

Children and Families Committee
18 September 2023

**SEND Sufficiency Statement for
children and young people with an
education, health, care plan (EHCP)**

Report of: Deborah Woodcock, Executive Director of Children and Families

Report Reference No: CF/21/23-24

Ward(s) Affected: All

Purpose of Report

- 1 This report is to provide committee members with an overview of the Special Education Needs and Disabilities (SEND) sufficiency statement which has been updated to reflect the growing demand for specialist SEND provisions and identifies the shortfalls across the borough.
- 2 Appendix 1 of this report provides our SEND Sufficiency Statement which details educational provision for children and young people with special educational needs.
- 3 This report should be read alongside the SEND Strategy and SEND Dedicated Schools Grant (DSG) Management Plan.

Executive Summary

- 4 Since 2017 Cheshire East have produced and published a SEND sufficiency statement of our educational provision for children and young people with special educational needs.
- 5 The information provided within the sufficiency statement is used to co-produce (with the 0-25 SEND Partnership Board), a SEND Provision Plan for 2023-2028. This will be used in conjunction with the SEND strategy and the DSG management plan to develop our proposals to mitigate the overspend on the Dedicated Schools Grant (DSG) High needs budget and help to address the increasing number of education,

health and care plans (EHCPs) and growing demand for specialist SEND provisions.

The SEND Strategy

- 6 The SEND Strategy is a key driver in the council's priority to empower and care about people, with a focus on:
 - Working together with residents and partners to support people and communities to be strong and resilient
 - Reducing health inequalities across the borough
 - Supporting all children to have the best start in life
 - Increasing opportunities for all children and young adults with additional needs
 - Ensuring all children have a high quality, enjoyable education that enables them to achieve their full potential.
- 7 Supporting outcomes for children with an Education, Health and Care Plan (EHCP) has become more challenging due to increase in numbers and complexity of need. Children with an EHCP have their identified needs met through funding from the DSG high needs grant received from government but this now exceeds the funding received for that purpose. This situation has occurred over the last seven years with several factors contributing to it locally, including a lack of provision, high rates of needs assessments, parental expectations and more generally the high needs funding basis which is not linked to EHCP numbers.
- 8 The SEND strategy has been refreshed to include priority actions relating to the mitigations with the DSG management plan. The refreshed strategy is to be taken to committee on the 18 September 2023.

The DSG management plan

- 9 The DSG management plan is based on a series of assumptions relating to growth in demand, expected costs and the impact of mitigations. This allows medium term forecast expenditure and income level to be compared to establish the overall funding deficit. The plan assumes the deficit is carried forward each year into the next financial year and adds to the pressure.

- 10 The DSG management plan concept was introduced by the DfE in 2020 as a mechanism to help councils present their DSG pressures. It is now compulsory where there is a DSG deficit.
- 11 The overall strategy remains the same; to continue to increase local provision and enhance SEND support services to ensure needs are met in the most effective way.

DfE Intervention programmes

- 12 Cheshire East took part in the Department of Education's (DfE) Delivering Better Value programme (DBV). The DBV programme is designed to provide dedicated support and funding to help 55 local authorities with substantial deficit issues in their high needs block of the DSG, to reform their high needs systems, with the aim to put more local authorities on a more sustainable footing so that they are better placed to respond to the forthcoming special educational needs and/or disabilities (SEND) reforms.
- 13 The DBV programme has provided a robust evidence base, which has focused the strategic direction, to align our SEND strategy and DSG management plan. However, the opportunities identified via the DBV programme and the current mitigations within the DSG management plan, do not address the recurring in-year overspends and deficit position. It highlights that significant changes to funding levels and activity is required.
- 14 Cheshire East have recently been invited to take part in the Safety Valve intervention programme with the DfE this year. We have confirmed acceptance on the 7 August 2023. An initial meeting with the DfE will be held by early October 2023. This will build on the work already completed through the DBV programme. Local authorities are told that they need to demonstrate that their DSG management plans create lasting sustainability, including reaching an in-year balance as quickly as possible, and will provide improved support for children and young people, then the department will enter into an agreement with the authority, subject to Ministerial approval. This agreement should include funding to be provided to the local authority by central government.

