

## CHILDREN'S SCRUTINY COMMITTEE

**16<sup>TH</sup> DECEMBER 2021**

### Report of the Strategic Director for Children and Families

#### SEND Recovery Plan Projects: Update

Strategic Aim:	Creating a brighter future for all.		
Exempt Information		No	
Cabinet Member(s) Responsible:		Mr David Wilby Portfolio Holder Education and Children's Services	
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Ward Councillors	All		

#### DECISION RECOMMENDATIONS

That the Committee:

1. Note the progress and emerging impact of the SEND Recovery Plan group of projects.
2. Endorse the actions planned to continue to positively impact the High Needs Budget deficit.

## 1 PURPOSE OF THE REPORT

- 1.1 Following a report to Child Scrutiny Committee in March 2021 relating to wider SEND and Inclusion. This report focusses on the inclusionary offer for children with SEND and the actions in place to develop confidence in inclusion of the SEND sector wide system and workforce and to address the growing demand for services and increased pressure on the Delegated Schools Grant, (DSG) High Needs Budget, (HNF)
- 1.2 Rutland's vision is to support all children and young people with SEND to lead healthy, independent, and safe lives, to be a County that promotes inclusion, to maximise their opportunities to be independent and focuses on their abilities not their disabilities and wherever possible, have their needs met locally. (Rutland SEND and Inclusion Strategy 2019).
- 1.3 The SEND and Inclusion Service priorities reflect Rutland's Children and Young

People's Plan.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 The Council receives ring fenced funding for High Needs from Government as part of the DSG. This funding can be supplemented through transferring funding from other DSG blocks including the Schools Block (0.5% can be transferred with approval from Schools Forum) and any transfer over 0.5% must be approved by the Secretary of State.
- 2.2 The High Needs block funding meets the costs of place and top-up funding for institutions meeting the needs of children to access specialist services or expertise commissioned by the local authority. It does not meet the costs associated with legal challenge, assessment costs, travel costs etc.
- 2.3 The projected financial deficit on DSG by March 2022, is predicted to be in the region of £822k. The High Needs cumulative deficit is projected to be about £1m. There has been additional Government funding over the last few years, but this hasn't kept pace with either inflation or been in line with the growing demand driven by parental choice.
- 2.4 Despite funding increasing over the last few years, the Council is carrying a deficit on High Needs funding. The School and Early Years Finance Regulations 2020 (which came into force in February 2020) are clear that **"LAs will not be permitted to fund any part of the deficit from sources other than DSG (and any specific grants whose conditions allow them to be applied to the schools budget) without the authorisation of the Secretary of State"**. In theory, the Council could apply to use its General Fund to subsidise costs, but this is not considered an option.
- 2.5 The Council's deficit and projections are that by the end the financial year the deficit will be in excess of £1m with this growing by c£500k per annum. Further details of the financial position can be found in Section 3, (Financial Implications below)
- 2.6 Whilst we continue to run a deficit, costs will be met by Schools (local authorities have no legal responsibility in this area) which means that while this continues schools are footing the bill.
- 2.7 Consequently, any deficit must be recovered over time. The DSG conditions of grant require that any local authority (LA) with an overall deficit on its DSG account must be able to present a plan to the Department for Education (DfE) for managing their future DSG spend.
- 2.8 Local Authorities in this situation are strongly encouraged to have a management plan in place, Rutland has the SEND Recovery Plan overseen by the SEND Programme Board and reporting regularly to Schools Forum (SF). This plan was set in action following a Summit with schools in November 2018 and included all schools and other education providers, setting out the challenges and potential solutions. Following this, decisive action was taken, and Schools Forum agreed to commit £357k over a 5-year plan to change practice, start to halt the rise in year-on-year financial pressures and demand on special provision, and to begin to address the budget deficit.
- 2.9 Success measures for this type of work, regionally, are predicated on reducing the need for any local authorities' use of independent school places, review, and reform

of the 'Education Health and Care Plan (EHCP) offer'. In Rutland the SEND Recovery Plan projects are particularly focused on:

- reviewing and reforming early years pathways,
- reforming commissioning practices to address sufficiency problems and
- action to help schools reduce inaccurate identification of children wrongly labelled as having SEND which can otherwise lead to underachievement, sometimes due to a poorly designed or taught curriculum.

