

REPORT OF THE PEOPLE OVERVIEW & SCRUTINY COMMITTEE: SCRUTINY OF SEND FINANCES

Cllr Nigel Simpson
Chair of the People Overview & Scrutiny Committee
January 2023

RECOMMENDATION

1. The Cabinet is **RECOMMENDED** to —
 - a) Agree to respond to the recommendations contained in the body of this report, and
 - b) Agree that relevant officers will continue to update Scrutiny for 12 months on progress made against actions committed to in response to the recommendations, or until they are completed (if earlier).

REQUIREMENT TO RESPOND

2. In accordance with section 9FE of the Local Government Act 2000, the People Overview & Scrutiny Committee hereby requires that, within two months of the consideration of this report, the Cabinet publish a response to this report and its recommendations.

INTRODUCTION AND OVERVIEW

3. At its meeting on 12 January 2023, the People Overview and Scrutiny Committee considered a briefing on the funding arrangements and constraints for SEND and the impact that this has upon services delivered.
4. The Committee received the input of Cabinet member Councillor Brighthouse, the Corporate Director for Children's Services, Kevin Gordon, Deputy Director for Children's Services and Education, Hayley Good, Head of SEND, Kate Bradley, Finance Business Partner (Children), Sarah Fogden, and the Director of Finance, Lorna Baxter.

SUMMARY

5. The report was introduced by Cllr Liz Brighthouse, Deputy Leader and Cabinet Member for Children, Education and Young People's Services and Kevin Gordon, Director for Children's Services. They advised that the issues relating to SEND were complex and needed to be understood in the national context. It

was a critical point for SEND finances across the country and it required Central Government to intervene.

6. Hayley Good, Deputy Director of Education, Kate Bradley, Head of SEND and Sarah Fogden, Finance Business Partner, Children, were in attendance to provide a presentation and respond to questions and points raised by the Committee. From a local perspective, there had been a significant increase in requests for Education and Health Care Needs Assessments and subsequently for Plans. The number of Plans had increased from 2,233 in 2014/15 to 5,025 in 2021/22. This was an increase of 125%. The allocation of funding from Central Government had increased by 49% during this time. Changes were needed to prevent the deficit becoming wider.
7. It was explained that the High Needs Block (HNB) via Central Government was intended to enable local authorities to meet their statutory duties for Children and Young People with SEND up to the age of 25. The HNB was based on a formula including historical spending patterns plus local factors including population and levels of deprivation. Oxfordshire had a relatively high number of 'floor funded schools' and were funded at the minimum amount. The formula meant that if needs varied from year to year they were not fully reflected in local budgets. Oxfordshire was the 22nd lowest funded out of 151 local authorities.
8. It was confirmed that the High Needs Funding grant received by the Council was £74.5m and the demand for services via the HNB was expected to cost £92m in the current year. The forecast overspend was therefore £17.5m. In Oxfordshire, 16.3% of the children in special schools were in independent provision compared to 12.3% nationally.
9. The Committee was advised that there had been a detailed public consultation on the local area SEND strategy which covered education, social care and health and included proposals to make SEND system reforms locally. Work was now proceeding on the implementation plan and this was due to be shared in the coming weeks.
10. In terms of seeking to respond to the fact that there were not sufficient places in Oxfordshire's maintained special schools, which was a key reason as to why children had to travel to school outside the county, the Council was not able to unilaterally open new special schools. There were two new special school builds in progress at Bloxham Grove and Faringdon and bids for a further two special free schools had been submitted to the Department for Education (DfE). The Council had put itself forward to be part of DfE's Delivering Better Value programme, one of twenty local authorities involved.
11. Officers confirmed that significant levels of lobbying had taken place to improve the funding formula for Oxfordshire. This included the Council being part of the F40 Group, consisting of the lowest funded local authorities, which lobbied Parliament and the Secretary of State for Education. There had been an uptick in the national funding formula of 5% in the current year but the position relative to other local authorities had not changed. It was considered that the funding

formula was out of date taking into account high population growths and changes to the areas of deprivation and need.

