

CABINET

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REPORT FROM THE SPECIAL EDUCATIONAL NEEDS MONITORING GROUP

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Summary

This report provides details of the work recently undertaken by the Special Educational Needs (SEN) Monitoring Group and includes its findings and recommendations.

The Children and Young People Overview and Scrutiny Committee agreed that this task group should be established to review the SEN strategy and policy and consider provision, impact on children and families and financial implications.

1. Budget and Policy Framework

- 1.1 Children and Young People with SEN are defined under the Education Act 1996 as those who have a learning difficulty, which calls for special educational provision to be made for them. Section 316A of the Act requires maintained schools and local education authorities to have regard to guidance on the statutory framework for inclusion.
- 1.2 The identification and assessment of SEN falls within the framework of the SEN Code of Practice to which schools and local authorities have to 'pay due regard'. Within the SEN Code of Practice there are three different levels of identification: -
 - 'School Action' – school is required to identify barriers to learning and take action to remediate barrier.
 - 'School Action Plus' – school requires additional support from a specialist agency or external professional.
 - 'Statutory assessment of SEN' – level of child's SEN appear to be so complex that it is unclear how to address them or the authority will probably be required to put in additional resources which are not accessible through any other route. This assessment may lead to the issuing of a statement of SEN.

- 1.3 A statement of SEN is a legal document, which summarises the child's strengths, their SEN and the interventions, resources and facilities needed to address the child's difficulties. School provision is included on the statement.
- 1.4 Medway has an SEN policy and strategy for 2009-14 which is periodically updated under delegated authority of the Director for Children and Adults in consultation with the Portfolio Holder for Children's Services (Cabinet Decision 11/2010).
- 1.5 The findings and recommendations of the monitoring group are in accordance with the intentions and aspirations within Medway's Children and Young People's Plan 2009-10.
- 1.6 The Diversity Impact Assessment, which has been carried out in relation to special education needs, is attached at Appendix A.

2. Background

- 2.1 The Children and Adults Overview and Scrutiny Committee considered the SEN Policy and Strategy at its meeting on 3 December 2009 and at the meeting Members agreed to set up the SEN Monitoring Group to review the strategy and policy and consider provision, impact on children and families and financial implications.
- 2.2 The group met with officers and it was suggested that the group visit current provision, in particular some new provision that had recently been opened in Medway and particularly where SEN provision had been accommodated at Medway schools.
- 2.3 The group were also keen to understand the tribunal process, as they were aware the rate at which parents or carers went to tribunal in relation to placements and provision offered to their child was higher than nationally and than Medway's statistical neighbours.
- 2.4 Due to the change in government this year, the task group met in a time of unprecedented change in educational policy.

3. Medway's SEN Strategy and Policy

- 3.1 It is a requirement that every local authority sets out its processes, procedures and plans for working to meet the SEN of its pupils.
- 3.2 Medway's SEN Strategy and Policy¹ was approved at Cabinet on 26 January 2010. It sets out the position in regard to law and the processes governing SEN. The expectation is that the majority of statemented pupils will and should have their needs met in an inclusive mainstream setting with a small minority requiring a more specialist setting.

¹ Medway's SEN Strategy and Policy can be viewed at the following link:
<http://www.medway.gov.uk/educationandlearning/schoolsandcolleges/supportinglearning/specialeducationalneeds/senpolicy.aspx>

- 3.3 The document aims to establish Medway based provision where possible and to develop the skills within mainstream schools to enable children to have their needs met as appropriate and to ensure that there is parental confidence about those needs being met. It also aims to enable Medway provision to become more flexible and responsive to the needs of children and young people, to have better identification so that they are appropriately placed and to enable the possibility of routes back to mainstream from special provision.
- 3.4 The fundamental principles outlined in the policy are: -
- A child with SEN should have their needs met;
 - The SEN of most children will normally be met in a mainstream school (as set out in the Education Act 1996);
 - Children's SEN will be met in an appropriate provision;
 - The views of the child should be sought and taken into account;
 - Parents/carers have a vital role to play in supporting their child's education and;
 - Children with SEN deserve full access to a broad, balanced and relevant curriculum with clear post 16 progression routes and options.
- 3.5 The policy underpins the strategy, which has an action plan spanning five years, seeks to develop local practice and provision.

4. Visits and fact finding by the group

The monitoring group took part in the following visits and evidence gathering sessions: -

4.1 Visit to The Hundred of Hoo School

The group visited the St Werburgh Centre for autism based at the Hundred of Hoo secondary school. Students using this facility are all statemented for Asperger's Syndrome or Autistic Spectrum Disorder and the facility provides access to mainstream education by carefully planned integration supported by teaching assistant. Part of the young people's education is provided in mainstream classes and part in the centre itself with varying levels depending on each young person's needs.

