

**From:** Rory Love, Cabinet Member for Education and Skills  
Sue Chandler, Cabinet Member for Integrated Children's Services  
Sarah Hammond, Corporate Director Children, Young people and Education.

**To:** Children, Young People's and education Cabinet Committee – 29 November 2022

**Subject:** OFSTED & CQC REVISIT OF THE LOCAL AREA SERVICES FOR CHILDREN WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITIES.

**Classification:** Unrestricted

**Past Pathway of report:** N/A

**Future Pathway of report:** N/A

**Electoral Division:** All

**Summary:** The Kent local area inspection by Ofsted and the CQC, for children with special educational needs and disabilities took place in January 2019. This inspection found 9 significant areas of weakness across the Local Area which resulted in a written statement of action being issued.

During the week of the 26<sup>th</sup> of September 2022, the Local Area was revisited by His Majesty's Inspectors from both Ofsted and the CQC, who found that the area had not made sufficient progress in addressing any of the significant weaknesses. The Local Authority, the Integrated Care Board and leaders representing schools and settings are deeply sorry for the impact which this has had on children, young people and their families.

This report, along with accompanying slides sets out the headline findings from the revisit, some initial analysis of the causation of the current weaknesses and the outline plans to address the *"unsustainable position which the Kent area is in"*.

**Recommendation(s):** Cabinet Committee is asked to NOTE the content of the report and the actions already underway, and to make recommendations to the Cabinet Members for Education and Skills, and Integrated Children's Services on any further actions that may contribute to improving outcomes for children and young people with SEND, bringing the scope of the SEND support in the Kent area into line with that of the England average and our statistical neighbours, and restoring the SEND arrangements in the Kent area to a sustainable position.

## **1. Outcome of the Revisit.**

- 1.1 During the week of the 26<sup>th</sup> of September 2022, His Majesty's Inspectors from Ofsted and QCQ undertook a weeklong re-visit to the Kent Local Area to consider what progress had been made across the 9 elements of the Written Statement of Action issued in January 2019.
- 1.2 The Local Area was first inspected 3 years and 9 months previously, which resulted in Kent having one of the longest periods of time between inspection and revisit in England.
- 1.3 Putting the past three years into context schools, and many services for children, including for vulnerable children were very limited or non-existent because of the required response to Covid-19. The most vulnerable children including those with SEND have been very significantly affected, and there is evidence of an escalation of need as a result which has also contributed to the very poor outcomes identified in this report.

## **2. Summary of the Outcome letter from the revisit**

*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.*

2.1 Insufficient progress has been made in this area, and there is unanimous agreement across the area that the experience of parents, particularly in regard to communication has simply not been good enough, and at times has been woefully inadequate.

2.2 It is acknowledged and accepted that in too many examples, attempts on the part of parents and schools and settings to engage with the local authority have gone unanswered. Staff have become overwhelmed with the volume and speed at which enquiries, queries and complaints have arrived and the systems in place to manage this volume have been inadequate.

2.3 There is welcome acknowledgement that inclusion in some Kent schools has improved and more children with SEND are welcome. However, not all schools and settings are in the same place and there is still more work to do to raise parental confidence that their children's needs can and should be met in their local mainstream school and community.

*A variable quality of provision and commitment to inclusion in schools, and the lack of willingness of some schools to accommodate children and young people with SEND.*

2.4 Inspectors recognised the excellent work of some schools to include children and young people with SEND, and to offer them an opportunity to be educated alongside their peers, friends and community members. However, the lack of willingness of some schools to accommodate children with SEND has continued and remains a challenge for the Local Area if significant progress is to be made.

2.5 The Local Authority has a key role to play in establishing the most collaborative and supportive relationships possible with schools and learning settings including the FE sector if progress is to be made in this area of weakness. It is recognised that

these relationships have deteriorated over the past three years and is now a renewed focus of the local authority.

2.6 Although work has been taking place with school and setting leaders, and around 75% of all Kent schools have taken part in some form of LA led training and development around Inclusion, this is yet to bring about the major systemic change needed across of all Kent's schools.

