

Meeting date: 17th June 2021

Report to: Full Cabinet



Subject/report title: Special Educational Needs & Disability (SEND) – progress update and future improvement plans

Report from: Louise Rees, Director of Children’s Services & Skills

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Wards affected:

All Wards

Public/private report: Public

Exempt by virtue of paragraph: N/A

1. Purpose of Report

- 1.1 To seek endorsement for the vision for Solihull’s children with Special Educational Needs and Disabilities (SEND).
- 1.2 To update members on developments and improvements to date in the council’s SEND service and to report on current and projected demand pressures.
- 1.3 To set out the stages of the service improvement programme from 2021/22 – 2023/24, the expected outcomes and the additional resource needed to deliver those outcomes.
- 1.4 To confirm the timescale for a revised DSG High Needs Block recovery plan.

2. Decision(s) recommended

- 2.1 To endorse the vision for children with SEND as set out in paragraphs 4.3 and 4.4.
- 2.2 To note the progress to date in improving the council’s support for children with SEND.
- 2.3 To note the demand pressures detailed in paragraphs 3.2 to 3.3 and to approve the SEND improvement programme set out in paragraphs 5.1 to 5.3.
- 2.4 To approve an allocation of £1.176 million from the Budget Strategy Reserve to cover the additional staffing for the service improvement programme, for the period to March 2024 as set out in the report.

- 2.5 To request the Budget Strategy Group to consider an allocation of £528,000 per annum from 2024/25, for the on-going resource requirements.
- 2.6 To note the proposed invest to save funding for additional staff of £67,000 in 2021/22, rising to £100,000 per annum from 2022/23 onwards from the High Needs Block of Dedicated Schools Grant (DSG), to enable the council to respond to significant demand pressures within SEND.
- 2.7 To note that officers will bring an updated High Needs Block recovery plan to Cabinet for approval in autumn 2021

3. Background

- 3.1 Cabinet will be aware that Children and Families Act 2014 introduced the biggest reforms in a generation for children and young people with special education needs. These included:
- A single assessment process for children aged 0 – 25, which is more streamlined, better involves children, young people and families and is completed quickly
 - An Education Health and Care Plan (EHCP) which brings services together and is focused on improving outcomes; and
 - An offer of a personal budget for families with an EHCP
 - Joint commissioning for education, health and care provision
 - Local Offer providing information on services

3.2 National Context

- 3.2.1 The National Audit Office has stated that the “[system for supporting pupils with SEND is not, on current trends, financially sustainable](#),” and that the Department for Education had not fully assessed the likely financial consequences of the 2014 reforms
- 3.2.2 Since EHCPs were introduced in 2014, the demand for SEND support has far exceeded original expectations and is no longer workable – with a 68% increase nationally and 53% in Solihull. The number of EHCPs is increasing year on year, with many parents believing they are the route to additional funding to support their children, and that they pave the way for places at specialist SEND schools. In particular, the increase has accelerated during the pandemic and especially in recent months.
- 3.2.3 A survey carried out by [f40](#)¹ in the Autumn of 2020 showed that 89% of LAs that responded expected DSG High Needs budgets to be in deficit for 2020/21 and most LAs say deficit budgets are rising each year, some doubling every year. The ability for local authorities to (a) keep up with the amount of local provision needed and (b) keep

¹ The f40 group was launched over 20 years ago with the aim of influencing significant change in the way government allocates funding to local authorities and schools. It is made up of 42 local authorities who are among the lowest funded for education in England and of which Solihull is part.

pace through staffing capacity with the increasing demand from parents is being severely tested and Solihull exemplifies those challenges.

3.3 Solihull Context

- 3.3.1 In October 2019, Cabinet made a financial investment of £1.2m over three years from 2020-21 in recognition of the need to improve SEND services for families in Solihull and through doing so, lay the foundations of a DSG High Needs recovery plan. This provided much needed specialist leadership through the creation of a new Assistant Director post with administrative support, a Business Change Head of Service, additional legal support, an additional commissioning post and one post for the Statutory Assessment team (StART) to begin to deal with the backlog of EHCP annual reviews.
- 3.3.2 Whilst this addressed leadership and governance capacity issues as understood at that time, it did not identify any further front line service delivery capacity to begin work on the backlog of EHCP annual reviews. All posts were filled in a timely manner apart from the administrative support for the new Assistant Director, which due to other circumstances was able to be met from within existing resources. It was also acknowledged within the report that the full cost of specialist placements in 2019/20 would increase to £10.674m, an increase of £3.4m or 46.8%. Consequently, the overall deficit in the High Needs Block of the DSG could not be recovered within a three-year period, although it was hoped that the in-year position would return to balance within that period as reported to Cabinet in February 2020.

