



# Report to Cabinet

<b>Date:</b>	12 December 2023
<b>Reference number:</b>	n/a
<b>Title:</b>	<b>Buckinghamshire Area Special Educational Needs and Disabilities Update</b>
<b>Cabinet Member(s):</b>	Anita Cranmer, Cabinet Member, Education and Children's Services
<b>Contact officer:</b>	Cate Duffy - Interim Service Director Education and Inclusion, Children's Services
<b>Ward(s) affected:</b>	All wards
<b>Recommendations:</b>	<b>For Cabinet to note the update from the Area SEND Partnership</b>
<b>Reason for recommendation:</b>	Paper is for information only.

**Please note, section highlighted in yellow will be updated following IC but before the report is presented to cabinet.**

## 1. Executive summary

1.1 This report provides:

- a progress update on the Special Educational Needs and Disabilities (SEND) Improvement Programme since inspection.
- a brief overview of the new SEND Inspection Framework and outcomes to date.
- an overview of current challenges across the system and the evolving strategic plans to try to mitigate the challenges.

## 2. Background

2.1 The local authority and the Integrated Care Board (ICB) are jointly responsible for services provided to children and young people with SEND in Buckinghamshire and

subject to inspection by Ofsted and the Care Quality Commission (CQC).  
Buckinghamshire, Oxfordshire and Berkshire West (BOB) is our partner ICB.

- 2.2 Ofsted and the Care Quality Commission (CQC) inspected the services provided for children and young people with SEND in Buckinghamshire between 28 February and 11 March 2022. The inspection outcome report can be found [here](#).
- 2.3 Following the local area inspection, the Local Authority and the Integrated Care Board (formerly the Clinical Commissioning Group [CCG]) were jointly responsible for submitting an action plan to Ofsted, detailing how 3 areas of significant weakness would be addressed. The plan, submitted on 8 August 2022 was approved by Ofsted on 25 August 2022.
- 2.4 The 3 areas of weakness identified related to:
- The lack of a cohesive area strategy to identify and meet the needs of those children and young people requiring speech and language, communication and occupational therapy.
  - Waiting times for assessments on the autism and attention deficit and hyperactivity disorder diagnosis pathways and the system-owned plans in place to address this.
  - Waiting times to see a community paediatrician.
- 2.5 The local area has also sought to deliver against a wider improvement programme to ensure the experience of children and families improves across all areas of SEND.

#### Progress to date

- 2.6 Key achievements since inspection have included:
- Streamlined and increased neurodevelopmental support.** This has included moving to a single provider model for 5- 19 age group; increased digital assessment availability for children with less complex Autism presentations; and the delivery of online neurodevelopmental workshop sessions led by clinicians and professionals, targeted at school settings and GP surgeries. A coproduced [All Age Autism Strategy](#) has been publicly consulted on and feedback is currently being analysed. Support whilst waiting for a diagnostic assessment has also been enhanced, through provision of a workshop training offer and access to associated resources.
  - Reduced backlogs and increased support within community paediatrics.** This has included completely eradicating the backlog of medication reviews following the appointment of prescribing pharmacists thereby alleviating pressures on community paediatricians; validating waiting lists to ensure children are on the right pathway and their needs are understood; an

increase in the commissioned support available for those awaiting health assessment and diagnosis through third sector partners; and the provision of an online support and guidance offer.

- iii. **A refreshed approach to the provision of therapy.** This is encapsulated in the development of a [Local Area Strategy \(2023-26\): Early Identification and Intervention to Better Support Children and Young People's Therapy Needs](#), which promotes the required whole system transformation in relation to early support for these needs. The recommissioned Therapies Service will further support delivery of this when the new contract goes live in 2024.
- iv. **Increased support for the SEND workforce.** This has included strengthening induction and training leading to an improvement in the quality of new Education, Health and Care Plans (EHCPs) audited, from 11% graded good or above in May 2021 to 78% in August 2023.
- v. **New offers of support for key groups.** This has included the development of a new pathway, toolkit and support for children experiencing [Emotionally Based School Non Attendance](#) (EBSNA); a new support offer for young people with SEND who are Not in Employment, Education or Training (NEET) or who are at risk of NEET; an expanded post 16 offer, including an increase in the number of Supported Internships available (from 12 in September 2022 to 40 in January 2024) and an expanded [Holiday Activities and Food \(HAF\) programme](#) for children and young people with SEND in the school holidays (1001 specialist SEND places in the summer holidays 2023 including overnight stays).

