

Wiltshire Council

Children's Services Select Committee
22 July 2010

Final Report of the Rapid Scrutiny Exercise: Review of SEN Provision - Consultation Process and Results

Purpose and Background

1. On 28 January 2010, Children's Services Select Committee considered proposals for SEN service development with respect to mainstream primary schools, specialist learning centres, special schools and SEN Support services. A full public consultation on the proposals was then undertaken (closing on 24 May), with opportunities for written responses and attendance at public meetings.
2. On 8 June, the Children's Services Select Committee resolved to undertake a rapid scrutiny exercise looking at the Review of Special Educational Needs (SEN) provision, as follows:

- (a) Rapid scrutiny of the Review of Special Educational Needs (SEN) Provision consultation process

This followed concern from some members that the rationale behind the SEN Review had not been adequately communicated during the consultation process.

- (b) Rapid scrutiny of the Review of Special Educational Needs (SEN) Provision consultation results

3. The Rapid Scrutiny Exercise was held on 15 July 2010 with the following members and officers in attendance:

Cllr Carole Soden	Councillor
Cllr Jon Hubbard	Councillor (Rapid Scrutiny Lead Member)
Mrs Alice Kemp	Co-opted Member (SEN Parent Governor Rep)
Cllr Paul Darby	Councillor
Cllr Simon Killane	Councillor
Cllr Helen Osborn	Councillor

Cllr Lionel Grundy OBE Cabinet Member for Children's Services

Trevor Daniels	Head of SEN
Stephanie Denovan	Service Director, Schools & Learning
Julie Le Masurier	SEN Programme Manager
Henry Powell	Senior Scrutiny Officer

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4. As well as receiving verbal evidence from officers and the Cabinet Member, the Rapid Scrutiny Group considered the following documents:
 - Review of Special Educational Needs (SEN) Provision Post-consultation Report (Report to Cabinet, 27 July 2010)
 - 'Making Changes to a Maintained Mainstream School: A Guide for Local Authorities and Governing Bodies' (summary) (DCSF)
 - 'Review of Special Educational Needs Provision' – report to Children's Services Select Committee, 28 January 2010

Summary of Discussion and Conclusions

Review of Special Educational Needs (SEN) consultation process

5. The Cabinet Member gave his apologies that the Rapid Scrutiny Group had only received the outcomes of the Review one day before the exercise. He explained that the report had initially been provided in redacted form (with recommendations to Cabinet removed) to ensure that the outcomes of the review were discussed with all affected schools prior to being released elsewhere. Subsequently, due to the embargo on the report being breached by the press it became unnecessary to withhold the un-redacted version, and members were able to consider the full Cabinet report. The Lead Member expressed concern regarding the Cabinet Member's apparent lack of trust for members of the Council.
6. Trevor Daniels, Head of SEN, gave a verbal summary of the SEN Review from its conception: Discussions with the Primary Headteachers' Forum had begun in 2008, when some headteachers expressed concern regarding the use of resources and capacity in relation to Specialist Learning Centres (SLCs) – concerns which were echoed in the Joint Area Review (JAR). The use of SLCs was then analysed and schools and SLCs were visited in July 2009 to discuss the development of Service Level Agreements (SLAs) clarifying what SEN provision they would be providing.
7. Members expressed concern that the questions and information contained within the consultation papers had contained technical language, making them inaccessible to those without professional knowledge of SEN. There was also concern that some of the questions were worded in such a way as to encourage a particular response. It was also felt that the format of the paper was not very user friendly.
8. Officers and the Cabinet Member responded that although it was important that consultation questions were understandable they also needed to describe in very precise terms what the proposals were. Failure to do so could result in successful legal challenge once statutory notices had been issued. Phrasing consultation questions was therefore a delicate balancing act. The possibility of 'trailing' consultation questions was complicated by the need to keep any proposals confidential whilst doing so. Additionally, when the consultation was begun there

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was no formal mechanism for consultation documents to be checked by the appropriate department within the Council. The Research Manager was now writing a protocol covering this process.

