



CHILDREN AND FAMILIES OVERVIEW AND SCRUTINY
COMMITTEE – 5 NOVEMBER 2019

OVERVIEW OF SPECIAL EDUCATIONAL NEEDS AND DISABILITIES
IMPROVEMENTS

REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY
SERVICES

Purpose of report

1. The purpose of this report is to provide members of the Children and Families Overview and Scrutiny Committee with a summary of the national and local context relating to Special Educational Needs and Disabilities (SEND) along with an overview of the plans to continuously develop and improve services to support children and families who are experiencing SEND.

Policy Framework and Previous Decisions

2. In December 2018 the Cabinet authorised the consultation on the High Needs Block Development Plan including proposed development of SEND provision across the County.
3. In May 2019 the Cabinet was advised of the outcome of the public consultation and authorised the Director of Children and Family Services to agree a shortlist of potential academy trusts to be recommended to the Regional Schools Commissioner (RSC) to operate the new 80-place Communication and Interaction school to be established in Barwell from September 2020. The RSC has recently confirmed that the Dorothy Goodman School Academy Trust has been selected to run the school.
4. In October 2019 the Cabinet was advised of the progress of the high needs development plan and authorised the Director of Children and Family Services to apply to the Secretary of state for approval of the transfer of up to 0.5% of the Schools Block funding to the High Needs Block should it not be agreed by Schools Forum and after necessary consultation to progress the transfer of Oakfield Short Stay school to new locations in north and south Leicestershire. The Director was also authorised, following consultation with the Cabinet Lead Member for Children and Families, to agree a short list of potential academy trusts to be recommended to the DfE for a decision.
5. The SEND Code of Practice is the statutory guidance that sets out how Local Authorities and other organisations (such as education and social care services

as well as others such as health services and relevant housing and employment services) must work with and support children and young people with special education needs and disabilities.

6. The 0-25 Code of Practice (2015) identified four broad areas of special educational need and support:
 - a. Communication and interaction;
 - b. Cognition and learning;
 - c. Social, emotional and mental health; and
 - d. Sensory and/or physical needs.
7. Therefore, services that are developed to support children with SEND must be focused on these four broad areas.

Background

8. Local authorities have legal duties to identify and assess the special educational needs of children and young people for whom they are responsible. Local Authorities become responsible for a child or young person in their area when they become aware that the child or young person has or may have special educational needs.
9. The Children and Families Act (2014) introduced some significant reforms in relation to SEND. It sought to offer simpler, improved and consistent help for children and young people with special education needs and disabilities.

Key Changes within the Reforms

10. Replacing Statement of SEN with Education Health and Care Plans: One of the major changes introduced by the Children and Families Act (2014) was the replacement of the Statement system with new Education, Health and Care Plans (EHCP). EHCPs were also extended to include young people aged 25 to support them into adulthood.
11. Personal Budgets: Parents of children who have an EHCP now have the right to a personal budget for their support. A personal budget is an amount of money provided to the family to enable them to directly purchase all or some of the provision set out in an EHCP. By having a say in the way this budget is used, a parent/carer or young person can control elements of their support. However, the local authority has a duty to oversee the appropriate use of these financial resources and should put in place mechanisms to monitor it.
12. Services Working Together: Children and young people with SEN need well co-ordinated, coherent support across education, health and social care to help them achieve their agreed outcomes. Under the reforms, local authorities and other key agencies are required to link up and jointly plan services for disabled children and young people – an approach known as joint commissioning.

13. Birth – 25 years: The Act extended the SEN system from birth to 25 years, which supports young people into further education, employment and independent living.
14. Local Offer: Every council is now required to publish a detailed directory of what local support there is available for children and young people with SEND – called The Local Offer. The Local Offer provides clear and accurate information about local education, health and care services. This seeks to make it easier to choose and access the services that children and families need.
15. Engaging Parents, Children and Young People: Local authorities must ensure that parents/carers, children and young people are involved in discussions and decisions about every aspect of their care and support, planning outcomes and agreeing services and activities to meet those outcomes. They must also take steps to ensure that parents and/or young people are actively involved in contributing to assessments, planning and reviewing EHCPs. In addition, Early Years providers, schools and colleges should fully engage parents and/or young people with SEN when drawing up plans and policies that affect them.
16. Resolving Disputes: Local authorities must now make it clear how disagreements will be resolved and how any complaints will be dealt with. The guidance suggests that where appropriate, the local authority should commission an independent disagreement resolution service that can be made available when investigating some complaints.
17. Against this backdrop of significant change, local authorities across the country have faced challenges in responding to these reforms given the requirement to work with a broader age-range of children and young people and with the introduction of EHCPs.

