

## CHILDREN AND YOUNG PEOPLE SCRUTINY COMMITTEE

21 April 2022

### SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND) SERVICE PERFORMANCE AND UPDATE

Report Of The Strategic Director for Children and Families

Strategic Aim:	Building a Brighter Future	
Exempt Information	No	
Cabinet Member(s) Responsible:	David Wilby Portfolio Holder Education and Children's	
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Ward Councillors		

#### DECISION RECOMMENDATIONS

That the Committee:

1. Notes the performance, developments and challenges in the SEND service.
2. Notes and provides direction on recommendations for future actions.

#### 1 PURPOSE OF THE REPORT

- 1.1 To update Scrutiny Committee on the developments and performance of the SEND service and to note the drivers which require a whole system change.
- 1.2 The presentation and this report provide Scrutiny Committee with detail of the developments in the service and sets out the current challenges for the service as a result of growing demand and the legal burdens placed on Local Authorities and the steps in place to address these and to continue to improve the SEND service.

#### 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 SEND Code of Practice 2014

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.

2.2 These 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 and health 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 for adulthood and independence.
- To produce and maintain an up to date 'Local Offer' which sets out the local area's 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 NATIONAL AND LOCAL CONTEXT

- The SEND Review Green Paper (published 29 March 2022) sets out proposals for a system that offers children and young people access to the right support, in the right place and at the right time, so they can fulfil their potential and lead happy, healthy and productive adult lives. The consultation will be open for 13 weeks, closing on 1 July 2022. **See Appendix A**
- A new Ofsted Inspection Framework for local areas – Local Authorities, NHS and Schools, with a greater focus on inclusion and outcomes for children
- A national programme, which Rutland has been invited to and will take part in, to support Local Authorities to manage deficits in High Needs budgets, titled 'Delivering Better Value Programme'.

- Government Spending Review, which has resulted in delivery and investment in key initiatives, such as health and well-being in schools, Family Hubs, Reducing Parent Conflict, and new legislation to support Service families.
- National Health Service England, (NHSE), programmes such as the Neurodevelopmental Pathway and Key Worker Programme
- Leicester, Leicestershire and Rutland, (LLR), SEND Joint Commissioning Strategy, which is entering Year two of the Delivery Plan.

#### **4 WHAT WE HAVE DONE – WHAT’S WORKING WELL**

- 4.1 The SEND and Inclusion service including children with disabilities who are Children in Need, (CiN) is fully integrated with the Early Intervention service, which ensure that children’s needs are identified early, and a response put in place before children’s needs escalate and there is a need for statutory intervention. The service has in place an up-to-date Self Evaluation and Service Plan as well as a SEND Recovery Plan which are driving service improvements. This continuous service improvement is overseen by the internal Practice Oversight Group and the SEND Programme Board, both chaired by the Strategic Director for Children and families and the strategic oversight from the Children’s and Young People’s Partnership, comprising education providers, NHS commissioners and providers, parents, senior officers from RCC and is chaired by the Portfolio Holder for Education and Children’s services.
- 4.2 The implementation of the SEND Code of Practice is monitored by a joint Ofsted and CQC inspection framework, both under review. The last Ofsted/CQC inspection 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 which have been implemented. During this period the SEND service has also been subject to two Peer Reviews and will be due another one in Summer 2022.
- 4.3 The locality has bi-yearly reviews with the regional DfE SEND Advisor and the NHSE Improvement Lead. The last review was February 2022. The feedback highlighted the following:
- SEND remains a top priority for Rutland Local Area and this is reflected in the Children’s Strategy and Joint Commissioning Strategy (Local Authority and CCG).
  - So far in 2022, 145 Annual Reviews, out of a total of 175, have been completed within 12 months, achieving a percentage total of 83%, the highest recorded in the Region to date.
  - Transition deadlines for 15th February and 31st March are on-track for 100% completion.
  - Good co-production, parent reps make positive and constructive contributions, this reflects well upon the relationships and co-production across the Local Area.
  - The SEND Local Area in Rutland has the potential to both improve and strengthen its Local Offer for children, young people and parents, as well as, all

partners, including schools and clinicians.

