## **SCRUTINY COMMITTEE**

Wednesday, 24th April, 2024

10.00 am

Council Chamber, Sessions House, County Hall, Maidstone





#### **AGENDA**

#### **SCRUTINY COMMITTEE**

Wednesday, 24th April, 2024, at 10.00 am

Ask for:

Anna Taylor

Council Chamber, Sessions House, County Hall,

Telephone:

03000 416478

Maidstone

#### Membership

Conservative (10): Mr A Booth (Chairman), Mr P V Barrington-King (Vice-Chairman),

Mrs R Binks, Mr T Bond, Mr D L Brazier, Mrs L Game,

Mrs S Prendergast, Mr O Richardson, Mr S Webb and vacancy

Labour (1): Dr L Sullivan

Liberal Democrat (1): Mr A J Hook

Green and

Independent (1): Rich Lehmann

Church

Representatives (3): Mr J Constanti, Mr M Reidy and Mr Q Roper

Parent Governor (2): Ms R Ainslie-Malik and Ms H Carter

County Councillors who are not Members of the Committee but who wish to ask questions at the meeting are asked to notify the Chairman of their questions in advance.

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#### **UNRESTRICTED ITEMS**

(During these items the meeting is likely to be open to the public)

#### A - Committee Business

- A1 Introduction/Webcast Announcement
- A2 Apologies and Substitutes
- A3 Declarations of Interests by Members in items on the Agenda for this Meeting
- A4 Minutes of the meeting held on 28 February 2024 (Pages 1 6)

#### B - Any items called-in

None for this meeting

## C - Any items placed on the agenda by any Member of the Council for discussion

C1 Safety Valve Implications for the Cost of Adult Social Care (Pages 7 - 14)

#### **D** - Monitoring Reports

D1 Finance Update

The most recent Revenue and Capital Budget Monitoring Report – December 2023-24 (Q3) was reported to Cabinet at its meeting on 21 March 2024.

Agenda for Cabinet on Thursday, 21st March, 2024, 10.00 am (kent.gov.uk)

D2 SEND Sub-Committee - One Year On Review (Pages 15 - 42)

#### E - To Note

- E1 Work Programme (Pages 43 46)
- **E2** Future Meeting Dates

To note that meetings of the Scrutiny Committee will take place on the following dates:

5 June 2024, 10am

10 July 2024, 10am

18 September 2024, 10am

23 October 2024, 10am

4 December 2024, 10am

29 January 2025, 10am

26 February 2025, 10am

16 July 2025, 10am

#### **EXEMPT ITEMS**

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Benjamin Watts, General Counsel 03000 416814,

Tuesday, 16 April 2024

#### **SCRUTINY COMMITTEE**

MINUTES of a meeting of the Scrutiny Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 28 February 2024.

PRESENT: Mr A Booth (Chairman), Mr P V Barrington-King (Vice-Chairman), Mrs R Binks, Mr T Bond, Mr D L Brazier, Mrs L Game, Mr A J Hook, Dr L Sullivan and Mr S Webb

ALSO PRESENT: Mrs P T Cole, Mr D Murphy, Mr R G Streatfeild, MBE and Mr D Watkins

IN ATTENDANCE: Ms S Hill (Interim Director Adult Social Care), Mrs S Holt-Castle (Director of Growth and Communities), Mr S Samson (Interim Head of Economy), Mr D Smith (Director of Economic Development), Mr R Smith (Corporate Director of Adult Social Care and Health) and Mrs A Taylor (Scrutiny Research Officer)

#### **UNRESTRICTED ITEMS**

## **45.** Minutes of the meeting held on 24 January 2024 (*Item A4*)

In response to a query it was confirmed that the answer to the questions raised at the meeting and highlighted within the minutes were circulated to Committee Members on 6 February and were also available on the Scrutiny Teams Channel.

RESOLVED that the minutes of the meeting held 24 January 2024 were an accurate record and that they be signed by the Chairman.

## **46.** Minutes of the meeting held on 7 February 2024 - to follow (*Item A5*)

RESOLVED that the minutes of the meeting held on 7 February 2024 were an accurate record and that they be signed by the Chairman.

## **47. 23/00121 - Kent and Medway Economic Framework** (*Item C1*)

- 1. Mr Murphy gave an introduction to the Kent and Medway Economic Framework which was finalised in January following consultation with local stakeholders including all local District and Borough Councils. The Framework set out high level priorities but was not a funded strategy. The Framework would be overseen by the Kent and Medway Economic Partnership and KCC was now working with partners and stakeholders to develop an implementation plan to take forward key action areas set out within the Framework.
- 2. Groups linked to the Kent and Medway Economic Partnership (KMEP) would take forward the implementation of the Framework with regular progress reviews being considered by KMEP.

- 3. Members asked questions in relation to the Kent and Medway Economic Framework, key issues raised by the Committee and responded to by the Cabinet Member and Officers included the following:
  - a. In response to a question about the implementation plan, Mrs Holt-Castle explained that the Framework was a partnership strategy, and KMEP and its new subgroups would have a significant role in overseeing delivery of the Framework and the implementation plan.
  - b. It was noted that there was no financial envelope for the Framework, Mrs Holt-Castle confirmed that the KCC Economy Budget would support elements of the Framework, there was no new funding accompanying the Framework. The Framework would support the KMEP to draw down funding from Government. Following comments, it was confirmed that the Framework created no additional financial pressure on KCC, there was no additional funding nor any funding commitment.
  - c. A Member queried measurable targets within the Framework and Mr Samson confirmed that KMEP would be tasked with this, the Framework was high level and the action plans phase would include targets and measurable outcomes.
  - prioritise the considered it vital to development of apprenticeships and the Member asked for reassurance that links existed with the Children, Young People and Education (CYPE) Directorate in Mr Smith explained that the development of relation to this. apprenticeships fell under the action areas identified by the Framework. The local skills improvement plan, led by the Chamber of Commerce had started work on a plan to reform the current apprenticeship programme. Both the CYPE and Growth, Economic Development and Communities (GEDC) Cabinet Committee would receive reports on this issue in the coming months. KCC ran a successful apprenticeship programme. It was very important that both directorates worked together to enhance the apprenticeship opportunities for young people across Kent and Medway.
  - e. A Member commented on the recommendation to the Cabinet Member to delegate to the Director Growth and Communities to take any necessary actions, including but not limited to entering into contracts or other legal agreements as required to implement this decision Mrs Holt-Castle confirmed that all decision making would be made in accordance with the governance arrangements of the council as set out in the constitution.
  - f. In relation to risk and the consequences of partner authorities not being able to contribute resources as planned Mrs Holt-Castle confirmed that to date KMEP had been fully facilitated by KCC so if a partner organisation was unable to contribute the position would be the same as today. A report would be submitted to the GEDC Cabinet Committee updating Members on the transfer of relevant responsibilities from the South East Local Enterprise Partnership (SELEP) to KCC.
  - g. In response to a comment about Kent being geographically different in economic terms to the home counties, and whether any agency measured quality of life? Mr Samson explained that work was underway in relation to connectivity and services in Kent and Medway through Ebbsfleet and Ashford. In relation to the measurement of quality of life; Mr Smith confirmed that Kent Analytics Team had been commissioned to assist with

- replacing the current dashboard of measurements of economic and social indicators to include the wider issues of quality of life.
- h. Work was underway with colleagues in CYPE to identify why young people in Kent schools were coming out of school with lower qualifications than those in schools in neighbouring counties, the results of this work would be included in the paper to the two Cabinet Committees.
- i. Referring to the EqIA and in light of potential changes within District and Borough Councils, a Member asked whether there were contingency plans in the event that political views changed. Mrs Holt-Castle explained that it was a high-level strategy and had been designed with the next 5 years in mind.
- j. In response to a question about how the Framework was targeted at deprived communities, Mrs Holt-Castle explained that the WorkWell bid would focus on this, the Employment Task Force had been working with partners to determine how young people in deprived communities were supported to access work.

RESOLVED that the Scrutiny Committee discussed and endorsed the Kent and Medway Economic Framework.

