

## **Suffolk County Council's Special Educational Needs and Disabilities Review**

### **Undertaken by Lincolnshire County Council July 2021**

#### **Review Team**

The Review was led by Sheridan Dodsworth, Head of Service for Special Educational Needs and Disabilities (SEND) for Lincolnshire County Council and co-produced with Coralie Cross, Chair of Lincolnshire Parent Carer Forum. The team of Reviewers included three SEND managers (Rebecca Rawdon, Michelle White and Josie Pedersen); the Children with Disabilities (Social Care) manager, Karen Dowman; Lincolnshire Clinical Commissioning Group's Designated Clinical Officer, Russell Outen-Coe and the co-chairs of Lincolnshire Young Voices, Jo Tolley and Emma Cross.

#### **Objectives (Key Lines of Enquiry)**

1. To assess how effectively the current systems, processes and the resource base of the service:
  - Manages the flow of the work effectively
  - Provides good communication with young people and families
  - Deals with incoming enquires from young people and families
  - Ensures a customer focussed response
  - Provides timely responses
  - Allocates provision and, where appropriate, placement in a timely way for children
2. To identify any barriers to the effective functioning of Family Services, including considering the interfaces with the functions of other parts of Inclusion Services.
3. To consider the extent to which the current improvement plans will address any area of weakness
4. To identify if change might be required in how partner agencies work with family services and to identify what this change would be.
5. To make recommendations for improvement.

**NB.** The review did not look at whether the plans for children are consistent with a young person or family preference for placements and their desired outcome, or if the contents of EHC plans, in respect of the child or young person's needs and the provision, are aligned to the young person or family's views as this is a matter for the independent SEND tribunal process.

#### **Methodology**

The reviewers considered the council's processes and procedures along with performance data and other relevant documentation.

Reviewers held 29 virtual meetings with parent carers and family relatives; young people; education leaders from Early Years, Primary and Secondary Schools/Academies, Further Education, Special Schools, Alternative Provision and Specialist Units; Designated Clinical Officers (DCO) and Associates; a representative from the former Suffolk Parent Carer Network (SPCN); representatives from the Campaign for Change (Suffolk SEND) group; officers from Suffolk County Council's Inclusion Services, Legal Department and Customer Rights Service as well as Senior Leaders and Elected Members.

Following the announcement of the review, a dedicated email account was also set up to provide opportunity for written submissions; this was open for four weeks. Through virtual meetings and submissions to the email inbox, the review team captured the views, comments and details of the lived experience of more than 300 people.

The review team is grateful to all those who took part in the review and who spoke candidly about their experiences of the SEND processes in Suffolk.

Every contribution added to the rich information gathered. The report provides an overview of the key findings which have been developed by cross-referencing the accounts of participants with other sources of information and, where relevant, with data and process information to ensure that the findings are as impartial as possible and not based simply on individual representations.

There is over-lap in the findings under each of the Objective headings so, to avoid duplication, key findings will be reported once under the Objective that seems most relevant.

For ease of reference, the procedures described in the report are, in large part, statutory responsibilities under the *Children and Families Act 2014*. The operational procedures can be found in statutory guidance which is the *Special educational needs and disability code of practice: 0 to 25 years (2015)*. The latter will be referred to as the *Code of Practice*.

**To assess how effectively the current systems, processes and the resource base of the service:**

**Manages the flow of the work effectively**

Strengths

The Family Services' teams are responsible for co-ordinating the statutory processes for children and young people with SEND. They also have responsibility for Inclusion and arranging Alternative Provision for permanently excluded pupils. A number of

practitioners within Family Services like the way work is allocated, from a central inbox via the Lead Co-ordinators. They feel this provides clarity about the tasks they need to undertake and Lead Co-ordinators have oversight of the workload of Co-ordinators and Assistant Co-ordinators.

Parent carers and education leaders gave examples of individual practitioners within Family Services who are noted for being very good at communication, keeping families and settings updated. One setting now has a link person in Family Services, which is considered very helpful, although this is not consistent across Family Services.

Family Services' practitioners are justifiably proud of the Annual Reviews that they are processing and amending within timescales.

Education leaders find access to the Educational Psychology service good.

Leaders in Further Education have examples of good practice for Post-16 learner placements and generally feel they are consulted with and listened to when they are unable to meet a learner's needs.

Where parental preference is for a mainstream setting, following statutory Education, Health and Care (EHC) Needs Assessment, the process generally runs smoothly. Consultation with settings is undertaken by the Family Services' teams and they track responses and agree placements.

A high percentage of EHC Needs Assessments are completed within the statutory 20 weeks; 97% in Quarter 2 of 2021.

Health is represented on the EHC Needs Assessment Panel which meets weekly to decide whether a child should have an EHC Needs Assessment.

#### Areas for development

Families and education leaders described confusion and inconsistency in the statutory process for children and young people requiring EHC Plans, particularly when there is a need for specialist placements; it lacks transparency.

