-appropriate social opportunities, the short breaks offer and respite services.
7. Access to speech and language (SALT), occupational therapy (OT) services and waiting times as well as the development of a Dysphagia Service.

The introduction to the WSoA document also set out the principles and approach that had been agreed with all partners:

- 3.2 The WSoA document was co-produced with social care colleagues, health partners, families and school leaders and was "underpinned by our common purpose and shared values and principles, which are embedded in our desire to reduce inequality, remove barriers to learning and enable children and young people to flourish" (Introduction to the Slough WSoA document). It set out a shared ambition to secure real change through the concerted and combined efforts of all our partners across the local area to improve the outcomes for children and young people with SEND.
- 3.3 As part of the oversight of the SEND improvement journey, the DFE hold quarterly monitoring visits. The next visit is due to take place on 13<sup>th</sup> November 2023. This report updates Cabinet on the progress made since the previous visit in July and if appropriate will provide a verbal update on any feedback received on the November visit if this is received after publication of this report.
- 3.4 On August 4<sup>th</sup> this year, 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 Ofsted and Care Quality Commission (CQC) inspection report from October 2021. The evidence regarding lack of progress was obvious at the DFE Monitoring Visit that took place at the end of February this year and from reports from the Department for Education (DFE) appointed Commissioner and SEND Adviser. As a result, the remit of the Children's Services Commissioner, Paul Moffatt, has been extended to include the Council SEND functions.
- 3.5 At the July Monitoring Visit, the Council was able to demonstrate that important progress had been made. The DFE stated that they are aware that there has been "considerable change in senior leadership at SBC" in recent months and that the new team are "determined and motivated to bring positive change". A new SEND Improvement Action Plan had been agreed aligning all 94 actions in the Written Statement of Action [WSoA] to five workstreams. A new team of case officers and managers was in place and there were examples of "green Shoots" of progress in the number of Education Health and Care [EHC] plans completed in June and July 2023.

The Monitoring Report for the DFE Visit on 13<sup>th</sup> November 2023 is in appendix 1 of this report.

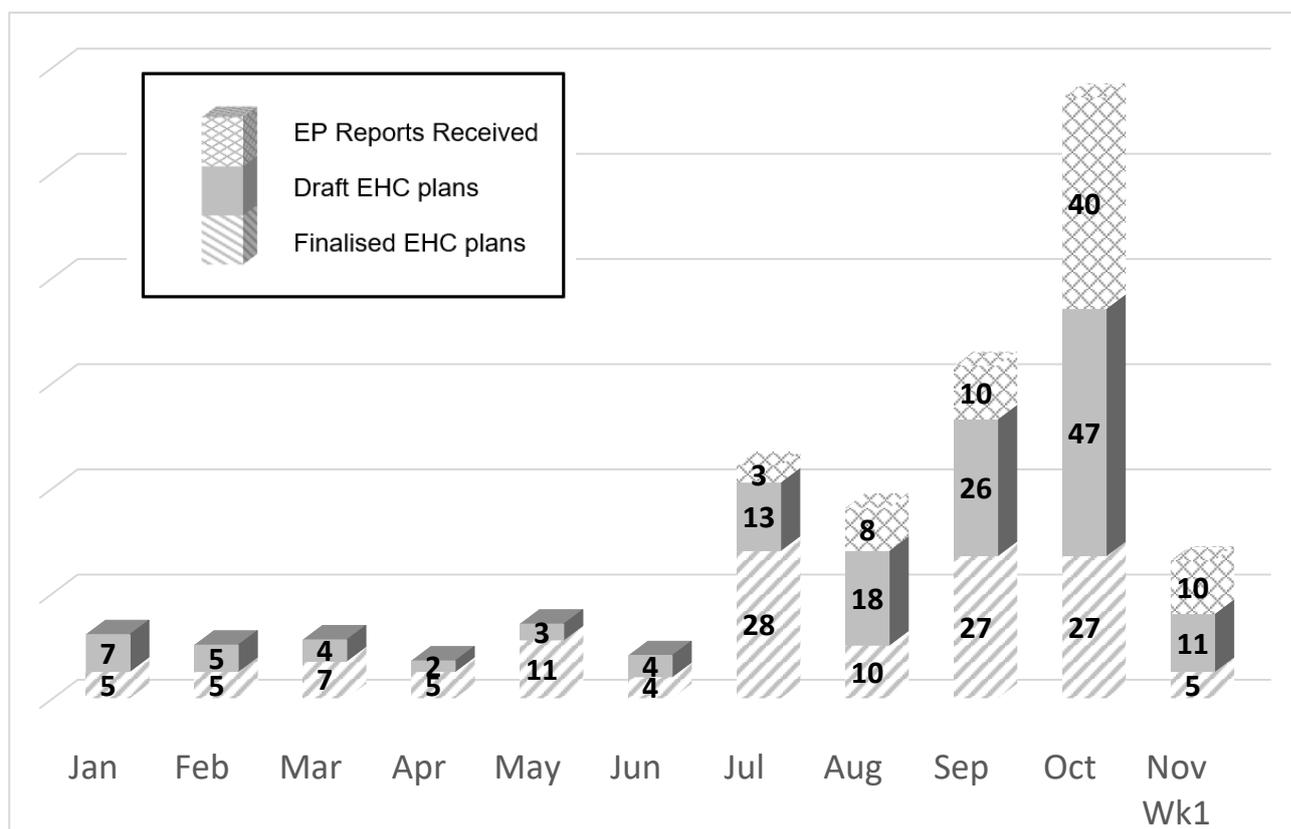
### Dedicated Schools Grant (DSG) Safety Valve Agreement [SVA]