### New Area SEND Inspection Framework

- 2.7 In January 2023 Ofsted and the CQC implemented a new area send inspection framework. Under the old framework, areas such as ours with a Written Statement of Action (WSOA) would have received a re-inspection focused only on the progress made in the WSoA priority areas. Under the new framework, the local area will instead be subject to a full inspection within the first 3 years of the new inspection cycle i.e. by January 2026.
- 2.8 One of the key differences between the new inspection framework and the previous one is the introduction of graded judgements. A summary of the graded judgements and the area inspection outcomes to date is included in *Appendix 1*. (Confidential - exempt from publication)
- 2.9 Ofsted and CQC have also introduced Annual Engagement Meetings (AEM) with local areas as part of the new inspection framework. The area must submit a short self-assessment in advance of the meeting. The Buckinghamshire AEM was held on 24 October 2023. A feedback letter was received on xx although these are not for

publication. The Buckinghamshire feedback letter is provided as *Appendix 2*  
(Confidential – exempt from publication)

- 2.10 As of 1 November 2023, Ofsted had published 15 Area SEND inspection reports under the new framework. Five areas had received the top grade and four the lowest with the remaining six areas receiving a Grade 2.
- 2.11 There are some themes in the recommendations for priority action and improvement that are common to both areas with a Grade 1 judgement and those with a Grade 3 judgement. These include setting measurable targets to reducing long waiting times for neurodevelopmental assessments and other therapies, improving the timeliness of EHC Plans, joint local area evaluation of the impact of actions and improving oversight of alternative provision. These have all been taken account of in the work we are doing in Buckinghamshire.
- 2.12 There are ten evaluation criteria under the new framework which indicate a greater focus on the lived experience of children and the impact of actions taken than the previous framework. The 10 evaluation criteria can be found in *Appendix 1*.  
(Confidential – exempt from publication)

#### Current challenges across the SEND system

- 2.13 **Waits for access to diagnoses and therapy support are still too long.**
- 2.14 The ICB made an investment of £4.6m in April 2023 to support additional specialist and clinical capacity. Recruitment against this investment has commenced, but proven to be extremely challenging across some roles. Therefore, whilst there has been some progress since the last inspection, the impact of the investment on waiting times has been limited.
- 2.15 September 2023 figures identify a 24 week wait for Speech and Language therapy advice to inform new Education, Health and Care Plans (EHCP) and a 52 week wait for Occupational Therapy advice (against a 6 week statutory timeframe). This means that children's EHCPs are issued without all the relevant advice. While this is in line with the SEND Code of Practice, it does mean that the child's needs are not fully represented within the Plan initially and there is a delay in providing the appropriate therapy support. To rectify this, EHCPs are reopened and updated once the advice is available.
- 2.16 **A sharp rise in requests for EHCP assessment, together with a shortage of Educational Psychologists. This has led to a decline in our performance against the statutory 20 week EHCP needs assessment measure.**

