



CHILDREN YOUNG PEOPLE AND EDUCATION COMMITTEE

22ND JANUARY 2025

REPORT TITLE:	SEND IMPROVEMENT
REPORT OF:	ASSISTANT DIRECTOR SEND AND INCLUSION

REPORT SUMMARY

This report provides members of the Children, Young People and Education Committee with an update on the improvement programme for Special Educational Needs and Disabilities (SEND) for the Local Area in Wirral. The report covers the period from Mid November 2024.

In addition to an update on the December 2024 Local Area SEND Partnership Board progress and reporting this report provides members with feedback from Notice to Improve Stocktake Review meeting held on the 26th November 2024 with the Department for Education and NHS England.

RECOMMENDATION/S

The Children, Young People and Education Committee is requested to note the progress of the Local Area SEND Partnership Board in progressing system improvement as required by the Improvement Notice.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 It has been agreed with DfE and NHS England through the revised Terms of Reference for the Local Area SEND Partnership Board that the Health and Wellbeing Board is the appropriate forum to provide oversight of SEND improvement activity in Wirral, ensuring that the Written Statement of Action (WSOA) is fully delivered by October 2025. This report is presented to the Children, Young People and Education Committee to provide assurance of improvement and enable alignment with the business of the committee.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 No other options have been considered. The Local Area SEND Partnership Board (LASPB) will provide updates for information to Wirral Health and Wellbeing Board, the Children, Young People and Education Committee, the Adult Social Care and Public Health Committee, and Wirral Safeguarding Children Partnership.

3.0 BACKGROUND INFORMATION

- 3.1 The LASPB received a range of reports on areas of progress over the reporting period to December 2024 in its last meeting held on the 17th December. Papers and minutes are available on SENDLO, Wirral's Local Offer website for all LASPB meetings. There was a focus by the LASPB on how it uses performance reporting with a deep dive held ahead of the board. As a result the LASPB in December did not follow its usual format with subgroup updates and the WSOA tracker reports deferred into the January meeting. Members should note that the forward plan of the LASPB for January includes updates against recovery plans for EHCPs, neurodevelopmental pathway and speech and language therapy services.
- 3.2 **EHCP Recovery Options:** The LASPB considered a paper in relation to accelerating the finalisation of EHCPs through a range of options that could increase efficiency with the EHCNA process and decision making. The options considered by the LASPB included:

Option 1: Reduce the amount of time that caseworkers spend responding to update requests from schools and families.

This would involve sending out and publishing a clear set of guidelines about when schools and families will hear from the team and that no other communications will be sent or responded to while we get back up to capacity. For example, this may include:

- acknowledgement of receipt of an EHCNA request,
- a decision to assess notification/6 week update
- a decision to issue/16 week notification update
- final plan or 4 weekly subsequent updates

With all requests for updates outside of these not responded to.

Benefits: This would free up considerable staff time as many caseworkers spend 20-30% plus of their time simply providing update responses. This proportion is

significantly higher for managers currently. At the same time, it would provide clarity of expectation for both providers and families.

Risks: There may be some considerable reputational risk as it may be perceived as an excuse to deliver a worse service. It may also potentially fuel and exacerbate the level of anxiety and lack of confidence in some minds regarding the communication from SENDSTART which may fuel further protest.

Option 2: Further Recruitment of Agency Staff

This would involve undertaking a further blanket round of agency recruitment to fill any vacancies still in the establishment. In addition, agency staff could be retained into the new calendar year to ensure that new caseworkers are not initially overwhelmed. This option is put forward with the view that such recruitment of agency staff must be delivered within the enhanced budget following the Resource and Finance Committee additional funding in September.

Benefits: Would provide the possibility of additional capacity and ensure that caseloads were manageable within those envisaged in the restructure proposal.

Risks: Experience suggests that the timescale from request to advertise, to fully in place and able to operate independently is at least 6 weeks for experienced staff and closer to 10 for less experienced this will limit their ability to immediately impact on timescales. Agency staff also come with working practice from other areas that does not align to the direction of travel Wirral is looking to take and may, due to geographical constraints prevent face to face relationship building which is seen as key to SENDSTART's future success. There is also more potential for churn in caseworkers so increase in family and school confusion.

