

Report subject	SEND – Accelerated Timeliness
Meeting date	27 September
Status	Public Report
Executive summary	<p>A Written Statement of Action is in place to respond to the Local Area Special Educational Needs and Disabilities (SEND) Inspection that took place in June 2021. An improvement programme to deliver this is in train and reports to the SEND Improvement Board. The SEND Inspection identified eight areas of significant weakness which need to be addressed. This resulted in a set of actions being put into the Written State of Action to address the weaknesses.</p> <p>Improvement activity is underway, and progress is being made in several areas, however in the key area of statutory performance the service performance has decreased, and this data places BCP Council as the 5th lowest performing authority in the country, in terms of adhering to the statutory 20-week timescale for Education, Health and Care Needs Assessments and Plans.</p> <p>This business case puts forward the reason for the poor performance and the actions being taken to mitigate this. It also includes a proposal for urgent investment in the SEND Service on a short-term basis to manage the backlog so that the service can meet its statutory duties going forward. The concerns about this performance and the action plan have been raised at the SEND Improvement Board as have the capacity issues to manage the backlog and the increased demands.</p>
Recommendations	<p>It is recommended that Cabinet:</p> <p>a. Approves £784k one-off investment in the Children’s Services SEND Service to manage the backlog funded from a specific Earmarked Reserve.</p>
Reason for recommendations	Failure to act will result in children and young people continuing to not receive the support they are entitled to and risks further escalation by the DfE.

Portfolio Holder(s):	Councillor Richard Burton
Corporate Director	Cathi Hadley, Corporate Director of Children's Services
Report Authors	Sarah Rempel, Director of Education & Skills
Wards	Not applicable
Classification	For Decision

Background Detail

1. The Children and Families Act became law in March 2014. The new Special Educational Needs legislation, and the SEND Code of Practice contained within it, came into being in September 2014. The new Act required major changes to working procedures, mainly centred on needing to improve learning and life outcomes for children and young people with SEN and disability.
2. The act aimed for services to work collaboratively to provide a co-ordinated approach to meeting the needs of children and young people with SEND. The Education, Health and Care assessment procedures were designed to be a person-centred approach to provide as much information as possible to ensure that the outcomes were those wished for by the child, young person and their families.
3. Education, Health and Care Plans (EHCPs) provided the same statutory protection as previous statements but extended the rights to children and young people in education and training up to the age of 25. The new legislation extended the right to request a statutory assessment for a child or young person between the ages of 0-25.
4. The 2014 reforms had the right aspirations; however, it is now recognised that they created not only funding issues but systemic problems and accountability failures, including:
 - a lack of joint working between responsible bodies
 - a need for culture change towards joint working, without which even significant funding increases might make little impact
 - an adversarial, hard-to-navigate system, with parents needing to fight for support they are entitled to, and too many parents having to take their case to tribunals
 - an absence of responsibility for driving change and accountability for failures.

National picture

5. The national picture since 2014 is one of a system that is overwhelmed. Nationally, applications for EHCPs have increased by 215% from 2015 to 2022 and SEND tribunals have tripled.
6. Pressures on provision and the workforce have arisen from the lack of sufficiency of special school places, home to school transport costs, recruitment and retention pressures in key roles and significant waiting times for Health appointments and assessments.
7. Alongside this, huge financial strain has been put on local authorities. The total high needs deficits were estimated to be £1.9bn in March 2022, projected to rise to £3.6bn by

2025. The risk of the statutory override ending after 2026, will potentially force local authorities to issue section 114 notices.

Local picture

8. In December 2021, following the local area SEND inspection in June 2021, Ofsted and the DfE signed off the Written Statement of Action (WSOA). The WSOA commits BCP Council and Health partners to improving services for children and young people with SEND in the local area.
9. One of the key weaknesses identified in the SEND Inspection in June 2021 was the poor performance around issuing Education and Health Care Plans (EHCPs) within the required statutory timescale of 20 weeks. At the point the inspection took place, average performance was around 31.2%.
10. Improvement activity is underway, and progress is being made in several areas, however in the key area of statutory performance, the service performance has decreased (see table 1). This data places BCP Council as the 5th lowest performing authority in the country, in terms of adhering to the statutory 20-week timescale for EHCPs. Performance over time is shown below:

Table 1

Year	BCP Performance	National Performance	Requests for EHCNA
2019	91.3%	60.4%	541
2020	21.9%	58.0%	481
2021	31.2%	59.9%	592
2022	7.3%	50.9%	837