Although Health is represented at the EHC Needs Assessment panel, they have no access to the information gathered by the authority throughout the 6 weeks from the request to assess. 'Confidentiality' is suggested as the barrier to enabling this to happen. Health partners should be able to make informed decisions at the panel. *The Code of Practice states (9.32) ...'Local authorities with their partners should establish local protocols for the effective sharing of information which addresses confidentiality, consent and security of information'.*

The lack of an identified caseworker, who acts as a single point of contact once a child has an EHC Plan, adds to the frustration of families and settings, particularly when they have concerns they need to share.

Reviewers have concluded that there are parent carer requests for statutory assessment that are not recorded. Evidence gathered throughout the review, from officers within the authority, suggested that conversations with parents may start as a request for an assessment but, after discussion, parents will follow other suggested courses of action. The council's own guidance for practitioners calling families to discuss their request contains wording that reminds practitioners that there may be other options for the family to take. Whilst it is always helpful for parents to have discussed concerns about their child's progress/SEN with the school, this does not always happen and there is no specific requirement for families to do so; for some families the relationship with school is poor or they may not know the questions to ask. Therefore, reviewers were concerned to note that families had been directed back to schools and had agreed not to pursue their request for assessment at that stage. These cases do not appear in the data.

There also appeared to be some confusion over assessment of children who do not have a diagnosis; there is no requirement to have a diagnosis before an assessment can be requested. There is a fine line between giving advice that parents can make an informed choice about and potentially suggesting that a certain course of action needs to have been taken before a parent can request an assessment. *The Code of Practice (9.8)* is clear that parents have a right to request an assessment, as do education settings and young people over 16. *Para 9.9* confirms that 'In addition, anyone else can bring a child or young person who has (or may have) SEN to the attention of the local authority, particularly where they think an EHC needs assessment may be necessary'. The authority then has the duty to gather information from the education provider, and others that know the child, and make a decision on whether to assess, based on *all* of the information, within six weeks.

The lack of any formal decision-making process as to whether an EHC Plan will be issued does not reflect the duties under the legislation. Current practice assumes that an EHC Plan will be issued at the end of the assessment process unless practitioners have been advised at the 6 week point that they will need to discuss with a manager at 16 weeks. Over 99% of assessments result in an EHC Plan being issued. The lack of formal consideration at this stage is a missed opportunity to work through, with partner agencies, how support and provision can best be implemented to meet the young person's needs. There is a duty for Clinical Commissioning Groups (CCG) to ensure that commissioned services are mobilised to participate in the development of EHC Plans and they '**must** have sufficient oversight to provide assurance that children's needs are being met'. In addition, any 'health care specified in Section G **must** be agreed by the CCG or, where relevant, NHS England' (9.70

*and 9.71 Code of Practice*). If assessments are progressing straight to draft Plans being issued without involving the CCG there is a risk that these duties are not being fulfilled.

There are a high number of mediations with 'refusal to assess' being the main issue leading to the request for mediation. Over half of all 'refusal to assess' decisions were over-turned last year. One of the key explanations for why decisions were over-turned, either before or at mediation, was that 'additional evidence' was provided. This element links to partnership working and the duty to co-operate. The reviewers heard about other agencies failing to provide information in a timely manner (they also heard that information was not routinely 'chased'); this is an issue that needs to be resolved by senior leaders across the partnership. It was difficult to establish evidence that Annual Reviews are routinely tracked to ensure that they have been undertaken and the relevant documentation submitted to the Local Authority for any amendments to be made to EHC Plans. Whilst the Annual Reviews that are reported in the data performance report are being processed in a timely manner, it is apparent that this only accounts for around 50% of all Annual Reviews. There was some acknowledgement that there is a backlog but this in itself only highlights the incompleteness of the data in the performance report. *The Code of Practice (9.172)* stipulates that 'The local authority should provide a list of children and young people who will require a review of their EHC plan that term to all headteachers and principals of schools, colleges and other institutions attended by children or young people with EHC plans, at least two weeks before the start of each term'. This should inform the authority when it can expect Annual Review paperwork to be submitted for each child.

Practitioners do not feel they have ownership of Phase Transfers and recognise that this is one of the other major areas of communication breakdown with families, especially when the Phase Transfer involves a move to specialist provision. Leaders acknowledged during the review that there was a significant delay in processing Phase Transfers this year despite a new approach to attempt to improve on last year. There is a statutory duty to comply with Phase Transfer deadlines. *The Code of Practice (9.179)* states that 'An EHC plan **must** be reviewed and amended in sufficient time prior to a child or young person moving between key phases of education, to allow for planning and, where necessary, commissioning of support and provision at the new institution. The review and any amendments **must** be completed by 15 February in the calendar year of the transfer at the latest for transfers into or between schools'. Further, 'For young people moving from secondary school to a post-16 institution or apprenticeship, the review and any amendments to the EHC plan – including specifying the post-16 provision and naming the institution – **must** be completed by the 31 March in the calendar year of the transfer' (9.180). There is a clear breach in compliance.

## Provides good communication with young people and families

### Strengths

Reviewers saw some very positive feedback from parent carers about their experience of Family Services; timely responses to queries or concerns and practitioners who had been dogged in their efforts to get answers for families, particularly about specialist placements.

