

Forward Plan reference number: Not applicable

Report title: Education COVID19 Response	
Report to: Councillor Christopher Whitbread - Cabinet Member for Finance, Resources and Corporate Affairs	
Report author: Helen Lincoln, Executive Director, Children, Families and Education	
Date: 30 July 2021	For: Decision
Enquiries to Clare Kershaw Director of Education	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 This report asks the Cabinet Members to approve the drawdown of £1.06million from the COVID Equalisation Reserve in order to provide 12 months of additional capacity and support within Essex County Council's (ECC) Special Educational Needs and Disabilities (SEND) Operations team, as part of a managed response to the additional demand, pressures, and complexity, created by the on-going COVID19 pandemic.

2. Recommendations

- 2.1 Agree to drawdown £1.06million from the COVID Equalisation Reserve, to provide resilience and support across the ECC SEND Operations team.

3. Summary of issue

COVID19 Pressures

- 3.1 The SEND Operations Team carries out statutory duties for children and young people with SEND as set out in the national SEND Code of Practice. These duties include, but are not limited to; carrying out Education, Health and Care (EHC) Needs Assessments, preparing EHC plans, school placements and annual reviews of EHC plans.
- 3.2 During the past year the SEND Operations team has faced an unprecedented situation during the COVID19 pandemic and there is a need to provide additional capacity in the team to deliver ECC's statutory duties and meet timescales.
- 3.3 The SEND Operations Team capacity has been affected by a number of factors including a significant amount of additional and more complex work in the system. These factors are detailed further below.
- 3.4 The recently published national data on SEN tribunals between 1 January 2020 and 31 December 2020 demonstrates that ECC has a significantly higher

percentage of cases where parents lodge an appeal against decisions taken by ECC in respect of EHC assessments and or school placements than the national average (ECC – 3% of appealable decisions compared to a national average of 1.4%). The volume of appeals both reflects on the capacity of SEND Operational teams to work proactively to resolve cases through positive dialogue with parents and schools and at the same time increases time and cost pressures. There are a number of reasons influencing the high appeal rates including number of initial requests for Education, Health and Care assessments, refused parental concerns regarding the provision within the plan and parental disagreement with the provision named by ECC.

- 3.5 It is proposed that the funding is to be used to increase capacity in the SEND Operations Team and enable ECC to work with parents and schools to seek compromise which would reduce complaints, the number of appeals and the likelihood of costly decisions.
- 3.6 ECC is required to meet statutory timescales for EHC plans. OFSTED inspection reports have identified that there are delays in assessment timescales. These delays have led to complaints from parents through the ECC and Local Government and Social Care Ombudsman (LGO) complaints' processes. These complaints are also adding significantly to workload pressures on SEND operational teams.
- 3.7 ECC are receiving more EHC Needs Assessment requests than before the pandemic. In 2018/19 the average amount of requests per month was 197, in 2020/21 this has increased to 223 per month. From March 2021 in particular (when pupils returned to schools in greater numbers) there has been a marked rise in the number of requests for assessment made by schools, with 306 requests being made in March 2021.
- 3.8 As a result of the backlog of EHC Needs Assessments it has become difficult to allocate Educational Psychologists (EPs) to these requests by the required point in the 20-week cycle, this in turn results in pressure for the SEND Operations team.
- 3.9 The current reduced capacity means the service is unable to undertake the early intervention work that is needed in order to reduce pressures for requests to the SEND Operations team. Capacity in the SEND Operations Team has also been affected due to covid related staff absences and isolation.
- 3.10 The SEND Operations team requires funding to enable capacity to deliver key services and to respond effectively to the impact of COVID19 to avoid an unprecedented backlog in the EHCP process and to meet the statutory timescales for EHC assessments. The proposal to draw down funding from the COVID19 reserve will facilitate a short-term targeted response, as detailed in paragraph 4.1, and ensure there is sufficient resource to support with the volume of activity currently experienced.

4. Options:

- 4.1 **Recommended Option:** to drawdown **£1.06m** across 2021/22 and 2022/23 from the COVID Equalisation Reserve to implement response measures as per para. 3.9 to help alleviate COVID19 pressures in response to case complexity and demand (including latent demand) through the recruitment of additional (temporary) resource comprising **26.5 FTE**.
- 4.2 **Do Nothing (Not Recommended):**
ECC has a statutory obligation in relation to EHCP assessments. If the decision to drawdown is not approved, capacity in the SEND Operation Team will not increase and the SEND and Disadvantaged achievement gaps for the most vulnerable may further increase. Current pressure on the existing workforce is at high risk of ECC failing to retain staff which will additionally add more pressures to the system and ECC's ability to deliver this key service may be negatively impacted. This option is therefore not recommended.

5 Issues for consideration

5.1 Financial implications

- 5.1.1 Education Non DSG has a total 2021/22 revenue expenditure budget of £23.1m. Currently, £19.1m is budgeted for staffing in 2021/22.
- 5.1.2 The recommended option will require an additional **£1.06m** of expenditure; consisting of £530,000 (assuming posts are fully recruited to by October 2021) in 2021/22 and £530,000 in 2022/23, to implement the response measures outlined. This will fund the recruitment of additional (temporary) resource comprising **26.5 FTE** plus honorariums to existing staff members as they take on additional responsibilities whilst implementing response measures. None of these posts are currently budgeted for in 2021/22 or 2022/23 and there is no provision for their continuance in the MTRS in further financial years.
- 5.1.3 Funding is requested from the COVID Equalisation Reserve for £530,000 in 2021/22 and £530,000 in 2022/23. Should the pressures continue and require the initiatives to extend beyond September 2022, additional funding sources will need to be identified.

Assumptions

- 5.1.4 The £1.06m investment is calculated for a period of mobilisation between October 2021 and September 2022.
- 5.1.5 The investment will only be used to provide capacity to operational demands created by the COVID19 pandemic and in response to the anticipated future pressures.

- 5.1.6 Staff will be recruited on a temporary/fixed term basis for an initial 12-month period.

Risk

- 5.1.7 There is a risk that the legacy of the pandemic will continue to drive system pressures beyond September 2022. The investment to support delivery over a 12 month period, will be reviewed quarterly, to identify opportunities for learning, sustainability, conclusion, and ways of working.
- 5.1.8 The use of this investment will be monitored through the Education Excellence, Skills and Training portfolio performance board, where there will be regular reporting on the metrics.

5.2 Legal Implications

- 5.2.1 The Council's financial regulations state that all drawdowns from reserves must be approved by the Cabinet Member for Finance.
- 5.2.2 Drawing down of money from reserves does not authorise any expenditure and approval to fund additional, temporary resources is a non-executive function.

6 Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- 6.1.1 Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- 6.1.2 Advance equality of opportunity between people who share a protected characteristic and those who do not.
- 6.1.3 Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (6.1.3) or (6.1.4) although it is relevant for (6.1.2).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

- 6.4 The proposal in this CMA will protect eligible children who are more at risk due to COVID19 because of their age or disability.

I approve the above recommendations relating to my portfolio for the reasons set out in the report. Councillor Christopher Whitbread – Cabinet Member for Finance, Resources and Corporate Affairs	16 August 2021
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In consultation with:

Role	Date
Councillor Tony Ball – Cabinet Member for Education Excellence, Skills and Training	12 August 2021
Executive Director Children, Families and Education Helen Lincoln	4 August 2021
Executive Director for Finance and Technology (S151 Officer) Stephanie Mitchener on behalf of Nicole Wood	9 August 2021
Director, Legal and Assurance (Monitoring Officer) Susan Moussa on behalf of Paul Turner	4 August 2021