The centre had recently increased in capacity via a new key stage 4 facility and therefore offered even more sixth form provision for the most vulnerable students in the centre. This included a small independent study area with ICT facilities, a specialist pastoral manager to support social time, independent study and facilitate life skills opportunities and access to social and lifestyle course which are accredited.

4.2 Meeting with The Robert Napier School

The group met with the Headteacher and the lead of the A2M (access to mainstream) unit at the Robert Napier School to discuss the A2M SEN provision at the school.

A2M was a specialised unit where eight students at key stage 3 and eight students at key stage 4 were able to experience a mixture of

individual and small group learning, as well as attend some lessons in mainstream classes. Timetables for these students were personalised to enable each student to achieve the best progress possible and each student was also provided with outdoor pursuit experiences to develop team building skills, social skills and confidence. Speech and language therapy was also provided where necessary.

A2M students were consulted in order to take into account what they would like to learn and their views on the learning provision. Staff also worked in partnership with parents to enable them to make an active contribution to the education of their children.

Attendance of students accessing A2M was good and progress review data had shown an increase in sub-levels for Mathematics and science. In addition the school reported that the students had developed their social skills and appeared more confident.

4.3 Visit to Riverside Primary School

The task group visited Riverside Primary School to view the new provision that had opened in September 2010 for children with autistic spectrum disorders. The school had already offered provision for visually impaired children with specialist teaching assistants working alongside them to fully access the day-to-day life at school. There was a Braille teacher and the school was designed to accommodate for these children.

The new provision at the school was for children with an autistic spectrum disorder and accommodated six children at the time the task group visited the school. The children had started the school in September or shortly after the start of term and were already integrating into mainstream classes at varying levels. The new purpose built provision, which had been designed by an architect who had experience in SEN facilities, included a room for the children to be educated on a 1:1 or small group basis and the room itself benefited from specialist furniture, equipment and facilities. A sunken trampoline had also been installed in the outdoor play area.

4.4 Visit to Abbey Court Special School

Abbey Court School is a special school for pupils aged 4 – 19 years with severe and profound learning difficulties. The task group visited the primary age part of the school in Rainham and were given a tour of the school to see all the facilities available, which included; rebound therapy equipment, a sensory room, a library, music therapy, food technology facilities, soft play and a playground with adventure equipment. They were able to see lessons going on which had a high ratio of student to staff. It was clear from the tour that the school was very full, that some classes would benefit from larger space and that the play area was very restricted, which is recognised in Medway's SEN Policy and Strategy.

4.5 Meeting with staff on SEN tribunals

The monitoring group met with staff from the SEN team to discuss the process and outcomes of SEN and disability tribunals, including; when parents or carers have the right to appeal, the local authority's responsibility to ensure details in a child or young person's statement

are met, the resource implications of defending tribunals, the use of mediation to meet agreements with parents and carers outside of tribunal and the demonstrable savings realised from defending appeals.

To demonstrate this the monitoring group were given one example case, which the Council had successfully defended. It showed that Medway provision, which was considered suitable for the child by the SEN team who regarded the child to be developing well at this provision, totalled a cost of £23, 079 per year, whereas the cost of the parental choice, a residential unit outside of Medway would have cost £71, 720 per year. The savings by the time the child reached 18 would be at least £389,128, not taking into account any increases in fees and transports costs during that time. The additional workload in organising and defending cases is high. For example, the total time spent by the Educational Psychologist on this case was 60 hours.

5. Analysis of findings

- 5.1 The monitoring group established from their visits and fact finding meetings that there had been some good development of SEN provision, particularly with regard to provision embedded within mainstream primary and secondary schools, which were showing signs of success and had provided extra capacity for special schools which were already full. This was in line with the aims detailed within Medway's SEN Strategy and Policy and met its priority to develop schools' capacity to cater for children with more complex needs who have been placed out of area and allowed Medway's SEN provision to be more flexible and responsive. However, the group also recognised that there was still some distance to go in improving and increasing provision in Medway.
- 5.2 The group felt that, where appropriate, the SEN provision embedded in schools to provide children and young people to access both specialist provision and mainstream education and develop socially, was the ideal model and should be encouraged and developed wherever possible. In addition, it enabled special schools to provide their facilities for children and young people with the highest need and those with a lower need had the opportunity of thriving in mainstream schools.
- 5.3 In addition the group found that Medway had a much higher number of children and young people diagnosed as having an SEN than nationally or than compared to its statistical neighbours. In October 2009 school data shows that out of a 40, 603 pupil population, 10, 283 (25.3%) have an identified SEN. The group were informed about a pilot of a multi diagnostic pathway for autism, which had been developed to provide a more informed diagnosis of a child's need.
- 5.4 This is developed by the multi disciplinary team who collaborate on the diagnosis and consider the evidence carefully as there may be alternative explanations for particular behaviour. The pilot is demonstrating a reduction in the number of children and young people receiving a diagnosis of Autistic Spectrum Disorder via this method.

