

## Summary Sheet

Improving Lives Select Commission – 16 April, 2019

### Report Title

Special Educational Needs and Disability (SEND), Sufficiency and increase in educational provision - Phase 2

### Is this a Key Decision and has it been included on the Forward Plan?

Yes

### Strategic Director Approving Submission of the Report

Jon Stonehouse, Director, Children and Young People's Services

### Report Author(s)

Mary Jarrett, Head of Inclusion - Performance, Commissioning and Inclusion.  
Dean Fenton, Head of Service - School Planning, Admissions and Appeals, Education.

### Ward(s) Affected

All

### Summary

This report has been submitted to Improving Lives Select Commission for pre-decision scrutiny and will be considered by Cabinet at its meeting of 20 May, 2019 or later.

This report contains the proposed second phase of the Council's plans to increase and develop special education needs provision in Rotherham and outlines the available capital budget allocated by central government to enable these developments to be implemented.

The report recommends that the Council consults with providers in relation to new provision to meet the needs identified within the sufficiency strategy and allocation of the capital funds to develop this provision.

### Recommendations

1. That Improving Lives notes the report and recommendations to Cabinet (detailed below).
2. That Cabinet has regard to the views of Improving Lives Select Committee when making decisions in respect of the matters outlined.

## **Recommendations for Cabinet**

- To approve publication of the refreshed Special Education Needs Strategy (2019) as part of the Borough's Local Offer for Children with SEND.
- To approve a period of consultation with schools and settings in relation to the additional capacity required in borough and seek proposals to increase educational provision for Special Education Needs and Disability (SEND) across the Borough.
- To receive a further report following consultation with schools and settings, seeking approval of the proposals recommended for implementation and associated allocation of capital investment to support delivery.
- **List of Appendices Included**
  - Appendix 1 – SEND Sufficiency Strategy 2019 refresh.
  - Appendix 2 – Implementation table for Phase 1 (2017-2020)
  - Appendix 3 – Equalities Impact Assessment

## **Background Papers**

Yes

## **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

## **Council Approval Required**

No

## **Exempt from the Press and Public**

No

## **Special Educational Needs and Disability (SEND), Sufficiency and increase in educational provision – Phase 2**

### **1. Recommendations**

- 1.1 To approve publication of the refreshed Special Education Needs Strategy (2019) as part of the Borough's Local Offer for Children with SEND.
- 1.2 To approve a period of consultation with schools and settings in relation to the additional capacity required in borough and seek proposals to increase educational provision for Special Education Needs and Disability (SEND) across the Borough.
- 1.3 To receive a further report following consultation with schools and settings, seeking approval of the proposals recommended for implementation and associated allocation of capital investment to support delivery.

### **2. Background**

- 2.1 Phase 1 of Rotherham SEND sufficiency planning began in 2017. A report was approved by Cabinet on 16<sup>th</sup> October 2017 to commence a period of consultation in relation to proposals to increase SEND capacity of provision across the Borough by 125 places by 2021. On 19<sup>th</sup> February 2018 following consultation, Cabinet approved proposals to complete the first phase of SEND Sufficiency in Rotherham which will create 125 additional permanent Special Educational Needs places for children with SEN between 2018 and 2021, this completed the first phase of Rotherham's SEND Sufficiency Strategy. Appendix 2, to this report shows progress made to date in relation to the delivery of the SEND sufficiency phase 1 projects approved by Cabinet and linked to the approved capital spend between 2018 and 2021.
- 2.2 Following the commencement of the capital projects in the 3 year programme of the first phase of the Rotherham SEND Sufficiency Strategy the sufficiency data was refreshed in October 2019. Like other Local Authorities in England the data demonstrated that Rotherham continues to see a rise in the numbers of children and young people with SEND and has projected growth is likely to continue.
- 2.3 In December 2018 in recognition of the national rise in numbers of children with SEND, Central Government announced that it had made available additional funds for capital investment for school places for children and young people with SEND. In Rotherham this funding amounts to an additional £338k allocated from the Department for Education (DfE) – Special Provision Capital Fund.
- 2.4 The implications of not having enough SEND provision in the Local Authority area are that there are an increasing number of Rotherham children with Special Educational Needs and Disabilities who travel outside the borough to meet their needs. This means some of the most vulnerable children have to travel the furthest distance to school. The number of pupils currently placed outside the Local Authority is approximately 189 (this figure does include 54

