



Essex County Council

Report to the Health & Wellbeing Board	
Date of meeting 7th November 2017	County Divisions affected by the decision : All Divisions
Title of report: Update on the progress of the implementation of the SEND reforms under the Children and Families Act 2014 Part and CQC / Ofsted Local Area Review Inspection3	
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1. Purpose of report

- 1.1. To update board members on the progress of the implementation of the Special Education Needs and Disabilities (SEND) reforms since the previous report in October 2016.
- 1.2. To update the board on progress in relation to Essex's preparation for the CQC / Ofsted local area review inspection of SEND.

2. Recommendations

- 2.1. To note the update provided by this paper.
- 2.2. To agree to the continued support from all stakeholders in the implementation of the SEND reforms and preparedness for the CQC /Ofsted Local Area Review Inspection.
- 2.3. To review and agree the frequency of reports on the SEND Reform Agenda to the Health and Wellbeing Board.
- 2.4. To agree to review the priorities around SEND in the refreshed Health and Wellbeing Board Strategy 2018.

3. Background and purpose

- 3.1. In January 2016 and October 2016 the HWB received a report on a number of updates towards the implementation of the SEND reforms; this paper builds on those updates and tracks progress against each of the five workstreams we presented in October 2016, namely:

- SEND Provision
- Education, Health and Care (EHC) Plans implementation and monitoring
- Joint Commissioning
- School-led SEND Improvement

- Preparing for Adult
- 3.2. In October 2016, it was reported that a new SEND Strategic Governance Group had been established in April 2016, along with the agreement to formalise the work into the five workstreams above with 3 cross cutting workstreams.
 - 3.3. The workstreams and structure of SEND in Essex is attached at Appendix 1 for reference. The SEND Strategic Governance Group is working well and meets every two months, although recently there has been some turnover of CCG Children's Commissioners. New appointments are now all in place and we will review the work of the Governance Group going forward.
 - 3.4. In May 2016 the new Ofsted / CQC Inspection Framework was published. 31 Local Area Inspections have been conducted to date and an update on the outcomes is included below in section 6.
 - 3.5. In April 2017 a Peer Review was undertaken with colleagues from Cambridge and Norfolk LA's to review the impact of Education, Health and Care Plans on improving outcomes for children and young people in Essex. The outcomes of the Peer Review are included in section 5.

4. Progress made since the previous report

4.1. SEND Provision

- 4.1.1. In September 2016, ECC gave approval for a £85m capital investment in additional special school places (£42m to come from the Schools Budget and £43m from ECC). The SEND Capital Programme will create 400 new special school places across Essex by 2019 to support young people with a wide range of special educational needs and disabilities, particularly children and young people with autistic spectrum condition or with social, emotional and mental health needs. The programme will also create 100 new boarding places. The programme will consist of the expansion of existing special schools, the creation of new schools, some through free school applications, and by developing boarding provision at existing special schools. In addition to expanding special school provision there is a programme to develop enhanced provision in mainstream schools for pupils with autism or social, emotional and mental health needs.
- 4.1.2. With the addition of the successful 3 free school applications the actual capital investment overall onto Essex will be £115m
- 4.1.3. The objectives to be met by the creation of new provision are:
 - to meet the entitlement of each child or young person to receive their education and care within their local community wherever possible. This aims to promote family cohesion and negate costly and time consuming contention (tribunals) around provision and placement.

- To support the development of system-wide improvement for SEND in addition to providing additional specialist pupil places.

