

Cabinet

Date of Meeting: 09 July 2019

Report Title: Notice of Motion - Children with Special Educational Needs

Portfolio Holder: Cllr Dorothy Flude, Portfolio Holder Children and Families

Senior Officer: Mark Palethorpe, Acting Executive Director People

1. Report Summary

- 1.1. This report provides a response to the Notice of Motion in respect of Children with Special Educational Needs proposed by Councillor Laura Jeuda and seconded by Councillor Dorothy Flude at Council on the 21 February 2019 detailed below:

“Article 7 and 24 of the UN Convention on the Rights of Persons with Disabilities places an obligation on Government and Local Authorities to promote, fund and develop capacity in mainstream schools to cater for the needs of disabled pupils.

At the heart of the 2014 Children and Families Act there is the ‘presumption of mainstream education’ for all our children, it places a duty on local authorities to support the provision of placements for all disabled children living in their catchment area.

The progress made towards inclusive education has stalled and increasingly disabled children are segregated in special schools. Ofsted’s Annual Report 2017/18 highlighted concerns about the poor quality of Special Educational Need provision for Disabled pupils in mainstream education.

The Department of Education introduced the policy in 2013 which placed the responsibility on mainstream schools to fund the first £6000 for every pupil with special educational needs out of their own budget, this has done nothing to incentivise schools to accept these pupils.

This Council resolves to adopt a policy with a general presumption that children with Special Educational Needs will be integrated into

mainstream schools, with adequate resources to support the teaching staff and put an end to segregation.”

1.2 Council resolved that the motion stand referred to Cabinet.

2. Recommendations

2.1. That Cabinet accepts the notice of motion and notes that:

2.1.1. education, health and care plans name the school best placed to meet the needs of the young person following consultation with appropriate settings, which must include the parents preferred setting.

2.1.2. specialist provision is only considered when a mainstream setting is not appropriate to meet the needs of a child or to meet parental request.

2.1.3. appropriate provision to meet the assessed needs of children and young people is agreed in the education, health and care plan and funding is allocated accordingly.

2.1.4. The Cabinet Member for Children and Families will review the current policies for Children with Special Educational Needs and Disability (SEND) to ensure they are contemporary with all relevant legislation and reflect the needs of the children and young people of Cheshire East.

3. Reasons for Recommendations

3.1. The Local Authority is required to comply with special educational needs and disability code of practice: 0 to 25 years

3.2. The Local Authority is required to consult with parental preference schools.

4. Other Options Considered

4.1 The service has a comprehensive development plan including the actions proposed by Children and Families Overview and Scrutiny which already address the matters proposed in this motion.

5. Background

5.1 Current arrangements encourage mainstream education where it is appropriate

5.1.1 Cheshire County Council had 14 Special Schools but only 4 of these were in the boundary of Cheshire East Council. Hence, Cheshire East does not have enough local SEN places. This is being addressed

through the 3 year provision plan which sets out plan to create 270 additional SEND places.

- 5.1.2 In fulfilling these duties the SEND team have introduced over the last twelve months an initial coproduction meeting with the family, this enables officers to ensure parents are informed of the different types of provision, through the local offer, understand the provision and curriculum offer that is provided at different settings and the likely outcomes children will achieve. Officers will encourage a local mainstream school where this type of setting can best meet need. However, there are some children for whom the support and provision offer through our resource provisions and special schools are best placed to meet their individual needs.
- 5.1.3 The service has also developed, led by SENCOs (Special Educational Needs Coordinator) from schools, a SEND toolkit which supports mainstream schools to meet need with suggested strategies . A team has been established to visit all mainstream settings to ensure that the toolkit is being embedded in practice. Currently approx 85% of schools have been visited and the toolkit is being utilised in all these settings.
- 5.1.4 This Council is proactive in ensuring that where a mainstream school is appropriate needs are met through this type of setting with appropriate support through the toolkit and inclusion review meetings.
- 5.1.5 The number and percentage of pupils attending different settings are detailed below.
- 5.1.6 The majority of pupils with special education needs are educated in our mainstream schools.
- 5.1.7 The number of pupils attending Cheshire East schools with either SEND support needs or with an education health and care plan are as follows:

	SEN* Support	%	EHCPs**	%	Total	%
Mainstream	4,352	99.80%	781	61%	5,133	91%
Resource Provision	1		103	8%	104	2%
Special	9		402	31%	411	7%
Total	4,362		1,286		5,648	

Table 1: Children attending a Cheshire East School

*SEN - Special Educational Needs

** EHCPs – Education, Health and Care Plans

5.1.8 If we consider the number of Cheshire East children that we support with an education, health and care plan, the numbers by type of setting are as follows:

	School within borough	School out of borough	Totals	%
Mainstream	873	33	906	51%
Resource Provision	104	2	106	6%
Local Authority Special	360	238	598	33%
Independent non-special	21	19	40	2%
Independent Special and Non-maintained Special	10	135	145	8%
Totals	1,368	427	1,795	100%

Table 2: Children resident in Cheshire East

Funding

- 5.19 Schools are also funded for SEND pupils (requiring over £6,000 of support) in accordance with funding model which has been in place for a number of years. In addition schools forum has agreed exceptional funding for schools who have a significantly high proportion of children with education, health and care plans compared to the funding within the school allocation, and similarly for those schools with high percentage of children who are SEND support.
- 5.20 Schools forum has a current working group considering SEND funding and will be consulting on potential new funding arrangements in the summer.
- 5.21 The high needs block is currently overspending by £3.5m. The review of local SEND provision and the funding allocation model are part of

the measures to mitigate this pressure, by keeping children and funding local and reducing transport costs.