The SEND Recovery plan includes actions to motivate schools to utilise a Graduated Assessment response when children's needs appear to be escalating, all of the SEND Recovery plan projects are designed to build confidence, skills, expertise, and capacity in and alongside mainstream schools' staff with the goal being sustainable skill sets for leaders and school teams.

The key question is, will the implementation of the SEND Recovery Plan ensure that the deficit is recovered over time? As section 3 shows, the answer to this question is no. Section 3 does show that the interventions made by the Council have made a positive impact on the finances surrounding the High Needs Block, but due to significant increases in demand the position will not be recovered.

The issue is a national one and Rutland's position is not different to many authorities in that demand for services are outstripping the funding available. The DfE has announced that the consultation on the revised Funding of the High Needs system should be out in the new year (no date has been specified) this will ultimately determine whether the deficit will be recovered.

#### Department for Education-High Needs Capital Allocation Funding

- 2.10 Part of the SEND Recovery plan is to grow the capability and capacity of Secondary schools for 'what is ordinarily available in local schools. The Department for Education (DfE) have provided Capital grant funding programmes to help increase mainstream school places and maintain children with SEND in mainstream provision locally. RCC are working with our parent representative group to build reassurance among parents and building inclusion confidence in local school's transition arrangements. A new development, working with Uppingham Community College as a lead partner, with a working title for the facilities of 'Mainstream plus' provision is aiming to enable more children with EHC plans, (EHCPs) to transition from Primary education effectively and thrive in local mainstream Secondary phase education.

#### Nurture Evidence Based Practice

- 2.11 Nurture practice, based on attachment theory, has been piloted successfully in Rutland in partnership with Edith Weston Primary School part of the Brooke Hill Academy Trust. Nurture interventions are evidence-based programmes for specific children to increase their emotional wellbeing, intended for primary school children who have difficulties coping in mainstream classes and may be at risk of underachievement and disrupting their education and that of others. They support children's mental health and wellbeing and can lead to improved self-esteem and enhanced school achievement and attainment.

- 2.12 The Nurture pilot was initially designed to support up to 6 students yearly on site at Edith Weston and further equip Rutland primary schools to confidently assess attachment needs and help build the confidence of all schools to provide Nurture practice and interventions on their own school site, in order to specifically prevent children's exclusion or escalation out of the mainstream school system. One of the children assisted through a Nurture intervention moved from a high-cost placement (circa £75 k yearly)
- 2.13 In September 2021 Schools Forum received a report detailing the impact over the 16 months of the Nurture pilot including through the pandemic restrictions. **16** individual children and their associated schools had been supported with Nurture interventions. **9** received (or continue to receive) on site interventions (agreed through the multi-agency panel) and **7** children through outreach support from the Nurture hub staff.
- 2.14 RCC are developing an agreement with Edith Weston to bring Nurture into standard practice. This will secure these successful interventions for Rutland and focus on further propagating sustainable Nurture practice across Rutland schools.

#### Supporting children with Social Emotional or Mental Health needs from escalating

- 2.15 The range of projects within the SEND Recovery Plan, are delivering a number of initiatives new to Rutland, and which are intended to increase capacity within mainstream schools by assisting schools and other education providers, to act early where they see a child's social emotional and mental health (SEMH) needs are escalating and put in place support or evidence-based interventions that may prevent children moving into the SEND system and thus help children to continue successfully in mainstream education without the need for an EHCP
- 2.16 Specialist SEMH teachers are linked to schools as the first place to raise any concerns about any children's needs and get expert input prior to any case level work being commissioned through the Education Inclusion Partnership (EIP).
- 2.17 The Education Inclusion Partnership draws on existing Rutland resources and commissions interventions where there is a gap in services, it has purchased interventions such as specialist tutoring, specialist counselling, speech and language therapy, additional specific psychological interventions. This is detailed in the Toolkit of Resources, clearly outlined, and regularly updated for schools to make services easy to find on the Local Offer site.
- 2.18 A Primary Phase Panel meets monthly to allocate resources for cases that need specific action- a coordination and assessment function helps make sure these are targeted and manages the process to activate resources.
- 2.19 **100** children have now been considered through this sector led panel process. In time schools will have the knowledge, skills, confidence, and expertise to activate resources with an improved understanding of need and without the need for a panel and may be able to commission directly from their own funds or pool resources directly. All primary schools are now activating resources through the panel for particular cases with parental consent.
- 2.20 There is universal acclaim for the work of this schools led partnership, feedback is collected three times a year, most recently in Summer 2021.

