

CABINET

13 December 2023

Present:-

Councillors R Croad, A Davis, R Gilbert, J Hart (Chair), S Hughes, A Leadbetter, J McInnes (Vice-Chair), L Samuel, A Saywell and P Twiss

Members attending in accordance with Standing Order 25

J Brazil, C Whitton and M Wrigley (in person)

F Biederman, A Dewhirst and C Leaver (remote attendance)

* 428

Minutes

RESOLVED that the minutes of the meeting held on 8 November 2023 be signed as a correct record.

* 429

Items Requiring Urgent Attention

There was no item raised as a matter of urgency.

* 430

Announcements

The Chair welcomed Mr Hodgins who was attending the meeting in his capacity as a Co-opted Member of the Council's Standards Committee to observe and monitor compliance with the Council's ethical governance framework.

* 431

Petitions

There was no petition received from a Member of the Public or the Council.

* 432

Question(s) from Members of the Council

There was no question from a Member of the Council.

433

Corporate Performance Management Framework and Local Government Association Corporate Peer Challenge

(Councillors Biederman, Brazil, Dewhirst and Whitton attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Joint report of the Head of Economy, Enterprise & Skills and Director of Transformation & Business Services (EES/23/3), which outlined a proposed Corporate Performance Management Framework

and LGA Corporate Peer Challenge, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Cabinet noted that in July 2023, the Council reaffirmed the commitment to, and support for, the “Best Place” Strategic Plan 2021 – 2025 and agreed its six areas of focus for the Corporate Plan for the next 12 months. In addition, service area plans would be developed over the next three months linked to the: Strategic Plan 2021-2025, areas of focus, key risks and the People Strategy – ‘People First’.

The Report set out proposals for the introduction of a corporate performance framework and the carrying out, in June 2024, of a Local Government Association led corporate peer challenge (LGA CPC).

The Report gave an overview of performance management, including the duties and responsibilities under the Local Government Act 1999 requiring Council services to be responsive, of high quality and cost-effective, and fair and accessible to all who needed them as well as a duty of best value. It further outlined the role of the Office for Local Government (Oflog) to provide authoritative and accessible data and analysis about the performance of local government and support its improvement.

The Council’s current performance management reporting was outlined as well as the mechanisms of this, noting that a wide range of data was gathered, analysed and interpreted to assess the performance of the Council’s services, of which some was required by central Government.

Information about the performance of the Council’s services and activities was also published in various forms and formats, but the Cabinet did not currently receive regular reports on the performance of the Council’s services or progress against the “Best Place Strategic Plan 2021-2025”.

The proposed performance management framework was outlined in section 3.4 of the Report as there was a need to draw together existing data and information into a corporate framework to enable information about outcomes and the performance of the Council’s services to be collated, interpreted, reported and shared. It was proposed that the corporate performance management framework was introduced with three levels:

- Strategic performance.
- Directorate/service performance.
- Change and improvement plans and programmes.

The diagrams included in the Report described what would be measured at each level. Appendix 1 also provided some examples of different types of long, medium and short term outcomes and performance indicators that could

be measured through the proposed corporate performance management framework.

The next steps were, over the next 6 months, regular reporting to Cabinet from April 2024 onwards, an annual performance report to Council on 23 May 2024, Local Government Association Corporate Peer Challenge (w/c 10 June 2024) to review progress and also ensure staff appraisals were linked to the Council's key performance indicators.

Stages following these steps would be the use and reporting of performance indicators and metrics to assess progress with Directorate plans and using a digital performance dashboard to complement the risk management dashboard.

In relation to the LGA Peer Challenge the government funded a programme of improvement support, primarily via the Local Government Association, that included a wide range of sector-led support activities, including peer challenges.

The Corporate Peer Challenges were delivered by experienced Member and Officer peers and covered areas such as local priorities and outcomes, organisational and place leadership, governance and culture, financial planning and management and capacity for improvement. There was an expectation that all Councils having a corporate peer challenge would commit to publishing the feedback and action plan in response within three months and complete a progress review within a year. The last LGA CPC visit to DCC took place in 2016, therefore it was timely to invite the LGA to organise a CPC during the week commencing 10 June 2024.

In summary, the introduction of the proposed corporate performance framework and carrying out of the LGA CPA would help to ensure that the Council met its statutory best value duty and deliver efficient and effective services.

The matter having been debated and the options and alternatives and other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) set out in the Director's and Head of Services' Report having been considered:

it was **MOVED** by Councillor Hart, **SECONDED** by Councillor McInnes, and

RESOLVED

(a) that the development and introduction of the corporate performance management framework described in this Report be agreed and commended to Council; and.

(b) that the proposal for a Local Government Association Corporate Peer Challenge in June 2024 be endorsed.

* **434** **Impact of Government policy and new legislation on managing municipal waste in Devon including at the Household Waste Recycling Centres**

(Councillors Biederman, Brazil, Dewhirst and Whitton attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Director of Climate Change, Environment and Transport (CET/23/100) on the impact of new policy and legislation on managing municipal waste, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Report set out the Government changes in waste legislation and Environment Agency requirements that would impact on how waste would need to be managed at Devon's network of Household Waste Recycling Centres (HWRC's) to achieve compliance whilst mitigating costs. It also outlined the Collection and Packaging Reforms in England.

The proposals related to HWRC's in terms of Government wanting all householders to be able to deposit a small amount of DIY waste free of charge at HWRC's and had introduced legislation ([The Controlled Waste \(England and Wales\)\(Amendment\)\(England\) Regulations 2023](#)) to effect this change from 31st December 2023.

Devon would now need to allow small amounts of DIY waste to be accepted free of charge which would increase the cost of providing the HWRC service. Then existing legal definition of Household Waste did not include materials from the repair or improvement of houses i.e. Construction and Demolition (DIY) home improvement types of waste.

Government had stated this will not be subject to New Burdens and as such the County Council would need to cover the additional costs.