RECOMMENDATIONS

The Children and Families Committee is recommended to:

1. Review the information as presented within the updated SEND Sufficiency Statement 2023-2024.
2. Recognise the work already undertaken, and/or planned which has resulted in the increase of places within our maintained schools, resource provision, SEND units and special schools to support our children and young people with special educational needs.
3. Recognise the challenges ahead in addressing our reliance on placements within non-maintained special schools, independent special schools and specialist post 16 institutes.
4. Recognise the support that will be required from the wider council with regards to the identification of potential sites for the provision of new SEND schools and additional SEND places.

Background

- 15 Wherever possible, children and young people should be supported to have their needs met within their local mainstream provision. All educational settings are expected to have an inclusive approach and are required by law to make reasonable adaptations or adjustments to the premises and provision to ensure pupil's needs are met.
- 16 However, for some children and young people, specialist provisions are required to cater and support them through their educational life. Special schools and provisions are specifically designed, staffed and resourced to provide appropriate special education for children and young people with additional needs whose needs cannot be met in mainstream provision.
- 17 In 2017 we produced and published our initial SEND sufficiency statement of our educational provision for children and young people with special educational needs, this document was then updated and republished in 2020.
- 18 In response to the needs and provision gaps identified in our SEND Sufficiency Statement, a SEND provision plan was produced which outlined our plans to increase the number of SEND places.

- 19 Over the last three years significant work to provide additional places has already been completed, is in progress or is planned, this includes over 230 new places in our special schools and resource provisions (RP) with proposals for further places planned over the next five years including the two new free special schools. These two new schools will be funded and built by the DfE following Cheshire East Council's two successful bids which were submitted in autumn 2022. Appendix 1 provides more detail.
- 20 Appendix 1 of this report provides our updated SEND sufficiency statement to cover the period 2023 to 2026. This document sets out our updated position regarding the number of SEND places we have in our RPs, SEND units and special schools.
- 21 Appendix 1 of this report highlights that, due to capacity constraints within our RPs, SEND units and special schools, the reliance on placements within non-maintained special schools, independent special schools and specialist post 16 institutes (NMSS/ISS/SPIs) is growing considerably, from 545 placements in 2023 is forecast up to 963 by 2026 and 1,067 by 2028 (mitigated forecast).
- 22 In the calendar year 2022, 742 first or new Educational Health Care Plans (EHCPs) were issued. 113 of these were deemed to require specialist provision. 42% of children and young people requiring specialist provision were placed within a NMSS/ISS/SPI. 25 of these are in the secondary phase of education of which 70% have a primary need of social, emotional and mental health (SEMH).
- 23 The SEND sufficiency statement has been produced alongside the Dedicated Schools Grant (DSG) management plan, which is to be presented to Children and Families Committee in September 2023.
- 24 A key mitigation of the DSG management plan is to grow specialist provision within Cheshire East and as a result, reduce the reliance on NMSS/ISS/SPIs.
- 25 In March 2023 the Department for Education (DfE) published their SEND and alternative provision improvement plan which sets out their plans to change the special educational needs and disabilities (SEND) and alternative provision system in England. The focus for this plan is **RIGHT time, RIGHT support, RIGHT place**, which we have embedded within the Cheshire East SEND Strategy, Dedicated Schools Grant Management Plan and SEND Sufficiency Statement.

- 26 The aims of developing Cheshire East provision are to:
- Achieve the best possible outcomes for children and young people.
 - Ensure there are the right number and type of places to meet children and young people's needs.
 - Ensure that children and young people can have their needs met within their local community wherever possible.
 - Make the best use of our resources.
- 27 From this work, we will develop a SEND provision plan in September which will set out the steps we need to take, and this will allow us to drive, track and evaluate our progress. This plan will be led and delivered by both our SEND team and School Organisation and Capital team. These teams will ensure that the special educational needs of pupils are considered within all placement planning activity.
- 28 We will be developing our provision over a three-year period. Achieving better outcomes for children and young people is dependent upon having the right services available, but also ensuring services fit seamlessly together, have an inclusive culture, and the right structures that support them. We have taken a whole system approach to improving support for children and young people with special educational needs and disabilities across Cheshire East.
- 29 This work will continue to be driven by the 0-25 SEND Partnership Board. Due to the energy, commitment and dedication of all parties involved in this work, we have already moved a long way towards achieving our aims, but we still have more to do to ensure that we achieve the best possible outcomes for our children and young people.

