



West
Northamptonshire
Council

People Overview and Scrutiny Committee

Meeting date: 25 January 2022

Agenda Item 8

An overview of SEND support and alternative provision in West Northamptonshire

1 Background

1.1 The purpose of this report is to:

- explain the statutory duties of the council in regard to provision for the education of pupils with special educational needs and disabilities (SEND), and children who require ‘alternative provision’ (AP) from mainstream schools;
- set out key issues for the council in these areas – the provision of sufficient places to meet the requirements of pupils with significant additional needs; the timeliness of the education, health and care plan (EHCP) assessment process – and the way in which they are being addressed;
- inform members of the Committee about the plan to bring the high needs block (HNB) of the dedicated schools grant (DSG) back into balance, dealing with the structural overspend inherited from Northamptonshire County Council; and
- outline the work being done to develop a strategic approach with our statutory partners – the health and social care services and the Northamptonshire parent carer forum group (NPF) – across the county, that will contribute to our preparation for the inspection of SEND by Ofsted.

2 The statutory duties of the council in SEND and AP

2.1 Appendix A to this report lists the wide range of statutory duties that apply in both areas. The number in the leftmost column is the reference to the then department for culture, media and sport (DCMS) list of all council duties, and also the Children and Family Act (2014) list. The background colour refers to the relative importance or frequency of the requirement to address a duty. In the lead officer column, the abbreviation is of job titles, and is there to ensure the relevant postholder knows s/he is responsible for ensuring compliance. Where a row has a black box in the lead officer column, it indicates the duty does not apply locally.

2.2 The duties can be grouped in clusters comprising identifying and assessing need; providing sufficient places; reviewing plans; ensuring a ‘local offer’ is in place for children with SEN(D), including the involvement of parents and children in all aspects of provision; and securing transport to and from settings where a pupil is eligible. The focus of government inspectors in area SEND inspections is on:

- outcomes (as described in the code of practice) for children and young people with SEND;
- attendance and exclusion information, taking appropriate account of how these have been affected by the COVID-19 pandemic;
- data relating to the identification of SEN at SEN support and education, health and care (EHC) plan levels;
- information about the destinations after leaving school, including about young people not in education, employment or training;
- performance towards meeting expected timescales for statutory assessment;
- inspection reports for the local area, its services and providers; and
- the published local offer.

3 Key issue one: the provision of sufficient places for pupils with SEN

- 3.1 There is currently a significant shortfall of sufficient specialist places. This has resulted in a large increase in the use of independent schools, which are much more costly to the council in terms of both fees and transport costs, but in many cases do not provide either teaching and learning experiences, or outcomes, that are better than state-funded schools. Currently, the council spends £12m annually on independent school places, £3m over the budget.
- 3.2 There are three main reasons for the shortage of state school provision in West Northamptonshire. The first – and main – reason is large increase in the number and percentage of all pupils of EHC plans, since the government replaced ‘statements of educational need’ in 2016 following the implementation of the Children and Families Act, 2014.
- 3.3 Nationally, there were 3.7 per cent of pupils in England with an EHSP in 2020/21, compared with 2.8 per cent in 2015/16 – an increase of 32 per cent. Moreover, the most significant increase is in school age pupils. It does not include adults aged over 19, who are entitled to support through an EHC plan until their 25th birthday.
- 3.4 While it is true that in Northamptonshire this percentage growth was not with a large increase in the number and percentage of EHCPs since April. There are now 2,126 pupils with EHCPs. The only proxy for EHCP growth here is the NCC numbers for 2015 – 3,199 – and 2021 – 3,655, a 17 per cent increase.
- 3.5 The other key reason for a lack of places is the relatively low percentage of pupils with EHCPs in mainstream schools. While it is true that the only comparison available until the Department for Education (DfE) updates its local authority interactive tool (LAIT) is between Northamptonshire, the East midlands, its statistical neighbours and England, it is likely to be the case for schools in West Northamptonshire. The two tables below illustrate this clearly. The tables show the percentage of pupils with statements / EHCPs in mainstream primary and secondary schools respectively against comparators.

