

**Open Report on behalf of Heather Sandy, Interim Director of Education**

|            |  |
|------------|--|
| Report to: | <b>Schools' Forum</b>  |
| Date:      | <b>20 June 2019</b>  |
| Subject:   | <b>Annual Report on Special Educational Needs and Disabilities</b> |

**Summary:**

The purpose of this report is to provide the Schools' Forum with an annual update on Special Educational Needs and Disabilities (SEND) as required by the Schools' Forum Regulations. The report covers:

An update on activity within the county.

An overview of the high needs costs throughout 2018/19.

An update on Mediation, Tribunals and the SEND National Trial for Single Route of Redress.

An update on the Building Communities of Specialist Provision strategy.

A summary of the Local Area Ofsted/CQC Inspection.

**Recommendation(s):**

The Schools' Forum is invited to note and comment on the contents of the report and direct any questions to the officers in attendance.

**Background**

Part 3 of the Children and Families Act 2014 aligned and streamlined the system of SEN assessment, support and provision for children and young people 0-25, bringing together the provisions of a variety of Acts covering education, health and care as well as introducing new provisions, statutory implementation of associated duties, regulations and a new SEND Code of Practice.

The reforms set out in the Act include:

- i. Extending the SEND system from birth to 25, giving children, young people and their parents/carers greater control and choice in decisions about provision;

- ii. Replacing Statements and Learning Difficulties Assessments (LDA) with a birth-to-25 Education, Health and Care (EHC) Plan;
- iii. Offering families the option of personal budgets when an EHC plan is implemented;
- iv. Improving co-operation between all the services and requiring particularly local authorities (LA) and health authorities (HA) to work together;
- v. Requiring LAs to involve children, young people and parents in reviewing and developing provision for those with special educational needs and to publish a 'local offer' of support; and
- vi. Publication of a new SEN Code of Practice and regulations covering the work of early years providers, schools and post-16 education providers, LAs and HAs.

There is a sharper focus on the measurable outcomes for Children and Young People. It is expected that the majority of children with SEND will have their needs met and outcomes achieved through mainstream education provision and will not need EHC Plans. These are explicit themes running throughout the SEND Code of Practice 2015.

Parents and young people must be involved directly in discussions and decisions about the support available to them individually and more strategically, particularly through the 'co-production' and delivery of the SEND assessment, the EHC planning process and the Local Offer.

Each stage of the EHC Needs Assessment process is subject to appeal to the Special Educational Needs and Disability Tribunal and in some cases the Local Government Ombudsman.

A child or young person has special educational needs (SEN) if they have a learning difficulty or disability which calls for special educational provision to be made for him or her.

### **The National Context:**

In January 2019 there were 354,000 children and young people (0-25) in England with an EHC Plan; an increase of 32,400 (11%) from January 2018. This is driven by increases across all age groups, with the largest percentage increases in the 0-5 (13%) and 20-25 (32%) age groups. The total number of children and young people with statutory plans has increased each year since 2010.

There were 48,900 new EHC Plans made during the 2018 calendar year. This is an increase of 16% compared to 2017. The number of new EHC Plans has increased every year since the implementation of the reforms in 2014. The overall increase since September 2014 is 35%.

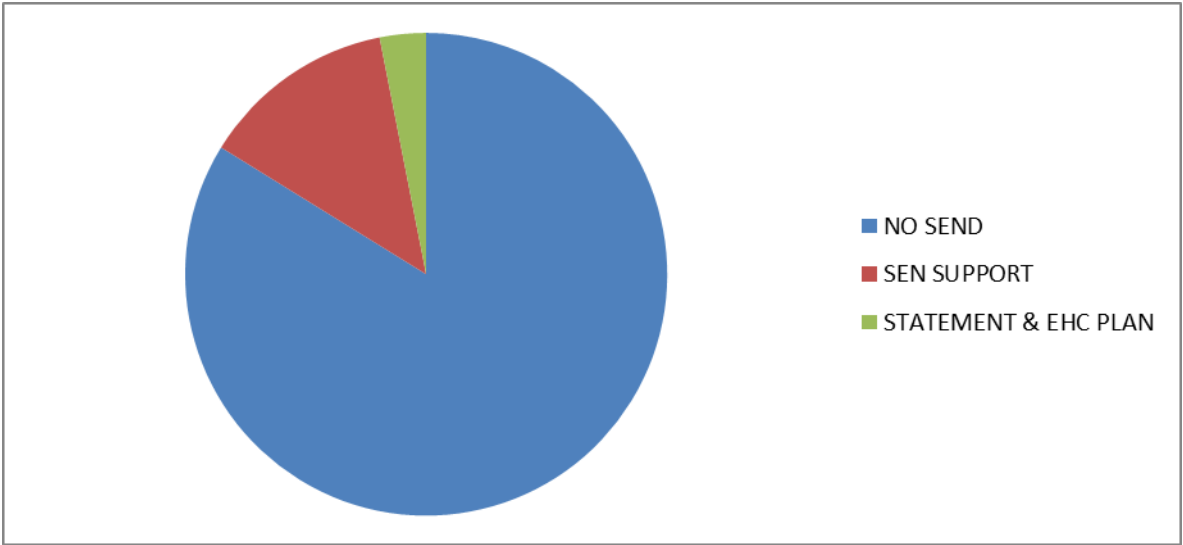
School Census data shows that in 2018 14.6% of the school population had a special educational need. This is a further increase from 14.4% in 2017. Of this cohort, 2.9% have EHC Plans (an increase in 2018 from 2.8% for the previous ten years); 11.7% of school age pupils receive assistance through SEN Support which is also an increase from 2016 and 2017 when it was 11.6%.