11. This decline in performance has led to the creation of a backlog of cases that are out of time and running beyond 20 weeks, with some having been in the system for as long as a year. The backlog currently stands at around 397 cases. A snapshot of performance this year is shown below:

Table 2

	Feb 2022	May 2022	Aug 2022	Nov 2022	Feb 2023	April 2023	July 2023
Statutory 20-week delivery	16%	3.1%	5.6%	0%	0%	0%	0%

12. The statutory timescales for completing a EHCP is 20 weeks, however, for BCP the average completion time for an EHCP is currently **44.5** weeks, more than double statutory timelines. BCP Council's average over the last year:

Table 3

	Jul 22	Aug 22	Sep 22	Oct 22	Nov 22	Dec 22	Jan 23	Feb 23	Mar 23	Apr 23	May 23	June 23	July 23
Av. No. Weeks	32.8	36.7	36.2	38.0	41.6	41.8	43.3	44.0	43.2	44.6	46.3	46.5	44.5

13. Reasons for poor performance are:

- a) Instability in staffing – high turnover of staff due to high caseloads, understaffing, and previous poor leadership. Since LGR in 2019, the SEND Service had not been in a steady position with one stable leader in place to bring the three separate services of Bournemouth, Christchurch and Poole together into one coherent service, following one clear way of working to ensure the continuity of delivery. Then, during the pandemic, work was being undertaken remotely. In June 2022, a permanent Head of Service was appointed, and the team was brought together physically for the first time.
- b) High demand on the service – 55% increase in requests for assessment since 2019. Caseloads for case officers currently sit at 145 and the service is reliant on interim and agency staff to deliver. Requests for EHCPs have increased by 55% since 2019 and demands on the service are growing as a result. The increase in requests are partly due to lack of robust health diagnoses pathways, for example, for autism and speech and language difficulties.
- c) Processes not as robust – now the service has clarity on procedures and agreed guidance notes. The Head of Service has been working since appointment to conduct an analysis of service performance and how to improve. There has also been a need to work on improving staff morale in the face of the Local Area Inspection and post LGR to create consistent standards and processes. Significant progress has been made in this area since the appointment of the new Head of Service which is regularly monitored and reported on to the DfE and NHS England during quarterly monitoring meetings.
- d) Lag caused by recruitment delays, agency notice periods and protected caseloads for new case officers (takes about 6 months to bring a new case officer to full capacity). The service has had a high turnover of staff, and this has created a backlog in caseloads as case officers leave and new ones take over. In addition, protected (lower) caseloads have been introduced to support the induction of new staff and to aid retention. Case officers and managers have also had to manage the additional pressures of delivering the Written Statement of Action, the Delivering Better Value project, the Alternative Provision review and previously the Rethinking the Team Around the School project. In addition, as the backlog increases, complaints have risen and then more time is taken away from statutory work to answer these.
- e) Long delays in the EP Service. There are also vacancies in key roles such as the Educational Psychology Service and transient locum staff are being used at a much higher cost. There are insufficient local EPs to service the BCP area and the surrounding areas, meaning it is not easy to recruit. This is a national issue. A neighbouring authority is currently offering £780 per day for locum EPs. BCP Council pays £500.
- f) Delays in receiving advice from partners such as Health have exacerbated the backlog. Following a recent monitoring meeting with the DfE, it is likely that additional support from Health will be forthcoming.

Clearing the Backlog

14. Due to the lengthy delays, BCP Council has a backlog of education, health and care assessments; some families have been waiting more than 30 weeks, and in a few cases, over 50 weeks.
15. The current backlog is captured below in table 4:

Table 4

	July 23
% EHCPs issued within 20 weeks	0%
Number of assessments delayed over 20 weeks	397
Number of assessments delayed over 30 weeks	192
Number of assessments delayed over 50 weeks	20
Total number of cases in backlog	397
Average time to complete new EHCP (weeks)	44.5