- 2.17 There is a statutory 20 week deadline from request for assessment to issuing a final plan. Educational Psychologist (EP) advice and info **must** be sought as part of any assessment.
- 2.18 In 2022, Buckinghamshire received 1365 requests for assessment, an increase of 101% compared to 2016. The increase in requests is not something that is just being seen in Buckinghamshire, with requests for EHC needs assessment increasing by 98% across the South East and 107% across England in the same period.
- 2.19 The increasing trend in requests is continuing into 2023, we are currently projecting a further 20% increase since 2022 and a 74% increase in requests for assessment since 2020. The size of the Council's Educational Psychology team has not increased since 2019.
- 2.20 Nationally and locally, it has proven increasingly difficult to recruit and retain Educational Psychologists. At the time of writing there are 5 vacancies in our team of 16.
- 2.21 The combination of the increase in workload and vacancy rate means the EP team is overwhelmed and that we have a significant delay in progressing the statutory assessment process. As a result, the proportion of assessments completed in 20 weeks has fallen from 67% at the time of the last inspection to 53.5% (year to date figure). This figure is likely to be lower by year end, when the national dataset is collected, and to decline further in 2024 unless we are able to secure a significant increase to Educational Psychologist capacity.
- 2.22 Poor performance against the 20 week statutory measure risks reputational damage through LGO complaints or judicial reviews. We are already seeing increasing complaints and pre-action letters in relation to EHCN assessment delays. The impact on any future inspection outcome is also likely to be negative.
- 2.23 Aside from the immediate challenge of falling performance against the 20 week measure, the Educational Psychology team's capacity to conduct the early intervention work that is the key to supporting children and schools before the need for an EHCP assessment has reduced.
- 2.24 A [DfE Research report](#) published in June 2023 found that 88% of local authorities reported that they were currently experiencing difficulties recruiting Educational Psychologists. The report states that *"Increased demand for EHCPs was perceived by (local authorities) and EPs as creating capacity issues in the system. They suggested that a vicious cycle existed, in which EPs lacked capacity to engage in early intervention and advisory work, because statutory assessment took up so much of their time. As a result, the issues experienced by children and young people escalated and could no longer be resolved by early intervention work, leading to them seeking an EHCP."* This is exactly the challenge faced in Buckinghamshire.

- 2.25 **The number of EHCPs maintained by Buckinghamshire is also increasing.**
- 2.26 Published data from January each year shows a 76% increase in EHCPs maintained by Buckinghamshire between 2016 and 2023 (England = 102%, South East = 113%). This will have increased further by January 2024. As of 1 November 2023, there were 6450 EHCPs maintained by Buckinghamshire as compared to 4054 in January 2019, with a further 460 in the process of assessment. It is therefore likely that the number of EHCPs maintained will move over 7000 in 2024. *Appendix 1* (Confidential - exempt from publication)
- 2.27 The increase in the number of EHCPs maintained creates further pressures across the SEND system. These include, but are not limited to:
- Shortages in the SEND workforce, including teachers, teaching assistants, therapists and our own SEND team
  - Increased pressures on the waiting lists for diagnoses and therapies
  - Increased pressures in securing a sufficiency of specialist school places
  - Increased pressure in securing sufficient pathways to adulthood for young people with SEND - education, employment and supported accommodation.
- 2.28 **There are very significant financial pressures on the High Needs Block**
- 2.29 The High Needs Block (HNB) within the Designated Schools Grant (DSG) funds the cost of educational provision for children with SEND together with education related therapies such as Speech and Language support and some of the central costs of the SEND team. This budget is coming under increasing pressure as the numbers of children with SEND and the complexity of needs increases. We anticipate a £3m overspend by March 2024.
- 2.30 Buckinghamshire is not alone in facing challenges in meeting the needs of children with SEND from within its HNB budget. Sixty-Four authorities are currently part of the DfE Safety Valve programme for areas with the highest HNB deficits. A further fifty-five authorities with significant pressure, including Buckinghamshire, have been invited to take part in the [Delivering Better Value in SEND Programme \(dbvinsend.com\)](https://dbvinsend.com). The diagnostic work module of this programme has identified that, whilst our current HNB overspend is comparatively small in relation to that of many other local authorities, it will grow exponentially without significant mitigation.

