

CHILDREN AND YOUNG PEOPLE SCRUTINY PANEL

14 March 2019

SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND) HIGH NEEDS FUNDING

Report of the Strategic Director for People

Strategic Aim:	Reaching our Full Potential	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr D Wilby, Portfolio Holder for Lifelong Learning, Early Years, SEND, Inclusion	
Contact Officer(s):	Bernadette Caffrey, Head of Service Early Intervention, SEND and Inclusion	01572 720943 bcaffrey@rutland.gov.uk
	Kevin Quinn, Service Manager, Early Intervention, SEND and Inclusion	01572 758292 kquinn@rutland.gov.uk
Ward Councillors	All	

DECISION RECOMMENDATIONS

That the Panel:

1. Notes the challenges within the Special Educational Needs and Disabilities (SEND) system and the subsequent pressure placed on the Designated Schools Grant High Needs Block.
2. Notes and provides direction on the future action outlined to address the High Needs funding pressures.

1 PURPOSE OF THE REPORT

- 1.1 To update the Children and Young People Scrutiny Panel on the challenges within the Special Educational Needs and Disabilities (SEND) Service and the subsequent pressure on the Designated Schools Grant High Needs budget.
- 1.2 This report provides Panel with detail on the current system challenges as a result of growing demand and the new legal burdens placed on Local Authorities and outlines the steps in place to address these and reduce the pressure on the High Needs budget.

2 BACKGROUND AND MAIN CONSIDERATIONS

2.1 The Children and Families Act 2014 aims to improve outcomes for children and young people with SEND by transforming how support is delivered through joined up multi-agency response and resource. The national reforms introduced a number of changes and resultant additional statutory functions for the local authority to support children and young people with SEND up to age 25. These new duties include;

- To identify all children with SEND in the local area and to process and undertake Education Health and Care Needs assessments (EHCNA) for children who may have SEND. This requires the management of applications and decisions to assess within a statutory 6 week timescale.
- To undertake assessments and issue Education, Health and Care Plans (EHCPs) within 20 weeks from first application, this includes coordinating and compiling multi-agency assessment information and formulating draft EHC plans. This includes statutory duties to ensure parent and child involvement and the co-production of content within set timescales.
- To secure the appropriate education, health and social care provision associated with EHCPs for children with SEND, ensuring provision is named and specific within EHCPs.
- To undertake annual reviews of all children with an EHCP and ensure their plan remains relevant, appropriate and provides a clear pathway to adulthood and independence.
- To produce and maintain an up to date 'Local Offer' which sets out the local areas health, education and social care provision for children with SEND.
- To keep local services for children and young people with SEND and their families under review to ensure that they meet the needs of the local community, this includes a duty to have in place co-commissioning arrangements for the local area between the local authority, health and education.
- To provide a range of statutory services including mediation services, independent advice and support services and educational psychology services for the purpose of education, health and care needs assessments.

3 CURRENT LANDSCAPE AND CHALLENGES

3.1 Demand

3.1.1 Since the SEND reforms there has been an increase in demand within the SEND service with requests for Education, Health and Care Needs Assessments increasing significantly since introduction in 2014.

3.1.2 Whilst the overall number of new EHCPs issued each year has increased from 2014, the overall volume of EHCPs for children in Rutland has remained relatively static. This is in part a result of a number of EHCPs ending following their statutory transfer from Statements, as they were no longer required or children had moved out of area.

This means that, whilst the overall number of EHCPs has not increased significantly, the cohort is now more representative of the children who require them;

Year	2014	2015	2016	2017	2018
EHCNA Requests	19	22	35	44	44
New EHCPs	01	14	22	28	27
*Overall No. EHCP	168	186	188	201	197

*Reported SEN 2 is submitted in the month of January as a snapshot, hence for 2015 year the data is based on at the year end and reported in January 2016

3.1.3 The volume of EHCPs in Rutland is in line with national averages however it is likely, due to the increased responsibility to support children with an EHCP up to the age of 25, more plans will be maintained for a longer duration and therefore it is anticipated that overall numbers will steadily increase if demand continues at current levels.

3.1.4 The new responsibilities require the Local Authority to now support children post 16 in their education where prior to this, Statements of Education, and the responsibilities on Local Authorities, ended at age 16. Currently there are 35 children receiving support at post 16.

