



Request for funding to cover Legal Pressures incurred in Slough Children First of £220k for 2021/22 and £295k for 2022/23

Executive Summary

The request is for additional funding of **£220k** to cover legal pressures incurred in Slough Children First in 2021/22, and additional funding of **£295k** to cover forecast legal pressures incurred in 2022/23

Slough Children First (SCF) is contracted to provide Children’s Services in Slough to ensure children are safeguarded to meet the council’s statutory duties to children and families, which has become increasingly challenging within the current budget.

The request will contribute to one of the key aims of SCF, that of being financially sustainable; A secure and sustainable organisation which provides high quality and cost-effective outcomes.

The request is necessary to be a sustainable and going concern and to ensure services can be delivered at appropriate levels to better manage the risks of safeguarding harm against children. The costs being incurred are essential to delivery of the statutory services.

SCF have previously been awarded £613k as a contribution to 2021/22 losses following a request to fund pay inflation and UASC pressures that was approved at Cabinet in December 2022. Cabinet also approved a contribution of £1,172k to cover losses arising in 2022/23 from pay and contract inflation, UASC pressures and the loss of public health funding.

The table below shows the breakdown of the current position, with 2 remaining claims to be made totalling £719k to cover legal and placement pressures.

	2021/22	2022/23
	£000's	£000's
Reported loss for year	1,332	5,766
Less in year request - pay inflation	(189)	(358)
Less in year request - UASC pressure	(424)	(226)
Less in year request - contract inflation		(88)
Less in year request - Public health income		(500)
Total remaining loss	719	4,594
Claim for Legal pressures	(220)	(295)
Claim for Placement pressures	(499)	
Total remaining loss	0	4,299



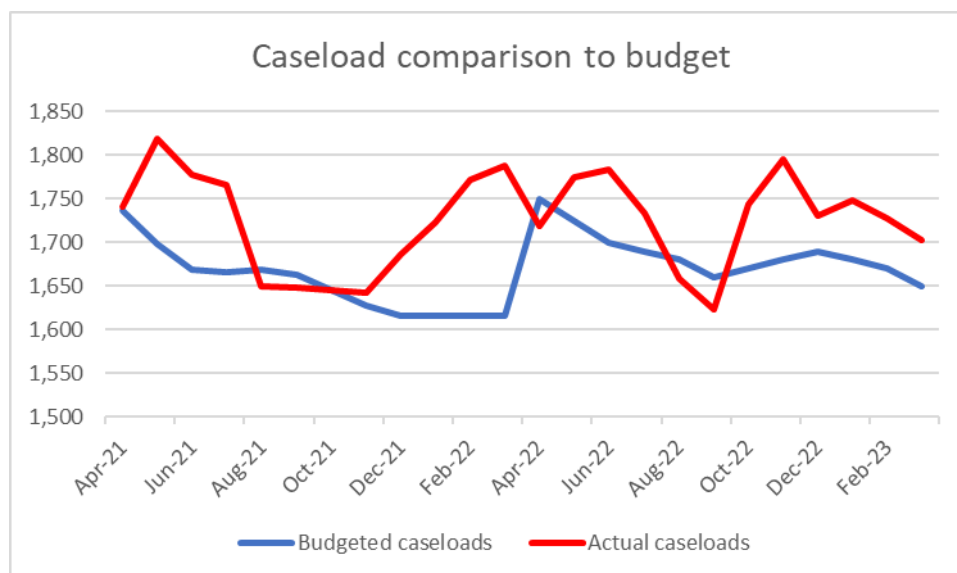
The additional burden on the Company from rising demand

In 2021/22 the budget setting process had to be approved through both SCF own internal governance process through ELT by 19th January 2021, the Board by 28th January 2021 and then by Slough Borough Council (SBC) and Cabinet by February 2021.

