

Committee Name and Date of Committee Meeting

Cabinet – 19 June 2023

Report Title

Special Education Needs and Disability Sufficiency Phase 4 Update – Delivery of mainstream school Special Education Needs and Disability Resource Bases

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

Yes

Strategic Director Approving Submission of the Report

Nicola Curley, Strategic Director of Children & Young Peoples Service

Report Author(s)

Nathan Heath Assistant Director, Education & Inclusion

Nathan.heath@rotherham.gov.uk

Helen Sweaton Assistant Director, Commissioning, Performance and Quality

Helen.sweaton@rotherham.gov.uk

Neil Hardwick Head of Finance CYPS

Neil.hardwick@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

The report provides an update in respect of SEND Sufficiency Phase 4 delivery of the SEND Resource base education provisions in mainstream schools following the SEND Sufficiency Phase 4 approved by Cabinet paper in October 2022.

The report details the key activities undertaken in completing an expression of interest process for schools to host a SEND resource base, with updates on the selection process, due diligence undertaken to date and next steps in relation to delivering the roll out of Rotherham SEND Sufficiency Strategy Phase 4.

Recommendations

That Cabinet:

1. Note the activity undertaken and progress to date on SEND Sufficiency Phase 4 including changes to the original profile of provision following the expression of interest process.

2. To formally approve 140 places at the 13 schools successful in their expression of interest to host a SEN resource base as outlined in paragraph 2.6 and limited to the High Needs Safety Valve capital allocation as outlined in paragraph 6.1 subject to Department of Education approval.

List of Appendices Included

Appendix 1 Part A - Initial Equality screening Assessment form
Appendix 2b Part B - Equality Analysis Form final
Appendix 3 Carbon impact FINAL Template

Background Papers

Safety Valve Cabinet annual update report - 24th April 2023 - [REPORT TEMPLATE FOR CABINET & COMMISSIONER \(rotherham.gov.uk\)](#)
SEND Sufficiency Phase 4 Cabinet paper - October 2022 - [REPORT TEMPLATE FOR CABINET & COMMISSIONER \(rotherham.gov.uk\)](#)
SEND Sufficiency Phase 3 Cabinet Report - November 2020 - [REPORT TEMPLATE FOR CABINET & COMMISSIONER \(rotherham.gov.uk\)](#)
SEND Sufficiency Phase 2 Cabinet Report May 2019 - [REPORT TEMPLATE FOR CABINET & COMMISSIONER \(rotherham.gov.uk\)](#)
SEND Sufficiency Phase 1 Cabinet Report – February 2018 - [REPORT TEMPLATE FOR CABINET & COMMISSIONER \(rotherham.gov.uk\)](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

SEND Sufficiency Phase 4 Update – Delivery of mainstream school Special Education Needs and Disability Resource Bases

1. Background

- 1.1 In Rotherham 19.7% of pupils have a statutory plan of Special Educational Need or Disability (SEND) with an Education Health Care Plan (EHCP) or are receiving SEND support (previously known as school action and school action plus). This compares to an average of 17.4% across all English Metropolitan Boroughs. In order that the educational needs of children and young people in the Borough with SEND can continue to be met, the Council has a responsibility to create a sufficiency of education provision to meet the needs of all pupils.
- 1.2 As part of the Rotherham involvement within the Department of Education (DfE) – Dedicated Schools Grant (DSG) – High Needs Deficit – Safety Valve Agreement, the Council has worked closely with the DfE to share and develop our strategic planning in order that the sufficiency of SEND places in the Borough is aligned to a sustainable financial plan to support the DSG High Needs budget moving to a balanced position across the lifespan of the Safety Valve Agreement.
- 1.3 In March 2022, following Cabinet approval, Rotherham entered into a Safety Valve Agreement with the DfE. As part of this agreement, additional SEND Capital of £4.32m was provided to Rotherham to support the development of SEND provision in the Borough and enact its strategic plans as set out in the Safety Valve Agreement. This funding is in addition to the £3.16m High Needs Provision 2022-2023 and £3.04m 2023/24 capital allocations that are proportionally awarded to all local authorities.
- 1.4 The key strategic aim set out within the Safety Valve Agreement is to enhance mainstream SEND capacity to meet a wider level of need across all schools and mitigate the need for children, young people, and young adults to be educated in settings outside the Borough and promote inclusive practice. Specialist SEND education provision placement for children and young people in Independent Special Schools outside Rotherham has a higher cost base and consistently does not provide stronger educational outcomes.
- 1.5 The proposed focus of SEND Sufficiency phase 4 aligned to our Safety Valve Agreement is to work closely with schools within the Borough and the DfE to create 10 additional SEND resource bases within mainstream education settings which would create a minimum of 100 additional SEND places over the next 3 academic years.
- 1.6 The proposed profile of provision informed by current SEND needs and provision mapping would be to create the following:
 - 2 Primary phase Social Emotional Mental Health resource base provisions (20 places in total)
 - 2 Secondary phase Social Emotional Mental Health resource base provisions (20 places in total)
 - 2 Primary phase Communication and interaction resource base provisions (20 places in total)