4. Service Improvements to date

- 4.1 The new Assistant Director started in post in April 2020 and through his expertise in the field, quickly identified a number of performance and the capacity issues within the SEND 0-25 services which centred on the StART team and the absence of an early help offer which has resulted in an escalation of need to statutory intervention (either through an EHCP or Child in Need/Child Protection Plans). There is now a greatly strengthened and expert SEND leadership team in place with a new Head of Service (in post November 2020), a new Team Manager for StART from January 2021 and an Operations Manager who started with the council in April 2021. Further, the introduction of a transformational change programme- Reshaping Education - also sees, amongst other things, the creation of a new Inclusion Service and Early Years Team to provide an extensive early intervention to prevent escalation of need.
- 4.2 Despite many challenges both nationally and locally since the introduction of the SEND reforms in 2014, this new leadership team has already taken significant steps as part of the SEND improvement journey. These form the foundations of being able to deliver better outcomes for children:
- The development of a comprehensive SEND action plan - oversight of all operational, cross partnership and strategic improvements – governed by the SEND Board (Chief Executive, Deputy Chief Executive, Director of Children's Services and Assistant Director, Inclusion and Additional Needs), a High Needs Service Board (internal) and a new multi-agency Joint Additional Needs Board (Multi agency). There are reporting into schools through SSSAB, the EdSEND Group and Head Teacher Reference Group.

- Specific strands of the high needs recovery programme have been reset with plans for delivery this year and clear lines of accountability. There will be an update to Cabinet on the detailed financial position later this year.
- An improved communication system in place with half termly (six per year) SEND newsletters for internal staff, schools and parents.
- New processes and procedures developed and in place, ensuring that new EHCPs issued are now legally compliant and subject to timely and robust decision making.
- The 51 EHCPs which were outstanding for more than 20 weeks at the start of 2021 (some by many months) have been identified and progress is now underway to issue these plans and make provision for the children - reduced to 21 to date. By the nature these are all complex cases but all are now being actively worked.
- Approval has been given to bring in up to 10 additional staff on fixed term contracts for 12 months to clear the backlog of annual reviews.
- Contract documentation and quality assurance/arrangements have been developed for education placements (with support from Corporate Procurement).
- The StART Team has been reconfigured to provide clear accountability for the different aspects of the business (new requests, annual reviews, complex cases and tribunals) with senior oversight of key internal and legal performance measures.
- 90% of children transferring to Secondary school in September 2021 had their placement identified by the 15th Feb legal deadline; and 83% of plans were finalised by this date.
- The Liquid Logic module for SEND casework was successfully implemented at the end of March. Once fully embedded this will, amongst other things, provide greater performance monitoring and managerial oversight and improve data analysis.
- The local authority and Clinical Commissioning Group (CCG) have completed a self-evaluation audit to ensure there is an evidenced based consensus on the current level of performance in the borough to inform our future priorities and Joint Additional Needs Strategy to improve outcomes for children and young people with additional needs, including SEND.

4.3 Importantly, we have also developed a Partnership Agreement with the CCG and with the newly established Parent Carer Voice (PCV) as our first significant co-produced strategic document with parents of children with SEND. This affirms that **“all children, young people and their parents and carers have equal opportunity to meaningfully participate in the decisions that affect them developing the skills and knowledge required to be decision makers in their own lives”**.

4.4 This sits within our broader vision for all our children and young people in Solihull, which is **“Transforming life chances by holding children and young people at the heart of all we do”**. We will achieve this by being ambitious for our children and young people – ensuring all have access to a high quality, inclusive education which empowers them to lead independent and successful lives.

5. Next steps and expected outcomes from the SEND improvement journey

5.1 Next 3 months

- Reshaping Education transformational change programme creating early intervention capacity
- The SEND audit overseen by the JAND Board will inform the new Additional Needs and Disabilities Strategy.
- Workforce development within the StART Team to ensure all staff have the skills, knowledge and expertise to provide a high quality and legally compliant service which provides appropriate support and challenge to the system and builds parental confidence.
- A full review of decision making is underway to ensure children receive the right level of support (and funding) and that education, health and care services are all making evidenced based decisions. This will increase transparency and consistency in decision making and seek to embed more inclusive approaches in non-specialist services.

