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Ask for: Anna Taylor
Date: 2 December 2024

Dear Member

SCRUTINY COMMITTEE - WEDNESDAY, 4 DECEMBER 2024

Please find attached Scrutiny Review – SEND Transformation report for discussion at the Scrutiny Committee Wednesday 4 December.

Agenda Item No

C4 **Scrutiny Review - SEND Transformation (Pages 1 - 16)**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ben Watts', is written over a faint, illegible printed name.

Benjamin Watts
General Counsel

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By: Anna Taylor, Scrutiny Research Officer
To: Scrutiny Committee, 4 December 2024
Subject: Scrutiny Review – SEND Transformation

Summary: Following an intensive evidence gathering programme involving meetings with a range of stakeholders, interested parties and experts, the SEND Transformation Review report is submitted to the Scrutiny Committee for formal approval and for submission to the Cabinet Member for Education and Skills.

1. Introduction

- a) Following the agreement of the Scrutiny Committee to resume responsibility for scrutiny of SEND within KCC, Members held separate, informal evidence gathering sessions to gather information from stakeholders. These sessions, which involved the Scrutiny Committee, supported by other Members with relevant experience and knowledge of this area, took place during October and November of 2024.
- b) The report of the informal Scrutiny Committee is attached and should be formally approved by the main Scrutiny Committee before it is passed to the Cabinet Member for Education and Skills. In accordance with the KCC Constitution, the Executive must report back to explain how it will respond to the recommendations. The Scrutiny Committee require that a response be provided for discussion at the Scrutiny Committee meeting on 29 January 2025.

2. Attached documents

- a) Scrutiny Review – SEND Transformation.

3. Recommendation

The Scrutiny Committee is asked to:

- APPROVE the report for submission to the Cabinet Member for Education and Skills, and
- REQUIRE that a response, from the Executive to the recommendations contained within the report, be provided to the Scrutiny Committee meeting on the 29 January 2025.

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Kent County Council

Scrutiny Review – Special Educational Needs and Disabilities (SEND) Transformation

**Evidence gathering conducted and
recommendations developed by the
Kent County Council Scrutiny Committee**



1. Introduction

1.1 Following the conclusion of the work of the work of the SEND Scrutiny Sub-Committee, which considered the Council's response to the Ofsted and CQC inspection outcome in 2023, the main Scrutiny Committee resumed responsibility for statutory scrutiny of this area of KCC activity. In July 2024, the Scrutiny resolved to undertake further review work of SEND matters relating to the ongoing SEND Transformation being developed by the Council's Executive and staff of the Children, Young People and Education Directorate.

1.2 To that end, the Committee, supported by other Members with relevant experience and knowledge of the service area, undertook a series of informal evidence gathering sessions, conducted during October and November, to gain views about and experience of Special Educational Needs and Disabilities (SEND) provision and arrangements in Kent.

1.3 The discussions highlighted significant ongoing challenges within the current system, the Executive's proposed changes and explored possible suggestions for improvement in the SEND system.

1.4 The Committee would like to record its thanks to everyone involved in the evidence gathering, for giving up their time and speaking so honestly to Members about their experiences. Committee Members particularly wanted to thank the parents and carers who spoke so passionately about their children and Members acknowledge the difficulties faced by those parents and carers who spoke to Members.

1.5 The aim of the Scrutiny Review Group was to consider a range of evidence and develop recommendations to the Cabinet Member to ultimately improve the services provided by the Council and to make a positive impact on the residents of Kent and children within the Education system.