- 2 Secondary phase Communication and interaction resource base provisions (20 places in total)
 - 2 Secondary Moderate Learning Difficulty resource base provisions (20 places in total)
 - Total minimum places (100 places)
- 1.7 From 2018 onwards, Cabinet has approved three previous phases of SEND Sufficiency, each targeted at addressing incremental rises in SEND cohorts and creating or improving specialist education provision:
- In 2018, phase one of the Sufficiency Programme focused on increasing special school places in the Borough as indicated by the rapid growth in demand for all specialist provision. These plans led to increases in places at The Willows School (including post-16 provision), Kelford School and Abbey School. Initial development of resource provision places at Wales and Waverley were also included within phase 1.
 - The second phase of SEND Sufficiency focused on the need for more targeted provision for children with Autism Spectrum Disorder (ASD) and led to the development of new units at Wath Victoria Primary School, Brinsworth Academy and increased places at Milton School. There was also investment identified for post-16 provision at Thomas Rotherham College. As a consequence of this investment Rotherham has been better able to meet the needs of local children with autism and to place them in local schools.
 - Phase three created specialist provision for children and young people with Social Emotional Mental Health (SEMH) needs who were previously placed in Pupil Referral Units. Through the DfE Free School Presumption Process, Elements Academy opened in September 2022. This phase also looked at redeveloping an existing special school in the Borough through significant investment in rebuilding the upper part of Newman Special School which is no longer fit for the purpose of the current education delivery and will be complete in July 2023.

2. Key Issues

- 2.1 A resource base provision is attached to a mainstream school providing specialist therapeutic input and support for pupils with a specific SEND need type. Pupils access support from the resource provision based on their individual need whilst also accessing mainstream classes and curriculum.
- 2.2 In November CYPS completed an Expression of Interest process to identify schools who are interested in hosting a resource provision as part of SEND Sufficiency Phase 4. In total 15 schools completed EOI's which was matched well with the profile of provision developed in this phase of SEND Sufficiency and in some cases exceeded the intended schedule of provision.
- 2.3 As part of the selection process a period of due diligence has been undertaken across schools submitting applications, selection has included assessment against the capital required to adapt or build a suitable teaching space, teaching

and curriculum model identified by the school in delivering high quality SEND provisions and wider information such as existing inclusive practice, and geographical/location factors.

- 2.4 The EOI process identified an increase in demand from schools for Social Emotional Mental Health resource provisions across both Primary and Secondary phases. This aligns to increased needs for this cohort as reported by schools and partners across the SEND system at both a local and national level.
- 2.5 Initial selection processes have provided further scrutiny and oversight through our established SEND Sufficiency Board with all schools that successfully complete due diligence being required to seek approval from the DfE's Advisory Board to undertake a formal significant change of their school profile to allow them to have a SEND resource base.
- 2.6 The following schools were selected for initial due diligence as part of the selection process. Due Diligence has been undertaken since January 2023.