*Please note: School Census information excludes pupils in Early Years settings, Post 16 provision (other than school Sixth Forms) and Independent Schools.*

### The context in Lincolnshire

In January 2019 there were 106,488 pupils on roll in Lincolnshire maintained and academy schools; of these 16.16% were in receipt of some form of provision for their SEN requirements. This is an increase since 2018 when the number was 15.9% and is higher than the England figure of 14.6%. Unlike the rise in England, the number of children receiving SEN Support has dropped from 13% to 12.9% in Lincolnshire. Increasingly more pupils have EHC Plans; a rise from 2.9% in 2018 to 3.26% in 2019.

Breakdown of Support accessed by % of Total School Census Population:



| Type of Support                           | % of Total Census Population |
|---|------------------------------|
| No SEND                                   | 83.84% (All England - 85.4%) |
| SEN Support                               | 12.9% (All England -11.7%)   |
| EHC Plan (all Statements now transferred) | 3.26% (All England - 2.9%)   |

Source: January 2019 Schools Census

In Lincolnshire, in January 2019, the overall position for all activity 0-25 years was:

- 4,654 children and young people (0-25) with an EHC Plan. This is a 2% increase from January 2018 and is considerably less than the overall England increase (11%). Nevertheless, Lincolnshire now maintains 41% more statutory plans than it did at the start of the SEND reforms.
- 541 EHC Plans were ceased during 2018; 446 of these were because the pupils left school/college at the end of compulsory schooling or after and 68 left the area. It is difficult to compare data to other areas as the number of plans 'ceased' needs to be considered as a proportion of all plans and this isn't published data; however, Lincolnshire is considerably higher than other East Midlands authorities with the next highest number of ceased plans being in Northamptonshire (255 ending their education and 55 leaving the area). Overall across the East Midlands 1,342 plans were ended in 2018; of these 541 were in Lincolnshire.
- 707 new EHC Plans issued in the calendar year 2018. This was a 47% increase in the number of new plans issued in 2017 and is significantly higher than the overall England increase of 16%. Across the East Midlands Region increases ranged from 3% in Rutland to 38% in Derbyshire; 66% in Derby and 87% in Leicestershire. Lincolnshire's highest increases were in the 0-5 and 5-10 age groups.
- 1,028 requests for EHC Needs Assessments were made. This was a 16% increase on 2017. There were a total of 4,966 requests across the East Midlands; Lincolnshire received the highest number followed by Leicestershire (951) and Northamptonshire (855).
- 10.5% of EHC Needs Assessment requests were refused\* because there was insufficient evidence to indicate that the educational setting had used all the available resources to support the child through SEN Support. The England average is 24.7% and the East Midlands average is 22%.
- 8.7% of assessments did not result in the child or young person being issued with a statutory plan. England average is 5.2% and the East Midlands average is 10.3%.
- Lincolnshire completed 91.9% of all assessments in the 20 week timescale in 2018. This is a reduction from 2017 when 98.3% were completed within the prescribed 20 weeks. The England average is now 60.1% (a drop from 64.9% in 2017) and the East Midlands average is 75.2% (a drop from 82.2% in 2017). The reduction in compliance with the timescales is attributed purely to the increasing volume work associated with EHC Plans.

\*The threshold for assessment is very low (child may have SEN) and the authority lost a number of appeals against 'refusal to assess'.

The most common placements for pupils (as at January 2019) with EHC Plans:

- 1,794\*\* young people were placed in a maintained, non-maintained or academy Special School. This is a 2.3% increase from January 2018. This represents 38.5% of all those with EHC Plans (England 34.7%; East Midlands is 38.6%). Lincolnshire has a higher percentage of pupils in special schools than the overall England figure and 0.1% fewer than the East Midlands region.

\*\*This figure needs to be regarded with caution as it is not representative of the number of young people that required places at Special School in 2018 and for whom other arrangements have been made because of capacity issues in the Special Schools. See below.

