

SCRUTINY COMMITTEE

Wednesday, 18th September, 2024

10.00 am

**Council Chamber, Sessions House, County
Hall, Maidstone**





AGENDA

SCRUTINY COMMITTEE

Wednesday, 18th September, 2024, at 10.00 am
Council Chamber, Sessions House, County Hall,
Maidstone

Ask for: **Anna Taylor**
Telephone: **03000 416478**

Membership

- Conservative (10): Mr A Booth (Chairman), Mr P V Barrington-King (Vice-Chairman), Mrs R Binks, Mr T Bond, Mr D L Brazier, Mr G Cooke, Mrs L Game, Mrs S Prendergast, Mr O Richardson and Mr S Webb
- Labour (1): Mr A Brady
- Liberal Democrat (1): Mr A J Hook
- Green and Independent (1): Ms J Hawkins
- 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.

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 10 July 2024 (Pages 1 - 6)

B - Any items called-in

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

- C1 SEND Scrutiny - Quarterly Reporting (Pages 7 - 58)
- C2 Section 106 Contributions - response to recommendations (Pages 59 - 64)

D - To Note

- D1 Work Programme (Pages 65 - 68)

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, 10 September 2024

KENT COUNTY COUNCIL

SCRUTINY COMMITTEE

MINUTES of a meeting of the Scrutiny Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 10 July 2024.

PRESENT: Mr A Booth (Chairman), Mr P V Barrington-King (Vice-Chairman), Mrs R Binks, Mr T Bond, Mr D L Brazier, Mr G Cooke, Mr A J Hook, Rich Lehmann, Ms J Meade (Substitute for Dr L Sullivan), Mrs S Prendergast and Mr O Richardson

ALSO PRESENT: Sir Paul Carter, CBE, Mrs T Dean, MBE, Mr P J Oakford, Mr R G Streatfeild, MBE and Mr D Watkins

IN ATTENDANCE: Mr J Betts (Acting Corporate Director Finance), Mr B Watts (General Counsel), Ms C McInnes (Director of Education), Ms S Hill (Interim Director Adult Social Care), Ms S Denson (Assistant Director - Strategic Safeguarding, Policy, Practice and Quality Assurance), Miss M Goldsmith (Finance Business Partner - Adult Social Care and Health), Mr J Cook (Democratic Services Manager) and Mrs A Taylor (Scrutiny Research Officer)

UNRESTRICTED ITEMS**61. Declarations of Interests by Members in items on the Agenda for this Meeting**
(Item A3)

1. Ms Meade declared that her husband was in receipt of PIP (Personal Independence Payment) but was not in receipt of a care package.
2. At the commencement of Item C2 SEND Scrutiny Process Sir Paul Carter declared an interest as a Director of the Leigh Academy Trust.

62. Minutes of the meeting held on 5 June 2024
(Item A4)

RESOLVED that, the minutes of the meeting held on 5 June 2024 were an accurate record and that they be signed by the Chairman.

63. Call-in of Decision 24/00049 - Higher Disability Benefits
(Item B1)

1. The Chairman invited the proposer of the call-in, Mr Streatfeild, to provide an overview of the reasons for the call-in. Mr Streatfeild set out his reasons for the call-in and explained that he had concerns around legal issues the Council could face if it proceeded with the decision. He considered that the Council could use its reserves to fund the expected £3.7 million income from this decision. Mr Streatfeild also referred to evidence obtained through public consultation where 80% disagreed with the proposed action and 74% strongly disagreed and he suggested there was a political risk for the Council in that the proposal ran

counter to the policy documents Framing Kent's Future and Securing Kent's Future.

2. Ms Meade explained the purpose of a PIP (Personal Independence Payment) and referred Members to guidance set out on the Government website. She maintained that the implementation of this policy would take away a recipient's ability to obtain this and that in her experience a PIP was difficult to obtain.
3. Ms Meade explained that there was currently a national consultation regarding the PIP scheme and so consideration of this policy could be premature.
4. The Chairman invited Mr Watkins, as the Cabinet Member who took the decision, to provide an overview of the decision.
5. Mr Watkins referred to the technical information contained in the papers and in response to comments made about competing priorities in the Council's Policy documents confirmed that 'Securing Kent's Future' took precedent. Mr Watkins explained that this was a difficult decision to make and that mitigations were in place to protect the most vulnerable people within the cohort.
6. Members made comments on the decision and asked a range of questions. The key points raised and responded to by the Cabinet Member and officers present included the following:
7. Following a question, Mr Watkins confirmed that the 2014 Care Act allowed all Councils to make the change being discussed and many other councils had already done this.
8. Mr Watkins confirmed that no suggestions were put forward at the budget discussion as an alternative and the implementation of this policy would save £3.5 million per year. He continued to explain that the circa £300k monthly costs was the annual saving, divided by 12 months.
9. Members asked for assurance of the other considerations given to this decision, taking into account the consultation was overwhelmingly against the proposal. Mr Watkins confirmed that he would take into account responses to the consultation and accepted that this decision would be difficult for vulnerable adults.
10. A Member indicated that there were choices available and asked where the £300,000 factored into delays was coming from.
11. Members asked what alternatives had been looked at, rejected and what made this policy the optimum way of making savings. In answer to the other considered options, Ms Hill explained to Members that the proposed option was the one which it was felt had the least impact on people and they had taken into account individual circumstances.
12. Ms Denson set out the various mitigations considered; she confirmed there was already £17 per week for all those who were in receipt of disability expenditure. In terms of other mitigations explored, she explained that the council had considered increasing the standard sum of £17 by way of a blanket increase, however this option failed to recognise that not everyone's disability expenditure was the same.
13. In response to a query Mr Watkins confirmed that there was an option for people to go through a Disability Related Expenditure Assessment (DREA).
14. The Chair drew Member's attention to page 2 and page 3 of the agenda pack and the options available to committee and reminded Members of the difficult decision that the Council needed to make in relation to finances.
15. A Member asked for confirmation that this decision affected those in receipt of the enhanced rate of PIP and was this figure £108 per week? This was confirmed as correct and DLA and attendance allowance.
16. A Member asked what modelling or assessment had been carried out to ensure that people who were in receipt of £108 would be able to live on around £75 per week (taking into account the deduction of £33.85). Ms Denson referred to the

statutory minimum disability benefit all people in receipt of disability payments should receive and she also referred to Appendix D which set out various scenarios which demonstrated how the financial assessments would impact on people.

17. In response to a question about the likely savings figure Mr Watkins confirmed the difference between the gross saving amount of £4.5 million and the net saving of £3.5 million is £1 million of provision for higher levels of DREAs and bad debt.
18. A Member commented that DREAs would need to be promoted to increase awareness amongst residents. In relation to this, Ms Denson confirmed that officers would be writing to the individuals affected as well as providing information and guidance on the Kent County Council website. Mr Watkins confirmed that two additional secondment staff would be brought in to manage the DREA assessments.
19. In response to a query about how many DREAs would be processed per month Ms Denson confirmed that this modelling was currently taking place. In response to a further query Mr Watkins confirmed that, to the best of his knowledge, his service had enough back-office staff to undertake this work. Members raised concerns that the modelling was only now taking place and it was vital that there was enough capacity within the team to avoid future backlogs resulting in residents suffering delays to payments.
20. A Member asked whether service users were going to be charged the full amount before they underwent the DREA assessment Mr Watkins confirmed that there was no annual upfront payment
21. A Member asked whether all applicable service users would be required to pay the higher charge, whilst they were still waiting for their disability assessment to take place and whether this higher charge would be applied automatically to the service users. Ms Denson confirmed that the policy guidance provided that payments would backdate to the last piece of evidence received for the DREA.
22. A Member asked for more information about the voucher scheme which might come into effect and how it could impact on the proposed decision. Ms Hill explained that if there were any changes in relation to national benefits, all Kent policies were reviewed on an annual basis which would take into account any future changes
23. In response to questions from Members about the legality of this decision, Mr Watts confirmed that the Cabinet Member had sought and received legal advice.
24. Mr Oakford confirmed that within the entirety of the Council's budget there were gross reserves of approximately £340-350 million. However, there was approximately 3% of general reserves which had not been allocated, which equated to around £35 million.
25. Mr Oakford explained to Members that last years over spend was £25 million and there was a need to make further savings of around £100 million. Adults Social Care was required to find £50 million of savings.
26. Whilst Members wished to keep all services running, Mr Oakford explained that the Council needed to find £84 million saving for the next financial year. Mr Oakford highlighted to members that the Council was responsible for 1.7 million people and asked members to take this into consideration.
27. Ms Hill clarified that the service users who were potentially impacted by the change, had already had a care needs assessment and financial assessment. The DREA would be specifically for those individuals who believed they had expenses directly related to their disability which was above and beyond the £17 paid per week.

28. Ms Hill confirmed that the service already supported over 16,000 people. Out of those, only 100 had disability related expenditure assessments. It was anticipated that the people impacted by the changes would come forward, but the wider social care work force would be able to assist, as well as the additional officers.
29. The clerk confirmed to the committee the options available to them and the process that would be followed dependent on the option decided on by the committee.

Mr Booth moved and Mr Richardson seconded a motion that “the Scrutiny Committee express comments but not require reconsideration of the decision.

Members voted on the motion. The motion was carried.

RESOLVED that the Scrutiny Committee express comments but not require reconsideration of the decision.

64. Revenue and Capital Budget Monitoring Report – Outturn 2023-24 *(Item C1)*

1. Mr Oakford confirmed the Budget outturn position for 2023/2024 for both the Revenue and Capital Budgets. He confirmed that at the end of financial year, the Council were in a position of recording a revenue overspend of £12.4 million, after the £12 million reserve was used to offset overspend.
2. Mr Oakford took Members through the Revenue and Capital Budget Monitoring report and referred to Appendix 1 and Appendix 4 in relation to significant overspends in Adult Social Care of £32.6 million and Childrens’ Services of £26.6 million, as well as the roll forward amounts. He highlighted the roll forwards underspend of £700,000 for Members’ grants. Mr Oakford commented that total budget for Member Grants was £300,000 with two years of underspend.
3. A Member referred to the budget amendments submitted in relation to increased Member Grants and clarified that there were two versions but just one amendment and this would have been funded by freezing member allowances and not taking money from another spend area.

RESOLVED that the Scrutiny Committee noted the Revenue and Capital Budget Monitoring Report Outturn for 2023-2024.

65. SEND Scrutiny Process *(Item C2)*

(Sir Paul Carter declared an interest as a Director of the Leigh Academy Trust)

1. Mr J Cook, Democratic Services Manager introduced the report regarding the proposed approach for the scrutiny of SEND at KCC.
2. Members made comments and asked a range of questions. The key points raised and responded to included the following.
3. A Member shared comments from Kent SEND School Head Teachers about the Council’s proposals to reform the SEND school processes and the Chairman reminded the Member that the Committee was being asked to review the SEND Scrutiny process report, which was contained within the agenda pack, and that there was an agenda setting process with the Chairman and Spokespeople to follow in order to add items to future agenda.

4. A Member spoke about the need for Members to have the full information about the whole role out of the programme including the full financial plan. He commented that working with Head teachers of both mainstream and special schools was key to working well.
5. Following further comments from Members about the wider SEND projects Mr Watts commented that it was important that members were in receipt of all the information, and this would be achieved if the agenda setting process was adhered to and carried out effectively.
6. Mr Cook, in response to a question, confirmed that consultation with relevant stakeholders would take place outside of the formal Scrutiny meetings by way of conversation so that information could be obtained as appropriate
7. Following a question around the Scrutiny Committee agenda setting process, the Chairman confirmed that this took place between him, his Vice-Chair and the Opposition Group Spokespeople.
8. Mr Watts suggested that in the initial meeting the report should set out how the Committee proposes to deal with a specific concern and how it will be addressed, then Chairman and Spokespeople could review to check on progress.
9. A Member commented on the role of the DFE (Department of Education) mandated independent chair to the Transformation Board and the role that this individual might play in future meetings.

RESOLVED that Members of the Scrutiny Committee AGREE to adopt the following as the approach to SEND Scrutiny by the main committee:

- Scrutiny Committee to receive, as part of its existing meeting schedule, quarterly overview reports on SEND provision, including performance information such as KPIs.
- Each quarterly report to include a service or issue specific section providing further information, allowing for more detailed scrutiny on key areas.
- Separate, informal information gathering sessions will be organised in consultation with the Chair and Spokespeople to secure input from parents, carers and other relevant stakeholders.
- Ad hoc SEND related item requests will be managed in the context of this agreed protocol, without prejudice to Members' statutory rights to require that items be considered by the Scrutiny Committee.

66. Review of Scrutiny Activity

(Item C3)

1. Mr Watts introduced the item to the Committee. He highlighted that forthcoming development sessions would be available for both existing Members and, following the KCC election in May 2025, new Members. These sessions were designed to provide information to formal committees of the Council so members developed their role on these committees.
2. RESOLVED Members noted the review of Scrutiny activity.

67. Work Programme

(Item D1)

RESOLVED that the work programme be noted.

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By: Rory Love, Cabinet Member for Education and Skills
Sarah Hammond, Corporate Director, Children, Young People and Education

To: Scrutiny Committee, 18 September 2024

Subject: SEND Transformation Update

Status: Unrestricted

Summary:

This report provides an overview of progress in SEND since the issuing of the Improvement Notice in March 2023.

Recommendation

The Scrutiny Committee is asked to: Note the report.

1. Introduction

1.1 Following the publication of the Children and Families Act in 2014, the government instituted a new framework for Ofsted and Care Quality Commission to inspect the compliance of local areas in meeting statutory duties related to SEND as set out in the statutory guidance SEND Code of Practice 2014. The first Kent area inspection took place in 2019 and following this Her Majesty's Chief Inspector (HMCI) determined a written statement of action was required because of significant areas of weakness in the local area's practice. Although the Local Authority has a number of statutory responsibilities for SEND and is a significant part of the SEND system, the judgement related to the **local area** as a whole, including the health system as well as early years, schools and other education providers. Nine areas of weakness were identified, and progress made in addressing these was judged in the subsequent inspection by Ofsted and CQC in September 2022.