16. The proposed approach is to stand up additional capacity to work on clearing the backlog. This short-term team should be in place for 6 months and then taper off until it is closed in 9 months when the backlog has been cleared and the permanent establishment that is fit for purpose is in place. A rapid review of the EP Service is underway to ensure that statutory timelines are adhered to going forward. Alongside this, a re-organisation of the SEND Service is being designed. See appendix 1 for projections regarding a plan for clearing the backlog.
17. The proposed project to clear the backlog of EHCPs and the intended restructure of the SEND Service going forward will work alongside the Delivering Better Value (DBV) projects. BCP successfully bid for £1m and this will be spent as detailed in appendix 2. This funding can only be used for activities identified by DfE diagnostics to reduce the growth in the high needs block and not for business as usual. However, it is important that the project to clear the backlog is aligned with the DBV projects and therefore both will report to the SEND Improvement Board.
18. BCP Council has recently been invited to join the Safety Valve Programme. Safety Valve agreements hold the local authorities to account for delivery of reforms to their high needs systems, so that they can function sustainably and therefore in the best interests of the children and young people they serve. These local authorities will be expected to reach an in-year balance on their DSG as quickly as possible, and over time eliminate their deficits.

Risks

19. The Local Authority is currently failing to meet its statutory duties. By removing the backlog, children and young people's needs can be better supported. This is also having an impact on staff who are under pressure and on relationships with schools and parents and carers. DfE have asked to see plans to address this and are taking the matter seriously, escalating it within the department for discussion. This suggests they are considering taking action of some kind. Clearing the backlog will demonstrate commitment to providing a quality service and improve relations with parents and carers that are vital for co-production to take place effectively. Not acting to clear the backlog has many risks:

Table 5

Risk	Impact
Children and young people are not accessing the support they are entitled to, reducing their ability to achieve their potential.	Some of the most vulnerable children and young people miss out on education they are entitled to enable them to reach their fullest potential.
Families and carers lose trust in the Local Authority and are unable to access support they are entitled to.	Families struggle to support their children and young people to their fullest potential.
Schools not allocated sufficient levels of funding to meet need potentially related to high levels of Permanent Exclusions. Schools lose trust in LA.	Schools unable to deliver required education to children and young people. Children and young people miss out on education they are entitled to enable them to reach their fullest potential.
Undermines improvement effort of WSoA and increases likelihood of inadequate rating at the next Local Area SEND Ofsted Inspection.	Worsening performance leads to lower staff morale and an increase in staff turnover of both agency and permanent staff which leads to performance and quality of service declining further.
Does not demonstrate to DfE and other stakeholder that BCP is taking improvement seriously.	Department for Education decide to escalate and take action before SEND Inspection due to worsening performance and failure to arrest decline or allocate sufficient resource to address it
Uncontrollable spend on agency staff within the SEND Team.	SEND Team potential unplanned spend £45,000 per month on agency.
Uncontrollable spend on agency staff within Education Psychology Team	Education Psychology Locum spend for 22-23 - £368,000.
Increased spend on staff time dealing with complaints and tribunals.	Management estimated time spend on dealing with complaints c.£40,000.
Long term increased financial pressure on the High Needs Block due to poor quality plans.	Increase in pressure on current deficit in High Needs Block spending – current cumulative deficit of £107m predicted for 24-25.
Unable to fill permanent positions with the team due to reputation of the service.	Adding to overall agency staffing cost.

Summary of Financial Implications

20. Additional capacity needed to clear the backlog of assessments is detailed below:

Table 6

Role	Duration	Cost
0.5 FTE Team Manager	9 months	£36,000
4 FTE Case Officers	6 months initially, 2FTE to be extended to 9 months if needed	Total £201,000
2 FTE BSOs	9 months	£43,200
6 FTE EPs	6 months	£504,000
TOTAL		£784,200 (one off spend)

21. As part of the Financial Strategy supporting the development of the 2024/25 Budget the Council has undertaken a fundamental review of Earmarked Reserves to determine if they could be redirected to better support its priorities. This process identified £784,000 which can be used to cover the one-off investment into the SEND Service to better manage the backlog.

Summary of Human Resources Implications

22. EPs will be procured through an outside company that will provide a fully managed service. Staff for the other roles have already been recruited using funding from a different project. If approved, staff will move over to work on this project.

Summary of Legal Implications

23. It is important to note that (a) average national timeliness is 50.9% (b) data is published on an annual basis for all local authorities and this year BCP is the 5th lowest performing LA in terms of EHCP timeliness, and (c) DfE have asked to see BCP's plans to address this poor performance and have referred to escalation as a result.
24. The DfE requires a 20-week recovery plan and have asked BCP to prepare projections of increased performance as part of this plan. This failure to comply with statutory duties has a significant impact on children and young people as they are not able to access the support they need in a timely way. It also means that schools are not receiving the additional funding they need to support pupils and children who should be placed in specialist provision experience significant delay.