### Areas for development

Many of the parents and representatives of organisations external to Suffolk County Council described a lack of transparency about processes and decision-making. There is a perceived inequity in terms of both decision-making and allocation of provision. *The Code of Practice (9.60)* states: 'It is helpful for local authorities to set up moderating groups to support transparency in decision-making. Such groups can improve the consistency of decision-making about whether to carry out an EHC needs assessment and whether to issue an EHC plan. Through sampling and retrospective comparison, moderating groups can also help local authority practice to become more robust and clearly understood by schools, early years settings, post-16 institutions, young people and parents'.

There is a recurring theme about parent carers being steered towards combative processes to move cases forward and get answers about their children. This is evidenced in the high numbers of complaints and, mediations. Appeals to the Tribunal are in line with Statistical Neighbours and below the national average.

There is a lack of consistency in the way families are informed of decisions made about their child. Not all families are called, before they receive a letter, to tell them the outcome of the decision on whether the local authority will be undertaking a statutory assessment. Letters advise the reason for the decision not to undertake an assessment but there is no consistent feedback on what support is available without the need for statutory assessment.

Some of the reasons Suffolk County Council have for refusing to assess are open to legal challenge; for example, delaying assessment as the child is due to move to another setting and further monitoring is suggested. The threshold for when an assessment should be undertaken is low: 'A local authority **must** conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan' (*Code of Practice 9.3*). Given the number of over-

turned decisions it is worth considering which category of 'reason' for refusal to assess, the over-turned cases came under.

When a decision is made to issue a draft EHC Plan there is inconsistency in how parents are informed; some receive a call whereas others are simply sent the draft Plan and invited to comment within 15 days and advise the authority of the setting they would prefer their child to attend.

There are inconsistencies between Family Services' teams in terms of day to day communication with families. Some practitioners acknowledged that there are emails and calls which are logged but not responded to as they have nothing to tell families. Added to this, there are clear differences between practitioners as to how confident and knowledgeable they are about processes and procedures; some described not having a robust knowledge of assessment thresholds and having to 'learn on the job' whilst other practitioners have extensive experience in education or SEND.

### **Deals with incoming enquires from young people and families**

#### Strengths

Officers at every level in Family Services gave detailed accounts of their day which, they reported, in most cases, included 20-30 telephone calls a day with parent carers, other services or settings and anything up to 100 emails or more per day in addition to other allocated work.

#### Areas for development

Managers expressed apprehension that practitioners are not always confident to respond to calls from families and some have found that difficult calls encroach on their personal lives with the current working from home arrangements due to the Covid-19 pandemic. Many practitioners, at different levels within Family Services, report that the main difficulties they experience in conversations with families are as a result of not being able to provide information about decisions that are out of their control. Settings, in particular, had a great deal of empathy with practitioners as they can see they do not have the information they need. Further, practitioners are disillusioned that this has been raised previously and not addressed. This anomaly needs to be addressed through proactive leadership.

Family Services' practitioners described frequent verbal abuse from callers who are angered by the system. They empathise with the frustration that both families and settings describe but are disempowered due to decision-making being out of their

hands and therefore being unable to provide meaningful updates to callers.

Approximately a third of all complaints to Children and Young People's Services in 2019/20 were related to Family Services. Complaints mainly relate to provision in EHC Plans not being delivered and placements. From September 2020 to May 2021 the highest number of complaints again relate to needs being unmet; this is followed by placement issues. Previous SPCN Surveys have highlighted parents' lack of confidence in their child's SEN being met. In 2019/20 81% of Tribunal Appeals included provision and setting; in 2020/21 this is 78%. It is essential that leaders across the partnership use the information available to them; undertake a thorough analysis of provision, identifying where there are gaps or weaknesses and devise a system that holds to account all those who support children and young people with SEND.

### Ensures a customer focussed response

#### Strengths

A number of those taking part in the review commented that officers within Suffolk County Council are increasing their understanding of Social, Emotional, and Mental Health (SEMH) needs. 13.5% of EHC Plans are for young people with a primary need of SEMH and Specialist Education Services are supporting settings to manage the needs of young people across all four broad areas of need including SEMH.

It is positive to note the significant improvement in the number of formal complaints that are now responded to within timescale.

#### Areas for development

Co-production is the cornerstone for the way local areas should work with children and young people with SEND and their families. *The Code of Practice* outlines the duty: 'Local authorities **must** ensure that children, their parents and young people are involved in discussions and decisions about their individual support and about local provision' (1.3) and ..... 'local authorities **must** ensure the child's parents or the young person are fully included in the EHC needs assessment process from the start, are fully aware of their opportunities to offer views and information, and are consulted about the content of the plan' (1.4). Whilst it is recognised that Suffolk Educational Psychologists include the views and opinions of parents and children in their assessment, and this contributes to the full EHC Needs Assessment, this is one element of the overall process. Children and their families should be genuine partners in the whole assessment process, the planning for the young person and the on-going review of the support and provision they receive. Most parents, who shared experiences with Reviewers, described a lack of co-production with many

expressing serious anxieties that they were not kept informed about what was happening for their child or involved in planning. A significant number of local authority officers also acknowledged that co-production is not the norm with 'time' being a factor in why this is not standard practice. This is not compliant with the *Children and Families Act 2014*. Family Services' managers confirmed a willingness to co-produce with families throughout the EHC process but believe that training will be required to increase officers' confidence.