# 48. Making a Difference Every Day, KCC's Strategy for Adult Social Care 2022 to 2027 - update

(Item C2)

- Mrs Cole, Deputy Cabinet Member for Adult Social Care and Health (ASCH) introduced this item. The three main areas raised through the consultation on the Making a Difference Every Day Strategy were:
  - a. Support to remain independent.
  - b. Spend money and funding appropriately.
  - c. One consistent contact.
- 2. Ms Sydney Hill gave a presentation to Members of the Committee which is available here: Agenda for Scrutiny Committee on Wednesday, 28th February, 2024, 10.00 am (kent.gov.uk)
- 3. In response to a question about engaging with communities which did not have full access to digital communication Mr Smith explained that the digital offer would never replace the need for face-to-face contact and access to telephone contact, it was vitally important to get the basics right.
- 4. In relation to a question about the growing number of people being referred with mental health issues Ms Hill explained there had been a significant impact, both post covid and secondary impacts on people's mental health, it was one of the areas of continued growth in support services.
- 5. Mr Smith commented that the report back to Scrutiny was timely, the creation of community teams was a recognition of the feedback received, putting social workers back into the communities. The next phase was to build on these teams.
- 6. KCC was working with NHS partners to ensure a better experience for individuals and investing in the enablement offer to ensure, where possible, people could return home. In response to a comment about difficulties in contacting Adult

Social Care by telephone Mr Smith recognised that response times were not where they wanted to be. There was a national workforce problem which was reflected in Kent, however he recognised the commitment and time invested by the current staff in Adult Social Care. Mr Watkins commented that he would review KCC's website to ensure communication options for contacting ASCH were more prominent.

- 7. In response to a comment about how the Strategy was radical Mrs Cole explained that the Strategy supported people to connect to their communities and ensured the KCC was aware of the best and most appropriate support for people to enable them to remain living at home. Mr Smith highlighted the legal aspects of ASCH and the responsibilities of the service which went alongside the person-centred care which had never truly been delivered and this Strategy involved people in decision making and had been co-designed and co-produced by those people who drew on the support of ASCH.
- 8. In relation to ASCH workforce Ms Hill explained that this was broad and included a range of staff, there was plans to address workforce gaps in the short, medium and long term whilst bearing in mind the aging workforce. Recruitment campaigns aimed to attract people into Kent, this included a market premium for North Kent where there was competition from London. There was an annual apprenticeship programme and ASCH was working closely with CYPE colleagues around recruitment campaigns for newly qualified social workers and with universities in relation to student placements.
- 9. Plans were in place for a mid-point review of the Strategy and the approach for co-production would form part of the discussions around this review.
- 10. Ms Hill explained that there were clear interventions which required a qualified social worker or physiotherapist practitioner to attend to, there were also a range of activities which did not need a qualified practitioner, so it was important to ensure interventions were evaluated to determine where a qualified practitioner was required and where supervision was required.
- 11.A Member commented that the Strategy was transformational, the cost of ASCH was an existential threat to the financial stability of the council and the Strategy was as much necessity as what KCC would like to be doing. The Strategy was saving money as well as providing better care to those being looked after with increasingly complex needs in an extremely difficult market. Mr Watkins agreed that this was the key Strategy in the Council's most challenged directorate, quantitative evidence and data was important and this would be looked at as part of the mid-point review. Mrs Cole commented that the Key Performance Indicators were also useful and these would continue to be closely monitored.

RESOLVED that the Scrutiny Committee note the Making a Different Every Day Strategy.

## **49.** Adult Social Care Contract Extensions (*Item C3*)

1. Mr Streatfeild introduced this item as he had requested it be placed on the Scrutiny Committee agenda. Five contract extensions had been discussed

recently at the Adult Social Care Committee, with extensions ranging from 1-3 years and a total value of £1.5billion. The decisions came to Cabinet Committee only three months before they were required to be extended. During the process Cabinet Committee Members noted that they would have liked to have had sight of the extensions and options available before the deadline for the Cabinet Member to make the decision. Mr Watkins empathised with the frustrations of Members over the timings of these decisions but confirmed that this did not affect the ability to make proposed savings.

- 2. Mr Ellis endorsed the previous comments that this was not a position the Council wanted to be in, additional controls had been put in place to ensure this did not happen again. Progress had been made in making the best use of the contracts in place, maximising the use of the framework providers and negotiating fees for non-framework providers.
- 3. A Member asked whether the cost of care review had been completed and how long it was expected that consultants would remain in this role? Mr Watkins confirmed that the initial findings had been released and this information could be made available. The consultants were from 31ten Consulting, and the costs would be confirmed outside of the meeting.
- 4. In relation to the savings targets and whether they had been factored into these extensions Mr Watkins explained that £13million of savings were required per year, these 5 contracts did not disadvantage KCC in making these savings, the additional transformation savings in ASCH related to the MADE Strategy.
- 5. Members emphasised the importance of the timing issues around these contract extensions and that being left with short notice must not be repeated. Mr Ellis confirmed that work was starting on future contract renewals with the initial stage being engaging with the people relying on the services, stakeholders, then detailed design work and commissioning and procurement being the final stage, a more detailed timetable would be made available. Mr Watkins confirmed that a new team had been established within ASCH to undertake strategic commissioning on a partnership-based procurement model. This had resulted in changes to the way services were commissioned, in addition a contract database provided transparency and the ability to view all contracts.
- 6. There had been overspending within the contracts and there was concern that the savings targets would not be met. Mr Watkins and Mr Ellis explained that savings would be made by moving services onto framework rates and having discussions with non-framework providers around what is required to gain contracts with KCC and that is: quality and cost. Mr Smith commented that the frameworks were demand driven and it was essential that commissioning and operational colleagues worked closely together in conjunction with NHS colleagues to reduce demand for contracts.
- 7. The Chairman confirmed that he would discuss with the Opposition Group Spokespeople about further scrutiny of ASCH contracts. This also linked with the important role the Scrutiny Committee had in monitoring the achievement of key savings and transformation over the coming financial year. It was considered that 6 months would be a reasonable timescale for return to the Committee to review the relevant commissioning data and the impact on the budgets and care

- provided this would be discussed with the Chair of the ASCH Cabinet Committee to ensure reporting was not duplicated.
- 8. The Chairman and Opposition Group Leaders will discuss with the ASCH Cabinet Committee Chairman how to and when to undertake further reporting on commissioning data, the impact on budgets and care provided.

RESOLVED that the Committee note the information provided in relation to ASCH contract extensions.

## **50.** Work Programme (*Item C4*)

- 1. The Scrutiny Research Officer confirmed that discussions would be held with the Chairman, Opposition Group Spokespeople and Adults Cabinet Committee Chairman to determine the most appropriate place for monitoring, but this would also be picked up with the Scrutiny Committee's role in budget monitoring.
- 2. In response to a question from the Chairman around the one-year review of the SEND Sub-Committee the Scrutiny Research Officer confirmed that the Sub-Committee would review their Annual Report in March and this report would be submitted to the Scrutiny Committee in April.

RESOLVED to note the work programme.

From: Dan Watkins, Cabinet Member for Adult Social Care and Public

Health

Richard Smith, Corporate Director Adult Social Care and Health

**To:** Scrutiny Committee – 24 April 2024

**Subject:** Safety Valve Implications for the Cost of Adult Social Care

Classification: Unrestricted

**Summary:** To provide a report which quantifies and costs the short, medium, and long-term impact of the Safety Valve agreement with regards to costs incurred by adult social care, and the council's overall financial stability and provide assurance that decisions made in one part of the council take account of people's outcomes over their lifetime, any adverse financial impact on other directorates and the council's overall financial stability.

**Recommendation(s)**: Scrutiny Committee is asked to **DISCUSS** and **NOTE** the content of the report.

#### 1. Introduction

- 1.1 Following a member Scrutiny item request, it was determined that the Committee would receive a paper which quantifies and costs the short, medium, and long term impact of safety valve with regards to costs incurred by adult social care, and the council's overall financial stability. This should consider the impact over the person's lifespan and make appropriate recommendations considering the findings.
- 1.2 The paper also seeks to provide assurance that decisions made in one part of the council (education) take account of people's outcomes over their lifetime, any adverse financial impact on other directorates (adult social care), and the council's overall financial stability.
- 1.3 This report enables Scrutiny Committee to understand and question the following areas:
  - Do savings in one directorate (education), drive cost pressures in another (adult social care)?
  - Does a reduction in funding in early years lead to the council incurring greater costs over the person's lifetime?
  - What are the people and financial risks of safety valve and the significant reductions in Education Health and Care Plan (EHCP) forecast as information presented indicates a 5,000-person reduction in forecast?
  - Does the Equality Impact Assessment for the Safety Valve decision account for the findings of the paper with due regard for short, medium, and long-term impact?

 Research and evidence that sets out where specialist EHCP intervention is an enabler to people's longer-term outcomes, as a means of offsetting adverse outcomes and understanding the long-term impact of investment in a young person's life.