6.0 Implications of the Recommendations

6.1 Legal Implications

- 6.1.1 Article 7 and 24 of the UN Convention on the Rights of Persons with Disabilities places an obligation on Government and Local Authorities to promote, fund and develop capacity in mainstream schools to cater for the needs of disabled pupils.
- 6.1.2 Section 33(2) of the Children and Families Act 2014 places a duty on Local Authorities, where a child is in receipt of an Education Health and Care (EHC) Plan, to secure that the plan provides for the child or young person to be educated in a mainstream school, unless that is incompatible with the wishes of the child's parent or the young person; or the provision of efficient education of others.
- 6.1.3 Section 34 of the Children and Families Act 2014 applies where children or young people have special educational needs but no EHC Plan. Section 34(2) places a duty on Local Authorities to educate the child or young person in a mainstream school.
- 6.1.4 Section 35 of the Children and Families Act 2014 places a duty on Local Authorities to secure that a child with special educational needs, being educated in a mainstream school, engages in the activities of the school together with children who do not have special educational needs, so long as it is reasonably practicable and is compatible with the child receiving the special educational provision called for by his or her special educational needs; the provision of efficient education for the children with whom he or she will be educated; and the efficient use of resources.
- 6.1.5 The Special educational needs and disability code of practice: 0 to 25 years (the Code) sets out the statutory duties, policies and procedures of the local Authority relating to Part 3 of the Children and Families Act 2014. Paragraphs 9.78 – 9.87 of the Code deals with requests for a particular school, college or other institution to be named in an EHC Plan. 9.79 confirms that, where a child's parent or young person makes a request for a particular school, the Local Authority must comply with that preference and name the school or college in the EHC Plan, unless it would be unsuitable for the age, ability, aptitude or SEND of the child or young person; or the attendance of the child or

young person there would be incompatible with the efficient education of others, or the efficient use of resources. The Local Authority must consult the governing body, principal or proprietor of the school or college concerned.

- 6.1.6 Paragraph 9.88 of the Code confirms that, where a parent or young person does not make a request for a particular school or college, or does so and their request is not met, the Local Authority must specify mainstream provision in the EHC plan unless it would be against the wishes of the parent or young person; or incompatible with the efficient education of others.

6.2 Finance Implications

- 6.2.1 The Council receives £35.7m in the high needs block as part of the Dedicated Schools Grant from the Department of Education. This is determined by a national funding formula.
- 6.2.2 Expenditure on out of borough and independent placements is placing a pressure on that funding of £3.5m.
- 6.2.3 It is necessary for the Council to ensure that high needs funding is used as effectively as possible through providing support that is appropriate to need, cost effective and focused on local provision.

6.3 Policy Implications

- 6.3.1 The Special Educational Needs and Disability code of practice: 0 to 25 years sets out the statutory duties, policies and procedures of the local Authority relating to Part 3 of the Children and Families Act 2014. The Local Authority is required to comply with these arrangements.

6.4 Equality Implications

- 6.4.1 The Special educational needs and disability code of practice: 0 to 25 years sets out the statutory duties, policies and procedures of the local Authority relating to Part 3 of the Children and Families Act 2014.

6.5 Human Resources Implications

- 6.5.1 There are no direct HR implications

6.6 Risk Management Implications

- 6.6.1 Cheshire East schools continue to be amongst the lowest funded. The National Funding formula has introduced a minimum funding per pupil but schools continue to face financial pressures. This council continues

to support schools through appropriate representations to the Department of Education.

6.7 Rural Communities Implications

6.7.1 Small and rural schools continue to face increased pressure due to small pupil numbers. The funding formula does not recognise the rural nature of schools in Cheshire East.

6.8 Implications for Children & Young People/Cared for Children

6.8.1 The lack of local specialist provision results in more children than we would want receiving an education outside Cheshire East.

6.9 Public Health Implications

6.9.1 Schools are supported through a range of pupil health initiatives, and in particular the emotionally health schools project has been well received.

6.10 Climate Change Implications

6.10.1 Placing children and young people in local schools reduces the need for long journeys to out of borough settings. This improves children's wellbeing and reduces excessive transport.

7 Ward Members Affected

7.1 All Wards

8 Consultation & Engagement

8.1 Schools Forum will be consulting in due course on a revised resource allocation model for high needs which proposes funding is distributed equitably and fairly through a model that better reflects the needs of children.

9 Access to Information

9.1 The Special educational needs and disability code of practice

10 Contact Information

10.1 Any questions relating to this report should be directed to the following officer:

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