Timeliness of responses to calls and emails are a major source of grievance and highlighted as a significant issue by almost everyone reviewers met. Parents resort, or in some cases are given no alternative, to escalate issues through the formal complaints route or directly to senior leaders in order to initiate a response and get an update on their child's case. The Customer Rights officers spend a disproportionate amount of their time supporting Family Services to respond to complaints and keep them on track; they regularly liaise with families in an attempt to defuse situations.

### **Provides timely responses**

#### Strengths

New assessments are undertaken within statutory timescales with cases tracked to ensure that assessment decision is notified to parents promptly; decisions on whether an EHC Plan is agreed are timely and the vast majority of Plans are now issued within 20 weeks.

#### Areas for development

Following both new assessments and Annual Reviews, there is evidence that provision in some Plans is named to 'type' rather than a confirmed setting, principally when a specialist placement is needed. The authority is unable to confirm how many children have a Plan that is named to 'type' of setting rather than an identified school. Additionally it is unclear how long some children have had a Plan named to 'type'.

In addition to Plans naming to 'type' there are a cohort of young people who have their current setting named on their EHC Plan (usually mainstream) when specialist provision has been agreed but no place has been identified. This allows parents to exercise their Appeal rights but it is unclear how many pupils currently have a named setting but are awaiting specialist provision and may have dropped out of the Specialist Education Panel discussions (see below).

Phase Transfers have been significantly delayed again in 2021 as described earlier.

Reviewers also heard of many late changes in provision, including Phase Transfers

of young people from independent settings. Families and providers have described being notified of changes in placement late in the summer term when there was no opportunity for transition planning. The DCO group also advised of the knock-on effect this has for health providers in trying to ensure that the health provision is in place in time for the child starting the new setting.

### **Allocates provision and, where appropriate, placement in a timely way for children**

#### Strengths

There is a multi-disciplinary team that quality assures a sample of new Education, Health and Care Plans. This should ensure that need and provision are matched and that Plans are specific with clear and measurable outcomes that young people and their families recognise and have agreed. This should also ensure that provision is being identified and allocated appropriately.

There is a Moderation Panel that reviews requests for High Needs Funding; schools are represented on the panel. This aims to ensure consistency in the funding allocated to settings to meet the needs of specific pupils.

#### Areas for development

Many parent carers and leaders from education settings, who participated in the review, described EHC Plans as lacking specificity giving examples of provision to be 'made available'; 'as required'; 'throughout the day'; 'when necessary'. The review team was not tasked with considering the quality of EHC Plans therefore reports are anecdotal although there was sufficient mention of 'generic' EHC Plans; out of date information and inaccurate information that it something the review team believes should be explored further.

EHC Plans do not necessarily attract High Needs Funding despite the generally accepted principle that EHC Plans will usually be issued when a mainstream setting has exhausted its notional funding and the resources that are universally available. Settings describe 'bidding' for funding (some talked about bidding for a higher band of funding knowing they will usually get less than whatever they bid for). Settings are required to support the child for half a term before applying for funding based on their experience of the child and the support they are providing. Once received, the assigned banded funding follows the child all the way through education unless a change in banding is requested. Some settings described requesting to move children into specialist settings because they do not receive the funding in mainstream to meet the needs described in the EHC Plan e.g. children with Speech, Language and Communication needs could remain in mainstream if the appropriate level of Teaching Assistant support could be provided; funding, it is said, does not

cover the level of support needed therefore the request to move to a specialist placement is made. Given the surge in the number of requests for specialist placements, it is suggested that a more detailed mapping of funding in relation to provision described in EHC Plans is undertaken jointly with school and academy leaders. EHC Plans are legally binding documents therefore it is incumbent upon the authority to understand whether the current funding arrangements are realistic to support the needs of pupils and to consider whether, with appropriate funding, more young people could remain in mainstream education.

Reviewers were told that settings can apply for exactly the same levels of banded funding to support pupils who do not have an EHC Plan. Schools follow the same process as they do for a child with an EHC Plan and if funding is agreed it remains with the child for the duration of their education unless a change in 'banding' is requested. While the SEND Funding Policy and Guidance resulted from consultation and agreement with schools there is a question as to why some pupils go through an EHC Needs Assessment to evidence the need for additional support and others do not. This also means that some children, with SEN that would, by all accounts, require an EHC Plan, have no statutory monitoring of how their needs are being met or whether the resources being allocated are making a difference to their outcomes.