1.2 The outcome of this second inspection judged that insufficient progress had been made in every area. At this point, KCC was also in discussion with DfE about participating in a financial recovery programme (the Safety Valve) as a potential approach to addressing the growing actual and projected overspend in the High Needs Funding Block. With significant concerns about both statutory compliance and financial management, there was a high risk of a government intervention through commissioners being imposed to take over running of the SEND system. Swift and decisive leadership action was taken by KCC, including by the Scrutiny Committee at its meeting on 25 January 2023, resolving to approve and finalise the arrangements for the establishment of a SEND Sub-Committee. Other parts of the local area committed to working with KCC to improve SEND, leading to the establishment of the independently chaired SEND Improvement and Assurance Board. These arrangements and the strong political commitments made provided sufficient assurance so that the Minister issued an Improvement Notice in March 2023, rather than imposing commissioners.

1.3 Between Wednesday 22 March 2023 and Wednesday 7 February 2024 the SEND Sub-Committee met 7 times, gathering information and evidence from, and reviewing and scrutinising 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. Reports pertaining to SEND were also debated at CYPE Cabinet Committee links to both sets of reports are included in Appendix 1.

1.4 The SEND Sub-Committee presented a report of their work to KCC’s Scrutiny Committee on 24 April 2024. This provided an opportunity for Members of the Scrutiny Committee to discuss future monitoring arrangements for SEND. Members resolved to disband the SEND Sub-Committee and return responsibility to the Scrutiny Committee.

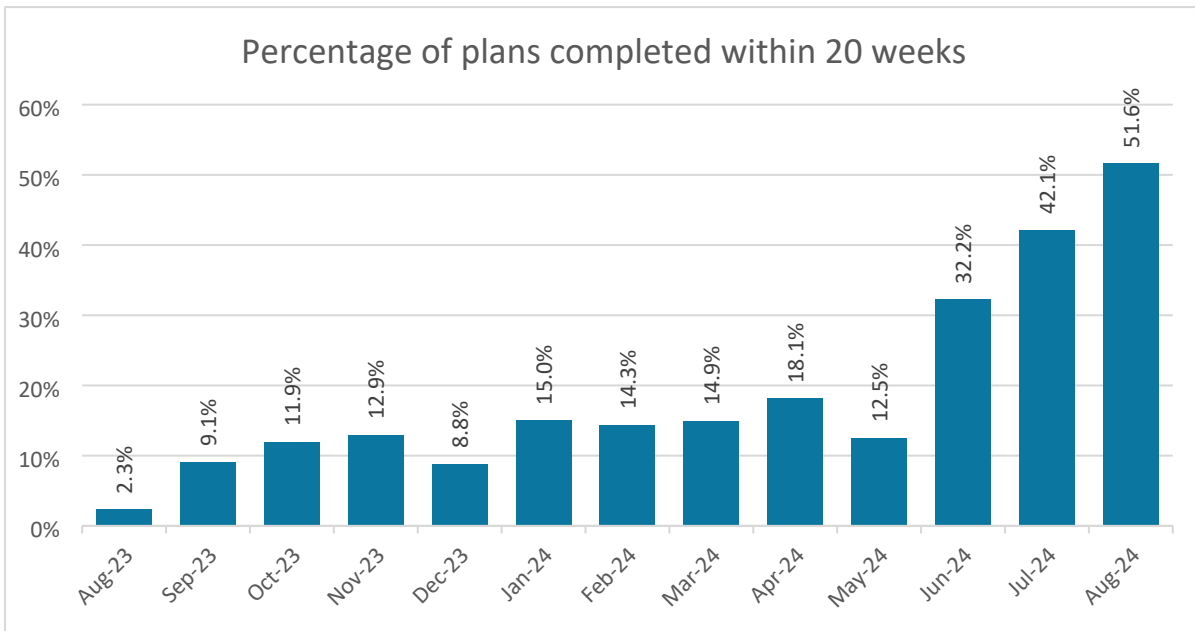
1.5 Given the very wide scope of services and processes which make up the SEND system and to aid members provide effective scrutiny, agreement was reached with the Chair of Scrutiny that reports will include a section with key data updates and a second section with an in-depth analysis and narrative focused on a particular area of SEND activity. Section 5, titled ‘Developing a sustainable education sector in Kent’ discusses the work going on in the education sector to create a more cohesive continuum of education provision to better meet the needs of children, young people and their families, as this has been a matter of recent discussion. Future reports will provide a detailed focus on other aspects of SEND which are of particular interest to the Committee.

1.6 This first report also includes a third section, a summary overview of progress made since the revisit in September 2022 against the projects in the Accelerated Action Plan. This constitutes Section 3 of the report.

2. Data Update

2.1 Percentage of plans completed within 20 weeks

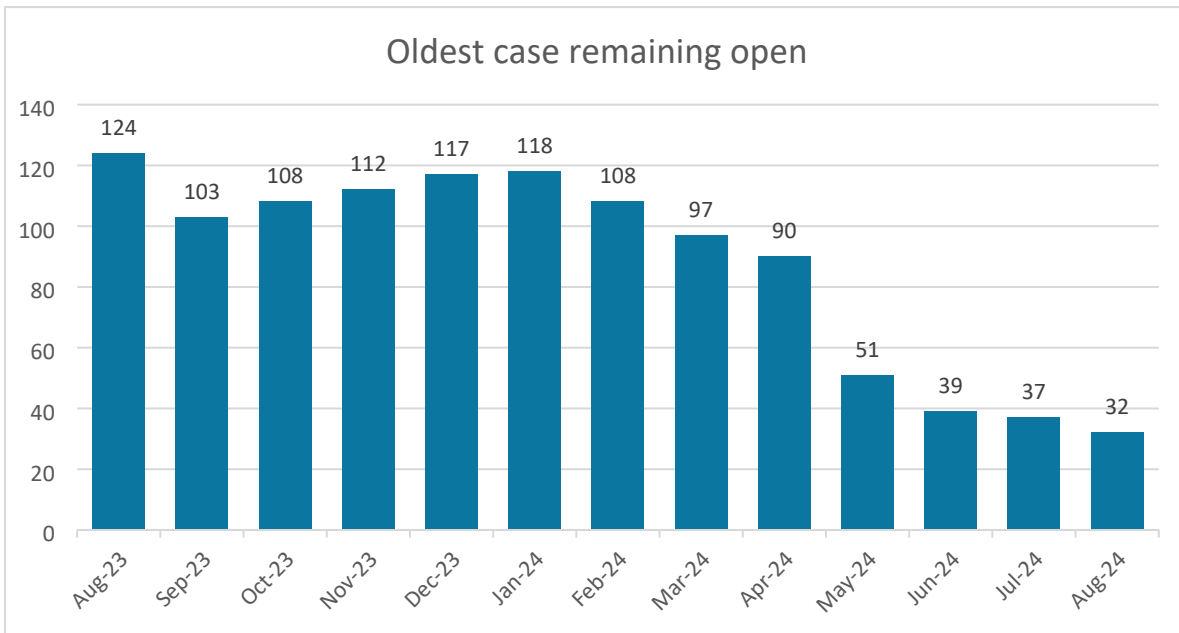
Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24
2.3 %	9.1 %	11.9 %	12.9 %	8.8 %	15.0 %	14.3 %	14.9 %	18.1 %	12.5 %	32.2 %	42.1 %	51.6 %



2.2 When a request to assess a child or young person is agreed, for those where the threshold is met for an Education, Health and Care Plan, this should be issued within 20 weeks. The national average issued within this timescale is 50.3% (DfE June 2024). Kent progress on improving this indicator initially appeared slow but this was due to staff working on clearing the backlog of children and young people already awaiting the issuing of an EHCP (see Oldest Cases below). Now that decisions can be made in a timely way, August data shows KCC exceeding the national average with 51.6% of EHCPs completed by the deadline and we are expecting this trajectory of improvement to continue.

2.3 Oldest cases remaining open

Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24
124 wks	103 wks	108 wks	112 wks	117 wks	118 wks	108 wks	97 wks	90 wks	51 wks	39 wks	37 wks	32 wks



2.4 The assessment and placement teams have worked alongside the backlog team to ensure the oldest cases were the priority and were finalised as quickly as possible. In September 2023, there were 1080 children and young people who had been identified as needing an EHCP who had waited 100 weeks or more. The list below records the reduction in the backlog month by month since March 2024.

0 cases over 100 weeks by the end of March

0 cases over 90 weeks by the end of April

0 cases over 52 weeks by the end of May

0 cases over 40 weeks by the end of June

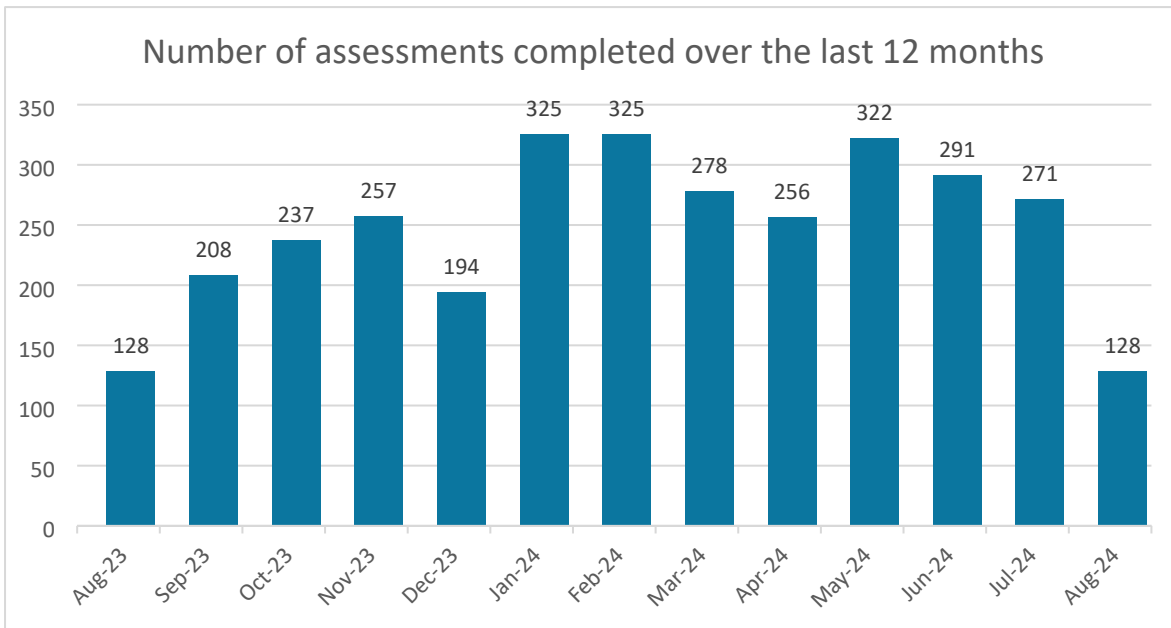
0 cases over 37 weeks by the end of July

0 cases over 32 weeks by the end of August.

The teams are on target for no child or young person waiting over 30 weeks by the end of September and work will continue to reduce this wait further.

2.5 Number of assessments completed over the last 12 months

Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24
128	208	237	257	194	325	325	278	256	322	291	271	128



2.6 The assessment and placement teams are consistently issuing between 250-320 plans per month. This can fluctuate depending on school holidays and outside agency responses for reports, however this level of output has been consistent since January 2024 and will remain above 250 monthly going forward.

2.7 A summary of wider positive data

98.7% of Enquiry Hub calls resolved within 5 working days
A fall in proportion of assessment requests from parents, from 70+% to circa 43%, indicating improved parental faith in the school system
35% of Post 16 Phase Transfer pupils transitioning from Special to Mainstream settings
70+% of responding parents confirming their mainstream school was making adjustments for their child
70% of responding parents reported their autistic child was happy at school compared to a national average of 20-25%
Kent strongly outperforming national and South East region with a lower percentage of young people with EHCPs that go onto be Not in Employment, Education and Training (NEET)
Process improvements resulted in concurrent assessment cases falling from over 2200 to less than 1200 over the last year
Assessment teams nearly tripled the monthly output of assessment decisions with

no additional staffing capacity added
Record high numbers of Phase Transfer cases completed by statutory deadline
Over 5000 outstanding Annual Reviews have been completed
Over 7000 additional parents contacted via Talk Tuesday initiative

3. Update on the SEND area revisit and the Accelerated Progress Plan

3.1 This section provides an overview of progress made against the 9 Areas of Weakness identified during the Area Inspection in 2019, confirmed in the revisit of September 2022 and referenced in the Improvement Notice issued in March 2023. The Improvement Notice required the preparation of an Accelerated Progress Plan, a detailed plan outlining the 116 projects which are being delivered by representatives from across the local area to improve the lived experience of children and young people with SEND and their families. The Executive made public statements, generally and during SEND Sub-Committee meetings in particular, that the APP is supported by a strong political commitment and this work would be given sufficient priority and resources to ensure the success of the Plan.

3.2 DfE and NHSE undertook two formal monitoring/assessment visits, in November 2023 and April 2024, to consider the evidence of progress against the Accelerated Progress Plan and the impact of the work. The letter following the first visit is included in full as Appendix 2, the second letter as Appendix 3 and the letter removing the Improvement Notice issued on 6th August as Appendix 4.

3.3 The SEND Sub-Committee's scrutiny generally aligned with the 9 areas of weakness identified in the report of the Ofsted and CQC revisit to Kent in November 2022.

3.4 The independently chaired Kent SEND Improvement and Assurance Board (SIAB) was tasked with overseeing and assuring progress against and impact of the APP. The Kent SEND Partnership Delivery Group (PDG), which reports to SIAB, is responsible for providing detailed oversight of the Plan's progress and impact. It also co-ordinates the tracking and planning of partnership actions.

3.5 The PDG was initially supported by five Task and Finish Groups:

- Data and Evidence Reporting
- Quality Assurance
- Communication and Engagement
- Professional Development
- Workforce and Culture.

3.6 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. The 9

areas of significant weakness identified in 2019 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.
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.
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.

3.7 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.

3.8 On 15th November 2023 Department for Education and NHS England conducted their first six-month review of the progress Kent has made against these areas of weakness with a summary of positive feedback taken from the letters included as Appendices 2 and 3.