- 5.5 Medway also received a higher number of tribunal appeals than the national average and statistical neighbours. The group were informed that, from April to November 2010, 30 appeals to tribunal had been lodged, which was double the national average. This was largely because Medway had previously had little capacity to defend, which meant that pupils were placed in provision requested by parents, which in turn raised parental expectations within the wider community.
- 5.6 The group found that there was great merit in defending tribunals, which realised a great deal of savings in some cases over the lifetime of a child's education. However, it was acknowledged that this took large amounts of resource.
- 5.7 High spend in out of area placements was acknowledged by the monitoring group, as it is in the SEN Policy and Strategy, which states; "Medway has become dependent on out-of-area provision. This needs to change to enable better-planned investment within the local authority provision". Members of the group were therefore pleased to learn that an additional 48 places at primary level and 60 places at secondary level were being developed and would open shortly, creating even more capacity within Medway. The group did not feel Medway should have an expectation to accommodate all types of SEN provision geographically in Medway but should aim to move the balance more towards more Medway based provision and less out of area placements.
- 5.8 Members were also keen to explain that, following the visit to Abbey Court, it was clear that Medway's special schools would benefit from investment, if funding could be secured for such provision. It was acknowledged that this was an aspirational request in such difficult financial times but Abbey Court was a good example of how special schools in Medway also needed investment to ensure sufficient and outstanding provision was available for its children with the highest need.
- 5.9 The Group also felt that SEN provision should be developed in Medway in the future so that it could provide a centre of excellence for the service and encourage and enable more children from Medway and beyond to use the service locally.
- 5.10 During the group's work it learned that services for SEN were very complex and needs were wide ranging. Medway would never be in a position to provide in-area SEN provision for every child as some with the most profound and multiple special needs require very specialist provision, which may not be able to be accommodated within Medway. However Medway does, within its SEN Policy and Strategy, aim to deliver as much as is possible and viable to do so.

6. Children and Young People Overview and Scrutiny Committee – 20 January 2011

- 6.1 The Children and Young People Overview and Scrutiny Committee considered the report from the SEN Monitoring Group at its meetings on 20 January 2011.

- 6.2 The Chairman and the Assistant Director for Inclusion introduced the report on behalf of the monitoring group, highlighting the findings of the group.
- 6.3 The committee then debated the report and asked various questions which included: -
- clarity about the figures of children and young people in school and the proportion that have SEN;
 - reasons for the high SEN diagnosis in Medway;
 - the required spend on SEN provision to realise future savings in enabling children to receive provision in Medway, rather than at expensive out of area placements;
 - importance of recognising when a child was under achieving, rather than requiring SEN.
- 6.4 Members suggested that the recommendation to Cabinet should be strengthened, as set out in paragraph 6.6 (b) of this report.
- 6.5 The Headteacher representative also referred to material that was provided to her Inclusion Leader who was currently training to be a qualified SEN Co-ordinator (SENCO). She explained that she found the material useful in auditing the processes in place at her school and that it should be shared more widely.
- 6.6 The committee agreed the following: -
- a) to acknowledge the findings of the SEN Monitoring Group and the progress in provision and increased capacity for Medway to accommodate children with SEN;
 - b) to recommend the Cabinet to acknowledge the urgent and dire need to invest in Medway's special schools, which require improvements to their accommodation, as identified in Medway's SEN Policy and Strategy and that where funding can be secured, this be used to improve the facilities for children with the highest needs of special education;
 - c) to recommend the Cabinet to delegate the Director of Children and Adults to review the findings against the outcomes of the forthcoming Green Paper on SEN;
 - d) to recommend officers to share with schools material provided to SEN Co-ordinators (SENCOs) on the accredited course.
- 6.7 During debate on another item later on in the meeting, the draft capital and revenue budget, the committee requested that its recommendations to Cabinet in relation to SEN are cross referenced in the budget report, also being considered by Cabinet on 15 February 2011.

7. Director's comments

- 7.1 Members have had an opportunity to visit a cross section of provision in Medway and to develop an integrated understanding of the complex

issues that relate to developing special needs services. While Members were able to visit Abbey Court and to gain insight into the space pressures for that school, the same is true of the other three special schools in Medway, all of whom have been admitting pupils with increasingly complex needs. Building new special school provision is costly, so where there is a resourced need and existing school buildings are vacant, it is important that the project appraisal for any new facility considers (amongst other options) the desirability and viability of reusing these.