LA, region and England - the percentage of pupils with a statement / EHCP in primary

	2016	2017	2018	2019	2020
Northamptonshire (NCC)	1.1	1.0	0.9	0.9	1.0
East Midlands	1.0	1.0	1.0	1.1	1.3
NCC percentage difference	9.1%	0.0%	-11.1%	-22.2%	-30.0%
Statistical neighbours	1.0	1.0	1.0	1.1	1.3
NCC percentage difference	9.1%	0.0%	-11.1%	-22.2%	-30.0%
England	1.3	1.3	1.4	1.6	1.8
NCC percentage difference	-18.2%	-30.0%	-55.6%	-77.8%	-80.0%

- 3.6 The table shows that the percentage of pupils with statements / EHCPs in primary schools has declined marginally between 2016 and 2020 in Northamptonshire – but significantly against comparators. In 2016, such pupils were 10 per cent more likely to be in mainstream schools than in the East Midlands (EM) or statistical neighbours (SNs). However, by 2020, 30 per cent more pupils with EHCPs were in mainstream primaries in the EM and SN areas, and 80 per cent less likely than in England as a whole.
- 3.7 The table below shows a different pattern in mainstream secondary schools: a very sharp decline in the percentage of pupils with statement / EHCPs in Northamptonshire – from nearly 2 per cent (400) to one per cent (250), a 90 per cent decline but broadly static percentages in all three comparators.
- 3.8 In 2020, the number of pupils with an EHCP was 40 per cent less likely in mainstream school, 60 per cent less likely than statistical neighbours and 90 per cent less likely than in England respectively.

LA, region and England - the percentage of pupils with a statement / EHCP in secondary

	2016	2017	2018	2019	2020
Northamptonshire (NCC)	1.9	1.6	1.4	1.2	1.0
East Midlands	1.5	1.4	1.4	1.3	1.4
NCC percentage difference	21.1%	12.5%	0.0%	-8.3%	-40.0%
Statistical neighbours	1.7	1.6	1.5	1.5	1.6
NCC percentage difference	10.5%	0.0%	-7.1%	-25.0%	-60.0%
England	1.7	1.7	1.6	1.7	1.8
NCC percentage difference	10.5%	-6.2%	-14.3%	-41.7%	-80.0%

- 3.9 A third factor is the insufficient government capital build funding – through specialist capital allocations, including ‘special free schools’ – for extra SEN provision. In West Northamptonshire, despite capital allocations of £4.8m between 2018 and 2021 and £2.8m in 2020/21 the current deficit of provision means the need for an extra 380 places in funded school provision in mainstream schools, and a 250 place all-through special school – ideally by 2024.
- 3.10 SEN and place planning officers have agreements in place with 6 primary, 5 secondary and three schools for 170 extra places, which will cost approximately £6.5m, for which £3m is available. There is currently an evaluation of possible sites and buildings that might be appropriate for a special school. However, there is currently no free school bidding round so the free school presumption process would be required which means any capital build will need to be locally funded and therefore prudential borrowing would be needed to commission a special school.

4 The timely and good quality assessment process for pupils with high-level special needs

- 4.1 With regard to education, health and care (EHC) plans, the number of requests for statutory assessment was higher in November 2021– 94 – than any month since the creation of the new unitary council. The number of SEN assessments completed each month has varied significantly. From an initial low point of around 20 in April and May 2021, there was a significant improvement to 60 by July 2021. This reduced to between 40 and 50 in August and September 2021, and 32 in November 2021.
- 4.2 The key performance measure, however, is EHC plans completed within 20 weeks – including exceptions, which allow some discretion where there is an accepted reason for a delayed assessment. Between April and July 2021, only 20 to 25 per cent of assessments were completed in 20 weeks. This improved to 60 per cent in September – against a statistical neighbour average of 55 per cent – but has since dropped to 20 per cent in October and only nine per cent in November.
- 4.3 The reasons for the low level of assessments being completed within 20 weeks are:
- The large numbers of vacancies in the SEN assessment team, with 11 casework officer / caseworker vacancies;
 - A significant difficulty in recruiting and retaining educational psychologists (EPs), due to a national shortage in EPs, exacerbated by a historical dispute between the council and the national EP association, due to the council not using the national pay scale used in most LA areas (the Soulbury grading and pay system); and
 - Variable performance by health service and schools partners which contribute to the plan.
- 4.4 The local authority has recognised the significant increase in requests for EHC needs assessment will result in higher levels of plans being needed than previously. Accordingly, the chief executive has agreed to increase the capacity of the team. Recently, the head of the SEN assessment team has recruited five additional SEN caseworkers and two additional case officers, and has commenced

another recruitment process for the three remaining vacancies. The principal educational psychologist has recruited to one of the eight vacancies in her service and we believe we will reduce the vacancy rate by the end of the current school year.

