

Report to: Governance and Audit Committee – 24 April 2019

From: Roger Gough, Cabinet Member, CYPE
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Subject: **Update on response to the Internal Audit report: SEND including Education, Health and Care Plans & High Needs Funding - RB31-2019**

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper: N/A

Summary:

This report sets out issues identified in the Audit Report RB31-2019.

The Audit Report advised that it was only able to provide limited assurance to KCC that SEND was effective and within acceptable risk parameters. This led to the Director, Education Planning and Access being engaged directly with improvement in the area, setting up a comprehensive plan of action to address process, data management and oversight. These actions are already in place. Some interim arrangements are in place as the actions also need to take account of the recent Ofsted/CQC local area inspection.

The improvements have already provided some positive outcomes and will continue to do so.

Recommendation(s):

The Governance and Audit Committee is requested to note the progress that has been made following the Audit Report and the further improvement work underway to address the areas for improvement identified.

1. Introduction

- 1.1. The report issued in November 2018 gave a limited assurance rating together with a rating of adequate in respect of prospects for improvement. The context in which the service continues to operate is a challenging one which is common to most local authorities as the majority of the issues it faces are national in nature.
- 1.2. The Special Education Needs (SEN) Assessment and Placement Service fulfills Kent County Council's statutory duties in relation to special educational needs and disabilities (SEND), particularly in relation to SEN assessments. It works closely with the Educational Psychology Service in this assessment process.
- 1.3. The Children & Families Act 2014 introduced the biggest changes to SEN in 30 years through the duty to ensure that the views, wishes and feelings of parents are heard. There have been a range of consequences following the raising of parental expectation. The number of Children and Young People in Kent with SEND is rising faster than the underlying growth in population. Kent is now maintaining over 11,900 EHCPs which represents growth of over 70% since March 2014. The incidents of EHCPs being maintained and issued to young people aged 19+ has grown exponentially as the age range for which KCC is responsible was increased from 2-19 to 0-25 without any additional funding from the DfE.
- 1.4. Since September 2014, the service has been responsible for fulfilling duties arising from the Children & Families Act 2014 and the revised SEND Code of Practice. The legislation places the child/ young person and parent/carer at the centre of the decision-making process. The number of requests for statutory assessments has increased by 81% during the last 18 months. All of this growth in demand has resulted in significant overspends on budgets which are largely funded from the High Needs Block of the Dedicated Schools Grant (DSG).

2. Areas for improvement

- 2.1. The report identified a number of areas of strength and eight areas where improvement was required as at November 2018. These are summarised below in the extract from the audit report.
 - With regards to the Education Health and Care Plan (EHC) assessment processes the following was identified from audit testing carried on 80 cases across the districts:
 - Data entered onto Synergy is inconsistent.

- The retention and location of documents is not consistent.
- Timescales have not always been met and in some cases an explanation/ evidence could not be provided for these when queried
- The Local Authority Decision Sheets (LADS) are not always fully completed to align to the processes undertaken.
- Evidence of what quality assessing of the LADS forms has been carried out is limited and not consistent **Issue 1**
- The data held within Synergy has not been cleansed sufficiently to ensure reliability. **Issue 2**
- The use of Synergy is not consistent across the 4 areas. **Issue 2**
- The reporting element of Synergy is not fully utilised due to the quality of the data held. This was evident when trying to extract data for this audit. **Issue 2**
- Although all stated children cases apart from one have now had a EHCP completed the way in which this is recorded within Synergy is sometimes incorrect. **Issue 2**
- Some timescales have not been achieved with regards to the issuing of a final EHC plan within the statutory 20-week timescales. Of the 80 cases examined, 29 final ECHP had been issued with only 14 issued within the timescales. With regards to the remaining 51 cases the reason for EHCP's not being issued are as a result of either still awaiting further information or that it was decided not to issue a final plan. However, any delay was with the specific agreement of parents who requested a delay to the decision so full information was received. **Issue 3**
- There is a significant backlog of cases waiting to be allocated and assessed by the Educational Psychologists, currently this stands at 637 which is one of the main factors of statutory timescales not being met. **Issue 3**
- There is a large backlog of annual reviews of EHC plans to be completed. **Issue 3**
- The evidence to support the placement decision for mainstream and special schools is not consistent. **Issue 4**
- Although as mentioned above there are various documents which detail the processes with regards to SEN it is evident from audit testing and from the work that CYPE Service Development section are currently carrying out that processes are not consistently carried out across the 4 districts. **Issue 5**
- Some of the processes and forms required to be completed are time consuming and cumbersome. **Issue 5**