- 1,579 young people were in mainstream maintained, academy or free schools including enhanced resource provision or mainstream SEN units (1,552 in 2018). This equates to 34% of those with an EHC Plan (England 38.2%; East Midlands 35.3%). Lincolnshire has fewer young people with an EHC Plan having their needs met in mainstream schools.
- 86 young people were placed in Independent Special Schools (the same number as January 2018). Of these, 47 were in residential settings with 15 young people in a 52 week placement. This is a decrease in the number of young people placed in residential settings (50 in 2018) and in the number who are in 52 week placements (17 in 2018). 1.8% of those with an EHC Plan are placed in Independent Special Schools (England 3.9%; East Midlands 3.9%). Lincolnshire has a low number of placements compared to other areas; these are the most costly placements and often mean that young people attend schools a long way from their home. The Lincolnshire Special School Alliance has established an ethos of trying to meet the needs of young people as close to home as possible.
- 44 (1%) of children and young people with EHC Plans were in Independent Mainstream Schools (an increase of 2 from 2018). This is slightly above the England figure (0.9%) and 0.4% above East Midlands average (0.6%). In the East Midlands region, Nottinghamshire (1.2%) and Rutland (2%) have a higher percentage of young people in independent mainstream schools than Lincolnshire.
- 58 were in private and voluntary sector early years settings. This is a significant, 60% increase from 35 in 2018 and represents 1.2% of all those with an EHC Plan (England 0.5%; East Midlands 0.5%). Lincolnshire is 0.7% above the England figure and the regional average.
- 750 young people were in general Further Education, Sixth Form college or other FE settings; an increase of 14% from 2018. This represents 16.1% of all young people with EHC Plans and is higher than both England (14.7%) and the East Midlands (13.2%)

- 101 young people were in Specialist Post 16 settings; this is a significant, 55% decrease from 2018 when there were 225 young people in specialist Post 16 education. This accounts for 2.2% of all those with EHC Plans and is higher than the England figure of 1.4% and the East Midlands 2.1%. In the region, Nottinghamshire has the highest percentage at 6.8% followed by Leicester with 3.1%.
- 58 young people were undertaking Traineeships, Supported Internships or Apprenticeships which is a significant, 93% increase from January 2018 when there were 30. This cohort make up 1.3% of all those with EHC Plans. The England figure is 0.9% and the East Midlands is 0.7%. Lincolnshire is higher than both the England and East Midlands figure and see this as a positive step in preparing young people with additional needs for adulthood and meaningful employment.
- 55 young people were Electively Home Educated and 50 young people of compulsory school age were awaiting placement. A large percentage of the pupils awaiting placement were those requiring special school places (see note above). The authority was providing interim educational arrangements for these young people. Typically this is Home Tuition delivered in neutral venues and often combined with virtual teaching and/or sessions with an Independent Learning Provider. The two figures combined represent 2.3% of all those with statutory plans and is below both the England number (2.6%) and the East Midlands region which has an average of 4%. Derbyshire has the highest percentage at 7.8% followed by Nottinghamshire at 7.5%
- The remaining pupils were placed in Alternative provision, Hospital School, other independent providers.
- No young person with an EHC Plan was without educational provision including any that had been permanently excluded. The England figure was 1.7% and the East Midlands was 0.9%; Lincolnshire performs extremely well in ensuring that young people with an EHC Plan are not without education or training.

### **EHC Plans by Age Group**

| <b>Age</b>  | <b>Number</b> | <b>+/- % since 2018</b> | <b>% of all EHC Plans</b> |
|-------------|---------------|-------------------------|---------------------------|
| 0-5 years   | 188           | +9%                     | 4%                        |
| 5-10 years  | 1548          | +7%                     | 33.3%                     |
| 11-15 years | 1649          | +4%                     | 35.4%                     |
| 16-19 years | 1127 ***      | -7.8%                   | 24.2%                     |
| 20-25 years | 142 ****      | -1.4%                   | 3.1%                      |

\*\*\*This decrease follows a 24% increase between 2017 and 2018.

\*\*\*\*This decrease follows a 103% increase between 2017 and 2018

Nationally, children 11 to 15 years old account for the largest percentage of children and young people with an EHC Plan (36%). In Lincolnshire the percentage of 11-15 year olds with an EHC Plan is slightly below the all England figure at 35.4% but is still the group that accounts for the highest number of statutory plans in the county. The increase for those aged 11 to 15 was less in 2018 and Lincolnshire has a lower percentage of pupils with an EHC Plan in the 11-15 age group than most of the East Midlands region; only Leicester and Leicestershire have a lower percentage (34.4% and 35.1%). Derbyshire has almost 45% of statutory plans for pupils in this age group whilst Rutland has 43%.

In the 16-19 year old age group, Lincolnshire has a relatively high percentage of EHC Plans. Only Leicester and Nottinghamshire have a higher number (25.2% and 29.5%).

Only Northamptonshire has a lower percentage of 20-25 year olds with an EHC Plan than Lincolnshire (2.2%). The SEND Service believes that the lower number in this age group is as a result of the success of the work that has been done in the county in terms of preparation for adulthood. This is as a result of the positive collaboration between Post 16 settings, the Further Education Colleges and the Local Authority to enable young people with additional needs to move on to the next phase of their adult lives having achieved the outcomes identified in their EHC Plans.

It is important to note that the biggest increase in Lincolnshire, in 2018, was for those aged 0-5 years, followed closely by those in the 5-10 age group. When comparing Lincolnshire to the East Midlands Region only Rutland and Leicester have a higher percentage of EHC Plans in the 0-5 year group (6.9% and 4.2% respectively). Only Derby has a higher percentage of EHC Plans for children in the 5-10 age group (35.1%).