3.2 Types of Provision Provided

3.2.1 A high proportion of children with EHCPs in Rutland are educated in specialist provision due to local mainstream schools being unable to meet need. This level has increased year on year since 2014:

	2014 - Jan 15	2015 - Jan 16	2016 - Jan 17	2017 - Jan 18	2018 - Jan 19
No. EHCP	168	186	188	201	197
% in Special School	14.3% (24)	17.2% (32)	29.3% (55)	28.4% (57)	28.4% (56)
% in mainstream Designated Special Provision (DSP)	9.5% (16)	17.7% (33)	12.8% (24)	17.4% (35)	20.3% (40)
Total % in Special Provision	23.8%	34.9%	42%	45.8%	48.7%

*Year data relates to end of year position as reported in SEN2 return in the January.

3.2.2 The costs of providing support within a special school are, in the main, higher than the cost of support for children with EHCPs who are educated in mainstream schools. Costs for special schools are increasing across the board and most special provisions have increased their fees this year. The cost of fees is dependent on needs with some placements costing a substantial amount of money with costs varying from 12k to 250k per annum.

3.2.3 In addition there has also been an increase in the costs associated with supporting children with EHCPs in mainstream education with schools requiring increasing levels of funding in order to support children in their education. Data shows that currently 41% of all children with an EHCP receive the highest funding band available, up from 34% in 2018, with only 19% of children receiving the lower banding rate. In addition children supported in mainstream DSP are also receiving higher rates of support with 31 % of children receiving the higher level of 'top up' funding up from 24% in 2017, with 24% on the lower bands.

3.2.4 The Local Authority is also providing support to schools for children who are at risk of exclusion and therefore not receiving their education entitlement. Such children do not necessarily have an EHCP but have needs which require an 'alternative provision' in order to support their education. Often this is due to a child being at risk of exclusion as a result of behaviours which challenge, with more children being identified as having Social, Emotional and Mental Health needs which schools are unable to meet. Demand for the service is increasing and 32 children this academic year to date have received alternative education support with 15 currently remaining in alternative provision. 13 children have received alternative provision as a result of medical needs and currently no health funding is accessed for them. The annual budget for this service has been overspent each of the last 3 financial years but remains on budget this year at the time of reporting, subject to any further demand, see table below;

	15/16	*16/17	17/18	18/19
Budget	£113,000	£90,000	£110,000	£110,000
Expenditure	£136,400	£131,000	£128,400	£100,500
Overspend	-£23,400	- £41,000	-£18,400	+9,500

* Budget adjusted for financial year to reflect end of a high cost alternative provision.

3.2.5 The overall higher levels of Education Health and Care Needs assessment number (EHCNA) requests; whilst at a stable level for the last 2 years they are higher than in previous years, the increase in children at risk of exclusion and the increasing funding requirements of schools, highlights the pressure schools are under in helping to meet the needs of children with SEND. This has ultimately contributed to the volume of children which are in specialist provisions which, with the right support, may have been able to maintain their education within a mainstream environment.

3.3 Parent/Carer Choice and Expectation

3.3.1 The SEND reforms place a greater emphasis on parental choice and involvement in shaping provisions for their children. Consequently the service is experiencing more challenge to the provisions put in place for children through the EHCP process. This is supported by a tribunal process and the service is seeing a steady increase in the number of tribunal requests and challenge to the types of support provided, including challenge to school placements:

Tribunals	2015	2016	2017	2018
Number Conceded		5	5	2
Number ruled in favour			2	
Number ruled in parent/carers favour	1	1	2	
Total	1	6	9	4 (2 outcome TBC)

4 **IMPACT - WHAT ARE WE WORRIED ABOUT**

4.1 Our aim is to ensure children and young people are, where appropriate, educated locally in mainstream provision and to be part of their local community. Whilst a large

proportion of children are appropriately placed, there are some children in special school who could have their needs met in mainstream schools with high quality inclusive practice. National research shows that once in the special school system children are less likely to leave. In addition the cost of such placements is significant and increasing.

4.1.1 The SEND trends outlined in Rutland mirror that nationally. Research into Local Authority SEND expenditure commissioned by the Local Government Association in 2018 highlights that nationally there are increases in the overall volume of children receiving EHCPs, the proportion of children with EHCPs who are placed in special provisions and an increase in the costs to support children with SEND in mainstream education. Consequently this is having an impact on the DSG High Needs block;

4.2 Budget shortfall:

4.2.1 The new national funding formula for allocating funding to local authorities was introduced in the 2018/19 financial year. Under the new formula funding is allocated based on historic spend and various factors such as deprivation, health, disability and attainment.

4.2.2 Due to the low numbers of pupils within Rutland that attract funding for deprivation health and disability, the Local Authority would have seen a significant reduction (approx. £0.6m) in funding received without the introduction of the 'floor'. The 'floor' ensured that no authority faced a reduction in funding compared to current spend through the new funding formula. However, due to this, any increase nationally in funding is unlikely to increase funds available for Rutland and therefore in real terms, funding is decreasing.