- The storage of data in some areas is triplicated in the form of data held on Synergy, electronic file and a manual file. **Issue 5**
- The independent placement panel process was recently put in place in July 2018. We observed an early meeting which we found could be enhanced by ensuring that complete and robust information is provided to allow appropriate scrutiny and challenge such as comprehensive breakdown of costs. **Issue 6**
 - Although it is evident that the budgets in relation to SEN including High Needs Funding are monitored regularly in terms of forecasting this is not based on real time information taken from the finance system. **Issue 7**
 - We found that the checklist used by High Needs Funding (HNF) Officers does not cover all required criteria for HNF whilst we also found there to be inconsistency in the level of detail recorded. **Issue 8**

3. Progress on addressing the eight issues

3.1. The tables below set out the progress to date against each of the issues identified in the report.

ISSUES IDENTIFIED & MANAGEMENT ACTION PLAN

1. EHC Assessments	
<p>Issue The processes for completing an EHC assessment are governed by the CFA 2014, the SEND Code of Practice and underpinned by the SEND Regulations. With regards to the EHC assessment processes the following was identified from audit testing carried out on 80 cases across the districts:</p> <ul style="list-style-type: none"> • Data entered onto Synergy is inconsistent • The retention location where documents are saved is not consistent across the areas. • Timescales have not always been met and in some cases an explanation could not be provided for these when queried, although the 6 week timescale to assess was met in 57 cases, 17 had not been met and in 6 cases it was not possible to calculate this, the highest number of timescales not being met was within the East district which was at 9 cases • The Local Authority Decision Sheets (LADS) are not always fully complete to align to the processes undertaken • Evidence of what QA has been carried on the LADs is limited and not consistent <p>Risk Statutory timescales are not achieved. Practices across the areas are not consistent.</p>	<p>Risk Rating</p> <div style="background-color: red; color: white; padding: 5px; text-align: center; width: fit-content; margin: 10px auto;">High</div>
<p>Root Cause Lack of confidence in database has led to an inconsistent use across the areas, and therefore documents being saved in various locations.</p> <p>Timescales recorded on Synergy are inconsistent at the 6 week point and do not always reflect the date the decision was made.</p> <p>Supporting information recorded on LADS is not essential to meeting statutory duty. If the decision is robust and accurate, then the LA is not at risk.</p> <p>Management Action Plan: Continued work with IT to improve Synergy and recording of information and using Synergy more consistently across County. Training and support for officers to build confidence.</p>	<p>Timescales</p>

<p>In-depth look at processes as part of ongoing Service Review by Service Development Team. Results and revised actions will be in place after January 2019</p> <p>Responsible Officer: Lesley Burnand</p> <p>Update on progress SEN officer with responsibility for Synergy now works alongside Management Information Unit (MIU) 2 days per week to develop workflows and improve Synergy reports. Induction and ongoing training programme for assessment & placement staff is being finalised. Synergy Champions have been identified in each area office to allow staff with minor queries to have an immediate response. Streamlined and refined statutory assessment process designed in response to service review and will be going 'live' on 26th April.</p>	<p>September 2019</p>
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<p>2. Synergy</p>	
<p>Issue It has been established following audit testing and discussions with staff that the data currently held on Synergy is not reliable or accurate. Issues with Synergy were identified soon after the system had been implemented and there are ongoing issues with data inaccuracies.</p> <p>In addition to this although all staff received the same Synergy training at the start of the project there are various inconsistencies as to what data is held on Synergy across the 4 areas.</p> <p>As a result of the data held within Synergy being incomplete the reporting element of Synergy is limited without being viewed alongside locally held reports, this was evident when trying to extract data for this audit.</p> <p>Risk The lack of reliable data may make it challenging to monitor and provide robust oversight to allow the right strategic decisions are taken</p>	<p>Risk Rating</p> <p>High</p>

