

## **CABINET**

**7 APRIL 2020**

### **JOINT LOCAL AREA SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND) INSPECTION REVISIT**

Portfolio Holder: Councillor Mrs Josie Iles, Portfolio Holder for Children's Services (Lead Member)

Report from: Ian Sutherland, Director of People - Children and Adults Services

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#### **Summary**

The Medway Local Area was inspected by Ofsted and the Care Quality Commission (CQC) from 4- 8 December 2017. The inspection focussed on the local areas' effectiveness in identifying and meeting the needs of disabled children and young people and those who have special educational needs. The Local Area Special Educational Needs and Disabilities (SEND) inspection outcome letter was published on 8 February 2018.

Ofsted and the CQC identified eight areas of serious weakness and therefore the Local Authority and CCG were required to submit a Written Statement of Action to the Department for Education (DfE) which was accepted and published in April 2018.

Between 9 and 11 December 2019, Ofsted and the Care Quality Commission (CQC) revisited Medway to decide whether sufficient progress has been made in addressing each of the eight significant weaknesses. They concluded that the Local Area has made sufficient progress in addressing five of the eight significant weaknesses identified at the initial inspection.

This report was considered, initially, by the Children and Young People Overview and Scrutiny Committee on 5 March 2020, details of which are set out in section 6 of the report.

#### **1. Budget and Policy Framework**

- 1.1 This report is within the Council's Policy Framework.
- 1.2 The SEND local offer is required to bring together education, health and social care services across Medway to transform specialist provision for young people from 0 – 25 years old.

- 1.3 This report informs the Cabinet of the outcome of the SEND Local Area Revisit, which was carried out jointly by the Office for Standards in Education, Children's Services and Skills (Ofsted) and the Care Quality Commission (CQC) between the 9 and 11 December 2019.

## 2. Background

- 2.1 The purpose of the Local Area SEND Inspections and Revisits are to evaluate how well local areas are discharging their duties in relation to SEND. These duties are contained in the Children and Families Act 2014 and elaborated on in the statutory guidance, 'Special Educational Needs and Disability Code of Practice: 0-25 Years' (the Code of Practice). These duties came into force in September 2014.
- 2.2 Inspections of Local Area arrangements for SEND began in May 2016 and it is expected that all local areas will have been inspected by 2021. The outcome of the inspection is published on the Ofsted website in the form of a letter to the Director of Children and Adults Services that sets out strengths and areas for improvement.
- 2.3 Depending on the outcomes, a local area may be required to provide a written statement setting out the actions that it will take to address priorities identified, and the timescales for taking these actions. A written statement will be required in the event that inspectors identify significant concerns in relation to the way the local area is meeting its duties under the Children and Families Act 2014.
- 2.4 Of the Local Areas that have been inspected to date, over 40% have been required to provide a written statement of action.
- 2.5 The Inspection Framework emphasises that Local Area Inspections evaluate the effectiveness of all relevant partners in the local area in fulfilling their responsibilities for SEND. The inspection therefore evaluates the contribution and impact of the local authority, the Clinical Commissioning Group (CCG), Public Health, specialist services, early year's settings, schools and further education providers. In the event that an action statement needs to be submitted following an inspection, the report will make clear which partner agencies are responsible for preparing and submitting the statement.
- 2.6 The initial SEND inspection focused on three broad areas:
- The effectiveness of the local area in **identifying** children and young people who have special educational needs and/or disabilities.
  - The effectiveness of the local area in **assessing and meeting** the needs of children and young people who have special educational needs and/or disabilities.
  - The effectiveness of the local area in **improving outcomes** for children and young people who have special educational needs and/or disabilities.
- 2.7 The inspectors concluded that the inspection identified concerns about the effectiveness of the local area and required the Local Authority and Clinical Commissioning Group (CCG) to jointly produce and submit a written statement of action to Ofsted by 19 April 2018 that explained how the local area would tackle the following eight areas of significant weakness:

- the lack of joint strategic leadership across the area between the Council, the CCG and education providers;
- the lack of a clearly communicated strategy that is understood and shared by leaders across the area;
- the extent to which providers in the area take suitable responsibility for ensuring the effective implementation of the reforms;
- the lack of clearly understood and effective lines of accountability;
- the quality and rigour of self-evaluation and monitoring and its effectiveness in driving improvement;
- the sufficiency of information to inform accurate evaluation;
- the quality of education health and care plans; and
- the lack of effective co-production at all levels.

