

**From: Sue Chandler, Cabinet Member for Integrated Children's Services**  
**Sarah Hammond, Corporate Director Children Young People & Education**

**To: Cabinet – 21 July 2022**

**Subject: SEND Green Paper Consultation – Kent County Council consultation response submission**

Non-Key decision

Classification: **Unrestricted**

**Electoral Division:** County-wide – all divisions affected

### **Summary:**

This report summarises the headlines from the council's response to the draft SEN Green paper released by the government 30<sup>th</sup> March 2022. The full and final response for submission is attached as Appendix A. In drafting this consultation, both members and officers have convened stakeholder engagement sessions to canvass views from partners, parents/carers, and young people.

The response has also taken into consideration the unique pressures currently facing the county in terms of SEN demand, the challenges in meeting this demand, and the potential impact of recommendations made in the Green Paper on our future ability to provide the best and most appropriate support for SEN children, young people and their families across Kent.

### **Recommendation(s):**

Cabinet is asked to:

1. consider and endorse the council's draft response submission
2. agree for the consultation response to be submitted

## **1. Introduction**

- 1.1 The purpose of this report is to set out the background to the government's SEND review green paper, "Right Support, Right Place, Right Time", launched for consultation 30<sup>th</sup> March 2022.
- 1.2 It sets out the headline aims and objectives within the green paper that are relevant to Kent, and details how we have engaged with local stakeholders to both bring the contents of the green paper to their attention, but also ensure their voices are represented in the council's final consultation submission.

1.3 Finally, this report sets out the headline feedback received through our engagement process and draws out some of the key messages that Kent's SEND stakeholders would like the government to consider through the consultation process.

## **2. “Right Support, Right Place, Right Time” – background, process and response**

### The SEND Green Paper

2.1 On 30<sup>th</sup> March 2022, the government published its SEND Review Green Paper “Right Support, Right Place, Right Time” seeking views about proposed changes to the special educational needs and disabilities (SEND) and alternative provision (AP) system in England.

2.2 The government commissioned the SEND Review in September 2019 as a response to the widespread recognition that the system was failing to deliver improved outcomes for children and young people, that parental and provider confidence was in decline, and that the system has become financially unsustainable.

2.3 The review has highlighted three main areas of challenge within the SEND system that it aims to address.

- outcomes for children and young people with SEN or in alternative provision are poor
- navigating the SEND system and alternative provision is not a positive experience for children, young people and their families
- despite unprecedented investment, the system is not delivering value for money for children, young people and families

2.4 Underpinning these challenges is a belief that there is a “vicious cycle” of late intervention, low confidence and inefficient resource allocation that holds back improvement and entrenches challenges within the system.

2.5 Inconsistent practice can lead to late or misidentification of needs amongst children and young people that in turn reduces confidence in the ability of mainstream provision to provide the right support. As more parents, carers and providers look to the Education, Health and Care Plan (EHCP) process to secure support, this can lead not only to lengthy delays in accessing support, it can also lead to the wrong type of support being accessed potentially limiting the development of the child or young person.

2.6 Ultimately, as more demand is channelled towards specialist and alternative provision, more resources are diverted towards intensive support leaving less and less resource for better early upstream intervention that could break this cycle.

### Headline proposals

2.7 The SEND Green Paper aims to build consistent practice at both a local and national level through the following:

- establishing a **new national SEND and alternative provision system** setting nationally consistent standards for how needs are identified and met at every stage of a child's journey across education, health, and care
- **establishing new local SEND partnerships**, bringing together education (including alternative provision), health and care partners with local government and other partners to produce a local inclusion plan setting out how each local area will meet the national standards.
- **reviewing and updating the SEND Code of Practice** to ensure it reflects the new national standards to promote nationally consistent systems, processes, and provision.
- introducing a **standardised and digitised EHCP process and template** to minimise bureaucracy and deliver consistency.
- delivering **clarity in roles and responsibilities with every partner across education, health, care**, and local government having a clear role to play, and being equipped with the levers to fulfil their responsibilities
- Statutory guidance to **Integrated Care Boards (ICBs)**
- working with Ofsted/Care Quality Commission (CQC) on their plan to deliver an **updated Local Area SEND Inspection Framework** with a focus on arrangements and experience for children and young people with SEND and in alternative provision
- **National framework for banding** and price tariffs for funding
- **Inclusion dashboards** for provision

### Local engagement and reflections

2.8 In order to provide a holistic and joined up Kent response to the green paper and its proposals, the Cabinet members for Education & Skills and Integrated Children's Services led roundtable engagement events with key local partners, parents and young people.