#### 2. Extract from Key Decision recorded on 7 March 2023

- 2.1 On 7 March 2023 Cabinet took a Key Decision which enabled the council to enter into the "Safety Valve" agreement with the Department for Education (DfE), enabling Kent County Council (KCC) to receive additional external funding over a five year period to substantially fund the accumulated deficit on the Dedicated Schools Grant (DSG) High Needs Block (HNB). The agreement required the council to commit to areas of review and improvement identified by the Department for Education (DfE) to bring in year spend in line with the inyear budget by 2027/2028. A financial contribution from the council was also expected to cover residual deficit.
- 2.2 At the time of this Key Decision, it was noted that the council was spending significantly more on this area than it received in grant. The cumulative HNB revenue deficit was predicted to be £147m by the end of this financial year and was predicted to continue to grow. Cabinet was advised that the council cannot subsidise activity funded from the DSG High Needs Funding stream without the explicit permission of the Secretary of State. Therefore, there was a pressing need to ensure that spend was brought within the grant funding made available.
- 2.3 The DfE invited the council to be part of the Safety Valve programme which involves substantial funding from DfE, in return for improvements in local systems providing support for children and young people with special educational needs and disabilities (SEND), which also ensure that spend comes into balance with the grant.
- 2.4 The Safety Valve programme is voluntary and involves DfE providing funding to partly extinguish the cumulative debt arising from existing and forecast overspends on High Needs Funding. The programme required the council to review its local High Needs systems so that it is on a more sustainable footing and better placed to respond to pupils' needs. This required the council to ensure that in-year spend is in line with in-year grant funding within a five year period.
- 2.5 On the basis that Safety Valve is voluntary it was noted that the council could reject the invite and opportunity to receive Safety Valve funding, but this would place the council at significant short and medium term financial risk. This would require substantial service review activity to manage the funding situation to eliminate the deficit, without additional government assistance, with the potential for negative impact on all areas of children's service delivery.
- 2.6 The Key Decision recorded by Cabinet was aligned with the strategic priority "Securing Kent's Future" as it would primarily support Priority 4: New Models of Care and Support, around the commitment to making rapid and sustained

improvements in the support provided to children with Special Educational Needs and Disabilities (SEND) and their families.

- 3. Do savings in one Directorate (education), drive cost pressures in another (adult social care)?
- 3.1 The Key Decision to enter into the SEND "Safety Valve" agreement with the Department for Education (DfE) enables the council to write off part of the forecast cumulative deficit (by 2027/2028) on grant funded services to children and young people with SEND. At the time of entering the agreement the forecast deficit was £222m for Kent County Council by 2027/2028, even after the council had put in place mitigating actions.
- Through the implementation of "Safety Valve" the DfE has committed funding to the value of £140m (alongside £2m of implementation costs). This funding was predicated on the council identifying and committing funding to cover the residual deficit (up to £82m) and agreeing to make changes to local High Needs system so that it is on a more sustainable financial footing and better placed to respond to pupils' needs. Without this agreement the DfE would not have released the funding.
- 3.3 There have been no policy changes as a result of the Safety Valve agreement that have required a Key Decision. The primary focus has been on ensuring that existing systems and processes are more effective at meeting need within the resources made available by central government. Those changes are summarised in para 4.9. Therefore, there is no evidence to suggest that the activity here has driven costs up in adult social care.
- 4. Does a reduction in funding in early years lead to the council incurring greater costs over the person's lifetime and what are the people and financial risks of safety valve and the significant reductions in EHCP forecast as information presented indicates a 5,000-person reduction in forecast?
- 4.1 At the time of writing this report it is not possible to project short, medium, and long term implications of Safety Valve on the lifetime costs of individuals to Kent County Council.
- 4.2 However, when the current deficit on HNB spend is considered within the context of the council's current overall financial situation. It can be reasonably argued that had Cabinet rejected the opportunity to take part in the "Safety Valve" programme the council would be significantly challenged in how it delivered a legally balanced budget in the short, medium term, and long term. This would likely place the council at significant increased risk of issuing a section 114 notice.
- 4.3 Government reforms to SEND are aimed at ensuring that children and young people are better prepared for adulthood. Nationally the majority of young people with EHCPs complete further education with their peers by age 19, and it remains the expectation of the government that this trend will continue.

- 4.4 The government recognises that some young people with SEND need longer to complete and consolidate their education and training. All young people should be supported to exercise choice and control over their lives, including the four 'preparing for adulthood' outcomes:
  - moving into paid employment and higher education
  - independent living
  - having friends and relationships and being part of their communities
  - being as healthy as possible
- 4.5 In line with preparing young people for adulthood, a local authority must not cease an EHCP simply because a young person is aged 19 or over. However, this position does not mean that there is an automatic entitlement to continued support at age 19 or an expectation that those with an EHCP should all remain in education until age 25. A local authority may cease a plan for a 19 to 25 year-old if it decides that it is no longer necessary for the EHCP to be maintained.
- 4.6 Section 45 of the Children and Families Act sets out the circumstances where a local authority may cease to maintain an EHCP. This is when the local authority is no longer responsible for the young person, or they decide that it's no longer necessary to maintain the plan (for example if special educational provision is no longer necessary). When determining whether a young person aged over 18 no longer requires a plan, a local authority must consider whether the educational or training outcomes specified in the plan have been achieved.
- 4.7 The council's agreed changes to the delivery of services are consistent with the Green Paper on SEND and alternative provision (AP) system in England. Changes are also consistent with the Written Statement of Action revisit and the Accelerated Progress Plan required by the DfE.
- 4.8 The recovery of the DSG deficit is fundamental to ensuring continued support is available to meet the needs of children and young people and ensure the best possible outcomes for all are successfully achieved. Without the agreement, £222m of cuts to SEND services would be required, which would have additional detrimental impact on all areas of children's service delivery. It would be reasonable to assume that this level of funding cuts would have additional adverse impact on young people outcomes and could adversely impact the lifetime costs of Kent County Council. The Safety Valve does not imply a reduction in the number of EHCPs by 5,000. The number of EHCPs continues to increase, but at a decelerating rate. All children eligible for an EHCP will continue to receive one.

- 4.9 The activities the council needs to put in place to ensure that appropriate provision is available, as part of the agreement with the DfE, are as follows:
  - Implement a countywide approach to 'Inclusion Education', to further build capacity in mainstream schools to support children and young people with SEN, thus increasing the proportion of children successfully supported in mainstream education and reducing dependence on specialist provision.
  - Introduce a robust SEN offer for early years, through a review, which
    explores alternatives to special school admission before KS2, SEN
    redesign and implementation of County Approaches to Inclusive Education
    (CAtlE) to support a consistent mainstream offer, including leadership
    development programmes, peer review and core training offer.
  - Review the system of EHCP assessments and annual reviews to ensure robustness, transparency, and consistency, through use of consistent criteria and practice framework.
  - Implement models of reintegration of children from special/independent schools to mainstream.
  - Develop a robust post 16 offer across the county with clear pathways to independence for children with SEN, through increased post 16 opportunities for preparing for adulthood.
  - Develop the Transition Charter to increase parental confidence in Kent's provision. This involves working with schools to enable them to articulate the provision pathways for parents clearly and provide support to both children and parents at key transition points.
  - Ensure there is sufficient and consistent capacity across the county to support children with severe and complex needs in their local area where possible. This includes recruitment of temporary posts to support sufficiency planning, reviewing the use of SRPs and reviewing the specialist continuum to ensure only the most severe and complex needs are supported in special schools.
  - Increase school accountability through development of a school/area-led approach to commissioning of SEN support services (Locality Based Resources), to better respond to the needs of children and young people with SEND.
  - Continue working closely with NHS Kent and Medway to ensure a common understanding of SEND needs, including the drivers behind increases in need, ensuring clarity of clinical assessment and the subsequent funding associated.
- 4.10 As is clear from the list, the vast majority of changes are about improving existing systems and processes to ensure that appropriate SEND services continue to be delivered within the funding provided by central government. If changes to current policy, in line with broader transformation plans for SEND services are required, these would be progressed through the relevant executive governance processes, ensuring that any decisions are consistent with the government's approach to SEND outlined in the recent Green Paper and with broader activity being undertaken within the council as a result of the Written Statement of Action revisit and other factors.

- 5. Does the equality and impact assessment account for the findings of the paper with due regard for short, medium and long term impact?
- 5.1 Equality Impact Assessments (EQIA) provide an evidence-based approach designed to help organisations ensure that their policies, practices, events, and decision-making processes are fair and do not present barriers to participation or disadvantage any protected groups from participation.
- 5.2 When undertaking this important and necessary consideration of equality impact the Children, Young People and Education Directorate and the Adult Social Care and Health Directorate will use this framework to set out how they have considered and taken action to identify and mitigate where possible, any adverse impact on individuals with protected characteristics. This approach ensures that the focus on equality of access, experience, and outcomes remains central to any decision making.
- 5.3 It should be noted that when undertaking the initial EQIA it will focus on any impacts that can be reasonably predicted at the time of developing proposals and at the point when the decision is made, with the EQIA being updated throughout the decision-making process.
- 5.4 The original report to Cabinet on 7 March 2023, said the following: "At this stage, the general principles of entering into the Agreement do not represent identifiable equality implications. However, the impact of the implementation of any of the actions highlighted in section 2 of the report may have equalities considerations for children and young people with disabilities. These will be assessed in detail as part of normal decision-making processes in relation to any required policy or service changes". As and when any specific service changes, savings or spend proposals are developed, appropriate EQIA work will be undertaken in line with normal procedures for any substantive Key Decisions, these will form part of the published documentation.
- 6. Research and evidence that sets out where specialist EHCP intervention Is an enabler to people's longer-term outcomes, as a means of offsetting adverse outcomes and understanding the long-term impact of investment in a young person's life.
- 6.1 Discussions have commenced with representatives from the Adult Social Care Kent Academy about how best to respond to this point. The network includes a researcher who has reached out through her own network to understand what research has or is currently being undertaken in this area. It is likely that any new research will require dedicated resource and input from academic institutions.
- 6.2 Any research undertaken in this area will also need to align with the government's SEND reforms, Securing Kent's Future, and other key strategic plans such as the Making a Difference Everyday Strategy for adult social care.