2.8 A SEND Improvement Board was set up with the remit to monitor and scrutinise the progress towards the actions set out in the Written Statement of Action.

2.9 The Written Statement of Action focused on:

- Strategic leadership providing effective oversight of the SEND agenda.
- Improvement to the co-production model across all services.
- Improving the quality of Education, Health and Care Plans.
- Development of a shared Local Area SEND Strategy.
- Identification and analysis of data to inform accurate evaluation.

2.10 Approximately 18 months after a Local Area has been asked to publish a Written Statement of Action, OFSTED and CQC complete a Local Area Revisit to decide whether sufficient progress has been made in addressing each of the significant weaknesses detailed in the Written Statement of Action (WSOA).

2.11 During the Revisit in December 2019, inspectors spoke with children and young people with special educational needs and/or disabilities (SEND), parents and carers, representatives of the Medway Parent Carer Forum (PCF), local authority and National Health Service (NHS) officers, as well as an adviser from the Department for Education (DfE). They spoke to school leaders about how they are implementing the disability and special educational needs reforms and considered responses to the inspection's online survey for parents and carers.

2.12 Inspectors also looked at an extensive range of information about the performance of the area, including the area's self-evaluation and minutes of meetings. Inspectors met with leaders from the area for health, social care and education. They reviewed performance data and evidence about the local offer and joint commissioning.

### **3. Medway Local Area SEND Revisit Outcome**

3.1 The judgement from SEND Revisit inspectors was contained in a letter addressed to the Director of Children and Adult Services and published on the Ofsted website on 19 February 2020.

3.2 The inspectors concluded that the Local Area has made significant progress in five out of the eight areas initially identified as areas of concern. These were:-

- the extent to which providers in the area take suitable responsibility for ensuring the effective implementation of the reforms;
- the lack of clearly understood and effective lines of accountability;
- the quality and rigour of self-evaluation and monitoring and its effectiveness in driving improvement;
- the sufficiency of information to inform accurate evaluation; and
- the lack of effective co-production at all levels.

3.3 Whilst the inspectors saw that progress had been made in the remaining three areas, they reported that this progress had been slow to be realised and had not been embedded for long enough. These areas were:-

- the lack of joint strategic leadership across the area between the Council, the CCG and education providers;
- the lack of a clearly communicated strategy that is understood and shared by leaders across the area;
- The quality of education, health and care plans.

#### **4. Update on Progress towards the Improvement Actions**

##### **4.1 Area One**

*The lack of strategic leadership across the area between the council, the CCG and education providers*

##### **Key Findings**

- The local authority and the CCG have remained key in securing improvement. Following the inspection, leaders challenged themselves to identify 'what is it, precisely, that we need to do, and how, in order to address this?' As part of a slow but wide-ranging response, an improvement board (which meets monthly) was established and a SEND strategy was developed, planned and embedded within the overarching Children and Young People's Plan.
- A number of successful joint initiatives, such as the SEND leadership project, are successfully improving relationships between partners. The initial slow response to addressing identified weaknesses means children and young people's experiences of support for health, education and social care needs remain variable. Many parents report that they have yet to feel the impact of any changes.
- A strength in area leadership is the voice of children and young people. Senior area leaders have inspired and supported groups of children and young people, enabling them to run their own strategic groups.
- Parents and leaders shared with the inspection team their concerns about the inconsistent commitment and response to the SEND reforms from schools. Sadly, some families feel that their children are not welcome or wanted in their local schools. School leaders have been slow to play their part as area leaders and to engage in key decision-making meetings. One impact of this is that the proportion of children and young people with education, health and care plans (EHC plans) in Medway who are being

educated in mainstream schools remains notably lower than in most other areas of the country.

The local area has not made sufficient progress in addressing this significant weakness.

#### 4.2 Area 2

*The lack of a clearly communicated SEND strategy that is understood and shared by leaders across the area.*

##### Key Findings

- Leaders have been slow to develop the area's SEND strategy.
- Now developed and agreed, the SEND Strategy has given leaders a much-needed sense of purpose and cohesion.
- Although now in place, the SEND Strategy has not yet been clearly communicated, understood or shared.
- The Local Offer website is increasingly out of date. Parents and carers do not see the local offer as a place to go to find helpful information.