- 2.21 Secondary Phase targeted work is also seeing an impact, with significantly reduced exclusions at Catmose, for example, which can be attributed to the work in partnership.
- 2.22 A senior Speech, Language and Communication provides 3 days a week from Leicestershire Primary Trust (LPT). This specialist has begun building relationships with Early Years settings and coaching friendly communicating environment skills in order to impact avoidable language delay. This is to supplement statutory work and to work at a lower level of need, for example, facilitating individual or group work for vocabulary, social use of language. They are also beginning work with Secondary School teams.
- 2.23 A Provider Group meets monthly to ensure not only EIP funded but wider services are coordinated and cohesive and that there is good communication and no duplication between providers
- 2.24 The Special Educational Needs Coordinators (SENCo) network has developed with the support of Rutland Learning Trust and the Education Inclusion Partnership Coordinator to identify gaps in skills and knowledge and is working with a Regional Whole School SEND programme over the remaining years of its operation to help promote evidence-based practice in inclusion and shape a sustainable learning network for Schools SENCo at Primary and Secondary phase.
- 2.25 Work to examine Value for Money and review Early Years pathways in partnership with The Parks provision and Oakham Primary School has been progressing. This is designed to share and expand inclusionary practice in the Early Years sector. SEND Consultancy, a team of SEND education experts, are working to flesh out visioning work undertaken in partnership to explore an inclusive model of provision for the early years pathway.

### 3 FINANCIAL IMPLICATIONS

- 3.1 The financial implications shown below are the implications on the Dedicated Schools Grant (DSG), which although the Council do hold and manage, deficits are not to be covered by Council's Finances.
- 3.2 The Council do produce a High Needs Recovery Plan to help manage the deficit on the high needs block. This is in the process of being updated to reflect revised assumptions around funding increases and the impact of the interventions.
- 3.3 The current modelling if no interventions are made is shown in the table below

	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
High Needs DSG B/Fwd Deficit / (Surplus)	457	575	1,028	1,734	2,648
Transfer From Schools Block	(126)	(132)	(132)	(132)	(132)
High Needs Allocation*	(4,224)	(4,579)	(4,976)	(5,225)	(5,486)
Placement costs	4,468	5,164	5,814	6,271	6,823
<b>High Needs DSG C/Fwd Deficit / (Surplus)</b>	<b>575</b>	<b>1,028</b>	<b>1,734</b>	<b>2,648</b>	<b>3,853</b>
<b>Recovery Plan Impact</b>			<b>(33)</b>	<b>(93)</b>	<b>(135)</b>

- 3.4 Due to the high level of demand in the SEND service – requests for education health and care assessments, (EHCA), and the increasing numbers of Education Health and Care Plans, (EHCPs), the Council are seeing the SEND Recovery Plan is unlikely to address any of the current deficit (£1.028m) and will only go part way to mitigating the new demand coming through the system. The initial SEND Recovery Plan showed a saving of £135k by 24/25. It is expected that with the success of the interventions para 3.5 the revised model will show an improvement against this.
- 3.5 On the 1<sup>st</sup> of April 2021 there were 260 EHCP's in place, this has increased by 14 (5.4%) to date this year with an additional 18 requests for a EHCP assessment. If all of these go on to require support that would equate to a 12% increase in demand this year
- 3.6 The Council has agreed a number of actions with Schools Forum as part of the Council's SEND Recovery Plan. The table below shows the intervention and the basis of the business case

Provision	Business Case Basis	Current Position
Nurture Provision (para 2.13 – 2.16)	Assumes 1 independent place saving and 2 maintained special school place saving (£113k)	Exceeded expectation. Provision was designed to support 6 children and has supported 16. Crucially at least 1 of these children would be in a high-cost placement.
Education Inclusion Partnerships (EIP) (para 2.18 – 2.27)	Assume 3 placement decrease in specialist provision, 15 decrease in academy mainstream (£279k)	See 3.7