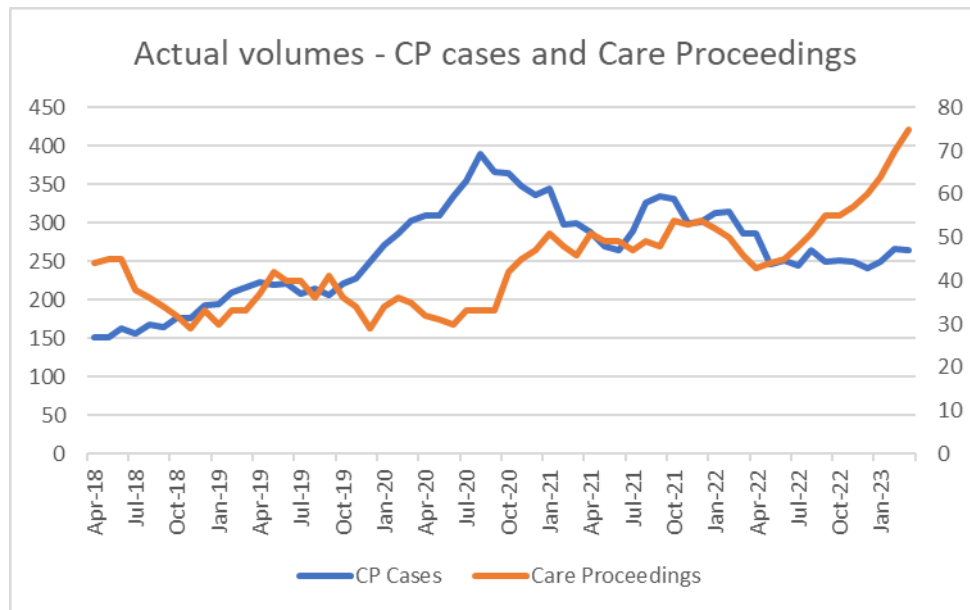
The original budget for legal fees for 2021/22 was £1,406k. This included budgeted growth of £150k in to cover demand pressures in legal fees. The actual spend was £2,171k, giving an adverse variance of £765k for the year.

In 2022/23, the budget rose to £1,506k, again recognising the need for growth following what was thought to be unprecedented legal costs, and continued rising caseloads. Actual spend is £1,894k, an adverse variance of £388k.

Assumptions on demand, caseloads, unit costs and levels of funding from other sources were built up in detailed workings, to give a balanced budget for both years. Following further unanticipated lockdowns, nationally on the 5th November 2020, and further school closures between January 2021 and March 2021, caseloads and demands on services again started to rise over and above those planned for in the budget. The graph below shows a comparison of budgeted v actual total caseloads over the 2 years to March 2023.



The graph below shows the trend in increasing volumes in CP cases and legal proceedings, indicative of growth in legal support.



The table below shows how outturn compared with budget, with legal fees exceeding budget by £765k in 21/22 and expected to be £388k adverse to budget in 22/23.

	2021/22			2022/23		
	Actuals	Budget	Variance	Actuals	Budget	Variance
	£k	£k	£k	£k	£k	£k
SBC Core Income	31,534	31,559	(25)	32,606	31,434	1,172
DFE Income	2,701	2,454	247	2,780	2,721	58
Transformation - DFE	1,459	1,481	(23)	0	990	(990)
Other Income	3,223	1,866	1,358	5,128	4,406	722
Total Income	38,917	37,360	1,557	40,514	39,551	962
Pay	(11,513)	(12,457)	944	(13,164)	(14,229)	1,064
Agency	(5,688)	(3,934)	(1,754)	(5,693)	(2,744)	(2,949)
Placement Allowances	(14,600)	(13,434)	(1,165)	(16,336)	(14,363)	(1,973)
Other Child Support Costs	(3,276)	(2,532)	(744)	(3,521)	(2,461)	(1,061)
Legal Fees	(2,171)	(1,406)	(765)	(1,894)	(1,506)	(388)
Other Overheads	(2,254)	(2,114)	(141)	(3,930)	(3,039)	(891)
Transformation costs	(1,459)	(1,481)	23	(568)	(1,210)	642
Total Expenditure	(40,962)	(37,360)	(3,602)	(45,107)	(39,551)	(5,556)
Net Surplus/(Loss)	(2,044)	0	(2,044)	(4,593)	0	(4,593)
Additional Charges to the Council for Covid-19	714		714			
Net Surplus/(Loss)	(1,330)	0	(1,330)	(4,593)	0	(4,593)



Although legal fees were £765k over budget, additional Covid grant funding received in 21/22, along with an element of the prior in year request covering additional UASC legal costs, means this request is for the balance of the pressure at £220k.

Likewise for 22/23, an element of the legal fees overspend is included in the request for funding additional UASC cost pressure, meaning the remaining legal cost pressure is £295k.

The extent of the increase in the demand for services

The request is to cover the impact from demand related, increased legal spend.