9. Officers also noted that the consultation paper had been brought to Children's Services Select Committee in January 2010 where the Committee expressed general support for the approach taken. It was emphasised that the consultation had been a very open one where answering the questionnaire was not the only method of expressing opinions. Public meetings in particular provided an opportunity to clarify more technical language. Members questioned whether the meetings had been run in such a way whereby they actually achieved this objective.
10. Stephanie Denovan, Service Director for Schools & Learning, explained that the consultation process followed had not only met the requirements of legislation and guidance from Central Government, but had exceeded these requirements. The minimum legal timeframe for consulting on such a review was six weeks, while the Council had allowed for three months consultation. Public meetings were also not required under the legislation, but had been held in this case.
11. Officers and the Cabinet Member acknowledged that there may be room for improvement in the consultation process followed, but that time had been a limiting factor.
12. It was then queried whether the Department ever sought customers' views once a consultation was complete in order to understand how they might be improved in the future. The Service Director for Schools & Learning reported that the Department always undertook a 'lessons learned' exercise after any such review. Members agreed that it would be valuable for the Select Committee to see the outcomes of this exercise. The Lead Member expressed an intention that the Rapid Scrutiny Exercise might contribute to this learning process.
13. Members acknowledged that SEN provision was a highly emotive issue and that consultations on changing it may always (to some extent) be viewed by those affected more as campaigns with foregone conclusions than genuine consultation.
14. Following a member query, officers reported that the information given to parents by some schools regarding their statutory obligations for SEN provision was inaccurate or incomplete. This information should be provided in their prospectuses and on school websites. Conversely, while some schools' engagement with parents regarding the proposals could have been greater, there had also been some impressive examples where schools had taken measures such as holding individual briefings with those parents affected.
15. Members acknowledged that approximately 60% of consultation responses had related to Malmesbury Church of England Primary School, and approximately 30% related to Longleaze Primary School. Most of the proposals, therefore, could not be considered to be highly contentious.

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16. Members expressed support for the Cabinet Member's firm commitment that any money saved as a result of the Review would be put back into the 'SEN pot'. However, they expressed concern that a perception that the Review was a cost-cutting exercise had persisted throughout, suggesting that this commitment could have been stated more clearly and prominently during the consultation process.
17. Members questioned whether it was sensible to undertake a review of SEN provision during the run-up to a general election. The SEN Manager reported that this factor had been considered prior to beginning the Review. Unfortunately, making significant funding changes like those discussed could only be done at the beginning of a three-year funding cycle, which would next begin in autumn 2010. Working back from this, the consultation needed to commence in February 2010 and would therefore inevitably overlap with the run-up to the general election. The alternative was to wait three years for the funding cycle to begin once again. Members agreed, therefore, that the timeframe chosen was the correct one.
18. Following a member query, the Service Director for Schools & Learning reported that the Council enjoyed an excellent relationship with schools in Wiltshire. She added that any upset caused to schools and parents as a result of the Review was of course to be regretted, but that she did not regret undertaking the Review.
19. Members expressed concern regarding the lack of dialogue with local Councillors during the Review, suggesting that in future, all Councillors should be informed of service reviews and consultations before they commence. This would enable the Councillor to offer advice to all parties, including the Council, on issues and local considerations in their particular area, improving the process for all.

Recommendations to Cabinet:

- 1. That the customers' experience of the SEN Review consultation process is evaluated and used to improve future consultations, and that the outcome of this exercise is reported to the Children's Services Select Committee.**
- 2. To ensure there is a process for evaluating the customer experience of all service review consultations undertaken by the Council.**
- 3. That for future consultations, the appropriate Council department is always enlisted to check the wording, presentation and structure of consultation documents to ensure their accessibility and neutrality.**
- 4. That in future consultations, public meetings and presentations are used more effectively to clarify technical concepts and terms for those without detailed knowledge of the issue.**
- 5. That for future service reviews where the objective is not to reduce costs, this fact is clearly communicated to consultees at all stages of the process. This should include a bullet point list of the reviews' rationales on the front page of consultation documents.**

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6. **That all Councillors and Area Boards are consulted in advance of any future service reviews so that local knowledge of the relevant relationships and circumstances can be used to enhance the process.**
7. **That the Council provides Wiltshire schools with explicit guidance on what information they are required to provide to parents regarding SEN provision, and that the Council supports them in doing this.**