2.9 These events took place on 18<sup>th</sup> May 2022 and 27<sup>th</sup> June 2022 and included representation from

- children and young people
- parents (via PACT)
- headteachers/deputy headteachers
- Special Educational Needs Co-ordinators (SENCo)
- primary and secondary schools, both mainstream and specialist

2.10 From the young people engaged, the following feedback was captured

- *Mainstream schools need to be more understanding that not everyone can keep up at the same pace, especially with homework. Teachers lacked knowledge and skills in meeting health needs e.g. epilepsy*
- *A YP had a long wait for a special school place and was at home for 3 years - now he is in a school that understands he can get his GCSE's. This YP now wants to stay in school for 6th form as they are understanding of him and his needs. He is allowed movement breaks. The new legislation needs to make this possible for all children – children learn in different ways; schools need to help all children to learn.*

- *Movement breaks are very helpful. In mainstream if I moved, I would get detention. I now enjoy school and want to go to school because they understand me.*
- *More schools local to my house... getting stuck in traffic can make a student late and that can cause anxiety. Getting ready for school or getting up, getting anxious about going to school can all cause me to be late. In mainstream, I would get the same punishment whether I was 2 minutes late or 1 hour. There was a lot of stress of being late but I couldn't help it because of my anxiety. It is treated differently at special school.*
- *Most YP had a good/manageable experience in primary but for most secondary school was difficult. One YP said it made him 'crumble'*
- *Primary school was very good, interventions were put in place.*

2.11 From parents and carers engaged, the following feedback was captured

- *A parent said we should protect at all cost the rights currently in legislation and law*
- *There needs to be much more accountability in the whole system*
- *Classroom training, teachers need to be trained to deal with everything (all special educational needs). If a parent decides they want their child to be in local school the school should be able to cope with it. Best endeavours isn't good enough, it must be specific. The good level of support must be available in every school.*
- *There must be training for all staff in all schools. In a nutshell – schools must have staff who are trained.*
- *National standards should be at a very high level and set high, schools shouldn't be able to say they've met the standard because it's too low a level.*
- *A parent waited 18 months to get draft EHCP, the biggest issue was caused by SENCo who had no training, they were new in post, unqualified, the child was able to mask difficulties and the SENCo did not have the skills or knowledge to identify child's needs.*
- *SENCo's should have required training before being a SENCo.*
- *There should be a national standard for the time that a SENCo has available to do their job, so they aren't pulled away to teach.*
- *Parent who has moved from one county to another strongly agrees a national, digitised EHCP would be ideal to avoid paperwork being missed.*
- *My child's needs could have been met in mainstream without an EHC Plan – my child only ended up in special school as needs weren't met at school and his anxiety grew.*
- *Under current legislation action is only taken when a child fails, fails and fails again*

2.12 From school leaders engaged, the following feedback was captured

- *It's essential SENCos are part of the SLT and trained. Their voices must be heard.*
- *There was a consensus that currently only strong, confident headteachers feel able to put in place options for SEND children with a range of needs and not feel pressured by Ofsted to only focus on children who will achieve better results.*

