

Children's and Adults' Care and Education Committee

7 February 2019

The SEND Transformation Plan

Report by the Director of Children's Services and the Director, Corporate and Commercial

[Easy Read version of this Committee report at Annex 7]

Call-in deadline 5pm on Thursday 21 February 2019 (ten working days after the meeting)

Purpose

To report the findings of the consultation process on the draft SEND Transformation Plan, so that the results can inform the budget setting process for 2019/20.

Recommendation of the Portfolio Holder for Children's Services

To **resolve** that:

1. the results of the consultation process on the draft SEND Transformation Plan are noted and considered;
2. the draft Transformation Plan is approved in principle, subject to:
 - a. the approval by Full Council at its meeting in February of the related budget provisions for 2019/20, and to
 - b. the process set out in paragraph 10: and
3. the proposed Written Statement of Action, as shown in **Annex 12 (to follow)**, is approved for submission to Ofsted (ref. para 5).

Benefits to the Community:

The aim is to bring expenditure on services in year into balance with the Dedicated Schools Grant (DSG) by 2021/22, and for the Local Area to better meet its statutory obligations for SEND.

Key Points

- A. It was resolved at the Children's and Adults' Care and Education Committee meeting on 22 November 2018 that a consultation process on the draft Transformation Plan be undertaken, the results of which will inform the Council's budget decision-making process for 2019/20.
- B. The consultation process, details of which can be found in the Consultation section below and in **Annexes 1 to 6** (available to view online in this agenda - links on page A5 of the report), ran from 13 December to 20 January.
- C. The summary of the full findings of the consultation process can be found in **Annex 9, with an easy read version in Annex 8**. A redacted version of the actual online submissions is available to [view online in Annex 10](#). Key headlines are:
 1. Support for children and young people with special educational needs is a statutory duty and must be funded. Rather than cutting services the Council should lobby central government for adequate funding and find resources from elsewhere in the Council's budget/ assets
 2. More local provision is welcomed, but must be high quality. Comparable provision must be established before reductions in out of borough/ independent placements are implemented

3. Early intervention is recognised as impactful but to be successful it must be adequately resourced, and it cannot and must not replace statutory support
4. Annual reviews of EHCPs are important and must be focussed on children and young people's needs, not driven by a target to reduce provision
5. EHCP Coordinators / SEN Caseworkers need training and support to produce quality documentation and support parents to navigate the process; better retention would be helpful in building relationships
6. Achieving for Children and Kingston Council need to regain the trust and confidence of some parents of children and young people with special educational needs
7. Children and young people want teachers and professionals to be honest, supportive and work together
8. Children and young people want their individual needs and learning styles to be understood and responded to, including appropriate learning environments; a wide range of interesting and fun lessons and leisure opportunities
9. Young people want support post 16, work experience and support to prepare for adulthood.

Context

1. There are approximately 3,700 children and young people with SEND aged 0 to 25 living in, or going to school in Kingston; 1,160 children and young people living in Kingston have an Education, Health and Care Plan (EHCP). Over the past 4 years the total number of EHCPs in RBK has increased each year by between 7 and 12%.
2. Expenditure on services funded by the Dedicated Schools Grant (DSG) has exceeded Government grant allocation since and including 2014/5. The accumulated overspend is forecast to be £13m by the end of 2018/9, and would be £16m without the £3m Dedicated Schools Grant (DSG) advance provided by the Department for Education (DfE) in the current financial year. Without significant changes to the local system of providing education for children and young people with special educational needs and disabilities (SEND), the accumulated overspend is forecast to be £46m by 2022.
3. The cause of the overspend is the mismatch between the amount of funding provided by Government in the High Needs Block (HNB) of the DSG and the cost of delivering related services. 95% of these services relate to education provision for children and young people with SEND.
4. The delivery of an action plan (i.e. the SEND Transformation Plan) that brings Kingston's spending on high needs to a sustainable level that matches spending on high needs to the income it expects to receive in future years is a condition stipulated by the Department of Education of the £3m DSG advance Kingston received in 2018/9.
5. As explained in the [last report to this Committee](#), in addition to the financial situation, there is a need to improve the quality of education provision for children and young people with SEND in Kingston. Proposals to deliver this service improvement, including issues identified in the recent [Ofsted and CQC Local Area SEND inspection](#) and detailed in the resultant Written Statement of Action (to follow as **Annex 12**), are also incorporated in the draft SEND Transformation Plan.

Proposal and Options

6. In the context of the financial position in Kingston and the need to reduce forecast growth in spending on EHCPs and SEND support, as well as the need to improve the quality of provision, the draft SEND Transformation Plan (attached at [Annex 1 in the agenda online](#) for this meeting), which was previously submitted in hard copy to the Committee as Annex 3 (which can be viewed [here](#) in the agenda for the last meeting on 22 November) contains proposals to address five key issues over the next three years:
- developing new approaches to early intervention so that children with SEND are supported to remain in mainstream schools and to be supported by their school at SEN Support level without needing EHCPs
 - increasing the range and quality of local education, health and care provision for children and young people with SEND
 - improving business insight and implementing more commercial approaches to the commissioning of SEND placements and support
 - engaging all stakeholders, including all parents and carers, in reforming the SEND system and changing attitudes and behaviours
 - promoting independence and strengthening transition for children and young people with SEND through the school phases and into their adulthoods.