4.1.4. The SEND capital programme is made up of a number of projects:

- Eight Autism Support Centres have opened in mainstream schools (four primary and four secondary) ensuring an even distribution across the County;
- Four Essex special schools support the Centres as Autism Hub schools and provide additional support on Autism for other mainstream schools; the support from special schools will support mainstream schools to develop the expertise to meet the demands of a wider range of pupils with autism;
- Ten primary schools will host SEMH provision to support pupils with significant needs; revenue funding is in place for these provisions from September 2017 with capital funding in place to modify and adapt existing buildings and provide new build facilities where necessary; the first provisions opened in September and are already providing support to local schools and to support ECC in making local placements for primary pupils with SEMH needs;
- Approval and funding is in place for the expansion of a number of Essex special schools to increase capacity and support our strategic aim of having an Essex school place for every Essex pupil; new places will be created at Glenwood, Kingswode Hoe, Lexden Springs, Oak View and Ramsden Hall;
- New boarding places are being developed with ECC and Schools Forum funding at Glenwood and Lexden Springs to support children, young people and families who would otherwise have required out-county residential provision in the non-maintained sector; the intention is to provide boarding provision which does not create dependence and which support family resilience through extended support;
- Essex supported two free school proposals for new special schools both of which were approved in Wave 12 of the programme; the new schools (Hawthorn and Chatten) in Mid Essex will significantly increase provision for children and young people with autism who require a specialist placement; Hawthorn School will have boarding provision);
- Essex successfully submitted an expression of interest to the DfE to establish a new SEMH special school; this will open in Mid Essex on a shared site with the Hawthorn school and will also have boarding provision.

4.1.5. Plans to invest in the Essex Pupil Referral Units to ensure that the vulnerable pupils educated in alternative provision have access to high quality facilities, resources and education have also been agreed and individual projects are in development stage.

4.1.6. The individual projects have been shared with the five CCGs and further work will be required to address concerns raised about the additional pressure that this may bring on the provision of therapies to pupils in Essex schools. The SEND capital programme seeks to reduce the number of children and young

people who require a place at an independent special school. Many pupils who would otherwise be placed in independent provisions either inside or outside Essex will in the future attend an Essex special school. They are therefore likely to have health requirements which need to be met. It is important to note that the intention is not to seek to return pupils already placed outside of the maintained sector and so all the pupils likely to be affected are currently in Essex schools or not yet of statutory school age. There are also likely to be greater numbers of children and young people who move across CCG borders to be educated and so protocols regarding the responsibility for providing therapies will need to be more robust than at present.

4.2. Education, Health and Care Plan (EHC) progress

- 4.2.1. The Essex data regarding the SEN population in Essex and their identified needs will continue to be reviewed very closely.
- 4.2.2. In Essex, out of a school population of 218,222, 28,960 pupils (13.3%) are identified as having special educational needs, 21,796 (10%) are at SEN School Support and 7164 (3.3%) have a statutory plan (a Statement of Special Educational Needs or an Education Health and Care Plan).
- 4.2.3. The percentage of the school aged population who have a statutory (Statement or EHC) plan is an important comparator. The national (England) figure has been 2.8% every year for the nine year period 2008-2017. The East Region average is 2.8% and our statistical neighbour's average 2.9%. Essex is slightly higher at 3.3% for the fifth consecutive year (so no rise in the rate of statutory assessment). This is the 8th highest out of the 11 LAs in the East Region and 10th highest in our 11 statistical neighbours group. In the 152 local authorities in England only 29 have a higher rate of statutory assessment than Essex.
- 4.2.4. There is still however a perception amongst some parents and schools that it is hard to get a statutory assessment in Essex and that you have to 'fight', along with a belief that needs will not be met without a statutory plan. The data does not support this as we have a comparatively high rate of statutory assessment; therefore we need to do something about the perception.
- 4.2.5. Essex has 2.5% of the school aged population in England but 3% of the statutory SEN plans. Only 7 local authorities have more than 5000 statutory SEN plans, at 7723 Essex is second only to Kent.
- 4.2.6. From 2015 to 2016 Essex saw the fourth highest percentage increase in new EHC needs assessments (EHCNA) in the East Region and the highest percentage increase in our Statistical Neighbours group. In England there was a 31.5% increase in the number of requests for EHCNA from 2015 to 2016; in Essex there was a 57.5% increase in the number of requests for EHCNA from 2015 to 2016.
- 4.2.7. It was identified that there are a broadly similar percentage of pupils who

have SEN as our comparators but there are fewer at School Support and more with a statutory plan.