- 7.2 The overall picture of education in England is changing. Academies are developing rapidly and it is likely that Free Schools will seek to open in the locality. These new types of school will be independent of the local authority but will still have a duty to provide education to pupils who have special educational needs. However, as they develop and set their own admissions criteria it is probable that the local authority will need to liaise closely with them to ensure that this duty is fulfilled. The 'floor standards' for schools announced in the Education White Paper have become more challenging for primary and secondary schools. The challenge in secondary schools to achieve these standards will always be exacerbated in areas that have a selective system. The unintended consequence of this will be that it becomes even harder for schools to welcome low attaining pupils with special needs.
- 7.3 The Government is seeking to consult on a different way of arranging and providing for children with special educational needs. There is a Green paper due for publication in February 2011. A commitment to personal budgets has already been announced and the Green Paper will show how this is expected to work. The role of the local authority may then be to ensure needs are identified, the resources needed are spelt out and then to support parents to broker packages of support within schools with this budget. This could be entirely different to the way the authority currently purchases places within its own schools and the independent sector.

8. Risk Management

Risk	Description	Action to avoid or mitigate risk
Reduced finance	That the cost of special provision in Medway spirals and the cost of independent placements also escalate, resulting in additional expenditure.	Medway provision is growing and will continue to. New provision is being developed with entrance criteria, which is flexible and responsive to need and pressure. Where possible, children and young people will be brought back from independent provision. Tribunals will continue to be defended vigorously.

Skills gap	Provision is set up but expert staff are not available to appoint and support.	Utilise skills of existing provision and support groups in training. The opening of provision is being phased and key staff are being trained on accredited courses.
Increased number of academies	More schools convert to academies and reduce the amount of SEN provision.	Work with the new academies, parent support groups and statutory bodies to ensure that there is clarity about the legal requirements not to discriminate.
Increase in floor targets	More schools become reluctant to accommodate pupils with SEN due to the often lower attainment of such children and young people and the possible impact on the floor target attainment which has been increased to 60% L4 at key stage 2 and 35% A*-C GCSE. Or, the LA risks nudging a school into a category by developing new SEN provision in a school where attainment is low.	Work with schools, parent support groups and statutory bodies to ensure clarity over legal requirements. School tracking and data focussing on pupil progress so that even if floor targets not met, school able to clearly demonstrate good rate of progress from low base. Liaison with school improvement over progress and attainment to ensure appropriate site for any new provision
SEN green paper	There is uncertainty about what the SEN green paper will suggest in relation to SEN services and provision.	Major changes will not be able to be enforced until 2013 to enable time to change primary legislation. Medway would need to develop an implementation plan showing how change will be implemented once the results of the Green Paper consultation are clear.

9. Implications for looked after children

- 9.1 There are no additional implications for looked after children (LAC). However, LAC may be more likely to experience difficulties with their learning as a result of the chaotic experiences they may have suffered and which resulted in their being taken into care.

10. Financial and legal implications

Legal

- 10.1 The local authority has a statutory duty to provide the educational provision identified on a statement for an individual child or young person.
- 10.2 The SEN Code of Practice states that an essential function of local authorities is to make effective arrangements for SEN by ensuring that:
- the needs of children and young people with SEN are identified and assessed quickly and matched by appropriate provision
 - high quality support is provided for schools and early education settings – including, through educational psychology and other

support services, and arrangements for sharing good practice in provision for children and young people with SEN;

- children and young people with SEN can benefit from co-ordinated provision – by developing close partnerships with parents, schools, health and social services and the voluntary sector;
- strategic planning for SEN is carried out in consultation with schools and others to develop systems for monitoring and accountability for SEN
- LEA arrangements for SEN provision are kept under review as required under section 315 of the Education Act 1996.

10.3 The legal position in regard to SEN may change following the imminent publication of a Green Paper on SEN and disability.

Financial

10.4 The notional amount of SEN money delegated for 2010-11 to Medway Schools was £16.5 million. The special school budget was £9 million and the Independent non-maintained special school budget was £6.6 million.

11. Recommendations

11.1 The Cabinet are recommended to acknowledge the urgent and dire need to invest in Medway's special schools, which require improvements to their accommodation, as identified in Medway's SEN Policy and Strategy and that where funding can be secured, this be used to improve the facilities for children with the highest needs of special education.

11.2 The Cabinet are recommended to instruct the Director of Children and Adults to review the findings, as set out at paragraph 5 of the report, against the outcomes of the forthcoming Green Paper on Special Educational Needs.

12. Reasons for decisions

12.1 Medway's special schools are full and requiring additional capacity and the group recognised that despite the current financial constraints, investment was needed where possible.

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Background papers

Medway's SEN Policy and Strategy 2009-14
SEN Code of Practice 2001