

REGULATORY AND OTHER COMMITTEE REPORT

NAME OF COMMITTEE:	Lincolnshire Schools' Forum
DATE OF MEETING:	28 June 2017
SUBJECT:	Annual Report on Special Educational Needs and Disability
REPORT BY:	Sheridan Dodsworth – Children's Service Manager, Special Educational Needs and Disability (SEND)
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IS THE REPORT CONFIDENTIAL?	No
SUMMARY	
<p>The purpose of this report is to provide the Schools' Forum with an annual update on Special Educational Needs as required by the Schools' Forum Regulations. The report covers:</p> <ul style="list-style-type: none">• An update on activity within the county• An overview of the high needs costs throughout 2016/17• An update on the SEND Strategy Review	

Background and context

Part 3 of the Children and Families Act 2014 aligns and 'streamlines' 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 SEND 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.

In January 2017 there were 287,290 pupils in England that had an Education, Health and Care (EHC) Plan or Statement of SEN, an increase of 30,975 (12.1%) from January 2016. 14,795 initial requests for assessment were refused in 2016, an increase of 3,860 (35.3%) from the 2015 calendar year.

The context in Lincolnshire

Children receiving SEN Support without a Statement or EHC Plan

In 2016 there were 103,009 pupils on roll in Lincolnshire maintained and academy schools; of these 13.1% were in receipt of some form of SEN support that was not a Statement or EHC Plan. This is a reduction on the previous year when 15.63% of pupils were in receipt of SEN Support. Lincolnshire is in-line with the national trend of a reduction over the last six years (18.3% to 11.6% nationally) in the number of children with SEN Support. At 13.1% Lincolnshire has a higher number of pupils with SEN Support than the England average (11.6%). (*Special Educational Needs in England: January 2016*).

Schools and Academies for the 2016/17 financial year had, through most of their formula factors, a notional SEN funding allocation from which they were expected to contribute the first £6,000 towards a pupil who requires SEN Support/Graduated Approach. The higher level needs (top up funding) and targeted support provision remained outside of this notional SEN funding and is funded through the high needs budget.

Pupils with Statements of SEN or EHC Plans

Whilst there has been an increase nationally in the numbers of pupils with an EHC Plan the overall percentage of pupils has remained at 2.8%, as has been the case since 2007. Lincolnshire is above the average at 3.3% of the school population with a Statement or EHC Plan.

In Lincolnshire In January 2017 there were:

- 3,916 children and young people with a Statement or EHC Plan (3,300 in 2014 at the point of implementation of the SEND reforms)
- 1,694 young people were placed in a maintained or academy Special Schools
- 88 young people were in non-maintained or independent Special Schools
- 539 young people were in general Further Education colleges
- 46 were in Specialist Post 16 settings
- 25 young people were undertaking Supported Internships

The age breakdown was:

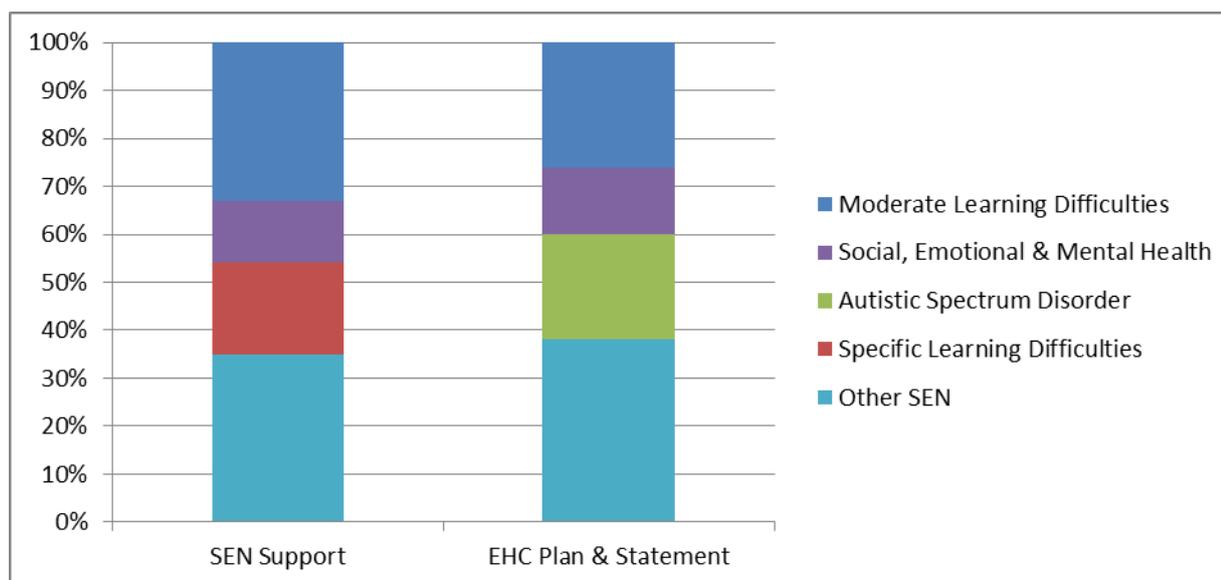
- 0 - 5 years 138 (3.5% of all EHC Plans; England 4%)
- 5 - 10 years 1208 (30.8% of all EHC plans; England 33.9%)
- 11 - 15 years 1523 (38.8% of all EHC Plans; England 39.2%)
- 16 - 19 years 976 (24.9% of all EHC Plans; England 20.2%)
- 20 - 25 years 71 (1.8% of all EHC Plans; England 2.7%)

SEN is more prevalent in boys:

- 15.9% of boys have SEN Support compared to 9.28% of girls
- 4.1% of boys have an EHC Plan compared to 1.6% of girls

2 requests for assessment for an EHC Plan were made in 2016 for young people detained in custody.