The second matter related to the management of waste upholstered domestic seating. The Cabinet noted that the Persistent Organic Pollutant (POPS) Regulations 2007 placed strict controls on managing waste containing POPS such that all material must be sent for incineration to ensure that the chemicals were destroyed. This included waste upholstered domestic seating which included sofas and soft furnishings.

All residual waste from Devon's HWRCs was sent to the Devonport Combined Heat & Power Energy from Waste Facility and POPS waste was currently mixed with other residual waste on all HWRC sites. However, the Environment Agency were currently insisting that waste containing POPs must be segregated from other waste at the HWRCs by December 2024 at

the latest. As some sites were physically too small to undertake this work, it was anticipated that only a limited number of sites would be able to accept waste upholstered domestic seating in the future.

There were likely to be other changes required at HWRCs with regards to accepting tyres and potentially some types of wood in the future. Details were currently unclear, but it may require some restrictions on how these materials were managed, hence the reason for seeking a delegation to the Director in order to make any operational changes required to comply with the changes in legislation and other requirements as well as to mitigate costs including the development of a QR system and restriction of certain wastes at nominated sites.

Government were also moving ahead with delivering their Collection & Packaging Reforms which formed a key part of their Resource & Waste Management Strategy 2018 ([Resources and waste strategy for England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/722222/Resource_and_waste_strategy_for_England_-_GOV.UK.pdf)) which was a set of waste reforms that would deliver a consistent waste collection service across England.

'Simpler Recycling' set out the requirements to collect glass, paper, cardboard, metals, cartons and some plastics from the kerbside along with offering a separate weekly food waste collection to all households by March 2026. Plastic films would need to be collected by March 2027. District Councils would have to offer the same recycling service as households to non domestic properties that they collected household waste from by March 2025. Government had indicated they wished all households to have at least a fortnightly residual waste collection service.

Implementation of Extended Producer Responsibility for Packaging (pEPR) was proceeding and from October 2025 producers would need to meet the full net costs of managing the packaging of their products and work was ongoing to determine what those payments would be and how they would be made to Local Authorities.

Government plans were also being progressed to introduce a Deposit Return Scheme (DRS) from 2025 or beyond for all drinks containers that were either steel or aluminium cans and PET plastic bottles up to 3 litres in size. Details of how this would be implemented and the potential impact on waste collection services was still being developed but it was currently unclear how District Councils would be able to cover the costs of managing drink containers that remained within the kerbside collections.

An Impact Assessment had been prepared for the attention of Members and had been circulated with the agenda. It was also available at [Waste management legislative changes - Impact Assessment \(devon.gov.uk\)](https://www.devon.gov.uk/consultations/waste-management-legislative-changes-impact-assessment). It was noted that the proposals outlined in the Report were in response to Government & Environment Agency requirements and would apply to all residents of the Council's administrative area.

Risks were present in the proposals in terms of the financial impact and uncertainty of some of the legislative changes & EA requirements. However, there was no option but to comply and try to mitigate as much as possible the potential operational or financial impacts.

The matter having been debated and the other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) as set out in the Director's Report having been considered:

it was **MOVED** by Councillor Croad, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that the requirement to make changes to operations at Household Waste Recycling Centres (HWRCs) in response to forthcoming changes in waste management legislation and Environment Agency requirements be approved;

(b) that the Director of Climate Change, Environment and Transport and Director of Finance and Public Value in consultation with the Cabinet Member for Public Health, Communities and Equality be given delegated authority to make any operational changes required at the HWRCs to comply with the changes in legislation and Environment Agency requirements and to mitigate costs including the development of a QR system and restriction of certain wastes at nominated sites; and

(c) note the Collection & Packaging Reforms and the potential impact this may have on municipal waste management services in Devon in the future.

* 435 **Exmouth: Dinan Way Extension**

(Councillors Biederman, Brazil and Whitton attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Director of Climate Change, Environment and Transport (CET/23/101) which sought approval for the Dinan Way Extension, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Report outlined the background to the scheme in terms of the progress made to extend Dinan Way to the A376 as well as the current issues such as high car volumes within Exmouth and along the A376 and the impact of new development. Whilst the majority of Dinan Way provided a good quality route, the final connection to the A376 was a weak link along residential streets or single-track country lanes.

In January 2023, it was announced that the Destination Exmouth package, consisting of the Dinan Way extension and improvements around Exmouth

Gateway (where the Exe Estuary, rail station and A376 met in the town centre), had been successful in securing £15.7m of Levelling Up Funding.

It was proposed to construct a 6.5m wide carriageway approximately 830m long from the junction of Dinan Way / Hulham Road to the A376 Exmouth Road. A roundabout would form the junction at each end of the road.

A new shared use pedestrian and cycle path along the southern side of the Dinan Way Extension would provide a facility for pedestrians and cyclists from the northeast of Exmouth to access the A376, with bus stops provided for future routes and footpaths around the Wotton Valley area.

Provision of the Dinan Way Extension would provide the opportunity to close Summer Lane to through traffic, providing an alternative, higher quality route for pedestrians and cyclists.

The scheme would improve connectivity across the whole town for all modes and improve the environment for residents and safety for people by creating new walking and cycling links. The scheme would also provide options for more direct bus routes as well as reducing congestion and improving journey times.

The scheme required land acquisition and the negotiations with affected landowners were ongoing.

A public consultation had been held in June 2015 and a statutory consultation as part of the planning application process. There were many stakeholders involved in the scheme and all had been consulted throughout the process.

The scheme was well aligned with a range of the Strategic Plan priorities by supporting economic recovery and helping communities be safe, resilient and connected. The table in the Report summarised how the proposals would impact achievement of relevant Strategic Plan actions.

The estimated overall cost of Dinan Way was £13.025m. Levelling Up Round 2 (LUF2) had allocated £15.766m to fund the scheme and the Exmouth Gateway, with local contributions from others totalling £1.752m. The estimated expenditure profile was outlined in section 7 of the Report.