3.9 During the September 2022 inspection, there had been over 100 vacancies in the workforce delivering statutory SEND services and a lack of compliance with the legislation in some aspects of the work. One specific requirement in the Improvement Notice issued on 31st March 2023 was that Kent County Council would, "... provide a clear plan to ensure

that it has in place, within six months from the date that the Improvement Notice is published, a permanent, suitably trained, SEND case work team of sufficient capacity to enable the effective delivery of the Education, Health and Care (“EHC”) needs assessment and review system including effective partnership working systems with advice writers to help improve both the timeliness and quality of the EHC plans.” Following focused work on recruitment and training, as well as the implementation of a robust Quality Assurance framework, DfE and NHSE confirmed that they were satisfied that Kent County Council had met this commitment in the letter following the November assessment and removed the requirement to monitor it further.

3.10 The second review took place at the end of April 2024, with the feedback letter delayed until July due to the general election and summary of feedback is also included below.

Area of weakness	November 2023 feedback	April 2024 feedback
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	... many of the actions within this area have been implemented. For example, events such as the Autism information event have taken place, there has been a redesign of letters that are sent to parents and carers and there are surgeries and workshops in place to support the strengthening of health input in EHCPs, including providing support for caseworkers.	There is evidence of engagement with a wider group of parents to drive improvement. There has been an increase in compliance of health professionals against the SEND Training Assurance Framework. Partners are committed to improving communication with families. From the work of the Inclusion Champions, there is early evidence of growing levels of trust between families and schools.
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	... many of the actions within this area are ‘on track’ to be completed. For example, training has been provided to a large proportion of schools, including a SENCO conference in March 2023. School-based decision-making panels have also allowed peer-challenge and problem solving.	... it is evident that some actions within this area are starting to have their intended impact. You report that the inclusion champions are having an impact on the approach of schools to developing more inclusive practices, and there is evidence of growing confidence among parents and carers of mainstream schools accommodating children and

with SEND.		young people's SEND needs. The co-production transition charter is in place and there is some evidence of its impact on systems.
3/That parents and carers have a limited role in reviewing and designing services for children and young people with SEND.	... we note the work around co-production that has been carried out with the Council for Disabled Children and that Kent PACT have been involved in reviewing and developing services. The reference to parental involvement in resolving a recent transport issue was a good example of parental influence on improving services.	... we have noted an increased use of the voices of children and young people in reviewing and designing services. There is evidence of collaboration with Kent PACT, such as the collaborative work on the Short Breaks Programme. You have developed the Lived Experience Framework which aims to bridge the gap between policymaking and the lived experiences of children and young people with SEND and their families. You have created the Shadow Board and have provided evidence of feeding in the views from the Shadow Board to SIAB. You have initiated the discovery work with the Council for Disabled Children to refresh the Co-Production Charter, which aims to ensure that the voices and perspectives of stakeholders remain at the forefront of decision making. You have hosted and facilitated the VCSE (Voluntary Community and Social Enterprise) sector event on children and young people which enabled the SEND department and health professionals to come together to collaborate and share insights on health-related initiatives, ensuring a holistic approach to supporting the

		wellbeing of 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.	... we note that good progress has been made in the strategic approach to joint commissioning, with emphasis on the data available across organisations to support decision-making. Evidence was provided which demonstrated monthly funding panels, deep dives conducted a strengthened governance approach and shared leadership across partner organisations.	... significant progress has been made in this area. You have drawn together a lived experience framework. You have provided evidence of implementing this work on the frontline, for example to support a child with autism. A communications strategy for mental health has been developed and signed off and you are re-procuring the emotional and wellbeing mental health offer for children and young people in Kent. Therapies is a priority for joint commissioning, and through the development and implementation of the iThrive framework, there is evidence of engagement sessions with children and young people to gather feedback which has supported the work. You have recently launched the self-harm guidance as part of the iThrive Framework. It is assuring that the Neurodiversity work and the 'This is me' project to support early intervention, are no longer pilots and have been rolled out with additional funding.
5/Poor standards achieved, and progress made, by too many children and young people	Good examples of improvement were shared such as the establishment of stronger relationships with a wider group of schools, establishing the role of the inclusion champions and the interaction with the post-16 sector. School leaders who we	... we note that you have promoted Quality First Teaching and Assessment and further embedded mainstream Core Standards across mainstream schools. You have implemented the Countywide Approach to Inclusive

<p>with SEND.</p>	<p>heard from were generally positive about the interactions they have with the local authority and the level of support that is provided... The attainment gap for SEN support is slightly above the national average, which is an early indicator of improvement.</p>	<p>Education (CATIE) and have delivered the Inclusion Leadership Programme with evidence of positive feedback from schools that have participated. You have delivered the EFFective Kent project, though the evaluation for this is yet to be completed. We heard positive feedback from school leaders about the interactions they have with the local authority and the level of support that is provided.</p>
<p>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.</p>	<p>... there is better oversight of the statutory process and that an increase in the capacity has resulted in some improvement in timeliness. More robust quality assurance processes and feedback is beginning to have an impact.</p>	<p>... we note there have been improvements in systems and processes such as the review of the timescales and workload of EHCNAs ... we heard positive feedback from parent and carers and children and young people, particularly from those who have had an EHCP issued within the last 6 months. You have updated the processes for updating EHCPs following an Annual Review (AR), particularly at phase-transfer. You have developed a multi-disciplinary training for health practitioners. There is a designated key worker in post as part of the Dynamic Support Service. You have established supported internships and provided evidence of the positive impact of this on the lived experience of young people. There has been an improvement in clearing the backlog of EHCPs across 30 and 52 weeks, though there is still some work to do meet the</p>

		20-week statutory deadline of EHCPs.
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.	There is increasing evidence of much stronger governance and strategic oversight in place. There is evidence of work that has been co-produced with schools and Kent PACT. There is clear partnership representation at SIAB, PDG and the task and finish groups. There are communication channels in place with parents and carers and young people such as the use of newsletters to share information.	... we note that work has been completed across the partnership to update the vision statement. The Transformation Programme has been published as part of the Local Offer. SIAB and PDG are established governance forums with clear Terms of Reference and membership. Partnership representation has been overhauled within new governance arrangements and a SEND Health Network Meeting has been created to provide oversight of health commissioning.
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.	...significant progress has been made in the strategic direction of services to improve the waiting times for children to access specialist health input, including to the neurodevelopmental assessment and SALT services.	... we note that considerable progress has been made in this area. The evidence provided has indicated that some actions have now been embedded and positive impact has been seen. Many projects have been initiated to meet the needs of children and young people with speech, language and communication needs and neurodiversity such as the 'This is me' pilot, the balanced system framework, and Little Talkers. You have developed the communications strategy and engagement plan for emotional wellbeing and mental health, which has resulted in communications improvement across 5 NHS providers for families waiting for ND diagnostic assessment. You

		have reverted online assessments to face-to-face appointments, with no complaints received. You have improved waiting times for specialist health equipment to under 18 weeks and have provided evidence of the positive impact of this on children and young people and their families.
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.	... progress has been made in this area.	There is increased engagement with children and young people with SEND, particularly in capturing their voices and views. There is improved school attendance data for children and young people with SEND and the tuition offer for EOTAS pupils is more secure.

3.11 On the 6th of August 2024, the Children and Families Minister Janet Daby MP wrote to Kent to communicate her decision to remove the Improvement Notice and this letter is included as Appendix 4. Discussions are now taking place with the DfE and other stakeholders on evolving the governance structures and reviewing the external reporting requirements whilst ensuring the pace and quality of change continues. There is collective agreement from the Executive and Corporate centres that while there is evidence of significant progress in addressing both the direct areas of weakness identified within the APP and wider system reforms to ensure SEND is prepared to meet future challenges, the intensity of activity that is currently underway needs to continue.

3.12 There is always a requirement to review plans to ensure they remain the most appropriate way to address current challenges. SEND leadership is therefore constantly adapting and reviewing its approach, making use of an ever-growing suite of evidence, to ensure Kent continues to improve its delivery to pupils with SEND.

3.13 It is understood that while structural reforms have been integral to the progress that Kent has made in recent months, families may not yet have directly felt those improvements in their individual interactions with the SEN service, particularly those whose children have had an EHCP for a number of years. It is therefore important to acknowledge the broader improvements that have been made since the implementation of the SEN service restructure, so that parents and Members can be assured lessons have been learnt since the failed revisit in 2022. It is intended that following the development of these foundational improvements, a greater proportion of internal leadership and staff capacity can now be focused on accelerating the improvements that are experienced by families already in the system.

3.14 Going forward DfE and NHSE have agreed that the outstanding actions will be grouped under four Partnership Priorities. Formal bimonthly reporting to the Departments has ceased and the next formal assessment of progress and impact will take place in January 2025.

4. A broader update on progress on the nine areas of weakness

4.1 The current SEN Leadership team took responsibility for the SEN Service in early April 2023, shortly before the implementation of the full-service restructure that had been developed in response to the revisit in 2019 (though work on this did not start until the recruitment of a new Assistant Director for SEND mid 2021). This time period provides a suitable time period in which to assess the efficacy of the Service's response to the improvement notice, all the statements made in this report have evidence available to substantiate them and were shared with DfE and NHSE during the assessment.

4.2.1 Area 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.

- A new Feedback Framework is used to collate information for consideration in decision-making and feedback provided to parents/carers- many examples are included. Sources of information include:
 - Overwhelmingly positive feedback from monthly SEND Information, Advice and Guidance (IAG) roadshows.
 - Increased reach in a variety of comms (see below).
 - Pilot of parent /carer focus groups which are informing the establishment of a rolling program of focus groups.
 - Termly review questionnaires to gather perceptions of improvement, one for parents/carers and one for settings/schools has been instigated with April data providing a baseline for future measurement of change.
- SEND Newsletter reach extended from 1500 to over 13,500 and growing.
- The SEND IAG Monthly Roadshows have steadily increasing attendance.
- A significant increase on the reach of Kent PACT.
- Localities consultation parents' meetings achieved a record breaking 400 families engaging and 400 plus responding.

- Relationships developing with a wider cross section of additional parental advocate groups.
- Further surveys developed e.g., parental experience of the annual review process, to gather a wider range of feedback from a wider range of parents, to influence all aspects of our continuous improvement journey.
- The inception of the SEND Enquiries Hub means that there is now a dedicated contact centre resolving around 50% of incoming calls themselves with the impact that communication has demonstrably improved.
- Enquiry Hub resolve 98.7% of parental enquiries within 5 working days.
- Reduction in proportion of 'Requests to Assess' being made by parents demonstrating that parents have an increased confidence in settings and schools.
- Phase transfer (year 6-7) improvements have built parental confidence and led to fewer children transferring to special and independent placements than in previous years.
- At Post 16 35% of the phase transfer cohort special placements are returning into mainstream settings in September 2024.

4.2.2 Area 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

- 70+% of responding parents confirmed their mainstream school was making adjustment for their child in the KCC Parent/carer survey April 2024.
- Evaluation of the impact of the Autism Education Trust support on parents of children who have autism showed over 70% of the 132 responding parents reported their autistic child is happy at school in comparison with 20-25% in surveys by the National Autism Society.
- All training is evaluated and refined with advice from the sector on improving implementation and impact.
- Multi-agency working groups (PRUs, Inclusion and Attendance Service, SEND inclusion advisors, Specialist Teaching and Learning Service, Educational Psychology service, Headteachers) are influencing and developing the training and support offer for schools.
- A delegation was invited to participate in the UNESCO global inclusion forum conference (March 2024, Paris) in recognition of the work being developed by Kent schools; learning from the UNESCO event is informing how we disseminate and celebrate inclusive practice.
- The second SENCO conference being planned for Autumn 2024 which is a major CPD event signposting SENCOs towards high quality training.
- Reduction of locally provided training in Early Years in response to sector feedback and to create capacity for Dingley's Promise training which has a strong evidence base of reducing demand for EHCPs.
- Analysis of the participation of schools that have not already engaged in the inclusion training offer. (N.B. While we are mindful that we do not have statutory

responsibilities for the majority (82%) of our secondary schools we are continuing to work with the entire sector to ensure maximum possible engagement.):

- Gap analysis undertaken of schools to understand if they have not participated to date because they are already inclusive, if they require support where school capacity is a barrier to engagement, or if there are other issues that need to be addressed.
- This evaluation and analysis are allowing the service to target the schools that will benefit most from additional support.
- A segmented approach is being developed shaped by Inclusion Champions so that engagement activities, support and challenge is appropriate to the individual situation of the school.

4.2.3 Area 3: That parents and carers have a limited role in reviewing and designing services for children and young people with SEND

- PACT have won a Healthwatch award for the work they have supported related to the provision of short breaks.
- Further surveys developed e.g., parental experience of the annual review process, to gather a wider range of feedback from a wider range of parents, to influence all aspects of our continuous improvement journey.
- Vision statement which has been adopted by SEND education and health in which every word was chosen by CYP attendees.
- Youth Council/Speak Out Group – Monthly meetings at which the young people determine which services and projects they become actively involved in, for example co-delivering Autism Education Trust training. Practitioners have said this 'Brings the training to life'.
- Feedback from parents and carers is being used to inform training and improvement, for example the commissioning of the Council for Disabled Children (CDC) to support practitioners to communicate effectively.
- Findings from the audits are triangulated with evidence from other sources so that the audit process informs continued improvement for quality of EHC plans, assessments, decision making and communication in the most rigorous way possible.

4.2.4 Area 4: An inability of current joint commissioning arrangement to address known gaps and eliminate longstanding weaknesses in the services for children and young people with SEND.

- Designated keyworker programme data shows Kent and Medway are front runners in the country. The impact on children and young people with a keyworker is clear demonstrated through significant reduction in the numbers of young people with learning disabilities and/or autism who are using acute mental health hospital beds and a correlating reduction in the average length of stay. These improvements are the result of establishment of stronger joint commissioning arrangements.

4.2.5 Area 5: Poor standards achieved, and progress made, by too many children and young people with SEND.

- The impact of the School Inclusion Champions has resulted in:
 - Improved and more consistent decision-making in Request to Assess, Agreement to issue and High-cost placement processes and panels.
 - Improvement to the quality of EHCPs.
 - Development, piloting and implementation of quality assurance of independent sector providers model.
 - Cross county school engagement to develop consistent definitions of predictable and exceptional need.
 - Significant contribution to building confidence in the SEN system as they are all respected leaders in the sector.
- KCC PIAS manager invited to share experiences and improvements with colleagues across South East, for which he a personal letter of thanks from the DfE was received.
- EP district reports show clear use of CATIE dashboard to target resources and interventions to improve outcomes.
- A focus on the outcomes for the post 16 young people with SEND, as the wider offer for post 16 provision is established. Kent consistently strongly outperforms England and the South East, for the percentage of learners with an EHCP who are NEET and Not Known. Performance improved in September and December 2023 and this correlates with introduction of the new SEND Post 16 team and new ways of working with The Education People's NEET Support Service.