5.2 Next six months

- Multi-agency Joint Additional Needs Strategy in place to improve outcomes for children and young people with additional needs.
- Embedding robust commissioning arrangements, quality assurance and oversight and monitoring of independent school places so where these are necessary there is greater accountability for value for money and children's outcomes. This will also include developing the marketplace to meet identified gaps where such provision is not feasible in the maintained school sector (i.e. education mentoring to address school refusal).
- Developing commissioning briefs/Service Level Agreements for maintained special schools and academies so there is agreement on the level of needs appropriate for a specialist setting, a focus on greater inclusion in mainstream settings and a stemming of the flow of children through special school into independent provision.
- Reshaping Education delivering a fundamental redesign of education services and priorities to address the challenges in the Solihull education system and provide early help to prevent escalation of needs requiring statutory intervention
- Developing a Graduated Approach (improving and increasing access to support through universal and targeted services ahead of quick escalation to specialist services)
- Developing an Inclusion Strategy (raising the expectation that more children can have their needs met in mainstream school).
- Developing an Alternative Provision Strategy to ensure that the council can meet the needs of children who are unavoidably unable to attend school and improve outcomes.
- Opening a new intervention and assessment provision in partnership with Solihull Academy for excluded secondary aged pupils or those at risk of exclusion.
- Development of an updated High Needs Block recovery plan

5.3 Longer term

- Additional specialist provision, including our new 100 place special school for children and young people with Autistic Spectrum Conditions and a range of additional resourced provisions, including the new alternative provision service for excluded children or those at risk.

- In partnership with Parent Carer Voice there will be a greater focus on our co-production with children and young people; and this is an expectation of the local area inspection framework.
- A mechanism for escalating complex cases and those which require multi-agency planning is under development. This will help children to access the right provision and ensure resources are not duplicated/misaligned across the system.
- A dedicated, time-limited, team will process the outstanding EHCP annual reviews and take any resulting action to ensure children's needs are met in the most effective way.
- The Specialist Commissioning Strategy is being remodelled to provide a 3-year programme. This will be embedded with an internal SEND forum and dedicated role to focus on analysing trends and proactively addressing provision gaps. Additional education commissioning capacity will provide greater monitoring of independent placements, outcomes and costs.

6. Resources needed to deliver the improvement programme outcomes

- 6.1 Given the scale of the challenges and demand pressures both national and locally for SEND services, the associated financial risk and the potential detrimental impact upon outcomes for children and young people, the SEND Improvement Board, chaired by the Chief Executive, has given consideration to the resources needed to enable the council to respond to the significant demand pressures within SEND and to ensure the SEND Improvement Programme stays on track. These are a mixture of DSG and core council funding and also a combination of one off and ongoing requests. They represent the best assessment of what is needed over the two years of the SEND Improvement programme and the High Needs recovery plan. A summary of the resources requested is set out in Appendix 1, with further detail provided in 6.4.1 to 6.4.4 below.
- 6.2 In the view of the Director of Children's Services and of the Assistant Director, the additional funding requested in this report will provide sufficient resources for the service improvement programme and to deal with the increase in demand caused by Covid-19. This assumes that new burdens funding will be provided by government for the SEND Review recently announced by the DfE, which is due before the end of 2021.
- 6.3 Whilst the full national and local demand pressures and impact of Covid are as yet unknown, the measures being taken will ensure the council is well placed to respond to any emerging issues, including the outcome of the SEND review and SEND Green Paper.
- 6.4 The High Needs Recovery Plan set out in 2020 indicated there would be no in-year deficit in 2021/22 and progress would be made on reducing the cumulative deficit. Given the issues outlined, this is unlikely and capacity is being put in place to bring forward a new recovery plan for September 2021. The High Needs Block outturn for 2020/21 was an in-year deficit of £3.1m and a cumulative deficit of £9.6m.

6.4.1 Cost avoidance (DSG funded, on-going)

- Complex Case Senior EHCP Co-ordinator
- Independent School EHCP Co-ordinator

6.4.2 There are a number of complex cases which require significant work to ensure children's needs are assessed appropriately and the right provision is identified, funded and reviewed. This will prevent children and young people's needs escalating, resulting in a placement in high cost independent specialist provision (ISP), some with an annual cost in excess of £200k per year. Solihull also has a higher portion of children and young people with EHCPs placed in ISPs (11% compared to 6% nationally) and lower proportion in mainstream schools (37% compared to 48% nationally), all of which builds additional cost into the High Needs Block of the DSG. These posts will both prevent placements in ISPs and also return children to in-borough/lower cost provision.

