

POLICY AND RESOURCES COMMITTEE**Wednesday, 11 September 2024**

REPORT TITLE:	SUPPORTING STATUTORY SEND SERVICES
REPORT OF:	DIRECTOR OF FINANCE (SECTION 151 OFFICER)

REPORT SUMMARY

The purpose of this report is to set out the current context for demand in statutory services for supporting children and young people with special educational needs and disabilities (SEND). It provides a local and national overview of the rise in demand for services and the impact that this has had on Wirral Council's ability to meet growing demand. Following a review of the statutory Special Educational Needs and Disabilities Service, additional investment is required to meet the Written Statement of Action and Improvement Notice requirements.

The report supports the Council Plan: Wirral Working Together 2023-27, specifically the 'Early help for Children and Families' theme.

This matter affects all Wards within the Borough and is a key decision.

RECOMMENDATION/S

The Policy and Resources Committee is recommended to:

1. approve the virement from Strategic Holding Account Contingency of £1.1 million for the 2024/25 financial year;
2. note the requested budgets to be addressed in future budget rounds, in order to meet the service capacity requirements in paragraph 3.3 of the report.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1. Capacity constraints within the SEND Referral and Assessment Team and Wirral Council's Educational Psychology Service (EPS) have been contributory factors in the challenging SEND Local Area Inspection outcome in 2022, the subsequent Written Statement of Action in 2022 and Notice to Improve in May 2024. Following recognition of the ongoing increases in demand for services by Wirral's Local Area SEND Partnership Board (LASPB) and approval for re-designing and investing in capacity to meet the ongoing needs of Wirral's children and young people this paper sets out the request for financial investment to realise the services required.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 A number of options for the re-design of the services have been discussed and explored to ensure the Council recover from the Notice to Improve.
- 2.2 The option to not seek additional funding has been discounted on the basis that the services are statutory in nature.

3.0 BACKGROUND INFORMATION

- 3.1 First Tier Local Authorities have a range of duties that are required to be delivered in support of children and young people with SEND. These are set out in the SEND Code of Practice 2015 published by the Department of Education. The Code of Practice refers to Part 3 of the Children and Families Act 2014 and associated regulations. The regulations associated with the Children and Families Act 2014 are:
 - The Special Educational Needs and Disability Regulations 2014
 - The Special Educational Needs (Personal Budgets) Regulations 2014
 - The Special Educational Needs and Disability (Detained Persons) Regulations 2015
 - The Children and Families Act 2014 (Transitional and Saving Provisions (No 2) Order 201
- 3.2 In 2016 the DfE instructed the Office of Standards in Education (Ofsted) and the Care Quality Commission (CQC) to undertake inspections of local areas to provide regulatory oversight on how effectively Local Areas are implementing the transformation required from the Children and Families Act 2014. These areas of concern in the main were related to working practice and capacity within the referral and assessment team and EPS.
- 3.3 In order to deliver on the recommendations, however, ongoing investment in services will be required. The request of Policy and Resources Committee is to approve the virement of £1.1 million from the Strategic Holding Account Contingency fund for the financial year 2024/25. Moving forward this will form an additional budget pressure in order to meet the service delivery models approved by the

LASPB. Overall, an additional £2.8 million is required across the Referral and Assessment Team and Educational Psychology Service. The budget growth would be allocated as follows:

£1,570,655 to support the restructure of the referral and assessment team

£1,266,780 to support the expansion of the EPS.

This additional budget requirement is asked to be noted and it will be considered as a potential pressure in the review of the 2025/26 Medium Term Financial Plan (MTFP) as part of budget setting activity.

- 3.4 Since receiving their Notice to Improve Wirral Council and Cheshire and Merseyside ICB have revised and reinforced their governance and oversight arrangements. Overall governance in relation to the Improvement Notice sits with Wirral's Local Area SEND Partnership Board (LASPB). The LASPB membership contains representation from Wirral Health and Wellbeing Board, Wirral Council Executive, Wirral Council Children's Committee, and Wirral Place Board in addition to school and family stakeholder representatives. Updates on SEND improvements and developments are presented to Wirral Health and Wellbeing Board and will be regularly reported to the Children, Young People and Education Committee. In order to provide clearer reporting and facilitate more detailed oversight and assurance SEND finances and budgets have been separated from overall education financial reporting.