Summary of Commissioning implications

25. It should be noted that reducing the backlog of EHCPs at pace may place additional pressure on Commissioning as some children and young people may have the need for special or alternative provision identified as part of the EHCP process.
26. However, removing the backlog at pace could mean that the needs of more children and young people could be met in mainstream settings. Some delays have resulted in an escalation of need as provision and support hasn't been identified or put in place. This also would improve the lived experience of children and families.

Summary of IT implications

27. This project needs no additional IT requirements aside from normal staff access to existing systems.

Summary & Recommendations

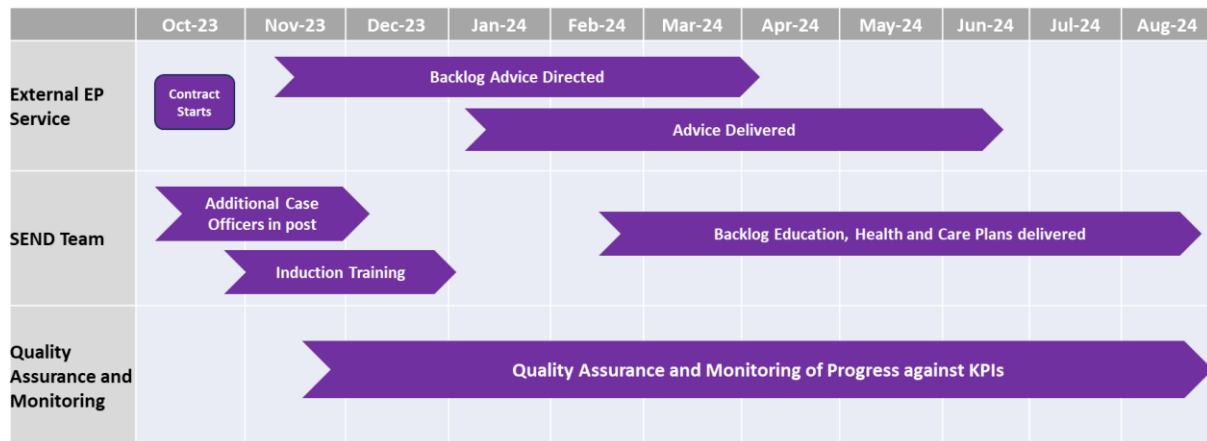
28. It is recommended that Cabinet:
- a. Approves £784k one-off investment in the Children's Services SEND Service to manage the backlog funded from a specific Earmarked Reserve.

Appendices

Appendix 1: Backlog Project Plan

Appendix 2: DBV Posts

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Appendix 2: DBV Posts

Workstreams 1- 4	Planned Use of Grant Funding	Amount
Reducing growth in Education Health & Care Plans	Recruitment of 1x Case Officer (fixed term) to run a SENCO Advice Line	£74,875
	Set up SENCO Advice Line	£39,000
	Recruitment of 1x Case Officer (fixed term) to focus on NEETs - review next steps for CYP, ensure preparation for adulthood and cease plans when applicable	£74,875
	Extend secondment of 1x SEND Service Manager (fixed term) to add capacity for transformation	£150,590
	Training for x4 Parent/Carer Facilitators	£6,000
	Workstream 1 Total	£345,340
Supporting Mainstream Schools to Support Children and Young People with Higher Needs	Recruitment of 2 x BSO Synergy Data Migration Officers (fixed term)	£33,254
	Recruitment of 2x Assistant Ed Psychologists to support graduated response (fixed term)	£126,523
	Workstream 2 Total	£159,777
Planning Capacity in Maintained Special School	Recruitment of 1x SEND Capital Lead (fixed term)	£74,875
	Consultancy Services for the development of an end-to-end process for establishing and commissioning additional places incorporating use of management information and improvement cycle to increase the pace of delivery	£70,000
	Workstream 3 Total	£144,875
Improve Outcomes, Control Costs: Dynamic EHCP Support: Supporting reviews of children in mainstream and special schools	Recruitment of 4x Case Officers to focus on Annual Reviews Backlog (fixed term)	£299,500
	Workstream 4 Total	£299,500
	BCP Grant Contribution to Corporate Services	£150,000
	Total	£1,099,492