6.4.3 SEND Improvement Capacity (Council funded, mixture of one-off and ongoing)

Officers are frontloading the SEND Improvement Programme to perpetuate change, but this work is being stifled by a lack of operational capacity due in the main to the volume of complex cases and increasing demand for EHCPs. There are also a number of single points of failure, with expert SEND knowledge and experience limited to a small number of officers and the potential for inadequate capacity to discharge the council's statutory SEND duties appropriately. It is proposed that this should be addressed as follows:

- SEND Deputy Service Manager to support business as usual across the service and to allow the Head of Service to direct sustained focus to Improvement journey. *On-going funding.*
- Finance/data Officer to provide real time forecasting of spend linked to EHCP requests, Panel and commissioning decision-making and develop the recovery plan. *Two year funding.*
- Disagreement Resolution Officer to resolve parent concerns outside of legal intervention, preventing escalation to the First Tier SEND Tribunal and avoiding associated costs. *Two year funding.*
- Statutory Quality Assurance and Improvement Officer – cross cutting overview of quality and full, timely compliance by service and partners. *On-going requirement.*

6.4.4 Demand Pressure (Council funded)

- EHCP Co-ordinators (x3) to address additional volume of EHCP requests as referenced in paragraph 6.3 (on-going)
- Educational Psychologist (*on-going, from April 2022*) to address any clinical psychological assessments required to produce EHCPs arising from the rise in parental and school requests.

6.4.5 Sustainability of previous resource approval

Cabinet in October 2019 gave approval for £1.2m over three years – April 2020 to March 2023 to lay the foundations of a DSG High Needs recovery plan and to provide much needed specialist leadership. This funding has supported how we have addressed the leadership and governance capacity issues as understood at that time.

Of those six posts detailed in paragraph 3.3.1, three will no longer require on going funding:

| Post | Exit strategy beyond 2023 | On-going MTFs funding sought beyond 2023? |
|-----------------------------------|---|--|
| AD Inclusion and Additional Needs | Funded from existing funding for AD post | No |
| Secretary to above | Funded through vacancy management | No |
| Specialist legal support | Resource needed permanently - volume | Yes |
| Head of Operations | Wider Directorate governance role, needed permanently | Yes |
| EHCP backlog | Backlog will be dealt with within life of funding | No |
| Commissioning Officer | Resource needed permanently – volume of education placements required to respond to increasing demand | Yes |

7. Options considered

- 7.1 Maintaining the status quo staffing levels and associated staffing budgets, would in the first instance protect the financial position of the council in 2021/22. However, it is clear that the longer term consequences of this would damage the now improving performance of the council's response to supporting children with SEND, leaving the council at risk of breaching its statutory duties and mean that children's needs are not appropriately met.
- 7.2 The new SEND Local Area Inspection framework planned for implementation at the end of 2022 will also place a greater imperative for ensuring the Council and CCG have made significant improvement in achieving better outcomes for children and young people. Furthermore, there would be a detrimental effect on the High Needs financial recovery plan, which is underpinned by improvements in our service delivery and provision of local placements.

8. Reasons for recommending preferred option

- 8.1 To deal with the significant increase in demand, ensure the council can meet its statutory duties and ensure readiness for the next SEND area inspection. The additional resource would also avoid destabilising the financial recovery plan for the

High Needs block of the DSG.

9. Implications and Considerations

9.1 How the proposals in this report contribute to the delivery of Council Plan priorities:

| Priority: | Contribution: |
|--|---|
| Planning & delivery for Solihull's low carbon future (to include biodiversity implications). | The proposals will enable more families to access specialist provision closer to home and limit the number that have to travel, in some cases significant distances, to access provision outside of Solihull. |
| Managing demand and expectation for public services. | Reshaping Education and improvement capacity outlined will enable children's needs to be met without high cost statutory intervention. |
| Developing our approach to services for adults and children with complex needs. | Resourcing the SEND improvement programme and development of the Joint Additional Needs Strategy will improve outcomes for the most vulnerable children and young people in Solihull. |

9.2 Consultation and Scrutiny:

9.2.1 The DSG financial position, the factors that have led to the deficit and the actions already taken have been set out in reports to the Solihull Schools Strategic Accountability Board, EdSEND group and the Schools' Forum. The Forum is a key stakeholder in matters relating to the DSG

9.2.2 The Headteacher Reference Group meets bi-monthly to provide support and challenge and is a critical partner on our SEND Improvement Journey.