An Impact Assessment had been prepared for the meeting and could be found at - [Dinan Way extension, Exmouth - Impact Assessment \(devon.gov.uk\)](#). Whilst the scheme would have an adverse impact on residents living along this scheme and construction works may generate noise and cause wider traffic disruption for a short period of time, in summary, the scheme would improve connectivity for people living and working in the northern and eastern parts of Exmouth with the rest of Devon and remove large volumes of traffic from unsuitable residential roads and country lanes. It would also improve walking and cycling connectivity in the area through improved links to the Exe Estuary Trail.

The scheme had been through detailed design and land acquisition was ongoing.

The matter having been debated and the options and alternatives and other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) set out in the Director's Report having been considered:

it was **MOVED** by Councillor Davis, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that the scheme layout shown on drawing A10020-52A General Layout (attached to the report at Appendix 1) for tender and construction, subject to legal and land assembly agreements being completed or a compulsory purchase order being confirmed be approved;

(b) that the necessary Traffic Regulation Orders be advertised and if no objections received, be made and sealed;

(c) that the Director of Climate Change, Environment and Transport, in consultation with the Cabinet Member for Climate Change, Environment and Transport, be given delegated authority to award the construction contract for the Scheme subject to the overall scheme cost being within a cost envelope of £13.025m; and

(d) that the Director of Climate Change, Environment and Transport, in consultation with the Local Members and Cabinet Member for Climate Change, Environment and Transport, be given delegated authority to make minor amendments to the scheme design.

* 436 **Community Self Delivery of Highway Improvements**

(Councillors Biederman, Brazil, Dewhirst, Leaver and Whitton attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Director of Climate Change, Environment and Transport (CET/23/102) which provided guidance for communities to be able to carry out minor improvements to the highway network, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Cabinet noted that the Corporate Infrastructure and Regulatory Services Scrutiny Committee had considered this matter at its meeting on 16th November 2023 and had RESOLVED (minute 136 referred) that it (a) supported the proposed trial to enable communities to fund and self-deliver

their own minor highway improvements in line with the guidance notes included in Appendix A; (b) that Town and Parish Councils be supported in self-delivery by having a checklist as part of the guidance supporting the community in carrying out these works; and (c) a Report be submitted to the Committee on progress and take up of the scheme from Town and Parish Councils.

The Service received occasional requests from communities that wished to progress improvements themselves and given the Highways and Traffic Management service remained under pressure it often lacked capacity to take forward these proposals in a timely fashion. As such, the service had developed a guide that would allow local communities to self-deliver these improvements.

The Highways and Traffic Management service was the first authority in the country to promote the idea of community self-help, initially through the Snow Warden scheme and then the Road Warden scheme. For the purpose of this initiative, 'Communities' were defined as Parish or Town Councils.

The Road Warden Scheme had been primarily focused on low level maintenance activities such as grass cutting, sign cleaning and pothole repairs on low maintenance category roads, but the current proposal took community self-help to the next stage by enabling communities to self-deliver minor highways improvements such as dropped crossings, footways, speed limits and traffic calming features.

The developed guide laid out the typical steps that needed consideration when delivering permanent works, such as appointing a competent designer, environmental considerations (biodiversity, heritage, etc), audits, consultation and Traffic Regulation Orders. The service would meet with the community and/or their designer at key stages such as project initiation, feasibility design, detailed design, pre-construction and post-construction to review completed works.

The intention would be to undertake a number of trial schemes as a proof of concept, looking at different geographies and work types.

The proposal was well aligned to a range of the Strategic Plan priorities and the table in section 6 of the Report summarised how the proposals would impact achievement of relevant Strategic Plan actions.

The Cabinet noted that the proposal was intended to allow communities to fund their own priorities and as such would have no financial impact on the County Council. The staffing time costs would be the Council's support to the project. The Council would request a bond which would protect the Council should works not be completed to a satisfactory standard and also a commuted sum that would contribute to the additional maintenance burden from any additional assets.

Any third party making changes to the Highway network would be expected to enter an agreement in line with Section 278 of the Highways Act.

The proposal to enable community self-delivery did not in itself have a negative impact on any part of the community, however the guidance document highlighted the importance of the need for an Impact Assessment to be developed by communities on a project-by-project basis.

The matter having been debated and the options and alternatives and other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) set out in the Director's Report having been considered:

it was **MOVED** by Councillor Hughes, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that the Corporate, Infrastructure and Regulatory Services Scrutiny Committee be thanked for their consideration of the proposals for Community Self-Delivery of Highway Improvements;

(b) that the Community Self-Delivery of Highway Improvements trial to enable communities to fund and deliver their own minor highway improvements in line with the guidance notes included in Appendix A, be approved; and

(c) that the findings of the trial be brought back to a future Cabinet meeting.

* **437** **Tarka Trail Willingcott to Knowle Scheme - Phase 2 Buttercombe Lane to Foxhunters – Scheme Approval**

(Councillors Biederman, Brazil and Whitton attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Director of Climate Change, Environment and Transport (CET/23/103) which sought Scheme Approval for the Phase 2 section between Buttercombe Lane and Foxhunters of the Tarka Trail Willingcott to Knowle Scheme, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Cabinet noted that the Council had secured £930,000 funding from the fourth round of the Government's Active Travel Fund to progress the completion of the Tarka Trail between Barnstaple and Ilfracombe. There were six sections to deliver in the coming years between the settlements of Willingcott and Knowle. Two of the sections were either constructed or committed with funding approval.

The trail had very high usage with over 300 cyclists per hour in the summer at Fremington Quay. It was popular with leisure users and commuters who were able to travel safely, conveniently and enjoy the related health benefits.

Appendix 2 provided a plan showing the scheme phases of the overall route. The aspiration was for the completed section between Knowle and Willingcott to be mostly off road, segregated from traffic, with the exception of the recently approved section of 385m length on Nethercott Road, where the alternative route options were limited.