Consultation and Engagement

- 30 No consultation or engagement has taken place directly relating to the SEND Sufficiency Statement.
- 31 The SEND provision plan which will detail the provision required to meet the needs of children and young people, will be co-produced by the 0-25 SEND Partnership and associated workstreams.

Reasons for Recommendations

- 32 To assess the needs of our children and young people in Cheshire East and to evaluate how well our current provision meets young people's needs and identify any gaps, which will support us to **plan** how we will continue to develop our provision over a three-year period starting in

2023-2026 so that we can achieve the best outcomes for our children and young people.

- 33 To achieve the best possible outcomes for children and young people by ensuring there are the right number and type of places to meet children and young people's needs and having their needs met within their local community wherever possible.
- 34 To ensure the right decision are made to make the best use of our resources.

Other Options Considered

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Option	Impact	Risk
Do nothing	Lack of understanding of data and of SEND provision requirements. Lack of information to inform the SEND provision plan to address the gaps in specialist provision in Cheshire East.	Continued over reliance on Independent/Non-maintained specialist providers, resulting in increased expenditure of placements, impacting on the overall DSG deficit reserve position

Implications and Comments

Monitoring Officer/Legal

- 36 Section 14 of the Education Act 1996 places a general duty upon a local authority to secure sufficient schools to provide primary and secondary education in their area and they should have particular regard to securing special education provision.
- 37 Under Part 3 of the Children and Families Act 2014 ('CAF 2014') the local authority and its partner commissioning bodies retain responsibility for commissioning services for children and young people with SEN or disabilities. The local authority is required to keep the provision for children and young people who have special educational needs or a disability under review, including its sufficiency (section 27 (2)CAF 2014), and to promote wellbeing and improve quality of special

educational provision, working in conjunction with parents, young people and providers. This Act and its associated guidance special educational needs and disability code of practice :0-25 years (January 2015) ('the Statutory Guidance') is clear that, when considering any re-organisation of provision, decision makers must be clear how they are satisfied that the proposed alternative arrangements will lead to improvements in the standard, quality and/or range of educational provision for children with SEN or a disability

- 38 In order to minimise the risk of legal challenge, the local authority should ensure that it is fully compliant with all relevant legislation in this area and that it continues to satisfy its statutory duties through its decision making. *Paragraph 3.8 of the Statutory Guidance states as follows-*

Under the Public Sector Equality Duty (Equality Act 2010), public bodies (including CCGs, local authorities, maintained schools, maintained nursery schools, academies and free schools) must have regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non-disabled children and young people when carrying out their functions. They must publish information to demonstrate their compliance with this general duty and must prepare and publish objectives to achieve the core aims of the general duty. Objectives must be specific and measurable.

Section 151 Officer/Finance

- 39 SEND service continues to see a significant increase in the number of pupils with Educational and Health Care Plans, and the associated school placement costs.
- 40 This has placed pressure on the grant used to provide funding for children with SEND in various settings and led to a £21.2m overspend in 2022/23. This adds on to the brought forward deficit of £25.7m to take the DSG Reserve to a £46.9m deficit position.
- 41 This is in line with the budget gap as determined by the council's DSG Management Plan that was reported to Children and Families Committee in September 2022 and set out the planned expenditure and income on high needs over the medium term.
- 42 The deficit is currently being managed by an accounting override until 2026 which allows it to be treated as an un-usable reserve. At this stage the position is not recoverable unless there are significant changes to funding or demand or both.

- 43 The council is working to deliver the mitigations set out in the DSG Management Plan but demand exceeds the current rate of local expansion. Additional key projects are being developed over the next 6 – 9 months including expansion of Springfield Special School in Crewe and the need for a centrally located special school. The service will be seeking to secure additional capital investment over the medium term.
- 44 The forecasts in this report demonstrate that, even with a significant number of mitigations factored in, the expected increase in demand and resulting costs is forecast to continue to exceed the funding provided by the DfE.

Policy

- 45 Local authorities are under a duty to ensure sufficiency of school places in their area (section 14 of the Education Act 1996).
- 46 The SEND Code of Practice (January 2015) provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations and applies to England.
- 47 Following the green paper consultation in March 2023 DfE published their SEND and alternative provision improvement plan which sets out their plans to change the special educational needs and disabilities (SEND) and alternative provision system in England.
- 48 DfE have published their roadmap which summarises the actions that will be taken to improve the special educational needs and disabilities (SEND) and alternative provision system in England that are set out in the SEND and alternative provision improvement plan.