## 5 CHALLENGES – WHAT WE ARE WORRIED ABOUT

- 5.1 In the past 3 years the SEND team has seen a significant increase in workload. There has been a 41% increase in the number of children with an EHCP and a 67% increase in the number of EHCNA requests. This number continues to rise rapidly, in spite of the measures put in place as part of the SEND Recovery Plan, due to the increase in parental requests and requests for pre-school aged children.
- 5.2 Over the last 2 years Covid-19 has led to a significant increase in Social Emotional and Mental Health (SEMH) referrals. Additionally, the number of children being diagnosed as Autistic has increased. These increases have put the SEND system under significant pressure.
- 5.3 There are 41% more annual reviews to undertake each year, in addition to the increase in the number of plans and requests, meaning that the team are experiencing significant pressures with each team member under pressure to complete an average of 50% more work.

Year	New EHCNA requests	Number of new EHCP's	Total number of EHCP's
2019	62	31	224
2020	63	44	259
2021	53	36	278
2022 as of end February 2022	16	5	280

## 6 RUTLAND'S PERFORMANCE

Year	% met 6 week deadline	% met 20 week deadline	% annual reviews held within 12 months	% informed within 4 weeks of an AR	% revised plans issued within 12 weeks of an annual review
2019-20	100%	100%	91%	93%	95%
2020-21	100%	20%	89%	74%	95%
2021 -22 (YTD end February 2022)	100%	100%	83%	40%*	92%

- 6.1 The increased demand has placed increased pressure on the SEND service, and the service is trying to address specific difficulties:
- To meet the statutory 4-week legal deadline for informing parents if we intend to cease, maintain or amend the EHCP following an annual review
  - To meet statutory legal deadline to issue a revised EHCP within 12 weeks of an Annual Review
  - To meet statutory legal deadline to issue an EHCP within 20 weeks of receiving a request
- 6.2 Rutland have always prided themselves on meeting its legal obligations. In previous years, the SEND service has only ever missed deadlines where they have been outside of our control, for example, access to schools during the Covid pandemic, schools unable to hold annual reviews within 12 months, school holidays impacting on their response times or parents requesting that they have longer to work with us on the draft planning process.
- 6.3 We know our counterparts in other local authorities do not meet these statutory deadlines, but it is clear from the DfE, directives and recent case law, as well as in the SEND Code of Practice, that Local Authorities must meet these legal deadlines.
- 6.4 In the East Midlands performance against issuing in the 20-week timescale is down by 27%, with 53% of EHCPs issued within the 20-week timescale, the average is 62%. Families can be assured that RCC has maintained high performance on its statutory deadlines, being consistently good or better performance than many other Local Authorities.

## **7 OUR SOLUTIONS FOR CHILDREN AND FAMILIES**

- 7.1 A co-produced SEND Recovery Plan is in place and having an impact with our education providers, mitigating the long-term impact of Covid-19.
- 7.2 RCC has made a significant investment in the Educational Psychology Service. The procurement and contract evaluation process is underway.
- 7.3 Support for Speech, Language and Communication needs has increased, with additional Speech and Language Therapist (SALT) input funded by the High Needs Fund, (HNF).
- 7.4 The nurture initiative has been highly successful within primary schools. Plans to support a transition 'nurture' pathway into Year 7 in Secondary Schools are in place.
- 7.5 Exclusions have reduced due to an early intervention social, emotional and mental health (SEMH), strategy, fixed term exclusions in Rutland are 2.8% compared to 10.9% nationally
- 7.6 The number of parents and carers accessing support and advice for ASD/ ADHD was 107, (Jan 2022)

## **8 CONSULTATION**

- 8.1 The SEND and Children with Disabilities, (CWD) services are legally obliged to

consult with children and families during a child's assessment and in the creation of an Education Health and Care Plan and annual reviews. The service will utilise its current communication channels with parents and carers such as the Local Offer, and the Rutland Parent Carer Voice to consult on any new arrangements.