### **SEND by Gender**

SEND remains more prevalent in boys than girls. In the last published data (January 2018), 14.7% of boys in England were on SEN support compared to 8.2% of girls. In January 2019, in Lincolnshire, 16.09% of boys were on SEN Support compared to 9.64% of girls. In England, in January 2018, 4.2% of boys had a statement or EHC plan compared to 1.6% girls. In Lincolnshire, in January 2019, this figure is 4.69% for boys and 1.79% for girls. (Source: School Census January 2019). SEN Support numbers have dropped slightly whilst EHC Plans have increased for both boys and girls.

## Primary Need of Pupils with SEND

There are 12 categories of Primary Need in the School Census. The following tables focus on the top five and group together the remaining eight categories as 'other SEN' given the relatively low incidence in each category. It is worth acknowledging that the data that follows is purely based on *primary* need; many pupils will have co-occurrence of needs.

Statutory school age pupils receiving SEN Support:

| SEND Type | SEND Type Description                    | Percentage     | England     |
|-----------|--|----------------|-------------|
| MLD       | Moderate Learning Difficulty             | 30.97%         | 24%         |
| SPLD      | Specific Learning Difficulty             | 18.32%         | 15%         |
| Other     | Other SEN                                | 15.57%         | 15%         |
| SEMH      | Social, emotional and mental health      | 15.32%         | 17.5%       |
| SLCN      | Speech, Language and Communication Needs | 13.05%         | 22.8%       |
| ASD       | Autistic Spectrum Disorder               | 6.76%          | 5.7%        |
|           | <b>Sum:</b>                              | <b>100.00%</b> | <b>100%</b> |

Statutory school age pupils with an EHC Plan:

| SEND Type | SEND Type Description                    | Percentage<br>Lincolnshire<br>January 2019 | England<br>January 2018 |
|-----------|--|--|-------------------------|
| Other     | Other SEN                                | 26.55%                                     | 28.9%                   |
| ASD       | Autistic Spectrum Disorder               | 24.27%                                     | 28.2%                   |
| SEMH      | Social, emotional and mental health      | 18.82%                                     | 12.8%                   |
| MLD       | Moderate Learning Difficulty             | 14.21%                                     | 12%                     |
| SLCN      | Speech, Language and Communication Needs | 11.93%                                     | 14.6%                   |
| SPLD      | Specific Learning Difficulty             | 4.21%                                      | 3.5%                    |
|           | <b>Sum:</b>                              | <b>100.00%</b>                             | <b>100%</b>             |

Source: January 2019 Schools Census

Lincolnshire is consistent with the national trend of MLD as the most commonly identified primary need overall (27.6% of all SEND pupils in the county; England is 21.6%). However, Lincolnshire is higher in overall percentage of pupils with MLD at SEN Support; 30.97% compared to 24% of all pupils with SEN Support for MLD nationally. In England the percentage of pupils with MLD decreased from 22.7% in January 2017 to 21.6% January 2018. In Lincolnshire MLD has increased from 29.7% to 30.97%.



After the combined 'other SEN', ASD is the most commonly identified primary need in England for those with an EHC Plan (28.2% - an increase from 2017 when it accounted for 26.9%). In Lincolnshire ASD is now also the most commonly identified primary need for pupils with an EHC Plan (24.27%). This is a rise from January 2018, when it was 22.4%, but is lower than the England average.

### **Percentage of school population with SEN Support or an EHC Plan by District**

| <b>District</b> | <b>SEN Support</b> | <b>+/- from 2018</b> | <b>EHC Plan</b> | <b>+/- from 2018</b> |
|-----------------|--------------------|----------------------|-----------------|----------------------|
| Boston          | 18.17%             | +0.27%               | 2.74%           | +0.44%               |
| East Lindsey    | 14.54%             | +0.54%               | 3.86%           | +0.36%               |
| Lincoln         | 15.8%              | +1.2%                | 3.89%           | +0.49%               |
| North Kesteven  | 10.76%             | +0.46%               | 2.9%            | +0.1%                |
| South Holland   | 13.03%             | -0.77%               | 3.3%            | +0.4%                |
| South Kesteven  | 11.05%             | -0.35%               | 2.88%           | +0.38%               |
| West Lindsey    | 13.12%             | +0.42%               | 3.78%           | +0.38%               |

- Lincoln now has the highest percentage of school age pupils with an EHC Plan and has had the greatest increase in the last year. The increase is followed closely by Boston. Previously East Lindsey had the highest percentage of school age population with EHC Plans.
- Boston has the lowest percentage of school age pupils with an EHC Plan despite the growth in number. Previously South Kesteven had the lowest percentage of pupils with EHC Plans.
- Boston remains the district with the highest percentage of school age children and young people at SEN Support whilst Lincoln has seen the greatest increase in the percentage of pupils requiring SEN Support.
- North Kesteven and South Kesteven continue to have the lowest percentage of school age pupils with SEN Support. South Kesteven and South Holland have both experienced a drop in the percentage of the school population with SEN Support.