Looked After Children with SEN who are placed outside of the Rotherham area and therefore cannot attend local schools). The population data suggests that this will continue to grow unless there is ongoing investment to develop new provision in Rotherham.

- 2.5 The Dedicated Schools Grant (High Needs Budget) is significantly overspent and the Council are currently developing a recovery plan to address this. Indications are that there will continue to be significant increases in out of authority placements should 'in authority' capacity not be increased, leading to further demand on high needs funding allocation as 'out of authority' placements are significantly more expensive than 'in authority' placements.
- 2.6 The SEND Sufficiency Strategy 2017-19 (Phase 1) has resulted in the development of an additional 125 new places within Special Schools and Inclusion Units. These developments will be finalised by September 2020 and whilst some places have been accessed during 2018 the majority will be accessed during the academic year 2019-2020 (see Appendix 2) and should begin to reduce the numbers of children and young people utilising out of authority placements.
- 2.7 The SEND Sufficiency Strategy 2019 Phase 2 (Appendix 1) outlines the population data and projected growth over the next 10 years. The data demonstrates a significant increase in the number of children and young people with autism, moderate learning difficulties and social, emotional and mental health difficulties who will require additional support. This cohort of young people will benefit from resources which include access to a mainstream curriculum.
- 2.8 Therefore the SEND Sufficiency Strategy 2019 Phase 2 (Appendix 1) specifically proposes developing the use of SEN Inclusion Units within mainstream school settings to ensure that vulnerable pupils can access a mainstream curriculum but also receive high quality support, care and preparation for adulthood alongside this curriculum. The strategy proposes an additional 50 places with 2 units of 15 places each for children and young people of secondary age and 2 units of 10 places each for children and young people of primary age. The development of Inclusion Units within mainstream schools should enable the development of inclusion specialisms which can be utilised more widely by children and young people within these settings whose needs do not require a specialist place but who may benefit from a differentiated curriculum or other additional support.

### **3. Key Issues**

- 3.1 The increase in SEND provision within the Authority is necessary due to the increased pupil population since 2010 as outlined in the needs analysis contained within the appended sufficiency strategy. (Appendix 1)
- 3.2 The creation of additional in borough provision will lead to a longer term saving on high needs funding as in borough placements cost on average £30k per annum less than out of authority placements.

3.3 The sufficiency plan will be refreshed annually to take account of the changing picture of demand. This will be reviewed and monitored annually to assist forward planning in relation to the phase 3 identification of additional provision needed from 2025 onwards.

#### 4. Options considered and recommended proposal

4.1 **Option 1** – retain SEND sufficiency at the current level. This will mean that pupil numbers with SEND continue to rise without a linked rise in ‘in borough’ provision, increasing the number of out of authority placements and increasing further the pressures that exist on the High Needs Block of the Dedicated Schools Grant.

4.2 **Option 2 – Recommended** option, to seek Cabinet approval of the Special Education Needs Strategy 2019 for publication. To approve a period of consultation with schools and settings in relation to the additional places required and seek proposals to increase educational provision for Special Education Needs and Disability (SEND) across the Borough linked to the allocation of available capital funding from central government. Following identification of the preferred projects, to seek approval to deliver the projects and allocate capital investment where necessary to support delivery.

#### 5. Consultation

5.1 As a requirement to draw down the initial £500k allocation from the Department for Education (DfE) – Special Provision Capital Fund. Local Authorities were required to plan how to invest their allocation and other funding to achieve the best outcomes for children and young people with SEN and disabilities.