Option 3: Reduce the time/capacity spent on provider consultation

This would involve finalising plans following the first round of provider consultations rather than working with families and providers to find a provider who feels they can meet needs. SENDSTART managers will use their knowledge of the local offer and the initial consultation responses in light of the legal tests set out in the Children and Families Act 2014.

Benefits: Would remove a large portion of staff time and delay in finalising plans while also, at the earliest opportunity providing families with a plan that is able to be appealed should they disagree with the provider named in section I.

Risks: Such decision making however is likely, in the short term to increase rates of appeals and tribunals. It may also provide a strain on relationships with schools who will potentially be asked to take pupils who may be more challenging to accommodate for a range of reasons. In addition, in some instances within special schools there are legitimate capacity constraints and short-term capital investments may be required to develop provisions. (This may not be required in 36 months' time as pupil numbers decline in Wirral.)

Option 4: Further Market Testing of Associate Educational Psychology Assessment.

Timely educational psychology (EP) assessment as this is often the first point of delay in EHCNAs. Currently about 30% of EP assessments are delivered through a contract with Reeds Associates. This was the maximum of their capacity at the contract start date in March 2024. It has been considered to date that, looking at the names on EP advices received, exploring further agency options would be just using the same associate EPs through other companies thereby not adding to overall capacity. However, if possible, finding additional capacity through Reeds Associates or other agencies would ease the delays in EHCPs.

Benefits: Potential to reduce the volume of EP assessments that take over 6 weeks, while increasing the capacity for quality assurance and control as expectations can be built into the overall contract.

Risks: The use of associate EPs remains expensive and may not have the desired impact as it simply removes capacity from the direct school commissioned EP advices. Moreover, associate EP advice lacks the level of quality control and locally appropriate advice leading to more pressure on specialist placements and over-provision being put into EHCPs.

Option 5: Demand Management

Through the new EHC Partnership Panel a set of more robust evidence requirements, such as clear evidence that the graduated approach has been exhausted before an EHCNA application is submitted, could be put in place that would curtail the number of EHCNA that are undertaken in the first place.

Benefits: Potential to reduce the caseload by 10-15% over time

Risks: Would take time to have any meaningful impact. Moreover, decisions to not assess are extremely hard to defend at tribunal as the legal test threshold is low so it may increase the level of appeals and appeals won. This may lead to reputational risk from schools and families

Option 6: Draw on other resources across Education and Inclusion.

Staff engaged in, non-statutory inclusion and exclusion prevention could be repurposed to spend some/all of their capacity to deliver phase transfer reviews. This would free up capacity within the core team to concentrate on finalising EHCPs.

Benefits: Potential to add capacity of staff who know the Wirral context and so would need only a short training window before adding capacity. The use of experienced education staff from other teams could add upto 4FTE equivalent capacity.

Risks: Would impact on Wirral's broader inclusion agenda as inclusion staff team feel they are already at capacity and are key to embedding both the new nurture provisions established in September 2024 and the embedding of the Graduated Approach in addition to keeping Wirral below national comparators for permanent exclusion rates (excluding children with SEND). There may in addition be concern from staff who do not feel it is their role to pivot away from what is seen as core purpose.

Option 7: Cohort Tracking and MI reporting.

With the transfer of case management to liquid logic will be possible to get more granular and accurate reporting on cases that are open (i.e. those yet to lead to a finalised EHCP) This would allow focus on the impact of the investment and restructure ahead of when it will show in the 20-week timescales. Examples of cohort tracking would be:

- Month on month tracking of progress of cases such that we track April cases, May cases, June cases etc to check where progress is being made or barriers remain far earlier in the EHCNA process (timeliness of advice is already tracked in the scorecards).
- Decision to assess timeliness monitoring
- From draft to final EHCP monitoring

Benefits: The increased scrutiny and oversight will facilitate earlier intervention by managers and LASPB. It will also allow for tracking and progress where plans have exceeded 20 weeks. Moreover, it will provide clearer tracking monitoring and assurance to Board members, stakeholders and parent and provide the opportunity to spot and intervene earlier if intended changes are not coming through in the data.