### **Annual Reviews**

All EHC Plans require an annual review. In the effort to transfer all Statements to EHC Plans by 31<sup>st</sup> March 2018 and to comply with statutory timescales, Annual Review processes have suffered. The authority employed 4 temporary Keyworkers

to focus on processing all of the Annual Review paperwork. The number of Annual Reviews out of timescale reduced; however, at the start of the academic year 2018/19 there were still around 400 to process. Over the course of the academic year the new Annual Reviews have come in and the backlog is growing. The service is currently reviewing the capacity required to ensure that all elements of the SEND process are legally compliant. No additional funding has been allocated to LAs from central government to respond to the growing demands on the LA functions of SEN administration, assessment, co-ordination and monitoring.

It is a credit to Lincolnshire schools that they continue to undertake the Annual Reviews and alert the Local Authority to any significant changes in a child's needs. Caseworkers prioritise Annual Reviews that require prompt attention.

### **High Needs Funding Analysis**

All EHC Plans have been issued in accordance with the evidence provided by schools and other contributing agencies.

The table below highlights the total funding allocated in 2015/16, 2016/17, 2017/18 and 2018/19 for learners with high level needs who attend mainstream schools and academies.

| Financial Year | Top Up Funding | Targeted   | Recoupment | Total       |
|----------------|----------------|------------|------------|-------------|
| 2018/19        | £10,879,853    | £3,098,854 | £608,723   | £14,587,430 |
| 2017/18        | £9,836,695     | £2,157,214 | £542,519   | £12,536,428 |
| 2016/17        | £9,035,094     | £1,721,191 | £311,437   | £11,067,722 |
| 2015/16        | £7,897,454     | £1,394,787 | £375,880   | £9,668,121  |

*Source: SEND data management/financial system.*

The funding in the table above supports the additional funding above the notional SEN funding of £6,000 held within schools delegated budgets for low level high incidence SEN support and the first £6,000 of SEN support for those higher needs learners.

In light of the additional funding devolved to schools through the introduction of the national funding formula, schools will now have more notional SEN in their budgets. The national funding formula implementation did not address notional SEN through its implementation – the LA sought clarity (since it replicated the national funding formula) from the Education & Skills Funding Agency however no information was forthcoming. Lincolnshire has continued to operate the existing targeted funding arrangements, however it is being reviewed to ensure fair levels of funding are allocated to mainstream schools. The Department for Education (DfE) has launched a 'call for evidence' on SEN funding in mainstream schools,

which is intended to shape schools SEN funding going forward. The Local Authority will be responding to ensure Lincolnshire schools are funded fairly. Schools are also encouraged to contribute to this exercise. The closing date is the 31 July 2019.

[DfE - Call for Evidence \(survey\)](#)

## **Special Schools**

Following a comprehensive review of Special Schools' pupil banding, which is defined by the pupils' needs, the LA worked with Special School Leaders to review the Special Schools' funding formula, and changes took effect from 2018/19.

Overall, Special Schools' funding rose by £2.347m from 2017/18 to £28.124m as a result of the special schools funding formula agreed changes and place number review (an increase of 23 pupils from 2017/18). These changes included a review of pupil banding descriptions and values, and a pupil moderation of all pupils in special schools. Special School funding for 2019/20 has increased by £0.632m to £28.756m as a result of place number increases (63) and updated pupil banding profiles across the schools.

This increase in funding will ensure that the appropriate level of resources continue to be allocated to allow the schools to deploy the resources to best meet the needs of their pupils in the changing demographics of Lincolnshire Special Schools. The funding to meet this additional cost has been budgeted for within the High Needs Block of the Dedicated Schools Grant (DSG).

Commissioned arrangements exist with Special Schools for delivering specialist outreach support, portage and residential placements (£2.195m for 2019/20). This remains the same as 2018/19.

Lincolnshire has two hospital schools and the Local Authority commissioned 13 and 70 places respectively in 2018/19. The 70 place hospital school has 3 bases across the county supporting medical placements (particularly those pupils with severe anxiety levels that are unable to attend mainstream provision) that are referred through the LA gateway. The school also supports pupils through Home Tuition as well as having a pilot Autism Unit. For 2018/19, the budget shares and the funding formula have remained the same, other than a 0.5% settlement increase on 2017/18. For 2019/20, the budget shares have been updated to reflect a 1% settlement from the 2017/18 baseline funding.

## **Independent Non-Maintained Specialist Provision (Out of County)**

The number of Out of County placements has reduced over the last four years. At one point there were 98 pupils in Out of County provision; in January 2019 there were 86. The information for 2017/18 showed costs of £8.307m against a budget of £8.000m, with the 2018/19 position highlighting expenditure of £7.852m against a budget of £8.722m.

### **Independent School placements in Lincolnshire**

In addition to Out of County placements there were, in January 2019, 44 children and young people placed in independent schools in Lincolnshire. The nature of these placements are complex but fall into 3 broad categories: parental preference where the cost of the provision is such that it is the best value for money for the authority; parental preference where parents pay general fees and the county funds the higher needs costs or where maintained or academy schools have said they are unable to meet need.

For 2017/18, the expenditure was £1.224m against a budget of £1.800m, however for 2018/19 the costs increased to £2.104m against a reduced budget of £1.285m – the increase in the reported expenditure is a combination of re-categorisation of costs between independent and Out of County, and increased complexity of pupils. Overall, the net financial position on specialist placements made is broadly in line with the budget.