#### 7. Alignment with the strategic vision and values for adult social care

- 7.1 The approach that is set out across the SEND reforms and improvement actions agreed between the council and the DfE, (and outlined in para 4.9) align well with the co-produced strategic vision for adult social care "Making a Difference Every Day", which is an approach underpinned by the fundamental principles of:
  - Strengths and place-based approaches to adult social care.
  - Choice and Control, which places people at the heart of all decisions about them.
  - Providing support to people in a manner that supports them to the live the life they choose, by promoting the principles of supporting people in a place they call home, surrounded by the people and things they love.

#### 8. Recommendations

8.1 Recommendation: Scrutiny Committee is asked to **DISCUSS** and **NOTE** the content of the report.



From: Joel Cook – Democratic Services Manager

To: SEND Sub-Committee – 24 April 2024

Subject: SEND Sub-Committee – One Year On Review

Classification: Unrestricted

#### **Recommendation:**

Scrutiny Committee is asked to:

**NOTE** the report and key points highlighted within the SEND Sub-Committee Annual Report (Appendix 1); and

**DETERMINE** whether the SEND Sub-Committee should continue its activity or be disbanded.

#### <u>Introduction</u>

- 1) The Scrutiny Committee, at its meeting on 25 January 2023, approved the establishment of the SEND Sub-Committee, which then commenced operations in March 2023.
- 2) The SEND Sub-Committee exercises the functions of KCC's Scrutiny Committee in relation to KCC's SEND provision. Its focus was to scrutinise and review matters in relation to SEND provision, recognising that there was existing duplication across multiple committees and that specific challenges related to SEND provision, highlighted within the 2022 Ofsted and CQC findings, supported KCC taking a proactive and focused approach to scrutinising this key issue.
- 3) The establishment of a subject specific sub-committee of Scrutiny to offer strategic challenge, exercising full Scrutiny powers including the hold to account function, was a new approach for the Council's Scrutiny operations. While Select Committees or Short Focused Inquiries undertook evidence gathering and hearing sessions to support the development of detailed recommendations on a range of topics, the agreed purpose of the Sub-Committee was distinct from this the main Scrutiny Committee resolved to delegate its full authority and function to hold the Executive to account on matters related to SEND provision. The intended approach was to maintain oversight of and provide constructive challenge to the Executive in terms of how it was responding to the Ofsted and CQC findings via the Accelerated Progress Plan (APP).
- 4) When it determined that the sub-committee be established, the main Scrutiny Committee planned in a one year on review of the arrangement. This recognised that the new approach was developed to respond to a specific issue relating to SEND provision in Kent. The review was planned to allow Scrutiny Committee to consider whether the sub-committee should be maintained or if a return to normal business was appropriate. This report sets out the background and context to inform that decision.

#### **Sub-Committee activity**

- 5) The appended SEND Sub-Committee Annual Report sets out an overview of the work of the sub-committee and is supplied for consideration by the Scrutiny Committee. It was produced in accordance with its terms of reference, to support the required annual review by the main Scrutiny Committee. The report includes some commentary on the issues explored, and highlights some of the key points considered by the Sub-Committee.
- 6) The SEND Sub-Committee held seven formal meetings, in which it gathered information and evidence from, and reviewed and scrutinised decisions and actions taken by, KCC's Executive. KCC's Cabinet Member for Education and Skills and Directors of the Children, Young People and Education Directorate (CYPE), were required to provide information and reports to the Sub-Committee.
- 7) Additional evidence was gathered from a number of visits and virtual meetings. These included:
  - A visit to The Malling School, East Malling. The Malling School's Specialist Resource Provision is a highly successful specialist mainstream unit. It supports students with speech, language and communication needs, Developmental Language Disorder and Autistic Spectrum Disorder.
  - A virtual meeting with Hilary Macdonald. Hilary was the Ofsted HMI Lead Inspector who carried out the SEND revisit in Kent in September 2022.
  - A visit to the Turner Schools Trust. This included one-to-one meetings with parents of pupils with SEND.
  - A visit to the We Are Beams centre. This involved meeting representatives of Fathers Club Kent, a support group for fathers of children with autism.
- 8) The SEND Sub-Committee's Annual Update Report is in **Appendix 1**.
- 9) The Scrutiny Committee should be mindful that the sub-committee resolved, at its meeting in March 2024, to recommend that the sub-committee be disbanded, on the basis it had maintained oversight during the development and embedding of the APP but that the specific scrutiny activity of the sub-committee was no longer required.
- 10) In its conclusion, the Annual Report highlights a number of areas and issues within the SEND arena that merit further review and investigation.

#### Next Steps

11) The most appropriate route or approach for exploring any outstanding matters is not specified within the Annual Report and this should be considered by the Scrutiny Committee as part of any decision-making regarding future arrangements. It is for the Scrutiny Committee to determine whether future work in this area requires the dedicated sub-committee function or if the sub-committee has now completed its intended purpose to support an immediate quick-time review and oversight approach to a live issue. If the Committee is

- of the latter view, the sub-committee may be discontinued and the delegated powers to scrutinise SEND provision returned to the main Committee.
- 12) In considering the appropriate approach, the Committee may consider that the sub-committee provides a focused space to explore and monitor the key issues relating to KCC SEND provision, ensuring more regular public accountability via Member scrutiny of the Executive on this particular topic. A shift back to utilising the main Committee supports a prioritisation based approach whereby updates and reviews can be timetabled within the normal business of the Scrutiny Committee along with flexibility to consider any urgent issues as they arise.
- 13) For completeness, it should be highlighted that the approach to consideration of the future changes, service development or savings / spending proposals related to SEND would continue unchanged; in that pre decision-consideration rests with the Cabinet Committee, with Scrutiny Committee (or Scrutiny Sub-Committee) activity expected to take place after the decisions have been taken. Such post-decision scrutiny may take the form of call-in consideration or general reviews or consideration of actions taken by the Executive, as per normal Scrutiny powers.
- 14) The Scrutiny Committee is invited to consider role of the sub-committee, taking into account the recommendation of the sub-committee itself and the Annual Report.

#### **Recommendation:**

Scrutiny Committee is asked to:

**NOTE** the report and key points highlighted within the SEND Sub-Committee Annual Report (Appendix 1); and

**DETERMINE** whether the SEND Sub-Committee should continue its activity or be disbanded.

#### **Background Documents**

None.

#### **Contact details**

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# Kent County Council SEND Scrutiny Sub-Committee Annual Update Report

March 2024



### 1. Introduction and Scope

#### 1.1. Introduction

- 1.1.1. Following the outcome of the Ofsted and Care Quality Commission Revisit in September 2022 (building on the initial Kent Local Area SEND inspection conducted in 2019), KCC Members considered the need to prioritise and streamline the consideration of key SEND issues from a Scrutiny and monitoring perspective. It was recognised that there was duplication of work across multiple committees and that it would be beneficial to focus the consideration in a clearly defined place. As a result, taking account recommendations from the Children, Young People and Education Cabinet Committee, KCC's Scrutiny Committee considered that it would be appropriate to establish a dedicated subcommittee to provide targeted overview and scrutiny of SEND provision in the county.
- 1.1.2. The Scrutiny Committee, at its meeting on 25 January 2023, resolved to approve and finalise the arrangements for the establishment of the SEND Sub-Committee, including determining its membership arrangements and the terms of reference.
- 1.1.3. The SEND Sub-Committee is a formal committee of Kent County Council. It exercises the functions of KCC's Scrutiny Committee in relation to KCC's SEND provision. The establishment of the Committee was intended to focus discussion, consideration and review of matters relating to SEND provision, recognising that there was existing duplication across multiple committees. There was also a requirement, determined by the Scrutiny Committee, that a dedicated forum be put in place to ensure that sufficient time and focus could be given to these key issues.
- 1.1.4. In practice, the focus of the SEND Sub-Committee was to scrutinise and explore issues linked to progress made against the Ofsted and CQC reports, in terms of the quality of KCC's SEND services and its management of associated risk. This sat alongside the general power it held to scrutinise any activity or functions of the Council operating in relation to SEND in accordance with the Scrutiny regulations.
- 1.1.5. This is the annual update report of the SEND Sub-Committee. It was produced in accordance with its terms of reference, which required the Sub-Committee to report to the main Scrutiny Committee on an annual basis. The report sets out an overview of the Sub-Committee's activities over the past year. It includes some commentary on the issues explored, and highlights some of the key points considered by the Sub-Committee.