4.2.6 Area 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.

Assessment and Placement:

- Since April 2023, Assessment team workloads peaked at a little over 2200 outstanding assessments, with 43.6% of these cases over statutory timescales. In May 2024, assessment workloads reduced to 1306, with 31.7% over statutory timescales. During this time, the team also received over 4500 additional new requests.
- In April 2023, the oldest outstanding case was 119 weeks old, compared to 48 weeks in May 2024.
- The team is on track to have no cases over 40 weeks by the end of June and no cases over 32 weeks by end of August.
- In April 2023, assessment teams completed 116 assessments, compared to 311 in May 24. This represents a 268% increase in team output with the same staff base, highlighting the impact of process improvements and training.

Phase Transfer:

- In the 6 to 7 process, 92% of families received an answer by the deadline compared to c.70% in 2023, which represent a roughly 30% improvement year on year.
- Those families for whom we were unable to offer a named placement, process improvements meant that were this year able to contact them to provide further assurance that work continued on their child's plan.
- Improvements in the inclusivity of our mainstream schools, which is vital to ensuring the full spectrum of need is supported across Kent.
- The Post 16 process saw 70% of families receiving an answer, compared to c.20-30% completed by the deadline last year. This accounts for an improvement of around 130% year on year and provides a strong footing for further improvements in the next Phase Transfer process.
- A formalisation of the new approach to Phase Transfer, with an expectation of 100% fulfilment of statutory duties for all cohorts from next year.

Annual Reviews:

- Over 5000 overdue annual reviews have been completed within dedicated backlog clearing teams.
- Prioritisation of pupils moving into Phase Transfer, to ensure better quality decisions can be made, improving transition arrangements between schools
- A full review of Annual Review processes, reducing administrative tasks by around 50%.
- Implementation of a Kent lead annual review school prompt pilot, to ensure annual reviews are held in a timely manner.

Wider system:

- Investment of an additional £2m in the 2024-25 budget to build further capacity in SEND statutory services.
- Robust learning loop from audits to practice (workshops) which has demonstrably increased the quality of the EHCPs produced.
- Learning loop has also directly informed the training of SEND staff, as well as positively influenced the culture and practice of the multi-agency partnership.
- Talk Tuesdays – This dedicated time has enabled over 3000 additional parents to be routinely contacts to improve communication and touchpoints
- Parent voice / views of parents gathered and represented accurately in EHCPs.
- A Feedback Framework has been developed with QA oversight over all feedback channels to highlight specific learning points and insights to ensure rigorous and informed practice improvement.
- 500 audits have taken place and of that number 50% were deep dives into child and young person lived experience.

- Evidence of improvement is coming through a number of routes - QA audits, DfE feedback, Inclusion Champion evaluation, feedback from individual headteachers and other professionals.

4.2.7 Area 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.

- An updated EHCP action plan that clearly shows sustained improvements in 3-month increments demonstrating that the 20-week timeliness is improving as well as the reduction in the number of assessments beyond 30 and 52 weeks.
- On track to clear all backlog beyond 32 weeks by August 2024
- Number of EHCPs issued since September 2023 has increased (demonstrating pace of backlog clearance), with a steady improvement in meeting the 20-week deadline.

4.2.8 Area 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.

- The system has implemented remedial actions to take to improve the support families were receiving while they await neurodevelopmental assessment.
- Significantly more children are seen quickly by the Specialist Medical Equipment Service.
- Neurodiversity assessment waiting times remain high. This is a nationally recognised issue and Kent & Medway ICB Kent is part of the South East Improvement Programme and the National Task force specifically focused on ADHD. However, working as a system we have taken action to improve the support families were receiving while they await neurodevelopmental assessment. Increasingly, we are seeing the number of referrals for ASD assessments dropping, which we believe is the improvement work undertaken by the 5 ND assessment providers in Kent and reflects the increased level of support families are receiving through health and education to support children and young people prior to referral and whilst waiting for assessments.
- There are currently 1,831 children. Waiting times for wheelchairs has significantly improved since December 2022 when only 50% of children received their wheelchair within the 18-week NHS target. Currently this stands at 65% -70%.
- The Balanced System model for Speech, Language and Communication Needs is being rolled out across the County. There has been a significant drop in waiting times. In May 2023 nearly half (49.3%) of assessments were seen within the 12-week, NHS standard waiting time. This has now reduced to 22.8% in May 2024. This is despite referrals doubling. In September there were 426 referrals and in May 2024 there were 894. The referral increase reflective of families receiving faster access to support.

4.2.9 Area 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.

- Data for attendance and exclusions is presented monthly in the APP scorecards, and significant work has taken place within an Attendance Working Group to provide guidance and resources for schools and develop a training course for frontline staff.
- Attainment and progress data is available annually and the SEND attainment and progress gaps in Kent will be reviewed again once summer 2024 results are published.
- Kent has a county wide comprehensive Emotionally Based School Avoidance support program which from Jan 2024 includes a comprehensive resource pack for parents. We have positive parental feedback indicating that it has changed their child's quality of life.

5. Developing a sustainable education system in Kent.

5.1 Overview All schools and settings are constantly evolving in response to government policy, emerging evidence-based practice, local concerns and the need to secure pupil engagement. Within this context, discussions have been taking place over several years to create a coalescence around a shared professional commitment to better meet the needs of children and young people through re-calibrating to develop an inclusive and sustainable education system in Kent.

5.2 Whilst Kent is in the positive position of having a very high proportion of schools which are judged Good and Outstanding by Ofsted, we know from our data analysis (the SEND sufficiency plan https://www.kent.gov.uk/_data/assets/pdf_file/0019/162802/SEND-Sufficiency-Plan.pdf), from feedback from parents and carers and from education leaders, we do not have the right SEND provision, in the right place, at the right time. The LA's statutory role as commissioner of school places and champion for children, young people and families provides a unique overview of the whole education system, as well as a statutory responsibility to make changes for the greater good. The LA's evidence base for decision-making is published annually in the KCC Commissioning Plan for Education and supplemented by the new SEND sufficiency plan. The LA holds this statutory role because decisions made by individual providers/schools/MATs (including those that are judged Good and Outstanding) which may be sound decisions for that particular organisation, do not add up to a functioning whole, system that provides places matched to demographic evidence of pupil need. This mismatch between the provision being made by some schools and the needs of children and young people is in part driving the high demand for places in the independent (private) sector as well as Home to School Transport costs.

5.3 Mainstream provision Previous reports have focused on the impact of the work with mainstream schools and wider education sector on developing SEND inclusion capacity. Over £3million has been invested in training which has been planned and delivered in collaboration with the Kent education sector since 2020 in partnership with national agencies such as the National Association for Special Educational Needs (nasen).

5.4 Whilst a range of generic and bespoke training continues to be provided across the education sector there is currently a particular focus on neurodiversity and autism through the Autism Education Trust programme which is being rolled out across the county over a three-year period. This quote illustrates the quality of the training being provided, 'The training was so useful, giving a more modern overview...this training was more focused on the children and supplied us with the tools to aid children who have autism effectively.' A suite of evaluation materials is available demonstrating how this programme is supporting schools to better meet pupil needs. Alongside this, specialist support services such as the Inclusion Advisers are being used in a much more targeted way, for example if a request for Assessment is turned down then the IAs will now work with the school/setting and the parent/carer to ensure they are accessing other support which is available. The new Accessibility Strategy, which will be consulted on during the autumn, will help to better align capital investment to be used more strategically in the future. The team of Inclusion Champions, leaders in the Kent education system who are promoting effective inclusive practice, seconded part-time to work with KCC are driving improvement internally through evaluating our systems and processes, as well as shaping our support and challenge to schools to be better aligned to meet school needs.

5.5 The review of Specialist Resource Provision (SRPs - units in mainstream schools) has led to the 65 of the 74 SRPs working to a new, consistent Service Level Agreement. The SLA provides clarity and will drive increasing consistency in the provision across the county as the level of support which is expected when a child attends an SRP is described and there is now a requirement to provide data on pupil outcomes. Collection and analysis of this data improves transparency about the benefits to pupils of attending an SRP and will demonstrate value for the investment of public money. One Trust has not agreed to the new requirements (which were developed in collaboration with the sector over the period of one year) and KCC is considering the implications of this for the nine SRPs currently commissioned from this provider. The review also enabled mapping of all the existing SRP provision as well as identifying gaps to inform scoping and costing new SRPs to fill those gaps. Work on expanding the current SRP provision into more schools to meet identified gaps is underway.

5.6 With regard to Alternative Provision (AP) including Pupil Referral Units, work is underway to co-construct a Quality Assurance Framework with the providers and mainstream schools.

5.7 **Localities** This is a model which devolves an agreed level of evidence-based decision-making, including about resourcing, to a more local level. Where it works well, much better use is made of education leaders' expertise and work on the model was started partly in response to headteachers' view that KCC was not making good use of existing expertise in the system. Research and soft consultation have been going on for a number of years, supported by a DfE recommended Adviser, considering the existing evidence base nationally, as well as pros and cons. The public consultation on Localities attracted a record number of responses. Feedback identified a pressing concern being the use of the suggested terminology 'Predictable' and 'Exceptional' need in relation to children with additional and special needs. In response, a piece of work was undertaken to develop a framework to support discussion as well as decision-making on placements and funding,

which practitioners would understand and have confidence in, the outcome was the 'Continuum of SEND need and provision'.

5.8 In consultation with a headteacher reference group, the communities (or groups) of schools have now been confirmed. Each community comprises between 8 and 14 primary and secondary schools (including special schools) and the grouping is based on the Primary Care Network boundaries to improve closer working with health.

5.9 The continuum of SEND need and provision This work has been led by Dr Alison Ekins - Director of SEND at Valley Invicta Academy Trust, a practitioner, academic and university tutor. The starting point was to undertake a piece of research on current practice in mainstream schools to understand the range of provision which is being made. Mainstream SENCOs were asked to describe their most complex pupils and the responses ranged from children that need an overlay to help them read through to children functioning at six and seven years behind their chronological age, sometimes non-verbal and with toileting needs. This confirms Ofsted and CQC's judgement that there is a concerning variation between in provision between schools. From this starting point a working document was drafted 'The SEND continuum of needs and provision' which builds on the well embedded and extensively used KCC Mainstream Core Standards. The original draft document has been further populated through a series of six well attended workshops (283 schools/MATs attended).

5.10 The media coverage and correspondence concerning this document has erroneously claimed it was developed by KCC officers with an intention to impose the requirements on schools. This is completely inaccurate. The contents were provided by school leaders, initially through the workshops above, then added to through consultation and discussion. The contents reflect the range of **existing practice** currently being delivered in Kent schools. This document, co-constructed with the sector and now being edited and work will continue in the next academic year, it is attracting positive national attention.

5.11 The feedback from the workshops below demonstrates the enthusiasm and support from across the sector for this development work and in fact there were no negative comments fed back at all –

- It's a better way forward
- Agree with the principles underpinning the Continuum and the values/vision. Can't believe it has taken Kent this long to be using this principle
- A useful discussion point for leaders to talk to staff
- Holding all schools to account for minimum standards
- Open conversations that are honest and transparent will ensure better spending of money.
- Sharing the model has added clarity
- Secondaries can use it to see what primary have been doing to support a child
- Better conversations between primary and secondary
- "Exciting proposals" – positive about pupils not being pigeon-holed by need type
- Positive about qualitative approach – problematic in terms of mind shift
- THIRSTY FOR MORE
- Pleased previous language has been changed
- The ability of school staff to understand what other schools are facing is really positive
- Idea in principle works
- Avoids magnet schools

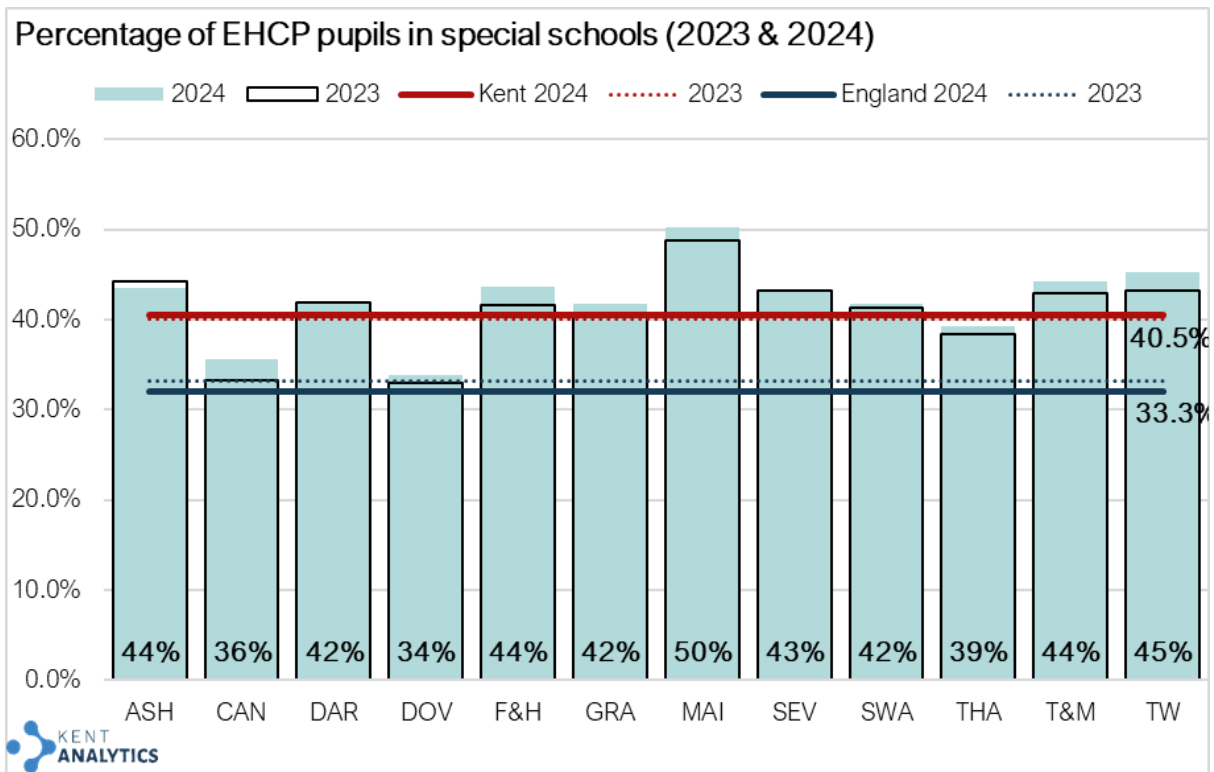
- Classification for other professional supporting with denying suitable provision for children with complex needs
- Yes, can see it helping understanding and provide clarity
- A generic/ standardised starting point
- Positive about the training directory as a network opportunity to develop expertise
- To develop provision and help staff understand and inform training
- Welcome move away from predictable and exceptional
- Helpful with Early Help and consultancy
- Stronger links with health and wider multi agency meetings
- Helpful as a guide, but need to look at individuals' requirements
- Parent version will be helpful
- Help to explain to parents the differences in needs, provision and support with parents deciding suitable placements
- Useful tool for discussion with parents
- Continuum will help families understand. Families don't understand EHCP does not come with final need and provision
- This would be really helpful to share with parents and develop their understanding
- Parental document would be very helpful to explain to parents
- Helpful to have the SRP mapped and identify whether a provision is right for Individual children.

