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| Report To: | JOINT EXECUTIVE CABINET/OVERVIEW PANEL |
| Date: | 12 February 2020 |
| Reporting Officer: | Sandra Stewart, Director – Governance and Pensions Sarah Threlfall, Assistant Director – Policy, Performance and Communications |
| Subject: | ASSURANCE REVIEW OF LGSCO FOCUS REPORT - SEND |
| Report Summary: | To receive for information, a service response on shared learning detailed within the LGSCO focus report on SEND provision. Scrutiny Panels will routinely review LGSCO decisions, with shared learning reported to services in order to gain assurances of practice, delivery and outcomes for residents and service users. |
| Recommendations: | That Overview Panel are asked to note the content of the report and ongoing activity of the Scrutiny Panels to review LGSCO decisions to inform and improve local service delivery. |
| Links to Corporate Plan: | The work of Scrutiny is closely linked to the Council’s Corporate Plan Priorities. Scrutiny activity seeks to support effective decision making and improvement outcomes across Tameside. |
| Policy Implications: | Scrutiny work programmes comprise activity that seeks to check the effective implementation of the Strategic Commission’s policies and if appropriate make recommendations to the Executive with regards to development, performance monitoring, outcomes and value for money. |
| Financial Implications: (Authorised by the Borough Treasurer) | The change in legislation and significant and sustained increase in requests for Education Health Care Plans has put significant financial pressure on the High Needs Block of the Dedicated Schools Grant, resulting in an in year overspend of £5.8m. It is likely that Tameside MBC will be required to submit a deficit recovery plan to the Department for Education identifying how it is intended that the deficit will be recovered. |
| Legal Implications: (Authorised by the Borough Solicitor) | Good governance means that effective learning and improvement are made following reviews and complaints. LGSCO provides an effective opportunity to consider and take on Board the learning the LGSCO recommends following their consideration of complaint issues nationally. |
| Risk Management: | Regular updates to Overview Panel provide assurance that Scrutiny is progressing with an effective work programme, supporting good decision making and service improvement. |
| Access to Information: | The background papers relating to this report can be inspected by contacting Paul Radcliffe, Policy and Strategy Lead by:  Telephone:0161 342 2199  e-mail: paul.radcliffe@tameside.gov.uk |

1. BACKGROUND

- 1.1 A service response was requested by the Integrated Care and Wellbeing Scrutiny Panel, to a Local Government and Social Care Ombudsman (LGSCO) focus report published in October 2019. The report is titled, *Not going to plan? – Education Health Care Plans two years on*. The report is intended to place more of a spotlight on the problems with the SEND system.
- 1.2 In this focus report the Ombudsman identifies five serious problems:
 - Severe delays
 - Poor planning and anticipation of needs
 - Poor communication and preparation for meetings
 - Inadequate partnership working
 - Lack of oversight from senior manager

2. INTRODUCTION

- 2.1 The report identifies an appraisal of current strengths and areas for improvement. It sets out the strategic direction and key actions required to improve. It aligns with the wider Children's improvement plan and the ambitions of the Corporate Plan.
- 2.2 Part three of the Children and Families Act 2014 introduced significant changes to the responsibilities of Local Authorities, Schools and Clinical Commissioning Groups for children and young people with special educational needs and disabilities. These reforms came into effect on 1 September 2014 supported by a refreshed SEND Code of Practice. At the time the Government described these changes as the biggest educational reform for a generation.
- 2.3 Implementing these reforms was in itself a challenge; however, this challenge has been compounded by turbulence and pressure in all parts of the education system. Pressures on budgets, wide ranging changes to policy (for example curriculum and assessment), and the impact of austerity on the public sector and families, mean that implementation has been inconsistent across the country and in Tameside.
- 2.4 To provide oversight and accountability to these reforms the Minister of State for Children and Families tasked Ofsted and the Care Quality Commission (CQC) with inspecting local areas on their effectiveness in fulfilling the new duties. This new inspection, "The framework for the inspection of local areas' effectiveness in identifying and meeting the needs of children and young people who have special educational needs and/or disabilities" came into effect in May 2016. All Local Areas will be inspected over a five year period.
- 2.5 The inspection will consider how effectively the local area identifies, meets the need of and improves the outcomes of the wide range of different groups of children and young people who have special educational needs and/or disabilities. Its focus is on the contribution of education, social care and health services to children and young people with special educational needs and/or disabilities, as set out in the Act, the Regulations and the Code of Practice.
- 2.6 The outcome of the inspection is reported in a letter and the judgements are in narrative form. The letter outlines areas of strength and key priorities for improvement. Where inspectors find significant issues the framework allows inspectors to require the local area to prepare a written statement of action that sets out those actions and the timetable for them.
- 2.7 So far 7 out of 10 Local Areas in Greater Manchester have been inspected. Across the North West more than half of all Local Areas inspected have been asked to prepare a

written statement of action.