The local area has not made sufficient progress in addressing this significant weakness.

#### 4.3 Area 3

*The extent to which providers in the area take suitable responsibility for ensuring the effective implementation of the reforms*

##### Key Findings

- The range of ongoing high-quality training is contributing well to providers' growing sense of collective responsibility. This is generating a will to secure the necessary improvements.
- Work to reduce fixed-term and permanent exclusions for children and young people with SEND has been successful. Outreach support from the local special schools provides extensive support for children with social, emotional and mental health needs, and the area's educational psychologists also provide a bespoke response when concerns warrant this.
- Despite some good work to improve provision in schools, parental anxiety around support for their children remains high.
- Area leaders recognise that there is a discrepancy in provision from school to school, which leads to parental anxiety and frustration. Primary leaders are confident that discrepancies in the primary sector are now reducing. Inspectors agree with this view.
- While the concern around the inclusive attitude of some secondary academies remains, school culture has become more inclusive overall. Within Medway, there is a far greater understanding of shared responsibility and a network of skilled and committed professionals who are determined to implement the reforms fully and effectively.

The local area has made sufficient progress in addressing this significant weakness.

#### 4.4 Area 4

*The lack of clearly understood and effective lines of accountability*

##### Key Findings

- The accountability and governance arrangements for SEND in Medway have improved. Operational and strategic groups have clear membership and transparent lines of accountability. Arrangements are understood by leaders across the area, and a sense of rigour is growing.
- The creation of a SEND Improvement Board to monitor progress in the Written Statement of Action and SEND Strategy has been positive. Parents are represented at a strategic level, and senior roles are shared between key organisations.
- The governing board of the CCG has appointed a board member with responsibility for SEND, and this has introduced greater challenge.
- School leaders' positive views and understanding of the SEND reforms, expressed directly to inspectors during this visit, appear at odds with the all-too-frequent absence of school leaders from key strategic debates and the negative views expressed by parents and carers.

The local area has made sufficient progress in addressing this significant weakness.

#### 4.5 Area 5

*The quality and rigour of self-evaluation and monitoring and its effectiveness in driving improvement.*

##### Key Findings

- Medway has made strong progress, using both quantitative and qualitative information to strengthen self-evaluation and monitoring to address previously identified weaknesses and to better meet the needs of children and young people with SEND.
- Analysis of this information has been used to inform a multi-agency quality assurance programme. Outcomes from these reviews, known as 'deep dives' include improved communication between professionals and the introduction of joint visits to parents.
- Leaders are aware that Medway's approach to ensuring that young people with SEND are well supported as they approach adulthood is not strong. Leaders do not have a good understanding of the current work taking place in health, social care and education to support these young people. Actions to improve this situation are at a very early stage.

The area has made sufficient progress in addressing this significant weakness.

#### 4.6 Area 6

*The sufficiency of information to inform accurate evaluation.*

##### Key Findings

- A greater emphasis has been placed on gathering information from numerous sources and using this evidence to inform evaluation and forward planning. Examples of recent information gathering and analysis include the data dashboard, scorecards, monthly EHC plan audits, and use of feedback from professionals, children and young people, and parent and carer surveys.
- Children and young people are involved in designing more-engaging tools through which their views can be gathered more fully. With this in mind, young people talked enthusiastically to inspectors about potential 'app' development.
- The SEND newsletter is a helpful and interesting document through which up-to-date information can be shared with professionals and families, promoting the sense of partnership and ensuring that stakeholders can see that their views are valued and are being used to inform further change
- A good example of leaders' work to ensure that there is sufficient information to inform accurate evaluation is the work undertaken to secure sufficient and suitable school provision for children and young people with SEND, both now and in the future. A review of alternative provision has been completed, and an action plan agreed. The predicted number of school places required for children with different needs has been calculated as precisely as possible

The local area has made sufficient progress in addressing this significant weakness.