- 3.7 The success of these projects is also subject to several influencing factors including the commitment of schools to engage, test and commit to alternative approaches and parental preference not to pursue an EHCP even when a school do not necessarily support this.
- 3.8 The largest project is the EIP and the impact this has had is:
- 3.8.1 The EIP panel process has assessed 90 children to October 2021. Of the 90 only those where there has been sufficient time and progress since referral were included in further analysis. Of these, 50 (56%) were deemed to be at high risk of progressing to need an EHCP at the start of the intervention.
- 3.8.2 Of this group of 50 high-risk children looked likely to be considered to require an EHCP, 38 were predicted to need 32.5 hours or weekly support and 12 to need 25 hours of support over a 38-week school year. The first £6k of a child's costs for support are notionally available in schools' budgets already, so this £6k have been removed accordingly from calculations.
- 3.8.3 Using this format to predict overall annual cost of providing support hours

for these 50 children if they had escalated into EHCPs indicates that potential pressure created by this group may have been in the region of £350,978 annually.

3.8.4 Further information and methodology for this analysis can be found at Appendix A

3.9 As you will note, the level of demand for specialist places would have been significantly higher than the current number if the interventions of the SEND Recovery Plan had not been in place.

### 3.10 Mainstream Top-up Rates

3.10.1 To further add to the pressure on the schools block, Schools Forum have asked the Council to review its funding rates to mainstream provision. The rates paid to schools have been in place for a significant period of time and not reviewed since 2015.

3.10.2 The Council does have the final say on determining rates, best practice is to consult with Schools Forum.

3.10.3 The High Needs Funding Guidance states that “local authorities must treat those placed in maintained provision, in academies and free schools, in the further education (FE) sector, and in non-maintained and independent provision on a fair and equivalent basis when making arrangements for funding young people with high needs”. The Council has seen increases in non-mainstream provision due to the way places are commissioned over the same period, under the guidance the Council will have to inflate the rates paid to mainstream schools.

3.10.4 The Council are consulting with schools forum on using CPI as a basis from 2015 to 2021. The additional cost of the current cohort would result in an additional c£170k being added to the deficit per annum.

## 4 CONSULTATION

4.1 Rutland Parent Carer Voice provide monthly input to system change developments; members attended the Summit at the beginning of November 2021. They are part of a task and finish group considering alternative resource allocation funding formula work over the Winter 2021-2 for EHCP plans.

## 5 ALTERNATIVE OPTIONS

5.1 RCC are strongly advised by the DfE, to have a robust management plan in place to address system changes required. The SEND Recovery Plan is our management plan.

## 6 LEGAL AND GOVERNANCE CONSIDERATIONS

6.1 Local authorities must carry out their functions with a view to identifying all the children and young people in their area who have or may have SEN or have or may have a disability (Section 22 of the Children and Families Act 2014).

6.2 The Local Authority and its partners have a number of key statutory obligations to

children and young people with disabilities and special educational needs, which includes, identification in the early years, the delivery of early and targeted support and the provision of specialist provision.

- 6.3 The Children and Families Act and Care Act 2014 places greater emphasis and importance on giving children with disabilities and their carer's greater choice and control in the support they need.
- 6.4 The Commissioning team and Legal and Governance services have been engaged in elements of this Plan throughout and agree to the course of action described in this report.
- 6.5 Update on progress and impact of the SEND Recovery Plan is reported at each Children and Young People's Partnership meeting and to School Forum.

## **7 ENVIRONMENTAL IMPACT**

- 7.1 The DfE SEND High Need provision Capital Grant (HNPCA), Grant, has enabled new SEND provision on school sites, with the creation of an Enhanced Resourced Unit at Uppingham Community College and a Nurture provision at Edith Weston school. A needs analysis is underway to inform how to utilise the remaining capital grant.

## **8 DATA PROTECTION IMPLICATIONS**

- 8.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks or issues to the rights and freedoms of natural persons.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 Local authorities are required to ensure their services are accessible to disabled people, to promote equality for disabled people, and to encourage their participation in public life.