The scheme would see the creation of a new section of the Tarka Trail between Buttercombe Lane and Foxhunters on the alignment of the old Barnstaple to Ilfracombe rail line. It would deliver approximately 700m of new shared use path of 3.5m width and 1m wide verges alongside most of the path. New drainage culverts would be installed, vegetation cut back with rest areas of varying size, including one with a small picnic area. The scheme had been through a 'design review' process with Active Travel England Inspectors.

The path would be a shared use path, using traditional asphalt construction, so useable by all people walking, wheeling and cycling and also suitable for horse riders.

The Cabinet noted that as part of the formal consultation, only one public comment had been received, but also that various letters of support had been received and were included in Appendix 3 of the Report.

The Willingcott to Knowle cycle route would enable more walking, wheeling and cycling and encourage more sustainable lifestyles with health-related benefits and supporting the local economy by connecting up communities in North Devon for tourism and leisure activity. The table in the Report summarised how the proposals aligned with the relevant Strategic Plan actions according to a seven-point scale (responding to the Climate Emergency, being ambitious for Children and Young People, investing in Devon's economic recovery and tackling poverty and inequality, improving health and wellbeing and helping communities to be safe, connected and resilient).

This phase of the Tarka Trail was estimated to cost £583,100 including contingency, funded from the £783,100 of capital funding received from the fourth round of the Active Travel Fund, which was contributing towards the section of the trail on Nethercott Road (approved by North Devon HATOC for construction up to £200,000).

This budget had been included in the 2023/24 and 2024/25 capital programme.

An Impact Assessment had been prepared for the attention of Members and had been circulated with the meeting agenda, and was available at - [Tarka Trail - Willingcott to Knowle - Impact Assessment \(devon.gov.uk\)](#). It was

expected that the scheme would benefit all residents in the geographical area due to increased connectivity between Ilfracombe and Barnstaple, without the need to remove highway space as well as increase walking and cycling tourism in the area, improving economic prosperity. A potential negative impact could be seen for land owners, whose land would be required for the trail, however these would be compensated through the mitigation processes.

The matter having been debated and the options and alternatives and other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) set out in the Director's Report having been considered:

it was **MOVED** by Councillor Hughes, **SECONDED** by Councillor Davis, and

RESOLVED

(a) that the construction of the Buttercombe Lane to Foxhunters section of the Tarka Trail, as shown in Appendix 1, at an estimated cost of £583,100, be approved; and

(b) that the Director of Climate Change, Environment and Transport in consultation with the Cabinet Member for Highway Management and the relevant Local Member be given delegated authority to approve minor amendments to the scheme details and finalise the acquisition of land for the scheme.

* **438** **School Penalty Notice Code of Conduct.**

(Councillors Biederman, Brazil and Whitton attended in accordance with Standing Order 25(2) and spoke to this item).

(Councillor Twiss declared a Disclosable Pecuniary Interest in this matter by virtue of being a travel agent (in response to representations made under Standing Order 25(2)) and withdrew from the meeting during its consideration).

The Cabinet considered the Report of the Interim Head of Education and Learning (CS/23/22) seeking approval to the School Penalty Notice Code of Conduct for unauthorised irregular attendance at school or exclusion from school, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Cabinet noted it was a legal requirement under section 7 of the Education Act 1996 that parents of children of compulsory school age ensured their children received a full-time education that was suitable to their age, ability and aptitude and to any special educational needs that might be had.

The purpose of a Code of Conduct was to ensure that Penalty Notices were applied consistently and fairly across the local authority area and that arrangements for their issue and administration were suitable.

The changes to the Code reflected legislative updates, for example the new Department for Education (DfE) Guidance 'Working Together to Improve Attendance' which was likely to become statutory in 2024, Section 7 of the Education Act 1996, the Education (Penalty Notices) (England) Regulations 2007/1867 (as amended), the Human Rights Act and Equality Act 2010.

Further changes included criteria changes, for example, how many Penalty notices could be issued in a 12-month period, criteria for holiday absences, losing the term 'Fast track to prosecution' as well as clarification of when a penalty notice could be issued.

It was noted that to date, Penalty Notices had not been issued consistently across Devon and the changes to the Code of Conduct meant it could be applied fairly across Devon. It was also a legislative requirement for the Local Authority to have a School Penalty Notice Code of Conduct.

The consultation process was outlined in the Report, including liaison with the DfE Attendance Advisor, Police and Headteachers.

An Impact Assessment had been prepared and circulated with the agenda and could be found at - [School Inclusion Fixed Penalty Code of Conduct - Impact Assessment \(devon.gov.uk\)](#)

In conclusion, to be compliant with The Education (Penalty Notice) (England) Regulations 2007 as amended by The Education (Penalty Notices) (England) (Amendment) Regulations 2012 and The Education (Pupil Registration) (England) Regulations 2013, amendments were required to the School Penalty Notice Code of Conduct and the changes enabled the Authority to be compliant.

The matter having been debated and the options and alternatives and other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) set out in the Head of Service's Report having been considered:

it was **MOVED** by Councillor Leadbetter, **SECONDED** by Councillor Hart, and

RESOLVED that the School Penalty Notice Code of Conduct for unauthorised irregular attendance at school or exclusion from school following recent revision and amendments, be approved.

* **439** **Childcare Sufficiency Assessment - Annual Return**

(Councillors Biederman, Brazil and Wrigley attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Interim Head of Education (Delivery) (CS/23/21) which presented the annual return on the sufficiency of accessible, affordable, high quality early years and childcare places, circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Cabinet noted it was a statutory duty for Local Authorities, set out in Section 6, of the [2006 Childcare Act](#), to secure sufficient, accessible, affordable, high quality early years and childcare places *so far as is reasonably practicable*. The [Children and Families Act 2014](#) also required that a Report be prepared annually for Elected Members on how the Local Authority was meeting its duty to secure sufficient childcare. [The Early Education and Childcare: Statutory Guidance for Local Authorities](#), set out that the local authority should make the Report available and accessible to parents.