School	Phase	Need Type	Number of places
Thrybergh Academy	Secondary	SEMH	10
Winterhill Academy	Secondary	SEMH	10
Dinnington Academy	Secondary	SEMH	10
St Pius Catholic High School	Secondary	MLD	10
Wales High	Secondary	Communication and Interaction	20
Brinsworth Academy	Secondary	MLD	10
Dalton Foljambe	Primary	SEMH	10
Bramley Sunnyside	Primary	SEMH	10
Meadow View	Primary	SEMH	10
Highfield Farm	Primary	SEMH	10
Thurcroft Junior Academy	Primary	Communication and Interaction	10
Maltby Manor Academy	Primary	SEMH	10
Brinsworth Whitehill	Primary	Communication and Interaction	10
		Total potential places	140

- 2.7 The total potential places available across all expressions of interest exceed the minimum requirement of 100 places for phase 4. The additionality provides assurance against the risk identified under 13.3. The delivery of this round of SEND Sufficiency supports wider spread of SEND provision across the Borough. A number of schools that sit in geographical areas where no SEND resource bases currently exist have bid into this round of SEND Sufficiency and this will support a Borough wide development of accessible SEND provision.
- 2.8 As part the expressions of interest received by the Council. Wales High School and Brinsworth Academy who have existing resource base provision which has been running successfully for a sustained period of time put forward plans to extend their existing provision and further develop the SEND offer at both schools. Other successful resource bases including Wath Victoria Primary

School have indicated they would like to consider growth of their SEND resource base provision in the future.

- 2.9 The first additional places are scheduled to be available from September 2023 with a phased rollout over the following two academic years to create the 100 resource provision places. Performance management and quality assurance frameworks are in the process of being implemented for both new resource base provisions and those developed in previous rounds of SEND Sufficiency.
- 2.10 The interest from schools in hosting a resource base provision meets the initial requirement for SEND Sufficiency Phase 4 with the additional interest shown providing additional capacity to support future phases of SEND Sufficiency particularly in relation to additional SEMH places.
- 2.11 The next phase of SEND Sufficiency Phase 4 will see finalisation of capital requirements for schools, place planning and contracting prior to the establishment of additional school places from September 2023.

3. Options considered and recommended proposal

- 3.1 **Option 1:** Consideration has been given to not creating additional SEND resource base provision places. This option of doing nothing would place a significant financial risk on the Dedicated Schools Grant High Needs Budget as those pupils with identified SEND needs would still need specialist education support. Should this provision not be available in the Borough then education provision would need to be accessed outside of Rotherham.
- 3.2 **Option 2 (preferred option):** The proposal to create a minimum of 10 additional SEND resource base provisions in mainstream education and thus creating a minimum of 100 additional SEND places with Primary need as identified in 1.6. This preferred option also provides an opportunity to increase SEMH provision in line with the increased interest for this need type as identified in 2.6.
- 3.3 The preferred proposal includes the opportunity to increase places at 8 existing resource provisions developed during previous rounds of Sufficiency. This will provide opportunities to increase provision to meet need at identified contractual review points.

4. Consultation on proposal

- 4.1 All appropriate updates have been provided by RMBC ahead of this phase of SEND Sufficiency, key updates have also been provided to Schools Forum, School leaders forums, and associated partners including SEND Partnership Board and the Department of Education.
- 4.2 Further formal consultation would be undertaken with key stakeholders for all new resource bases that open at individual schools as part of DfE significant change applications and would lead to adaptations to academy funding agreements. This would be overseen by individual schools as part of their application to the DfE to host a SEND resource base provision.

- 4.3 As part of work that the Council undertakes as part of the wider SEND place based partnership, a series of listening events are held with Parent and Carers across key areas of development across SEND. Previous listening events have included development of the Social, Emotional, Mental Health Free School, SEND Local Area Inspection, and Newman School development. Plans are in place for a listening event for SEND Sufficiency Phase 4, in order that parents and carers are fully involved in appropriate consultation and are able to support co-producing this phase of SEND Sufficiency in the Borough.
- 4.4 Ongoing updates linked to SEND Sufficiency and performance data are provided to Improving Lives Select Committee. This phase of SEND Sufficiency will also have oversight from improving Lives Select Committee.

5. Timetable and Accountability for Implementing this Decision

- 5.1
- SEND Sufficiency Phase 4 Cabinet Report – October 2022
 - SEND Sufficiency Phase 4 EOI process – November – December 2022
 - Due Diligence and Selection Process – January – June 2023
 - First new resource provision places – September 2023

6. Financial and Procurement Advice and Implications

- 6.1 The creation of these Resource Units will be funded from the High Needs Capital allocation with £3.3m earmarked for this programme of works. The creation of an additional 10 Resource Units forms part of Rotherham's DSG Management Plan and Safety Valve Agreement, to enable Rotherham to operate within its annual DSG funding allocations by the end of 2025/26.
- 6.2 A Resource Unit provides a value for money solution and avoids a pupil having to leave a Resource Centre on a mainstream site which costs £14k compared to being placed in a Special School which averages £22k or an ISP which averages at £65k.
- 6.3 There have been no procurement implications in the work undertaken to date. In the next phase of activity, if there is a need for the Council directly to engage third party Contractors to deliver the works this must be undertaken in compliance with the Public Contracts Regulations 2015 (as amended) and the Council's own Finance and Procurement Procedure Rules. However, if the school(s) is to directly contract for the works, there are no procurement implications for the Council.

