

SEND SUSTAINABILITY OF STATUTORY DUTIES

Report of the Head of Service Education & Learning

Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendation: That Cabinet agree the recruitment of 13.2 additional staff, for a period of 18 months to ensure sustainability of statutory SEND services during the Covid-19 recovery period and whilst a wider transformation programme is implemented. The case for increased staffing in the SEN 0-25 team is based on work undertaken by HR, in partnership with Education and Learning.

1. Background/Introduction

In December 2018 Ofsted inspected Devon's SEND services and issued a Written Statement of Action (WSOA), requiring the Local Authority and its partners to improve four key areas, including the timeliness and quality of Education, Health and Care Plans (EHCP). The co-ordination of EHCP is the responsibility of the 0-25 SEN team.

In 2019 the Childrens' Scrutiny Committee set up a task and finish group to examine (among other things) the impact for staff of the increase in the rise of EHCP plans. The group reported;

"Staff wellbeing was an area of significant concern for the task group, with Members aware that staff are facing increasingly complex and difficult cases, which require additional support, both practically and emotionally".

"Sickness rates within the 0-25 Team have also been exacerbated by the level of demand placed on teams and the realisation that many staff work well above contracted hours in order to try and meet statutory deadlines. In turn, this has put added pressure on teams operating further below their capacity".

LG8 considered a business case for investment in SEN in response and 6 staff were recruited to the SEN team: levels of sickness reduced.

Current Position

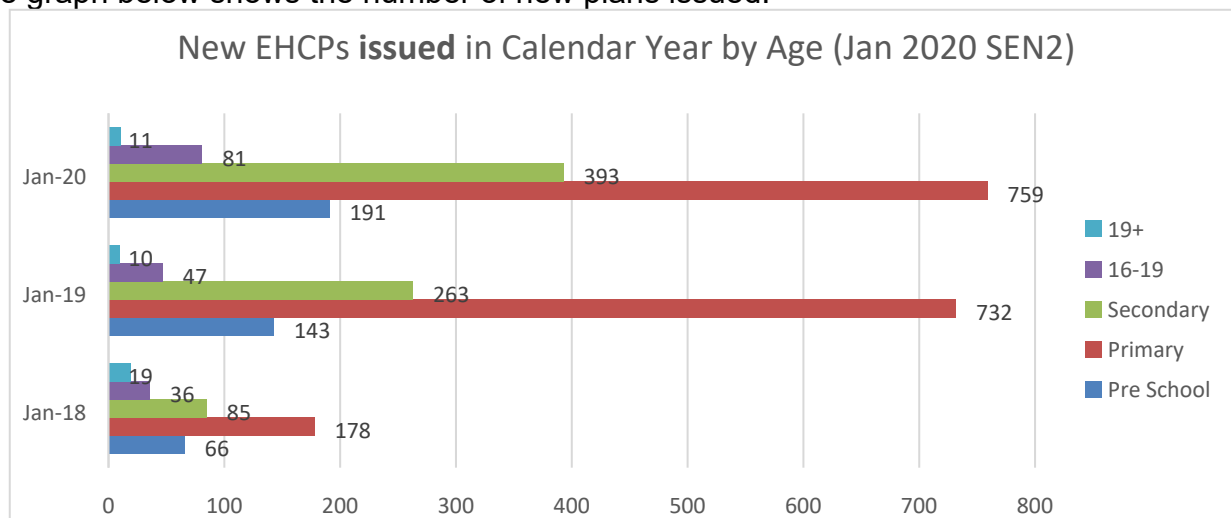
Demand pressure within the system has continued unabated and has been reported largely through budget monitoring reports, however, whilst performance has improved the well-being of staff has continued to be a major concern.

SEN staff were invited to attend 'one to one drop ins' with the Head of Education and the services link HR Business Partner. All staff could describe working many unpaid hours overtime per week (2 people said they were both working between 75-90 hours a week, another said that they needed at least 12 additional hours per FTE in the SEN team to consume the work).

Poignant and concerning examples were also given of the impact this was having on their personal life and mental health and well-being.

The reasons for the increase in pressure include:

Significant and continued growth in the number of requests for assessment for EHC Plans. The graph below shows the number of new plans issued.



This increase in EHCP increases the number of plans to be maintained. Maintaining a plan includes a statutory process for making amendments when a child’s need change or when they move schools, as well as an annual review for all children with a plan. The change in numbers shown below.

Year	Number of EHCP plans maintained	Amended plans due to phase change	Amended plans due to changed needs	Amended plans due to school moves	Plans that needed review	Number of new requests for assessment*
2014	3284	288	164	Not recorded separately	2832	
2015	3510	687	176	Not recorded separately	2648	334
2016	3718	738	186	Not recorded separately	2794	513
2017	4093	952	205	Not recorded separately	2936	1110
2018	5162	1052	258	Not recorded separately	3852	1491
2019	6474	1284	324	300	4866	1673

* not all assessments result in a plan being issued.

In addition there are pressures arising for example from parental expectations, the close monitoring of the WSOA and expectations of improvement, increased and sometimes aggressive threats of litigation and a shortage of appropriate special school provision for children and their families. **A list of other statutory work is available in Appendix A at the end of this document.**

2. Main Text/Proposal

The level of staffing within the SEN 0- 25 has not kept pace with the continued demand placed on the service.

Staffing needs have been assessed using a clear methodology based on staff working hours and the length of time it takes to complete each plan/review.