#### 1.2. Committee Membership

1.2.1. The membership of the SEND Sub-Committee consists of 10 KCC Members, 3 Church representatives, 2 Parent Governor representatives and a standing invitation for two representatives of the Kent Parents and Carers Together (PACT) organisation.

#### **KCC Members**

Mr Perry Cole (Chairman)

Mrs Becki Bruneau (Vice-Chair)

Mrs Trudy Dean

Mr Mike Dendor

Ms Jenni Hawkins\*

Mrs Sarah Hudson\*\*

Mr Harry Rayner

Mr Avtar Sandhu

Dr Lauren Sullivan

Mr Mike Whiting\*\*\*

#### **Church representatives**

Mr John Constanti

Mr Quentin Roper

Mr Michael Reidy

#### **Parent Governor representatives**

Ms Rebecca Ainslie-Malik

Ms Holly Carter\*\*\*\*

#### Standing Invitation – Kent PACT representatives

Ms Bernadette Hannon\*\*\*\*\*

Ms Colette Tanner\*\*\*\*

#### 1.3. Terms of Reference

1.3.1. The terms of reference of the SEND Sub-Committee were as follows:

In line with Section 21 of the Local Government Act (2000), this Sub-Committee will exercise the following functions of the Council's Scrutiny Committee in relation to Kent County Council SEND provision:

- 1. Review or scrutinise decisions made, or other actions taken in connection with SEND provision at KCC.
- 2. Make reports or recommendations to the Executive, requiring them to consider and respond, indicating what (if any) action they propose to take, within 2 months, (in matters relating to SEND Provision KCC).
- 3. Require the Leader, Cabinet Members and Senior Managers to attend before it and answer questions. It is the duty of any Member or Officer to comply with such a requirement.
- 4. Invite other persons to attend meetings of the Committee to answer questions and gather evidence with their consent.
- 5. Report annually to the Scrutiny Committee.

<sup>\*</sup>Ms Jenni Hawkins replaced Mr Rich Lehmann.

<sup>\*\*</sup>Mrs Shellina Prendergast replaced Mrs Sarah Hudson.

<sup>\*\*\*</sup>Mr Mike Whiting replaced Mr Simon Webb.

<sup>\*\*\*\*</sup> Ms Holly Carter replaced Ms Keji Moses.

<sup>\*\*\*\*\*</sup> Ms Bernadette Hannon and Ms Colette Tanner replaced Ms Alison White and Ms Vicky Evans.

# 1.4. Agenda Items and information considered, explored and scrutinised

- 1.4.1. The SEND Sub-Committee held seven formal meetings, in which it gathered information and evidence from, and reviewed and scrutinised decisions and actions taken by, KCC's Executive. KCC's Cabinet Member for Education and Skills, and Directors of the Children, Young People and Education Directorate (CYPE), were required to provide information and reports to the Sub-Committee.
- 1.4.2. The dates of these meetings, and the areas explored, are below. Given the significant public interest that the inquiry received, the number of total webcasting views in each of the meetings has also been included.
  - Inaugural Meeting (Wednesday 22 March). An update on progress on SEND Transformation, including KCC's work with the DfE since the Inspection Revisit (482 views).
  - Meeting 2 (Tuesday 6 June 2023). This meeting focused on the
    process around education, health, and care needs assessments which
    may result in an EHCP. The meeting explored a range of data which
    showed Kent's position in relation to other local authorities, and an
    overview of the actions taken to improve the current position (396
    views).
  - Meeting 3 (Tuesday 25 July 2023). In this meeting the Sub-Committee was provided with an update on the process, since the Improvement Notice issued in March 2023, to develop an Accelerated Progress Plan (APP) for the Kent local area system. The APP was required by the Department for Education to address all the areas of significant weakness outlined in the Ofsted/CQC Inspection Revisit, and set out actions by partner organisations across the system to improve the experience of children, young people and families with SEND (255 views).
  - Meeting 4 (Thursday 28 September 2023). In this meeting the Sub-Committee investigated the development and full content of the APP (250 views).
  - Meeting 5 (Tuesday 31 October 2023). Parents engagement and the voice of the child. This meeting covered the APP's Areas of Weakness 1 and 3, and the key actions taken by KCC to address them (227 views).
    - Area of Weakness 1: The widely held concern of parents that the local area is not able, or in some cases not willing, to meet their children's needs.

- Area of Weakness 3: The limited role parents and carers have in reviewing and designing services for children and young people with SEND.
- Meeting 6 (Thursday 7 December 2023). In this meeting the Sub-Committee focused on SEN inclusion in schools and the work undertaken under the APP's Areas of Weakness 2 and 5 (221 views)
  - Area of Weakness 2: A variable quality of provision and commitment to inclusion in schools, and the lack of willingness of some schools to accommodate children and young people with SEND.
  - Area of Weakness 5: Poor standards achieved, and progress made, by too many children and young people with SEND.
- Meeting 7 (Wednesday 7 February 2024). Accelerated Progress Plan

   DfE and NHS England Review. During November 2023, the DfE and NHS England undertook a review of the progress that the Kent area had made against the APP. In January 2024, they provided KCC with their feedback. In this meeting the Sub-Committee reviewed this feedback and the general progress made by KCC in improving its SEND provision (148 views).
- 1.4.3. Additional evidence was gathered from a number of visits and virtual meetings. These included:
  - A virtual meeting with CYPE Directors. This meeting included a presentation and briefing about the SEND Statutory Framework.
  - A visit to The Malling School, East Malling. The Malling School's Specialist Resource Provision is a highly successful specialist mainstream unit. It supports students with speech, language and communication needs, Developmental Language Disorder and Autistic Spectrum Disorder.
  - A virtual meeting with Hilary Macdonald. Hilary was the Ofsted HMI Lead Inspector who carried out the SEND revisit in Kent in September 2022.
  - A visit to the Turner Schools Trust. This included one-to-one meetings with parents of pupils with SEND.

- A visit to the We Are Beams centre. This involved meeting representatives of Fathers Club Kent, a support group for fathers of children with autism.
- Direct engagement with schools and parents conducted by individual Members, supporting questioning and debate at the formal meetings.
- 1.4.4. In order to gather evidence, the Sub-Committee asked for a range of information, including the following:
  - Key documents that set out both at strategic and operational level how KCC intended to improve SEND provision in Kent.
  - Key correspondence and literature from the DfE and CQC in relation to their inspections of SEND service provision in Kent.
  - Information on the governance and strategic arrangements put in place to improve SEND provision in Kent.
  - Structure charts and the specific activities of KCC teams and services involved in SEND provision.
  - Data, key performance indicators and scorecards on a variety of SEND-related areas.
  - Information on the SEND-related training that KCC delivered to local schools. Evidence of joint working between KCC, partner organisations and children and young people with SEND and their families.
- 1.4.5. The information that was supplied to the Sub-Committee included the following:
  - Key reports, such as the SEND Area Accelerated Progress Plan (APP) report, the Kent SEND Strategy and the DfE's First Progress Review of Kent's APP.
  - Information on the structure, governance and functions of the Kent SEND Strategic Improvement and Assurance Board.
  - Information on the Kent SEND Partnership Delivery Group and the SEND Transformation Programme.
  - The SEND Sufficiency Plan and structure charts and activities of KCC teams involved in SEND provision.
  - Information on the SEND Statutory Framework.
  - Information on Kent pupils' achievements, EHCPs and a variety of key indicators and scorecards (also included in the APP).
  - Information on SEND-related training delivered to local schools by KCC.
  - Information on a variety of initiatives, such as the RISE project, the Kent Co-Production Charter, the Balanced System approach, the Oracy project and the Kent Transition Charter.

## 2. Key Findings

#### 2.1. Introduction

- 2.1.1. During the past year, the SEND Sub-Committee explored a number of areas for improvement in Kent's provision of SEND. These are generally aligned with the 9 areas of weakness identified in the report of the Ofsted and CQC revisit to Kent in November 2022.
- 2.1.2. Following the revisit Kent was issued with an Improvement Notice which required it to prepare an Accelerated Progress Plan. The APP is a commitment by KCC to work together with partner organisations across the Kent Local Area to improve the lived experience of children and young people with SEND and their families.
- 2.1.3. The Executive has stated, generally and during SEND Sub-Committee meetings in particular, that the APP is supported by a strong political commitment to giving sufficient priority and resources to ensure the success of the Plan.
- 2.1.4. The Kent SEND Strategic Improvement and Assurance Board (SIAB) is tasked with overseeing and assuring the APP. The Kent SEND Partnership Delivery Group (PDG) is responsible for providing detailed oversight of the Plan's progress and impact. It also co-ordinates the tracking and planning of partnership actions.
- 2.1.5. The PDG is supported by five Task and Finish Groups:
  - Data and Evidence Reporting
  - Quality Assurance
  - Communication and Engagement
  - Professional Development
  - Workforce and Culture.
- 2.1.6. The APP sets out the actions that KCC and partner organisations are taking to address the 9 areas of significant weakness, and the progress made against each of them.
- 2.1.7. The 9 areas of significant weakness identified by Ofsted and the CQC in their inspection were the following:
  - 1. A widely held concern of parents that the local area is not able, or in some cases not willing, to meet their children's needs.
  - 2. A variable quality of provision and commitment to inclusion in schools, and the lack of willingness of some schools to accommodate children and young people with SEND.