2. Committee Membership

The Review Group consisted of the following Members:

| | |
|--------------------------|---|
| Mr Andy Booth (Chairman) | Ms Rebecca Ainslie-Malik (Parent Governor Representative) |
| Mr Paul Barrington-King | Mr Michael Reidy (Church Representative) |
| Mrs Rosalind Binks | |
| Mr Trevor Bond | Sir Paul Carter (Guest Member) |
| Mr Alister Brady | Ms Mel Dawkins (Guest Member) |
| Mr David Brazier | Mrs Trudy Dean (Guest Member) |
| Mrs Lesley Game | Mr Richard Streatfeild (Guest Member) |
| Ms Jenni Hawkins | |
| Mr Antony Hook | |
| Mrs Shellina Prendergast | |
| Mr Oliver Richardson | |
| Mr Simon Webb | |

3. Review approach - Summary

3.1 The Committee has undertaken an intensive evidence gathering programme, beginning in October 2024, involving meetings with a range of key stakeholders, interested parties and experts. In addition to reviewing written information provided by KCC, external witnesses and organisations, the Committee has heard more than 20 hours of verbal evidence.

3.2 The evidence gathering sessions were developed and undertaken as part of the Scrutiny Committee's prior resolution to adopt a more focused SEND scrutiny role, recognising that while significant progress and improvements had been made to KCC's SEND provision, as evidenced in previous SEND reports to the Scrutiny Committee and the lifting of the Statutory Improvement Notice by the Minister for Children and Families, there remained outstanding issues and in particular the experience of many parents did not reflect the strategic improvements.

3.3 Key themes noted across all the evidence gathered included the importance of collaboration, transparent communication between all stakeholders, financial sustainability and genuine inclusive practice being at the heart of the SEND offer.

3.4 Members heard evidence from the following stakeholders:

Friday 11 October 2024 – representatives from Kent Special Educational Needs Trust (KSENT) along with Mainstream and Academy Trust representatives and a representative from Kent Association of Leaders in Education (KALE).

Wednesday 16 October 2024 – Headteachers and Chief Executives of mainstream and specialist primary and secondary schools, mainstream nursery representative, further education college leader.

Friday 18 October 2024 – Headteachers and Chief Executives of mainstream and specialist primary and secondary schools and multi academy trust Chief Executives, further education college leader.

Monday 21 October 2024 – Parents and carers of SEN children in Kent and representative from Parents and Carers Together (PACT).

Wednesday 23 October 2024 – SEN Experts – including former special school Headteacher and MAT Chief Executive and current Ofsted inspector and Education Consultant. DfE consultant on SEND policy and provision. SEN Director for an Academy Trust, Chair of Special Schools Learning Trust.

Thursday 31 October 2024 – KCC's Interim Corporate Director of Finance and KCC's Director of Education.

Monday 4 November 2024 – Cabinet Member for Education and Skills and Director of Education

Friday 8 November 2024 – General Counsel and Democratic Services Manager

3.5 The Committee also received additional written information from the following representatives:

Early Years providers

KCC's Children, Young People and Education (CYPE) Team

KCC's Finance Team

KsENT

Parents

SEN experts.

4. Key Findings

Summary of evidence received / heard:

4.1 As set out above in the summary of evidence gathering activity, the Committee received information from and spoke with a wide range of key stakeholders. Due to the timing of the Scrutiny work running in parallel with KCC Executive activity developing proposals related to the SEND Transformation and the Special School Review in particular, these elements became a key focus of the scrutiny review. The stakeholders, particularly school representatives and parents had strong feelings and views on the proposals that were both positive and negative. The contrasting views were all considered by the Committee and have been taken into account as part of developing the recommendations set out later in the report.

4.2 Key points raised in the evidence varied significantly depending on the stakeholder group.

Special School Representatives:

4.3 The Special School sector considered that the proposals for change would be detrimental to their ability to provide the relevant specialist support they were currently designed to provide. Concerns were raised that the proposals would result in children being placed in schools that could not meet their needs.

4.4 It was suggested that the level of capital investment required to adapt some special schools to accommodate a broader range of SEND needs beyond those for which the buildings had been designed had not been sufficiently scoped and that it was not clear what timescales or funding arrangements would apply.

4.5 The Special School representatives remained dissatisfied with KCC's communication, co-production and consultation of the SEN transformation proposals. While the need for change was accepted by the Special School sector, they maintained that the scale and type of change was disproportionate and that in their view did not take account of the legal requirements relating to provision of SEND school places or the parental choice element. They also raised concerns about their ability to implement the proposed reforms.