#### Current actions and future plans to address the challenges

- 2.31 **Diagnoses and Therapy wait times:** It is anticipated that the additional £4.6m ICB investment agreed in April 2023 will reduce waiting times for those health services identified in the WSoA. However, as outlined above, current trajectories suggest that

this will take some time and require recruitment to specialist posts. It is critical therefore that families are supported while awaiting assessment and diagnosis, and new children entering the system have their needs met through an early intervention approach where this is appropriate, to reduce the demands on specialist services. Non-recurrent underspend funding available until March 2024 will be used to support some one-off initiatives and pilot projects over the coming months, with a view to informing system change longer term.

- 2.32 **Shortage of Educational Psychologists:** Funding from vacancies has been utilised to secure Educational Psychologist capacity through agencies and we are making use of private EP reports, where appropriate. We have offered higher rates of agency pay so that Buckinghamshire can compete in the agency EP market. Agency EP's are contracted as needed solely to complete App D assessments, rather than as full time interims. The additional EP capacity has helped to reduce the number of unallocated App D's from 357 in September to 237 as of 16<sup>th</sup> November. At the same time we are running a campaign to recruit to the vacancies in the EP establishment and stressing to applicants that we are committed to enabling EPs to focus on early intervention as we know this will make Buckinghamshire more attractive to EPs. The recent campaign has secured three newly qualified EP's to start in September 2024 and we are hopeful of securing a further two in coming weeks. However, we may still be reliant on additional agency capacity in order if we are to consistently meet the 20 week timescale.
- 2.33 **Rising requests for Assessment and numbers of EHCP maintained by the Council:** Pressure on mainstream school budgets is one of the key drivers of increasing requests for assessment. Schools receive "notional" SEN funding within their budget to support children with additional needs without the need for a plan, but they are reporting that it is increasingly hard to do so. We have therefore increased the use of High Needs Funding to schools and the length of time this is available for to 2 years. High Needs Funding provides additional resources to support children without the need for a plan. This should slow down the requests for assessment and ensure that support is provided to those children who are waiting more than 20 weeks for their plan to be finalised.
- 2.34 204 additional specialist school places have been provided this year with further places planned for 2024. The Council was unsuccessful in its bid for a special free school but received positive feedback on the quality of the bid. We will therefore resubmit at the next opportunity.
- 2.35 As outlined above, the DBV programme is currently underway in Buckinghamshire. This programme aims to support local areas to address the three key challenges facing the SEND system. They define these as "poor outcomes for children and young people with SEND and in Alternative Provision; low parental and provider

confidence; and financial unsustainability.” Buckinghamshire are currently in phase one of the programme. We have received dedicated technical support and funding to help identify opportunities for improvement with our partners.

- 2.36 Early intervention and support, ensuring we support children and families based on need and not diagnoses, is emerging as a key area of work from the DBV programme. The DBV programme has also identified the need to ensure that mainstream schools are better equipped to support more children with EHCPs.
- 2.37 The Council will have the opportunity to bid for up to £1m for one year to support activity to enable the change required to strengthen early intervention and ease the pressures across the system. These are then likely to become key workstreams within our new SEND strategy.

### Governance and strategy

- 2.38 The local authority and the ICB need to prepare for the next inspection and ensure that improvement and change activity is aligned to the new inspection framework and that our governance structures enable a clear focus on driving improvement and monitoring impact.
- 2.39 An external review in July 2023 identified that *“the current governance arrangements are complicated and have the potential for unnecessary duplication. It would be beneficial to simplify and streamline governance so that performance and provision can be gripped by responsible officers and accountability is clear for all partners.”* This was supported by an internal corporate review which also found that improvements could be made to the planning and delivery of improvement work.
- 2.40 In addition, the Independent chair of the Children’s Services Improvement Board resigned from his position in October 2023. This has provided an opportunity for council officers and partners to review the governance structures and propose new arrangements for the tracking and monitoring of progress. This work is still ongoing, but we have agreed that the following changes to governance will be beneficial:
- To review the terms of reference of the Integrated SEND Board (ISB) to include the Cabinet Member for Education and Children’s Services as a member and to allow for the DfE to be invited to attend. It is also proposed that meetings should be more frequent.
  - To review the workstreams of the ISB to ensure that they are more focussed and that they accurately reflect the strategic aims of the partnership, including addressing the WSOA and other areas for improvement.
  - To clarify the assurance framework used by the Buckinghamshire Integrated Commissioning Team (BICS) in providing financial oversight of the £4.6m investment by the ICB, performance oversight in ensuring providers are supported to deliver improvements in waiting times, assurance and oversight

on the waiting list and articulating the experience of children as part of the reporting narrative.