- 3. That parents and carers have a limited role in reviewing and designing services for children and young people with SEND.
- 4. An inability of current joint commissioning arrangements to address known gaps and eliminate longstanding weaknesses in the services for children and young people with SEND.
- 5. Poor standards achieved, and progress made, by too many children and young people with SEND.
- The inconsistent quality of the EHC process; a lack of up-to-date assessments and limited contributions from health and care professionals; and poor processes to check and review the quality of EHC plans.
- 7. Weak governance of SEND arrangements across the EHC system at strategic and operational level and an absence of robust action plans to address known weaknesses.
- 8. Unacceptable waiting times for children and young people to be seen by some health services, particularly CAMHS, tier two services, SALT, the wheelchair service, and ASD and ADHD assessment and review.
- 9. A lack of effective systems to review and improve outcomes for those children and young people whose progress to date has been limited by weaknesses in provision.
- 2.1.8. For each of these areas of weakness, the APP identifies:
  - The sub-themes which address key parts of the findings in the Inspection Revisit letter on each area of weakness.
  - The actions that KCC and partner organisations are taking to improve provision.
  - The timescales for completing these actions.
  - How the evidence of impact is collected.
  - The Key Performance Indicators (KPIs) that have been used to measure the impact of the actions.

- 2.2. Area of weakness 1: A widely held concern of parents that the local area is not able, or in some cases not willing, to meet their children's needs.
  - 2.2.1. One of the issues identified by the Sub-Committee was that parents' confidence in KCC's ability to meet their children's needs is low.
  - 2.2.2. The Authority has taken a number of actions that are designed to address this problem. They include developing an integrated SEND communications and engagement strategy and reviewing communication channels to cascade SEND-related information, news and guidance.
  - 2.2.3. Another action is the development of new working practices by SEND officers so that parents are kept better informed during education, health and care (EHC) processes. Letters that are sent to parents and carers have been redesigned. There are surgeries and workshops in place to support the strengthening of health professionals' input in EHCPs. There is also a plan for celebrating successes and good outcomes designed to build trust and confidence in parents and young people.
  - 2.2.4. The task of the Countywide Approach to Inclusive Education (CATIE) survey is to collect parents' and young people's views to ensure that they are involved in decisions about SEND provision.
  - 2.2.5. A related issue is that some parents see requests assessment as the only way in which their children's needs can be met. KCC is working to implement the communications plans to build trust and confidence in parents in the ability of local schools to support children and young people with SEND. In addition, the Authority is making sure that the advice given to parents regarding their EHC assessment requests is consistent.
  - 2.2.6. In order to improve parents' ability to communicate with SEND officers, the SEND complaints handling has been centralised to ensure that complaints are dealt with in a timely way and the advice given is consistent.
  - 2.2.7. Improved access to speech and language therapy and the educational psychology service is being addressed through, for example, the recruitment of Educational Psychologists and trainees.
  - 2.2.8. KCC's Youth Participation service collated the views of young people in special schools to find out what helped them to learn.

- 2.2.9. A SEND Staff Bulletin is now circulated every two weeks. It details the work of the staff to improve KCC's performance in a number of aspects of SEND provision.
- 2.2.10. While as recognised by the DfE its First Progress Review of Kent's APP many of the actions within this area have been implemented, there are still some that require attention.
- 2.2.11. Requests for assessment, and the number of EHCP assessments, remain high. For instance, it was reported that the total number of EHC plans issued by East Sussex in 2022 was 518 (0.7% of the county's school population); in Kent it was 2,314 (0.9% of Kent's school population). It was suggested that this was partly affected by factors such as the degree of SEND inclusion in Kent's mainstream schools.
- 2.2.12. Also, although communication plans to build trust have been put in place, some of them have not yet had a positive impact for children with SEND and their families. This is mainly because implementing these plans, and the extraction of the evidence of their impact, require time. Specific areas where further improvement and impact need to be demonstrated include:
  - A more widespread improvement of parental confidence in Kent's SEND provision.
  - The impact of the focus on SEN support in mainstream schools on parent's confidence in their ability to support children and young people with SEND.
  - The impact of the SEND enquiries hub on parental engagement and on SEND complaints relating to communications from KCC.

- 2.3. Area of weakness 2: A variable quality of provision and commitment to inclusion in schools, and the lack of willingness of some schools to accommodate children and young people with SEND.
  - 2.3.1. A central issue identified by the Sub-Committee is that there is a wide variation in the quality of provision, and in commitment to inclusion, in schools across Kent.
  - 2.3.2. A key initiative that is designed to promote a commitment to inclusion in Kent schools is the Mainstream Core Standards (MSC) training programme for teachers and governors. This programme sets out the provisions that the local area expects to be available in mainstream settings for children and young people with SEND. Feedback from the training has been overwhelmingly positive.
  - 2.3.3. The Authority is also implementing the Autism Education Trust (AET) Training and Strategy. This includes training for 80 Specialist Teachers and Educational Psychologists so that they can ensure that schools are autism friendly and have an understanding of good autism practice.
  - 2.3.4. The production and promotion of video interviews with teachers, pupils and parents, as case studies, is aimed at illustrating the benefits of inclusive practice to mainstream secondary schools.
  - 2.3.5. A review of Special Schools is addressing the perception that there is an unfair allocation of specialist places. The scope of the review includes:
    - Planning for sufficiency of special school places
    - Reviewing their designation and admission criteria
    - Reviewing the principles for the funding of special schools
    - Reviewing the role of special schools in supporting children and young people with SEND in mainstream schools.
  - 2.3.6. The SEND Sufficiency Plan is being developed to ensure that there is sufficient mainstream and specialist provision where it is needed. The four key tasks of the Plan are to:
    - Inform medium to longer term commissioning/decommissioning of places for children and young people with an EHCP.
    - Inform capital investment planning and future bids to the DfE's Wave programmes.
    - Inform high level discussions with providers about changes to current provision to meet future needs.
    - Support the delivery of the Safety Valve programme, to bring Kent in line with the patterns of provision in other local authorities.

- 2.3.7. Despite these initiatives there still appears to be a variable quality of provision and commitment to inclusion in Kent schools. The SEND Code of Practice states that for most children with SEND, there is a presumption that their education will be in a mainstream setting. KCC's aim is that most children and young people with an EHCP should also be able to access appropriate provision within a reasonable distance of their local areas.
- 2.3.8. It was reported to the Sub-Committee that, while most Kent mainstream schools had very good inclusion practices, there was still inconsistency in their degrees of inclusivity. The percentage of Kent pupils with an EHCP who are in a mainstream setting has increased slightly from 40.3% in March 2023 to 41% in January 2024. The latest data shows that there has been a substantial reduction recently in the number of requests for EHC statutory needs assessment from 385 in January 2024 to 181 in February 2024. This may indicate that the core standards offer in local schools is becoming more embedded and more widely recognised, but it is too early to conclude that this is an established trend.
- 2.3.9. Inclusivity is a criterion used by Ofsted to assess schools' performance. However, while KCC can influence and incentivise schools' inclusion practices, it does not have the power to hold them to account.
- 2.3.10. Nonetheless, KCC can use its influence by doing further work on the following:
  - Encouraging the participation of schools that have not yet taken up the inclusion training offer.
  - Showing evidence of continuing progress in reducing the number of requests for EHC needs assessments, as the core standards offer in schools becomes more embedded.
  - Providing a clear understanding of how the reduction of EHCPs will be achieved.
  - Making an impact through the review of special school places.