Mainstream:

4.6 Conversely, strong support for the proposed changes was submitted from parts of the mainstream sector, highlighting the need for there to be more general higher level need special school capacity so that mainstream could provide effective low to medium level need support. Concerns were raised that the current system meant that mainstream schools were expected to provide support and education for a range of children with high levels of need who were not admitted to Special Schools on the basis that the special school was not set up to provide the relevant support, an outcome which appears counter-intuitive. The argument was made that the Special School sector should have a better and larger general higher level need offer and capacity rather than operate on a very specialised basis with various schools catering to only specific types of need.

4.7 It was highlighted that the ongoing approach to increase the number of children with SEND being supported appropriately in the mainstream sector did have capital cost implications in terms of adaptations and that this needed to be fully scoped and planned properly.

4.8 There were a variety of views around the role and use of Specialist Resource Provisions (SPRs) but some stakeholders considered that they were key to facilitating inclusion in mainstream schools.

Further Education college representatives:

4.9 The Committee was provided with background and information in relation to how the Kent system was currently working versus how the system could or should look. Concerns were raised over the reliance on costly independent sector provision. The continued importance of co-creation in developing solutions, supported by a clear definition of the role of the Local Authority in SEND provision and uncertainty around national policy changes from DfE was flagged as key to finding a successful way forward. There was considered to be an uneven distribution of SEND students across schools and challenges were reported with some mainstream schools being selective and not taking on students with SEND, special schools needed to be catering to the right level of need.

4.10 A clear financial plan was needed that properly articulated the resource implications of the different ways of delivering SEND and outlined the justification for supporting one approach or another.

4.11 It was flagged that in relation to the transition to adulthood, it was vital to prepare young people with SEND for adulthood with mainstream setting playing a crucial role in this transition.

Parents and Carers

4.12 Parents reported a range of challenges in terms of their engagement with the processes involved in securing education and support for their children with SEND. This included staff changes, gaps in information sharing and delays to assessments and decisions. In addition, significant concerns were raised about the perception that the proposed changes of the special school model would involve children currently in special schools to be moved out of their current placement and put into mainstream. Concerns were also reported about the management of and approach to Education Health Care Plans (EHCPs).

SEND Experts

4.13 SEND experts provided a historical perspective on SEND provision in Kent, highlighting the significant increase in the number of children diagnosed with SEN and the rise in special school placements in Kent. In relation to the Continuum of Need and Provision, they confirmed that this had been developed by Schools via a collaborative process involving school leaders and feedback received from workshops.

4.14 The role of Inclusion Champions was considered invaluable and the guests set out the potential benefits of the proposed changes. Inclusion Champions had two main roles in supporting the development of SEND inclusion across Kent:

- leading in-school or MAT leadership team discussions about barriers and challenges to SEND Inclusion development and signposting to support, including possibly to peer review and to support from Locality multi-agency teams
- supporting the delivery of SEND improvement projects, particularly the development of Locality working and the embedding of the Continuum of Need and Provision.

4.15 The experts considered that it was vital to balance the immediate financial pressures with the need for sustainable solutions, whilst always ensuring proper consideration of outcomes for children. There were concerns around the levels of parental trust in the system and the need for clear communication about the proposed changes. The importance of effective collaboration between the local authority, schools, and parents was emphasised.

KCC's CYPE and Finance

4.16 In relation to the financial aspects affecting SEN services at KCC, the significant rise in EHCPs and consequent SEND provision arrangements that have been put in place to date to support the increased demand had led to expenditure tripling over the past decade. In addition, the high number of pupils placed in special schools was contributing to the financial strain and often led to children being placed

in inappropriate settings. The increase in numbers of students being placed in special schools since 2014/15 had not resulted in an improvement in educational attainment.

4.17 There are significant financial challenges being faced by the education sector and the local authority. The need for transparency and accountability was emphasised along with the importance of early intervention, inclusion and the effective management of resources.

4.18 The Cabinet Member and CYPE Officers set out the case for change and there was broad agreement on the Review Group that the SEN system in Kent needed reform. Officers advised that following the critical SEND Area reports, KCC has been working to improve the educational provision and opportunities for children and young people across the county including undertaking an extensive Special School Review which had resulted in a number of recommendations which had been presented in public and discussed by the CYPE Cabinet Committee.