- 4.5 We are in discussion with schools and health colleagues about health and education advice, and the importance of timeliness and we will be challenging colleagues to use some of the investment set aside in the shared Children and Young People collaborative with health, to invest in more resources so we can secure the right outcomes for our children. Taken together, the target is to reach the statistical neighbour average of assessments within 20 weeks by the end of the school year 2022 and to consolidate consistently from this in the 2022/23 school year.

5 The high needs block (HNB) recovery plan

- 5.1 The high needs block is one of four in the dedicated schools grant (DSG). The council is responsible for the management of this budget, and must work with Schools Forum to ensure it is managed efficiently, effectively and equitably. It must be emphasised that, as nationally reported, the HNB is a significant challenge in most top-tier LAs, and that two of the major reasons for this situation are increase in the number of pupils (and adults) with EHCPs since 2016, and the lack of funding for increasing special school places.
- 5.2 For some context, Appendix B shows the level of overspend in 2020/21 in the five LAs with the highest percentage overspend. These are between 65 and 93 per cent of the HNB budgets, compared with 4.2 per cent in West Northants (or its share of the inherited NCC deficit) the same year, 2020/21. However, without the actions in the recovery plan being delivered, the deficit is forecast to increase to 12.4 per cent, which is £6.8m at today's costs, by the end of the 2024/25 financial year.
- 5.3 There are eight strands to the recovery plan, as follows:
- (1) to define what is ordinarily available and apply the graduated approach to HN funding;
 - (2) commission resourced places in mainstream schools;
 - (3) implement a capital programme to increase special school places;
 - (4) consult on a banding system for implementation in the 2023/24 financial year;
 - (5) cease funding of outreach services through a top-slice;
 - (6) reduced funded alternative provision (AP) places;
 - (7) cease non-EHCP top-up aside from exceptional cases (eg trauma); and
 - (8) visit all independent providers, view to improving value for money (VFM).
- 5.4 Action has been put in place to achieve savings in strands 7 and 8. However, SEN and place planning officers are currently setting up a capital programme for more specialist places – this will be the major area for cost avoidance and bringing the block back into balance. The plan is subject to regular review from the council's chief executive, director of finance and lead member for children services. Schools Forum will receive regular reports on progress made in reducing the structural deficit.

6 The development of a strategic approach with our statutory partners

- 6.1 Education service partners are the health and social care services and the parent carer forum. These all work across the county, and are key in terms of our preparation for the inspection of SEND by Ofsted. Additional capacity has been commissioned to support strategic improvement in SEND across the local area. Issues identified to date include:
- co-production at every level is not yet embedded and there is not a consistent understanding of what this means. Development of a shared understanding of co-production is a priority for the SEND accountability board;

- a lack of a shared and agreed understanding of the issues, and the steps being taken and needing to be taken to address these; and
- expectations of all partners regarding implementation of the graduated approach need to be clearly articulated and linked into processes, including pathways and guidance for accessing additional support (linking into leadership for SEND, improving practice and outcomes and improving the experience for families);

6.2 In order to address these issues, we need – across the county area – to:

- co-produce a clear vision, agreed priorities and strategy based on a strong evidence base that will support a shared commitment to improving SEND across Northamptonshire – making improving SEND everyone’s business; and
- develop a communication strategy and plan to ensure all partners are supporting and influencing the delivery of the strategic plan.

6.2 A SEND accountability board, which comprises representatives from all key partners, including representatives from Northamptonshire’s parent carer forum has been set up to:

- enable partners to come together to agree the self-evaluation of SEND across the local area and oversee the development and implementation of the local area SEND strategic plan;
- secure the engagement of all key partners;
- be responsible for the delivery of the strategic and operational functions of the SEND strategic plan and associated strands of work;
- monitor the implementation of the strategic plan, providing a framework for reporting progress to key stakeholders and partners;
- agree the communication from the board to partners;
- make recommendations regarding how the work can be integrated across other key areas; and
- provide challenge and support that will improve outcomes for children and young people with SEND and their families.