Where it is agreed with parents that a child remains for an additional year in an Early Years setting, because no specialist placement can be secured for transfer to statutory education, leaders expressed serious fears about how they deliver the provision within the EHC Plan without an appropriate level of funding, particularly as the authority has identified that specialist provision is necessary. An example given was of a child remaining in Early Years who will only be able to attend three days per week with the allocated funding the setting is expecting to receive. There were also concerns raised about parents being expected to pay the Early Years fees to keep their child in placement for an additional year. The Local Authority note that this has not been an issue in previous years and where this may be an issue for the coming academic year it will be resolved on a case by case basis to ensure that settings are not financially disadvantaged and parents will not be expected to pay Early Years fees in these circumstances. Although 'deferrals' were a significant issue for Early Years providers that met with reviewers, the local authority is clear that it does not actively encourage children to be educated out of year group. The review team was provided with data that confirms that the number of Early Years children awaiting specialist placements, who are due to start Reception in September is 14; they are at varying stages in the placement process.

Throughout the review specialist placements were identified as one of the most significant issues. Whilst the principle of the Specialist Education Panel has been explained, it is clear that the panel is overwhelmed with requests for specialist provision and it is not working effectively. The consultation process, after specialist unit provision is agreed at panel, is confusing and a number of mainstream settings

with specialist units were adamant that they have pupils they have been told they are taking without having been formally consulted. *The Code of Practice (9.80)* stipulates that 'The local authority **must** consult the governing body, principal or proprietor of the school or college concerned and consider their comments very carefully before deciding whether to name it in the child or young person's EHC plan, sending the school or college a copy of the draft plan. If another local authority maintains the school, they too **must** be consulted'. Reviewers were told that all paperwork relating to the child, not just the draft EHC Plan, is shared with schools in an electronic zip file. None of it is redacted. Schools described receiving sensitive documents which they did not feel they should have seen and several talked about finding paperwork in the file that was about the wrong child. This raises significant issues about possible breaches of the General Data Protection Regulation. Settings are receiving numerous consultations at a time (in one instance, 21) which is impacting on other work.

One of the most worrying aspects of specialist placements is when a place cannot be identified and Family Services' practitioners are advised to name the current setting (usually mainstream) and the child remains. Despite having agreed that the child requires a specialist placement, once the mainstream setting is named in the Plan the onus is on the setting to 're-apply' for specialist provision. The review heard examples of pupils still in a mainstream setting several years after the authority agreed that specialist provision was necessary. This was also confirmed by practitioners. It is unclear how well understood this process is but may explain why some families have been waiting years to get their child into the right placement.

In a Local Government Ombudsman decision, made against Suffolk County Council in February 2021, the council agreed 'to carry out an audit of any other cases where [it] had failed to follow statutory timescales within the EHC Plan review process and develop an action plan to appropriately address and remedy delays identified'. In addition, the council was 'to provide evidence that [it] has amended its guidance to staff regarding Post-16 provision, specifically, to show that Post-16 cases do not need to be referred to its Specialist Education Panel'. In July 2021 the review has confirmed a large number of young people where the authority has failed to meet the statutory timescales for the review process. Additionally, parents have reported that Post-16 cases are still being referred to the Specialist Education Panel. Data provided to the review shows clearly that there are Post-16 cases still being considered by the panel

Leaders from specialist units describe having pupils who are inappropriately placed. They shared fears that young people are being placed in units because they have a place rather than being the *right* place to meet needs, particularly those with complex needs who require Special Schools which are distinctly different to specialist units on mainstream sites. Alternative Provision settings described having pupils with SEMH needs placed without any formal consultation. They also expressed concern that the

needs of some pupils placed on intervention placements were so complex that they could not be expected to integrate back to mainstream education and therefore believed the intervention placement to be inappropriate.

Reviewers heard of instances where placements were able to be foreseen but pupils are at the end of the academic year and have no agreed placement. A setting, closing at the end of the academic year, has pupils still awaiting placement for September despite this being a planned closure that has been known about for some time.

**To identify any barriers to the effective functioning of family services, including considering the interfaces with the functions of other parts of Inclusion Services.**

Strengths

There are clearly close teams that support one another well. Assistant Co-ordinators, Co-ordinators, Lead Co-ordinators and Managers in Family Services spoke positively about strong working relationships in their teams. Most practitioners felt they were well-supported by Lead Co-ordinators and all were proud of the teams' resilience throughout the Covid-19 pandemic.

Within the wider Inclusion Services, Heads of Service described experienced, well qualified specialist practitioners leading on the implementation of a Whole School SEND approach to support settings in meeting the needs of children and young people through the *Graduated Response* (SEN Support). This starts in September 2021 and will broaden the universal offer of support to settings. Education leaders confirmed that, when they get it, specialist advice and support is generally good.

Psychology and Therapeutic Services have strengthened their working relationship with the Specialist Education Services to integrate the local authority's service delivery to support settings in implementing the *Graduated Response*.

Areas for development

Communication between the Provider Development Team and Family Services could be improved. Where it has been agreed, through the Specialist Education Panel, that a specialist placement is required, it is the Provider Services Team that undertake the consultation process. Family Services' practitioners have to check an electronic folder to try to work out what decisions have been made and where in the process the child's case is. They cannot track what is happening in individual cases and are therefore unable to provide any useful information to families. Some practitioners described being told that they must not call or "chase" the Provider

Development Team because of current workload pressure.

