

Report to: Children's Services Scrutiny Committee

Date of meeting: 20 March 2017

By: Director of Children's Services

Title: Inclusion Special Educational Needs and Disability (ISEND) Service Demand

Purpose: To provide detail of the reasons behind the high level of demand that ISEND is experiencing

RECOMMENDATIONS

The Committee is asked to:

- 1) Comment on and note the increasing demand for SEND provision across the county which has combined to lead to significant pressures on the High Needs budget; and**
 - 2) Comment on the proposed priority areas for action in order to address the demands**
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1 Background

1.1 Over the last 18 months, the Children's Services Department have seen an increase in demand across all of Inclusion Special Educational Needs and Disability (ISEND) services. These have come in a variety of forms, both in terms of demand for service delivery and in terms of increasing demands for higher levels of funding or higher cost placements for children with Special Educational Needs and Disabilities (SEND). The latter has placed a significant financial burden on the High Needs Block (the element of schools funding which is used to pay for higher cost SEN placements) which is not sustainable moving forward.

1.2 Changes in national policy and local challenges have impacted upon the overall demand for statements/Education Health Care Plans (EHCPs), which have caused the highest pressure within the system. Interacting together, these drivers have created something of a 'perfect storm', the consequence of which has been to further exacerbate demand for statutory assessment and specialist provision in ways that could not have been predicted.

The statutory changes in provision for SEND through the Children and Families Act 2014

1.3 The provisions within the Children and Families Act 2014 (the Act) have led directly to heightened parental expectations around choice and control over education placements for their children. This, subsequently, has led to more requests for additional provision and high-cost placements. Furthermore, the Act has strengthened both the parents' voice and the weight given to their preferences in the assessment process and tribunal system, which has made it increasingly difficult for the Local Authority to challenge requests for high-cost placements, even where we do not feel that these will appropriately meet needs.

1.4 The Act also created a revised consultation process for SEND assessment through which schools can effectively challenge the Local Authority and refuse the placement of a child with an EHCP. This has led to an increase in referrals by schools for statutory assessment to secure additional resources for a child or alternative specialist provision.

1.5 The revised legislative framework changed the responsibilities for the provision of education in Tier 4 Health placements, which were previously commissioned alongside health costs, shifting the costs to education with no scope for negotiation on education provision. As the LA makes no decisions in relation to the placement of children in these high cost placements, it is

very difficult to challenge the provision as it is made purely on health grounds. These changes have resulted in a growth in the independent sector for the provision of education to children with health needs and additional demand on the LA to meet the costs.

1.6 Significantly, the new Act extended the provision of statutory assessment for an EHCP from 16 to 19. Whereas, historically, the LA would have ceased the vast majority of statements at the end of Year 11, the extension of the age range means that more young people are moving into post-16 provision with EHCPs or applying for EHCPs in KS4. In addition, those young people whose statements had previously been converted to a Learning Difficulties Assessment, a largely advisory document, setting out their needs, now have an EHCP that sets out their expected outcomes and provision with the backing of the statutory assessment process and tribunal system. No guidance or additional resource was provided with regard to this new responsibility. This has created a new market and income stream for post-16 providers who have developed new, high-cost provision to meet and now stimulate further demand.

1.7 Furthermore, the provisions within the Act extended the support for children with SEND from age 19 to 25, raising expectations from parents and providers that young people with an EHCP can continue in education until they have met their planned outcomes. No guidance or additional resource was provided with regard to this new responsibility. This has created a new market and income stream for post-16 providers who have developed new, high-cost provision to meet and now stimulate further demand.

The East Sussex SEND Pathfinder 2012-14

1.8 Although intended to prepare the way for the implementation of the Children and Families Act, the activity undertaken through the pathfinder work had some unforeseen and unintended consequences for SEND practice and provision across East Sussex, which have contributed to an increase in demand across a number of key areas.

1.9 Historically, East Sussex had high levels of identification of children with SEND (both with and without a statement). For example in 2012/13, 17.5% of children age 4-16 in East Sussex schools were identified as having SEND, receiving in-school support but no statement, against a national figure of 16.1%; this has fallen year-on year to 2015/16 when 9.2% of children in East Sussex schools were identified as having SEND, receiving in school support but no statement / EHCP, compared to 11.9% nationally. This decrease is directly attributable to the East Sussex Pathfinder target to reduce over-identification and over-provision of SEN statements. To achieve this reduction schools removed significant numbers of children from their SEN registers. However, these children were receiving in-school support, not those with Statements. Therefore, the proportion of 4-16 year olds with a statement/ EHCP only fell from 3.9% in 2012/13 to 3.7%. The unintended consequence is that schools have set a much lower threshold for children with EHCPs who can be educated in a mainstream context. This is reflected in a reduction of newly issued statements/plans with placements in mainstream schools falling from 47.8% in 2014 to 38.6% in 2015. This decline mirrors the national trend in newly issued plans placed in mainstream schools/academies (see appendix 1).