<https://www.gov.uk/government/publications/send-and-alternative-provision-improvement-plan/send-and-alternative-provision-roadmap>

- 49 The statutory duties include:
- the need to undertake a needs assessment where a child may have additional needs,
 - to issue an education, health and care plan within 20 weeks where assessment provides evidence this is required to meet the assessed needs.
 - the local authority must then secure an appropriate school place and must consult with parental preference.

An open and enabling organisation.	A council which empowers and cares about people Support all children to have the best start in life. Increase opportunities for all children and young adults with additional needs. Ensure all children have a high quality, enjoyable education that enables them to achieve their full potential (Include which aim and priority)	A thriving and sustainable place Reduce impact on the environment. Thriving urban and rural economies with opportunities for all Be a carbon neutral council by 2025
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Equality, Diversity and Inclusion

- 50 The SEND Code of Practice looks to ensure the assessed additional needs of children with special education needs are provided for to enable them to reach agreed outcomes.
- 51 The Code of Practice is likely to be changed as a result of the SEND and AP Green paper consultation.

In line with the equality act 2010, an overarching equality impact assessment for the SEND Strategy and DSG management plan has been completed.

Human Resources

- 52 There are no direct human resource implications for the council, but if any additional school provision forms part of a current maintained school, the local authority will work with the school in the appointment of additional specialist staffing to ensure high quality staffing is achieved, both teaching and non-teaching.

Risk Management

- 53 There is an overall risk that the council does not meet its statutory requirements to best support SEND learners due to a lack of specialist SEND placements.

- 54 Due to capacity constraints within our RPs, SEND units and special schools, the reliance on placements within non-maintained special schools, independent special schools and specialist post 16 institutes is growing considerably, from 545 placements in 2023 is forecast up to 963 by 2026 and 1067 by 2028 (mitigated forecast). This is an unsustainable position and urgent action is needed to manage this situation.
- 55 Once specific schemes are identified, approved to feasibility stage and then beyond, all risks will be monitored as part of the staged process utilising the agreed Project Management Office (PMO) methodology.

Rural Communities

- 56 The creation of additional places across the borough will potentially bring benefits to rural communities by providing settings within more reasonable travel distances if a local school place cannot be met.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 57 It is essential that the council makes best use of resources to ensure that children and young people receive the services they need, and those services must be provided.
- 58 The council has approved its Children's Vision which contains a priority around children with additional needs.
- 59 The SEND Partnership Strategy sets out the Partnership vision for meeting the needs of children and young people with SEND. This strategy has been refreshed to include the DBV opportunities and mitigations within the DSG Management Plan.

Public Health

- 60 Any increase in SEND provision will require strategic joint commissioning of specialist health services to ensure resources for such services as physiotherapy and speech language and communication therapy are sufficient to meet increased demand as more localised school places are generated. This will be done through the 0-25 SEND Partnership Board and associated workstreams.
- 61 By providing local school places and reducing the distances which some children may have to travel to attend school will help to reduce congestion on the roads and therefore reduce emissions, improving the air quality and making a better environment to live in.

62 *Climate Change*

- 63 Providing additional school places will enable Cheshire East Children and Young People the ability to secure at place at their local school thus reducing the need to travel outside of the area which will reduce energy consumption.
- 64 Cheshire East Council are very aware of their environmental education and stewardship role and are very interested in promoting sustainability in general.
- 65 Cheshire East Council is committed to being carbon neutral by 2025 and in future capital build schemes are required to align with this expectation.

Access to Information	
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Appendices:	Appendix 1 – SEND Sufficiency Statement 2023-26
Background Papers:	<p>DSG Management Plan 2022-23 – C&F Committee September 2022 - Decision report template (cheshireeast.gov.uk)</p> <p>Delivering Better Value Update C&F Committee March 2023 - Decision report template (cheshireeast.gov.uk)</p> <p>SEND & AP Green Paper - SEND and alternative provision improvement plan - GOV.UK (www.gov.uk)</p> <p>DFE roadmap for the SEND and alternative provision improvement plan.</p> <p>https://www.gov.uk/government/publications/send-and-alternative-provision-improvement-plan/send-and-alternative-provision-roadmap</p> <p>Children and Families Committee 18 September 2023:</p> <ul style="list-style-type: none">• SEND Strategy Refresh• Capital Programme <p>School Capacity Return (SCAP)</p>