##### ***DfE - Special provision capital fund Guidance (extract):***

*Local authorities will need to:*

- ***Consult with parents and carers.*** *Effective engagement with parents and carers is crucial in building and implementing a strategy that develops support for changes. This helps local authorities ensure that services will meet the needs of children and families.*
- ***Consult with schools, FE colleges and other institutions which offer special educational provision.*** *Local authorities should work with providers to identify how capital investment can best improve the quality of provision available for children and young people with EHC plans.*
- ***Consider how to invest revenue and capital funding strategically to maximise the benefit of both in the context of the current infrastructure and programmes.*** *This might include looking at how to expand participation in an existing learning programme by making capital adjustments so that children and young people with SEN and disabilities can also attend.*
- ***Collaborate with other local authorities to form partnerships to work effectively across borders.***

*Before receiving the SEND funding allocation, local authorities need to:*

- *Consult with parents and carers of children with SEN and disabilities and young people with SEN and disabilities.*
- *Work with education providers to agree how the capital can best be targeted.*
- *Fill in the short plan template, confirming that the requirement to consult with parents, carers and young people has been met, and including information about the other groups that they have consulted.*
- *Publish a plan on their local offer page showing how they plan to invest their funding, before the deadline specified below.*
- *Note:*
  - *Where local authorities work collaboratively on projects, these must be listed on each local authorities' plan with an explanation of which other local authorities they have collaborated with and how.*
  - *Where a project will both create additional places and improve facilities for current and future pupils, local authorities should show on the plan how much funding will be spent on each of the two objectives. This may involve estimating how much of the project's investment would go towards each of these two aims.*

*Local authorities do **not** need to send the completed form to the Department for Education.*

*Local authorities **should not** include costings where this would have a negative commercial impact. Where not all costings are included in the first publication of the plan, local authorities should re-publish the plan as soon as it is no longer commercially sensitive to publish this information.*

- 5.2 The Local Authority consulted with interested parties in line with the guidance from the Department as above with the outcomes informing Phase 1 proposals approved by Cabinet. Good practice dictates that SEND sufficiency should be kept under review as pupil numbers and needs can change over a period of time.
- 5.3 This report seeks permission to begin a period of consultation with schools and settings regarding the additional places required in response to the SEND Sufficiency Strategy refresh, and to seek proposals to increase SEND capacity across the Borough linked to the allocation of available capital funding from central government.

## **6. Timetable and Accountability for Implementing this Decision**

### 6.1

May 2019	Seek Cabinet approval to publish the SEND sufficiency strategy update and consult with schools and settings in relation to proposals to create additional capacity.
September 2019	Seek Cabinet approval of recommended proposals to create additional SEND capacity and the allocation of capital funding to deliver approved projects.

October 2019 to September 2020	Delivery of capital projects approved by Cabinet to create additional capacity.
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- 6.2 Individual capital projects will be project managed by the Council's Asset Management Service with accountability for delivery to the Strategic Director of Regeneration and Environment.
- 6.3 Project implementation work with respective schools and Academy Trusts to implement the proposals will be led by officers in education and overseen by the Strategic Director of Children and Young People's Services.

## **7. Financial and Procurement Implications**

- 7.1 The SEND capital programme has funding of £2.302m with the first phase of funding fully allocated, leaving specific capital funding of £0.848m available to meet new service priorities. In addition the CYPS programme also has uncommitted schools capital funding (Basic Need) which could also be allocated to support these priorities. If current capital funding was not sufficient to meet the costs of capital scheme proposals (50 additional places) a business case could be submitted to outline the benefits of the scheme and requesting additional prudential borrowing.
- 7.2 The projected annual cost savings on the High Needs budget made possible from this programme of spend is estimated to be in the region of £1.5m (based on a cost saving of £30k per place per annum). These savings will offset spend allocated to the Dedicated Schools Grant (DSG) High Needs budget and will not fall on the Council's revenue budget. The savings will be achieved in two ways. Firstly, through reducing the need for high numbers of newly assessed children and young people to be educated outside Rotherham, and being able to offer high quality provision in borough. Secondly, for those children and young people currently placed in provision outside Rotherham, investigation with families about whether a child's needs can be better met in a Rotherham provision at annual review of the Education Health and Care plan. This will significantly reduce the escalating costs to the Dedicated Schools Grant High Needs budget.
- 7.6 The proposals would also have a positive impact on the Councils Home to School Transport budget, due to a reduction in out of authority placements and the additional transport costs incurred.

