

## Wiltshire Council

### Cabinet

21 July 2021

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**Subject:** Special Educational Needs and Inclusion Funding

**Cabinet Member:** Cllr Jane Davies, Cabinet Member for Adults Social Care, SEND, Transition and Inclusion; and  
Cllr Laura Mayes, Deputy Leader and Cabinet Member for Children's Services, Education and Skills

**Key Decision:** Key

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#### **Executive Summary**

The current and future demand pressure in services relating to Special Educational Needs and Disability (SEND) is evident both nationally and locally. We need to ensure that we are able to undertake our statutory obligations in a way which is both legally compliant and meets the needs of Wiltshire families. If this is not undertaken efficiently and effectively, it can lead to families reporting not having received a supportive service from the council. It can also result in reputational damage through the publication of LA level data in relation to statutory performance and through the OFSTED/CQC inspection framework. One key issue we need to address is the capacity within SEND and Inclusion (SEND&I). Of significance too is the support needed within the early years sector to support SENCOs within settings to identify and support pre-school aged learners with SEND, leading to effective transitions to school. Efficient place planning is also required to ensure that there is an adequate supply of school places for learners with SEND, including within resource base and enhanced learning support provision.

#### **Proposal(s)**

That Cabinet approve an additional £0.861M draw down from the latent demand reserve to fund the required part year investment in 21-22, rising to a total £1.742M in 2022-23 to increase capacity within SEND and Inclusion Services which can be included in the Medium Term Financial Strategy planning.

**Reason for Proposal(s)**

There are two benefits from the proposed investment.

We need to ensure fit for purpose, efficient, quality sustainable, future proof and secure service across SEND&I to deliver the SEND and Inclusion Strategy, to provide an effective service for families and to achieve a positive outcome at the next Ofsted and CQC Local Area inspection. In addition, there is a significant amount of work to be carried out in the High Needs block recovery plan to aid demand management and reduce the burden on the local authority to cashflow the DSG deficit reserve.

These can only be achieved by increasing the number of workers within the statutory SEND team and associated posts across the SEND&I service to ensure caseloads are at a sustainable level and preventative services increase so we can manage the increase in service demand seen since the implementation of the children and families act (part 3) in 2014. A robust and effective place planning mechanism for SEND places, both in special schools and in resource base and enhanced learning provision is required to ensure that there are sufficient places for learners with SEND and that future planning is undertaken to inform this.

This proposal essentially ensures the Local Authority have the requisite capacity within key statutory and preventative services to deliver on new requests for involvement and to ensure that families who are already known to us receive a service which is timely and compliant.

**Terence Herbert**  
**Chief Executive**

## **Wiltshire Council**

### **Cabinet**

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**Key Decision: Key**

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### **Purpose of Report**

1. The purpose of this report is to present current risks and mitigations.

The outcome sought is to avoid the following

- Legal Challenge from parents/carers relating to non-compliance with statutory timeframes
- A poor CQC/OFSTED inspection outcome
- Late assessment and support for C&YP with additional needs, including within early years settings
- Lack of ability to challenge and control the high needs block expenditure, including placements required outside of our own schools and settings
- Challenges in retaining a skilled and experienced workforce
- DfE Intervention on the HNB management plan (recovery plan)

In order to mitigate against this, an additional £1.742M annual investment in Special Educational Needs and Inclusion (SEND&I) services is required. Timely investment, with a part year cost increase of £0.861M for 2021-22 will allow posts to be recruited to from September 2021.

### **Relevance to the Council's Business Plan**

2. A key priority in the Wiltshire Business Plan 2017-2027 is protecting the vulnerable. Each element of this priority – early intervention; joined up health and care and empowering and safeguarding has resonance with the work of the SEND&I teams and services. These principles are evident within the SEND Code of Practice (2014) and are central to the Children and Families Act which requires local authorities to ensure that services are effectively jointly commissioned and delivered across education, health and social care teams.