4.19 They advised that there had been extensive engagement and communication with all parts of the education sector and highlighted that the impacts of the proposals were different for the various areas and it was understood that some proposals would involve certain schools having to make significant changes to their operations. The Executive position was that this was necessary and appropriate to ensure the mainstream and special school sectors were both set up to support the appropriate range of children in an inclusive manner.

4.20 It was clarified that the proposals would not involve the moving of children currently in Special School into mainstream and that the impact would relate to future intakes of children. The Special Schools Review aimed to ensure that special schools catered for children with the most complex needs, which would mean fewer children with such needs having to be supported in mainstream. In addition, the proposed developments for Special Schools were intended to enhance their scope and reduce reliance on the Independent Special School sector. There was a need to balance the financial sustainability of the system whilst ensuring appropriate placements for children.

5 Observations by the Scrutiny Committee.

5.1 The Committee undertook to complete this work in a short period of time to coordinate its recommendations with the KCC Executive's proposals around the SEND Transformation and the Special School Review. There remain some stakeholders the Scrutiny Committee was not able to hear evidence from and the Committee considers should be or should continue to be involved in the future planning and development of proposals. These include the health service, nursery and early years providers, Specialist Teaching and Learning Service (STLS), Independent Special Schools (ISS), the Independent Chair of Strategic Improvement and Assurance Board (SIAB), the Department for Education (DfE) and OFSTED.

5.2 A range of operational points and wider issues were picked up through the process, however, the focus and approach of a Scrutiny Review requires a strategic perspective. Details of individual concerns or process points raised will be taken up outside of the Review process with the relevant Directorate.

- Members raised concerns around school staff retention and ways of ensuring knowledge is retained within the workforce.
- Sharing support and training within schools.
- Encouraging and signposting to regular professional development for staff. Ongoing training and understanding of SEND and neurodiversity and effective teaching methods.
- It was unclear to what extent the Selective Education model operating with Kent had a substantive effect on the SEND offer.
- Potentially unfair funding arrangements whereby children from other Local Authority areas were placed into foster care in Kent, with KCC becoming solely responsible for funding all relevant SEND or additional needs costs.

RECOMMENDATIONS to the Cabinet Member for Education and Skills:

Members are aware that the Countywide Approach to Inclusive Education (CATIE) Strategy, which was developed by KCC in conjunction with children and young people, parents and carers, schools, setting, and other key stakeholders, supports the inclusion of all children and young people in Kent. The CATIE document is key to improving outcomes for children and young people with SEND and is available here: [A Countywide Approach to Inclusive Education](#). Some of the points picked out through the recommendations relate to information contained within the CATIE Strategy, however, the evidence received by Members highlights continued areas of concern raised by stakeholders.

Enhance Communication and Collaboration.

Through their evidence gathering Members heard that communication between KCC Officers and schools was either very good or that relationships had completely broken down. Members recognise that whilst the whole education sector is committed to working in the best interests of children, each party may have different areas of focus, expertise and preferred approach to delivering the best for children.

Members were concerned to hear evidence from KsENT of what was reported by Special School representatives to be an absence of effective consultation and co-production with them. The Committee was mindful that Special School Headteachers are key deliverers of SEND education provision and they will have particular insight into the most suitable arrangements. Members also received evidence of KCC's consultation process with regards to KCC's transformation proposals. Consequently, the Committee is of the view that, whatever challenges have been experienced, building relationships and improving communication with KsENT should be a priority. The Committee has also noted that KsENT has made

public statements confirming its formal objections to the proposals on behalf of the majority of Special Schools in Kent.

With regards to recommendations 1, 2, 3 & 4 the Committee is aware that progress must have been made in these areas. The DfE improvement notice was lifted in August 2024 and progress will have been reported to CYPE Cabinet Committee, SIAB and to the DfE. Notwithstanding that assumption, the Committee heard evidence of continued concerns and is therefore making these recommendations. Members would welcome any further evidence of the extent to which these have already been addressed.