5.12 There were also challenges back to the LA which are being addressed as this work is being progressed.

- How will KCC get equal provisions across Kent (for all schools)?
- What do the challenges look like for schools that are not welcoming for SEN children? Is there a backbone to this? How are Kent going to tackle those schools who are not being inclusive?
- Can see this working, but everyone needs to be held accountable including healthcare.

5.13 **The LA's role as commissioner of school places and the Special School review**

The LA's statutory duty as a commissioner of school places has been strengthened by last year's work developing the SEND sufficiency strategy. This level of data analysis enables evidence-based commissioning decisions to be made, rather than decisions being made on the basis of available places. Kent has a much higher proportion of children and young people attending special schools than is the case nationally as can be seen below, the variation between different districts in Kent can also be seen clearly.



5.14 A common response to Kent’s SEND challenges is to suggest building more special schools. As we are taking a measured approach, we are opening new provision to create capacity in the system to help us change. Leigh Academy Trust’s Snowfields ASD Academy has a new annex of 60 places opening on the Isle of Sheppey during September 2024 and a new secondary Social, Emotional and Mental Health (SEMH) school will open on the Isle of Sheppey on the 1st of January 2025, delivered by the Alternative Learning Trust (the previous provider withdrew at short notice delaying the opening of the school). ALT has opened a new temporary Alternative Provision the Isle of Sheppey and will be opening a new 11-16 Alternative Provision for 11-16 year olds in Northfleet, Jude’s Academy, timescale yet to be confirmed. Two new Profound, Severe and Complex Needs (PSCN) schools have been agreed, one 250 place school to be delivered by Leigh Academy Trust in Swanley and a second 120 place school in Whitstable to be delivered by the Fortis Trust. Alongside this, The Rosewood School is being expanded and there will also be new SRPs which are currently being planned.

5.15 Special schools do very positive work and play a unique and vitally important part in the system. A small proportion of children and young people do need high levels of adult support and may need support for the rest of their lives, for others, being in a context where there are high numbers of adults, a limited range of peer role models and a restricted curriculum can develop and embed dependency which can inhibit opportunities in adult life and we can see the impact of that in KCCs adult services.

5.16 The statutory position is that there is a presumption of a mainstream school place for a child, but more importantly there is an international evidence base of the benefits of an inclusive, mainstream education. These benefits are both social and educational, as well

as mainstream providing a better preparation for adult life by generally being more effective at promoting resilience and independence.

5.17 Through our consultation with young people, we know enabling them to develop the knowledge and skills to be more independent is really important to them which is another very important consideration. Special schools play a vital role in the system, which is why we need to make sure the offer is appropriate and matched to meet the needs of children and young people in Kent.

5.18 The inspection in September 2022 identified 'School leaders and local area staff express concern that specialist places are not allocated rigorously according to need, but rather in response to the level of challenge from parents and politicians. Consequently, this adds to inequities in the area's SEND system', so there is a clear mandate from both headteachers and the regulatory bodies to adjust the status quo.

5.19 Currently the admissions criteria for some special schools mean that they are turning away the most complex pupils and in some cases recommending a mainstream school as an alternative. For example, these are the published admissions criteria for a Kent Special school -

' Students at XXXX school must have an Education, Health and Care Plan with XXXXX as the primary need. Students must be working at, or close to, age expected attainment levels, within 2 years of age expected and capable of achieving GCSEs at the end of Year 11.'

5.20 The impact of this type of admissions criteria, is to create a situation in Kent where there are mainstream schools accommodating children and young people that have more complex needs than those in special schools. This is a recent example of a response from one special school to statutory consultation for a pupil –

From: [A Kent Special School]

Sent: Wednesday, March 27, 2024 11:48 AM

To: SEND Placements - CY <sendplacements@kent.gov.uk>

Cc:

Subject: Re: [SECURE] (EG) Consultation – [A Kent Special School] - Immediate or September 2024

Good morning

Following consultation, I can confirm that we are unable to offer.

A child's presenting needs are too high for [This Kent Special School]. Needs could be met at mainstream . A child can be confident and thrive in situations where she is interested, motivated and able.

Kind regards

[Name of SENCO]

5.21 To address the range of concerns and challenges outlined above, KCC instigated a review of Kent's 24 state funded special schools. The special school review has taken circa two years, all the special schools were visited individually to discuss the current offer together with senior staff, all the special school headteachers and a number of mainstream headteachers have had an opportunity to contribute and there is a robust evidence base for change. Special school funding has not been reviewed since 2010, so this element was also included in the review.

5.22 The purpose of the review was to:

- Help plan special school places for children with Special Educational Needs and Disabilities (SEND) who have an Education, Health, and Care plan, to ensure KCC is meeting its statutory duties as commissioner of school places to meet need
- Assess the designations of special schools across the county and clarify the admission guidance for special schools, ensuring fair access for children with severe and complex SEND
- Develop a sustainable funding plan for special schools
- Find ways to improve SEND services, educational outcomes, and inclusivity for children with complex needs in their local communities
- Suggest future options to foster collaboration between mainstream and special schools to create a fair and effective education system for all children in Kent

5.23 The review found that Kent relies too much on special schools for children with SEND, so in 2023/24:

- 17.7 out of every 1000 children aged 2-18 in Kent were placed in a state-funded special school, compared with an England average of 12.5 and
- 5.2 out of every 1000 children aged 2-18 in Kent were placed in a private special school, compared with the England average of 2.8.

Because state-funded special schools are full but not necessarily with children who have the most complex needs, more placements are made in private schools. Financially, spending on state-funded special school places has increased faster than the funding available. For example, from 2018/19 to 2023/24 Kent's spending on state funded special school places went up by 75%. Over that same time, spending in private schools increased by just over 116%.

5.24 As a consequence of the review, there were three changes proposed in the Special Schools consultation-

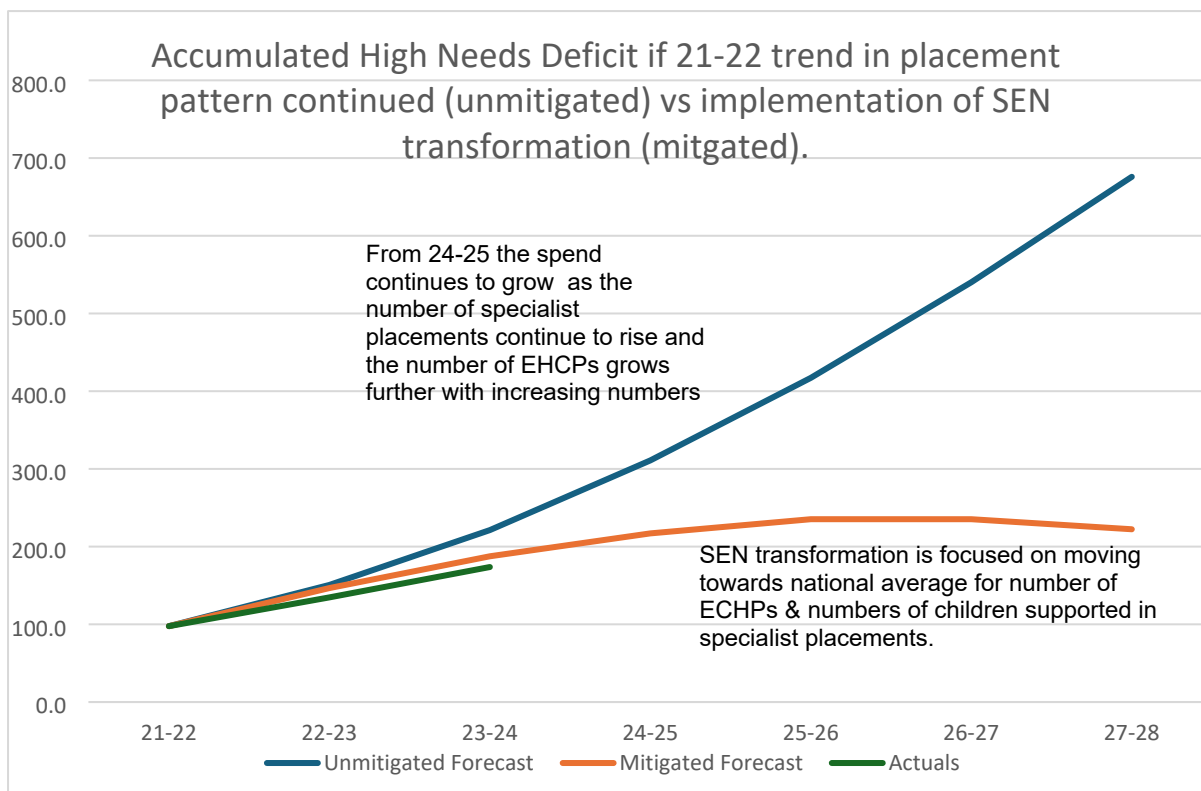
- Changing the designation of 7 of the 24 schools
- Changing the Admission guidance of 9 of the 24 schools
- Establishment of school-to-school support.

5.25 The responses to the consultation are currently being considered and will inform the next steps in the process, with a report to CYPE Cabinet Committee later this year. Given the level of growth in the specialist sector in Kent outlined above, seeing feedback to the consultation from parent/carers asking KCC not to close special schools was a particular concern and personalised communication was sent to these respondents. Making changes will enable KCC to fulfil its statutory role and commission places in response to the demographic data, placing children and young people with the most complex needs at our Special schools. This will mean schools developing their provision to meet pupil needs rather than identifying “suitable” pupils based on historic intakes. Kent’s engagement with LAs with strong SEN provision has highlighted that this approach is integral to developing a responsive and sustainable system.

5.26 Proposed changes to Special School designations School designations are not prescribed and vary greatly between LAs. Some LAs for example still have Moderate Learning Difficulties schools whilst others have established generic special schools which serve a geographic community rather than a need type. With regard to the SEND Code of Practice and types of special needs, again those types do not necessarily translate into school designations. For example, Kent currently has ‘Profound, Severe and Complex Needs’ schools, a category which does not exist in the COP. Another example is that there is the COP need type of ‘Communication and Interaction’ but schools meeting that type of need are generally called Autistic Spectrum Condition (ASC) or Disorder (ASD) schools.

5.27 Officers have taken the opportunity to introduce the designation ‘Neurodivergent with Learning Difficulties’ and the accompanying suggested admissions guidance makes it clear that these schools would be for children and young people who are ‘neurodivergent, may have a diagnosis of autism, ADHD or other conditions’. The term Neurodivergent is already used nationally as well as within Kent, and we want to be forward looking rather than backward facing in our change programme.

5.28 Financial sustainability Post inspection in 2019, SEND spending rapidly escalated. As can be seen below, had this level of expenditure continued unmitigated it could have resulted in an almost £700 million deficit by 2027-28.



5.29 The increase in spending brought neither improvement in SEND performance nor improved satisfaction of key stakeholders, leading to the 2022 inspection team to remark 'Dissatisfaction with provision for children and young people with SEND in Kent remains widespread, despite the local area spending more per child or young person than anywhere else in the country.' This indicates that without sound leadership, management, accountability and investment in the right systems and services, additional resources do not lead to improvement.

5.30 There has been some misunderstanding of the Safety Valve programme. KCC's entry into Safety Valve, the DfE's financial recovery programme, is bringing an additional £140 million into the Kent SEND system and the County Council has also provided an additional £80 million of local taxpayers resources to supplement the DfE contribution. Without the Safety Valve agreement, there would need to be £220m of savings made from the SEND system. This is simply because the SEND system in Kent currently costs more than the resources received for SEND services via the Dedicated Schools Grant. But the Authority has a responsibility to function within the resources available. To go outside of these boundaries requires the approval of the Secretary of State, hence the Safety Valve agreement.

5.31 Critics of the Safety Valve agreement would need to identify which areas would be cut to meet this cumulative overspend of £220 million. The contribution of £80 million of local taxpayers resources already equates to an additional council tax increase of nearly 10%. The cumulative overspend is largely the result of spending more on mainstream schools, special schools and independent placements. The table below indicates that the levels of spending in Kent are above the England, statistical neighbour and South East average, both in terms of place and top up funding¹:

¹ Department of Education SENFD benchmarking tool
<https://www.gov.uk/government/publications/high-needs-benchmarking-tool>

Table: High needs budget a amounts per head of 2 to 18 population (2022/23 budgets)

	Kent	England	Ten closest statistical neighbours	South East
Total place funding for special schools and AP/PRUs	£174	£149	£151	£142
Top up funding (maintained schools, academies, free schools and colleges)	£423	£357	£296	£329
Top up funding (non-maintained and independent schools and colleges)	£242	£160	£137	£222
SEN support and inclusion services	£66	£64	£73	£63
Alternative provision services	£33	£18	£13	£16
Hospital education services	£1	£5	£3	£3
Therapies and other health related services	£12	£5	£3	£11

5.32 Access to the additional government funding is dependent on the development of a more financially sustainable system over five years. KCC is achieving this by focusing on the following areas

- Implementing 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;
- Introducing 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 (CAIE) to support a consistent mainstream offer, including leadership development programmes, peer review and core training offer;
- Reviewing the system of EHCP assessments and annual reviews to ensure robustness, transparency, and consistency, through use of consistent criteria and practice framework;
- Implementing models of reintegration of children from special/independent schools to mainstream;

- Developing 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;
- Developing 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;
- Ensuring 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;
- Increasing 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;
- Continuing to 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.