Sufficiency was met through a variety of providers that included all types of schools, pre-schools, day nurseries, holiday clubs, breakfast clubs, after school clubs, childminders, etc. These provisions were within the private, voluntary, independent, maintained and academy sectors.

The data analysis indicates that overall, there appeared to be sufficient early years and childcare provision within Devon, although the rural/urban spread of different types of provision varied and childcare sufficiency 'hot spots' (where there was concern about sufficiency) had been identified.

The overall number of providers had decreased by 47, which was mainly in the childminder sector and was broadly in line with national trends.

The Service recognise there was a lack of out of school provision in some areas of Devon and this was due to a number of factors impacting on this including recruitment, low levels of pay, working hours and lack of demand. Parents were opting to use informal arrangements due to costs due to the challenges of cost of living currently.

The percentage of two-year olds taking up a funded place (85.7%) remained higher than the national average of 72% and the percentage of three- and four-year olds taking up the early years funding at 96.1% remained higher than the national average of 92%. Children accessing their full universal entitlement and those taking up the extended (30 hours) entitlement had also increased.

There were a number of actions arising from the Report, as follows;

- continue to assess sufficiency and identify hot spots through data analysis and discussion on the supply and demand of childcare with locality teams.
- provide advice, guidance and support to providers to open or expand their businesses in areas where there was insufficient provision or more provision was required to meet the new entitlements.
- use the provider self-update to inform knowledge of provision across the county.
- continue the data review of out of school provision to ensure accurate data was held through the provider self-update and work with schools and providers to develop the wraparound offer in schools and holiday provision.
- support providers through [Early Years ONE Devon](#) to maintain or become good or outstanding and work to build greater flexibility and affordability.
- promote the take up of the entitlement and hours particularly for children with special educational needs and disabilities and those living in the most disadvantaged areas of Devon.
- continue to survey parents regularly for greater insight into the demand for childcare .
- use data from the Council's Economy team to help inform demand for childcare as working patterns changed.
- promote the use of the '[unable to find childcare form](#)' to parents as feedback mechanism so the Council were informed when more places were needed.
- promote childminding as a career, particularly in rural areas.
- work with School Place Planning Team to establish Early Years Provision in new schools and request Section 106 for early years provision where appropriate.
- promote the take-up of the Early Years Pupil Premium to parents and providers and highlight the benefits to the child and the setting.
- as a PRIORITY, ensure that the implementation of the new entitlements (as detailed in the report) were delivered including sufficient provision for new funded entitlements and wraparound provision in all primary schools.

The matter having been debated and the other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) as set out in the Head of Service's Report having been considered:

it was **MOVED** by Councillor Leadbetter, **SECONDED** by Councillor Hart, and

RESOLVED

(a) that the Childcare Sufficiency Assessment Annual Report as a true reflection of the Council's current position in relation to meeting its duty to secure sufficient, accessible, affordable, high quality early years and childcare places *so far as is reasonably practicable*, be agreed;

(b) that Members confirm the sufficiency duty has been met this year, as far as is reasonably practicable, noting the work currently taking place to tackle hotspots; and

(c) note that the Report will be published on the website.

* 440 **Peer Challenge Improvement Plan (Adults)**

(Councillors Biederman and Brazil attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Director of Integrated Adult Social Care (IASC/23/05), which presented the main recommendations of the Local Government Association Peer Challenge Report, and summarised the Council's Improvement Plan in response, which had been circulated prior to the meeting in accordance with regulation 7(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The background to the Devon LGA Peer Challenge which took place on 19-21 July 2023 was contained on its [website](#) and included:

- Links to LGA Peer Challenge and CQC Assurance guidance.
- Details of the Peer Team.
- Position Statement and Self-Assessment.
- Peer Challenge Timetable.
- An archive of Communications.
- Reports and other documents including the Council's opening presentation, leadership survey, a summary of case audit activity, and closing feedback presentation.

The LGA presented [feedback](#) to a conference of stakeholders on 21 July 2023 and delivered [a final report](#) to the Council on 21 September 2023 which had been published by the Council on 22 September 2023.

The Council had worked with stakeholders to define an Improvement Plan and once the Report had been finalised and received it would be added to the ['outcomes and reports' tab](#) of the Devon LGA Peer Challenge website with an outline of next steps.

Further stakeholder communications would also take place alongside and as an outcome of political governance.

Section three of the Report highlighted the recommendations of the LGA Peer Challenge Team under six main headings which included raising awareness, prioritisation of transformation, collecting and using feedback, practice quality assurance, co-production and preparing for assurance.

As well as what the Council had done and would be doing in response to the recommendations, including, but not exclusively, established a LGA Peer Challenge website, briefings for stakeholder groups including Scrutiny Masterclasses, updating of CQC Assurance communications plan, establishing a CQC Assurance website, a review of transformation programme to recognise changing priorities, updated vision and strategies to frame transformation, focus on financial sustainability, publish a summary of the transformation programme and alignment with Improvement Plan, Medium Term Financial Strategy and the Council's strategies and plans, complete a Self-Assessment building in a range of feedback, exploring cost-effective options for collecting and using feedback and improve collection and reporting of complaints.

For quality assurance, case audits had been undertaken and the Practice Quality Assurance Framework was being developed as well as developing a business case for investment on the basis that strengths-based practice could save money as well as improve outcomes by promoting independence. In terms of co-production, benchmarked current good practice, conversations to work better with the voluntary and community sector, publicising opportunities of the Co-production Working Group and Commissioning Involvement Group in order to formalise the co-production offer through a clear policy and consider the representation of people with lived experience in governance processes.