Top 3 Primary Needs broken down by type of support received

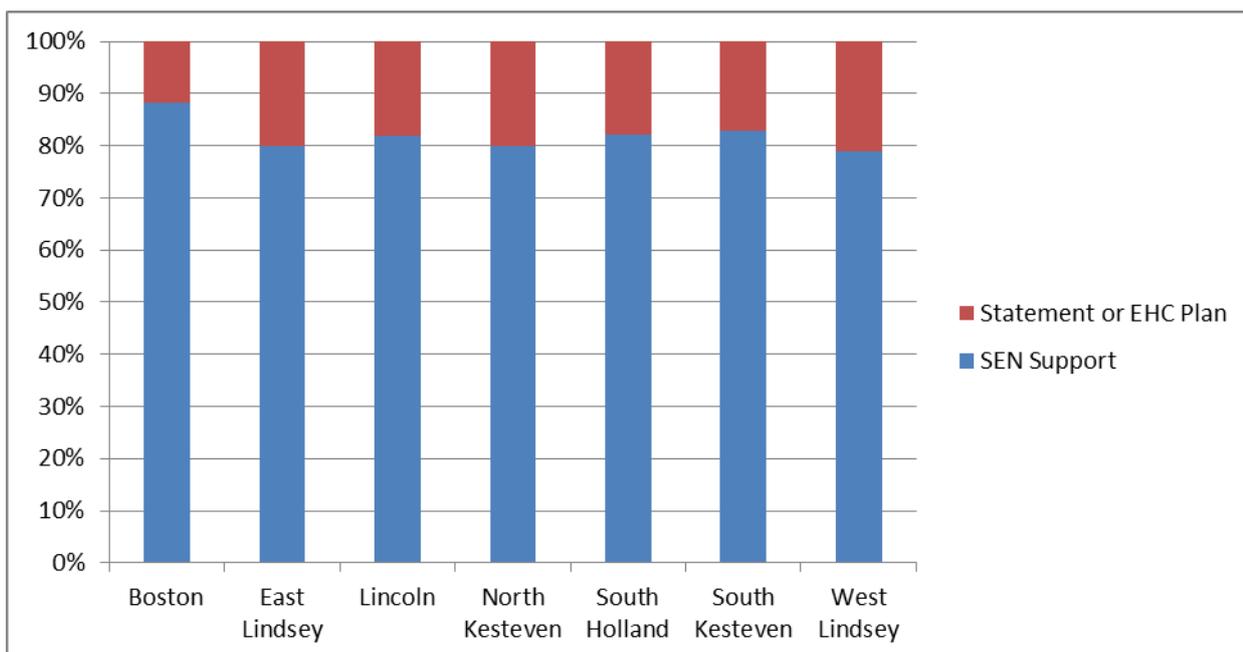


Type of Need	SEN Support	Statement or EHC Plan
Other SEN	35%	38%
Moderate Learning Difficulties	33%	26%
Specific Learning Difficulties	19%	0%
Autistic Spectrum Disorder	0%	22%
Social, Emotional & Mental Health	13%	14%

Lincolnshire is consistent with the national trend of MLD as the most commonly identified primary need overall (nationally this increased from 23.8% in 2015 to 24.2% in 2016). However, Lincolnshire is higher in overall percentage of pupils with MLD at SEN Support; 33% compared to 26.8% of all pupils with SEN Support for MLD nationally.

In Lincolnshire MLD as a primary need accounts for the highest percentage of pupils with a Statement or EHC Plan. Nationally the most commonly identified primary need for those with an EHC Plan is ASD (25.9%). In Lincolnshire ASD is the second highest primary need for pupils with an EHC Plan (22%).

Number of pupils with SEN Support or a statement / EHC Plan by District



District	SEN Support	Statement or EHC Plan
Boston	17.50%	2.33%
East Lindsey	13.77%	3.45%
Lincoln	14.95%	3.30%
North Kesteven	10.31%	2.60%
South Holland	13.49%	2.93%
South Kesteven	10.99%	2.28%
West Lindsey	12.40%	3.30%

All figures shown as a % of district population

- East Lindsey has the highest percentage of pupils with a Statement or EHC Plan
- South Kesteven has the lowest percentage of pupils with a Statement or EHC Plan
- Boston has the highest percentage of children and young people with SEN Support
- North Kesteven and South Kesteven have the lowest proportion of pupils with SEN

High Needs Funding Analysis (not including short-term medical provision)

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 and 2016/17 for learners with high level needs who attend mainstream schools and academies.

Financial Year	Top Up Funding	Targeted	Recoupment	Total
2016/17	£9,035,095	£1,721,191	£311,437	£11,067,723

2015/16	£7,897,454	£1,394,787	£375,880	£9,668,121
Financial Year Diff.	£1,137,641	£326,404	-£64,443	£1,399,602

Source: SEND data management/financial system.

The local authority allocated £2.401m in 2015/16 through mainstream schools formula factors to support fully the first £6,000 of SEN support for those higher needs learners. The costs identified in the table are the funding delegated to mainstream schools and academies above this threshold.

The local authority has seen a growth in top up and targeted funding delegated in 2016/17, which has been a material rise. The 2017/18 position is planned to managed internally within the Dedicated Schools Grant, however further analysis is to be undertaken in this area, particularly the targeted funding that was established in 2015/16 with a budget of £0.893m following the government's notional SEN changes

The current picture in Lincolnshire

In the academic year 2015/16 the Special Educational Needs and Disability Service received 723 requests for assessments; This was a:

- 38% increase on 2014/2015
- 52% increase on 2013/2014 (the year before implementation of the SEND reforms)

In the calendar year 2016 the service made a decision not to undertake a statutory assessment in 33% of cases referred. This is slightly higher than the England average of 30%. The most common reason for refusal was the lack of evidence from the child's school of support and intervention strategies provided through a *graduated approach* i.e. using resources and support services available through the notional funding.