Legal fees to some extent follow the same pattern of activity as all other cases in the Company, being a demand led service. Legal fees have consistently overspent against budget with increases in legal proceedings and PLO activity associated with increases in child protection cases and as such, the budget setting process for 21/22 included a request for growth in legal fees of £150k, and £100k in 2022/23. This reflected the highest level of care proceedings in the Company's history.

Legal fees in 2021 included one exceptional case which incurred significant costs in reaching its conclusion. The case was thought to be a one off and not expected to re-occur.

Following the agreement in September 2020 on the contract sum for 21/22, it was thought the peak of activity was over following the pandemic, however, there followed 2 further lockdowns, with associated growth in cases in SCF.

The impact of covid on the courts could not have been anticipated and lead to delays in proceedings. In January 2022, Slough had 52 cases in proceedings, 25 of which were over 26 weeks long, and 12 over 52 weeks, with the statutory timeframe being 26 weeks. The position in March 2023 is that proceedings are at 75.

The reasons for such delays are multi-faceted:

1. Covid 19 pandemic
 - Backlog of cases.
 - Parents isolating/contracting Covid and unable to partake in assessments or attend hearings.
2. Remote Hearings
 - Remote hearings take longer due to difficulties accessing hearings/connectivity particularly by parents and social workers.
 - Fewer cases settling at an early stage due to lack of pre-court discussion.
 - Remote hearings not affording parents access to Justice.
 - Hybrid or attended hearings conducted in Covid safe way (The layout of Reading Family Court only makes it possible for one hearing at a time)



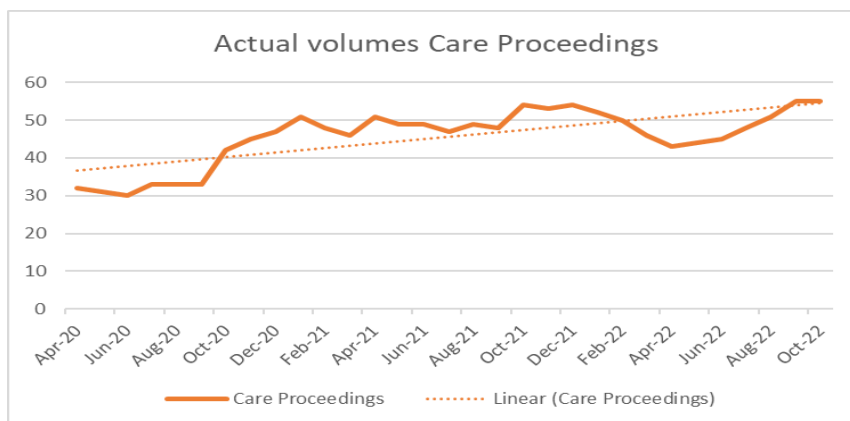
3. Increase in case numbers.
4. Increase in complexity of cases. Time estimates of up to 30 days taking up more court time.
5. Length of proceedings creating more opportunity for parents to change and request further assessments.
6. Change of social workers.
7. Poor quality social work requiring cases to be adjourned.
8. Late experts' reports and difficulties in identifying experts
9. Lack of Judges
10. Sickness absence of a team lawyer for SCF meant increased costs through having to use private practice to help manage work loads

The pandemic has led to increases in serious injuries to children requiring fact finding hearings with counsel, often KC's, for multiple days. Added complexity also leads to requirements to have expert counsel fees conduct hearings on the Companies behalf, and what was hoped to be a one-off exceptionally high cost case in 20/21 has now become one of many, and the 4 most expensive cases in 21/22 were 21% of the total cost (£433k). The highest costing case in 20/21, incurred fees of £58k, including £38k of counsel fees, whereas the highest costing case of 21/22 incurred fees of £120k, including £95k of counsel fees.