- 4.2.8. It also identified more children have a SEN at a younger age than our comparators.
- 4.2.9. ECC escalate more quickly from School Support to a statutory SEN plan (EHCP).
- 4.2.10. 33% of Essex pupils identified as having SEN are reported to have moderate learning difficulties (MLD). This is higher than Eastern Region (24%), statistical neighbour (24%) and national (23%) comparators.
- 4.2.11. 4.0% (or 1 in 25) of ALL pupils in Essex schools are identified as having MLD.
- 4.2.12. In Essex the monthly data reports show that there has been sustained progress in increasing the number of EHC needs assessments completed within the statutory timescale of 20 weeks and our average completion time is now 21.3 weeks. Two quadrant teams, North-East and West, who each have approximately 20% of our assessments, consistently complete 95-100% of assessments within 20 weeks and work is underway to improve the performance in Mid and South, who each have approximately 30% of our assessments.
- 4.2.13. ECC have implemented measures to monitor, review and develop the quality of Education, Health and Care Plans in Essex in the expectation that this will contribute to our children and young people achieving good outcomes. The process of moderation is strong and has identified that there has been progress in that our plans are more person-centred and better outcomes are evident. Our plans are sometimes still weak in terms of health and care needs and provision and personal budgets; and we need to demonstrate that we are 'preparing for adulthood from the earliest years'.
- 4.2.14. ECC has faced significant challenges in the requirement to carry out transfer reviews for all children and young people with a Statement of SEN, over 7000 in Essex, in a three year period. The Department for Education required that these reviews were carried out as re-assessments and this has challenged the capacity of education, health and social care colleagues. The introduction of a Transfer review team to co-ordinate this work has had an impact and there is a plan in place to ensure that Essex comes as close as possible to completing all transfer reviews by the 31 March 2018 deadline (current predictions are that we may have approximately 300 outstanding by this point).

4.3. Joint Commissioning

- 4.3.1. A proposed Joint Commissioning Framework has been developed in discussion with ECC and CCG commissioners and is awaiting sign off. This sets out the local area's approach to joint commissioning, personalised planning and achieving outcomes for children and young people. ECC and

CCG commissioners meet regularly to keep joint commissioning arrangements under review, and report to the SEND Governance Group. Strengths identified in joint commissioning arrangements include integrated Emotional Wellbeing and Mental Health Services and the new Child and Family Wellbeing Service that will support improved identification of need and early, targeted help. In addition joint panel arrangements are in place to agree and review care and support for children with complex and continuing care needs.

4.3.2. Areas for development are a review of Children's Therapies with education health and care, to promote a consistent and transparent approach. Service mapping and needs assessment is currently being undertaken to inform this. Essex County Council is currently reviewing responses to its consultation on a Children and Young People's Autism Strategy. Priorities are:

- to promote integrated assessment and planning across all agencies to improve outcomes for children;
- continue to develop resourced provision in mainstream and special schools;
- enable schools to further develop good practice through the school-led SEND programme;
- Increase the number of available special school places in Essex;
- Prevent children and young people with autism and/or Learning Disabilities from escalating to Tier 4 placements or high cost provision through earlier identification and support in the community;
- Enable children and young people with autism to prepare for adulthood so that wherever possible they can live independently, succeed in education and employment and engage in the community.

4.3.3. **Personal Budgets** - It has been recognised that Personal Budgets for children and young people with Education, Health and Care Plans are underdeveloped within the Local Area. Focus of joint work will be to review the draft Personal Budget Policy and once reviewed achieve sign off of the policy by all partners across the Local Area.

4.4. Developing a school-led SEND system

4.4.1. Working in partnership with all schools in Essex and in response to the Peer Review recommendations the following strategies and plans are in place to support and improve schools ability to support children and young people in Essex with SEND, these include:

- Establishing a Headteacher Roundtable to Champion Inclusion across all schools in Essex. A new strapline has been developed which will be consulted on during the course of this term: **'Inclusive Essex: Every School for Every Child'**
- The development of an Outcomes Framework across education, health and care
- Expanding the successful Super SENCO project and MITA project

- Supporting more schools for develop expertise in diagnosis and assessment using the GROW and Thrive approaches (A recent bid has been made to the DfE to support this initiative)
- Establishing a minimum entitlement across schools in Essex for children and young people with SEND.
- Consideration of a kite-mark for effective practice across schools in Essex

4.5. Preparing for Adulthood

4.5.1. A Preparing for Adulthood ECC Task and Finish Group has been established to promote greater understanding and drive collaboration between ECC Education Services, Children Social Care and Adult Services about the importance of Preparing Children for Adulthood for all young people with SEND. This strategy is linked to ECC achieving Disability Confident Status as an employer. Progress includes:

4.5.2. The Children Social Care, Information Advice and Guidance team has been restructured and is now a service that better prepares children for adulthood with the focus on securing young people with a form of employment appropriate to their ability.