#### 4.7 Area 7

*The Quality of Education, Health and Care Plans.*

##### Key Findings

- The combination of input from parents, carers, children and young people, as well as professionals, on the format and content of plans has resulted in the overall quality of EHC plans improving very significantly. However, this significant improvement has only been secured in recent months.
- A programme of training for relevant personnel on how to write advice and set targets for the plans has reaped rewards. As a result, the quality of what is written in children's plans is more helpful to families and school staff. Robust multi-agency quality assurance continues to be important in this regard.
- The hopes and desires of children and young people and their families are captured and recorded as part of the process of developing a plan. However, these ambitions are not clearly reflected in the detail that follows.
- Education advice, including from educational psychologists, is valued by families and school leaders. Health advice is strengthening, and most practitioners are now helpfully using the standardised template.

- Insufficient input from social care, even when there is statutory provision such as a child in need or child protection plan, is a continuing weakness. EHC plans may record, for example, that there is a child protection plan, but there is no evidence to suggest that it has informed the EHC plan. Where there is no statutory provision, support to access social activities, such as short breaks, or provision through early help are not mentioned.

The local area has not made sufficient progress in addressing this significant weakness

#### 4.8 Area 8

*The Lack of Effective Co-Production at all Levels.*

##### Key Findings

- There is an increasing openness to co-produce services at an operational and strategic level across Medway.
- Many partners spoken to by inspectors agreed that they valued and understood co-production and could give examples of workstreams that they are involved in. However, evidence indicates that secondary academy leaders are not taking sufficient responsibility for the implementation of the reforms, including contributing to co-production.
- The joint commissioning of services across Medway is well integrated. Effective arrangements are in place to monitor performance against contracts that show ambition for children and young people with SEND.
- The recommissioning and provision of services for children and young people with emotional and mental ill health and autistic spectrum disorder have been turbulent. The legacy of long waiting times and difficulties in implementing new contracts has meant that some children, young people and their families continue to experience unacceptable delays in accessing services, specifically for children aged 11 and over.
- A positive example of effective co-production relates to support for children and young people with their behaviour in schools. Appropriately, this has been identified in Medway as a key area for improvement. Local partners have worked together to fund and develop a pilot Positive Behaviour Support Programme, which has been trialled with success in six schools. Following training in March 2020, this project will be widely rolled out.
- The Parent and Carer Forum has places on some influential strategic and operational groups, and there is evidence of its impact on the design and delivery of some services

The area has made sufficient progress in addressing this significant weakness.

## **5. Next Steps**

- 5.1 It is expected that, following the outcome of the SEND Revisit, the CCG and Medway Council will be asked to submit an “Accelerated Progress Plan” to the DfE. This plan will describe how the Local Area will continue to make progress to improve the remaining three areas of concern.



5.2 It is expected that the Department for Education and NHS England will continue to offer monitoring and scrutiny meetings with the CCG and Medway Council to ensure that progress is being made.

5.3 It is expected that there will be two monitoring visits over the period of a year.

## **6. Children and Young People Overview and Scrutiny Committee – 5 March 2020**

6.1 The Director of People – Children and Adults Services introduced the report which updated the Committee on a revisit by Ofsted and the Care Quality Commission to review progress made in addressing the eight areas of significant weakness which were identified in the local area SEND inspection of 2017. The outcome of the revisit judged that five out of the eight areas had been significantly improved and were cleared. For the remaining three areas, Medway was required to submit an accelerated progress plan to the Department for Education and it was expected that the final three areas would be signed off within 12 months.

6.2 Members then raised a number of questions and comments, which included:

6.2.1 **Improving the quality of Education, Health and Care Plans (EHCPs)** – in response to a question regarding this, officers explained they had worked hard and developed a new template and an audit tool. There were around 1500 EHCPs still to move across to the new template, which was being progressed.

6.2.2 **Collaborative working with families** – officers confirmed that work with families in developing EHCPs was far more collaborative, with a co-production meeting being held and a reflection meeting at the midway point of the 20 week process and at the end. This was generating positive feedback from families. Where decisions were made to not provide a child with an EHCP, families were supported and worked closely with using mediation as necessary, where there was disagreement with the decision.