## **10 COMMUNITY SAFETY IMPLICATIONS**

- 10.1 Children with disabilities by the nature of their disability and associated behaviours may pose a threat to themselves, their family, and members of their community. Their assessment and care plan will consider if this is a safeguarding risk or risk to the young person of entering the criminal justice system.

## **11 HEALTH AND WELLBEING IMPLICATIONS**

- 11.1 Practitioners and families will be aware of the particular vulnerabilities of disabled children. Disabled children are three to four times more likely than non-disabled children to be abused or neglected. They are more susceptible to bullying and to mental health disorders. Their families are more susceptible to higher levels of stress, lower levels of parental wellbeing and poverty. It is therefore particularly important that Rutland County Council provides good services to these families and that the services are provided with appropriate safeguards.
- 11.2 It is intended through the interventions described above that children will have their SEND needs identified and responded to appropriately and within the LA's statutory duties. The systemic development work associated with this programme will enable

the service to also respond to children's needs early, and therefore reduce the risk of children escalating into specialist SEND and into specialist mental health services such as CAMHS, which are already under increasing pressure to meet assessment and therapy timescales.

## **12 ORGANISATIONAL IMPLICATIONS**

- 12.1 There has been an unprecedented rise in demand for SEND support and assessments and EHC Plans. The increase in demand is being replicated regionally and nationally.
- 12.2 The SEND services are adopting new ways of working to respond to increased demand and trends in the SEND system, and to respond to the anticipated change as a result of the national review of the SEND Code of Practice 2015 and the anticipated new SEND Ofsted Inspection Framework.

## **13 SUMMARY AND CONCLUSION**

- 13.1 In working with schools and other education providers, the Recovery Plan projects are designed to underpin early action when children's social, emotional, or mental health needs start to escalate, and shape excellent inclusionary practice to prevent children needing EHCPs. There is evidence that the projects are assisting schools to act early where they see a child's social emotional and mental health (SEMH) needs are escalating and put in place support or evidence-based interventions that may prevent children moving into the SEND system and grow parent and carer confidence and belief that collaborative working across the SEND sector in Rutland, is meeting the needs of their children and young people.
- 13.2 This in turn enables children to continue successfully in mainstream education without the need for an EHCP and reduces the associated financial pressures.

## **14 RECOMMENDATIONS**

### **THAT THE COMMITTEE:**

- 14.1 Note the progress and emerging impact of the SEND Recovery Plan group of projects.
- 14.2 Endorse the actions planned to continue to positively impact the High Needs Budget deficit

## **15 THERE ARE NO ADDITIONAL BACKGROUND PAPERS TO THE REPORT**

## **16 APPENDICES**

Appendix A - Education Inclusion Partnership Panel Case Analysis And Methodology

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

## **Appendix A - Education Inclusion Partnership Panel Case Analysis And Methodology**

Between 24/02/2020 and 13/09/2021, 90 individual children's situations were reviewed by the EIP coordinator and presented to the EIP panel. The EIP coordinator deemed 64 (71%) of these to be at high risk of escalating to an EHCNA. There was consistent data available for 50 of this group, and this is the group of children that have been analysed in the main body of the report.

This analysis reviewed children's risk at the beginning of the intervention to otherwise progress to an EHCNA, and their likelihood of then either receiving full- or part-time TA hours should they have been assessed as needing an EHCP after that stage.

The costs provided to schools for TA hours is currently £11.26. The school year is 38 weeks, and the authority does not pay the first £6k costs since this is notionally included in schools budgets already. 38 children in this analysis were deemed likely to need 32.5 hours and 12 children likely to need 25 hours. This gives us a benchmark by which to determine the impact of the EIP on this specific group of children.

With the experience of the coordinator's assessment of children at the start of the intervention, it's possible to see from the data, as may have been predicted that children who show most successful outcome from EIP involvement were the ones assessed at the start as not needing an EHCNA.

For 21 of the 50 children where there was consistent data available, the EIP has had a high or very positive impact, and for 18 further children in this group, the EIP is continuing to improve outcomes; they may have required additional interventions, but an EHCP is still not deemed appropriate.

The EIP has had limited impact and other pathways appropriate for 6 children in this group of 50 analysed, and for the remaining 5 children, extra support has been found to be required and they may progress ultimately to an EHCP.