5.33 These are all priorities that would need to be addressed anyway to improve the quality and effectiveness of the Kent education system and better meet the needs of children and young people even if KCC were not participating in the Safety Valve programme. It is difficult to understand which of these aspects' critics of the Safety Valve programme object to.

5.34 The LA has an existing statutory duty to set a balanced budget and ensure best value; the Safety Valve is aiding in supporting KCC better meet statutory duties. It supports officers in asking reasonable, professional questions – what difference does that make, what is the impact of that work and does that best meet the needs of children and young people? The Safety Valve is supporting the embedding of appropriate accountability right across the SEND system.

5.35 Following the revisit in September 2022, it was only the very rapid changes in leadership and strengthened governance that gave the Minister confidence (advised by the two government Departments) to issue an Improvement Notice in March 2023. The alternative was for an Intervention and for the Government to impose a team of external commissioners on KCC who would over-ride any local decision making and impose cuts to all non-statutory services to make savings. The continued confidence of the Departments and the new Minister demonstrates changes which are being made are the right ones to develop a higher quality and more sustainable education system.

6. Financial Implications

6.1 Post inspection in 2019, SEND spending rapidly escalated and if this level of expenditure continued completely unmitigated, the financial projections showed a potential deficit of almost £700 million by 2027-28. Even after taking into account actions already planned, there would still have been a considerable deficit of c£220m. So, KCC entered into the Safety Valve agreement with DfE which has secured additional funding of £140m for Kent over five years, subject to KCC taking action to develop a more financially sustainable

system. KCC has also contributed £80m to addressing the cumulative deficit. As with the majority of local authorities, this level of deficit on High Needs / SEND represents a considerable financial risk to KCC.

7. Conclusion

There was a general consensus informed by a range of evidence that the SEND system in Kent was in need of review and reform. A great deal of work has been undertaken to embed much-needed change, informed by extensive consultation with stakeholders and there is clear evidence of improvement. In parallel, work has been underway on system reform. Each strand of this work has its own robust evidence base and fits together to form a whole, which together will be more than the sum of its parts contributing to a much more effective SEND system. Whilst the scale of change is considerable, the challenges in the Kent system do need bold, urgent action to be addressed and the instruction from the Departments is to keep up the pace of change as we prepare the SEND system for inspection by Ofsted and Care and Quality Commission under the new framework.

8. Appendix

Appendix 1 - SEND related reporting to KCC committees April 2023- June 2024

Appendix 2 - First progress Review of APP 8th January 2024

Appendix 3 - Second Progress Review of APP 12th July 2024

Appendix 4 – SEND Improvement Notice 6th August 2024

Appendix 1 SEND related reporting to KCC committees April 2023- June 2024

CYPE CABINET COMMITTEE

Tuesday 16th May 2023

Countywide Approach to Inclusive Education Pages 189-232

<https://democracy.kent.gov.uk/documents/g9103/Public%20reports%20pack%2016th-May-2023%2010.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10>

Tuesday 18th July 2023

0-5 Strategy Task and Finish Pages 459 - 642

Kent Commissioning Plan - Update Pages 643 – 652, references to SEND in Section 4 Progress in commissioning provision for SEND pupils

<https://democracy.kent.gov.uk/documents/g9104/Public%20reports%20pack%2018th-Jul->

[2023%2010.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10](https://democracy.kent.gov.uk/documents/g9299/Public%20reports%20pack%2012th-Sep-2023%2010.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10)

Tuesday 12th September 2023

**Establishment of two new Special Free Schools, in Swanley and Whitstable
Pages 189 - 204**

<https://democracy.kent.gov.uk/documents/g9299/Public%20reports%20pack%2012th-Sep-2023%2010.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10>

Tuesday 21st November 2023

Commissioning Plan for Education Provision in Kent 2024-28 Pages 377 – 528

Kent SEND Sufficiency Plan 2023 Pages 529 – 592

<https://democracy.kent.gov.uk/documents/g9300/Public%20reports%20pack%2021st-Nov-2023%2010.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10>

Tuesday 16th January 2024

Early Years Review Pages 265 – 320

<https://democracy.kent.gov.uk/documents/g9301/Public%20reports%20pack%2016th-Jan-2024%2010.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10>

Wednesday 6th March 2024

Special Educational Needs - Therapy Contracts Report Supplementary report

**Local Government Social Care Ombudsman - Case 22 017 780 Public Report
Actions Pages 183 – 186**

**KCC's Contribution to the Children and Young People's Mental Health Service
(CYPMHS) Pages 187 - 214**

<https://democracy.kent.gov.uk/documents/g9302/Public%20reports%20pack%2006th-Mar-2024%2010.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10>

Thursday 16 May 2024

Specialist Nursery Intervention Service Level Agreement Extension Pages 27 – 44

Kent SEND Transformation Projects Pages 45 – 52

The Locality Model for Special Educational Needs Inclusion Pages 53 – 80

Proposals for the Review of Special Schools Pages 81 – 128

Specialist Resource Provision Review Update Pages 129 - 158

<https://democracy.kent.gov.uk/documents/g9303/Public%20reports%20pack%2016th-May-2024%2014.00%20Childrens%20Young%20People%20and%20Education%20Cabinet%20Committee.pdf?T=10>

SEND SCRUTINY SUB COMMITTEE

Wednesday 22nd March 2023

SEND transformation progress update Pages 3-14

<https://democracy.kent.gov.uk/documents/g9287/Public%20reports%20pack%2022nd-Mar-2023%2014.00%20SEND%20Sub-Committee.pdf?T=10>

Tuesday 6th June 2023

Education, Health and Care Plans in Kent Pages 7 – 24

<https://democracy.kent.gov.uk/documents/g9330/Public%20reports%20pack%2006th-Jun-2023%2014.00%20SEND%20Sub-Committee.pdf?T=10>

Tuesday 25th July 2023

Improvement Notice and Accelerated Progress Plan (APP) Update Pages 7 – 124

<https://democracy.kent.gov.uk/documents/g9365/Public%20reports%20pack%2025th-Jul-2023%2014.00%20SEND%20Sub-Committee.pdf?T=10>

Thursday 28th September 2023

Kent Local Area Accelerated Progress Plan Pages 7 – 98

Report by the Local Government and Social Care Ombudsman Pages 99 - 116

<https://democracy.kent.gov.uk/documents/g9366/Public%20reports%20pack%2028th-Sep-2023%2014.00%20SEND%20Sub-Committee.pdf?T=10>

Tuesday 31st October 2023

Parents Engagement and the Voice of the Child Pages 9 – 128

<https://democracy.kent.gov.uk/documents/g9367/Public%20reports%20pack%2031st-Oct-2023%2014.00%20SEND%20Sub-Committee.pdf?T=10>

Thursday 7th December

SEN Inclusion in Schools Pages 7 – 296

<https://democracy.kent.gov.uk/documents/g9368/Public%20reports%20pack%2007th-Dec-2023%2014.00%20SEND%20Sub-Committee.pdf?T=10>

Wednesday 7th February 2024

Accelerated Progress Plan - DfE and NHS England Review Pages 5 – 98

<https://democracy.kent.gov.uk/documents/g9369/Public%20reports%20pack%2007th-Feb-2024%2014.00%20SEND%20Sub-Committee.pdf?T=10>

Thursday 21st March 2024

SEND Sub-Committee - Annual Update Report Pages 5 - 30

<https://democracy.kent.gov.uk/documents/g9370/Public%20reports%20pack%2021st-Mar-2024%2014.00%20SEND%20Sub-Committee.pdf?T=10>

5. Recommendation

The Scrutiny Committee is asked to: Note the report.

Contact Details

Report Author

Christine McInnes, Director of Education and SEN
christine.mcinnnes@kent.gov.uk

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Department
for Education

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Sarah Hammond, Director of Children's Services, Kent County Council.
Lee Martin, Executive Director for SEND, NHS Kent and Medway Integrated Care Board.

By email to sarah.hammond@kent.gov.uk, lee.martin@nhs.net

8 January 2024

Feedback following the First Progress Review of Kent's Improvement Plan (APP)

Dear Sarah and Lee,

I am writing following our meeting on 15th November 2023 to review the progress against your Improvement Plan (APP).

Thank you to you and your teams for both the paperwork that was submitted prior to the meeting and for the contributions during the meeting. Particular thanks to the parent representatives, Bernie Hannon representing Kent PACT as well as all the school representatives. The local area's collective determination to making sustainable improvements to SEND services and to the lives of children and young people was clear. The evidence provided in advance alongside the additional information from partners during the meeting demonstrated a range of actions in place to accelerate improvement. We are aware that a significant part of the period we reviewed progress against has been an especially challenging period for many in senior leadership at Kent County Council due to the situation with unaccompanied asylum-seeking children.

Your Improvement Plan (APP) includes nine areas and our summary and feedback on the evidence you submitted is set out below.

Area 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.

From the evidence submitted and the information shared at the review meeting, many of the actions within this area have been implemented. For example, events such as the Autism information event have taken place, there has been a redesign of letters that are sent to parents and carers and there are surgeries and workshops in place to support the strengthening of health input in EHCPs, including providing support for caseworkers.

For the next review meeting we will be particularly looking for evidence of:

- Parental confidence has improved across the wider group of parents and how this information will be gathered.
- Engagement with the wider group of parents on activity by the local area to drive improvements, including evidence such as surveys.

- The impact of the focus on SEN support in mainstream schools on parental confidence.
- The impact of the SEND enquiries hub on parental engagement and SEND complaints relating to communications from KCC.
- Co-production of the health offer for special schools.

Area 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.

From the evidence submitted and the information shared at the review meeting, we note that many of the actions within this area are 'on track' to be completed. For example, training has been provided to a large proportion of schools, including a SENCO conference in March 2023. School-based decision-making panels have also allowed peer-challenge and problem solving.

For the next review meeting we will be particularly looking for evidence of:

- What plans have been put in place to improve the inclusion training offer to schools.
- The participation of schools that have not already engaged in the inclusion training offer.
- An analysis of the 15 February 2024 transfer data.
- The impact of progress made in reducing EHCNA requests as the core standards offer in schools becomes embedded and more widely understood and evidence of increased parental confidence in the SEN support offer in schools.
- A review of special school places, including resource provision.

Area 3: That parents and carers have a limited role in reviewing and designing services for children and young people with SEND.

From the evidence submitted and the information shared at the review meeting, we note the work around co-production that has been carried out with the Council for Disabled Children and that Kent PACT have been involved in reviewing and developing services. The reference to parental involvement in resolving a recent transport issue was a good example of parental influence on improving services.

For the next review meeting we will be particularly looking for evidence of:

- Children and young people's perception of their involvement in strategic decisions.
- Parental perception of their role in reviewing and designing services.
- The impact of the audit tool on gathering and acting on parental views
- The impact of implementing the training and support being offered via the Council for Disabled Children.

Area 4: An inability of current joint commissioning arrangement to address known gaps and eliminate longstanding weaknesses in the services for children and young people with SEND.

From the evidence submitted and the information shared at the review meeting, we note that good progress has been made in the strategic approach to joint commissioning, with emphasis on the data available across organisations to support decision-making. Evidence was provided which demonstrated monthly funding panels, deep dives conducted a strengthened governance approach and shared leadership across partner organisations.

For the next review meeting we will particularly be looking for evidence of:

- The direct impact these shared decisions have had on the lives of children and young people with SEND and their families.
- Evidence of how the newly established sit-reps have led to changes in joint commissioning that have positively influenced children and their families.

Area 5: Poor standards achieved, and progress made, by too many children and young people with SEND.

From the evidence submitted and the information shared at the review meeting, we note that many of the actions within this area have been implemented with some impact made. Good examples of improvement were shared such as the establishment of stronger relationships with a wider group of schools, establishing the role of the inclusion champions and the interaction with the post-16 sector. School leaders who we heard from were generally positive about the interactions they have with the local authority and the level of support that is provided. There were examples of training that has been provided to schools as previously mentioned under area 2, including others such as training for governors and the Inclusion Leadership Programme. The attainment gap for SEN support is slightly above the national average, which is an early indicator of improvement.

For the next review meeting we will particularly be looking for evidence of:

- The impact of the School Inclusion Champions.
- The impact of the work with schools and PRUs to improve attendance.
- How educational settings are using the CATIE data to improve the outcomes for children and young people.
- A focus on the outcomes for the post 16 young people with SEND, as the wider offer for post 16 provision is established.

Area 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.

From the evidence submitted and the information shared at the review meeting we note that there is better oversight of the statutory process and that an increase in the capacity has resulted in some improvement in timeliness. More robust quality assurance processes and feedback is beginning to have an impact, and there was assurance that this will continue to be an area of focus.

For the next review meeting we will be looking for evidence of:

- The impact of actions evidenced through improved EHCP timeliness data, particularly beyond 30 and 52 weeks.
- Parent/carers, and children and young people's views on the assessment process.
- A robust quality assurance process being in place, and how this has impacted the work of the assessment and casework teams.
- The impact of the attendance of health professionals at annual review meetings.
- An improvement in parental engagement throughout the EHCP assessment process through the qualitative and quantitative data.
- Assurance that the sample size of the audits are representative of all EHCPs.
- Evidence of an improvement in the quality of EHCPs.

Area 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.

From the evidence submitted and the information shared at the review meeting, we note that there is increasing evidence of much stronger governance and strategic oversight in place. There is evidence of work that has been co-produced with schools and Kent PACT. There is clear partnership representation at SIAB, PDG and the task and finish groups. There are communication channels in place with parents and carers and young people such as the use of newsletters to share information. There is a risk management strategy in place, and all SEND governance arrangements and terms of reference have been updated.

For the next review meeting we will particularly be looking for evidence of:

- The agreed area-wide ambition for children and young people with SEND is consistently seen across the partnership.
- An updated EHCP action plan that clearly shows sustained improvements in 3-month increments demonstrating that the 20-week timeliness is improving as well as the reduction in the number of assessments beyond 30 and 52 weeks.

Area 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.

From the evidence submitted and the information shared we note that significant progress has been made in the strategic direction of services to improve the waiting times for children to access specialist health input, including to the neurodevelopmental assessment and SALT services.