<p>Root Cause Lack of confidence in database, and ongoing issues with the database identified soon after using system. MIU unable to prioritise SEN improvements due to other priorities and getting other departments using Synergy.</p> <p>Management Action Plan Continued work with IT to improve Synergy and recording of information and using Synergy more consistently across County, working with MIU.</p> <p>Cleansing of data recorded to improve reliability.</p> <p>In-depth look at processes as part of ongoing Service Review by Service Development Team. Results and revised actions will be in place after January 2019</p> <p>Responsible Officer: Lynne Barnes</p> <p>Progress to date See summary in Issue 1 above.</p>	<p>Timescales</p> <p>September 2019</p>
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<p>3. EHC Plans</p>	
<p>Issue There is a statutory requirement for an EHC Plan to be issued within 20 weeks of initial assessment.</p> <p>Statutory timescales are not always met. Upon examination of 80 cases the following was established:</p> <ul style="list-style-type: none"> • Although the 6 week timescale to assess was met in 57 cases, 17 had not been met and in 6 cases it was not possible to calculate this • An EHCP was issued in 40 cases with only 16 cases informing the parent/ carer within the 16 weeks timescale • Of the 29 Final EHCPs issued 14 were within the 20 week timescale <p>Currently one of the main contributing factors is the delay in receiving a report from the Educational Psychologists.</p>	<p>Risk Rating</p> <p>High</p>

<p>There is a significant backlog of cases (637) waiting to be allocated and assessed by the Educational Psychologists.</p> <p>The quality of the EHC plans is not consistent with some only recording minimal information.</p> <p>In addition to statutory timescales not always being achieved with regards to issuing a EHC plan it was mentioned that there is currently a backlog of the annual reviews not being processed. There is a statutory requirement for all EHC plans to be subject to an annual review. It was not possible to substantiate this backlog as a report could not be extracted from Synergy of outstanding reviews and despite requests to the district leads for statistics on these outstanding reviews only one response was received.</p> <p>Risk</p> <p>Current details and progress not regularly reviewed may result in long term misidentification of support and funding.</p> <p>Child's needs not being identified and therefore not met resulting in failure to achieve best outcomes</p>	
<p>Root Cause</p> <p>Backlog of EP assessments – which is a national issue with shortage of EPs. Kent is not the only county affected. Frequent changes in staff resulting in lack of consistency in Plans.</p> <p>Management Action Plan</p> <p>QAing of Plans is ongoing and has seen improvements in Plans. No Plan is issued without being QA'd by a DL or AM.</p> <p>Areas of improvement being identified as part of QAing process to inform training requirements.</p> <p>Trial of new EP processes to clear backlog and inform decisions where needed. Following successful pilot in West Kent, new procedures now being rolled out across County</p> <p>Responsible Officer: Lesley Burnand/Lynne Barnes</p> <p>Progress to date</p> <p>New quality assurance process being implemented but may need revising to ensure we are also responding to Ofsted/CQC concerns. This is to ensure appropriate professionals (ie. Teachers) use their professional knowledge to quality assure sections of the EHCP within their remit.</p> <p>Compliance with legislation and set processes are checked by the District Lead or Area Manager.</p>	<p>Timescales</p> <p>August 2018</p> <p>November 2018</p> <p>November 2018</p>

<p>New process for allocation of EP time has seen a drop of the backlog from over 650 to 270 at March 2019. This figure is reducing each week. This process provides EP's with a wider range of options for providing compared advice to previous practice. This saves time and utilises information already available.</p> <p>We have stabilised the staffing issues within the EP service through bringing pay into line with other Local Authorities but recruitment remains a severe challenge due to a national shortage of qualified staff.</p>	
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4. Placements	
<p>Issue</p> <p>Within the Local Authority Decisions Sheet is a section that allows for capture of information about a potential placement in terms of parent preference. In a situation where there are 2 placements which can meet need, the legal test would be applied and officers would prepare this for a manager decision. There are guidance documents which detail the processes for deciding a placement and making decisions</p> <p>It was recently agreed that in order to introduce greater scrutiny of the decision to place children in independent provision, with the view that local provision is preferred (unless there is a compelling reason) a Placement Panel would be introduced that is made up of senior officers from SEN, finance and special school head teachers. SEN Area Managers would then need to present the case for Independent Non-Maintained Special Schools (INMSS) placement, giving reasons as to why the needs cannot be met in a maintained mainstream or special school.</p> <p>Using the sample of 29 final EHCPs that had been issued information to support the placement is not consistent across the areas.</p> <p>Risks</p> <p>Providing too much financial support where resources are not needed leading to a loss on the part of KCC.</p> <p>Inappropriate placement given to the child which will be detrimental to the child's learning and development as well as a lack of consistency of allocating funds, leading to reputational damage to KCC.</p>	<p>Risk Rating</p> <p>Medium</p>