Leicestershire

18. Whilst Leicestershire has performed particularly well in relation to the conversion of Statements to EHCPs, and timeliness in completing EHCPs, the area has experienced similar challenges as those experienced across the country. This has been particularly apparent in the increasing numbers of EHCPs and the use of independent provision that have put significant pressure on the High Needs Block of the Dedicated Schools Grant (DSG). EHCPs have increased by 52% over the last six years:

	2014	2015	2016	2017	2018	2019
EHCPs	2772	2770	2995	3350	3703	4222
% Increase from previous Year	-0.8%	-0.1%	+8.1%	+11.9%	+10.5%	+14%

19. In response to these challenges and to build on the good performance in the county, the Children and Families Department has developed a robust High Needs Development Plan. The Plan was agreed by the Cabinet in October 2018 and significant progress has already been made with further work to do over the next three years to sustain improvements and address the pressures on the High Needs Block budget.
20. The plan is overseen by a programme board, chaired by the Assistant Director for Education and Early Help, and regular reports are presented to the Children and Families Departmental Management Team.
21. The plan is designed around three key areas of work:-

Sufficiency

22. The High Needs Development Plan enables the development of new provision as well as the expansion of existing provision in mainstream and special schools. The fundamental driver for change is to support children to be educated locally in inclusive settings that meet their assessed needs.
23. Over the next four years it is envisaged that SEND provision in Leicestershire will be increased significantly with new provision put in place across the County, enabling children to access this closer to home.
24. The initial sufficiency plan for SEND provision proposed an additional 628 places comprising 143 places available from September 2019, 310 places from September 2020 and the remaining 175 places from September 2021 (this includes the development of a new 125-place area Special School). Two further schemes have since been added to the plan to provide an additional 30 places to give 658 overall.
25. The extra places represent an additional 190 places for units on mainstream school sites, and an extra 468 places for special schools (including 3 free schools and longer term, an area special school).
26. The programme has made good progress throughout the summer and so far, all the new provisions have been delivered to target dates. However, there has been some uncertainty about the delivery of the two 50-place Social and Emotional Mental Health (SEMH) free schools forming part of the capital programme.
27. At its meeting on 22nd October 2019, the Cabinet agreed to authorise the Director of Children and Family Services to, after the necessary consultation, progress with the transfer of Oakfield Short Stay School to new locations in north and south Leicestershire. This means that the Director of Children and Family Services, following consultation with the Lead Member for Children and Families, can seek expressions of interest from Trusts to operate a new 50-place SEMH school on the vacant Oakfield site in Blaby, with a view to opening in September 2020.

28. The capital programme currently comprises 31 schemes, 11 of which started to admit pupils from September 2019 and a further 5 are expected to do so by Easter 2020. In terms of the new schools under development, the 80-place Communication and Interaction school in Barwell is expected to open in September 2020 and the new SEMH school could be open on the Oakfield site by September 2020 also.
29. The approved MTFS allocation for this work is £22.3m and will be reviewed under the process for the 2020/21 MTFS refresh.

Commissioning

30. It is fully acknowledged that the County Council needs to take a 'whole systems' approach to managing the increased demand on SEND services. A large majority of children with an identified special educational need will have these needs met in a mainstream school, without the need for an EHCP. To that end, the local authority is working with schools, other education providers and partner agencies to support effective practice in the school-based 'SEN Support' Stage. This includes the development of a comprehensive SEND Handbook and toolkit that will be launched across Leicestershire in January 2020. This will include:
 - a. Local Guidance on Best Endeavours and Reasonable Adjustments, with supporting tools to help schools and others to meet their responsibilities in a cost-effective way.
 - b. A checklist of actions that schools and other providers should consider prior to getting to the point of requesting an EHCP Needs Assessment, together with advice and sources of support around best practice (for example the Graduated Response, working with parents, advice on 'low incidence' needs, where to get outreach support from specialist providers).
 - c. A checklist for Governors and School Leaders about effective arrangements within education settings.
 - d. Guidance on funding within Leicestershire to support SEND (including top-up funding).
31. At the same time, the County Council continues to invest in the capacity of its special support services and to develop effective processes to support schools and other providers in their work, channelling the expertise present in each geographical locality (area special schools, resourced provisions, health and social care) to support children and families in mainstream provision as early as possible.
32. The County Council also continues to work with partners in the Clinical Commissioning Groups to identify joint planning and commissioning priorities and opportunities to further strengthen this area of work to better support children and families where there are identified health needs.
33. The Leicestershire Parent Carer Forum continues to be well engaged with the County Council and its partners in co-producing strategies, policies and key

pieces of development work such as the review of the approach to EHCPs, the Local Offer and the progression of the Neuro-Development Pathway.