3. SELF-EVALUATION OF CURRENT PERFORMANCE

- 3.1 A recent self-evaluation highlights a number of strengths, most notably joint working at operational level and proactive work in the early years. However, there are significant challenges to our performance and the implementation of the SEND reforms. Most notably:
- Compliance with statutory timescales to complete education health and care plans
 - Consistency in the identification of needs
- 3.2 These challenges reflect some of the issues identified by the Ombudsman at national level, and require significant and swift improvement. Our improvement plans described in section 5 of this report outline our priorities for improvement. In addition, Tameside is experiencing significant pressures on its High Needs budget. The estimated position on High Needs for 2019-20 is an in-year overspend of £5.8m.
- 3.3 In 2020-21 Tameside will receive an increase to its High Needs budget of £3.817m. This additional funding is very much welcomed, however it would still leave a shortfall of £1.971m based on current projections. This assumes that we see no further growth in EHCP's, which is unlikely based on current trends of assessment, and does not take into account the 2019-20 expected DSG deficit estimated to be £2.560m. This would mean a cumulative deficit in excess of £4.5m in 2020/21.
- 3.4 The table below provides a response to key question raised by the Ombudsman in the focus report. The table has been compiled jointly by senior education, health and social care staff.

| Key questions – does your council? | Local Area Response |
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| <p>Have resources and systems in place to meet statutory timescales for EHC assessments and annual reviews?</p> | <p>This is a challenge for all teams. The rapid increase in both the number of requests for assessment and the numbers of plans maintained is significant. Although timeliness is improving it is below the national average. Some notable investment has been made service capacity has not increased in line with the increase in demand.</p> <p>Education Assessments are increasingly completed in a timely manner, core staff are available to support. Systems are in place to ensure we can deliver. For psychological advice the resource is available. The budget for this has been increased by £300k this year. However, we must be mindful that spending is kept within the budget envelope provided for the Education Psychology Service, whilst ensuring we achieve value for money in the provision of the service.</p> <p>We are improving our offer around annual reviews and the SEN team are now able to request updated advice to inform decision making at or following annual reviews.</p> <p>Children’s Social Care Consistent representation on panel. Advice template in place to support advice shared as part of statutory assessment, some challenges around timeliness of advice shared and the coordination of this but this is developing.</p> <p>Health Services There are capacity issues within health services that impact statutory timescales for EHC assessments. Services most affected include almost all therapy services and also neurodevelopmental diagnostic pathway services. If children are known to services then ISCAN have a system to track and ensure advice is completed within the statutory timeframe wherever possible.</p> <p>The ICFT are undertaking a capacity and demand review of ISCAN (Integrated Service for Children with Additional Needs). Commissioners are working with the services and anticipate conclusion by the end of January.</p> |

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| <p>Have strong partnerships at a senior level in health, education and social care to jointly commission services for EHC assessments and provision, and to address problems and complaints when they arise?</p> | <p>Tameside's strategic commission ensures that senior decision makers work together to plan and commission services.</p> <p>However, our self-evaluation notes that despite an improved use of data to monitor performance, more needs to be done to ensure the joint commissioning of services is consistent and that young people and families are engaged in coproduction.</p> <p>To specifically support SEND commissioning a SEND Joint Commissioning Group has recently been set up and has agreed a SEND Joint Commissioning Strategy to focus all agencies on key priorities.</p> <p>Education, health and social care colleagues are represented at panel. Access to specific health assessments, interventions and provision of services is in line with universal referral pathways but are unfortunately limited by waiting times.</p> <p>In addition we are also currently reviewing the Transition Pathway and Protocol to ensure there is a more effective transition planning process in place for young people and their families and carers. This will include multi-disciplinary planning in terms of future care and support needs, including employment and housing.</p> |
| <p>Have processes in place to consider joint funding between services and resolve funding disagreements between health, care and education?</p> | <p>More needs to be done to ensure that processes are robust. This is a key priority for in the new Joint Commissioning Strategy.</p> |
| <p>Provide clear guidance to professionals who provide evidence for EHC assessments as to the level of detail and specificity required in their reports to enable SEN officers to draft thorough and legally compliant EHC plans?</p> | <p>Advice templates - have been co-produced with partner agencies and disseminated by the SEN Team through team meetings across education/health/social care.</p> <p>There is a standardised template for Psychological Advice that is compliant with the Children and Families Act and guidance. All EPs that we commission from whatever source use the same template.</p> <p>A recent review highlighted the need to ensure that health reports support EHCP admin team to draw information and is being taken forward by the SEND Health Group. Health advice (medical, therapist and mental health) are provided on a standard template. Further work is needed to improve wording of provision to ensure that it is as specific as can be.</p> |

