

Agenda Item 7



Policy and Scrutiny

Open Report on behalf of Debbie Barnes, Executive Director of Children's Services

Report to:	Children and Young People Scrutiny Committee
Date:	19 January 2018
Subject:	Inclusive Lincolnshire Strategy – Policy Review

Summary:

This report updates the Children and Young People Scrutiny Committee on the progress of the Inclusive Lincolnshire Strategy.

Actions Required:

The Children and Young People Scrutiny Committee is invited to consider the content of the report and to provide feedback and challenge as required.

1. Background

The Inclusive Lincolnshire Strategy (December 2015) was introduced to address the problem of a rising and unsustainable rate of permanent exclusion from Lincolnshire schools. The issue, which resulted in our county being consistently the highest excluder of primary-phase children nationally and nearly the highest of secondary, has been well documented in previous reports.

At the heart of the Strategy is the Lincolnshire Ladder of Behavioural Intervention, widely known now simply as 'The Ladder'.

<http://microsites.lincolnshire.gov.uk/children/schools/inclusive-lincolnshire/128704.article>

This is designed to support schools in focussing on the underlying drivers of challenging behaviour, rather than merely its outward presentation. The Ladder comprises three main steps:

1. Screen for unmet learning needs (e.g. language deficit) and explore any environmental factors through Early Help Assessment. Use these assessment outcomes as the basis of an evidence-based, signs-of-safety informed pastoral support programme (PSP)
2. If the PSP is ineffective, use as the basis of referral to BOSS (Behaviour Outreach Support Service) for specialist input.

3. If BOSS support fails to re-engage, make referral for intervention placement (KS1-3) or Alternative Pathway (KS4) within the AP (Alternative Provision) sector.

The Ladder continues to attract interest from local authorities across the country and was shortlisted in 2017 for CYP Now's prestigious Early Intervention Award.

Its success in reducing Lincolnshire's rate of permanent exclusion is evaluated under Progress. However, it is important to view this data within the troubling wider context created by the Children Commissioner's recent Briefing for MPs, *Falling through the Gaps* (Nov. 2017)

<https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/11/BRIEFING-Falling-through-the-gaps-in-education-CCO.pdf>

The briefing shows that the rate of permanent exclusion is rising rapidly in England, with a 44% increase since 2012/13. However, it also confirms that only one in five of the 48,000 children currently educated in Alternative Provision (AP) have been permanently excluded. Official national data is in this regard of little value as an indicator of inclusion in English schools and it is possible to hypothesise that Lincolnshire's secondary schools were not necessarily less inclusive than those elsewhere, when they were the highest excluders nationally, but rather among the most transparent. Certainly, Pupil Reintegration Team (PRT) officers have always held the line on ensuring that exclusions are lawful so that a family's legal right to challenge is upheld.

It is imperative that Lincolnshire's drive to reduce formal permanent exclusion is based on a genuine strengthening of inclusive practice, not secured through any 'gaming' of the figures, such as back-door exclusion. (A practice widespread in LAs across the country) This means that Lincolnshire's exclusion rate is likely to reduce more slowly than would be the case were a quick-fix found, but there will be no children hidden from official statistics, a problem rightly challenged by the commissioner.

It is worth summarising the key findings from 'Falling through the Gaps' so that the Ladder can be evaluated against this challenge from the Commissioner, before focusing in 'Progress' on what the data tells us about permanent exclusion. There are six of these, as follows:

1. **Tens of thousands of children are educated outside mainstream or special school, many effectively 'hidden away' in settings where little is known about how well their needs are being met.** Around 38,000 children are single registered in Alternative Provision (AP) with 16,000 of these educated in state funded APs, such as PRUs, AP Free Schools and academies. Around 22,000 are enrolled in other types of AP, which can include Independent and Hospital schools or vocational establishments. To date, Ofsted has identified 300 establishments operating illegally as unregistered schools, involving thousands of children, but the true number of them is unknown. It is impossible to assess the quality of a child's education, wellbeing or safety in such provision.

Inclusive Lincolnshire Strategy: whilst many LAs operate Fair Access panels which allow headteachers to 'manage move' pupils into AP, often using a quota system, Lincolnshire does not allow this. We have this year introduced Collaborative Headteacher Inclusion Panels ('CHIPS') as another strand of the overarching Inclusive Lincolnshire Strategy, but these facilitate moves between mainstream schools only, not into AP. Managed moves are recognised in 'Through the Gaps' as positive when they "prevent the need for a permanent exclusion – particularly if it provides a fresh start for the child."

In relation to unregistered schools, the Local Authority recognises that there are a number in Lincolnshire that do in fact provide vulnerable pupils with a high quality vocational education. The provisions, previously known collectively as Solutions 4, were praised by Ofsted in 2015: "*pupils were observed behaving well at sites of alternative provision, used for pupils in Key Stage 4. Pupils demonstrated positive attitudes to learning on these sites and reported that staff managed pupils' behaviour effectively.*" Qualifications were described as relevant with positive pathways into post-16 also commended.