A reduction in waiting time for SALT support under the balance system was positively recognised. We are aware that there are minimal data points to suggest sustained reduction, however the positive direction of travel is acknowledged.

It was noted that there have been delays in implementing the necessary changes to the neurodevelopmental assessment pathway, however the system identified remedial actions they had taken to improve the support families were receiving while they were waiting. We heard of the positive approach taken to ensure a consistent methodology was being taken across multiple providers to ensure a single risk algorithm was in place, alongside the waiting list validation exercise.

We note reported recovery and sustained performance in the specialist medical equipment service, ensuring more children are being seen quickly.

For the next review meeting we will particularly be looking for evidence of:

- How feedback from children and young people and their families is being consistently used to influence service design and delivery.
- The impact the significant changes of the community service's re-procurement exercise and neurodevelopmental assessment programme is beginning to have on families waiting.

Area 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.

From the evidence submitted and the information shared at the review meeting we note that progress has been made in this area, however there is a lack of impact to evidence this progress. There is evidence of internal tuition provision delivery, although the attendance of children and young people with SEND is low. There is also evidence of co-production of SALT services.

For the next review meeting we will particularly be looking for evidence of:

- The qualitative and quantitative data such as attendance, exclusions and academic achievements
- The review of the Children and Young People's outcome framework as part of the SEND strategy.

Overall, it is evident that progress has been made by the local area across all nine areas in the Improvement Plan (APP), and that there are strong governance arrangements and a strategic oversight in place. The statutory compliance of Kent County Council's SEND services is on a positive trajectory and it is imperative that the pace of this improvement is maintained.

However, as you are aware, there is still significant progress to be made, particularly in demonstrating the impact of actions on the lives of children and young people with SEND and their families. Work stream leads need to ensure that all actions in the Improvement Plan (APP) within each area of weakness are being addressed and the impact of these actions is evidenced at the next progress review meeting. There needs to be a sustained effort to ensure that the voices of children and young people with SEND and the wider groups of parents is captured and acted on both on an individual and at a strategic level.

One specific requirement in the Improvement Notice issued on 31st March 2023 was that Kent County Council would, "provide a clear plan to ensure that it has in place, within six months from the date that the Improvement Notice is published, a permanent, suitably trained, SEND case work team of sufficient capacity to enable the effective delivery of the Education, Health and Care ("EHC") needs assessment and review system including effective partnership working systems with advice writers to help improve both the timeliness and quality of the EHC plans." I can confirm that we are satisfied that Kent County Council has met this commitment.

The Improvement Notice also states that the Council should aim for the majority of the actions included in the Improvement Plan to be delivered by the end of April 2024 (i.e. within 18 months of the Ofsted and CQC revisit) or sooner, where appropriate. The Department and NHSE will therefore undertake a further review of progress against the Improvement Plan (APP) in April 2024. Although we have highlighted specific areas of focus above, we will require an update on all actions in the Improvement Plan (APP) for this review. In the meantime, please do draw upon the support that is available to you from both DfE (Jasmine Hussain and Liz Flaherty) and NHS England (David Keaveney-Sheath).

I am copying this letter to Amanda Beer, Paul Bentley, Cllr Roger Gough, Cllr Rory Love OBE, Christine McInnes, Abigail Kitt as well as Liz Flaherty (SEND Adviser), Adanna Williams and David Keaveney-Sheath (NHSE).

Yours sincerely,



Sarah Dimond-Smith
Head of Vulnerable Children's Unit,

South East Regions Group.



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Sarah Hammond, Director of Children's Services, Kent County Council.
Lee Martin, Executive Director for SEND, NHS Kent and Medway Integrated Care Board.

By email to sarah.hammond@kent.gov.uk, lee.martin@nhs.net

12 July 2024

Feedback following the Second Progress Review of Kent's Improvement Plan (APP)

Dear Sarah and Lee,

I am writing following the second Improvement Plan (APP) formal progress review meeting held in Maidstone, Kent on 29th April 2024, and our subsequent TEAMS meetings with parents and carers from Kent on 22nd May 2024. We thank you for your patience in awaiting this reply, which we were unable to send sooner due to the General Election pre-election period.

Thank you to you and your teams for both the paperwork that was submitted prior to the meeting and for the contributions during the meeting itself. I would like to give particular thanks to Christine McInnes for organising the additional meetings with parents and carers, to Bernie Hannon for representing Kent PACT, as well as to Graham Razey and all other school representatives who attended the review meeting. During the meeting, the local area demonstrated a collective determination to make sustainable improvements to SEND services and to the lives of children and young people with SEND. The evidence provided in advance alongside the additional information from partners demonstrated a range of actions being taken to accelerate improvement. We would like to thank colleagues for their work in ensuring that the evidence submitted prior to the review meeting was presented in a clear and easily understood format.

Your Improvement Plan (APP) includes the nine areas which were highlighted by Ofsted and CQC as areas of weakness in Kent's local area SEND revisit in September 2022. Our summary and feedback on the evidence you submitted is set out below.

Area 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.

From the evidence submitted and the information shared at the review meeting, you report some progress in this area. There is evidence of engagement with a wider group of parents to drive improvement. There has been an increase in compliance of health

professionals against the SEND Training Assurance Framework. Partners are committed to improving communication with families. From the work of the Inclusion Champions, there is early evidence of growing levels of trust between families and schools.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against action 1A4. This means we will reduce formal monitoring of this action.

For the next review meeting we will be particularly looking for evidence of:

- Evidence of increased parental satisfaction with the EHCP process.
- The impact of the SEND enquiries hub on parental engagement and SEND complaints relating to communications from KCC.
- Co-production across the local area partnership of the health offer for special schools.

Area 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.

From the evidence submitted and the information shared at the review meeting, it is evident that some actions within this area are starting to have their intended impact. You report that the inclusion champions are having an impact on the approach of schools to developing more inclusive practices, and there is evidence of growing confidence among parents and carers of mainstream schools accommodating children and young people's SEND needs. The co-production transition charter is in place and there is some evidence of its impact on systems.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against actions 2B2, 2B3, 2D1 and 2D2. This means we will reduce formal monitoring of these actions.

For the next review meeting we will be particularly looking for evidence of:

- The plans that are in place to secure parental confidence of SEN support and the Core Standards offer within mainstream schools.
- An update on the Early Years review.

Area 3: That parents and carers have a limited role in reviewing and designing services for children and young people with SEND.

From the evidence submitted and the information shared at the review meeting, we have noted an increased use of the voices of children and young people in reviewing and designing services. There is evidence of collaboration with Kent PACT, such as the collaborative work on the Short Breaks Programme. You have developed the Lived Experience Framework which aims to bridge the gap between policymaking and the lived experiences of children and young people with SEND and their families. You have created the Shadow Board and have provided evidence of feeding in the views from the Shadow Board to SIAB. You have initiated the discovery work with the Council for Disabled Children to refresh the Co-Production Charter, which aims to ensure that the voices and perspectives of stakeholders remain at the forefront of decision making. You have hosted and facilitated the VCSE (Voluntary Community and Social Enterprise) sector event on children and young people which enabled the SEND department and health professionals to come together to collaborate and share insights

on health-related initiatives, ensuring a holistic approach to supporting the wellbeing of children and young people with SEND.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against actions 3A1, 3A3, 3B1, and 3B4. This means we will reduce formal monitoring of these actions.

For the next review meeting we will be particularly looking for evidence of:

- Engagement with a broader reach of parents, and their role in reviewing and designing services for children and young people with SEND.
- The impact of improved communication channels with parents such as Talk Tuesdays and the Enquires Hub.
- Feedback from parents on the re-designed letters.
- The continued use of the voice children and young people across the SEND system to improve services.
- An agreed and implemented Co-Production Charter.

Area 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.

From the evidence submitted and the information shared at the review meeting, we note that significant progress has been made in this area. You have drawn together a lived experience framework. You have provided evidence of implementing this work on the frontline, for example to support a child with autism. A communications strategy for mental health has been developed and signed off and you are re-procuring the emotional and wellbeing mental health offer for children and young people in Kent. Therapies is a priority for joint commissioning, and through the development and implementation of the iThrive framework, there is evidence of engagement sessions with children and young people to gather feedback which has supported the work. You have recently launched the self-harm guidance as part of the Thrive Framework. It is reassuring that the Neurodiversity work and the 'This is me' project to support early intervention, are no longer pilots and have been rolled out with additional funding. Governance of this area goes through the SEND Board, the LDA Governance structure and the joint CYP Programme Board as an integrated care system. There is consistency across the ICB in Kent and Medway on working together with Kent PACT and Medway PCF.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against several actions in area 4. This means we will reduce formal monitoring of actions 4A1, 4B2, and 4C1. Going forwards, we will incorporate formal monitoring of action 4C2 into Area 7 and action 4C3 into Area 8, to simplify future monitoring arrangements. For the next review meeting we will particularly be looking for evidence of:

- The joint commissioning delivery plan.
- The Lived Experience Framework implementation plan.

Area 5: Poor standards achieved, and progress made, by too many children and young people with SEND.

From the evidence submitted and the information shared at the review meeting, we note that you have promoted Quality First Teaching and Assessment and further

embedded mainstream Core Standards across mainstream schools. You have implemented the Countywide Approach to Inclusive Education (CATIE) and have delivered the Inclusion Leadership Programme with evidence of positive feedback from schools that have participated. You have delivered the EEFfective Kent project, though the evaluation for this is yet to be completed. We heard positive feedback from school leaders about the interactions they have with the local authority and the level of support that is provided.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against actions 5A3, 5B2 and 5E2. This means we will reduce formal monitoring of these actions.

For the next review meeting we will particularly be looking for evidence of:

- The impact of the EEFfective Kent project.
- The impact of the Nutureuk contract.
- The impact of CATIE on schools.
- An update on the Localities Model.

Area 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.

From the evidence submitted and the information shared at the review meeting, we note there have been improvements in systems and processes such as the review of the timescales and workload of EHCNAs. The SEN service is still adapting to the new ways of working, but we heard positive feedback from parent and carers and children and young people, particularly from those who have had an EHCP issued within the last 6 months. You have updated the processes for updating EHCPs following an Annual Review (AR), particularly at phase-transfer. You have developed a multi-disciplinary training for health practitioners. There is a designated key worker in post as part of the Dynamic Support Service. You have established supported internships and provided evidence of the positive impact of this on the lived experience of young people. There has been an improvement in clearing the backlog of EHCPs across 30 and 52 weeks, though there is still some work to do meet the 20-week statutory deadline of EHCPs.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against actions 6A1, 6C2, 6F2, 6F3, 6G1 and 6H2. This means we will reduce formal monitoring of these actions.

For the next review meeting we will be looking for evidence of:

- A robust quality assurance process being in place with the assessment team, the casework team and health, and evidence of how this has impacted the work of the assessment and casework teams.
- Evidence of an improvement in the quality of EHCPs.
- Improved communications with parents and carers.
- The impact of the work with schools to improve the AR process.
- Increased health attendance at AR meetings and contribution to the EHCP process.

Area 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.

From the evidence submitted and the information shared at the review meeting, we note that work has been completed across the partnership to update the vision statement. The Transformation Programme has been published as part of the Local Offer. SIAB and PDG are established governance forums with clear Terms of Reference and membership. Partnership representation has been overhauled within new governance arrangements and a SEND Health Network Meeting has been created to provide oversight of health commissioning.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against actions 7A1, 7A2, 7A3, 7A4, 7B1, 7B3, 7C1, 7D1, 7D2, 7D3, 7E1, 7F1 and 7F2. This means we will reduce formal monitoring of these actions.

For the next review meeting we will particularly be looking for evidence of:

- An updated and published co-produced SEND Strategy.
- That the use of the voice of children and young people is embedded across all relevant governance arrangements.
- An updated risk register.

Area 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.

From the evidence submitted and the information shared we note that considerable progress has been made in this area. The evidence provided has indicated that some actions have now been embedded and positive impact has been seen. Many projects have been initiated to meet the needs of children and young people with speech, language and communication needs and neurodiversity such as the 'This is me' pilot, the balanced system framework, and Little Talkers. You have developed the communications strategy and engagement plan for emotional wellbeing and mental health, which has resulted in communications improvement across 5 NHS providers for families waiting for ND diagnostic assessment. You have reverted online assessments to face-to-face appointments, with no complaints received. You have improved waiting times for specialist health equipment to under 18 weeks and have provided evidence of the positive impact of this on children and young people and their families.

Based on the evidence and information provided, it is the view of the Department and NHS England that you have demonstrated clear and sustained progress against actions 8A5, 8E1, and 8F1. This means we will reduce formal monitoring of these actions.

For the next review meeting we will particularly be looking for evidence of:

- The uptake and impact of online school health assessments.
- The progress and impact of ND alternative screening.
- The progress and impact of learning disability health checks.
- ND waiting times, and the impact of initiatives to support CYP and families whilst waiting for an assessment. This is inclusive of CYP waiting for an ADHD assessment.
- The access to Educational Psychology services.

- SLT waiting times and the impact of initiatives to support CYP and families whilst waiting for an assessment.

Area 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.

From the evidence submitted and the information shared at the review meeting you report that progress has been made in this area. There is increased engagement with children and young people with SEND, particularly in capturing their voices and views. There is improved school attendance data for children and young people with SEND and the tuition offer for EOTAS pupils is more secure.

For the next review meeting we will particularly be looking for evidence of:

- Qualitative and quantitative data on academic achievements

In summary, it is evident that the local area has made further progress in all nine areas of the Improvement Plan (APP) with the most progress in respect of area 4 (*“inability of current joint commissioning arrangements to address known gaps and eliminate longstanding weaknesses in the services for children and young people with SEND”*). It is the view of DfE and NHSE that we no longer need to formally monitor this area, with action 4C2 to be incorporated into Area 7 and action 4C3 to be incorporated into Area 8. We will be in touch to arrange a meeting to discuss how to incorporate remaining actions in other areas, to simplify future formal monitoring.

I know that this positive result is due to a great deal of commitment and hard work across the local area partnership to address the areas of weakness highlighted in the SEND revisit report by Ofsted and CQC in November 2022. I would like to thank you for everything you are doing to support some of the most vulnerable children and young people in your local area and encourage you to continue with these efforts and build on your successes across all remaining areas of your Improvement Plan (APP).