While overall sickness absence and staff turnover is good, in a relatively small service the effect of individual absences can be significant. Some practitioners describe being overwhelmed by the volume of work.

The Quality Assurance of EHC Plans is good practice and information is reviewed by a multi-disciplinary panel; however, practitioners are unable to identify learning. They are required, each month, to complete a lengthy series of questions about one of their EHC Plans; once submitted they receive no feedback. This therefore runs the risk of simply being another task to complete each month for an already overwhelmed group of practitioners. Some also feel it is like 'marking their own homework'. Learning through the QA process should influence practice.

There is work to be undertaken to integrate Inclusion Services and establish them as an equally valued continuum of SEND support ranging from Specialist Education and Psychology and Therapeutic Services, offering support to settings (and individual children where appropriate) to meet children's need at the earliest opportunity, through to the SEND and Provider Services who support children with more complex SEND through statutory involvement.

**To consider the extent to which the current improvement plans will address any area of weakness**

There are four main elements to the SEND Strategy 2021 – 2023 which aim to improve Communication; The Child/Young Person's Journey; Commissioning and Services and Preparing for Adulthood.

The improvements to communication have concentrated on the Local Offer and improving access to information electronically. There needs to be a greater focus on practitioners' relationships with families, children and young people and this work needs to proceed with greater pace.

The Child/Young Person's Journey is essential information that young people and their families should have easy access to. This element of the work stream requires pace. The plans around embedding the *Graduated Response* are making progress and the Whole School SEND approach is welcomed by setting leaders that took part in the review. It is positive to see plans for completing assessments and reviews on time but the December 2021 date by which to have identified statutory processes, people and timescales is not ambitious. Statutory processes are in the *Code of Practice* as are timescales. The local authority has confirmed that swift improvements to the Specialist Placement process are a top priority. Any delays in this will mean that the next round of Phase Transfers, which should commence in the autumn term, will once again flounder. Plans to check that provision is being

delivered are positive but this is another long-standing issue raised by parents and reported through the former SPCN surveys; this needs to progress at greater speed. Strengthening the operational practice between SEND services and Social Care is constructive but there is no mention of the Children with Disabilities Team where there is already some good practice that can inform the wider ambition. No timescales on the plans to learn from surveys, complaints, feedback is unfortunate given this is a significant issue for Family Services in particular. This element of the work stream needs to be more ambitious.

The plans to improve commissioning and services will not address the obvious pressures on specialist placements that will start the cycle again in the autumn term when Phase Transfers begin. Given the number of pupils awaiting placement in July 2021 (around 190 still to be placed; 45 with no named provision at the time of writing and 145 that require a different provision to the one currently named) a plan to have a draft sufficiency strategy to Governance Boards in autumn 2021 seems to be a slow response to a problem that has challenged the system for the last three years. Schools and academies have a vital role in shaping future provision and in supporting the local authority to make sense of the apparently burgeoning culture in which specialist provision is the answer for children and young people with SEND.

Plans to improve Preparation for Adulthood are collaborative and cover a range of things to be factored into transition. It is encouraging to see person centred planning at the heart of the development. This work stream also needs to have an emphasis on the statutory timescales for Post-16 learners with EHC Plans; there are statutory duties whether they are moving into their first Post -16 placements or moving between Post -16 placements. As preparation for adulthood progresses plans may include a different type of provision and the authority must ensure that it meets the statutory deadlines to make these changes.

There are elements of the improvement plans that refer to data. Throughout this review a lot of data has been requested by reviewers. The local authority is rich in data relating to young people with SEND but it does not appear to be used analytically to inform operational practice and shape future services and provision. *All* data needs to be used to plan both strategically and operationally. The reviewers experienced a number of occasions when data was inconsistent and, at times, misleading therefore it needs to be cross-referenced with other information sources to ensure there is consistency in what is being presented and that it is telling an accurate story.

**To identify if change might be required in how partner agencies work with Family Services and to identify what this change would be.**

Strengths

Psychology and Therapeutic Services are collaborating with the NHS Clinical Psychology Team to develop a range of materials and training relating to 'Wellbeing in Education'. This includes a focus on understanding and supporting pupils with Emotionally Based School Avoidance.

The Associate DCO represents health at the EHC Needs Assessment Panel where the decision is made about whether or not to undertake a statutory assessment.

An Associate DCO attends the fortnightly Quality Assurance meetings with the Local Authority.

Health is represented at the weekly Tribunals meeting specifically to consider Single Route of Redress cases. They also attend 'post tribunal plenaries' hosted by Family Services.

Schools are involved in the moderation of requests for High Needs funding bringing first-hand experience of meeting the needs of pupils with SEND.

The SENCo Helpline, SENCo Bulletin and SENCo Network are welcomed by settings and the local authority reports that they are well used.

The Early Years SENCo Award programme is valued by Early Years providers and considered very useful in supporting them in their role.