- 3.6 In 2023 the Council entered into a Dedicated Schools Grant 'Safety Valve' Agreement with the Department for Education [DFE]. This was a result of the authority predicting a deficit at the end of the 2022/2023 financial year of £27.6 million. The deficit was mainly caused by overspending in the High Needs Block for children and young people with SEND.
- 3.7 The Council undertook to reach a positive in-year balance on its Dedicated Schools Grant (DSG) account by the end of the 2025/26 financial year and in each subsequent year eliminating their cumulative deficit no later than 2026/2027. To help to achieve this balanced budget position, the DFE agreed to provide £27 million of additional funding in staged payments up to the end of the 2026/2027 financial year.
- 3.8 The DFE additional funding is conditional on the authority providing quarterly monitoring reports that evidence that sufficient progress is being made to achieving the in-year balance in its DSG budget by 2025/2026. The first full monitoring report was sent to the DFE on 15<sup>th</sup> September showing that the Council is on track to meet the deficit control and reduction targets set out in its Safety Valve Agreement. As a result, the DFE have agreed to provide the first tranche of funding (£10.8 million).
- 3.9 Department for Education (DFE) Monitoring Visit July 2023
- The feedback from the DFE officials attending the latest monitoring visit acknowledged the hard work that has been put into improving SEND in Slough since the start of March. Whilst it would not be expected to have made a significant difference to the quality of SEND 0-25 service provided to our children and young people with SEND, together with their families, there were clear signs of improvement.
- 3.10 A SEND 0-25 Partnership Board oversees the transformation of SEND services in Slough. Their work is supported by a data dashboard to ensure that they have a good understanding of the improvements in frontline practice. This ensures a solid understanding of the strengths and weaknesses of their workforce and the needs and quality of the services being provided.
- 3.11 Shortly after the visit, the latest monthly reporting to the DFE included the fact that 28 EHC plans had been finalised in July. This is the most in one month since the inspection and included 5 that had been completed within statutory timescales which is again the best performance since 2021 (although this has been surpassed since). Although this is very encouraging and evidences the improvement in the service, it is not yet at the level of the service in 2020 when around 30 plans were completed each month.

### 3.12 Slough Quarterly Progress Review on the WSoA – November 2023

The next monitoring visit by the DFE takes place on 13<sup>th</sup> November 2023. Prior to the visit, a report is submitted setting out the general improvements that have been achieved as well as providing more detail against each of the seven areas of weakness. The report has a particular focus on improvements between July and November 2023. The full report is included in Appendix 1 of this report.

Since June 2023 there has been a significant shift in the number of EHC plans completed each month (as reflected in the table).



Levels of completed EHC plans will continue to increase in future months as evidenced by the fact that 47 draft plans were sent out in October. The percentage of plans completed inside the twenty-week statutory timescale has also increased with 7 successfully finalised in October. This will increase considerably once the backlog of cases has been cleared.