- **Recommendation 1:**

Transparent communication between all stakeholders, with KCC supporting and facilitating the engagement as the Local Education Authority (with responsibility to secure appropriate education arrangements) must be a core requirement for the Council and should be well evidenced.

- Set out KCC's roles and responsibilities to improve confidence, clarity and accountability to the service.
- Set out KCC's view of what the roles and responsibilities of other involved parties across the SEND arena and education sector are to help provide clarity on reasonable expectations and requirements.
- Provide clear evidence of genuine co-production in relation to plans and proposals.
- Establish clear communication channels and maintain clear and detailed accessible records of communications to ensure accountability and transparency.
- Articulate policies and proposals in clear terms, recognising the concerns and perspectives of key stakeholders.
- Seek co-operation arrangements with partners to better support transition phases such as moving from primary to secondary or preparing for adulthood.

- **Recommendation 2:**

Review the Council's Communication Processes with parents – with a view to efficiently tracking all communications and decisions, reducing the need for repeated explanations and lost information

- Clear and consistent communication to rebuild trust and keep all stakeholders informed and involved. Ensure there is a clear understanding by parents of SEND children about how they will be contacted.
- More effective tracking of the processing of support and engagement with SEND children is required.
- Continue to promote channels for receiving feedback from pupils, parents and staff to continuously improve SEND services.

- **Recommendation 3:**

Continue proactive engagement with Health Partners around the development of SEN processes in Kent.

- Greater partnership working with NHS healthcare, mental health and children's trust.
- Include Social, Emotional and Mental Health (SEMH) considerations in future proposals and plans.
- SEMH demand and impact – investigate the causes and how can KCC address this.

- **Recommendation 4:**

Review and update the EHCP development and management process

While noting the improvement in percentage of EHCPs completed within 20 weeks and that the backlog has been cleared with no child or young person waiting more than 26 weeks for their EHCP to be issued, areas for review should still include:

- Provide clarity on each person's role in EHCP development in plain English to ensure parents, schools and children can understand – improve design and accessibility of forms.
- Ensure EHCPs are co-designed and co-delivered with parents
- Clarify the management processing of EHCPs – e.g. how and by whom can they be edited?
- Encourage, as far as possible, health partners to be involved in EHCP reviews – so as to ensure that the health needs of the child or young person are being met effectively.
- Aspirations and outcomes within an EHCP are vitally important – better demonstrate how this is kept at the forefront of discussions to ensure reviews are centred on this and support is adjusted if outcomes are not improved.
- Conduct and publish the findings of a review into the causes of high EHCP numbers in Kent.

Financial Modelling and Sustainability

Kent County Council has faced significant financial challenges relating to SEN provision. The cost of providing SEN services has increased dramatically and there has been a substantial rise in the number of children requiring SEN support. The cost of placing a child in an independent special school has risen contributing significantly to the financial strain. Variations in admission criteria or how they are applied has sometimes led to high-needs pupils being placed elsewhere, often at a higher cost.

- **Recommendation 5:**

Review or clarify the management of High Needs Funding for children moving schools or transitioning from primary to secondary.

- Work with DfE as appropriate to allow more discretion in allocation of High Needs Funding.
- Explore how funding can be provided for groups of students rather than individuals with EHCPs.

- **Recommendation 6:**

Conduct thorough financial modelling and planning to ensure proposed changes are viable and sustainable without leading to increased costs or reduced quality of education

Recognising that within the CATIE the focus for 2024/25 is to develop a Community of Schools funding stream which will allow the re-distribution of resources to provide additional intervention and support with engagement and integration into mainstream schools and this will impact on the financial arrangements. However, there is scope to consider the following areas of review:

- Detailed, sharable, financial model to be available to all stakeholders.
- Clear explanations of Council financial assessment processes to be provided in a public way to support wider understanding of the approach.
- Review long term funding plans to provide assurance on capacity and required resourcing to meet demand over a 5 to 10 year period.
- Historic financial pressures to be reviewed and investigated to identify causes of cost increases and to determine any policy choices that have contributed to these.
- Engage with other Local Authorities to identify similar financial pressure patterns and explore possible solutions / options to address.
- Explain and confirm how financial sustainability, outcomes for children and practical deliverability are balanced or weighted as part of proposal development and decision-making.