For preparing for assurance, the LGA Peer Challenge would be a 'dress rehearsal' for any future CQC inspection and documented lessons learned from the process. The Step-Up plan arrangements would be finalised as well as maintaining inspection readiness through regular meetings of the Step-Up team reporting to the Assurance Board.

The Director for Integrated Adult Social Care also updated on recent masterclasses and the staff and stakeholder survey on leadership of the service, which she encouraged as many people as possible to complete (https://forms.office.com/pages/responsepage.aspx?id=gzehjWjLP0S7S5l_d_1b-zA0S7mlCotFt3O18StASlhUNVY2TIM4NTJUWVITNVhSTlpaNEVUN01UOS4u)

The matter having been debated and the options and alternatives and other relevant factors (e.g. financial, sustainability and carbon impact, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) set out in the Director's Report having been considered:

it was **MOVED** by Councillor McInnes, **SECONDED** by Councillor Hart, and **RESOLVED** that the responses outlined in section 3 of the Report be noted.

* **441** **DfE Safety Valve Negotiations and Progress**

(Councillors Biederman and Brazil attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Joint Report of the Director of Finance & Public Value and Director of Children Futures and received a presentation at the meeting, appended to these minutes.

The Report outlined how School Funding was received through the Dedicated Schools Grant (DSG), and how it was then split into four blocks (Schools Block, High Needs Block, Early Years Block and Central Schools Services Block).

Many Local Authorities (LAs) had faced financial challenges in meeting the demand for Special Education Needs and Disabilities (SEND) within the High Needs Block of the DSG. In response, Government had introduced a statutory override in 2020 which separated local authorities' DSG deficits from their wider financial position. The current arrangement ended in March 2026 and meant the future of the override was uncertain.

In parallel, the Department for Education (DfE) launched the Safety Valve Intervention programme in 2021, which targeted support to the LAs with the highest DSG deficits and required them to develop plans to reform their high needs systems and place them on a sustainable footing.

The table in the Report highlighted the SEND funding available each year, the in-year pressures and the growth in accumulated deficit, showing a forecast accumulated deficit of £162m in 2023/2024.

The Council was, in May 2023, invited to re-join the Safety Valve programme.

A fundamental part of the work had been detailed demographic analysis of SEND up to 2029-30 which reflected both the changing population but also Devon's SEND system. Project Management resources had also been brought in to help build the Safety Valve work strands, which formed part of the local area's SEND Transformation Programme. The intended impact of the work strands can be summarised as;

- an annual slowing down and flattening of the net increase in EHCPS, to bring the Council in line with statistical neighbours and England averages;
- a sustained reduction in the use of costly independent specialist provision, with a total reduction in the number of learners

- accessing this provision of 30% from 2024 to 2030, some 361 places; and
- a proportional year on year increase in the number of learners accessing their education in mainstream schools/resource base provision.

The impact of doing nothing would be a worsening financial position with significant financial sustainability challenges for the Council.

The key to achieving a positive outcome from the negotiations with the DfE and vital to the financial sustainability of the authority was developing a plan that resulted in services being delivered within the funding available and deliverable in a reasonable timeframe. If the DfE were assured the plans were deliverable within the timescales proposed and would achieve the intended outcomes, then financial support towards the accumulated deficit was expected. Each agreement reached between a Local Authority and the DfE had different dynamics and resulted in varying levels of support being made available, although any agreement reached would require a local contribution from the Authority to fund part of the accumulated deficit. Currently this amount was unknown pending further negotiations.

The Council had a number of capital investment projects that would support, for example, £18 million to increase the special school estate (new school provision in Okehampton and additional provision in Barnstaple and Bideford) and £6 million to deliver the additional 200+ resource base places and successfully secured two additional Free Schools. Another bid was currently being prepared.

The Cabinet noted that although the matter should be considered a high risk, appropriate project and performance management, alongside clear governance arrangements, were in place and required for the duration of the programme.

The matter having been debated and the options and alternatives and other relevant factors (e.g. financial, sustainability, risk management, equality and legal considerations and alignment with the Council's Strategic Plan) as set out in the Directors' Report having been considered:

it was **MOVED** by Councillor Samuel, **SECONDED** by Councillor Hart, and

RESOLVED that the Report, as an update on progress in reaching a Safety Valve agreement with the Department for Education, be noted.

* **442** **Treasury Management Stewardship Mid Year Report**

(Councillors Biederman and Brazil attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet considered the Report of the Director of Finance and Public Value (DF/23/104) which outlined the Council's Treasury Management Mid-Year Stewardship 2023/24, updating on key matters arising from the Council's Treasury and Debt Management activities during the first seven months of the 2023/24 financial year, previously considered and endorsed by the Corporate Infrastructure and Regulatory Services Scrutiny Committee on 16 November 2023 (Minute *135 referred).

(a) that this Committee commend the Treasury Management Mid-Year Report to Cabinet, commenting especially on the excellent work of the treasury management team in prudent financial management including achieving £4.86 million in the seven months to 31 October, in interest against a full year budget of £3.75 million.

As well as the Treasury and Debt Management, the Report covered long and short-term borrowing, investment income and ongoing uncertainty around the impact of current budget pressures. The resolution of SEN deficit issues was likely to be key in determining how the Council managed its external debt over the next year and beyond.

The Report also outlined the Minimum Revenue Provision, Borrowing Strategy 2023/24 to 2026/27, Investment Strategy, Prudential Indicators and the prospects for 2024/25.

In summary, the Report stated that the Council's long-term external borrowing had reduced by £10 million since 31st March 2023, no short-term borrowing had been undertaken to date in 2023/24, investment income achieved (as at the 13th October) stood at £4.86 million against a target for the year of £3.75 million.

The matter having been debated and other relevant set out in the Director's Report having been considered:

it was **MOVED** by Councillor Twiss, **SECONDED** by Councillor Hart, and

RESOLVED that the Corporate Infrastructure and Regulatory Services Scrutiny Committee be thanked for their review of the Mid-Year Stewardship Report for the 2023/24 financial year and it be further endorsed and welcomed.