In the same period there were 5 children in Lincolnshire that were assessed under S36 of the Children and Families Act 2014 for whom it was decided not to issue an EHC Plan. This equates to 1.2% of all children assessed in 2016 and is lower than the England average of 4.4%. It is the SEND Service's view that fewer children are refused an EHC Plan at the end of the assessment process as only those with evidence of the range of interventions implemented through the *graduated approach* are accepted for assessment. It therefore follows that there is a strong likelihood that the higher level of support provided through an EHC Plan will be the outcome of assessment.

However, the service has been challenged by parents, through the SEND Tribunal, for refusal to assess and it has become evident that the process is stacked in favour of parents. Through a series of cases both locally and nationally, it is clear that authorities struggle to defend a decision not to assess if the child has *any* indication that they may have SEN. Despite the expectations, set out in the SEND Code of Practice 2015, that schools should evidence robust cycles of *Assess, Plan, Do, Review* through the *graduated approach*, the Tribunal almost always rules in favour of the parent and directs the authority to assess. Tribunals are costly. In Lincolnshire, as with many authorities, there was a significant rise in

the number of appeals lodged with the SEND Tribunal. In the first year of the reforms (2014/15) there were 28 appeals lodged; 16 were for refusal to assess. By 2015/16 this rose to 63 appeals of which 29 were for refusal to assess. The majority of other appeals are against the content of the EHC Plan and in particular the school identified by the authority to meet the child's needs.

The SEND Service has worked with parents and the Lincolnshire Parent Carer Forum to understand why parents feel that their child *must* have an EHC Plan. Whilst this is, of course, a complex issue, there is frequently concern expressed by parents that they don't believe their child will receive the appropriate support without a legally binding document. In an attempt to increase parental confidence in the support offered at the *graduated approach* stage, the SEND Service has employed, for 18 months, a practitioner who is skilled in restorative practice. From September 2016 she has worked with 31 children, their families, schools and other professionals following a decision not to assess. Her remit is, through the use of restorative conversations, to ensure that all those involved with the child are clear about the child's needs and the support and strategies required to manage their SEN. She has been able to assure parents that support is in place, irrespective of the child not having an EHC Plan, and that their child's needs are being met through the support that the school can provide using the resources available and their notional funding. None of the 31 cases have progressed to formal mediation or appeal to SEND Tribunal. Over the course of this academic year the authority is experiencing a reduction in the number of appeals to Tribunal which it is believed has been directly influenced by the investment in time with parents to increase their confidence in the wider SEN support system. From September 2016 to May 2017 34 appeals had been lodged; a reduction of 46% on 2015/16. The financial year cost in 2016/17 for tribunals was £0.109m.

The EHC Needs Assessment process is 20 weeks rather than the 26 weeks that were allowed to undertake statutory assessment for Statements. The SEND Service is consistently meeting the 20 week deadline in 90-95% of cases (including exceptions cases). The performance is monitored weekly, reported monthly to the Children's Services' Directorate Management Team and quarterly to Children's Scrutiny Committee. Those cases that have fallen outside the 20 weeks are the most complex and the DfE has acknowledged that there will be exceptional cases that require additional time to complete. The latest national report indicates that the England average for completion within timescales is 58.6% excluding exceptions cases and 55.5% when exceptions cases are included. Lincolnshire is performing well above the national average.

Transition from Statements to EHC Plans

By the 1st April 2018 all local authorities must have transferred all children and young people with Statements of SEN to the new SEN and disability system if they meet the criteria for an EHC Plan.

The statutory guidance places an expectation on local authorities to undertake this transfer process through the routine annual review cycle and specifically where there are key transition points in a young person's life. Lincolnshire commissioned its Special Schools to undertake the transfers for their students over a two year period. The draft EHC Plans are submitted to the local authority for consideration, any required amendments are returned to

the schools and the Plans are finally signed off by the authority. All other Statements have been transferred by Caseworkers within the authority.