The Ladder of Intervention allows schools to access places within these unregistered settings, but only on a dual-registered basis (pupils are not 'off-rolled'). Furthermore, CMAT (Cambridge Meridian Academies Trust) has been commissioned to undertake robust quality assurance of the settings (Build a Future, First Steps and SESN) on behalf of the LA and schools. Whilst the Children's Commissioner and Ofsted's concerns about unregistered provision are clearly entirely legitimate, these have been robustly mitigated in Lincolnshire, for the benefit of KS4 learners whose needs cannot be met through a narrowly academic mainstream curriculum.

2. ***Many of these children are vulnerable and in need of extra help.*** *Children with SEND account for half of all permanent exclusions despite being only 14% of the school population. Over ¾ of children in PRUs have SEND. 1 in 10 has a SEND statement or EHC (Education, Care and Health) plan. A high proportion of these pupils may be in AP because it is easier to place them there, rather than because that is the setting which provides the best support for their needs.*

Inclusive Lincolnshire Strategy Referring again to the Ladder, and referral for intervention placement which is its final step, pupils with EHC plans can only be referred in liaison with SEND caseworkers and through multi-agency annual review. All professional must agree that needs can be met within AP. Referrals are not accepted from special schools.

3. ***Official exclusions are rising, but many children are also being excluded by the back door through 'hidden' or unofficial exclusions.*** *The number of children who leave mainstream schools for other types of provision is significantly higher than the number permanently excluded (which has risen by 44% since 2012/13). Only 1 in 5 children in AP has*

previously been permanently excluded before. Pupils commonly undergo a managed move to an AP and then complete their education there. These pupils are effectively permanently excluded without having gone through the legal process that is designed to protect their rights.

Inclusive Lincolnshire Strategy With the exception of KS4 pupils, intervention places accessed via the Ladder are precisely that: pupils return to their home schools after a 16 week period of intervention, with home school maintaining involvement. Occasionally, underlying SEND is identified during the course of the intervention placement, in which case the route out may be into special school, rather than back to home-school. KS4 pupils do not return to home school only because it would not be in their best interests to begin a vocational pathway and not complete it, nor to have GCSEs interrupted. The commissioner recognises the value of this: "AP ... can allow children to thrive in ways that may not have been possible in a mainstream setting."

4. ***In some cases, children could be moved out of mainstream schools for reasons that are more in the school's interests than the child's.*** Most of the children who move into AP do so in Year 10 or 11, and only 1% go on to achieve 5+ A*-C including English and Maths (2015-16). Over a third of pupils who were in AP at the end of KS4 in 2016/17 were recorded NEET, compared with 1 in 20 mainstream pupils. Nine out of ten mainstream schools are benefitting from these pupils leaving, in the sense that their data is improved. Analysis by school type has shown that this effect is strongest for sponsor academies.

Inclusive Lincolnshire Strategy Consistent with the national pattern, most Lincolnshire permanent exclusions are KS4 and there is a link between schools in an Ofsted category of concern and exclusion. When Headteachers are under pressure to raise attainment, then inclusion – which can drain resources - slips down the list of priorities. In order to successfully refer for an intervention placement, schools must demonstrate – by sharing their pastoral support planning – that they have made reasonable adjustments and provided evidence-based intervention to meet individual needs. RI schools are not generally able or willing to do this and pupils therefore arrive at the PRU [Pupil Referral Unit] via a permanent exclusion rather than through the Ladder. Subsequently, whilst nationally, only 1 in 5 PRU pupils have been permanently excluded, in Lincolnshire the vast majority of secondary PRU pupils have been permanently excluded. (See 'Progress' below) Whilst this does not improve our data, it does demonstrate the integrity of the Ladder.

In relation to the poor outcomes of KS4 pupils educated in AP, the LA is of course fully aware that its PRU went into special measures and the journey of improvement, with Wellspring Academy Trust (WAT) as sponsor, is at a very early stage. Outcomes were once again not good enough in 2016/17. The LA's response, previously agreed at committee, has been to commission additional vocational learning places for September 2018 so that a version of Solutions 4 is reinstated. In addition, the WAT free school

programme will ensure that vulnerable learners are educated in purpose-built premises.

5. **Some children, including highly vulnerable ones, are not in education at all.** Between 10,000 and 15,000 children are estimated to miss education at one point in time.

Inclusive Lincolnshire Strategy Whilst the LA's CME (Children Missing Education) team is responsible for this cohort, the Ladder does provide schools with access to support when admitting pupils who may be returning from a period out of education. Headteachers regularly contact the Pupil Reintegration Team regarding such cases. The PSP, the LA's Signs of Safety planning proforma, now widely adopted across the county, has proven a valuable tool for transition planning.

6. **In many cases, existing statistics are unable to tell the full story.** There are no official figures on the extent of unofficial and illegal exclusions – only surveys, which could severely underestimate the scale of the issue.

Inclusive Lincolnshire Strategy Lincolnshire guidance has been published on the use of part-time timetables (a common form of illegal exclusion) with the PRT ensuring schools are fully aware of the legislation around this. The CHIPS panels are actively contributing to a greater degree of transparency and peer challenge – for example, if a Headteacher encourages a pupil to consider a neighbouring school, there is now a forum to address that. Finally, Elective Home Education data is shared with all schools every term – making it very clear which schools are encouraging this choice. There has been a real attempt through the Strategy to promote transparency around this difficult agenda.

