

# Notification of Urgent Decision

## Full Council

### 14 April 2022

Notification of urgent decision taken by the Chief Executive in accordance with the Council's procedural rules, relating to entering in a 'safety valve' agreement with the Department for Education.

## For Review and Consultation

**Portfolio Holder:** Cllr S Flower, Leader of the Council

**Local Councillor(s):** All Councillors

**Executive Director:** M Prosser, Chief Executive

Report Author: A Dunn

Title: Executive Director Corporate Development (S151 Officer)

**Report Status:** Public

## Notification of Urgent Decision

1. Members will be aware that the increased requirements that came with the SEND reforms of 2015 created increased pressure and cost in supporting children with Special Educational Needs and Disabilities. This has been of real concern since the Council was formed three years ago. In response the Council has approved and commenced implementation of a SEND Strategy and a high needs block management plan which is already beginning to reduce the in-year deficit. The plan includes investing £37.5m of capital to provide Dorset's Children with the local special education facilities they deserve. We have already made significant progress, for example Coombe House School will be opening shortly.
2. Nevertheless, the cumulative revenue deficit is predicted to peak at £77.5M in 2026/27. Over the past 18 months Dorset council has been in discussions with the Department for Education (DfE) as part of the 'Safety Valve' arrangements for local authorities with large Dedicated Schools Grant (DSG) deficits.

3. Those discussions have led to a very positive outcome and in mid March agreement was reached for the DfE to provide £42m of additional funding over the next five years to help towards eliminating the historic DSG Deficit. This is a real vote of confidence in the Council's plans.
4. The £42m from the DfE will be spread over 2021/22 to 2025/26. The agreement requires Dorset Council to contribute £20m from reserves which are already earmarked for this purpose. The remaining £15.5M will be funded from a combination of future council revenue budgets and through a transfer of funding from other education budgets.
5. The draft safety valve proposal was received by the Council on Friday 11th March 2022, with a requirement to sign the agreement by Thursday 17th March 2022. This time frame did not allow the decision to be publicised in the Cabinet Forward ahead of a decision being made on notice at a meeting of the Cabinet.
6. Action which can be taken in these exceptional circumstances is detailed Part 3 of the Scheme of Delegation within the Council's Constitution. Paragraph 32 of the scheme of delegation explains the circumstances in which the delegation can be used:

'In any cases which s/he considers to be urgent, to discharge any function and deliver any service within the Chief Officers responsibility, other than those functions which can only be discharged by the Council or a specific Committee.

This delegation is subject to the following conditions:

- prior consultation with the Monitoring Officer and the Section 151 Officer;
  - consultation with the appropriate Executive Member or the Chairman of the appropriate Committee; and,
  - to the extent it will incur expenditure from working balances and/or reserves, the prior approval of the Section 151 Officer.'
7. The Access to Information Rules in the Constitution require advance notice of intended key decisions to be publicised through the Cabinet Forward Plan. Where the date by which a key a key decision must be made makes compliance with the Access to Information Rules impracticable a decision may still be made if the chair of the relevant scrutiny committee agrees that the making of the decision is urgent and cannot reasonably be deferred.
  8. On the advice of the Monitoring Officer and the Section 151 officer Cllr Gill Taylor, Chair of the People and Health Scrutiny Committee agreed that it was impractical to defer the decision and that the decision should be made on the grounds of urgency. In addition Cllr Taylor agreed that the decision was so urgent that under the Overview and Scrutiny Procedure Rules it should be exempted from the potential to be called-in by her committee

9. The Overview and Scrutiny Procedure Rules require that where a decision is so urgent that it is exempted from call-in it must be reported to the next available meeting of the council, together with the reasons for urgency.
  
10. With the support of the Leader of the Council, the Chief Executive signed the agreement, and the first instalment of £17.5M was received from the DfE on 31<sup>st</sup> March.
  
11. Members will be aware that the Leader of the Council is strongly of the view that SEN is a national policy which should receive proper national funding. Nevertheless, given these exceptional circumstances, the Leader and the Portfolio Holder for Finance, Commercial and Capital Strategy felt that the offer of £42M additional funding could not be turned down - the alternative would have been to use local tax payers funding. By accepting the support of the DfE the Council is now in a position where a substantial deficit is no longer hanging over the Council and we can once again focus on local priorities.