- 2.4. Area of weakness 3: That parents and carers have a limited role in reviewing and designing services for children and young people with SEND.
  - 2.4.1. The concern that there is limited representation and involvement of parents and young people in reviewing and designing SEND services has been addressed, for example, by their involvement in shaping the approach and priorities in the SEND Communications and Engagement strategy. This has included collecting feedback from them by focus groups led by a Children and Young People's (CYP) Participation Lead with the involvement of Kent PACT.
  - 2.4.2. Under the RISE programme, funded by the DfE, the Council for Disabled Children was invited to refresh and strengthen the local Co-Production Charter. The Charter was created with the help of children and young people so that their voice would always be heard. Kent PACT was also involved in this initiative.
  - 2.4.3. Parents were also involved in reviewing the impact of the SEND enquiries hub. This included using mystery shoppers with Kent PACT, and family feedback through a range of channels including complaints, surveys, and audits to improve practice.
  - 2.4.4. While Kent PACT acts as a two-way conduit and strategic feedback loop between parents/carers and KCC, many parents are not aware of the organisation, and say that they have no involvement in reviewing or developing services. Kent PACT is actively increasing its engagement. However, it has been pointed out that parent/carer forums need more funding to be effective because parents are no longer able to commit a significant proportion of their time in these organisations for free.
  - 2.4.5. While a number of initiatives have been taken to promote more parental involvement in the design of SEND services, comprehensive evidence of their full impact needs to be collated. This includes evidence of an improved perception among children and young people with SEND, and their parents and carers, of their involvement in developing and reviewing SEND services.

- 2.5. Area of weakness 4: An inability of current joint commissioning arrangements to address known gaps and eliminate longstanding weaknesses in the services for children and young people with SEND.
  - 2.5.1. In order to strengthen joint commissioning arrangements, the Children and Young People Joint Commissioning Group was re-established and refreshed in March 2023. Draft specifications for the Speech and Language Therapy (SLT) service are already in place, and all service specifications and joint arrangements are planned to be completed within the next two years.
  - 2.5.2. Some joint commissioning processes have been taking some time to develop. These include the preparation of a children and young peoplespecific strategy which is linked to the Integrated Care Strategy and describes KCC's long-term, system-wide vision for children and young people.
  - 2.5.3. Agreement on a Data Improvement Delivery Plan is crucial to informing the development of this strategy. This will require the use of clear metrics that are accessible to professionals and families, and of qualitative and quantitative baseline health data.
  - 2.5.4. The evidence has shown a strengthened governance approach and shared leadership across partner organisations, as well as more data to support decision-making. However, there is still progress to be made, particularly in demonstrating the impact of these shared decisions and initiatives on the lives of children and young people with SEND and their families.

- 2.6. Area of weakness 5: Poor standards achieved, and progress made, by too many children and young people with SEND.
  - 2.6.1. Many of the actions in this area have been implemented, with some positive impacts. The Sub-Committee heard that actions designed to lead improvement have included the EEFective Kent Project. This was a four-year partnership between KCC and the Education Endowment Foundation (EEF), ending in the summer of 2023. Both organisations contributed to joint funding of £600,000 to support the use of evidence-based approaches and interventions in Kent. The project aimed to support school improvement and the educational outcomes for children across the county. The partnership supported more than half the schools in Kent to use evidence-based practice in response to their school-specific issues.
  - 2.6.2. Another initiative was the NurtureUK programme, a project commissioned by KCC to support inclusion in schools by creating and celebrating a whole-school nurturing approach.
  - 2.6.3. During this three-year programme, KCC has been working with 300 mainstream primary and secondary schools to develop more inclusive policies and practices. The programme is tailored to each school; it celebrates what schools already do well and helps them to improve the areas that require support.
  - 2.6.4. The alignment of Education and SEND within KCC has led to stronger collaboration across the system between early years, mainstream, special schools and further education, and health partners. Amongst other things, this has led to increasing levels of engagement at events for Headteachers, and to education leaders acting as Inclusion Champions to promote inclusive practices within schools.
  - 2.6.5. In order to reduce the relatively high rates of absence of Kent children with an EHC plan, the Authority produced the 'Working Together to Improve School Attendance' guidance. This was cascaded through Headteacher briefings, Designated Safeguarding Lead briefings, KELSI updates and governor training with The Education People. The PRU, Inclusion and Attendance Service (PIAS) has been working with all schools (primary, secondary, special and Pupil Referral Units (PRUs)) to help them to implement the guidance.
  - 2.6.6. A Review of Specialist Resource Provisions (SRP) was developed to improve the efficiency of the allocation of special resource provision places, although its progress has been slow.

- 2.6.7. The implementation of the Countywide Approach to Inclusive Education (CATIE), the delivery of the Inclusion Leadership programme and the development and promotion of a school resource directory, are all aimed at raising school leaders' awareness of the strong commitment to educating a higher proportion of children with SEND in mainstream schools.
- 2.6.8. There has been an early indication of improvement in the SEND attainment gap. In 2022 the GCSE Attainment 8 SEN Support Gap in Kent was 16.7, compared to 17.7 nationally. In 2023, the gap was 16.2 in Kent and 16.9 nationally.
- 2.6.9. Pupil absence remains an issue. In Autumn 2022 and Spring 2023 combined, pupils with an EHCP accounted for 14% of all absences in Kent, compared to 12.4% nationally. In the same period, the percentage of persistent absence by those with an EHCP in Kent was 40.3%, compared to 36.3% nationally.
- 2.6.10. While many interventions have been made and have led to some positive impacts, there are areas where additional impact should be evidenced. These include:
  - The impact that School Inclusion Champions are having on the promotion of inclusive practices in schools.
  - The impact of the guidance, training and work with schools and PRUs to improve absence rates.
  - The extent to which CATIE is raising school leaders' awareness of the commitment to educating a higher proportion of children with SEND in mainstream schools, and how schools are using CATIE data to improve the outcomes for children and young people with SEND.

- 2.7. Area of weakness 6: The inconsistent quality of the EHC process; a lack of up-to-date assessments and limited contributions from health and care professionals; and poor processes to check and review the quality of EHC plans.
  - 2.7.1. The inconsistent quality of the EHC process required particular attention. There was a need to produce more precise and coherent targets in newly produced EHC plans. A review of decision-making processes for education, health, and care needs assessments (EHCNAs) has helped to address this.
  - 2.7.2. Using the Quality Assurance Audit and Moderation Cycle was also aimed at improving quality assurance and audit processes in order to reduce the percentage of new EHC plans that were judged to require improvement.
  - 2.7.3. In order to improve their understanding of the quality of the annual EHCP reviews, casework staff were given training on this subject and a SEND handbook which included best practice information.
  - 2.7.4. The Sub-Committee also heard that a dedicated team had been set up to deal with the historical backlog of EHCPs in Kent. In September 2023 there had been 1,080 cases in the assessment backlog. By January 2024 this figure had fallen to 397. The total number of outstanding cases fell from 2,192 in December 2023 to 2,066 in January 2024.
  - 2.7.5. In September 2022 there were 12,180 annual reviews in the backlog; this has now been reduced to 8,310 and it is expected that it will be cleared by September 2025. The work of the team should also ensure that no new backlog will develop.
  - 2.7.6. If EHCP demand continues to grow, the Sub-Committee was told that the staff currently involved in clearing the backlog could then be deployed to manage that increasing demand.
  - 2.7.7. Although the Authority has made significant efforts to improve the timeliness and quality of EHC plans, the number issued remains high. It was reported that the number of EHC plans issued by East Sussex in 2022 was 518 (0.7% of the county's school population); in Kent it was 2,314 in 2022 and 2,005 in 2023 (0.9% and 0.7% respectively).

- 2.7.8. This was partly affected by factors such as Kent's large pupil population and the degree of SEND inclusion in its mainstream schools. It was pointed out that, if KCC's work to promote inclusion was effective, the number of EHCPs would be reduced.
- 2.7.9. The evidence suggests that there are mechanisms in place to improve the quality of the EHCP process. The increase in staff capacity is clearing the EHCP backlog and speeding up assessments. While the trajectory is positive, the full impact will need to be judged in the future. In particular:
  - The impact of the dedicated backlog team in ensuring a consistent reduction in the historical EHCP backlog.
  - The impact of the new quality assurance and moderation processes on EHCP assessments.
  - Evidence of a general improvement in the quality of EHCPs.

- 2.8. Area of weakness 7: Weak governance of SEND arrangements across the EHC system at strategic and operational level and an absence of robust action plans to address known weaknesses.
  - 2.8.1. The Sub-Committee received evidence that governance and strategic SEND arrangements have been strengthened. Governance boards such as the Strategic Improvement and Assurance Board (SIAB) and the Partnership Delivery Group (PDG) have been established. Their terms of reference, and those of various Task and Finish Groups aimed at improving SEND provision, have been prepared.
  - 2.8.2. The representation of partner organisations in these governance arrangements has been improved, for example by the involvement of Kent PACT.
  - 2.8.3. There has been joint working with partner organisations. Under the RISE programme, the Council for Disabled Children was invited to refresh and strengthen the local Co-Production Charter to ensure that the voice and needs of these children would always be heard. Kent PACT was also involved in this initiative.
  - 2.8.4. A SEND newsletter is helping to improve communication and share information with parents, carers and young people.
  - 2.8.5. The inclusion of SEND in the Integrated Care Strategy and the 5 Year Forward Plan is aimed at establishing a commonly understood and areawide ambition for children and young people with SEND.
  - 2.8.6. It will be important to ensure that these strengthened arrangements continue to drive a concerted improvement in all areas of SEND provision in the county.