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| <p>Embed complaint systems into any new delivery arrangements and provide clear advice and signposting to families who need to make a complaint?</p> | <p>Standard letters used in the statutory process includes advice around signposting/complaints/disagreement resolution.</p> |
| <p>Obtain the consent of young people with capacity, when a complaint is raised on their behalf – or empower them to speak up in their own right?</p> | <p>We will ask our new co-production group to look at our complaints process to ensure young people are involved and included.</p> |
| <p>Provide all relevant officers with training on the law for children and young people with SEN and disabilities?</p> | <p>IPSEA training has been attended by all SEND caseworkers. Ongoing DfE training is encouraged as appropriate – we have also developed guidance in the team around key areas of legislation and promote clear language to develop transparency.</p> |
| <p>Have systems in place to check that provision in an EHC plan has been secured and is being provided to the child or young person?</p> | <p>Review paperwork has been developed by the service in partnership with special schools to develop all aspects of this paperwork to ensure it was user friendly.</p> <p>This was shared through SENCO Clusters to ensure the expectations of the review.</p> |
| <p>Ensure any changes to policies or eligibility criteria are checked by legal advisers to ensure the new service standard is lawful? We advise councils to keep to the wording in law and guidance as much as possible to avoid misunderstanding of the legal tests to be applied.</p> | <p>The SEN team is beginning to improve its liaison with legal service. It has not been standard practice. This is an area for improvement.</p> |
| <p>Ensure Panel decisions are transparent and properly take into account the needs and evidence presented, with clear reasoning recorded? Parents and young people should be able to understand how a decision has been reached.</p> | <p>Statutory panels are much more robust, notes are taken. Outcomes are clearly recorded and ensure caseworkers are confident in the message to young people/family.</p> <p>We are developing forward planning meetings following a decision not to assess/issue a plan to further support young people/parents to understand how a decision is reached.</p> |
| <p>Learn lessons from complaints received, including identifying any systemic issues which may affect others?</p> | <p>Managers in the SEN team reflect with team on findings via team briefs/team meetings or on an individual basis where appropriate. New guidance has been introduced around processes/legal/conduct etc which the team have responded well to by team members.</p> |

4. COMPLAINTS

4.1 The tables below provide an overview of the number of complaints received by the service in this calendar year.

| Pupil Numbers | Total all SEND in Tameside schools | No of requests for assessment | No of plans finalised | No of plans maintained |
|---------------|------------------------------------|-------------------------------|-----------------------|------------------------|
| 35277 | 5438 | 481 | 406 | 1572 |

| Number of complaints stage 1 | Number of complaints stage 2 | Number of complaints to LGO | Mediation Requests | Number resolved at mediation | Tribunal Requests | Of which we conceded |
|------------------------------|------------------------------|-----------------------------|--------------------|------------------------------|-------------------|----------------------|
| 22 | 3 | 1 | 27 | 18 | 7 | 6 |

5. IMPROVEMENT PLANS

5.1 Colleagues from education, health and care teams have worked intensively together to complete and review our self-evaluation and critically to agree and implement an SEND improvement Plan. The key improvement priorities are outlined in slide 14-18 of Appendix A to this report.

5.2 In addition, a strategic SEND review has been carried out, involving all schools and academies. We are currently in the implementation planning stage which will include fully costed implementation plans. Implementation of the review will increase specialist capacity and increase capacity within mainstream schools establishing more inclusive provision.

5.3 The initial key actions identified in the plan will be start to be implemented from September 2020, these actions are:

- Developing more provision in borough (resource bases/satellite provision/post 16) to avoid costs in out of borough placements.
- Looking at Neighbourhood working to improve SEND support in the locality.
- A full review of top up funding.

6. CONCLUSIONS

6.1 Tameside like many local areas has found implementing SEND Reforms challenging. Our implementation has not been consistent and capacity challenges and changes in leadership have negatively impacted upon this. Recent joint work means that we have a robust self-evaluation in place, tested via peer challenge.

6.2 A thorough and well considered improvement plan is place and it is targeted to the areas requiring the swiftest improvement. Oversight to the implementation of this plan is provided by the SEND Strategic Group and will be reported to the Starting Well Board and the Educational Attainment and Improvement Board.

7. RECOMMENDATIONS

7.1 As set out on the front of the report