Families have good access to the SEND Information, Advice and Support Service (SENDIASS) and practitioners are considered supportive and knowledgeable. There is also training for families, delivered jointly by SENDIASS and Specialist Education Services.

Communication between Family Services and the Children with Disabilities (CWD) Social Care Team is described as "generally good". CWD will attend SEND Annual Reviews although this is not consistent across other Social Care teams. Family Services occasionally attend Child in Need meetings although it is most likely to be when the child or young person is open to the CWD team.

The Covid-19 pandemic was mentioned throughout the review as having provided new opportunities for partners to work more collaboratively; for example, a weekly Short Breaks meeting (Social Care) included a Special School Leader and provided a forum to discuss support required by vulnerable families during the pandemic. The DCO group reported the positive work undertaken with the local authority to plan for children requiring Aerosol Generated Procedures\*.

The Virtual School meets monthly with Family Services to consider and plan for

Children in Care who are returning to the county.

There are regular meetings between Family Services, Adult Social Care, Children's Social Care and others to consider Out of Area placements and those in high cost provision.

Social Care has been involved in the development of the SEND Strategy and a senior Social Care manager leads the work stream on Preparation for Adulthood.

Throughout the review, despite education providers expressing a range of frustrations, there was also a clear desire to support the local authority in making the changes and improvements that are necessary for children and young people with SEND and their families. Education leaders are supportive of Suffolk County Council's ambitions and are keen for the sector to work with the authority and use their knowledge and expertise to influence future development of appropriate support and provision for young people with SEND.

*\* These examples are used to illustrate more collaborative planning between services. This is not suggesting that families therefore felt well-supported. The former SPCN report on families' experiences during the pandemic is powerful testimony to the many challenges that families encountered.*

#### Areas for Development

The increasing demand for *specialist* placements requires greater collaboration between the education sector, families and the local authority to understand why this is the case and whether there are other approaches that can be taken to support young people. There is no doubt that demand is outstripping supply but the reasons for this are not clearly understood. Various hypotheses were offered to the reviewers including:

- Lack of specialist places historically has resulted in children's needs not being appropriately met and therefore they have fallen further and further behind their peers
- Parental confidence in mainstream education and concerns that some schools/academies may not be as inclusive as others.
- Parental preference driving up the number of children in specialist placements
- The capital programme has created more places therefore more children can be placed in specialist settings
- Mainstream schools do not have the skills to manage the complexity of need of a growing number of pupils

There is uncertainty about the effectiveness and understanding of the *Graduated Response*. Inclusion Services believe that there may be an over-identification of SEN yet data does not support this. In 2020 10.2% of children and young people in

Suffolk were receiving SEN Support compared to 12.1% in England as a whole; 3.2% of young people in Suffolk were supported through an EHC Plan compared to 3.3% across England. Early Years providers believe there is very little external provision available to support settings in delivering the *Graduated Response*.

Whilst the SPCN Management Board made their decision to resign and the network has since disbanded, it is clear that there was a relationship with the local authority and other partners. The Ofsted/CQC Joint Local Area SEND re-visit in January 2019 highlighted the network's powerful and influential voice in the best interests of parent carers. The network was, until it ended, involved in a number of areas of work. However, there was growing frustration that the system was not responding to parental dissatisfaction. One of the main criticisms was the lack of a clear SEND system 'You said, we did' response to several annual surveys highlighting the same issues. The review notes that issues highlighted by the former SPCN and the Campaign for Change group are the same as those evidenced throughout this review. It is clear to the review team that the developments required to address the issues identified will require parent carer collaboration. Co-production in its true sense, with parents as *genuine* partners, is essential in moving forward the SEND agenda in Suffolk.

It is evident from discussion that confusion may have emerged over the remits of SENDIASS and SPCN. It is clear that SPCN became involved in individual cases in an attempt to support families. A number of parent carers described how they are now attending legal training courses so that they are better equipped to challenge the SEND system.

There is a lack of integrated working, in operational practice, between Social Care and Family Services. Joint planning for children and young people with SEND, who are also open to Social Care, is not common practice. There is no evidence of joint supervision for practitioners in Family Services and Social Care; commissioning is not integrated. The perception of some of the education settings spoken to is that teams within the local authority work in 'silos'. The local authority reports that it has agreement to recruit a Designated Social Care Officer to support in addressing these issues and reviewing the Disabled Children and Young People's Service to identify good practice that can be promoted throughout Social Care services.

Further work needs to be undertaken to ensure that Post-16 reviews are undertaken within timescales and that accurate information about placements is known by 31<sup>st</sup> March each year. Leaders from the Further Education (FE) sector described having EHC Plans for learners that have never turned up; others have gone elsewhere, without explanation, when the setting could have met their needs. Annoyance was expressed that there appears to be a lack of understanding of what FE providers can offer and it is noted that the numbers of young people with SEND, at Key Stage 4 and 5, in Education, Employment or Training have dropped by 2%. The delays in

completing Post-16 reviews have resulted in as many as 100 EHC Plans that have not been ceased when young adults have actually left education or training.