2. Progress Update

As already established in the section above, there is much more to this issue than national exclusions data, which is clearly subject to gaming. However, reducing the number of permanent exclusions must remain a key priority for the LA, particularly with so much resource and support now available to schools. When a permanent exclusion is issued and a school has not first followed the Ladder – screened for needs, designed a PSP and so on – it is difficult to accept that the measure was the 'last resort' that exclusions law says it must be. The data below confirms that most exclusions are for 'persistent misconduct' - chronic behavioural difficulty that ought to be managed inclusively via the Ladder.

Most Common Reason For Permanent Exclusion Over 3 Years				
	14/15	15/16	16/17	Total
Persistent Disruptive Behaviour	22	62	72	156
Other	4	45	27	76
Physical Assault Against an Adult	8	23	16	47
Physical Assault Against a Pupil	2	15	12	29
Drugs	2	10	10	22

Falling though the Gaps identifies a 44% rise in permanent exclusion (PX) since 2012/13 with the rate rising dramatically in 2016/17. Whilst DfE statistics are a year behind, the TES found through an FoI request that three LA experienced a 300% increase from 2015-16 to 2016-17, 12 LAs saw rates double that year and in a total of 25 LAs, the rate increased by 50%. Lincolnshire's success in reversing this pernicious national trend, albeit from a high starting point, is not insignificant.

Permanent Exclusion (PX) - 3 year comparison			
	14/15	15/16	16/17
Primary	44	52	30
Secondary	159	122	130
Special	1	8	4
Totals	204	182	164 (151)

Of the 164 PX that the Local Authority was notified about in 2016/17, 13 were subsequently quashed or withdrawn. The actual figure, whilst remaining cause for concern, represents a 15% reduction on the previous year and a 26% reduction since the Ladder was launched a term into 2015/16.

The DfE statistical release on exclusions is always a year behind, so the last official data – below – relates to 2015/16. That year, with 0.23% of pupils permanently excluded, Lincolnshire was above the national average of 0.17% by 6%. The gap between Lincolnshire and other LAs has narrowed significantly then, since in 2014-15 it was 16%.

Rate of Permanent Exclusion as % of Pupil Population

	2014/15		2015/16	
	National Average	Lincolnshire Guidance	National Guidance	Lincolnshire Guidance
Primary	0.02%	0.07%	0.02%	0.08%
Secondary	0.15%	0.31%	0.17%	0.23%

The point that the Ladder represents an inclusive alternative to PX for persistent misconduct has already been made. One of the issues, early into its launch, was poor quality referrals, particularly from secondary schools. When PSP planning does not demonstrate evidence-based intervention and support, and a robust cycle

of assess-plan-do-review, referrals are declined by panel. Some of the highest excluding schools last year experienced early disappointment with the process and then failed to engage with it any further. As already indicated, where schools Require Improvement or are open to Special Measures, then using the Ladder to avoid a permanent exclusion can either be beyond them or simply not a priority. The PRT continues to work hard to engage these schools and to share best practice.

Intervention Placements 2016/2017		
	Accepted	Declined
Primary	25	10
Secondary	36	21
Total	61	31
Led to PX after Decline	5 (8.2%)	6 (19%)

It is important to note that the quality of referral has improved significantly this academic year. Of course, this will create a capacity issue if the rate of PX does not decline further since all pupils, whether taking up places for intervention or permanently excluded, currently access the same provision. Historically, the PRU has always exceeded its Pupil Admission Number of 252 by at least 75 places, another reason for the KS4 commission from September 2018. Until then, the sector remains under more pressure than can be regarded optimal.

Intervention Placements 17/18		
	Accepted	Declined
Primary	2	0
Secondary	10	2
Total	12	2

Conclusion

Given that Lincolnshire is confounding the national trend of rapidly rising exclusion, it is possible to conclude that the Inclusive Lincolnshire has had a positive impact. Data for 2017-18 has not been included in this review since the fluctuations from one term to the next are not predictable. Certainly, the autumn term was challenging, however, with three schools in Ofsted categories of concern accounting for over twenty exclusions between them.

The CHIPS are new this year and represent another inclusive alternative to permanent exclusion. It is heartening that all but a small handful of non-selective schools are engaged in this process.

The Ladder remains the right way to promote inclusion, and the panel will continue to hold a firm line on the quality of referral into AP even when headteachers indicate that permanent exclusion is the only other available option. This protects the LA from any charge that it is facilitating 'off-rolling', rather than promoting genuine inclusive practice. There is much anecdotal evidence from Liaise (the LA's parent advisory group), from the virtual school and from other partners that schools are meeting the needs of their most vulnerable pupils much more effectively than in the past, when a punitive route would more likely have been pursued. This is real progress, to be built on throughout 2017-18, however challenging the wider policy context within which schools must operate – the very real forces against inclusion.

3. Consultation

a) Policy Proofing Actions Required

N/A

4. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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