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

2.7 In 2019, the Local Area had no recognisable Parent- Carer forum, with previous local groups having been dissolved or disbanded from lack of support or disagreement amongst the members.

2.8 The establishment of PACT as the County wide parent carer forum has taken place since the 2019 inspection and the organisation has participated in a wide range of co-production activities over the past three years. There is however recognition that the reach and size of the membership of PACT has not been significant enough to make the difference required for large numbers of parents. Too many parents remain unaware of PACT and the important role that they play in the design and review of services. The role of PACT as a fully independent organisation requires the Local Area to own its work, its decisions, and its communications. Co-production does not mean that PACT should carry the responsibility of being the sole channel through which messages are relayed to parents.

2.9 Opportunities for working with other organisations and the third sector where parent/carers representation is strong have been missed. In addition, ensuring that key messages are owned by the Local Area and appropriately communicated by them to the widest range of parents will be key to building trust in and therefore a greater membership of PACT.

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

2.10 Ofsted/CQC recognised a closer and more collaborative working relationship between the local authority and health regarding the joint commissioning of services. However, the impact of this improvement remains limited, with children and young people continuing to fall between the net of children's care and health services if their needs do not meet certain eligibility criteria for the highest or acute levels of need those services would normally address.

2.11 Although only 4 young people were found to be in acute hospital settings at the time of the revisit compared to 20 in 2019, around 20 young people with the very highest levels of need including SEND are now in unregulated social care funded provision when there were none in 2019.

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

2.12 Despite record levels of funding, and more Kent children and young people with SEND than ever in specialist provision, poor standards and insufficient progress continues to be a feature of their educational experience.

2.13 As is recognised in the SEND and Alternative Provision Green paper, in the case of most children with SEND, this should not be the case and the system must do much better to ensure that the right support is provided at the right time.

*The inconsistent quality of the EHC process; a lack of up-to-date assessments and limited contributions from health and care professionals; and poor processes to check and review the quality of EHC plans.*

2.14 The number of children and young people with an EHCP in Kent has risen from c11,000 in 2019 to c20,000 in 2022. This is an increase of 82% over the space of three years and has significantly contributed the ongoing lack of progress in this area. Children in Kent are 20% more likely to be issued with an EHCP than children across England and with our statistical neighbours. Understanding this difference and addressing it with urgency must now be a priority for the Local Area.

2.15 Inspectors found some improvement in the quality of plans but not in such numbers as to make material difference to large enough numbers of children. Whilst health and social care elements are more regularly being included in EHCPs this is still not a making sufficient difference in the outcomes for children.

2.16 The focus on timeliness of issuing EHC plans identified in 2019 is one example of task focussed activity which resulted in an adverse outcome in another part of the system. Too few plans have been reviewed, leading to additional need not being quickly enough addressed and where needs have reduced or where progress has not been made despite large packages of support being provided this has not been addressed either.

*Weak governance of SEND arrangements across the EHC system at strategic and operational level and an absence of robust action plans to address known weaknesses.*

2.17 It is fully recognised and acknowledged that the Local Area's Improvement Board did not function in a way which facilitated action plans to be addressed and outcomes challenged when necessary.

2.18 The Covid-19 pandemic very severely impacted the ability of Health colleagues to attend on a regular basis and be effective in the oversight of progress.

2.19 Indicators of success and progress which were being monitored were not sufficiently outcome and impact focussed and did little to drive the overall improvement required.

2.20 Within the Local Authority, substantial efforts were made to address the issues across a variety of forums following the 2019 inspection. However, the complexity of system change required and the outcome from the revisit indicates that this next stage requires more of a full Council response. Too much reliance was vested in the feedback from the monitoring visits undertaken by the DfE and NHSE. The Local Area should have been able to rely on the outcome of these visits to "test the

temperature” of the progress being made but this turned out not to be the case. This has been raised with both Ofsted and the DfE.