### **High Needs Block funding**

In 2019/20, the government is committed to providing LAs a minimum 1% gain per head of population from their baseline in 2017/18. This follows the funding changes to the High Needs Block that were introduced by the government in 2018/19. The government's direction of travel is to move to a basis for distributing funding to LAs for children and young people with high needs, taking into account an up-to-date assessment of the level of need in each area as opposed to funding on the basis of historic spending.

In 2019/20, Lincolnshire is in receipt of £41 per pupil (or £5.776m) of protection funding when comparing the new national funding formula allocation to Lincolnshire's current High Needs block spending. Additional one-off monies for High Needs were announced by the Secretary of State in December 2018 in recognition to the financial challenges that LAs are experiencing across the country. This equated to funding of £1.533m in Lincolnshire. An increasing number of LAs are now incurring a deficit on their overall DSG account, largely because of overspends on their High Needs Blocks. The department has tightened up the rules under which LAs have to explain to the DfE their plans for bringing the DSG account back into balance. Lincolnshire is currently not in this position, however the position needs to be carefully and prudently managed particularly in light of the uncertainty of High Needs Block protection funding post 2019/20 and the growth in demands and complexities of young people.

## **Mediation, Tribunals and the SEND National Trial (Single Route of Redress)**

Families have a right to appeal decisions made by the Local Authority; this can be in relation to refusal to assess; refusal to issue an EHC Plan; content of the EHC Plan or the identified educational setting, which is usually linked to a disagreement about meeting need. Although families do not need to attend mediation, many choose to do this first and Lincolnshire is successful in resolving a number of issues through mediation; this includes, on occasion, overturning decisions not to assess or issue an EHC Plan if new evidence is presented. In Lincolnshire in 2018 only 20% of families that chose to go to mediation went on to lodge an appeal to the First Tier Tribunal. This is a significant drop from 2017 when 56% of families lodged an appeal to Tribunal after mediation. The England figure is 26.4% and in the East Midlands the average is 27.4% with Nottinghamshire being the lowest at 16% and Derby being the highest at 51%.

The numbers of Mediations (and hence the costs) in Lincolnshire have come down. In the first year after the implementation of the reforms Lincolnshire had 66 mediation referrals. This soared to 107 in 2015/16 which was also the year in which the authority saw the highest number of Appeals to Tribunal (51). Mediation and Tribunals were frequently in relation to the decision not to assess. In the academic year 2017/18 mediations were down to 55 referrals (50 went ahead) and Tribunals had dropped to 31. So far in 2018/19 there have been 40 referrals for mediation (33 have gone ahead); of these only 8 have been in relation to 'refusal to assess' but 28 have been in respect of the decision not to issue an EHC Plan.

There is increasing challenge to the authority on decisions not to issue a statutory plan. In order to defend the decision in Tribunal it is essential that schools and other partners' information can stand the test in the court arena. To date, this academic year, Lincolnshire families have lodged 34 Appeals; 5 against refusal to assess; 10 against decision not to issue a plan and 19 in respect of the content of the plan. The number of Tribunals is rising from the number in 2017/18.

As reported in last year's Annual Report, a 2-year National Trial began on 3 April 2018 and extends the powers of the SEND Tribunal. The trial gives parents and young people new rights to request recommendations about the health and social care needs and provision specified in EHC plans, in addition to the educational aspects, when making a SEND appeal. This applies for all SEND appeals apart from those that are only about carrying out an EHC needs assessment.

The trial gives the Tribunal new powers to make non-binding recommendations on the health and social care aspects of EHC plans. It gives parents and young people the opportunity to raise all their concerns about an EHC plan in one place.

The policy aims of the national trial are to:

- Create a more holistic, person-centred view of the child or young person's needs at the Tribunal
- Bring appeal rights in line with the wider remit of EHC plans
- Encourage joint working between education, health and social care commissioners
- Bring about positive benefits to children, young people and parents

At the end of January 2019 there had been 522 cases registered in England with a further 30 still to be registered. This far exceeded the anticipated number of around 130 per year. 15 had been withdrawn by parents and 2 had been refused registration. Of those that had been registered:

- 289 were requesting recommendations for both Health and Social Care
- 105 were for health only
- 110 for Social Care only

The decisions and non-binding recommendations made by the Tribunal centre on a few key elements. For Social Care these have been:

- That the Local Authority should assess the Social Care needs
- That the Local Authority *specifies* the Social Care needs and provision
- Support to attend clubs
- Direct Payments to support social activities

For health, the decisions and non-binding recommendations have centred on:

- Specification on Child and Adolescent Mental Health provision
- Specification of Cognitive Behavioural Therapy
- Nursing care support
- Tracheostomy training
- Removal of Occupational Therapy, Physiotherapy or Speech and Language Therapy

To date, Lincolnshire has had 7 appeals lodged under the Single Route of Redress trial. Of these, three were conceded by the Local Authority after additional evidence was provided; two were withdrawn by parents; one progressed to hearing, and the Tribunal found in parents' favour, and the seventh will be heard in June 2019. The cases that have been lodged under the National Trial have been a mix of those with a Social Care appeal (both Adult Services and Children's Services) and those with an added health appeal.