Review of consultation results

20. The Head of SEN reported on the development of a funding model for SLCs based on the banding moderation exercises already used to calculate special school funding. This process involves agreeing various bands of complexity of need, leading to ratios of young people falling with each band, and the agreement of a funding formulae for each. This was to ensure schools' SEN funding levels would be based on the numbers of young people admitted and the complexity of these young people's needs. Alongside this, schools had been asked to provide detailed data on all costs associated with their provision of SEN. It would then be ascertained whether the total funding pot available for SEN is adequate to meet the final amounts judged to be required (at present, there appeared to be a slight deficit). The process described had worked well for calculating the equivalent funding at secondary level and it had therefore been adopted for the primary phase.
21. Following a member query, officers explained that the outreach services provided to mainstream schools by SLCs had historically been variable, leading to inconsistent provision across the county. What was now proposed was to manage outreach provision through a central Inclusion Support Service, leading to more consistent advice and support for schools. Over the last year, work had also been undertaken with SLC staff to develop service level agreements (SLAs) clarifying the levels of provision expected of them by the Council. As part of these agreements, each SLC would also be required to hold three or more twilight drop-in sessions per month where parents and staff from mainstream schools could receive advice on SEN issues. This was intended to ensure a more structured and consistent provision of outreach services than the previous ad hoc arrangements, which varied between SLCs. Members expressed support for a mechanism that allowed SLCs to offer their services to mainstream schools in a structured way, enabling SLCs to retain high cohorts and ensuring that their expertise was used to the fullest extent.
22. Officers reported that the majority of requests from mainstream schools for SEN advice related to children with Autistic Spectrum Disorders (ASD). Staff from SLCs were therefore being sent on specialised training courses to enhance their expertise in this area.
23. Following a member query, the Service Director for Schools & Learning gave assurances that any funds being directed toward SEN provision at present would remain so. However, a proportion of this money is drawn from the Area Based Grant (ABG), which may be cut by Central Government.

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24. The Chairman expressed concern that the Corporate Director for Children & Education had previously indicated an intention to reduce the overall number of young people being statemented, due to it being an expensive process that may actually place an unhelpful label on some young people. This appeared to contradict the approach proposed following the Review. The Head of SEN clarified that it was now proposed that when a young person is moderated to a certain band (reflecting the complexity of their need) this would automatically initiate the statementing process. He added that having a statement could make certain processes, such as transition to other schools, a simpler process. At present, some young people with highly complex needs do receive appropriate SEN provision but have not been statemented. Conversely, some young people with lower level needs have been statemented unnecessarily with the intention of guaranteeing that they received any SEN provision. The problem was that the current formula was pitched incorrectly and the proposals within the report were intended to address this imbalance.
25. Members queried how officers would ensure that SEN support staff would be adequately trained to meet the needs of those young people who had previously attended SLCs but would now be taught in mainstream schools. The Head of SEN reported that national standards for SENCOs had been enhanced and there were approximately forty in Wiltshire undertaking the necessary training at present.
26. Members noted that the proposals would mean some children who had previously been attending SLCs (in some cases, full time) would now be entering mainstream schools, and that this transition would need to be managed carefully. Officers reported that only a small number of children who had been attending SLCs full time would be transitioning to mainstream schools. Officers and the Cabinet Member agreed that minimising any disruption caused to young people with SEN was crucial, and reported that cases would be considered on an individual basis. In cases where it was best for the child to remain at the SLC this is what would happen.
27. Members queried the implications of the new government's academies programme on SEN provision in Wiltshire. Officers advised that if a school with an SLC became an academy it would still receive the same level of funding for SEN because funding for academies would be based on formula replication. It was also thought to be unlikely that local authorities would lose their responsibility for SEN provision in their area, or for school place planning, so one way or another, local authorities would have to ensure their was adequate provision for SEN.
28. The Lead Member thanked officers and the Cabinet Member for taking part in the Rapid Scrutiny exercises.

Recommendations to Cabinet:

- 8. The Rapid Scrutiny Group recognises that a number of young people in Wiltshire currently without statements will need to be statemented in the future. However, the Group also has concerns that some young people with a level of need not requiring a statement also require SEN support, which has not necessarily been provided in the past.**

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The Group therefore urges that instances of best practice from schools across the county are identified and that other schools are encouraged to learn from them, therefore encouraging equality of provision for all young people in Wiltshire.

9. That there should be an on-going, vigorous process for provision of SEN in mainstream schools in Wiltshire, and an identified method for schools to report back to the local authority on how this is being delivered.
10. The Rapid Scrutiny Group has concerns regarding the transition of some young people from Specialist Learning Centres to mainstream schools as a result of the report's proposals. It therefore requests that the Children's Services Select Committee receives an update in November 2010 on how the individual transition plans for those young people affected are being progressed.
11. The Rapid Scrutiny Group applauds the difficult work that has gone into this complex and sensitive review.

***Proposal**

That the Children's Services Select Committee considers the report and recommendations of the Rapid Scrutiny Group and comments as appropriate, prior to referral to Cabinet.

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Appendices

Appendix 1 – 'Review of Special Educational Needs (SEN) Provision Post Consultation Report' (report to Cabinet, 27 July 2010)

Background documents

'Making Changes to a Maintained Mainstream School: A Guide for Local Authorities and Governing Bodies' (summary) (DCSF)

'Review of Special Educational Needs Provision' – report to Children's Services Select Committee, 28 January 2010