However, as you are aware there is still progress to be made, particularly in demonstrating the impact of some of the remaining actions on the lives of children and young people with SEND and their families. The voice of young people is an emerging piece of work, and it is important this aspect of the Improvement Plan is an area of focus, as well as continuing to improve communication with, and thereby the confidence of, a wider group of parents.

For the next review meeting, please report any relevant updates on actions that have been reduced for formal monitoring, along with an update on all remaining actions in the Improvement Plan (APP). We will aim to arrange the third Improvement Plan (APP) review meeting for December 2024.

Your Improvement Notice states that *‘the Department will undertake a review of progress against the Improvement Plan in April 2024 to determine whether progress has been sufficient’*. Once a Ministerial decision has been made regarding the status of Kent’s Improvement Notice, we will communicate this decision to you.

I am copying this letter to Amanda Beer, Paul Bentley, Cllr Roger Gough, Cllr Rory Love OBE, Christine McInnes, Abigail Kitt as well as Liz Flaherty (SEND Adviser), David Keaveney-Sheath and Adeline Gibbs (NHS England).

Yours sincerely,

Catherine

Catherine Norrie

Head of Vulnerable Children's Unit,
South East Regions Group.

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Janet Daby MP

Minister for Children and Families

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tel: 0370 000 2288 www.education.gov.uk/contactus/df

Amanda Beer, Chief Executive Kent County Council
Cllr Roger Gough, Leader of the Council
Cllr Rory Love OBE, Cabinet Member for Children's Services, Education and Skills,
Kent County Council
Sarah Hammond, DCS, Kent County Council
Paul Bentley, Chief Executive, NHS Kent and Medway Integrated Care Board
Lee Martin, Executive Director for SEND, NHS Kent and Medway Integrated Care
Board

6 August 2024

Dear Amanda, Cllr Gough, Cllr Love, Sarah, Paul and Lee,

Local Area SEND Improvement Notice

Following the local area SEND revisit inspection undertaken by Ofsted and the Care Quality Commission in November 2022, an Improvement Notice (IN) was issued to Kent County Council (KCC) with the expectation that urgent action needed to be taken to improve services for children and young people with SEND.

After the formal review meeting of Kent's Improvement Plan on the 29 April 2024 between representatives and partners from the local area, and DfE and NHSE officials, I was encouraged to read that the local area was able to demonstrate evidence of considerable progress since the IN was issued. I have noted that strengthened capacity and strong governance arrangements, alongside renewed commitment from senior leaders and improved partnership working across the local area has increased the pace of change over the last 16 months.

I have therefore taken the decision to lift the IN on the understanding that the provision of SEND services remains a priority for all in the local area. KCC has delivered against the expectations set out in the IN to improve services for children and young people with SEND, and my decision is a reflection of the hard work undertaken by the local area to improve services. However, there is still further progress to be made on the outstanding actions in your Improvement Plan.

My officials will continue to support your ongoing improvement alongside NHSE officials, through the six-monthly reviews of Kent's Improvement Plan and regular DfE attendance at SEND Improvement and Assurance Board meetings.

Thank you for the commitment and hard work of the partners and members of the SEND improvement and assurance board and I look forward to the continued

improvement of services for children and young people with SEND in the Kent Local Area in future.

I am copying this letter to Liz Flaherty, the DfE SEND Adviser for Kent, David Keaveney-Sheath and Adeline Gibbs, the NHS England SEND Advisers for Kent, Lorraine Mulroney, National Specialist Adviser-SEND, NHS England and to Kent MPs.

Yours sincerely,

A handwritten signature in black ink that reads "Janet Daby." The signature is written in a cursive style with a large initial 'J' and a long, sweeping tail on the 'y'.

Janet Daby MP
Minister for Children and Families

From: **Derek Murphy, Cabinet Member for Economic Development**
Simon Jones, Corporate Director Growth, Environment and Transport

To: **Scrutiny Committee – 18 September 2024**

Subject: Short Focused Inquiry – Section 106 Contributions – formal response to recommendations

Classification: **Unrestricted**

Recommendation:

Scrutiny Committee is asked to;

NOTE the further and updated responses to recommendations made in the Short Focused Inquiry Report into Section 106 contributions (October 2022) and make any recommendations to the Cabinet Member for Economic Development.

Introduction

- 1) In the light of growing concerns regarding the current system of securing development contributions through Section 106 agreements / the Community Infrastructure Levy (CIL) and at-the-time proposed changes to national policy, a specific Short Focused Inquiry (SFI) was conducted by KCC Members in October 2022. A full copy of [the final report](#) containing details and final recommendations can be found using the link.
- 2) The SFI made six recommendations, a number of which have already been acted upon. This report seeks to provide an updated response to those six recommendations, inclusive of information following the change in national Government.

Proposed Response to Recommendations

- 3) *Recommendation 1. The Committee applauds the initiative to organise, as soon as possible, an All Member Briefing that provides KCC Members with information and advice about developer contributions. The Committee recommends that this All Member Briefing should:*
- 1. Provide comprehensive information and financial data on developer contributions that cover the different forms of infrastructure that KCC is responsible for and outline the key challenges it faces.*
 - 2. Clearly explain how KCC Members can be briefed and can be actively involved in the early stages of the planning process.*
 - 3. Be updated and provided at regular intervals.*

Two All Member Briefings (AMBs) were held on 31st October 2022 and 6th June 2024. These briefings are understood to have been well received and addressed the three points listed above.

Moving forwards, it is now proposed to hold an AMB each year and with the opportunity for Members to shape the agenda for each briefing in consultation with the Cabinet Member for Economic Development.

With regards to financial data, Kent County Council (KCC) publishes an annual '[Infrastructure Funding Statement](#)' at the end of every calendar year which provides detailed information for the previous financial year. A [report](#) on the 2022/23 financial year was presented at the January 2024 GED&CCC, where Members resolved to note the report.

Detail on when/how Members may be engaged and appropriately involved in the planning process can be found in the slides distributed following the AMB in 2024. The slides can be requested again by emailing Developer.Contributions@kent.gov.uk.

- 4) Recommendation 2. *The Committee believes that KCC Members should be advised early enough on planning applications to be able to have an input into Section 106 agreements. The relevant KCC services should inform KCC Members at the earliest possible time of proposals for new housing development in their own divisions.*

The AMB contains detail and information as to how Members are informed at the earliest possible time of proposals for new development in their own divisions. The most effective and influential opportunity for Member engagement and representation is made during Local Plan or Neighbourhood planning processes.

KCC infrastructure and service requirements are determined by the relevant services in accordance with their delivery strategies, as agreed by the relevant Members and following an appropriate formal governance process. Officers prepare planning application responses and negotiate on Section 106 agreements to provide an overall corporate position, in accordance with adopted KCC policy.

Members are invited to comment via email by KCC's Strategic Planning and Infrastructure Service on Local Plan consultations at the outset of the process and a reminder is issued towards the close of the consultation. It is at this consultation stage that influence is of the greatest magnitude because responses can inform Local Plan preparation and it is the policies within those Plans which planning applications are determined against.

It is recognised that Members may also have their individual opinion which may not be in alignment with KCC policy. Members can provide independent planning responses to the relevant local planning authority citing their opinion. Officers provide technical responses, without prejudice and strictly in accordance with legislation and policy to ensure both integrity and consistency are maintained.

The contents within Section 106 agreements must meet the necessary legal tests as set out in paragraph 57 of the NPPF. Obligations must only be sought where they are directly related and specific to an individual planning application. In many cases, Section 106 agreements are prepared and sealed by the local planning authorities (LPAs) without KCC being a party to them. This significantly reduces the levels of influence that KCC has in their drafting. Officers are working to secure protocol arrangements with our LPA partners that would allow for the Development Investment Team and KCC legal officers additional levels of scrutiny of their preparation.

Any particular queries regarding the outcome of the planning process in terms of the associated Section 106 agreements specifically may be directed to Developer.Contributions@kent.gov.uk

- 5) Recommendation 3. *KCC's Cabinet Member for Economic Development should write to the Secretary of State for Levelling Up, Housing and Communities and urge him to:* Page 61

1. *Introduce a legal requirement for LPAs in 2-tier areas to pass a proportion of CIL funds to the County Councils for their areas.*
2. *Enable County Councils in 2-tier areas to adopt their own CIL charging schedule in order to self-determine the funds required to provide the infrastructure that needs to accompany new development, and to collect and allocate the funding for that infrastructure.*

The County Council continues to proactively make appropriate representations in response to Government planning reforms on all matters relating to growth and infrastructure. Last year, Officers provided a [response](#) on the proposed changes to the NPPF introduced by the Levelling Up and Regeneration Act, the National Planning Policy Prospectus and also the consultation on the Infrastructure Levy. A consultation briefing was provided to the Planning Applications Committee and GED&CCC.

The new Government has, however, removed much of the former's proposed planning reforms and announced that it will not implement the Infrastructure Levy introduced in the Levelling-up and Regeneration Act 2023. Officers are in the process of responding to the new Government's [proposed changes to the NPPF](#).

- 6) Recommendation 4. *When responding to the Government's consultation on the Levelling-Up and Regeneration Bill, KCC's Cabinet Member for Economic Development, and the relevant KCC services, should make it clear that the levels of developer contributions received by KCC through the new Infrastructure Levy must be appropriate and sufficient to meet the costs of providing the infrastructure that needs to accompany new development.*

KCC's Cabinet Member for Economic Development has written directly to the previous Secretary of State for Levelling Up, Housing and Communities (Michael Gove) and will do so to both the new the new Secretary of State for the Ministry of Housing, Communities and Local Government (Angela Rayner), as well as the Minister for Housing, (Matthew Pennycook) to set out the challenges KCC is currently encountering, particularly under the CIL regime, and urging the Government to strengthen upper-tier authority powers through its proposals for planning reform. The County Council did not receive a response to its original letter to Michael Gove and therefore the latest letter is intended to reiterate the County Council's concerns regarding the access to funding, and ability to plan for strategic infrastructure.

KCC's initial response to the previous Government's NPPF proposals and pending response to the new Government's, have been made in line with recommendation 4. KCC provided details on the difference between what it would have asked for through Section 106 and the amount of CIL received. KCC receive only 6% of the entire CIL income generated across the County. This was also reported in a [paper](#) to the January 2024 GED&CCC and Members resolved to note the report.

- 7) Recommendation 5. *KCC should work with all of Kent's Local Planning Authorities to secure, unless there are exceptional circumstances, a minimum of 20% Biodiversity Net Gain from new developments.*

In 2022, an assessment was commissioned to determine the impact a 15% and 20% Biodiversity Net Gain (BNG) target would have on development viability in Kent. The findings were presented to, and discussed with, Kent's LPAs, as well as with developer groups. A number of LPAs in Kent have included a policy for 20% BNG within their draft local plans, the earliest of which was recently adopted in Maidstone earlier this year. There are, however, a number of LPAs undertaking local plan reviews who have been clear that they do not feel that they are in a position to adopt an enhanced BNG target.

Through the Kent BNG Officer role (a role that is jointly funded by the Local Planning Authorities and hosted by KCC), KCC is taking forward work to explore and understand barriers so that it can support all LPAs to pursue the adoption of 20% BNG in future local plan reviews and to assess the supply and demand of BNG units across Kent's LPAs.

- 8) Recommendation 6. *KCC's Cabinet Member for Economic Development should lobby the Secretary of State for Levelling Up, Housing and Communities and ask him that, when a financial contribution is made by a developer but is not used by the relevant local authority in the agreed timeframe, it must be given directly to the local community that it was intended for, rather than returned to the developer.*

The basic premise of the existing system is that Section 106 legal agreements have contractually 'mutual obligations' imposed on each of the parties to the legal agreement to perform. This means that KCC has to spend contributions secured under the current system (and clearly within the current legislation) on the services and projects specifically identified in order to meet the stated legal tests. This requires any mitigation secured to meet the three tests of the NPPF mentioned earlier in this report. It is general practice to set a repayment date at 10 years of completion of a development and this is endorsed for Education contributions by the Department for Education [guidance](#) on developer contributions.

Applications for Deeds of Variations can be made to the Local Planning Authority if projects have changed, or a different need is identified. The Development Investment Team has a continual review of older agreements to ensure funding is not returned to developers.

A more flexible approach to the use of developer contribution definitions is promoted in the adopted Developer Contributions Guide.

Conclusion:

- 9) Action has been taken in direct response to the original six SFI recommendations and they continue to inform the Authority in both the preparation of County Council policy and responding to national government consultations on planning reform.
- 10) The recommendations of the Short Focused Inquiry have provided a lasting legacy of transparency, Member engagement and improved understanding of developer contributions. There is an ongoing commitment to the provision of annual AMBs on the topic, along with the reporting of annual papers to the GED&CCC on the latest Infrastructure Funding Statement and the CIL position.

Recommendation:

Scrutiny Committee is asked to;

NOTE the further and updated responses to recommendations made in the Short Focused Inquiry Report into Section 106 contributions (October 2022) and make any recommendations to the Cabinet Member for Economic Development.

Background Documents

- [Original Scrutiny Report](#)

Contact details

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By: Anna Taylor, Scrutiny Research Officer
To: Scrutiny Committee, 18 September 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,
 - b. 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

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Work Programme - Scrutiny Committee September 2024

Items identified for upcoming meetings

Date requested	Item
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 – potentially 6 month on review. Ensure minimal duplication in Committee.
April 2024	European Union Entry Exit System – further monitoring

Work Programme

23 October 2024	
Item	Item background
Capital Works Provider Management and Engagement	Requested by the Chairman and Spokespeople of the Committee following urgent decision relating to Chilmington Green Secondary School.
Highways co-ordination of road closures for works	Item on E&TCC agenda for 19 September – item to be reviewed depending on discussion at Cabinet Committee.

4 December 2024	
Item	Item background
Draft Budget 2025/26 and MTFP	
SEND Scrutiny	Quarterly Reporting

Homeless Connect	Requested on 06.06.23 - report back on social and financial impacts of the decision to end funding to Homeless Connect – deferred from July meeting
Kent Flood Risk Management Committee Annual Report	As required by the constitution

Provisional Future Items

Jan 2025 – Draft Budget and MTFP

June 2025 – Budget monitoring year end

June 2025 – Scrutiny Committee meeting as Crime and Disorder Committee

November 2025 – Kent Flood Risk Management Committee Annual Report

November – Draft Budget