4.5.3. There is ongoing engagement from and with FEDEC on the role of Colleges play within the SEND Reform Agenda.

4.5.4. There is a willingness from ECC Colleagues in Economic Growth to work with us to accurately identify those young people with SEND who are NEET and helping them to access appropriate Learning/work opportunities.

4.5.5. Independent accommodation is currently being built for 8 young people with SEND in Chelmsford. A local college is willing to provide onsite education when an employer can be identified.

4.5.6. It is recognised that this strand of work needs to better connect with health and employers

4.6. Co-Production

4.6.1. In October 2016 the Health and Wellbeing Board was advised that FACE had ended their role as the Parent Carer Forum for Essex. Since then ECC has been working with the DfE and the national charity Contact (previously Contact a Family) for the last year to help create a Parent Carer Forum that is representative of the whole of Essex and the different needs across SEND. The work started with creating a definition of coproduction and the principles of how to make this work.

4.6.2. The Essex Family Forum is this new Parent Carer Forum but it is recognised it is still in its infancy stage, and is currently recruiting a development officer to further the work started, in order to fully engage with all services responsible for providing education, health or social care.

- 4.6.3.** The Essex Family Forum are aiming to officially launch early next year and are keen to engage on a quadrant level and to coproduce with ECC and its partners on various projects, such as reviewing the Local Offer, help with the re-design of how the Short Breaks programme is commissioned, help promote and contribute to the ongoing strategy around Preparing for Adulthood, developing and contributing the Sensory and Autism strategies, contribute to the Self Evaluation Frameworks and help to ensure that parents are consulted on the design on the SEN Capital programmes.

5. Outcomes from the Peer Review

- 5.1. The SEND Strategic Governance Group commissioned a peer review of SEND t from a team of colleagues from Cambridgeshire and Norfolk. The review, with a focus on *the suitability and quality of Essex EHC plans to make a positive difference to children/young people* was undertaken on 27th and 28th April 2017 and the main points of strength and for development were presented as:

- Guidance for evidence writers is strong as is the multi-layering of Quality Assurance of EHC Plans
- The new ASD Hub Model is innovative and a key strength
- The LA has Dedicated School Improvement SEND Advisers understanding the SEND agenda and driving the School-led SEND strategy
- Single contracts with Health Providers support consistency across Essex (EWMHS and Pre-Birth to 19)

- 5.2. However:

- The overall system of One-Planning is not sufficiently well understood or embedded in the system and needs re-launching with schools and other agencies to ensure a consistent approach;
- Engagement with Health on the SEND agenda is challenging and impacting on the quality of EHC plans and perceptions of schools and parents of the intended collaborative One-Planning approach;
- The LA has recognised that the focus on outcomes within EHC plans are not specific enough nor do they cover consistently the balance of education, health and care;
- Parents interviewed on the review visit reported a lack of confidence in the current One-Planning approach. Parents had greater confidence in the EHC plan as a vehicle to meet their children's needs.

6. CQC / Ofsted Local Area Inspection

- 6.1. As stated in paragraph 3.3 above, in May 2016 Ofsted and the CQC published a framework for inspecting a Local Area. This inspection arks 3 key question of the local area:

- Question A: How effectively does the local area identify children and young people who have special educational needs and/or disabilities?
 - Question B: How effectively does the local area assess and meet the needs of children and young people who have special educational needs and/or disabilities?
 - Question C: How effectively does the local area improve outcomes for children and young people who have special educational needs and/or disabilities?
- 6.2. To date 31 Local Areas have been inspected and 8 have been issued with a Written Statement of Action. On the 23rd October Ofsted and the CQC published a report 'Local Area SEND Inspections One Year On' which is attached at Appendix 2.
- 6.3. A local area is given 5 working days' notice of the inspection. Ofsted will contact the DCS to give notice and the CQC will then contact all Accountable Officers
- 6.4. A number of workshops have been held to update the first draft of the Local Area Self Evaluation which will be needed for the inspection.
- 6.5. A recent meeting was held with between ECC and the 5 CCG's to ensure we are as prepared as possible for the inspection.
- 6.6. The Ofsted / CQC report main findings include:
- Children and Young People identified as needed SEND support had not benefited from the implementation of the Code of Practice well enough
 - Access to therapy services was a weakness in half of local areas
 - Children needs were identified well in the early years.
 - On over a third of inspection leaders in education, health and care did not involve children, young people or parents sufficiently in planning and reviewing their provision
 - A large proportion of parents lack confidence in the ability of mainstream education to meet their child's needs
 - In the most effective areas, strong strategic leadership had led to joint working.
 - The statutory assessment process was not working well in just under two thirds of local areas inspected
 - Local area leaders have had varied success in securing the use of personal budgets
 - Children and young people and their families typically have access to high quality short breaks

7. Policy context

- 7.1. The implementation of the SEND Reforms supports the delivery of the Health and Wellbeing Board's overarching priorities in the Health and Wellbeing Strategy as determined by the JSNA in particular;

- Every child in Essex having the best start in life and being able to make life style choices and have the opportunity to enjoy a healthy life.
- 7.2. It also links to a number of other plans in the context of delivery and commissioning including CCG Operational Plans, Local Authority strategic Plans, Children, Young People and Families Strategic Plan and Children and Adult Safeguarding Plans.
 - 7.3. The Children and Families Act 2014 introduced some new measures for co-operation through the Code of Practice but also builds up on a number of existing duties to co-operate.
 - 7.4. The policy drives for a change in relationship between health, education and social care professionals to deliver better outcomes for children and young people with SEND.
 - 7.5. The SEND Code of Practice clearly lays out the process for addressing the responsibilities to meet these enhanced requirements for co-operation.
 - 7.6. The Children and Families Act needs to align with the responsibilities under the Care Act 2014 as it crosses over into Adult services. For disabled young people aged 18-25 there will be an impact from both pieces of legislation. The two Acts have the same emphasis on outcomes, personalisation, and the integration of services. It is therefore essential that the planning and implementation of both of these Acts is joined up at a local level.
 - 7.7. The SEND Policy document has been updated in March 2015, to take into account the Children and Families Act 2014.

8. Financial Implications

- 8.1. The Department for Education introduced the Special Educational Implementation Grant of which for Essex County Council was allocated **£5.2m** and is payable over 4 years. The grant is not ring fenced but is expected to be spent on costs associated with implementing the new SEN code of practice.
- 8.2. The profile of grant to be paid is as follows:

Year	£
2014/15	2,579,970
2015/16	770,325
2016/17	868,406
2017/18	970,112
Total	5,188,813

- 8.3. Should any of the grant not be spent by 31st March 2018 then a request will be made to carry the grant forward into 2018/19.

9. Legal Implications

- 9.1.** There is a statutory duty on the NHS to jointly commission services to support children and young people with an EHC plan. The legislation requires the agencies involved to jointly commission any services relevant to that plan.
- 9.2.** The legislation strengthens existing duties of co-operation between Education, Health and Social Care in the delivery of the Local Offer and the EHC needs assessments and plans. It:
- Extends entitlement to that plan from 0-25 years of age and abolishes the Learning Difficulty Assessment for young adults over 16;
 - Introduces new rights of appeal and mediation for services specified in plans to Health and Social Care;
 - Introduces rights to request a direct payment (personal budgets) for parents and young people with an EHC plan.

10. Equality and Diversity implications

- 10.1.** The Children and Families Act has a strong crossover with the Equality Act (2010) duties where schools and other settings are required to produce Access Plans and also provide reasonable adjustments not already specified within Education, Health and Care Plans. The Local Authority has recently updated its Accessibility Policy to ensure that it complies with the new responsibilities under the Children and Families Act.
- 10.2.** The requirement to produce a local offer also extends to Health and Social Care provision within an area.

11. Appendix

- 11.1.** SEND governance structure
- 11.2.** Local area SEND inspections: one year on.