- To align the oversight and scrutiny of the monthly Integrated Commissioning Executive Team Meeting (ICET) in relation to the SEND Transformation workstream with reporting on the SEND priority workstream of the Buckinghamshire Executive Partnership.
- To stand down the SEND improvement Board and the Written Statement of Action group as the work will be driven forward through the ISB.

2.41 The partnership will then move to consult on and co-produce a new area SEND strategy which will be brought to Cabinet in 2024.

### **3. Other options considered**

3.1 N/A report for information only.

### **4. Legal and financial implications**

4.1 This report is for information only and therefore there are no legal or financial implications as a result of agreeing to the recommendations.

4.2 It is worth noting; however, that a legal framework underpins Buckinghamshire's duties towards its children and young people with SEND. These includes identifying them, making joint commissioning arrangements for education, health and care provision with partner commissioning bodies and keeping education and training provision for them under review. These duties are set out in the Children and Families Act 2014. Section 19 of the Act requires that in carrying out core SEN functions we have regard, "in particular", to four matters: the views, wishes and feelings of the child and their parent, or the young person; the importance of each of these participating as fully as possible in decisions relating to the exercise of the function concerned; the importance of them being provided with the information and support necessary to enable participation in those decisions; and the need to support them to facilitate the development of the child or young person to help them achieve the best possible educational and other outcomes. Regulations made under the same act set out processes and timescales required for EHC plans.

4.3 It is also worth noting that local authority services to children and young people with SEND are funded from three main sources:

- The Dedicated Schools Grant (DSG)
- General Fund
- Capital Grant for development of SEN services

The DSG is a ring-fenced revenue grant to support school budget and services. It is split into four main funding blocks each with a different purpose and specific rules attached, any under or overspend relating to this grant is held by the Local Authority in a specific reserve to be dealt with through future year spending plans:

- Schools Block
- High Needs Block
- Early Years Block
- Central Services Block.

4.4 The High Needs Block (HNB) of funding is intended to support the educational attainment of children and young people with special educational needs and disabilities (SEND) and pupils attending alternative education provision. The HNB funds payments to maintained schools and academies (both mainstream and special), independent schools, further education colleges, specialist independent providers and pupil referral units. Some of the HNB is also retained by the local authority to support some SEND services (staffing/centrally commissioned services) and overheads.

#### **4a Director of Legal & Democratic Services comment**

4.5 The Director has read and approved the report.

#### **4b Section 151 Officer comment**

4.6 Whilst this report highlights the potential financial pressures across SEND, this report is not directly requesting any financial investment. The financial impact will be managed through the Council's budget setting process.

### **5. Corporate implications**

5.1 The SEND Improvement Programme aligns with the following [corporate plan](#) priorities:

- Strengthening our communities
- Protecting the vulnerable

### **6. Local councillors & community boards consultation & views**

6.1 N/A report for information only

### **7. Communication, engagement & further consultation**

7.1 N/A report for information only

## **8. Next steps and review**

- 8.1 There will be a consultation and co-production process to develop the new local area SEND strategy. This will be brought to Cabinet by May 2024.

## **9. Background papers**

- 9.1 Confidential appendix.

## **10. Your questions and views (for key decisions)**

- 10.1 If you have any questions about the matters contained in this report, please contact the author of this report. If you have any views that you would like the cabinet member to consider, please inform the democratic services team. This can be done by email to [democracy@buckinghamshire.gov.uk](mailto:democracy@buckinghamshire.gov.uk).