*Unacceptable waiting times for children and young people to be seen by some health services, particularly CAMHS, tier two services, SALT, the wheelchair service, and ASD and ADHD assessment and review.*

2.21 Health colleagues fully recognise the unacceptably long waiting lists for services which they are responsible for and have apologised for this being the case.

2.22 The impact of Covid-19 on health services for children and young people remains very significant along with an increased level of need, particularly for mental health and wellbeing services.

2.23 Workforce issues remain across health services leading to significant barriers to improving this in the immediate future. Colleagues in health are addressing this with urgency and a review of the Neurodevelopmental assessment pathway is a priority. In much the same way as Kent’s EHCP rate is an outlier, so is the number of children and young people being assessed as having ASD. Health colleagues are looking at this anomaly alongside the work they are doing to address waiting lists.

2.24 The establishment of the Integrated Care Board and new leadership across all children’s health services in Kent and Medway have already started to make some difference. The past multiple changes of leadership across different parts of the Kent and Medway Health system have also contributed to the lack of progress, but this has now been addressed.

*A lack of effective systems to review and improve outcomes for those children and young people whose progress to date has been limited by weaknesses in provision.*

2.25 Accurate, intuitive, and reliable systems to review and improve outcomes for children and young people’s progress remain limited. The CATIE dashboard has now been developed which will provide inclusion visibility for schools and will facilitate better, more local solutions being agreed to meet the needs of local children across the sector.

2.26 There remains too little accurate use of the data systems across the area to make a meaningful difference for children and young people.

### **3 Immediate response to the Ofsted/CQC revisit.**

3.1 The role of Ofsted and the CQC has now concluded in this round of inspections and the matter has reverted to the DfE and NHSE for consideration of the next steps.

3.2 Several options are now available to the DfE/NHSE to oversee the required improvements across the Local Area for SEND services in Kent. An Accelerated Progress Plan (APP) will be required to be formalised by the Local Area against which Outcome and Impact based Key Performance Indicators will be scrutinised and addressed.

3.3 Government may conclude that the Local Area required a formal Improvement or Statutory Intervention Plan and may appoint a commissioner to oversee the progress of that plan. An initial meeting between the KCC CEO and CD of CYPE and the CEO and Chief Nurse of the ICB with senior DfE and NHSE advisers has taken place. The Local area awaits the outcome decisions of that meeting

3.4 In any event, a new SEND Partnership Assurance Board will be established to replace the SEND Improvement Board early in the New Year. The Board Membership will include representation from the Local Authority, including Members and cross directorate colleagues, Health, Learning and Teaching settings, representatives of parents and carers and where appropriate young people.

3.5 The SEND Green Paper proposes the creation of new local SEND partnership boards, bringing together education, health and care partners with local government to produce a local inclusion plan setting out how each area will meet the national standards. Kent will be well position to move forward with this proposal following the establishment of the SEND Assurance Board in 2023.

3.6 Local Authority Staff engagement meetings are currently under development, along with engagements events with parents and carers. The need to expand the reach of parental consultation and engagement is urgent, and a dedicated engagement resource has been made available in the Local Authority to work with PACT and services on this.

3.7 The Corporate Director has begun a series of meetings and engagement events with school and FE leaders, and a system wide conference co-chaired by the CD and the CEO of the East Kent College group will take place in early January 2023 to address transitions for 16+ young people.

3.8 As an interim measure, the responsibility for the oversight of SEND has reverted to the Corporate Director supported by both the Director for Education and the two Directors for Integrated Children's Services. The Disabled Children and Young People social care services has moved to join the wider group of Integrated Children's Services. A paper will be brought to Personnel Committee in the New Year with permanent proposals for the responsibility of services across CYPE.

3.9 The political responsibility for SEND has moved to the portfolio of the lead member for Education and Skills.

3.10 Individual workstreams have been set up, each group headed by a CYPE Director and co-chaired by colleagues from across other Local Authority Directorates to oversee the internal improvement work. These workstream groups report into the KCC SEND monthly Transformation Board which has now met on two occasions.