- 8.2 The SEND case officers and CWD social workers are mindful of case law and the tribunal process when seeking a young person's wishes.

## **9 ALTERNATIVE OPTIONS**

- 9.1 Options set out in Point 16.

## **10 FINANCIAL IMPLICATIONS**

- 10.1 The Council is carrying a deficit on the Dedicated Schools Grant, nearly £1m, caused by High Needs pressures which it aims to recover over time. In statute, the Council is not required to fund this deficit but with funding received barely sufficient to meet current demand, the Council is unclear as to how the deficit will be funded. There is a national problem shown by the number of LA's coming under the support arrangements of the DfE, with 45 LAs in the Delivering Better Value Programme and 14 in the Safety Value Programme.
- 10.2 To Council is one of the 45 LA's receiving support from the DfE from its "Delivering Better Value" programme. There is very little information about the specifics of the programme, but it is thought to be a step down from the Safety Valve<sup>1</sup> programme used to support the LAs with the largest deficits.
- 10.3 The DfE has committed £85m over 3 years for the delivering better value programme. There are 44 other authorities currently in the programme. Funding allocations for individual authorities have not yet been decided. Updates on this programme will be provided through schools' forum, finance reports and other update reports as the details are confirmed.
- 10.4 When the current SEND policy was introduced it increased the requirements for the LA to provide a range of services and manage the contracts that follow, this includes Mediation Services, Independent Advice and Support, (SENDIASS), and Educational Psychology services which all come at a significant cost.
- 10.5 Any health provision which educates, such as Speech and Language therapy, is 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. This was recently evidenced when the Educational Psychology contract was renewed the Council highlighted a potential pressure on the general fund of c£80k per annum.

## **11 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 11.1 The Council has specific legal duties, processes and timescales to follow to identify, assess and support children with SEND and their families and these duties are set to increase.
- 11.2 In addition to the increase in requests and issued EHCP numbers, the service is receiving more Subject Access Requests (SARs), complaints and Freedom of

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<sup>1</sup> <https://www.gov.uk/government/publications/dedicated-schools-grant-very-high-deficit-intervention>

Information (FOIs) requests. The SARS and complaints are partly because the service is challenging assessment requests through the SEND multiagency Panel and to make the most effective and efficient use of the HNF, a budget in deficit.

11.3 The service is faced with a number of persistent and perpetual complainants, who seek answers continually and directly from Case Officers and will simultaneously submit complaints that go through each stage of the Corporate Complaints process.

11.4 The increase in FOI requests is the national and local media interest in children's wellbeing some related to Covid 19, some instigated by national pressure groups, such as SEND Jungle. The service receives multiple requests on the same subject and recent FOIs have required historic data going back over a 9-year period. Each request took multiple hours to compile and places huge drain on staff resources.

11.5 The SEND service is working closely and collaboratively with our Disabled Youth Forum and RPCV to manage the relationship between RCC and parents and carers and is fully supported in this by our SENDIASS Provider.

## **12 DATA PROTECTION IMPLICATIONS**

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

## **13 EQUALITY IMPACT ASSESSMENT**

13.1 The Council has specific legal duties, processes and timescales to follow to identify, assess and support children with SEND and their families and these duties are set to increase.

## **14 COMMUNITY SAFETY IMPLICATIONS**

14.1 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.

## **15 HEALTH AND WELLBEING IMPLICATIONS**

15.2 Rutland's SEND and Inclusion Strategy, (2019) clearly sets out Rutland's intention to meet the education, health and social and care needs of children and young people with special education needs and disabilities.