The SEND Service has made strong progress in transferring Statements to EHC Plans. At the start of the process there were 3,300 Statements to be transferred. In this final year of transfer the authority is required to submit a monthly update on progress to the DfE. This process has been introduced as many authorities have expressed concern that they will not complete the transfer process by the end of March 2018. At the 8th June 2017, Lincolnshire has 367 Statements left to transfer. Of these 244 are those still being completed by the Special Schools. The SEND Service is confident that all transfers will be completed before the start of the new academic year 2017/18 and certainly well before the DfE deadline.

The DfE set a deadline of the 31st December 2016 for all Learning Difficulties Assessments (LDA) to be ceased and, where appropriate, transferred to an EHC Plan. LDAs were used to ensure that Post 16 learners that needed support to access education or training were properly assessed and supported. Lincolnshire completed all LDA transfers by the December deadline. This was not the case for a number of authorities and a further extension was granted to those that required the extra time.

Special Schools

Lincolnshire has 18 special schools across the county meeting a multitude of pupil with special educational needs and disabilities. The number of places agreed with Lincolnshire special schools in 2017/18 is 1,742, which is an increase of 56 places from 2016/17. Overall, special schools' funding has risen by £0.583m from the prior year to £25.777m as a result of the growth in pupil numbers.

The local authority working with special schools undertook a cyclical review of a schools pupil banding, which is defined by the pupil's primary need. This exercise was intending to influence special school budgets for 2017/18, however further work continues to take place to ensure a schools pupil banding is accurately applied. The potential increased cost to the Dedicated Schools Grant is £1.201m.

Special schools receive mid-year funding for pupils placed above their agreed place numbers (£0.304m in 2016/17). It is also important to note that special schools received additional funding of £0.258m in 2016/17 to support them in maintaining placements that would otherwise have broken down. This funding is in-excess of the pupil-led funding driven through the funding formula and has not been previously budgeted for.

The local authority is currently reviewing the special schools funding formula with changes planned to take effect from 2018/19. Special schools will be part of the working group in formulating any changes before all special schools and mainstream schools are consulted upon such changes. The financial modelling will need to have consideration of the financial constraints and challenges facing the Dedicated Schools Grant.

Commissioned arrangements exist with Special Schools for delivering specialist outreach support, portage and residential placements (£2.195m).

Hospital Schools

Lincolnshire has two hospital schools purchasing 13 and 70 places in 2017/18. The delivery of the 70 place hospital school has been reviewed with locations throughout the county supporting medical placements (particularly those pupils with severe anxiety levels that are unable to attend mainstream provision) referred through the local authority gateway. The review concluded in late 2016/17 an increase in the budget provision of £0.574m for 2017/18.

Out of County Placements

Out of County placements are made only when Lincolnshire Schools have stated that they cannot meet the special educational needs of a particular learner. There is a continuing pressure on meeting the needs of those learners with Autistic Spectrum Disorders or Social, Emotional and Mental Health issues and specifically those with challenging behaviours. Out of county placements go through a rigorous commissioning process.

Young people with Autistic Spectrum Disorders and Social, Emotional and Mental Health difficulties make up 70% of the 98 Out of County placements. It is frequently their challenging behaviour that has led them to be placed in provision outside of Lincolnshire.

The number of Out of County placements has remained relatively static over the last three years but the costs have risen significantly. In the financial year 2016/17 the authority spent £7.997m on independent non-maintained specialist provision, an increase of £0.348m from the 2015/16 spend level of £7.649m. The budget overspent by £0.142m even allowing for a budget increase made in 2016/17 of £0.595m to rebase the budget (discussed in the January 2016 Schools Forum).