- 2.9. Area of weakness 8: Unacceptable waiting times for children and young people to be seen by some health services, particularly CAMHS, tier two services, SALT, the wheelchair service, and ASD and ADHD assessment and review.
  - 2.9.1. There have been a number of initiatives to improve the waiting times for children and young people on the Neurodevelopmental (ND) pathway.
  - 2.9.2. A communications strategy, and an engagement plan for emotional wellbeing and mental health, have been developed and adopted by the Children's Programme Board. In addition, there has been a rapid improvement in communications through the coordination of 5 NHS providers for families waiting for neurodiverse diagnostic assessments.
  - 2.9.3. A responsive prescribing and review model has been developed to improve the consistency of services for children and young people with ADHD. This has been accompanied by an increase in the number of completed ADHD diagnostic assessments, from 124 in October 2022 to 174 in December 2023. However, the number of children waiting for a diagnostic assessment rose from 3,012 in January 2023 to 3,570 in December 2023.
  - 2.9.4. There has been a re-design of a needs-led, integrated Kent-wide Speech and Language Therapy service, which is contributing to a substantial reduction of waiting times for assessment. The total number of those waiting for an assessment fell from 1,081 in May 2023 to 562 in November 2023. The number of those waiting for an assessment for over 12 weeks fell from 533 to 139 in the same period.
  - 2.9.5. It will be important, in the future, to explore whether the strategic and operational developments continue to have an impact on reducing waiting times for children accessing specialist health services.

- 2.10. Area of weakness 9: A lack of effective systems to review and improve outcomes for those children and young people whose progress to date has been limited by weaknesses in provision.
  - 2.10.1. A number of initiatives have been developed to enable children and young people with SEND to catch up with their school education. The Education Programme was created to provide interim education for permanently excluded children and young people with an EHCP, pending their placement in a suitable educational establishment. Training and early intervention programmes were delivered to schools to address anxiety-based school avoidance.
  - 2.10.2. However, the percentage of children with an EHCP who are educated in settings other than a school has not decreased; it was 2% in February 2023 and 2.3% in January 2024.
  - 2.10.3. The Children and Young People's Outcomes Framework was created to improve the oversight and knowledge of outcomes for children and young people with SEND. Together with the production of a SEND vision, the review of this framework, as part of a SEND Strategy review, is aimed at establishing a commonly understood and agreed area-wide ambition to improve service provision for children and young people with SEND.
  - 2.10.4. While actions have been taken to improve outcomes for those children and young people whose progress has been limited by weaknesses in provision, there is still insufficient evidence of their impact. The review of the Children and Young People's Outcomes Framework should help to demonstrate impacts and improve outcomes.

#### 2.11. Conclusion

- 2.11.1. The evidence submitted to the SEND Sub-Committee shows that KCC has made progress across all areas of SEND provision. Governance arrangements have been strengthened and several initiatives and interventions have been implemented to address shortcomings.
- 2.11.2. The role that the Sub-Committee played in the ongoing improvement work can be welcomed as it added transparency and the local Member knowledge and constituent engagement, along with the core holding to account function of Scrutiny. Crucially, the work of the Sub-Committee meant that the process has been open to the public and was not limited to dialogue between KCC and the DfE. While the Executive is responsible for the relevant services, it was important that Members had the opportunity to explore the issues and seek public assurances on the progress being made.
- 2.11.3. The Sub-Committee is pleased that the DfE has recognised the progress that Kent has made in improving its provision of SEND services. The Sub-Committee notes that the journey toward improvement is underway but incomplete, requiring ongoing review and a long-term commitment to ensuring the best possible support for children with SEND and their families.
- 2.11.4. In that vein, the Sub-Committee must highlight that more still needs to be done, particularly in demonstrating the positive *impact* that the interventions are making on the lives of children and young people with SEND and their families. While it is understood that there will always be a lag between policy change or improvements and the benefits being realised on the ground, KCC must monitor this carefully and highlight all positive examples to provide reassurance to the public and confirm assurances given to Members and the DfE.
- 2.11.5. The Sub-Committee recognises that the focus of KCC's response has been on designing and implementing specific responses to the areas of weakness via the APP. With so much live activity taking place at pace, holding decision-makers to account is challenging as there is little short-term data that would indicate the efficacy or appropriateness of the relevant interventions or strategic policy choices. This means that KCC must ensure that an appropriate mechanism is in place to scrutinise SEND provision and hold the decision-makers to account as the work of embedding and reviewing the various interventions continues.

- 2.11.6. As part of the Sub-Committee's reviewing role, Members have already identified the following areas and questions that require further exploration or clarification to ensure transparency, and to support appropriate policy choices as they become required:
  - A clear understanding of how the number of EHCPs will decrease.
     How will this be achieved?
  - What support is in place to help parents before they request an EHCP?
  - The provision and support afforded to families for whom their child(ren) with an EHCP (or awaiting an assessment) and/or SEN have been excluded or removed from a school setting.
  - The ongoing monitoring of the absence rates of Kent pupils with an EHCP.
  - Special schools' places. Will there be additional pressure on the current capacity of Kent's special schools?
  - What is KCC doing to ensure a smooth transition between primary and secondary education phases? What kind of support are children with SEND and their families receiving during this transition?
  - A clearer picture of how KCC's SEND pupil profile, accommodation and budget spend will change over time to meet the requirements of the DfE "Safety Valve". The Sub-Committee believe this would be useful information for parents to better understand KCC's future provision for children with SEND.
- 2.11.7. While further work is required, the Sub-Committee is pleased to produce this report which confirms that progress is being made against the APP, and that improvements are being put in place. Complacency cannot be tolerated in this vital space where so many people rely on crucial support from KCC and the NHS therefore the Sub-Committee strongly supports a maintained focus on scrutinising SEND provision and holding decision-makers to account.

By: Anna Taylor, Scrutiny Research Officer

To: Scrutiny Committee, 24 April 2024

Subject: Work Programme

Summary: This report gives details of the proposed work programme for the Scrutiny Committee.

#### 1. Introduction

- a) Any Member of the Council is entitled to give notice that they wish an item relevant to the functions of the Committee (which is not an excluded matter) to be included on the agenda for the next available meeting.
- b) The definition of an excluded matter referenced above is:
  - a. Any matter relating to a planning or licensing decision,
  - Any matter relating to a person in respect of which that person has a right of recourse to a review of right of appeal conferred by or under any enactment,
  - c. Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda or discussion at a meeting of the Scrutiny Committee.
- c) The Scrutiny Committee has the ability to 'call-in' decisions made by the Cabinet or individual Cabinet Members. Any two Members from more than one Political Group may give notice within five clear working days from the publication of a decision taken of their wish to call-in the decision.

#### 2. Recommendation

The Scrutiny Committee is asked to consider and note the report.

### **Background Documents**

None

#### **Contact Details**

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# Work Programme - Scrutiny Committee April 2024

## Items identified for upcoming meetings

Date requested	Item
06.06.23	Homeless Connect – Report back on social and financial impacts of the decision to end funding to Kent Homeless Connect.
November 2023	Framing Kent's Future (deferred from November 2023)
06.12.23	Decision 23/00083 – Supported Accommodation Service 16-19 and transitional arrangements – Possible report back to Scrutiny December 2024.
January 2024	23/00107 Kent SEND Sufficiency Plan 2023 - Chairman request to place this decision on the Scrutiny Committee/SEND Sub-Committee agenda for discussion at an appropriate time. (This went to Cabinet Committee in November 2023 and Cabinet in January 2024)
24.01.24	Request at Scrutiny Committee for: a. a deep dive into the mainstream home to school transport budget; and b. cross examination of the Council's school admissions, home to school transport and public transport policies.
28.02.24	Discussion with ASCH Chairman, Scrutiny Ch & Spokespeople in relation to further scrutiny of ASCH contracts – 6 months? Ensure minimal duplication in Committee.

## **Work Programme**

5 June 2024			
Item	Item background		
Budget Monitoring Year End	In line with the Committee's resolution around Securing Kent's Future		
Scrutiny Committee – Review of Activity	Report from the Monitoring Officer following the Annual Governance Statement		
Scrutiny Committee meeting as Crime and Disorder Committee	Statutory Requirement - annual meeting		

10 July 2024			
Item	Item background		
Section 106 Agreements/SIL briefing	Member request		

November 2024 – Kent Flood Risk Management Committee Annual Report November – Draft Budget Jan 2025 – Draft Budget and MTFP March/April 2025 – Review of SEND Sub-Committee – Annual Report June 2025 – Budget monitoring year end June 2025 – Scrutiny Committee meeting as Crime and Disorder Committee