High Cost cases	2020/21	2021/22	% increase	2022/23
1	£ 58,119	£ 119,837	106%	£ 170,015
2	£ 36,056	£ 113,253	214%	£ 138,298
3	£ 35,755	£ 107,239	200%	£ 72,578
4	£ 34,418	£ 88,871	158%	£ 37,541
Total costs	£ 164,348	£ 429,200	161%	£ 418,433

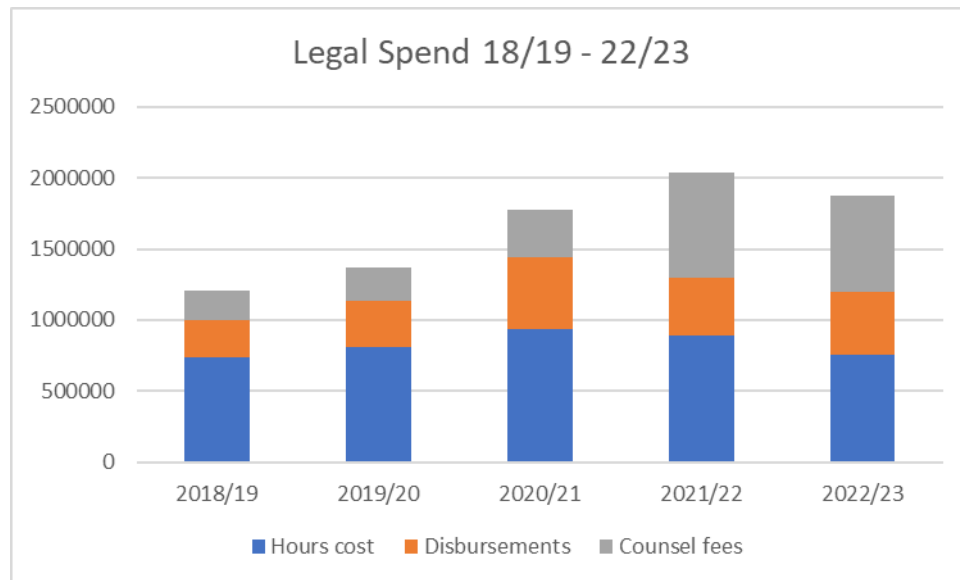
The top 4 cases in 2022/23 have cost £418k, 22% of the total spend for 2022/23, including £355k on counsel fees.

In 2021/22 total legal spend was £2,171k, £765k over budget. There was growth of circa 10 care proceedings in 21/22 on 20/21, as shown below, with no change on volumes in 2022/23.





Expert fees, especially in relation to Counsel fees were a 123% increase on those in 20/21, at a total of £740k.



Information and Supporting evidence on steps the Company is taking to manage the said circumstances/ events within the initial Contract Sum

SCF are undertaking a number of activities to drive cost efficiencies and incremental income to assist with the pressures.

In terms of the Joint Legal team at Reading, and the wider legal community, the following is in place to help speed up proceedings and avoid drift and delay

- 3 additional circuit judges have been appointed at the Reading Family Court
- Training sessions delivered by the District Family Judge gave very clear guidance on the assessments and evidence the court expects from the social worker to avoid delay
- JLT provided bespoke training to SCF focussing on types of assessments and statement writing to achieve the desired outcome and writing care plans
- Authority is required for sign off before any instructions go out to use of counsel
- JLT have appointed an in house advocate who can conduct certain hearings
- Apprenticeship scheme at JLT as staff work towards legal qualifications



Reasons why the additional budgetary pressure cannot reasonably be managed until the next Contract Sum Negotiation Period

The losses from 2021/22, with further losses forecast in 2022/23, raises a significant concern around the company as a going concern. The business plan for SCF shows the company are unable to manage these risks in the coming years, with losses accumulating over the years. The company therefore requires the funding in year to remain a going concern.

Cash balances are forecast to be depleted by March 24, were the new business plan to be accepted. The company has no reserves to draw upon. If the company were to cut controllable costs, largely staffing, this would put children at far greater risk and the company would not be delivering against its contractual obligations for discharging the council's statutory obligations.

Any other information the Company and/or Council reasonably consider to be helpful for the Council to consider

The recent Mutual Ventures report on the business plan highlights that SCF and costs for children in social care are in the bottom quartile for cost per capita, suggesting costs of services are not excessive.

However, SCF accept there is other benchmark data which does not paint SCF in as good a light, largely around the high referrals but this must be seen in the context of Slough and the immature Early Help system. It is expected that with the investment in early help services this will result in fewer referrals to care and an improvement in the benchmark analysis.

It is commonly reported in the national press that children's services up and down the country are also overspending on their budgets with the rising demands for service.¹

¹ For example: [LGA: Eight in 10 councils forced to overspend on children's social care budgets amid soaring demand | Local Government Association](#) And [Safeguarding Pressures | ADCS](#)