Independent School placements in Lincolnshire

In addition to Out of County placements there are currently 44 children and young people placed in independent schools in Lincolnshire. The nature of these placements is complex but falls 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.

The cost in 2016/17 of these placements was £1.800m, which is a £0.527m overspend on a budget of £1.273m.

The detailed budget setting exercise that included the drawing out of savings has allowed the LA to manage internally the high needs pressures reported within the paper for 2017/18. Further details are contained within the Section 251 Budget Statement 2017/18 report.

SEN Strategy Review

As first reported to the Schools Forum in April 2015 a comprehensive review of special educational needs provision in Lincolnshire is underway. The Special Schools' Project

Board, chaired by the Director of Children's Services, is leading this work. The project emanated from some key issues including:

- The profile of identified needs and the pattern of placements is different in Lincolnshire compared to the rest of the country and to statistical neighbours. This suggests that the identification of certain types of need is not consistent across the county and that some underlying needs are not being identified early (e.g. SLCN).
- There are gaps within the continuum of current LCC SEN provision. Mainstream schools –particularly secondary schools –may lack the capacity and provision to meet the needs of some pupils, particularly those with challenging behavioural needs. Most specialist provision is located in special schools –there are comparatively few enhanced resource provisions. Current specialist provision is “blocked up” and is not able to respond to the changing profile of need across the county (e.g. pupils with ASD and very challenging behaviour or those who can't manage in mainstream and are able students wishing to take formal qualifications).
- These gaps within the continuum of LCC SEN provision have a direct influence on the numbers of pupils placed out-of-county. There is no evidence that this trend is being driven by a lack of in-county residential SEN provision.

The focus of a new strategic approach to SEND in Lincolnshire is predicated on building long-term, strategic planning capacity and process. This is being undertaken in four stages:

- Analysis—of long-term trends, in parallel with the ongoing focus on getting the structures and processes right
- Commissioning—using analysis to develop a flexible continuum of provision informed by long-term planning
- Engaging stakeholders—developing mechanisms for engaging key stakeholders (educators and families particularly) and investing in regular, open dialogue, and in building their skills, capacity and knowledge of the SEND system to enable them to play a key role in co-producing and leading the implementation of Lincolnshire's SEND strategy
- Monitoring outcomes –ensuring that we are able to answer two key questions:
 - Are our approaches working?
 - Do we have the right provision to meet the current and future needs of children in our county?

There is a commitment by Special School Headteachers and health services to consider options to meet the needs of all young people in Lincolnshire that have complex SEN. This can't be achieved in isolation from the mainstream schools and work is underway to understand how those schools can better support the needs of Lincolnshire children and young people with SEN. If there is to be a realistic chance of enabling young people to receive education in the community in which they live the sector as a whole needs to respond.

As well as the Project Board meeting regularly to drive the work, there are several work streams that report into a Task and Finish Group. The DfE provided funding to every local authority to support the development of a SEND strategy that includes a review of sufficiency and plans to future-proof provision for young people requiring specialist provision. In April 2017 the project appointed a Senior Project Officer and recently The

Wolds Federation agreed to release their Executive Principal for one day a week to support the work. There have been two residential events with the Special School Headteachers, facilitated by Anton Florek from the Staff College, at which agreement has been reached on a Common Moral Purpose and some of the key principles that will underpin any future model of specialist provision in the county. The Project Board includes the Chair of the Lincolnshire Parent Carer Forum and the involvement of the forum will be pivotal to engagement with parents, carers and young people at the appropriate time.

An options appraisal has been undertaken and this will lead to the development of a SEND Strategy that will be presented to the Children's Scrutiny Committee in October 2017. There is significant potential investment to support the re-modelling of provision in the county and it is therefore essential that the legacy of this work will be that children and young people with SEND get the right education, in the right place, at the right time, as close as possible to their community of place.

RECOMMENDATIONS

The Schools Forum is asked to note the contents of the report and direct any questions to the officers in attendance.

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