* 443 **Children's Scrutiny Committee - Recruitment and Retention Spotlight Review (Minute 121 of 14 November 2023)**

(Councillors Biederman and Brazil attended in accordance with Standing Order 25(2) and spoke to this item).

The Cabinet noted that at its meeting on 14 November 2023, the Children's Scrutiny Committee considered the Report of the Recruitment and Retention Spotlight Review (Minute 121 refers), which had been held on 26 July 2023, detailing the findings and recommendations of the Spotlight Review.

This work stemmed from earlier work on Social Work Workforce Recruitment and Retention Spotlight Review and a SEND Task Group which had recommended a follow-up Spotlight Review on recruitment and retention to make further recommendations that could support Children's Services achieving a stable, permanent workforce.

The Children's Scrutiny Committee had **RESOLVED**

- (a) that the Recruitment and Retention Spotlight Review report be commended to the Cabinet;
- (b) that Cabinet be asked to endorse and take action on the 12 recommendations contained in the report;
- (c) that in response, Cabinet be asked to agree a recommendations action plan detailing how and when any agreed recommendations will be enacted; and
- (d) that Cabinet be asked to report back to this Committee in June 2024 on progress made against the recommendations.

It was **MOVED** by Councillor Leadbetter, **SECONDED** by Councillor Hart, and

RESOLVED that the Children's Scrutiny Committee be thanked for their informative Report. The Cabinet Member for Children's Services and Schools will work with Children's Services to produce an action plan on the 12 recommendations outlined in the Report which will be reported back to Children's Scrutiny Committee.

* 444 **Question(s) from Members of the Public**

There was no question from a Member of the public.

* **445** **Minutes**

RESOLVED that the Minutes of the following be endorsed and any recommendations to Cabinet therein be approved:

Farms Estate (Interviewing) Committee – 10 November 2023
Standing Advisory Council on Religious Education – 15 November 2023
Farms Estate Committee – 20 November 2023
Devon Audit Partnership – 23 November 2023.

* **446** **Delegated Action/Urgent Matters**

The [Registers of Decisions taken by Members under the urgency provisions or delegated powers](#) were available for inspection, in line with the Council's Constitution and Regulation 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. [Decisions taken by Officers](#) under any express authorisation of the Cabinet or other Committee or under any general authorisation within the Council's Scheme of Delegation set out in Part 3 of the Council's Constitution.

* **447** **Forward Plan**

In accordance with the Council's Constitution, the Cabinet reviewed the [Forward Plan](#) and determined those items of business to be defined as key and framework decisions and included in the Plan from the date of this meeting onwards reflecting the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

NOTES:

1. *Minutes should always be read in association with any Reports for a complete record.*
2. *If the meeting has been webcast, it will be available to view on the [webcasting site](#) for up to 12 months from the date of the meeting*

* **DENOTES DELEGATED MATTER WITH POWER TO ACT**

The Meeting started at 10.31 am and finished at 12.43 pm

Devon's DSG Deficit Management & Sustainability Plans (Safety Valve proposals)



Challenges the Local Area faces which drives HNB spend

- **SEND cohort:** While the rate of growth of Devon's EHCP cohort slowed in 2022, the County still has a large EHCP cohort as a proportion of its school population (highest when compared to statistical neighbours). This is being driven by an extremely high request rate for EHCPs (6th highest nationally). A high request rate and subsequent high numbers of EHCPs can lead to a vicious cycle. Resources are pulled to the more specialist end of the system to assess, issue, and maintain EHCPs, this limits the resources that can be used to deliver early intervention and ensure effective support is available in mainstream settings. Our focus will be on tipping the system back the other way by developing early support to increase the SEN Support offer and setting clear expectations around Ordinarily Available Inclusive Provision (OAIP).
- **Primary needs:** Devon has a higher proportion of all SEND school pupils with SLCN and SEMH needs compared to England and statistical neighbour averages. Additionally, pupils with ASD and SLCN are more likely to have an EHCP in Devon compared to their peers across England. The secondary school SCLN rate is approx. twice the national average.
- **Sufficiency/school provision:** Devon school pupils with an EHCP were far more likely to be educated in an independent setting compared to their peers in other LAs. In 2023, Devon budgeted £289 per capita for top up funding to independent providers, which is double the England average of £141. This contrasts with the use of Resource Base provision which is significantly lower than SNs and England averages. DCC is also a net exporter of special school pupils, mainly to Torbay and Plymouth, contributing to a large SEND transport budget.
- **Outcomes:** Devon EHCP pupils in both primary and secondary schools had relatively strong levels of attainment. However, this is likely due to the size of the EHCP cohort, as cohorts that are larger tend to include pupils with less complex needs. Devon has high rates of overall absence and persistent absentees for both primary and secondary school pupils and a very high rate of permanent exclusions for EHCP primary pupils. SEN exclusion rates in secondary are significantly higher than England average.

How DCC will control the DSG deficit and reach an in-year balance (Themes)

DCC's strategies and plans to improve the experiences and outcomes for children and young people with SEND and lead to a financially sustainable position, by focusing on the following **themes**:

Inclusion & Early Help

Focus on early intervention so that the majority of children have their needs met within their local mainstream setting, through strengthened universal and targeted support.

Preparation for Adulthood

Developing shared pathways into adulthood across the local system, supporting young people (14-25yrs) to access appropriate education and training and ensure a planned transition into employment, independent living, or identified next step in adult life.