Risks: This will have an impact on the resourcing capacity of performance and data colleagues and may draw capacity from other business critical areas from across Children's Services. IT should also be noted that in and of itself there is not direct impact on output of SENDSTART performance.

Option 8: Finalising Plans by type rather than naming specific provision

Where there is no parental preference and/or no agreement from consultations EHCPs could be finalised to specify the type of provision (mainstream RB, special) rather than name a specific school. This will allow for a faster turnaround to ensure that where issued at draft on time plans are finalised within 20 weeks.

Benefits: Will have an immediate impact on timeliness and increase the proportion of plans finalised within 20 weeks in a short space of time.

Risks: Highly likely to increase complaints and lack of parental satisfaction. It is considered as also likely that it may result in an increase in the number of children who are not accessing full time education as parents do not engage with their current school or proposed type of education.

3.3 LASPB considered the risks and benefits of each option and resolved for SENDSTART and Wirral's Educational Psychology Service to move forward with options 2,4,6 and 7 and these are being implemented from January 2025. LASPB noted that in respect of options 1,3, 5 and 8:

- Option 1 would not be well received by parent carers as communication throughout the EHCP process is a source of frustration.
- Option 3 consultation with providers was key to ensuring the correct support for young people, as it prevents challenges arising after a placement had been agreed. The DfE SEND Advisor agreed to support this work
- Option 5, could lead to a breach of Section 36 statutory duties, with the potential to increase the number of 'Refused to Assess' tribunals

- Option 8 was deemed incompatible with The Board's aspirations to support families, children and young people.

- 3.4 In addition to the discussion in relation to EHCPs the LASPB also received an update on the Local Area Self Evaluation. It was explained that work had accelerated on the completion of this key document and as an outcome there was a growing agreement that one long document wouldn't be suitable for engagement with all key audiences (professionals, regulators and families). Therefore, a second shorter document for families was proposed that would include several statements on key areas co-produced with parent carers. Work has continued on the overarching Self Evaluation. The self-evaluation will be shared with members at the next committee meeting following January LASPB
- 3.6 James Backhouse, Assistant Director for Education, Wirral Council presented a report in relation to SEND Transport to the Board. The paper highlighted that responsibility for Home to School Travel had moved from the Neighbourhoods Directorate to Education in April 2024. There were 1,853 young people who had door to door school transport, with an additional 666 young people who had been provided with a school bus pass. Commissioning costs for these services had risen from £3.6million to £6.7million since 2020/21, which was in-line with the national picture. The policy was undergoing a review that included areas such as; an online system, reassessment processes, travel training and the role of escorts. As a local authority responsibility, the policy and operational changes in relation to SEND home to school transport will be presented to Children Young People and Education Committee separately.
- 3.6 While it did not form part of the LASPB papers for December, Committee members should be reassured that progress in relation to the EHCP recovery plan, and in particular the restructuring of the Referral and Assessment Team into SENDSTART has continued at pace following Wirral Council's approval of additional investment in the services in September 2024. Recruitment across all roles into SENDSTART has been successful with the first two rounds of recruitment able to fill all roles in the team except one Caseworker role which is scheduled for interviews at the end of January.
- 3.7 There is a focussed induction programme taking place for all new starters within SENDSTART and additional training for existing team members that will improve their knowledge and understanding of the changes in process that have been implemented over the last four months. The EHCP quality assurance framework will also continue to embed with locality managers using regular supervisions with caseworkers to ensure that the quality of EHCPs continues to improve. This will include insight and feedback from the multiagency quality assurance work undertaken through the Invision 360 tool.
- 3.8 Although the recruitment and expansion of SENDSTART will be a wholly positive move for families in enabling Wirral Council to deliver timely and effective EHCPs it has of necessity resulted in a reallocation of many cases which will cause some uncertainty and disruption in the short term, particularly where Caseworkers are new to the borough and/or their role. As has been previously noted, it will take time for this additional resource in staffing and process efficiency to be felt either in

performance metrics or, perhaps more importantly, by families. It is not expected that the 20-week EHCP performance will significantly improve ahead of May 2025. This remains in line with the revised timings in the EHCP recovery plan.