9.2.3 Officers are also in working closely with Solihull Parent Carer Voice to co-produce improvements and consult on proposed changes to improve outcomes for children and young people with additional needs.

9.3 Financial implications:

9.3.1 Whilst there is no longer a requirement to submit a recovery plan to the DfE, the council needs to have a Recovery Plan to address the deficit. A new plan will be brought forward to Cabinet in the autumn.

9.3.2 The report sets out the request for the resources required to develop, implement and monitor the Recovery and SEND Improvement Plans. The proposal is for £1.176 million of council funding during the current MTFS period 2021/22 to 2023/24 and for £528,000 of on-going funding to be built into the updated MTFS from 2024/25. Invest to save DSG funding is also proposed of £67,000 in 2021/22, rising to £100,000 per annum from 2022/23 onwards.

- 9.3.3 Cabinet is asked to approve an allocation of £1.176 million from the Budget Strategy Reserve to cover the funding requirement for the current MTFS period. Subject to adjustments from the Final Accounts report elsewhere on the agenda, the latest forecast balance on the Budget Strategy Reserve at the end of the current MTFS period (March 2024) is £12.849 million.
- 9.4 Legal implications:
- 9.4.1 Whilst the council is no longer required to submit a Recovery Plan to the DfE, without robust recovery and improvement plans, the council would be at risk of not meeting its statutory responsibilities as specified in the Children and Families Act 2014 and outcomes for children and young people with SEND will deteriorate.
- 9.5 Risk implications:
- 9.5.1 Failure to deliver robust recovery and improvement plans will result in the council being unable to meet its statutory duties for children and young people with SEND.
- 9.5.2 Any risks associated with the elements of the Recovery Plan itself will clearly be identified in the future report to Cabinet detailing the Plan.
- 9.6 Equality implications:
- 9.6.1 The proposals outlined actively seek to reduce inequality and improve outcomes for disadvantaged groups and those children and young people with additional needs.
- 10. List of appendices referred to**
- 10.1 [Appendix 1 – SEND Resource Proposals](#)
- 11. Background papers used to compile this report**
- 11.1 N/A
- 12. List of other relevant documents**
- 12.1 [National Audit Office Report: Support for pupils with SEND in England](#)

Appendix 1 – SEND Resource Proposals

| Post | Cost £k | | | |
|--|------------------------|-------------|-------------|---------------------|
| | 2021/22 | 2022/23 | 2023/24 | 2024/25 On-going |
| Cost avoidance (DSG funded, on-going) | | | | |
| • Complex Case Senior EHCP Co-ordinator (Independent Schools, LAC and high cost provision) | 37k | 55k | 55k | 55k |
| • Independent School EHCP Co-ordinator | 30k | 45k | 45k | 45k |
| SEND Improvement capacity (Council Funded) | | | | |
| • SEND Deputy Service Manager (On-going funding) | 45k | 67k | 67k | 67k |
| • Statutory Quality Assurance and Improvement Officer (On-going funding) | 23k | 34k | 34k | 34k |
| • Finance/data Officer (Two year funding) | 31k | 47k | 16k | 0 |
| • Disagreement Resolution Officer (Two year period) | 30k | 45k | 15k | 0 |
| Demand Pressure (Council funded) | | | | |
| • EHCP Co-ordinators x3 (On-going funding) | 90k | 135k | 135k | 135k |
| • Educational Psychologist (On-going, from April 2022) | 0 | 70k | 70k | 70k |
| Previous resource allocation (Oct 19) on-going requirement | | | | |
| Specialist legal support | All Posts Fully Funded | | 71k | 71k |
| Head of Operations | | | 102k | 102k |
| Commissioning Officer | | | 49k | 49k |
| TOTALS: | 67k | 100k | 100k | 100k |
| DSG Funding | 219k | 398k | 559k | 528k |
| Council Funding | | | | |

The proposed DSG funding would be 'invest to save' monies. I.e. the impact of the new posts on the DSG deficit will be greater than the cost of the posts.

Total requested from the Budget Strategy Reserve to cover Council funding requirements during the current MTFS period 2021/22 – 2023/24 = **£1.176 million** (£219k + £398k + £559k).

A further £528k per annum will be requested to be built into the new MTFS, from 2024/25.

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