- *Schools apply for funding based on meeting individual children's needs so that they can employ additional staff, but this is a hit and miss approach, without certainty that the school will get funding year on year which makes planning provision ahead very difficult*
- *Overall, HTs are in favour of multi-agency panels – currently, multi-agency working is failing, the NHS are struggling so don't always turn up to meetings. Speech and Language – impossible to find enough support so it's left to the school to sort out. Schools struggle to find specialist – need national standard but also need an effective system that feeds into it.*
- *Affluent families are paying for diagnosis – the system heavily leans towards parent that can afford it, Specialist Resource Provision is full of children who have a private diagnosis which is leading to inequality.*
- *There are significant difficulties getting CAMHS to work with children with challenging behaviour, CAMHS refuse so the child has no specialist health support.*
- *Deprivation is related to the level of complex needs of children, particularly SEMH – it has a close correlation*
- *Children need role models, people who care, deal with trauma, it's much more than just education, it needs a rounded approach. It is difficult to do this while exams are such a focus, schools feel the issue of their headline figures being impacted which can cause schools to focus on results and not the individual needs of the child.*
- *Needs to be clear and sustainable funding. Alternative provisions want to be part of continued support to post 16, alternative provision needs to be used in the right way.*
- *Early intervention question – also linked to national standards question – early years training capped at level 3, should be a lot higher.*
- *Key metrics should be linked to wellbeing and not just exams. Are they happy, healthy, that is just as important? Measuring levels of engagement measuring for learning in mainstream and SEND schools - so it's not just based on results.*

### Consultation response headlines

- 2.13 The feedback gained from local children, young people, parents/carers and stakeholders has been used to directly inform the council's draft consultation submission. Much of what was discussed reflected the challenges identified in the Green Paper and the need for change within the system.
- 2.14 The full proposed consultation response can be found in appendix A. Below are the key headlines identified that Kent County Council would like the government to consider as part of their consultation review process.
- All professionals are agreed that standardisation of provision pathways in mainstream and special schools would be a more equitable way forward
  - The current Tribunal system needs revision to address changes in legislation, which are necessary. The current system encourages adversarial relations between parents and Local Authorities and is inequitable, favouring those with resources to pay for private reports.
  - Standardise and streamline admission processes for children with SEN (SEN Support and EHC Plans) with the general admissions so that there is greater inclusion and reduced anxiety for parents.

- SENCOs should be qualified and part of the school senior leadership team. All teachers should have training in teaching children with special educational needs through Early Career Development. Teaching school hubs should be required to demonstrate excellence in inclusive practice and lead on early career teaching development in evidence-informed practice for children and young people with additional learning needs. This should mean that all teachers are confident in meeting children's special needs.
- There needs to be a mandate for health and education to jointly fund and collaborate to achieve effective integration, for example of the two-year old check and arising early years intervention

### **3. Financial Implications**

- 3.1 The council's consultation submission does not have any direct financial implications; however, the outcome of the consultation and any subsequent implementation of the recommendations are likely to have a significant impact on the council's ability to meet budgetary pressures in the future.
- 3.2 Both the content of the Green Paper and the insight gained from engaging with the local SEND landscape will actively shape the council's discussions with the Department for Education around potential Safety Valve funding and the action plan for reducing projected budget deficits.

### **4. Legal comments**

- 4.1 The council's consultation submission does not have any direct legal implications; however, the outcome of the consultation and any subsequent implementation of the recommendations may impact on the council's legal duties to support SEND children and young people and their families.

### **5. Equalities implications**

- 5.1 A formal equalities impact assessment has not been required for this report; however, the direct impact of the implementation of any recommendations in the Green Paper will have equalities considerations for the following protected characteristics;
- Age (specifically children and young people)
  - Pregnancy or maternity leave
  - Disability
  - Race
  - Sex (in particular women who primarily present as carers)
- 5.2 Carrying out engagement events to inform the council's consultation response has allowed a forum for potential impact against protected characteristic groups to be considered and incorporate within the council's submission, as well as allow local people to better engage with and understand what the proposals might mean for them.

### **6. Recommendations**

- 6.1 The recommendations are as follows:

6.2 Cabinet is asked to:

- consider and endorse the council's draft response submission
- agree for the consultation response to be submitted

## **7. Background Documents**

7.1 Appendix A – Draft KCC consultation submission

7.2 Appendix B – SEND Green Paper – “Right Support, Right Place, Right Time”

## **8. Contact details**

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