

Committee Name and Date of Committee Meeting

Cabinet – 18 March 2024

Report Title

SEND Sufficiency Phase 4 Update

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

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Ward(s) Affected

Borough-Wide

Report Summary

The report provides a further update in respect of SEND Sufficiency following the SEND Sufficiency update received by Cabinet in June 2023.

The report details the key activities undertaken in implementing Phase 4 of the SEND Sufficiency programme focusing on resource provision development and roll out of the Schools' Accessibility Funding Programme across both mainstream and special schools.

The report also identified key activities and outcomes that are currently in the process of development as part of a further Phase 5 of SEND Sufficiency linked to our Safety Valve Agreement.

Recommendations

That Cabinet:

1. Note the activity undertaken and progress to date on SEND Sufficiency Phase 4.
2. Note the key outcomes for SEND Sufficiency Phase 5 as included in the Safety Valve Agreement and agree for an additional paper to return to Cabinet once an initial feasibility has been completed.

List of Appendices Included

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

Background Papers

SEND Sufficiency Phase 4 update report – 19th June 2023 - [REPORT TEMPLATE FOR CABINET & COMMISSIONER \(rotherham.gov.uk\)](#)

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

1. Background

- 1.1 In Rotherham 20.4% of pupils have either a statutory plan for Special Educational Need or Disability (SEND), known as 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 17.1% across all England Authorities. 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 Rotherham's involvement with the Government's Dedicated Schools Grant (DSG) High Needs Deficit Safety Valve programme, the Council has worked closely with the Department for Education (DfE) to share and develop its strategic planning to ensure 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 formal 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 From 2018 onwards, Cabinet has approved four previous Phases of SEND Sufficiency, each targeted at addressing incremental rises in SEND cohorts and creating or improving specialist education provision. The first three Phases of the SEND Sufficiency programme have created 401 additional school places in Rotherham.
 - 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. This created an additional 125 new places within special schools and inclusion units.

- The second Phase of SEND Sufficiency focused on the need for more targeted provision for children with Autism Spectrum Disorder (ASD) and children with profound and multiple learning difficulties (PMLD). 111 places across 10 schools were created including the development of new units at Wath Victoria Primary School and 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 education delivery. 165 additional school places were created in this Phase.
- Phase 4 of the programme was approved for implementation in June 2023 with the main aim of SEND Sufficiency Phase 4 to support mainstream schools to meet a wider level of need and improve accessibility within both mainstream and special schools. Phase 4 includes the development of a minimum of 10 resource provisions across mainstream settings creating 100 new SEND places. A second main aim of SEND Sufficiency Phase 4 was the implementation of the Schools' Accessibility Funding Framework across both mainstream and special schools. An update on the implementation of both main areas of SEND Sufficiency Phase 4 is included in the main body of this report.

2. Key Issues

2.1 Resource Provision Update:

- 2.1.1 A resource 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.
- 2.1.2 Following the expression of interest process and due diligence, the first Phase of resource provision implementation took place in Spring Term 2023. This included the approval of new resource provision at Thrybergh Academy and Dalton Foljambe and additional places at Wales High School resource provision. It is anticipated the building works will be completed so that the first places for children are available in September 2024.
- 2.1.3 There are currently 5 schools working through approvals to support the opening of their resource provision. The schools, breakdown of accommodation and projected places for academic year 24/25 are given below:

School/Academy	Phase	Primary Need	Places from September 24
Maltby Manor Academy	Primary	Social Emotional Mental Health	5
Thurcroft Junior Academy	Primary	Communication and Interaction	5
Brinsworth Whitehill	Primary	Communication and Interaction	5
Winterhill School	Secondary	Social Emotional Mental Health	5
Brinsworth Academy	Secondary	Moderate Learning Difficulty	5

2.1.4 Subject to completion of building works and necessary DfE approvals, 8 provisions for Phase 4 are scheduled to be completed by September 2024 with the additional 100 places being delivered in a staged way over the remaining two academic years.

2.1.5 The additional resource provisions and places will be developed during academic year 24/25 with a review of current capacity, provision mapping and analysis informing the remaining provision roll-out.

2.2 **Accessibility Funding Framework:**

2.2.1 In June 2023 Cabinet approved the School's Accessibility Strategy and Accessibility Capital Funding Framework. The intention of Schools' Accessibility Funding is to support schools to meet a wider level of SEND need through adaptations to existing buildings. This supports the Council's sufficiency strategy by moving the SEND continuum towards the mainstream.

2.2.2 The Accessibility Funding Strategy proposes three distinct areas including:

- Targeted work across mainstream and special schools linked to accessibility requirements for individual pupils and cohorts.
- Individual requests and contributions for individual pupils linked to established equipment panel.
- A small capital grant programme for schools open through application and assessment in line with schools' own accessibility planning.

2.2.3 In Spring 2023 capacity assessment work was completed by an external consultant across all special schools in Rotherham. This identified any current capacity gaps across the SEND estate which could be mitigated through Accessibility Funding. Where sufficient capacity does not exist, it is Accessibility Funding that has been utilised to develop additional provision for specific pupil cohorts who are struggling to access the existing curriculum offer within our special schools.

