

Report for: Cabinet, 10 March 2020

Title: Special Education Needs and Disabilities review
Cabinet response to the Children and Young People Scrutiny
Panel recommendations

Report authorised by: Ann Graham, Director of Children's Services

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Ward(s) affected: All

**Report for Key/
Non-Key Decision:** Key

1. Describe the issue under consideration

- 1.1. In 2019 a review of Special Educational Needs and Disabilities (SEND) was carried out. This was in response to concerns amongst parents and carers regarding support for children and young people with SEND. As this is a complex area, the panel focused attention on the social, emotional and mental health (SEMH) needs and autism in order to ensure a manageable scope.
- 1.2. This report sets out the proposed Cabinet response to the recommendations of the Scrutiny Panel, attached as Appendix 1 to this report.

2. Cabinet Member Introduction

- 2.1. Support for our children and young people with SEND, working with, and listening to families is paramount in ensuring children have positive experiences at school and reach their potential. It is vital we do this effectively to make a positive difference to their lives. As the statutory body responsible for managing and developing SEND provision, the local authority has vital roles including being a provider, enabler, supporter, co-ordinator and funder. As Cabinet Lead, I am fully committed to supporting our in-house teams, and working with parents, carers, partners to improve our SEND services and processes. Collaboration and co-production are vital in this and essential in making change so we do everything we can to meet needs and support families in dealing with the stress that many families experience.
- 2.2. I welcome and am genuinely grateful for the hard work and the recommendations that my fellow members in scrutiny have drafted. The report is extremely helpful, and I know is the outcome of many hours of focused and concentrated work. The recommendations are all pragmatic, positive and helpful in supporting the programme of improvement currently underway in our SEND service. I will work with my fellow members, with officers and with all families to ensure that these recommendations are implemented, and that families will see and feel the

benefits. Finally I welcome the work of AMAZE in consulting with parents, carers, families and partners in creating an active and broad borough-wide parent/carer forum to support co-production.

3. Recommendations

3.1. Members are asked:

- i) To consider the Overview and Scrutiny Report on SEND (attached at Appendix 1).
- ii) To agree the responses to the Overview and Scrutiny report recommendations (attached as appendix 2)

4. Reasons for decision

- 4.1. On 23 January 2020, Overview and Scrutiny Committee approved the report of the Children and Young People Scrutiny Panel (CYPSP) on Special Educational Needs and Disabilities (SEND).
- 4.2. In developing its report, the CYPSP held a number of evidence gathering sessions and took evidence from Council officers as well as a range of experts and local stakeholders. The CYPSP then made a number of recommendations which were adopted by Overview and Scrutiny Committee on 23 January 2020.
- 4.3. The recommendations made in the CYPSP report can be used to help guide the continuing development and improvement of the SEND Service. While the report does not set out a detailed and complete list of explicit objectives to be delivered within a given timescale, it does provide a clear direction of travel for these areas. All of the recommendations are positive and are welcomed and are either currently being incorporated into the Service's and wider Council approach or can and will be incorporated going forward.
- 4.4. Where any recommendations present any challenge to immediate or eventual implementation, they have been responded to in a proportionately cautious way with partial agreement as relevant.
- 4.5. Specific reasons for each recommendation response are given in Appendix 2. The overall approach of the report – which is comprehensive and detailed – is a helpful framework to inform the current and continuing improvement of the SEND Service. This work has been further developed since the scrutiny review and includes:
 - Using the grant available from Contact and further supplemented by the Local Authority to commission a charity called AMAZE to undertake outreach work on developing a strong and active parent/carer forum in our borough;
 - substantially completing the AP review with a future route map for our young people and out schools now clearer;
 - developing the co-production steering group whose work will be further enhanced by a parent forum;
 - reviewing the High Needs Block and key trends;

- engaging with parents to hear their views to inform and shape our services.

5. Alternative options considered

5.1. None.

6. Background information

- 6.1. The Children and Young People's Scrutiny Panel (CYPSP) produced a report on Special Educational Needs and Disability (SEND). The review was set up in response to concerns among parents and carers regarding support for children and young people with SEND. It is a large and complex area and so the focus was primarily on Social, Emotional and Mental Health needs and autism in order to ensure a manageable scope.
- 6.2. The recommendations made in the CYPSP report can be used to help guide the service in its journey of development and improvement and it provides a clear direction of travel to help achieve this improvement. The recommendations are positive, and many are either already being incorporated into service improvement or can be incorporated going forward. The report, which is comprehensive and detailed is a helpful framework to inform the improvement of the service going forward.