Inclusion

34. A review of the various categories (for example children missing education, elective home education, children with medical needs, information and advice) resulted in all these services being structured into one single Inclusion Service. This will go live in November 2019 and will provide a single point of contact for settings and schools through which they can raise challenges and seek advice and guidance with regard to specific children as early as possible, with the focus on including them, wherever possible, in mainstream education.
35. This restructure, along with the oversight of the Oakfield Outreach support and the development of the Secondary Education Inclusion Partnership, has already enabled an increase in the early identification of need and deployment of the right service at the right time for children. This is reducing unnecessary escalation to exclusion before other avenues of support have been explored. Leicestershire continues to have low rates of permanent exclusion when compared to national averages.
36. Support is being given to mainstream schools and settings to include children with SEMH but lack the resources and skills to accommodate their needs. The Inclusion Service has developed an integrated support model via teams in Early Years' Oakfield outreach, and the Secondary Education Inclusion Partnerships (SEIPs) to help support schools to manage young people with SEMH needs within mainstream schools.
37. The increased support is a mixture of specialist advice via a range of options and services such as telephone advice directly from the Inclusion Service, multi-agency inclusion forums where schools can gain case specific advice on more complex cases and direct support from skilled practitioners working with children in each educational setting as well as directly upskilling school staff. These staff are based within Early Years, Oakfield's Outreach Offer, SEIPs and the Inclusion Service so that specialisms around each area of practice can be maintained.
38. In order to ensure strong progress is made with the High Needs Development Plan a number of additional measures are also being pursued including exploring the Transfer between the Schools Block and High Needs Block of the Dedicated Schools Grant (DSG).
39. The County Council wishes to transfer money between the Schools Block and the High Needs Block of the DSG. Local authorities are able to:
 - Transfer *up to* 0.5% of the gross Schools Block to High Needs following consultation with schools and the approval of the Schools Forum. Should the School's Forum not approve a transfer, approval can be sought from the Secretary of State.

- Transfer *more than* 0.5% of the gross Schools Block with the approval of the Secretary of State.

Consultation

40. In proposing a transfer, the Council must demonstrate the impact on individual school budgets. Data required to do this has been provided by the Department for Education (DfE) and therefore consultation with schools will commence in the week commencing 21 October 2019 with a closing date of 1 November 2019.
41. The timescale for consultation is short. Consultation could not begin until modelling was completed on the detailed indicative school data released by the DfE on 11 October. The outcome of the consultation will be considered by the Schools Forum on 6 November 2019. Should the Schools Forum not approve the transfer a request for a decision from the Secretary of State needs to be submitted by 28 November 2019.

Resource Implications

42. The cumulative deficit on the High Needs Block is forecast to peak at circa £13.5m in 2021/22. Given the scale of the potential overspend and cumulative deficit a whole-organisation focus will need to be maintained on the High Needs Development Plan. The issues being faced in Leicestershire are mirrored elsewhere in the country. A recent Society of County Treasurers Survey indicated that over 90% of County Councils were overspending in this area with the total deficit exceeding £120m. It is likely that a number of counties will end the current financial year with deficits of over £10m.
43. In order to deliver the change required to implement the High Needs Development Plan, revenue investment has been made alongside the capital investment.
44. The total projected cost of the revenue investment is £2.8m with a further £6.3m required to bring the new places into commission over the period of the plan. The MTFS makes provision of £22.3m and a further £10m will be required for the longer-term development of a new area special school when required. The funding strategy for the programme consists of a mixture of funding sources including Basic Needs Grant, a bid to the DfE for funding a Free School, capital receipts and local authority Capital.
45. The early development of a new SEMH school could add further savings of £0.5m in 2020/21 rising to a full year impact of £1.8m in 2022/23. This will reduce the overall DSG deficit.
46. The High Needs Block Development Plan savings are in addition to those contained within the Council's current Medium Term Financial Strategy and will support the delivery of savings by investing in local provision to accommodate current and future demand.

47. The Schools Funding Formula, which largely follows the National Funding Formula, was approved by the Cabinet in January 2018.

Conclusions

48. Leicestershire has responded well to the SEND reforms introduced in 2014 and services are well placed to respond to and support children and families who are experiencing issues relating to SEND.
49. In addition to the statutory services and other service arrangements in place to support children with SEND, the local authority has a robust development plan in place with senior officer oversight to further improve and develop services to improve outcomes for children and young people with SEND. The High Needs Development Plan is responding to pressures on the High Needs Block of the Dedicated Schools Grant and to the increasing numbers of EHCPs in the system. These are challenges that are being experienced across the country.
50. The plan is supported by significant revenue and capital investment by the County Council, particularly in relation to the provision of high quality education places across Leicestershire for children with SEND.
51. The Committee is asked to comment on the report.

Background Papers

SEND Code of Practice.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND Code of Practice January 2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)

Report to the Cabinet – 18 December 2018 – Special Educational Needs and Disabilities Provision – High Needs Block Development Plan

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5793&Ver=4>

Report to the Cabinet – 24 May 2019 – Special Educational Needs and Disabilities Provision – Results of Consultation on the Development of New Provisions (High Needs Block Development Plan)

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5603&Ver=4>

Circulation under the Local Issues Alert Procedure

None

Equality and Human Rights Implications

52. There is no requirement to include an EHRI assessment as the report does not propose any changes to the Council's policies, procedures, functions and services. There are no equality or human rights implications arising from the report.

Other Relevant Impact Assessments

None

Appendices

None

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