Consultation

7. The draft Transformation Plan, which was published on the Council website in November, was additionally made available in an easy read form. The consultation ran from 13 December to 20 January. The consultation comprised a survey available online, in hard copy and in easy read versions and three community drop in sessions providing the opportunity to access information, discuss and feedback on the draft Plan with Officers. There were also twelve focus group held with children and young people, and a number of 1:1 interviews with young people aged over the age of 18 years. Associated materials are **attached online** for this agenda as **Annexes 1 to 6** (links on page A5 of the report*)
8. The online consultation was hosted in the SEND Consultation Hub area of the AfC Local Offer website. This and other access arrangements were advertised via:
- i. direct mail to all Kingston families including a child or young person in receipt of an Education, Health and Care Plan and / or included on the Disability Register
 - ii. the Council's and AfC's social media channels and websites
 - iii. the network of local voluntary sector organisations
 - iv. early years providers, schools and colleges
 - v. the school governor information service
9. 26 people attended the community drop in sessions, 95 returned a completed survey, and 136 children and young people attended focus groups and 1:1 interviews.

Timescale

10. A report elsewhere on the agenda for this meeting sets out proposals for the Committee to consider the Schools Budget for the 2019/20 financial year, and Full Council will consider its Budget for 2019/20 at its meeting on 26 February 2019. The wider Transformation Plan will be regularly reviewed and updated at the SEND Partnership Board (six meetings per year) and published on an iterative basis on the Local Offer and council websites, with effect from the start of the new financial year.

Resource Implications

11. The draft SEND Transformation Plan includes detail on resource and financial implications. If no action is taken the overspend on SEND will be greater than could be met from the Council's general fund and reserves. The specific and fundamental financial implication of not agreeing and implementing a plan which brings expenditure on SEND into balance with the DSG is that the Council may not be able to set a balanced budget for 2019/2020.

Legal Implications

12. The Council is required under the School Standards and Framework Act to set a Schools Budget for its area in consultation with the Schools Forum. The Schools Budget covers areas of expenditure as defined in Regulations, including funding for individual school budgets, provision for children and young people with high needs, early years provision and other statutory education services relating to individual pupil education such as education welfare and admissions. The Schools Budget is supported by the Dedicated Schools Grant ('DSG'). The Council is required to use the DSG only for the purposes of the Schools Budget and in accordance with conditions published by the Secretary of State. The Council can however add to the Schools Budget from other sources.
13. The High Needs Block of the DSG is provided to fund educational provision for children and young people with SEND and provision for children who need alternative education outside school.
14. New duties on local areas regarding provision for children and young people with special educational needs were set out in the Children and Families Act 2014, which came into force in September 2014. These include the replacement of statements of special educational needs with Education Health and Care Plans ('EHC plans'). An EHC plan is one document which sets out a child's or young person's special educational needs; the outcomes sought for him or her; the special educational provision required by him or her; and any health care provision and/or social care provision reasonably required by the learning difficulties and disabilities which result in him or her having special educational needs.
15. There are new general statutory duties under the Children and Families Act to support and involve children and young people; to promote the integration of educational provision and training provision with health care provision and social care provision; to make joint commissioning arrangements and to cooperate with partners; and to keep education and care provision in the authority's area under review and consider the extent to which it is sufficient.
16. The Council has a statutory duty under section 27 of the Children and Families Act 2014 to keep under review and consider the sufficiency of the educational provision, training provision and social care provision made in its area for children and young people who have special educational needs or a disability, and provision made outside its area for Kingston children and young people with SEND. In exercising its functions under this section, the Council is required to consult widely including stakeholders listed in the section.
17. In deciding whether to approve the draft SEND Transformation Plan, the Committee needs to conscientiously consider the responses to consultation.
18. The Committee must also have regard to the Council's statutory duties under the Equality Act 2010 and the Children Act 2004. Under the Equality Act, section 149, the Council must, when exercising its functions, have due regard to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited

by the Act and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' under the Act and those who do not share a protected characteristic. A 'protected characteristic' is defined in the Act as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnership are also protected characteristics for the purposes of the duty to eliminate discrimination. The Equalities Impact Assessment at **Annex 11** provides more information on the likely impact of the proposals.

19. The Children Act 2004 section 11 requires that the Council must make arrangements for ensuring that its functions are discharged having regard to the need to safeguard and promote the welfare of children.

Risk Assessment

20. The draft SEND Transformation Plan includes risk assessments of proposed actions.

Equalities Impact Assessment

21. This is attached at **Annex 11** in the agenda.

Health Implications

22. The draft SEND Transformation Plan incorporates proposals with very positive implications for the health of children and young people with SEND. These include the intention to assess needs in a more holistic and regular way, and to plan and deliver support in a more joined up and coordinated fashion across the agencies involved. In addition, the focus on early intervention will mean that in some cases health needs will be considered earlier in the life of the child or young person than previously, and are likely therefore to have escalated less before appropriate intervention is realised.
23. Another aspect of of the draft plan with very positive health implications is the centrality of enhanced therapy provision within the proposals for an improved local offer. The CCG has co-produced the relevant sections of the Written Statement of Action to address the areas of weakness identified in the SEND inspection and will monitor progress through their engagement in the delivery of the SEND Transformation Plan.

Environmental, Air Quality and Road Network Implications

24. No implications arising from the specific recommendations of this report.

Joint Authors of the report: Pauline Maddison, Director of Children's Services and Sarah Ireland, Director, Corporate and Commercial

Background documents held by Ashley Whittaker, Programme Director, 020 8891 7551 ashley.whittaker@achievingforchildren.org.uk - None other than those referred to in this report

*** Links to Online Annexes**

- Annex 1 - [SEND Transformation Plan](#)
- Annex 2 - [Appendix to SEND Transformation Plan](#)
- Annex 3 - [Easy-read SEND Transformation Plan](#)
- Annex 4 - [Consultation document](#)
- Annex 5 - [Easy-read consultation document](#)
- Annex 6 - [Consultation drop-in information](#)
- Annex 10 - [Redacted survey findings](#)