1.10 The Local Offer was introduced in the Children and Families Act to provide children, young people and their parents/ carers with information on services available across the Local Authority from support services, health and schools. The Pathfinder's strong adherence to co-production with schools and parents meant that the LA took a step away from prescription about what all schools should have in their Local Offer. Consequently schools developed offers that showed considerable variation in the capacity to meet children's needs, lowering parental expectations and undermining their confidence in schools' provision for children with SEND. The offer also reduced the appearance of choice with some schools publishing limited provision or not identifying the range of support that should be available to children on their roll, nor how this might be accessed.

1.11 The implementation the new Code of Practice was modelled on examples of best practice from a very limited sample of families. This promoted new ways of working which are unsustainable across the whole cohort in terms of the additional time required to complete Statutory Assessments, EHCP reviews etc.

2 Supporting information

2.1 The legacy of practice, combined with the implications of both the preparations for the SEND reforms, and the implications of the Children and Families Act itself, have contributed significantly to a rapid and unpredicted demand on SEND services and provision. In addition to these, there are a wide range of drivers which interact to impact on the number of children who have statements/EHCPs and provision for them:

- Mainstream and special schools capacity and willingness to manage pupils learning and behaviour effectively has a direct correlation to the demand for additional resources and specialist provision. National legislation creates a direct link between school capacity/ willingness to support children with SEND through the SEND assessment process and tribunal system to secure statutory assessment, additional support and places in specialist provision.
- Parents' lack of confidence that the local mainstream provision can meet the needs of their child has a direct correlation to the demand for statutory assessment, additional resources and specialist provision. Schools directly influence parental expectations and confidence, interacting with parents to identify local services to provide additional resources and support; they combine powerfully in the SEND assessment process and tribunal system to secure statutory assessment, additional resources and specialist provision.
- Other partners, Health, and Social Care (eg CAMHS, GPs, Paediatricians) provide support and advice for parents seeking help to address their children's needs and they also prescribe statutory assessment and specialist provision without the budget responsibility. Recommendations from these partners have a very significant bearing on the progress and outcome of cases through the statutory assessment process and in the tribunal system.
- Independent providers of services for SEND including educational psychologists, behaviour specialists, therapists, and independent special schools provide advice and guidance for parents on the approach to secure SEND assessment, additional resources and specialist provision. Recommendations from these providers have a very significant bearing on the progress and outcome of cases through the statutory assessment process and in the tribunal system.

2.2 In order to address the upward pressure on provision and resources, the Children's Services Department has identified five key strands of work to take forward as key priorities to reduce the pressures on services and funding:

- I. **Building capacity and inclusive ethos in mainstream schools** – targeted interventions with mainstream schools from specialist support services, and work through Education Improvement Partnerships, to improve Quality First Teaching and confidence in supporting more children with higher levels of need. For example:
 - a. Review of our outreach services for Autistic Spectrum Disorder (ASD) and Speech, Language and Communication Needs (SLCN) to deliver a more effective and equitable service offer;
 - b. Dedication of a 'core' targeted offer from our intervention and support teams, which provide a multi-service response to schools who are causing concern.
- II. **Improving parental confidence in local provision** – ensuring that parents receive consistent messages from schools and support services around the ability of local

schools to support their children appropriately, within their local community. This includes:

- a. Improving the quality of information to parents about the quality of provision in local schools and the positive impact this has on children with SEN;
- b. Working with schools to support local placements wherever possible and provide a consistent message to prospective parents around the offer that can be made locally.

III. Robustly implementing the East Sussex post-16 pathways and ceasing EHCPs at age 16 where they are not required for the young person's chosen pathway.

Targeting as appropriate the young people age 12-15 to strengthen their targets for independence and academic progression to ensure that they are ready for transition at the age-appropriate date without the need for an ongoing EHCP. For example:

- a. Development of a Preparation for Adulthood plan, which is non-statutory and enables children to move onto post-16 provision without unnecessary resource allocations;
- b. Providing guidance to schools on ceasing EHCPs where they are no longer needed to secure outcomes in post-16 institutions.

IV. Increasing the number of local special school places – increasing the number of places through the development of specialist facilities in mainstream schools, Free Schools or Capital Programme. For example:

- a. Using our forecasting data to identify where we will require additional provision in the future and planning additional provision around this, which will reduce expenditure in the independent sector.

V. Working with partners, ESBT and C4Y, to take a joined up approach to planning the use of resources available.

- 2.3 In order to realise the above, the County Council has agreed £0.5m of transition funding to appoint specialist staff to target the highest cost drivers with an aim of reducing onward and upward pressures within the system. For example, this will involve targeting the highest cost Independent Non Maintained Special School placements to actively work to bring more children into local provision over the next financial year.

3. Conclusion and reasons for recommendations

- 3.1 The increase in the demand across SEND services and provision over the last 12 months has placed a significant burden on the LA in terms of funding and staff time. Much of this demand has been created from the challenges and tensions between a legacy of provision in East Sussex, the local independent sector market and the impact of the implementation of the Act.
- 3.2 Within each of the 5 priority areas outlined above, a range of activities are being undertaken which are targeted on both reducing demand and stemming the escalating cost of provision in the future. Work is already underway with all of our local schools to make a significant shift in practice that moves away from using statutory processes as a methodology to improve outcomes, and towards creating more local, low-cost solutions to address the demand. The Children's Services Scrutiny Committee is asked to comment on these priority areas that have been identified in order to address the pressures in future years.

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BACKGROUND DOCUMENTS

None