Lincolnshire generally has a low appeal rate compared to both the East Midlands and the England figure. In Lincolnshire in 2017 (most recent published data) Lincolnshire had 1.1% of appeals to Tribunal, based on all appealable decisions. The England average is 1.5% whilst the East Midlands average is 2.7% with Derby at 3.5%; Nottingham City at 3.7% and Rutland at 4.1%.

SEND Caseworkers, Practice Supervisors and Team Managers have invested heavily in resolving issues with families at an earlier stage. These are often complex and emotive issues which rarely have a quick fix and form an essential part of the case work that the locality teams provide.

The way in which the SEND service is working has been greatly assisted by the partnership with the Lincolnshire Parent Carer Forum (LPCF). The LPCF has supported the authority in understanding parental concerns about why they often feel that their child *must* have an EHC Plan. This remains a complex issue but there is frequently concern expressed by parents that they don't believe their child will receive the appropriate support without a legally binding document. This is an area of concern that requires further investigation and a piece of work is underway to develop a more robust *Graduated Approach Strategy* (SEN Support) to assist schools, partners and families in understanding the level of assistance that is available without an EHC Plan.

### **Building Communities of Specialist Provision**

Since the last Annual Report to the Schools' Forum, the *Building Communities of Specialist Provision Strategy* was approved by Executive Council on 6th November 2018 and will be implemented over the next 5 years, enabling Lincolnshire pupils with SEND to access an integrated and collaborative all needs education system which provides excellent education, health care and support interventions (full strategy available on the council's website and referenced below).

Once fully implemented, the strategy will:

*"Establish an integrated school system where children and young people get the right health, care and education, in the right place, at the right time, as close as possible to where they live."*

The strategic vision of this integrated school system will provide the foundations for:

*"Provision without boundaries: where children feel they belong, are respected, hopeful and optimistic about their future."*

The DfE provided the authority with a grant of £283,911 to carry out a strategic review of specialist provision. In addition, the authority will receive £3,928,817 by 2021 for capital investment to increase specialist provision. The funding from the DfE does not support the significant changes to provision that are required; therefore the Council has committed further funding to support the capital investment required to implement the strategic vision. This comprises:

| Amount          | Source                                 |
|-----------------|--|
| £25.1m          | Maintenance Grant                      |
| £3.2m           | Basic Need Grant                       |
| £1.085m         | Internal Capital                       |
| £2.525m         | Condition Improvement Fund (CIF)       |
| £3.929m         | DfE SEND Capital                       |
| £14.798m *      | Future Basic Need Grant (* indicative) |
| <b>£50.637m</b> |  |

The capital programme is extensive with the majority of Special Schools having buildings re-modelled and new facilities added. In addition, the strategy proposes satellite hubs on mainstream school sites to promote collaboration and flow between the two types of provision. The capital programme will be implemented over a 3–5 year timeframe and once fully established, increases the special school estate by over 500 places. This increase is a combination of additional school places due to expansion and improvements to existing premises to appropriately provide space for the current numbers on roll.

The capital programme commenced in January 2019 and, at present, 5 schools are in pre-construction stage: The Eresby School, Willoughby School, The John Fielding School, St Lawrence School and St Bernard's School. Planning applications for Eresby, Willoughby and John Fielding are to be submitted throughout summer 2019. Engagement is due to commence with St Francis in the coming weeks.

In October 2018, LCC submitted an application for a special free school, proposed for the Lincoln area. Unfortunately, this application was unsuccessful. This decision impacts significantly on the city's capacity pressures and a range of other options are currently being considered.

Since the strategy's approval at the end of 2018, there has been considerable progress made across the work streams supporting this strategy.

- The Property work stream has completed the task set to ensure that a full strategic property brief can be developed with equity and fairness provided across all schools.



- The Health work stream has developed a proposed Health Offer, in collaboration with providers and the Clinical Commissioning Groups, which is due for consideration by the Project Board.
- The Design work stream has scrutinised the existing SEND system and has proposed a model to ensure all localities have shared responsibilities for all children and young people with SEND, particularly those who may be hard to place and would have to attend Out of County provision. This model is also due for presentation to the Project Board along with plans for the satellite provision.
- A residential workshop is being facilitated by The Staff College in July 2019 to co-produce the strategic vision for SEMH education.
- A tiered approach to training and awareness of SEND for all schools has been developed and proposals to test this model are due to be considered by the Project Board.

### **Local Area SEND Inspection by Ofsted and the Care Quality Commission**

Between the 1<sup>st</sup> and 5<sup>th</sup> October 2018 Lincolnshire Local Area was inspected by Ofsted and the Care Quality Commission (CQC) to judge the effectiveness of the area in the implementation of the duties and responsibilities set out in the Children and Families Act 2014 in respect of children and young people (0-25 years) with SEND.

The inspection focused on three questions:

- The effectiveness of the local area in identifying children and young people who have special educational needs and/or disabilities
- The effectiveness of the local area in assessing and meeting the needs of children and young people who have special educational needs and/or disabilities
- The effectiveness of the local area in improving outcomes for children and young people who have special educational needs and/or disabilities.