4.2.3 As outlined in more detail in section 8, the Designated Schools Grant (DSG) High Needs Funding Block for children with SEND is projected to be overspent by £178k by the end of 2018/19 financial year. Note this overspend has been reduced recently due to an additional £84k of funding received from the Department for Education in year and an adjustment to the initial allocation of £34k.

4.2.4 The High Needs forecast for 2019/20 financial year currently projects a further overspend of 140k. Added to the existing overspend on the total DSG, this creates overspend of £247.6k equating to approximately 0.8% of the total DSG allocation, all of which is a result of High Needs overspend.

4.3 DSG Recovery Plan Requirements

4.3.1 The DfE and Education and Skills Funding Agency (ESFA) have noted over the last two years that more authorities are reporting a cumulative DSG deficit. As announced in July 2018, through conditions of grant, the DFE will require a report from all Local Authorities that have an overall cumulative DSG deficit of 1% or more at the end of the 2018 to 2019 financial year, outlining their recovery plans for how they intend to reduce expenditure. The 1% calculation will be based on the latest published DSG allocations for 2018 to 2019, gross of recoupment, as at the end of the 2018 to 2019 financial year.

4.3.2 Recovery plans, as outlined in **Appendix A**, are required to provide an explanation for the pressures, evidence outlining the issues and the steps being taken to mitigate such concerns. Plans also need to include the extent to which the actions are

supported by schools and other stakeholders. At this stage the expectations of the DfE and ESFA are unclear as to what will happen should the overspend not be brought back in line i.e. are Local Authorities expected to meet the shortfall in budgets and until further guidance is received the financial risk to the Local Authority is unconfirmed.

- 4.3.3 As it stands Rutland will not require a recover plan this financial year, however it is clear the increasing pressure on the system will require a plan that aims to mitigate the risk posed to school budgets and the potential impact on support for young people in Rutland.

5 WHAT WE ARE DOING – OUR RECOVERY PLAN

- 5.1 The SEND service has had in place a development plan since 2017 which has been created to drive service improvements against a revised partnership SEND and Inclusion Strategy which aims to promote inclusive practice and ensure, where appropriate, children with SEND are educated locally and effectively within mainstream education.

- 5.2 This continuous service improvement is overseen by a multi-agency Steering Group and a SEND Strategic Group, comprising education providers, CCG commissioners, parents, Portfolio Holders and senior officers from RCC who are working on improvement actions aimed at reducing the number of children in specialist provision and ensuring, where possible and appropriate, children with SEND are educated in local mainstream schools.

- 5.3 The pressure on the high needs block forms a key consideration in this improvement work and, following discussion at the SEND Strategic Group and Schools Forum, a Rutland Inclusion Summit took place in November 2018 with a view to engaging education providers across the sector in developing a plan of action, designed to increase inclusion of children in mainstream education.

- 5.4 The implementation of the SEND reforms is monitored by a joint Ofsted and CQC inspection framework, which took place in Rutland in July 2017. The outcome of this exercise highlighted a range of good practice and also identified areas for development and improvement and a number of key improvements have been made as outlined in **Appendix B**.

5.5 Development Plan

- 5.5.1 Following the Inclusion Summit in November 2018 a draft action plan is now in place which will also form part of any future recovery plan required by the DfE which is aimed at mitigating the High Needs overspend. The actions include, for example, the following
- Enhancing local mainstream specialist provision through the SEND Capital Programme designed to increase the number of mainstream special provision places locally.
 - Reviewing current Designated Special Provisions and their role and specifications, looking at what needs they cater for and their overall cost effectiveness.

- Development of early intervention approaches, including the potential development of Nurture based provisions:
- Review of school 'top ups' and levels of funding for schools to meet the needs of children with an EHCP.
- Introduction of early intervention funds to prevent the escalation of needs at the earliest stages.
- Proposal for the development of behaviour partnerships and commissioned specialist services such as specialist therapeutic support, supporting children across schools.

6 CONSULTATION

- 6.1 The Council has a legal duty to consult with children, young people and their parents/carers to assess, plan and put in place support through a CiN plan or an EHCP.
- 6.2 Good practice dictates that changes in provision to support children with SEND should involve the consultation of children, young people and their parents and carers.
- 6.3 The service has consulted children and parents on the development of the SEND Capital programme.