6.3 A joint agency SEND data group has been set up to collate multi-agency SEND related data and feedback which will inform our self-evaluation and strategic plan. A range of initial data has been collated and further data has been requested, including key themes from feedback and audits to inform a comprehensive SEND Dataset and SEND Dashboard.

6.4 Schools, families and other partners have told us that there is not a clear vision and strategy for SEND in the local area. A shared understanding of priorities and strategy is required to ensure all partners support its delivery, making improving provision and support for children and young people with SEND and their families everyone’s business. A multi-agency working group has been set up to review other LA SEND Vision and Strategies and make recommendations for Northamptonshire. West Northamptonshire will have a clear delivery plan to support this which will incorporate actions identified in the High Needs Block Recovery Plan and ensure that use of resources, including High Needs Block funding, is having an impact on outcomes.

6.5 A working group comprising all key partners has been set up to co-develop clear guidance and support to settings and schools regarding expectations of SEND provision across universal, targeted and specialist provision. This will support clarity of the Local Offer.

6.6 A multi-agency quality assurance framework and tool is being developed to quality assure EHCPs and secure improvement in quality and consistency of quality of EHCPs. This will be rolled out from February 2022. West Northamptonshire is also involved in a regional pilot project to develop a tool for measuring improvement of outcomes in EHCPs. These pieces of work complement each other.

7 Alternative provision

- 7.1 Alternative provision (AP) is education for children who have been excluded from school, or are placed there by schools under independent commissioning arrangements by schools. Local authorities have a legal duty under section 19 of the Education Act, 1996 to make provision for children excluded from school. Most do this by placing at another school where possible (this is very difficult in most cases), either immediately or after a period in 'alternative education'.
- 7.2 West Northamptonshire (WN) funds two AP academies. Spires provides primary places (although registered for pupils aged 4-16), while the CE academy provides secondary places (year 7 to 11). This section explains the Ofsted status of the two APs; the funding arrangements; the use of APs by mainstream schools; the use of independent and unregistered providers and commissioning intentions in future.

WN APs: RECENT OFSTED OUTCOMES AND IMPLICATIONS

- 7.3 The CE academy was inspected between 25 and 27 May 2021. It was rated inadequate. Inspectors noted that it required significant improvement because it is performing significantly less well than it is expected to perform. The main area of concern was safeguarding. The report stated:
- Safeguarding is not effective. Leaders cannot be certain that all pupils are safeguarded when they are supposed to be in the school's care. Leaders must ensure that there are adequate safeguards in place for all pupils at all times, including all occasions when they are learning away from the school site. This should include appropriate risk assessments which are regularly reviewed and updated
 - Leaders have not checked that registers are accurate. The information recorded on registers is routinely inaccurate. As a result, leaders do not have an accurate understanding of attendance and absence. Leaders must ensure that registers are accurate in order to provide precise records of daily; and attendance and attendance over time, including to commissioning bodies, such as other schools.
 - Governors rely too heavily on what leaders tell them about what is happening in the school. As a result, they do not hold leaders to account well enough, including over safeguarding and attendance. Governors should ensure that they are assured of the accuracy of what leaders tell them about all aspects of the provision, so that they can hold leaders fully to account.
- 7.4 The Spires academy was inspected on 12 and 13 October 2021, with an additional day on 21 October. It too was rated inadequate. The report stated:
- Leaders have not ensured that pupils and staff are safe at school. They do not identify quickly enough when a pupil is at risk or provide them with the right support. Expectations of pupils' behaviour are too low. Leaders do not make sure that all staff know how to spot and respond to the signs that pupils are struggling to control their behaviour.
- Staff do not consistently challenge pupils when they use offensive language to others. This includes racist language. Not all staff respond appropriately when pupils are aggressive. This means that some pupils continue to be disruptive, risking harm to themselves and others. Other pupils learn to manage their emotions and their behaviour improves.
- 7.5 The report stated specifically regarding safeguarding arrangements:
- Trustees have not met their legal duty to make sure that pupils are safe. Leaders have not created a culture where all staff are alert to the signs that a pupil may need support. They are too slow to identify possible risks facing pupils, for instance involving harmful sexual behaviour or pupils' poor mental health. They do not always make sure that pupils who are at risk get swift support. This leaves pupils at potential risk of harm.