2.2.4 Since launch, Accessibility Funding has been awarded to the following special schools:

- **Nexus (Forest View) £370k** – the development of Forest View as a purpose built 14-19 provision for young people with SEND focusing on preparation for adulthood. The provision was developed in Summer 2023 after the decision to close Rowan School following the transfer of pupils to Elements Academy in September 2022. Forest View has created 50 additional SEND places.
- **Newman School £15k** – Newman was supported to develop a therapeutic space so young people can receive therapy on site as part of the core offer of the school.
- **Elements Academy £67k** – Through adaptations to unused (blank) capacity within the school, Elements Academy have adapted space to improve access to the curriculum for young people with SEMH. This has supported the school to provide an additional 45 places to help meet demand for places.

2.2.5 June saw the launch of the accessibility capital funding small grants' programme for mainstream schools. Grants were capped at a maximum of £50k in an initial funding round. Interest from schools was strong with 16 applications received initially. A multi-agency short-listing panel was formulated including colleagues in Education, Inclusion, Health, CYPS Commissioning, Asset Management and Rotherham Parent Carer Forum. Of the bids received, the following were approved in the initial funding round:

- **Brinsworth Academy** – £9.3k. The project will develop blank teaching capacity in the school to create a breakout area and Sensory space. This will support students who require additional support including those who access the Moderate Learning Difficulty resource provision within the school.
- **Wath Church of England School** – £1.2k. Funding will be used to develop a changing area for Foundation Stage pupils.
- **Wingfield Academy** - £50k. The development of a vocational teaching space to support an identified cohort of pupils with SEMH needs. The project will support the school to widen their curriculum offer with a planned reduction in use of alternative provision and school suspensions/exclusions.
- **Oakwood High School** - £50k. The project will support the school to broaden its support offer for young people with SEMH needs through adapting an existing building on site to create a break-out area and bespoke learning environment. The project is being jointly funded with the school.

- **Brinsworth Manor Infants** – £31k. The project will develop a nurture area and Sensory space for pupils who require additional support within the Foundation Stage.
- **Rockingham Junior and Infants** – £20k. The project will support the development of a Forest School and outdoor sensory area for young people with SEMH needs. The provision will also be accessed by young people who attend the LEAF SEMH alternative provision.
- **Waverly Junior Academy** – £50k. The project will improve accessibility to outdoor spaces at the school including the development of an outdoor learning area. This will support pupils across the school including those attending the established communication and interaction resource provision.

2.2.6 The small grants' programme has now been fully implemented with grant agreements agreed with each of the schools. Work is currently underway with all projects due for completion this academic year, subject to building works.

2.2.7 In addition to the small grants and special school applications, accessibility funding has been utilised to support individual pupils who require specific adaptations to support physical access to buildings and the curriculum. This has supported young people to remain within current education settings with support from the EHCP Team to identify pupils, working alongside both mainstream and special schools.

2.2.8 The Safety Valve Agreement recognises a Phase 5 of SEND Sufficiency. The main focus of Phase 5 is to provide increased sufficiency of places and condition improvements within our specialist provision. Phase 5 will cover three core elements which are detailed below:

- **SEMH growth** - the current trajectory of growth for SEMH provision identifies a need to increase specialist provision to create a minimum of 40 additional places during the period of the Safety Valve Agreement
- **Newman School** - continued investment on the Newman Special school site to update and enhance provision against current SEND sufficiency planning. Continued investment will enhance capacity and support placement of higher threshold SEND need in the school, avoiding placement in high-cost Independent Specialist or Out of Authority provision.
- **Pupil Referral Unit Development** - continuing to develop high quality mainstream focused Pupil Referral Unit/Alternative Provision is an essential triage for our SEND system. It supports the implementation of our Inclusion Review (carried out by independent experts ISOS) through ongoing capital investment and we can guide our provisions to focus on intervention-based approaches helping students to return to mainstream education and be successful.

2.2.9 SEND Sufficiency Phase 5 projects are currently forming part of a feasibility study which will be completed during Spring Term 2024. The study will identify

appropriate options for development including identifying appropriate school assets which could be developed, capital investment required and timescales for delivery. On completion of the feasibility study a further Cabinet report will seek appropriate approval to implement Phase 5.

3. Options considered and recommended proposal

- 3.1 Cabinet is asked to note the progress of the SEND Sufficiency Programme, and that a formal feasibility study will now be undertaken to inform the detail of the next Phase of the programme.

4. Consultation on proposal

- 4.1 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 5, 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.
- 4.2 All appropriate updates have been provided by RMBC ahead of this Phase of SEND Sufficiency via key discussions with the DfE. Key updates have also been provided to Schools' Forum, School Leaders' forums and associated partners, including the SEND Partnership Board.
- 4.3 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.
- 4.4 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
 - 5 additional resource provisions – September 2024
 - Remaining resource provision places – September 2025

6. Financial and Procurement Advice and Implications

- 6.1 The creation of 10 Resource Units as outlined in the report 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 VFM solution and avoids a pupil from having to leave a Resource Centre on a mainstream site which costs circa £14k compared to being placed in a Special School which averages £22k or an ISP which averages £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 to directly 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(are) 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 are 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 being unable to successfully complete due diligence or receive DfE approval to host a resource provision.

14. Accountable Officers

Helen Sweaton – Joint Assistant Director, Commissioning, Performance and Quality

Julien Kramer – Assistant Director Education and Inclusion

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	04/03/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	23/02/24
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	23/02/24

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