7 ALTERNATIVE OPTIONS

- 7.1 As outlined a development plan is in place to support our Inclusion Strategy aims and objectives and to help mitigate the impact on the high needs budget. Each action within essentially present part of a package of responses designed to improve the SEND system in Rutland, many of which will require their own business case and agreement of wider partners to progress and successfully implement.

8 FINANCIAL IMPLICATIONS

- 8.1 The Designated Schools Grant (DSG) High Needs Funding Block is forecast to be overspent this financial year by £178k. Note this overspend has been reduced due to an additional £84k of funding received from the Department for Education (for this financial year and next financial year only) in year and an adjustment to the initial allocation of £34k.
- 8.2 This overspend will be added to the overspend brought forward from 2017/18 of £59.6k, making a total projected overspend on the DSG reserve for high needs of £237.6k, provided there are no additional spending requirements between now and the end of the financial year.
- 8.3 The overall deficit balance on the DSG at the end of the financial year is projected to be £107.6k, accounting for positive adjustments to the Early Years Block (+112k) and Central Schools Block (+18k).

- 8.4 The High Needs forecast for 2019/20 financial year currently projects a further overspend of £140k. Added to the existing overspend on the DSG reserve this totals £247.6k equating to approximately 0.8% of the total DSG allocation all as a result of High Needs overspend.
- 8.5 Based on the above position, the Council may not have to submit a formal Recovery Plan to the DfE but will need to do a local Recovery Plan to address this position.
- 8.6 In addition to the pressure on the DSG the SEND reforms has increased pressure on the Local Authority budget for the SEND service. Requirement for the Local Authority to provide a range of services including Mediation Services, Independent Advice and Support, Educational Psychology services, Local Offer provision have all come at a significant cost. Whilst some one-off SEND reform monies have been received to implement the reforms there is a need to build these costs in to base budgets. Furthermore any health provision which educates, such as Speech and Language therapy, is now the responsibility of the local authority to source and provide. There is no funding for such provisions and is an additional financial burden on the Local Authority.

9 LEGAL AND GOVERNANCE CONSIDERATIONS

- 9.1 The Council has specific legal duties, processes and timescales to follow to identify, assess and support children with SEND and their families. This includes ensuring the appropriate provision of support.
- 9.2 Legal support in relation to this area of work is not provided through Peterborough City Council as their legal team is not resourced with the necessary expertise to carry out this work. As a consequence of this the Council source support in this area from the Private Sector through the EM Lawshare Framework.
- 9.3 The Council has included an additional £50,000 within the overall legal budget to provide support in this area and compliance with the statutory framework.

10 DATA PROTECTION IMPLICATIONS

- 10.1 None.

11 EQUALITY IMPACT ASSESSMENT

- 11.1 The Children and Families Act 2014 and the SEND Code of Practice, (2014) sets out the Council's responsibilities to meet the needs of children with special educational needs and disability.
- 11.2 Any proposed changes to provisions as a result of implementation of the recovery plans may necessitate an Equality Impact Assessment (EIA).

12 COMMUNITY SAFETY IMPLICATIONS

- 12.1 None.

13 HEALTH AND WELLBEING IMPLICATIONS

- 13.1 Rutland's SEND and Inclusion Strategy, (2017) clearly set out our intention to meet the education, health and social and care needs of children and young people with special education needs and disabilities.

14 ORGANISATIONAL IMPLICATIONS

- 14.1 The Early Intervention and SEND service has implemented a number of positive developments and projects which was evidenced by the Ofsted and CQC inspection outcome in 2017. However the consequence of the SEND reforms and our local response is presenting challenges and the demand for services has resulted in additional financial pressures both on the DSG but also the Local Authority SEND budget in order to ensure there is enough capacity to respond effectively to the needs of children.

15 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 15.1 As outlined, since the implementation of the SEND reforms there has been an increase in demand for support for children with additional needs. This, and the limited capacity of mainstream providers, means a high proportion of children with SEND are educated in high cost special schools. Subsequently the DSG High Needs block is overspent and poses a financial risk to both the Local Authority and Schools in Rutland.
- 15.2 A development plan has been in place since 2017 and is overseen by a multi-agency SEND Steering Group and there are a number of work streams underway to bring about whole SEND system change to mitigate these risks.
- 15.3 Further development work has begun with schools through the recent Inclusion Summit and this engagement work needs to continue apace in order to ensure schools own and support the implementation of the development plan and the actions identified.
- 15.4 Panel is asked to note the challenges and proposed actions as outlined.

16 BACKGROUND PAPERS

- 16.1 There are no additional background papers to the report.

17 APPENDICES

- 17.1 Appendix A: DfE DSG Consultation
- 17.2 Appendix B: Ofsted & CQC Improvement Action Update

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.