<p>Not fully utilising mainstream provision and inappropriate placement in specialist and independent providers will represent poor value for money.</p>	
<p>Root Cause Lack of maintained places in mainstream, special schools and SRPs has resulted in too much reliance on independent sector. Lack of detailed information provided by Independent schools may have led to duplicate support being in place.</p> <p>Management Action Plan Being addressed as part of Project Overview by Service Development Team and overarching Action Plan. Attached (see communications and independent placements).</p> <p>Responsible Officer: Louise Langley, Lesley Burnand</p> <p>Progress to date Independent school placement county panel established to robustly gatekeep decision making on placements in the independent sector. This county panel includes Headteachers. Data shows a slow-down in the budget pressure. The annual commissioning conversations with special schools for September 2019 identified a number of small increases of placements for most of our special schools that totalled 500 additional places. New special schools are planned to come on-line in 2020 and 2021, as detailed in the Kent Commissioning Plan. We have successfully bid for a new Free Special School on the Isle of Sheppey. We increased the number of specialist resource provision (SRP) places by 116 in September 2018 and another 85 places will be available from September 2019 when new SRPs open. New contracts for block purchasing at some of the independent schools is being discussed to enable a reduction in costs. This follows discussions with OLAs on their approach to this area of activity. Inclusion in mainstream schools is lower in Kent than other LAs and variable commitment to inclusion was identified in the recent Local Area Ofsted/CQC inspection. This will be addressed through the Local Area Written Statement of Action. (WSOA)</p>	<p>Timescales</p> <p>February 2019</p>

<p>5. Internal Policies & Procedures</p>		
<p>Issue</p>	<p>Risk Rating</p>	

<p>SEN processes are mainly governed by the SEND Code Of Practice, however there are also a variety of documents that have been compiled by the SEN service which are available to placement providers, Parents/guardians and staff. However, it was identified during audit testing of a sample of cases that processes are not carried out consistently across the 4 area districts such as where information should be recorded. The recent work that that the CYPE Service Development Team are currently carrying out is also coming to the same conclusion.</p> <p>The inconsistent processes include:</p> <ul style="list-style-type: none"> • Documents received are not consistently date stamped • Completion of the LADs forms, on occasions these are fully completed but not in all cases, in addition the location of these forms varies and not all of these could be located • Draft EHCPs are not always held as sometimes these are overwritten with the final EHCP • Explanations for queries could not be provided in all cases due to case notes etc not being up to date • Costing of placements is not consistently recorded with the EHCPs • Data is stored in various ways such as within Synergy, in an electronic file, a paper file or even in all three forms with the same information being held. <p>In addition, a number of the documents which are required to be completed and in particular the Local Authority Decisions sheet (LADs) are time consuming and cumbersome.</p> <p>Risk Lack of consistent practices could result in outcomes which are not the best ones for either KCC or the child whilst there is a risk of inefficiencies and waste of resources if information is triplicated</p>	<div data-bbox="1868 269 1980 344" style="background-color: yellow; border: 1px solid blue; padding: 2px; text-align: center;">Medium</div>
<p>Root Cause Supporting information recorded on LADS is not essential to meeting statutory duty. If the decision is robust and accurate, then the LA is not at risk.</p> <p>Management Action Plan Being addressed as part of Project Overview by Service Development Team and overarching Action Plan. Attached (see sections FE sector & transition, increase mainstream schools capacity to meet SEN and quality of EHCPs).</p> <p>Responsible Officer: Louise Langley, Lesley Burnand</p>	<p>Timescales</p> <p style="text-align: center;">September 2019</p>

Progress to date

Streamlined and refined statutory assessment process designed in response to service review and will be going 'live' on 26th April.

Compliance with legislation and set processes are checked by the District Lead or Area Manager.

6. Independent Placements

Issue

We found there to be positive improvements to the Independent Placement process which allowed for applications to be scrutinised and we observed push back and not necessarily reject on those which lacked necessary detail. However, this could be enhanced by ensuring that complete and robust information is provided to allow appropriate scrutiny and challenge. We observed the Independent Placement Panel and made the following observations:

- Comprehensive break down of costs so that the cost can be scrutinised fully were not available from the independent provider. Costs included details such as core fees but did not provide a breakdown of the elements which make this up allowing for a risk of duplication of payments for provision. Discussions with officers following the panel found that Placement Officers obtain the costs directly from the school and they may not have the necessary experience to be able to provide the level of detail in the costings required to adequately scrutinise.
- Progress/ attainment of the young person needs to be documented to inform the decision which was not present in all cases.
- Some of the cases taken to the panel were approved with the agreement that this would be their final year however the discussions at the meeting suggested that this was due to their not being a clear progression to ASCH being considered.

Risk

The lack of information to support decisions may lead to applications being accepted inappropriately or KCC paying increased cost of provision.