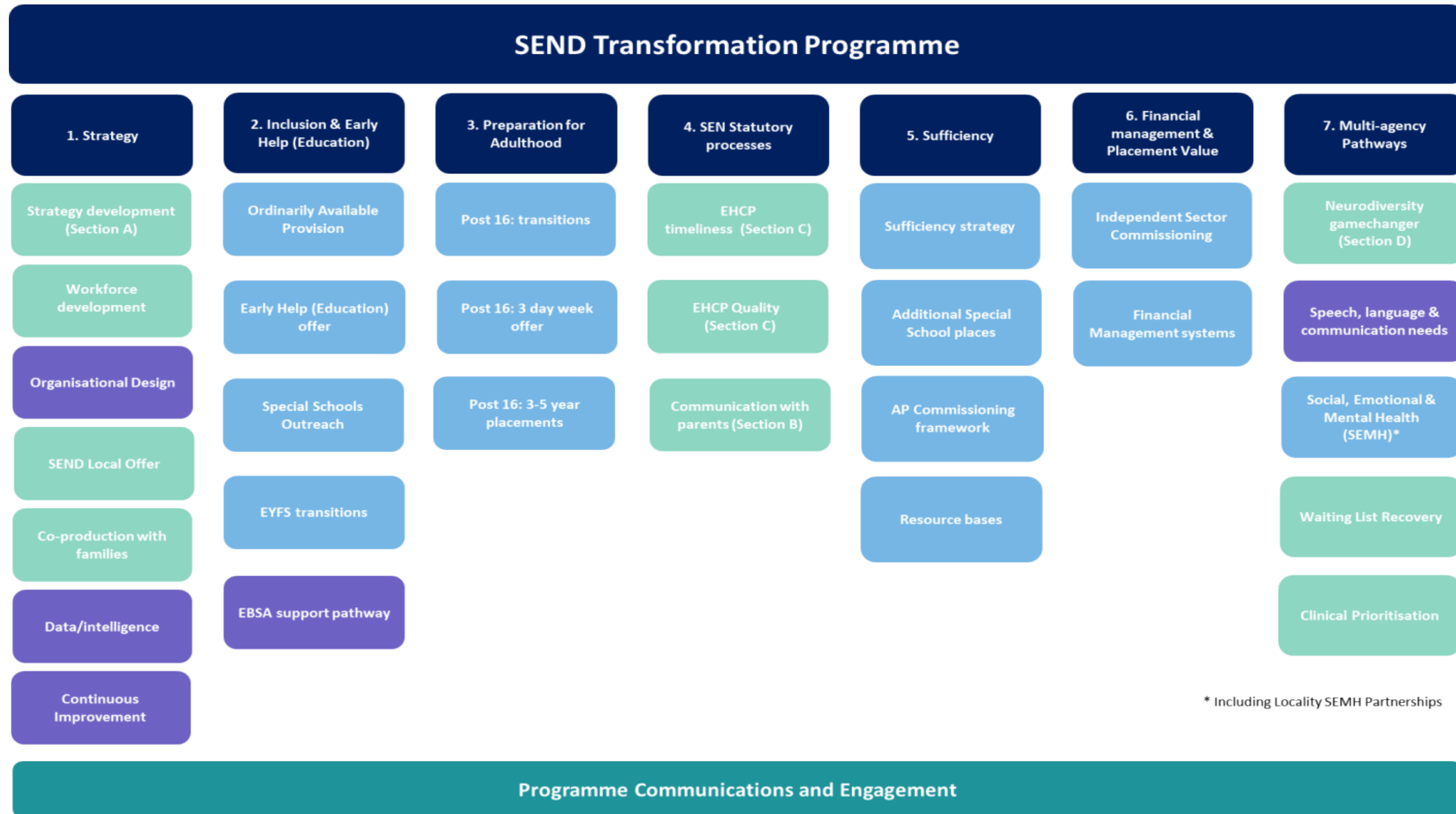
Sufficiency

Appropriate local provision is available to meet the needs of children and young people with SEND across Devon, including sufficient special school places, the establishment of Specialist Resource Provision and improved use of Alternative Provision.

Financial management & Placement value

Improve the use of data to make informed decisions about how the Council spends money to support children and young people with SEND in a timely way. Improving the commissioning of independent placements.

Devon's SEND Transformation Programme



* Including Locality SEMH Partnerships

Programme Communications and Engagement

■ Safety Valve activity
 ■ Post Ofsted/CQC improvement activity
 ■ Project management resources attached

How DCC will ensure that the plan is deliverable and will be managed as it is implemented

- In September 2023, DCC committed a **programme management team** to the SEND Transformation Programme which includes 1FTE Programme Manager, 1FTE Project Manager and 2FTE Project Officers.
- The **SEND Strategic Partnership Board** holds the partnership accountable for the delivery of the deficit management plan and the delivery of the Ofsted/CQC Accelerated Progress Plan (APP). The Board meets monthly and membership includes an independent Chair, DCC and NHS ICB Chief Executives, Senior DCC & NHS Leaders (inc. s151 Officer), Elected Members, Parent Carer Forum Devon, the Chair of Devon Schools Leadership Services (DSLs) and the Designated Chair of Devon Special School Heads.
- The **SEND Transformation Programme Board** is responsible for overseeing the detailed delivery of the programme against agreed milestones and delivery plans and holding leads to account for delivery. Membership includes Director of Children's Services, Senior DCC & NHS Leaders, Project Leads, Parent Carer Forum Devon and appropriate representatives across the partnership. The Transformation Board is supported by project groups relating to specific areas of delivery. **Each project has an accountable sponsor** and resourcing, and monthly reporting includes delivery progress, performance indicators and risk and issue management. This Board reports to the SEND Strategic Partnership Board and this structure allows risks and issues to be escalated for resolution by accountable officers.
- DCC will **maintain these governance arrangements**, with potential **adjustments to the reporting and meeting schedule** to align with the proposed DfE Safety Valve monitoring arrangements. DCC is developing a **Safety Valve Dashboard** to support monitoring arrangements.
- Reports into the **DCC Strategic Leadership Team (SLT)** bi-monthly and **Cabinet** approximately 3 times per year
- Regular scrutiny through our **Overview & Scrutiny Committee** at least twice a year