12. It was clarified for a place in a special school, DfE funded the first £6k. At independent special schools there was no additional funding from the high needs grant. Transport costs for children travelling to independent special schools out of county impacted on the Council, being from the revenue budget rather than the HNB. Officers emphasised that the costs of the children's places were not directly proportionate to the outcomes. Often outcomes were better for the children in Oxfordshire's maintained special schools and academies.
13. The ability to obtain more SEND school places was considered. It was noted that all schools were opened as free schools and were academies by default. They all had a resource base planned at the premises as requested by DfE. The Council had to wait for wave funding to become available from Central Government and then submit an application for a new special school. It was agreed that officers would provide the Committee with a breakdown of the funding model for the bids for the two special free schools. It was agreed that officers would also come back to the Committee with information as to whether there was the capacity with S106 funding to expand existing special schools in order to increase places.
14. The Committee noted that the emphasis was on funding directly from DfE rather than via Community Infrastructure Levy pooled funding. Members also noted that there were expansion projects across the county to increase special school places within existing schools in addition to plans for new schools.
15. The Committee examined whether there was the scope to have a policy of working with organisations who were non-profit. Members were advised that there were children who needed very specialist provision and in some cases this was provided by the for profit sector.
16. The Committee considered that progress needed to be made on a national level following the Green Paper and the issue of Councils carrying deficits addressed. There was a need to explore further with neighbouring authorities how councils could meet the more specific needs of children in the higher cost independent sector.

RECOMMENDATIONS

17. The demand for SEND in Oxfordshire continues to grow and deficits are forecast to rise in the coming years because of this and the lack of sufficient funding from central government. From 2014/15 to 2021/22, the number of Education Health Care Plans (EHC Plans) in Oxfordshire has increased 125% while the allocation of funding for SEND from central government has increased by only 49%. This has led to an estimated overspend of £17.5m in the current financial year, an increase from £11.7m last year, and is estimated to exceed £20m per annum over the coming years, resulting in a cumulative deficit of £122m by 2025/26.

18. The greatest pressure on SEND finances locally is due to the proportionally high number of placements in the independent and non-maintained school sector (current spend is c.£25m on 450 children/young people). These schools are significantly more expensive than maintained schools of similar type and do not consistently deliver outcomes. There are two key drivers to placements in the independent sector, parental preference and the proportionate lack of maintained special school places in Oxfordshire compared to statistical neighbours. Based on current data, it has been established that up to 700 new special school places will be required (ages 4-19) by 2026.
19. The Committee notes that to improve this situation two new special school builds are in progress at Bloxham Grove and Faringdon and bids for a further two special free schools (one in Didcot of 116 places, one in South-East Oxfordshire of 150 places) have been submitted to the Department for Education (DfE). OCC is also one of the first 20 councils to work with DfE as part of the Delivering Better Value Programme to identify sustainable changes that can drive high quality outcomes for children and young people with SEND, and an evidence-based grant application to assist the implementation of those changes will be submitted in late January.
20. Notwithstanding the actions above, the Committee notes that there will remain a shortfall in provision of local special school places relative to the anticipated demand. Of course, it is not feasible that all children will be able to be provided for locally, but many could and it would be preferable both financially and in terms of improved outcomes if they were to do so. Given that SEND overspends are a national issue, the Council's neighbours are likely also to be experiencing similar challenges, which could create economies of scale locally and semi-locally sufficient to justify the provision of services where currently the Council and neighbouring Councils must seek external placements instead. It is the Committee's view that in-sourcing or partnership working is likely to prove cheaper than relying on the for-profit sector, and if there are ways to cultivate this through joint working the Council should be investigating this.

Recommendation One: That the Council investigate the possibility of working with neighbouring Local Authorities to increase local provision of SEND placements and services.

NEXT STEPS

21. The People Overview & Scrutiny Committee will review the published Cabinet response to this report and its recommendations at the meeting of the Committee after Cabinet's response in accordance with part 6.2, 13(f), of the Constitution of the Council.
22. The Committee intends to examine the provision of SEND in more detail at a meeting later in the year.

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