- 3.13 This has been achieved by maintaining a consistent SEND team, targeted training in key areas of practice and streamlining the SEND Statutory processes. The appointment of a highly experienced Principal Education Psychologist [PEP], a practicing SEND 0-25 Ofsted Inspector, has also energised the statutory process. The PEP chairs the SEND 0-25 weekly Panel which is now functioning well. Another significant factor has been securing additional interim educational psychologist capacity. Currently the PEP is directing and allocating 40 EP Assessments a month which the SEND 0-25 Team are turning around month on month into timely EHC plan drafts and Final EHC plans. In June there were 130 unallocated EP assessments, this has now reduced to 80. In addition, the advice is being professionally quality assured to British Psychological Society Standards.

- 3.14 Existing staff members have also taken on the new Preparation for Adulthood [PfA] Strategic Lead and the Lead for Inclusion roles. These are both key focus areas for this term moving into next year. The PfA lead has designed proformas and systems for collecting lived experience evidence from young people and their families, as well as drafting a new PfA approach. The Lead for Inclusion is focusing on the Graduated Approach and identifying best practice locally and more widely to share at a school inclusion conference in January 2024.
- 3.15 Following a drop in the number of EHC plans finalised in August 2023 (see table above) it was agreed not to renew the interim contract of the Head of SEND 0-25 ending at end of the same month. The existing SEND 0-25 Commissioner has taken on the Head of SEND 0-25 role and a new Operational Lead for SEND 0-25 has been recruited to support the statutory team.
- 3.16 Overall, there has clearly been more progress against the individual actions in the WSoA since the last monitoring visit. A significant change since July has been the development of a new SEND 0-25 Improvement Action Plan based on 5 clearly defined workstreams. New reporting processes ensure a much tighter focus on the individual actions and each workstream area also has an ongoing risks and mitigations report. As a result, there is a closer alignment to the WSoA impact measures in our reporting to ensure that all actions are completed by May 2024. Since the WSoA was launched with 94 separate actions, 20 have been completed of which 9 were health actions linked to integrated therapies. At the September meeting, evidence was provided that a further 17 actions had been completed across four different workstreams improving the completion rate from 21.3% to 39.4%, an increase of 18.1%. A further 36 actions are on track to be completed by the end of December which would bring the percentage up to 77.7%, an increase of 38.1%.
- 3.17 A Working Together Coproduction and Partnership Charter has been agreed following in-person / online sessions that involved over 190 people including young people, parents, carers and professionals. The strategy will inform and underpin transformation work as well as the business-as-usual service delivery.
- 3.18 Funding and procurement for a redesign for the Local Offer redesign was agreed and the final version of the new website has been designed following a consultation with young people with SEND and their families as well as with partners. As well as improving the look of the website; functionality, accessibility and useability have been improved and work is ongoing to identify and fill gaps in the services on the website.
- 3.19 A current critical focus is on gathering lived experiences of children, young people and their families. The process and templates for this work are being developed in partnership with partners and stakeholders.
- 3.20 The partnerships with health continue to develop and senior health colleagues are important members of the SEND 0-25 Partnership Board. The ICB Chief Nurse currently chairs the Local Safeguarding Partnership Board which brings further opportunities for closer working.

### 3.21 **Safety Value Intervention Programme/High Needs Budget Deficit Recovery Plan**

The Dedicated Schools Grant ‘Safety Valve’ Agreement [SVA] between the DFE and the Council covers the financial years from 2022-23 to 2026-27. Appendix 2 contains the first full monitoring report submitted to the DFE in September setting out the progress made on our recovery plan. The authority undertakes 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. The authority undertakes to control and reduce the cumulative deficit as follows, not including any contribution made by the department through this agreement:

<b>Year</b>	<b>Forecast DSG Deficit Profile at year end (£m)</b>
<b>2022-23</b>	£27.6m
<b>2023-24</b>	£28.1m
<b>2024-25</b>	£28.1m
<b>2025-26</b>	£27.7m
<b>2026-27</b>	£27.0m

3.22 The authority agrees to implement the DSG management plan that it has set out. This includes action to:

- Work with providers to ensure best value and, where necessary, review and renegotiate the fees, rates, and tariffs;
- Ensure commissioning of SEND placements, therapies and individual tuition reflects population trends and is in line with the current High Needs Block Guidance;
- Review local Post-16 provision in collaboration with health and adult services to ensure there is a wider range of quality provision available;
- Review and remodel the current system for awarding Top Up Funding;
- Review agreements for Alternative Provision (AP) with local providers and ensure sufficient places are available;

3.23 As part of the agreement, the DFE has agreed to pay the Council an additional £10.80 million of DSG before the end of the financial year 2022-23. In subsequent financial years, further instalments will be provided (see table below) subject to the Council making satisfactory progress against the actions above.