6.2.3 **High Needs Budget Deficit** – following concerns raised about the £10m deficit and the impact this would have on children, officers confirmed that this had been reduced to £8.6m. A deficit recovery plan had been submitted to the Education and Schools Funding Agency (ESFA) and a sub-group of the Schools Forum was to be set up to help manage the issue, which was a national problem and Directors of Children's Services and the education sector continued to lobby the Government in relation to increased funding.

6.2.4 **Process** – the point was made that although a large proportion of EHCPs were now completed within the 20 week statutory timescales, quality was paramount and it was also recognised that there was often a long history to the process for the family, before the EHCP assessment process begins, which could be difficult and frustrating for families.

6.3 The Committee noted the report.

## 7. Risk management

Risk	Description	Action to avoid or mitigate risk	Impact	Risk rating
The DfE and NHS England do not believe that adequate progress is being made towards the three remaining areas of concern.	The DfE and NHS England are required to offer monitoring and scrutiny to ensure that adequate progress is being made.	To work closely and regularly with the DfE Advisor and NHS England advisor to monitor progress.	Marginal	Low

## 8. Consultation

- 8.1 There is a requirement on the local area to publish the approved Accelerated Progress Plan on the CCG and Local Authority websites and the Local Offer website.
- 8.2 Parents and young people will be asked to co-produce the Accelerated Progress Plan and will be involved at every stage of its implementation.

## 9. Implications for Looked After Children

- 9.1 Nationally 67% of looked after children have some level of special educational needs.
- 9.2 All looked after children in Medway are known to the Virtual School, whose role is to provide additional support to children and schools and ensure that looked after children are making good academic progress.
- 9.3 National benchmarking data shows that Medway looked after children who have special educational needs, do as well or better than their peers.

## 10. Financial implications

- 10.1 Where possible the action plan to deliver improvements will be developed in consultation with the Lead Member for Children's Services, within existing resources. If any additional resources are required to further implement the action plan, a report will be referred to Cabinet and Council as appropriate.
- 10.2 Funding for children with SEND comes to the Local Authority through a High Needs Block Grant from the Department for Education. This funding is announced annually and the total allocation for Medway for 2019/20 is £38.226m.
- 10.3 The government has announced additional high needs funding support for 2020/21 and Medway's share will increase the 2020/21 high needs allocation to £41.740m.
- 10.4 At the end of the 2018/19 financial year, Medway overspent its high needs Designated Schools Grant (DSG) allocation by £3.688m. This overspend was transferred into the High Needs DSG reserve and pushed the reserve into an overall deficit for the first time. The Quarter 3 forecast predicts an overspend

of c£5.916m and when this overspend is transferred into the reserve at the end of the year, it will increase the total overspend to £9.604m. This total overspend is a reduction of £0.669m when compared to the overspend reported in round 2 due to the changes implemented by the teams and the effect of the recovery plan.

- 10.5 The overspend is being driven by increased pressures in demand, with numbers of children with an EHC Plan standing at over 2,500, compared with 1500 statements of SEN in 2014, an over-reliance on special provision and the independent sector are key drivers.
- 10.6 Further, the DfE has introduced, as a condition of the 2019/20 DSG, the requirement to provide recovery plans for DSG deficits for any LA whose DSG is 1% in deficit. Medway Council is one of 32 LAs subject to this and submitted their plan at the end of June 2019.

## **11. Legal implications**

- 11.1 The local authority has a responsibility to ensure young people with additional needs have access to an appropriate education. In doing so, the Local Authority must consider the application of the relevant legislation, including but not limited to, the Children and Families Act 2014 and the Equality Act 2010, and other relevant publications such as the Special Education Needs and Disability Code of Practice 0-25 years (2014).
- 11.2 Health and schools also have responsibilities to provide services to meet the needs of young people in the area. The inspection judgement is a shared responsibility with the Clinical Commissioning Group.

## **12. Recommendations**

- 12.1 The Cabinet is asked to note the comments of the Children and Young People Overview and Scrutiny Comments as set out in section 6 of the report and note the progress towards meeting the improvements detailed in the SEND Written Statement of Action.

## **13. Suggested reasons for decisions**

- 13.1 To formally notify the Cabinet of the outcome of the SEND Local Area Revisit and outline the next steps.

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### **Appendices**

Appendix A – Outcome letter of the Joint SEND Re-visit in Medway

### **Background papers**

None