3.11 During 2022 a deeper whole Council understanding of the SEND Transformation Programme has been recognised as a priority for the local authority, and this programme has formed a part of the Strategic Reset Programme Board since May 2022.

3.12 Following extensive national consultation, the Government will be implementing a new SEND inspection framework for England from 2023 onwards. In addition, a separate SEND section of the Annual Conversation with Local Authorities

will also be implemented by Ofsted from 2023 onwards. For Kent the Annual conversation covering both Children's Services (am) and SEND (pm) will take place on Monday the 24<sup>th</sup> of April 2023. We anticipate this being the first benchmark review from Ofsted as to the progress on the weaknesses they found during the re-visit.

#### **4. The Safety Valve**

4.1 The Special Educational Needs and/or Disabilities (SEND) and Alternative Provision (AP) green paper identifies three key symptoms of a system under pressure: poor outcomes for children and young people with SEND and in AP, low parental and provider confidence, and financial unsustainability. The Government has rolled out a programme of additional funding known as the "Safety Valve" to assist some Local Authorities in bringing their High Needs Funding blocks back to a sustainable footing.

4.2 Like several Local Authorities, Kent's allocated High Needs Budget is in very significant deficit, a position which has been growing for many years. In May 2022, the Local Authority were invited to take part in a range of discussions with the DfE under the Safety Valve programme. The purpose of the Safety Valve programme is to receive monies to address some of the deficit by Government in return for major reform to the delivery, effectiveness, and value for money of SEND services in the local area.

4.3 These discussions have now concluded, and the Local Authority awaits the Ministerial decision as to whether the suggested funding with the proposed action plan will be agreed and allocated. This is anticipated to be before the end of 2022, but until official confirmation has been received, details of the agreement are not in the public domain.

4.4 However, much of the plan to improve on the current arrangements and delivery for SEND services in Kent following the Ofsted/CQC revisit align with those of the Safety Valve. The proposal is that a Local Authority SEND Transformation board, chaired by the Corporate Director for CYPE will amalgamate both the oversight of the Safety Valve delivery work and the internal improvement work being undertaken in the SEND services. The urgency of this work is fully recognised and to that end the SEND Transformation Board has met twice already and will continue to do so whilst awaiting the outcome of the Safety Valve deliberations.

#### **5. Proposed Future Reporting and Monitoring Mechanisms.**

5.1 The DfE and NHSE will determine the level and intensity of any reporting and monitoring mechanism to Government regarding the SEND revisit outcomes. This may include the appointment by the DfE of a Commissioner to chair the SEND Partnership Assurance Board. In the absence of such a Commissioner, The SEND Partnership Assurance Board will be co-chaired by the Chief Nurse for Kent and Medway and the Corporate Director for CYPE. The Chair of the Kent Association of Head teachers will take up the vice chair role.

5.2 If successful, the Safety Valve programme will require quarterly reporting through to the DfE within an agreed format for such a financial commitment. The

progress of the Safety Valve programme will be reviewed and addressed by the KCC SEND transformation Board, and then into the Strategic Reset Programme Board.

5.3 The progress of the SEND Local Area response will be monitored and challenged by the SEND Partnership Assurance Board. The Accelerated Progress Plan (APP) will form the core Action Plan by which the Local Area will hold itself and others to account in achieving the required outcomes for children and young people.

5.4 The work of the KCC SEND Transformation Board and the SEND Partnership Assurance Board will report through the lead members to the CYPE Cabinet Committee, the Cabinet and Corporate Board.

**Recommendation(s):** Cabinet Committee is asked to NOTE the content of the report and the actions already underway, and to make recommendations to the Cabinet Members for Education and Skills, and Integrated Children's Services on any further actions that may contribute to improving outcomes for children and young people with SEND, bringing the scope of the SEND support in the Kent area into line with that of the England average and our statistical neighbours, and restoring the SEND arrangements in the Kent area to a sustainable position.

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