<b>Year</b>	<b>The DFE agrees to pay to the Council an additional £m of DSG by year end</b>
<b>2022-23</b>	£10.80m
<b>2023-24</b>	£3.24m
<b>2024-25</b>	£3.24m
<b>2025-26</b>	£3.24m
<b>2026-27</b>	£6.48m

- 3.24 The provisional outturn position for 2022-23 is an overspend on all DSG blocks of £0.097m with an overspend on the High Needs DSG Block of £0.407m. This contrasts with a forecast overspend on all DSG Blocks at quarter 3 of 2022-23 of £1.638m. 2023-24 Period 5 Budget Management report for High Needs DSG has total forecast spend of £22.3m against a budget of £25.1m. As a result of the progress evidenced in the report, the first payment of £10.80 million has been agreed.
- 3.25 The SEND Team is working on a backlog of EHCP's which is estimated to create additional forecast spending of £2.6m in High Needs funding not included in the figures above. This would give a more accurate overall projected spend of £24.9m, and an estimated underspend of 0.2m in 2023-24. Overall, in 2023-24 the four DSG blocks are projected an underspend of £0.6m (£0.3m in schools block, £0.2m in high needs block and £0.1m in the early years block). More work is being undertaken to refine our modelling forecasts and a more accurate estimate of the final outturn for 2023-24 will be available in the December 2023 report.
- 3.26 New monitoring arrangements for the High Needs Block and the Safety Valve Agreement are in place with fortnightly meetings taking place including the Section 151 Officer and the Director of Children Services [DCS]. Work is being undertaken to refine forecasts and a more accurate estimate of the final outturn for 2023-24 will be available in the December 2023 SVA Monitoring Report.
- 3.27 In discussions with the DFE around the WSoA and the SVA, we discussed additional support that would help us to achieve our targets. These support activities fall into two broad categories, a request for additional capital funding and establishing a support programme linked to the key workstreams. Some local authorities entering into a Safety Valve Agreement were awarded additional capital, but Slough did not make a request. the Council are now looking to submit a retrospective request for additional capital funding to increase our special school places to meet the rising demand over the next four years. There is also the possibility of a future application for an all-through Special Free School when the application process reopens. Conversations have already taken place with the Council for Disabled Children, regarding the RISE programme and an initial proposal has been drafted around support for the Inclusion Conference in January 2024 as well as the Graduated Approach framework. There is likely to be further support that we can access.

### 3.28 Priorities this term

- Consistently improving performance
- Lived Experiences
- Joint Commissioning
- Inclusion
- SEND 0-25 Handbook / Communications Charter
- SEND pupil attendance and SEND needs of the Electively Home Educated cohort.
- Working Parties for SEND 0-25 Sufficiency, Capita and Preventing Exclusions

## **3. Implications of the Recommendation**

### 3.1 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.

### 3.2 Legal implications

3.2.1 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.

3.2.2 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.

3.2.3 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.

3.2.4 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.

### 3.3 *Risk management implications*

#### 3.3.1

	<b>Risks</b>	<b>Potential Impact</b>	<b>Mitigating Actions</b>
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.
3	Failure to secure enough non-maintained places for pupils requiring resource provision or a special school.	Children and young people's SEND needs not met. Increased cost to the council with more independent school places needed.	SEND Sufficiency Working Party established and SEND needs added to the Place Planning Board TOR.
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.

### 3.4 *Environmental implications*

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

### 3.5 *Equality implications*

3.5.1 Children and young people with a disability are protected by the Equality Act 2014. “The law on disability discrimination is different from the rest of the Act. In particular, it works in only one direction – that is to say, it protects disabled people but not people who are not disabled. This means that schools are allowed to treat disabled pupils more favourably than non-disabled pupils, and in some cases are required to do so, by making reasonable adjustments to put them on a more level footing with pupils without disabilities.”

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.

### 3.6 *Corporate Parenting Implications*

3.6.1 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.

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.

## 4. **Background Papers**

Appendix 1 – Monitoring Report for Written Statement of Action [WSoA] DFE Visit November 2023

Appendix 2 – 15<sup>th</sup> September Safety Valve Intervention Programme / High Needs Budget Deficit Recovery Plan Summary Update Report