7. Contribution to strategic outcomes

- 7.1. Outcome 5: Happy childhood: all children across the borough will be happy and healthy as they grow up, feeling safe and secure in their family, networks and communities.
- 7.2. Outcome 6: Every young person, whatever their background, has a pathway to success for the future

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1. Finance

- 8.2. There are significant pressures across the country on the High Needs Block Element of the DSG funding due to continued growth in demand for and complexity of Education Health and Care Plans (EHCPs) and children requiring specialist SEN provision.
- 8.3. The Secretary of State announced that the funding for schools and high needs, compared to 2019-20, will rise by £2.6 billion for 2020-21, £4.8 billion for 2021-22, and £7.1 billion for 2022-23. There will be more funding available through the formula in the coming years. However, due to the nature and complexity of budgets, it is not sure if the increased level of funding will be sufficient enough for local authorities to meet their demand. Robust strategy and annual reviews are required to ensure that plans are ceased and monitored regularly.

- 8.4. The predicted High Needs Block forecast financial position for the financial year 2019-20 at period 9 is a £7.855m deficit which includes the deficit brought forward of £2.229m from 2018-19.
- 8.5. The Council is currently reviewing its banding system to align its top-up funding rates with the neighbouring borough would create a mechanism for allocation right level of funding based on EHCP and individual needs of children and young people.
- 8.6. The review recommends a number of measures recommended in the review to reduce pressures in SEND. However, more importantly, the reduction in waiting times for EHCP will help schools to direct the right level of resources to accommodate pupils with SEN Plans and more early intervention will reduce cost in a longer run.
- 8.7. Haringey's key priority of the SEND Strategy is to enable more children to be educated in the borough which is more cost-effective than children being educated at out of borough SEN provision in either maintained and academy provision or particularly in the independent and non-maintained sector.

8.8. Legal

- 8.9. The Scrutiny Panel recommendations relate to a broad range of the Council's statutory obligations in relation to SEND.
- 8.10. The duties most relevant to the Scrutiny Panel recommendations and responses are:
- To secure sufficient schools are available in their area (section 14, Education Act 1996).
 - To make arrange alternative educational provision where children of compulsory school age may not otherwise receive suitable education, by reason of illness, exclusion or otherwise (section 19, 1996 Act).
 - When securing an EHC (i.e. educational, health and care) needs assessment, to consult the child and their parents and take into account their views, wishes and feelings. Also, to engage with them, ensure they are able to participate in decisions, consider any information they provide and minimise disruption (regulation 7, Special Educational Needs and Disability Regulations 2014).
 - To work with schools, for example by seeking information about what provision may be needed (regulation 6, 2014 regulations).
 - To seek information from an educational psychologist about what provision may be needed (regulation 6, 2014 regulations). As set out in the Code of Practice, this should normally be commissioned by the Council.
 - Where the Council requests the co-operation of a body such as the NHS in securing an EHC needs assessment, that body must comply with such a

request within 6 weeks of receipt. However, this time limit does not apply if it is impractical for particular reasons (regulation 8, 2014 regulations).

- To send out a finalised EHC plan as soon as practicable and in any event within 20 weeks of receiving a request for an assessment or becoming responsible for the child. However, this time limit does not apply if it is impractical for particular reasons. For example, if information is needed from a school that is closed or there are exceptional personal circumstances affecting the child (regulation 13, 2014 regulations).
- Where the Council determine that it is not necessary for special educational provision to be made in accordance with an EHC plan, to give notice as soon as practicable and in any event within 6 weeks of receiving a request or becoming responsible (regulation 10, 2014 regulations).
- The duty to review EHC plans, for example where the child is transferring between phases of education. Where the Council does so, it is obliged to consult the child and their parents, take account of their views and consult the relevant school. It must also invite the parents, educational provider and relevant health care professionals to a review meeting (regulations 18-20, 2014 regulations).
- The duty to make the necessary travel arrangements for eligible children with special educational needs (section 508B, 1996 Act).

8.11. Work experience is permitted for children in their last two years of compulsory schooling, where arranged by the Council or relevant school (section 56, 1996 Act).

8.12. Equalities

8.13. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

8.14. The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.

8.15. The proposed decision is to agree the responses to the recommendations made in the Children and Young People's Scrutiny Panel's review of Special Educational Needs and Disabilities (SEND). The decision has implications for children and young people with special education needs and disabilities, who share the protected 'age' and 'disability' characteristics as noted above.

8.16. The overall objective of the Scrutiny Panel's recommendations is to improve outcomes for children and young people with SEND. It is proposed that all of the recommendations are either accepted or partially accepted, with those that are partially accepted subject to proportionate caution due to implementation challenges. The Cabinet's response therefore represents a commitment to taking steps to meet the specific needs of a protected group and thereby advance equality of opportunity.

8.17. It is noted that if the implementation of any of the recommendations requires a Cabinet decision, this will be subject to screening and assessment of equalities impact.

Appendix 1 – SEND Scrutiny Findings and Recommendations

Appendix 2 – Officer response to findings and recommendations