The inspectors from both Ofsted and CQC conducted Focus Groups with a wide range of professionals including Local Authority Officers, Lincolnshire Parent Carer Forum (LPCF), health service staff and other key partners as well as undertaking visits to Health Teams, Early Years settings, Primary, Secondary and Special Schools and a Further Education College.

In reaching their judgement the inspectorates also tested the accuracy and rigour of the local area's self-evaluation and the extent to which it understands the strengths and weaknesses and has appropriate and realistic development plans.

Inspectors met with the LPCF and parents and carers across the county to understand how well the local area engages with them and their children and young people to inform decisions about the strategic commissioning of services and to ensure that these primary users are clear about the identification and assessment processes and the criteria used to make decisions. In all of the educational settings they visited, the inspectors met with children and young people to hear their experiences. They also conducted a week-long online survey for parents and carers to feedback their experiences of the support their children receive through the wide range of services and organisations in the county.

The inspection was thorough and challenging but enabled all partners to showcase the good practice in Lincolnshire. Since the inspection framework was introduced in 2016 more than 60 local areas have been inspected and over 50% have received a Written Statement of Action because the implementation of the SEND Reforms has been too slow and children and young people with additional needs are not receiving the support they are entitled to. This was not the case in Lincolnshire; inspectors confirmed the much strengths the area has in identifying and supporting children and young people with SEND and families were generally positive about their experiences. Young people, in particular, were optimistic about the support they receive from the three main service areas (education, health and social care) and confident about achieving their aspirations.

The final report can be found on the Ofsted website and is referenced below. It highlights the main strengths that inspectors recognised throughout the inspection. It also includes areas for development that were identified by the inspectorates. There were no surprises; the areas for development were those that the Local Authority and the Clinical Commissioning Groups had identified in the Self-Evaluation. The Action Plan is being managed through the SEND Steering Group and reported to the Children's Services Quality Assurance Board, The Women and Children's Board and the Children and Young People's Scrutiny Committee.

And finally.....

Lincolnshire is very proud to now have a well-established young people's group representing 0-25 year olds with SEND. The Lincolnshire Young Voices have already taken centre stage during the Ofsted/CQC inspection and have participated in regional and national events. The council will be employing two part-time young people with SEND to lead the 'voice of young people' work which will inform both the development and delivery of services across the county. They are a force to be reckoned with!

## Conclusion

The report illustrates the increasing number of young people aged 0 – 25 who require a higher level of support with their additional needs. It also evidences the increasing cost pressures on the authority in supporting the growing complexity of need of young people in the county.

Lincolnshire is broadly in line with the experiences of local areas across the country. There are, however, some differences in the make-up of the SEND cohort in the county, particularly in relation to the significant rise in the number of very young children with EHC Plans. Lincolnshire also identifies more young people with SEND; this is something that is being reviewed through the work being undertaken to develop a more robust *Graduated Approach Strategy*.

Resolving problems has been a focus of the SEND Service and the impact of that work is seen in the reduction in the number of cases going to mediation. Importantly, when cases do go to mediation, issues are being resolved; only 1 in 5 cases have gone on to Appeal.

There continues to be a demand for specialist placements to support young people but the commitment by the Special School Alliance, to meet needs in the county, is having an impact in terms of the number of placements in Out of County provision which has remained static despite the overall growth in numbers of young people with complex needs. The proposed strategy for Special Schools in Lincolnshire aims to address the capacity issues faced by the county and specifically seeks to address the inequalities faced by young people with additional needs who currently travel far greater distances than their peers who do not have SEND. The strategy is progressing well.

The extended powers of the SEND Tribunal are now well established and it is positive to note that Lincolnshire has only had two cases go to hearing. The general concerns that parents and carers have about Social Care or health provision are also being addressed through day to day activity and positive partnerships.

The Local Area was delighted with the outcome of the SEND Area Inspection in October 2018. It recognised the many strengths in the county and the commitment by all partners to identify and meet the needs of this vulnerable group of young people. Generally young people's outcomes are good in Lincolnshire and they are optimistic about their future. Those areas that required development are already making good progress.

The last year has been challenging, interesting and rewarding in equal measure and the Lincolnshire Young Voices will undoubtedly ensure that it continues in this vein.

## **Consultation**

### **a) Have Risks and Impact Analysis been carried out??**

No

### **b) Risks and Impact Analysis**

Not Applicable.

## **Background Papers**

| Document title                               | Where the document can be viewed  |
|--|---|
| Building Communities of Specialist Provision | <a href="http://www.lincolnshire.gov.uk/sendcommunities">www.lincolnshire.gov.uk/sendcommunities</a>            |
| Ofsted/CQC SEND Local Area Inspection Report | <a href="https://files.api.ofsted.gov.uk/v1/file/50041170">https://files.api.ofsted.gov.uk/v1/file/50041170</a> |

This report was written by Sheridan Dodsworth, who can be contacted on 01522 553310 or [sheridan.dodsworth@lincolnshire.gov.uk](mailto:sheridan.dodsworth@lincolnshire.gov.uk).