4.0 FINANCIAL IMPLICATIONS

- 4.1 This paper seeks to provide additional in-year funding for SEND services of £1.1m, which would be made available via a virement from the contingency budget. Details have also been provided on estimated financial pressures from 2025/26 for note only at this stage – the MTFP and formal round of budget setting will determine budget allocations for the next financial year as part of the distinct budget setting approval process.
- 4.2 The services described in this paper are all statutory requirements of Wirral Council. While the budget growth would represent a formalising of investment in these teams, as was indicated in paragraph 3.3 money to fund these statutory services are expected to be required to be made available while the current demand profile exists. The implication of this is that it is anticipated that the additional £2.8m shown in 3.3 above will not reduce during the lifecycle of the 2025 MTFP.

5.0 LEGAL IMPLICATIONS

- 5.1 The Council is legally responsible for the production, maintenance oversight of Education Health and Care Plans including ensuring that the provision contained within them is being delivered. These duties are set out in the Children and Families Act 2014.

5.2 Additional duties to ensure provision for pupils, including those pupils who for medical or other reasons are unable to attend school are contained within the Education Act 1996.

5.3 Following the issue of a Notice to Improve in May 2024 by the DfE, ongoing concerns from the DfE in relation to the capacity and quality of the Council's service to support Children and Young People with SEND could result further action, including in formal intervention in Wirral's services by the DfE.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 The £1.1m virement for 2024/25 will be utilised to employ officers across the SEND Referral and Assessment Team and Educational Psychology Service in line with the restructure proposals approved by the LASPB (detail available in the background papers cited below).

7.0 RELEVANT RISKS

7.1 Failure to address performance will result in poor inspection outcomes and potential loss of control of services following the Notice to Improve. Further, a lack of high quality EHCPs will act as a barrier to children and young people with SEND achieving their full potential.

8.0 ENGAGEMENT/CONSULTATION

8.1 In order to devise the models of service delivery and resourcing to deliver against current demand patterns Wirral Council has engaged parents, young people and schools who rely on the council's services. This has been supported by ongoing engagement with and support from the DfE's SEND advisor. Additionally, The Council's SEND Officers have liaised with counterparts from other Councils in similar circumstances to learn from their own models, structures and capacity.

9.0 EQUALITY IMPLICATIONS

9.1 Equalities implications arising from the investment in services and subsequent recruitment of staff will be covered by the Council's Human Resources policies on recruitment retention of staff.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The virement will lead to additional staff for Wirral Council generating a small rise in the council's carbon footprint. The move away from remote agency staff to local staff able to engage directly with schools and families will also lead to increased staff travel and resulting carbon output. However, improvements in practice may lead to offsets in reduction of Home to School transport requirements as more children are able to be educated within their local school.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no direct community wealth implications arising from the report.

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APPENDICES

None.

BACKGROUND PAPERS

Wirral Local Area Inspection Outcome Letter 2021 ([50173702 \(ofsted.gov.uk\)](https://www.ofsted.gov.uk/inspections/50173702))

The SEND Code of Practice Jan 2015 ([SEND code of practice: 0 to 25 years - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262396/SEND_Code_of_Practice_Jan_2015.pdf))

EHCP and Annual Review Compliance and Recovery Plan LASPB papers pack for April 2024 ([available on SENDLO](#))

EPS Redesign report in LASPB papers pack for May 2024 ([available on SENDLO](#))

TERMS OF REFERENCE

This report is being considered by the Policy and Resources Committee in accordance with Section B (i)(ii) of its Terms of Reference:

(b) provide a co-ordinating role across all other service committees and retain a 'whole-council' view of performance, budget monitoring and risk management, which includes responsibility for a decision:

(i) that has a major impact on a number of Council services or on the Council as a whole;

(ii) which is deemed significant in terms of impact on the Council's revenue or capital (to be determined by the Head of Paid Service and/or Section 151 Officer in consultation with the Leader);

SUBJECT HISTORY (last 3 years)

Council Meeting	Date