Root Cause

Lack of oversight of independent Placements.

Risk Rating

Medium

Timescales

<p>Management Action Plan Being addressed as part of Project Overview by Service Development Team and overarching Action Plan. Attached (see independent placement section).</p> <p>Responsible Officer: Louise Langley, Lesley Burnand</p> <p>Progress to date. See detailed response in Issue 4 above. Independent school placement panel established to robustly gatekeep decision-making on placements in the independent sector. Data shows a slow-down in the budget increase.</p>	<p>September 2019</p>
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7. Budget Monitoring and Forecasting	
<p>Issue Factors such as increases in the Kent school age population, medical advances, increased diagnosis and parental expectations has led to an increase in the number of pupil's subject to EHCPs. Whilst Kent has a range of approaches to providing earlier and more effective support to pupils with SEN, including high needs funding for pupils in mainstream, it is anticipated that the demand for specialist places will continue to increase with the overall population growth.</p> <p>It was evident that regular budget monitoring and forecasting is completed, and the current forecast is that there is to be an overspend of over £10m by the end of 2018/19. The main areas that attribute to this overspend are independent and special schools and the mainstream budget is forecasting an underspend.</p> <p>Although forecasting is completed there are difficulties in ensuring the accuracy of this as poor information is available in terms of live information from Synergy.</p> <p>In addition to the above there are currently no documented procedures as to how the budgeting and forecasting is completed and no succession plan in place if key members of staff leave.</p> <p>Risk Lack of accurate information to support monitoring could lead to significant financial pressures on the council and the reserves.</p>	<p>Risk Rating Medium</p>

Not enough funding given to children which will be detriment to the child.	
<p>Root Cause Increased number of requests for statutory assessments due to changes in legislation.</p> <p>Management Action Plan Being addressed as part of Project Overview by Service Development Team and overarching Action Plan. Attached (see annual review process, independent school placements, FE sector and transition into adulthood and High Needs Funding sections).</p> <p>Responsible Officer: Louise Langley</p> <p>Progress to date To address the number of statutory assessment requests we are in the process of developing more specific information for parents on our Local Offer that details the graduated response to SEND and criteria for statutory assessment. We are also working with health and social care colleagues to ensure they have training to understand the process. This will be a key focus of the work that will form part of the Written Statement of Action following the recent Local Area Ofsted/CQC inspection.</p>	<p>Timescales</p> <p>September 2019</p>

8. High Needs Funding Checklist	
<p>Issue Through discussions with the High Needs Funding Officers it was suggested that the checklist used for High Needs Funding needed to be reviewed as this doesn't make clear all necessary steps such as the following:</p> <ul style="list-style-type: none"> • Whether the local offer has been met. • Training had been completed against the needs of the child within the last 2 years. • The school provision map has been obtained to establish if the core offer already meets the needs for HNF and act as a mechanism to challenge a school where they may already be providing provision <p>This is supported by our testing in which we found a number of instances where evidence of the school provision map had not been obtained. Of those agreed 22 out of 31 did not have the school provision map and 16 out of 31 did not evidence that</p>	<p>Risk Rating</p> <p>Low</p>

<p>training had been completed by the school. We were informed that these are new requirements and that their omission from the checklist may be a potential reason for this.</p> <p>Additionally we found a difference in the level of detail recorded between the area as we found that in North and West Kent they would type the rationale directly into the form which makes understanding the rationale for placement clear however, in South and East Kent they write on the forms making it more difficult to support the rationale in these areas (though in all cases in these areas there was sufficient evidence to support the decision to award HNF)</p> <p>It was also suggested that there perhaps needed to be guidance surrounding what training should be undertaken by the school as per the criteria for HNF.</p> <p>Risk Incomplete guidance could lead to inconsistent practices and the agreeing of inappropriate / unnecessary funding costing meaning that value for money is not obtained.</p>	
<p>Root Cause Increased inclusion within high needs funding</p> <p>Management Action Plan Being addressed as part of Project Overview by Service Development Team and overarching Action Plan. Attached (see High needs funding section)</p> <p>Responsible Officer: Louise Langley, Louise Hickman</p> <p>Progress to date High needs funding budget within mainstream had an underspend of £4m in response to the new processes implemented during 2018.</p>	<p>Timescales</p> <p>September 2019</p>

4. Recommendation(s):

- 4.1. The Governance and Audit Committee is requested to note the progress that has been made following the Audit Report and the further improvement work underway to address the areas for improvement identified.