System and Process

All stakeholders Members heard evidence from are vital to ensure that children and young people with SEN receive the support they need. KCC has outlined reforms to ensure that SEN services remain sustainable and continue to meet the needs of all students.

- **Recommendation 7:**

Review guidelines and criteria for mainstream/special school placement decisions.

- Right setting for every child – clear and transparent designation for placements.
- Clarify the process for naming school choices for SEN children.
- Review appeals process to ensure it is appropriate and equitable for SEND children.
- Enabling the sharing of resources and best practice within localities to support SEN children.
- Work with Ofsted to suggest that inspection ratings take greater note of inclusion factors and that further work should be done to explore which issues or challenges create perverse incentives that undermine inclusion, particularly in relation to SEND provision.
- Recognising that DfE statistics in relation to permanent exclusions in special schools demonstrate that Kent remains well below the national and southeast regional rates the process should be reviewed to assure Members that measures are in place to prevent exclusions being the result of children being in an inappropriate setting.
- Work with DfE, where appropriate, to explore how school attendance is monitored and enforced in relation to children with complex needs.

- **Recommendation 8**

Conduct a strategic review of the use of independent special schools and develop plans to reduce reliance on them.

- Conduct a best value investigation to explain the increase in use of private special schools by local authorities, which has raised concerns about the cost and impact on inclusive education practices.
- Whilst it is accepted that independent special schools provide necessary support for some students there remain questions over their role in the broader context of inclusive education.
- Use research and national comparisons to demonstrate whether the money spent on independent special schools could be better spent on developing inclusive practices within mainstream schools and supporting special schools provide a broader scale of support for a range of levels and types of need.

- **Recommendation 9:**

Review the principle of, and evidence for, the assertion that providing a Specialist Resource Provision (SRP), or form of SRP, in every school would maximise inclusion.

- Test the theoretical arguments that by being part of mainstream classes, students in SRPs can interact with their peers promoting social skills and inclusivity and that SRPs support not just academic growth but also the emotional and social development of students with SEN.
- Build a substantive business case on the suitability and effectiveness of SRPs within the Kent Commissioning Plan and work with schools to co-produce any resulting updated guidance.

- **Recommendation 10:**

Promote the role of Inclusion Champions in supporting schools and driving inclusive practices (particularly in special schools)

- Seek to increase the number of Inclusion Champions and promote them across the sector.
- Encourage and support peer mentoring and support programmes to foster an inclusive school culture.
- Clarify the benefits of Inclusion Champions (e.g. promoting inclusive practices, raising awareness, supporting students, collaborating with staff and creating a safe environment).
- Confirm and clarify how Inclusion Champions relate to the Council's inclusion policies and how the Council supports this work.
- Encourage Inclusion Champions to investigate processes which centre on improved outcomes for children with SEND in Mainstream settings.

Conclusion and next steps

Following the review, the Committee has developed the above recommendations. The review must be considered in the context that the Improvement Notice applied to Kent County Council and the Kent NHS has been removed, with it highlighted that this demonstrated much faster and better progress than is normally expected. The Committee recognises that while issues remain, the Council has made significant progress, with a huge amount of effort and work put into addressing the areas of weakness identified by Ofsted and the CQC.

The Committee has identified some specific areas where the Executive should undertake further work to review and build an improved evidence base to inform future proposals for change. A crucial component of all future work to improve and maintain SEND provision in the County must be, in the opinion of the Scrutiny Review Group, a commitment to engagement and co-production with the education sector.

The findings and recommendations of the Scrutiny Review Group, if approved by the main Scrutiny Committee, are to be passed to the Cabinet Member for Education and Skills. In accordance with relevant Scrutiny regulations and the KCC Constitution the Executive must report in a reasonable timeframe to explain how it will respond to the recommendations.

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