7. Legal Advice and Implications

- 7.1 Section 14 of the Education Act 1996 places a general duty upon a local authority to secure sufficient schools to provide primary and secondary education in their area and they should have particular regard to securing special education provision.

- 7.2 Following the enactment of The Children and Families Act 2014, the Local Authority retains responsibility for commissioning services for children and young people with SEN or a disability. The Local Authority is required to keep the provision for children and young people with SEN or disabilities under review, including its sufficiency (Section 315 of the Education Act 1996), and to promote wellbeing and improve quality, working in conjunction with parents, young people and providers. This Act and its associated guidance 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 or a disability.
- 7.3 In order to minimise the risk of legal challenge, the Local Authority should ensure that it is fully compliant with all relevant legislation in this area and that it continues to satisfy its statutory duties through its decision making. Furthermore, the Council should also ensure that it continues make decisions that satisfy the terms of the Safety Vale Agreement.

8. Human Resources Advice and Implications

- 8.1 There is no direct HR implication within this report.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 Additional Special Educational Needs and Disability (SEND) places created within the Borough give more children and young people the opportunity to access high quality provision to meet their educational needs and in line with parental wishes.
- 9.2 Key considerations are referenced within the report.

10. Equalities and Human Rights Advice and Implications

- 10.1 Children and Young People with SEND are disproportionately represented across a range of education and inclusion measures. The SEND sufficiency phase 4 aims to provide specialist education provision that supports identified cohorts with SEND needs to have enhanced education opportunities and provide support in order that all children and young people have the strongest possible preparation for Adulthood.

11. Implications for CO₂ Emissions and Climate Change

- 11.1 All areas of SEND Sufficiency, student placed planning (inclusive of circa at least 100+ additional SEND places), and educational placements have a direct environmental impact, consideration of this element is informed in provision development and provision enhancement in the Borough due to the direct impact this will have to limiting students travelling outside the Borough. This would support reduced emissions of CO₂.
- 11.2 Wider consideration of indirect implications or unintended consequence of work in this area has on CO₂ Emissions and Climate Change is considered across all

partners as the Council are committed to long term targets to mitigate these areas of concern in the Borough. An environmental impact assessment has been completed and is an appendix to this report.

12. Implications for Partners

- 12.1 Ongoing updates are provided to key stakeholders including Parent/carers forum, health leaders, school leaders, Schools Forum, and other associated stakeholders.
- 12.2 Development of specialist SEND provision in the Borough will enhance SEND practice for all SEND need types in the Borough and will support areas of focus to enhance SEND capacity across education system in Rotherham enhancing SEND provision in Rotherham schools.

13. Risks and Mitigation

- 13.1 Across all areas of this phase of SEND Sufficiency the council will adhere to guidance and advisory outline provided to Local Authorities by DfE in relation to significant changes or changes of designation for schools. Regular update meetings are held with DfE, and this will support forward planning across this phase of SEND Sufficiency.
- 13.2 Across all key decisions and internal processes, decision making has had oversight of SEND Sufficiency Board which involves all key internal parties including legal, assets, HR, procurement, transport, finance, commissioning, and education specialists.
- 13.3 There is a risk that changes to schools OFSTED rating, inclusive practice, national SEND guidance or required capital allocation results in schools listed under 2.6 being unable to successfully complete due diligence or receive DfE approval to host a resource provision.

14. Accountable Officers

Nathan Heath – Assistant Director, Education & Inclusion
Neil Hardwick – Head of Finance CYPS

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	05/06/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	01/06/23
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	30/05/23

*Report Author: Nathan Heath Assistant Director, Education & Inclusion
Nathan.heath@rotherham.gov.uk*

This report is published on the Council's [website](#).