Parent carers suggested that any request under *S17 of The Children Act 1989* (Child in Need), for an assessment of a child with a disability, is left to them to make the referral and is not routinely considered as a potential opportunity through the EHC Needs Assessment process. In discussion with reviewers, officers from the local authority were unclear about the rights of children with a disability to have a Social Care assessment. As detailed in the *Code of Practice 2015 (9.47)* '...The child's parent or the young person should be supported to understand the range of assessments available so they can take an informed decision about whether existing advice is satisfactory'

The Youth Justice Service (YJS) is becoming more aware of SEND and is starting to promote links with Family Services which is positive. However, the apparently slow progress in establishing these links is of concern given the statutory duties under the *Children and Families Act (2014)*, which specifically relate to young offenders, with SEND, who are detained in custody.

The lack of knowledge about the number of pupils on part-time timetables and the impact this has on young people and their families, particularly those with EHC Plans, is a significant matter. Reviewers heard a number of examples of young people restricted to attending school for only a few hours a week and, in some instances, this having been the case for two or more years. The local authority told the review that all children in Pupil Referral Units (PRU) have part-time provision robustly monitored, including children with EHC Plans. PRUs have to have part-time provision formally approved by the Provider Development Team. Where children attend a school that buys into the local authority's attendance service, part-time provision is monitored, including those with EHC Plans; many academies do not purchase this service. Children in Care have attendance records collected daily from schools which capture part-time provision that is monitored, challenged and increased where possible and appropriate. Any children or young people who do not come under the categories described do not have part-time provision monitored by the local authority. The Safer in School Board has identified the issue and plans are being co-ordinated to address this by September 2021. The local authority is responsible for ensuring that the provision in a child's EHC Plan is being provided; if it is unaware of all children on reduced timetables it is unable to fulfil its statutory duty.

The lack of transparency regarding the Specialist Education Panel is a significant source of anger and frustration. External partners and families are unaware of who the panel members are and what expertise they have to make decisions about specialist placements. Although the protocol for the 2020/21 Specialist Education Panel suggests that 'a representative from specialist settings will be invited to attend

the Panel to act as adviser from November 2020', reviewers were told that the panel comprises the Head of SEND Services and representatives from Specialist Education Services; Family Services and the Provider Services. A representative from Educational Psychology has also recently joined the panel.

The DCO group experience considerable difficulty in communication with the local authority which is not conducive to collaborative working.

The DCOs have little oversight of children's EHC Plans, despite the duties they have to provide assurance to the CCG that children's needs are being met. They expressed concerns that, when they do see Plans, clinical reports are not always portrayed accurately in the Plan.

Local authority lawyers advised that they only have routine interaction with Family Services in some circumstances. This is not typical of services within the local authority where they are involved in both operational matters and strategic planning. They are instructed in Tribunal cases where families have legal representation but have limited involvement in providing other legal advice to the Family Services' teams. There may be missed opportunities here to view operational practice, and potentially strategic planning, through a legal lens to ensure that the integrity of the authority's compliance with statutory duties is maintained throughout the SEND processes.

A significant number of the education providers that the review team met have supported families to challenge local authority decisions through mediation and/or Appeal to Tribunal. They also described re-wording draft EHC Plans for parents based on the professional reports which are also sent to the settings. In particular, settings were concerned that, because there is a lack of routine and meaningful co-production throughout the EHC process, families where parents have learning difficulties themselves, or those for whom English is not their first language, are being further disadvantaged in this complex system.

### **To make recommendations for improvement.**

Please note that throughout the report there are a number of identified areas for development which should be considered along with the following recommendations:

- Identify a strategic partner to support, at pace, a review of the current case management arrangements for children and young people subject to statutory SEND processes to make sure that there is the capacity and knowledge to ensure co-production during every stage of the EHC process.
- Complete a training needs analysis, with Family Services' officers, to identify

gaps in knowledge and skills; develop appropriate training to ensure that all practitioners and managers are fully conversant with process, procedure, SEND legislation and Person Centred Planning and that practice is consistent across the county.

- Critically analyse current operational practice against the *SEND Code of Practice* and primary legislation (*Children and Families Act 2014*) to ensure the integrity of the local authority's compliance with statutory duties.
- Senior leaders to check, with the CCGs, the effectiveness of the local protocol for the effective sharing of information which addresses confidentiality, consent and security of information.
- Establish a robust means of tracking and reporting on all Annual Reviews; develop appropriate processes that support proactive engagement with settings to ensure both that Annual Reviews are held and paperwork is submitted to the local authority within timescales.
- Establish a mechanism to ensure that all Phase Transfers are identified; actively tracked and completed within the relevant legal timescales for both children of statutory school age and Post-16 learners.
- Review the process for securing specialist placements; use co-production as an opportunity to work with families to explore options for provision that will best support their young person and consider a case work approach to consultation.
- Work with education leaders and parent carers to understand the increasing demand for specialist provision and use both SEND data and local intelligence and demographics to inform sufficiency planning.
- Use the outcomes of complaints, mediations and Tribunals, as well as LGO decisions, to critically analyse processes and decision-making and identify learning to inform future practice for all practitioners involved in the SEND processes.

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