- 3.9 On the 26th November 2024 key members of the SEND Partnership met with the Department of Education and NHS England to discuss the local area's progress against the Notice to Improve issued in May 2024. The meeting was both productive and instructive with the DfE receiving assurance against a number of key areas highlighted in the Notice to Improve. (The feedback letter from the DfE is attached in Annex A of this report.)
- 3.10 Of the ten improvement areas highlighted in The Notice the DfE and NHS England were assured that these were embedded sufficiently to move into Business as Usual. These areas are highlighted in in relation to 4,8 and 9 in the letter below and concern the local offer, strategic oversight and use of performance data. Particular assurance was noted in relation to Wirral's SEND governance arrangements and oversight since April 2024.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are no direct resource implications arising from this report. The LASPB have considered those arising from improvement work on an individual basis and have agreed the necessary arrangements, as is documented in the board's minutes and action log.

5.0 LEGAL IMPLICATIONS

- 5.1 The Council, working with the Integrated Care Board (ICB) and its other partner agencies must comply with the Improvement Notice and the actions it contains, as set out in Section 28 (2) of the Children and Families Act 2014. Failure to comply would lead to further intervention from the Minister for Children, Families and Wellbeing.
- 5.2 Provision of Education, Health and Care Needs assessments and plans are statutory responsibilities under the Children and Families Act 2014

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 There are no direct resource implications arising from this report. The LASPB have considered those arising from improvement work on an individual basis and have agreed the necessary arrangements, as is documented in the board's minutes and action log.

7.0 RELEVANT RISKS

- 7.1 A risk and issues log is maintained and reviewed by the LASPB at each meeting. The LASPB Executive Group meets twice monthly to add additional oversight to risk management.
- 7.2 Should the Local Area SEND Partnership Board not deliver the improvement required as set out in the notice and Written Statement of Action further intervention

under Section 497A of the Education Act 1996 would be invoked, thereby directing the Council to take further action to improve SEND services

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The Department for Education funds, via third sector organisation Contact, a parent carer forum for the local area. In Wirral, Parent Carer Participation Wirral (PCPW) are the designated group to represent the voice and experience of local families. PCPW are represented at the LASPB and its subgroups. The Participation & Engagement subgroup of the LASPB is Chaired by the Chair of PCPW.
- 8.2 On 19th July 2024, the Deputy Leader of the Council and Chair of the Health and Wellbeing Board, Lead Member for Children's Services and Director for Children, Families and Education met with the PCPW Steering Group to discuss parent experience, the LASPB and SEND improvement.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 Wirral Council and NHS Cheshire and Merseyside and partners are committed to carrying out their work in an environmentally responsible manner.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 Community Wealth Building in Wirral focusses on partnerships and collaboration. These partnerships are led by Wirral Council with external partners and stakeholders, including residents. NHS Cheshire and Merseyside will support the Council in community wealth building by ensuring health and care organisations in the borough have a focus on reducing health inequalities and contribute to the development of a resilient and inclusive economy for Wirral.

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APPENDICES

Appendix One: Wirral SEND Improvement Notice Stocktake Review: 26th November 2024

BACKGROUND PAPERS

The Local Area SEND and Alternative Provision Framework Area SEND inspections: framework and handbook - GOV.UK: <https://www.gov.uk/government/publications/area-send-framework-and-handbook/area-send-inspections-framework-and-handbook>

The full agenda and papers pack for the Local Area SEND Partnership are available on Wirral's Local Offer website: www.SENDLOWirral.co.uk

TERMS OF REFERENCE

This report is being considered by the Children, Young People and Education Committee in accordance with section a of its Terms of Reference:

(a) exercising management, oversight and delivery of services to children and young people in relation to their care, wellbeing, education or health, with the exception of any powers reserved to full Council.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Children, Young People and Education Committee	Sept 24
Children, Young People and Education Committee	Oct 24
Children, Young People and Education Committee	Nov 24

Appendix A

Improvement Notice Stocktake Review 26th Nov 24 Feedback Letter.