15.3 The strategic Children Plan 2022/2025 has a clear priority to support and meet the needs of children who are at risk of becoming vulnerable during their education, which includes children with SEND.

15.4 The Health and Well Being Strategy and Place Plan 2022 has identified children and young people with SEND as a priority.

## **16 ORGANISATIONAL IMPLICATIONS**

16.1 There is an increase in parental applications for EHCNA and through tribunal challenges, which is in part due to parental perception in the confidence of mainstream schools to manage their children's needs. The SEND service continues

to address the presenting issues which limits capacity to focus on resolving the inherent issues in the system. Performance for the service, particularly against national indicators, is at risk with performance for key timescales falling.

16.2 Human Resources - In the same time period, whilst we have seen a significant increase in need, we have not seen an increase in the capacity within the team.

16.3 In order to relieve pressures which were identified as part of the EHCNA process we have already made some changes within the team, including, a Liquid Logic case management system, and work has started on an automated performance reporting system. The service has implemented a duty system to field parental calls and emails, and to respond in a timely but manageable way.

16.4 In order to maintain the high level of customer satisfaction and compliance with the legal framework and statutory deadlines outlined in the Children and Families Act and the SEND Code of Practice, additional staffing has been agreed to meet current demand – 1fte Case Officer and 0.5 SEND Support Officer. This will be funded via the Changing Lives grant for a fixed period of 12 months. The service is currently out to advert for these posts as well as a 1fte Case Officer post, recruitment is very challenging with little interest or poor-quality applications. The service is currently utilising 1fte Agency Case Officer.

16.5 Procurement Implications - Provision for our children and young people:

- The most local Independent Special School has seen a reduction in placements from 10-12 pupils to approximately 3 pupils.
- Eighteen children and young people are placed in eleven local independent special schools.
- There is growing pressure across the three localities, (LLR) for special provision, which reflects the national picture. The Government's national Capital funded Programme is intended to address some of this shortfall.
- Rutland has increased provision, (10 places, 2020) in UCC, and is on track to increase 10 mainstream plus secondary places per year over the next 5 years, also at UCC.
- RCC's Inclusion service is putting in place innovative solutions for children who may need educational provision other than at school, utilising hospital school. tuition, and alternative provision such as the Melton Learning Hub and New Leaf Triangle, which are securing good and creative education outcomes for children and young people.
- Rutland's provides respite including direct payments. 40 families are accessing the Aiming High Short Breaks respite and 78 children are accessing Positive Activities, (January 2022 figures).

## **17 CONCLUSION AND SUMMARY**

17.1 As outlined, there are a number of work streams underway to bring about a whole SEND system change. This includes the work of the SEND Capital Programme, and the SEND Recovery Plan. Early indications are that the projects in our SEND Recovery Plan, such as our EIP, the therapeutic support, our specialist teachers



and the work of RCC's inclusion service, appear to be containing the needs of some children, especially those with SEMH. However, this is a 5-year plan, and there is further development work to be undertaken to have longer term impact.

- 17.2 The service has undergone a review and is looking at opportunities across Early Intervention to expand roles and reshape where provision is placed, upskill and provide training opportunities to enhance practitioner knowledge in order to build greater resilience and capacity within the SEND service, for example strengthening our Inclusion Service and focus our response to children with SEMH.
- 17.3 Schools Forum have agreed funding to schools, through the SEND Recovery Plan, in order to enhance their skills and confidence to be inclusive and to commission specific therapeutic services for children in school as well as a whole scale review of the funding bands and more creative use of funds, with less reliance on traditional methods of support in the classroom.
- 17.4 The service will complete the review of the current model for the Early Years pathway, including the Parks Special School.

## **18 RECOMMENDATIONS**

- 18.1 Notes the performance, developments and challenges in the SEND service and provides direction and endorses the recommendations for future actions.

## **19 BACKGROUND PAPERS**

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

## **20 APPENDICES**

- 20.1 Appendix A – SEND and Alternative Provision Review Green Paper

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