- Each full-time member of staff has 200 days to work on EHCP plans (52 weeks x 5 working days, less 28 days leave and 8 Bank Holidays and assuming zero sickness absence and deducting 24 days for time spent on other elements of the role (see Appendix A).
- We have 36.5 staff working on plans giving a total of 7300 days.
- Annually there are 3325 plans which require full write up. This takes on average 2.5 days per plan (split over the 20 weeks statutory deadline). We need 8312 days to do this work.
- Annually there are 3275 plans to review, each review takes half a day to complete requiring therefore 1637.5 days (based on the number of current plans).
- The total number of days required to complete the work is therefore 9,949 (8312 + 1637.5) days which would require 49.7 staff.

There is therefore a need for 13.2 additional staff.

Staff working on plans are on different grades, some have team leadership responsibility and other accountabilities. Based on interviews and observation, staff are working on average 10 additional hours (currently unpaid) per week. Some are working considerably more. Applying this to the pay grades equates to the same number of staff as shown above and provides accurate financial calculations for the funding required; £544,876 pa including on costs.

However, changes in processes that we have already implemented (such as the EHC online HUB for new assessments and later this year for reviews) and an anticipation that the numbers of plans will stabilise over the next 18 months as more children work their way through the system and reach the upper age limit, along with the wider SEND transformation work mean we expect to only need this level of staffing until February 2022. At that point we anticipate numbers more in line with our current staffing levels.

This means the total staffing cost would be £817,313. The attached spreadsheet (Appendix B) shows how the costs have been calculated and the split over 2 financial years.

Staff require IT equipment and based on information available at the time of writing this would mean 12 additional laptops (£11,691). IT support and licences would add approximately £13,500 pa.

Options/Alternatives

Not investing would mean we would be unable to fully meet the SEND statutory duties and statutory timeframes would not be maintained. A breach of statutory duties could increase vulnerability to DfE intervention, increased tribunal cases and potential judicial review. We are mindful that disadvantaged children including those with SEND are likely to have been further disadvantaged by COVID 19 and we therefore have to consider the potential for further escalation of demand

Financial Considerations

For detail, please see appendix B.

Legal Considerations

The delivery of SEND services is a statutory duty. Failure to meet the statutory requirements puts the Local Authority at risk, financially and reputationally but most importantly means young people and families do not get the support they need

Equality Considerations

The appointment of staff would be beneficial to young people with special educational needs or disabilities as it means the current level of service and support could be maintained.

Risk Management Considerations

No specific risks have been identified.

Summary/Conclusions/Reasons for Recommendations

There is an urgent need and a compelling case, to increase staffing within the SEN 0-25 team. The investment required over 2 financial years is £856,004 and would provide 13.2 full time staff (for the requested 18 months) and the necessary IT equipment and support.

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Head of Service Education & Learning

Electoral Divisions: All

Cabinet Member for Children and Families: Councillor James McInnes

Head of Service Dawn Stabb

LOCAL GOVERNMENT ACT 1972: LIST OF BACKGROUND PAPERS

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The above mentioned Reports are published on the Council's Website at
<http://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1>

Under the SEND code of Practice Sept 2014, the SEN team statutory workload comprises of significantly more than assessing and issuing new plans. The bullet points below give an idea of the breadth of workload increase as the overall numbers of EHCP plans continue to rise:

- Assessing new requests, collating the information and writing a high-quality plan. **(1500 new plans assessed a year – not all assessed plans are issued).**
- Chasing other services contributions to the plan when they have not submitted their elements.
- Amending plans at the end of year 6, year 11 and year 14 ready for transfer to their next school (there are national deadlines for completing this work each year) **1200 amended plans (Y6, Y11, Y14).**
- Amending plans as a child's needs change **(approximately 5% of plans per year = 325 plans).**
- Amending plans due to school moves **(300 movements in year).**
- Reviewing plans on a yearly basis **(we are not currently able to satisfactorily review the remaining 3275 plans (ie those which did not require amending) and it is a requirement of the code of practice that we do).**
- Attending team around the child meetings where there are issues.
- Meeting, phoning parents responding to emails (hundreds).
- Dealing with informal and formal complaints.
- Preparing information for Ombudsman complaints.
- Preparing for and attending SEND tribunals.
- Increasing responsibilities (due to revised legislation and Ombudsman cases) placed on the Local Authority requiring children to be in receipt of **full-time** education while waiting a placement.
- Increasing FOIs and SARs that are used by parents who are in disagreement with the Local Authority. These not only take time but then add to repeating previous work.
- Staff are also required to attend team meetings, whole service meetings, supervision, training and development and practice updates.

Staff also come under pressure due to:

- The close monitoring of the timeliness and quality of EHC Plans from Ofsted and management due to the SEND Review written statement of action.
- The relentless expectations of parents and the often-angry nature of the phone calls they receive; on average 70% are parents taking frustration out on the team (even though the timeliness of the SEN is now in line with National averages) and this has taken its toll.
- Increased litigation and aggressive communication from solicitors direct to all levels of staff.
- Being the contact point, which parents use to express all their concerns for all services including health, social care and education.
- Not wanting to let the team down or fail a re-inspection.
- An underlying value system to do a good job for children.
- The need to improve the quality of plans.
- A shortage of special school places (we appreciate the recent funding will address this but it will take time for the provision to come online).
- The increased breadth of knowledge required with the 0-25 years provision.
- The relentless increase in the number of EHCP plans which need to be assessed or maintained.