## **8. Legal Implications**

- 8.1 Should any of the proposals brought forward to create additional SEND capacity meet the requirement threshold to complete a full prescribed alteration under, the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (guidance dated April 2016), then separate proposals would be brought forward for Cabinet determination as part of the delivery programme.
- 8.2 Section 14 Education Act 1996 requires a local authority to have regard to securing SEN provision is made for pupils with SEN Needs. Following enactment of The Children and Families Act 2014, the local authority retains

responsibility for commissioning services for vulnerable children and young people with SEN and to keep such provision for children and young people with SEN and disabilities under review including its sufficiency (s.315 Education Act 1996), and to promote wellbeing and improve quality, working in concert with parents, young people, and providers. The Act is clear that, when considering any re-organisation of provision, decision makers must be clear how they are satisfied that the proposed alternative arrangements will lead to improvements in the standard, quality and/or range of educational provision for children with SEN.

## **9. Human Resources Implications**

9.1 The proposals will create teaching and learning and support staff employment opportunities and recruitment to these posts will be required following Rotherham Metropolitan Borough Council recruitment procedures for Local Authority maintained provision and Academy Trust recruitment procedures where proposals are linked to Academy status schools.

## **10. Implications for Children and Young People and Vulnerable Adults**

10.1 The additional SEND places created within the borough will give more children and young people the opportunity to access high quality provision closer to home to meet their educational needs.

## **11. Equalities and Human Rights Implications**

11.1 Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to:

- i. eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act,
- ii. advance equality of opportunity and
- iii. foster good relations between persons who share a protected characteristic and persons who do not share it.

11.2 An Equalities Impact Assessment (EIA) (Appendix 3) was completed following Cabinet approval of the Send sufficiency phase 1 proposals. This was refreshed in January 2019 and will be refreshed again during the consultation with schools and settings and seeking of proposals to create additional capacity period and details of the revised EIA will be included within the follow-up Cabinet report scheduled for September 2019 seeking approval of projects and allocation of capital to provide the facilities needed.

11.3 The Council must ensure it meets its public law duties when making decisions, including meeting its public sector equality duty. It must consider all relevant information, disregard irrelevant information, act in accordance with the statutory requirements and make its decision in a fair and transparent manner.

11.4 The additional specialist provision provided in phase 2 would allow more parents and carers to access education for their child in accordance with their



wishes within the local area in future years, in an inclusive and innovative learning environment.

## 12. Implications for Partners and Other Directorates

12.1 There will need to be further involvement and engagement with Planning Department, Asset Management Services, Transport services, SEND Specialist Services, Finance Section and Schools and Academies, who will all be engaged and involved in the development of the new provision. This will be overseen by the Strategic School Organisation Group and SEND Board, reporting to the Strategic Director of Children and Young People's Services, Chief Executive and Elected Members as necessary and appropriate.

## 13. Risks and Mitigation

13.1 There are always risks and uncertainties when school place provision is considered, since future pupil numbers are based on estimations. Over provision at one school could influence pupil numbers at other schools. However, current provision is full or over-subscribed and this trend is set to continue, meaning that more pupils are being placed in provision out of authority increasing the financial burden on the High Needs Block.

## 14. Accountable Officer(s)

Approvals Obtained from:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Neil Hardwick	29/3/19
Assistant Director of Legal Services	Linton Steele	27/3/19
Head of Procurement (if appropriate)	Lorna Byne	26/3/19
Head of Human Resources (if appropriate)	Amy Leech	26/3/19

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