Leaders do not have a secure oversight of records for safeguarding, behaviour, physical restraint or the administration of first aid. Some of these records are inaccurate, lack precision and omit information about leaders' actions. Trustees do not check whether leaders' responses to serious safeguarding and behaviour concerns are appropriate.

Permanent staff have received recent safeguarding training. They know they must report any worries they have about a pupil promptly. Temporary staff do not have the information they need to support individual pupils appropriately.

- 7.6 Council education officers assessed the safety of pupils attending both APs and a safeguarding review is being completed to ensure that there is confidence that all issues have been addressed. It is intended to recommence the placement of excluded pupils, and be able to recommend to schools that they can commission safely, once the safeguarding review has been completed and evidence provided on the actions taken to address the issues.

AP FUNDING AGREEMENTS

- 7.7 As academy schools, both APs are funded for an agreed number of **places**. These are determined annually, under slightly different arrangements. For CE, as an academy, the council submits its proposed places required to the Education and Skills Funding Agency (ESFA). The ESFA assesses this proposal, usually with comments from the provider if numbers vary. For 2022/23, West Northamptonshire has proposed to fund 85 places. We have not heard from the ESFA about whether this has been agreed. For reference, North Northamptonshire has proposed funding 80 places. The total – 165 places – is significantly fewer than the 230 places agreed for Northamptonshire for the current and the past three years.
- 7.8 Spires was previously funded for 100 places by Northamptonshire County Council. As a free school, it is for Spires to put forward proposed places it can provide in the following year. West Northamptonshire council has agreed 36 places (as has North Northamptonshire). This means that Spires will provide 72 places in the 2022/23 school year. Note that as both academies are in Northampton, WN is the commissioning council. As such, the ESFA has removed £2,300,000 (£10,000 for 230 places) for CE, and £1,000,000 (£10,000 for 100 places) for Spires. For 2022/23, WN will need to recoup the place funding from North Northamptonshire for both APs.
- 7.9 For each child placed at an AP, a 'top-up' is agreed on a full-time equivalent (FTE) basis. For example, a pupil who is on roll for 19 weeks, full time, the total top up would be £10,070 divided by 2 (because the pupil was on roll for half the school year). The pupil funding is paid by the council on the basis of FTE pupil numbers each month. Currently, both councils pay for a set number of pupils at Spires, irrespective of whether the actual pupils are at this level. Catch 22, the trust within which Spires is located, has agreed to cease this agreement from April 2022 and top up funding will revert to actual number of pupils placed.

THE USE OF APs BY MAINSTREAM SCHOOLS, AND UNREGISTERED AP PROVIDERS

- 7.10 Some mainstream schools commission places directly – this is often to support pupils at risk of exclusion, or (for example) pupils who have temporary, identified issues with managing in classes of 30. These schools agree individually the funding to meet pupils' needs – most often on the pupil funding on an FTE basis. The council has funded the place.
- 7.11 Mainstream schools – and APs – often commission places from other providers, including specialist providers not registered by Ofsted. This is both legally compliant and beneficial to pupils. There is clear guidance on when an unregistered provider must become registered: when it provides full time education to five or more full time pupils of compulsory school age, or one such pupil who is looked after or has an Education, Health and Care Plan. The school concerned is responsible for overseeing arrangements at any commissioned provider and any Ofsted inspection of a school will assess commissioned places for its pupils.

COMMISSIONING INTENTIONS IN FUTURE

- 7.12 The council will recommence placements at both CE and Spires as soon as specialist officer assurance about pupil safety has been received. It will also pass this information to mainstream schools.
- 7.12 Council officers will also continue to assess the potential for more diverse geographical provision. At present, schools outside Northampton are not always well-served in terms of local availability of AP. Therefore, council officers will engage with heads in Daventry and Towcester about complementing existing provision in other localities.