Wiltshire's SEND and Inclusion Strategy (2020-2023) which was co-produced with Wiltshire families further aligns to the wider council priority regarding vulnerable communities.

## **Background**

3. The background to this proposal is the imbalance between the current demand levels within the SEND&I service and the staffing available to support this. The number of Education Health and Care Plans (EHCPs) has more than doubled in Wiltshire since 2015. This has resulted in significant service pressure to complete statutory assessments of SEND within the 20 weeks laid out in statute for this process to be undertaken. It has also resulted in challenges in undertaking key elements of review for existing EHCPs, including attendance and input to the annual review process and a timely response to amendments or changes to EHCPs which are required following these meetings. This has also put significant financial pressure on the Council leading to significant unsustainable on going overspends on the High Needs Budget (HNB) of the Dedicated Schools Grant (DSG). Whilst there are many activities and workstreams in place to understand and support the demand in this area, including intervention at the earliest stage for learners there is little indication that there will be a marked decrease in demand within Wiltshire in the near future.

The early years team are experiencing a marked increase in the number of children within early years presenting with additional needs in pre-schools, nurseries and childminding settings. Many of these pre-school aged children are struggling with early communication, behaviour, anxiety and self-regulation. Some of the behaviours that are being seen in Wiltshire early years settings are quite extreme and settings are needing intensive support to manage the needs of both the children and families.

## **SEND and Inclusion Strategy**

4. The SEND and Inclusion Strategy 2020-2023 was co-produced with parents/carers, children and young people, voluntary sector groups, Wiltshire Parent Carer Council (WPCC) and professionals from across partnership organisations that work with people with SEND.

The vision is to work together to create an environment where:

“All children and young people with SEND and their families will have a voice that is heard. They will know how to access, and be able to access the joined-up support they need to thrive in their communities, to enjoy life and reach their full potential”

The strategy has 6 priorities:

1. Developing holistic plans with children and young people

2. Inclusion and removing exclusion in education
3. Inclusion and wellbeing in the community
4. Improving the range and quality of provision
5. Progress and attainment
6. Well planned transitions

The strategy drives the SEND and Inclusion work and the work to address the High Needs budget deficit. There is a strategy implementation plan, progress against this plan is reported on at the SEND Board. The High Needs plan is extensive and encompasses the development of a system of excellence:

- Early Intervention
  - **Health and education liaison meetings (HELM)** – providing enhanced early intervention and support for early years settings without the need for an EHCP to be in place
  - **Dyslexia friendly schools**- upskilling schools to achieve the national dyslexia quality mark to better meet needs within mainstream schools
  - **School Effectiveness and SEND & I work**- Bringing together schools, school effectiveness, inclusion services and SEND through a range of collaborative projects including Ordinarily available provision (OAP) and Team around the School.
- Statutory processes
  - **Transitions and pathway for adulthood**- championing increased independence, enabling young people to live, work and be active contributors in their community, making the best use of their own and other available resources and opportunities
  - **SEND assessment and EHCP process**- reviewing current panel processes and improving the system to ensure advice and support is timely. Secure appropriate funding from partners
  - **Alternative provision**- Develop/commission provision for EHCP students requiring AP and reducing reliance on costly out of county independent provision
- Quality assurance and monitoring
  - **Resource bases (RB) and Enhanced Learning Provision (ELP)**- re-evaluating and redeveloping, use and allocation of ELP and RB provision to better meet needs
  - **Review of Independent Special Settings** – ensuring appropriate funding from partners, agree specified outcomes and duration of placements, manage age phased transfers, identify and address gaps in the market and systematically review placements and exit plan.

These projects have been impacted by the pandemic. Co-production and collaborative work have been limited and some timescales have had to be extended. Regular progress reports are presented at the Schools' Forum

### **Statutory SEN Service**

5. The increase in demand means that SEND Lead Workers (SLWs) hold an ever rising and very high number of cases with SLW caseloads having doubled since 2015. This has become unsustainable, and means officers are unable to attend annual review meetings when this is required and make sure that the current support packages remain appropriate. This also reduces the time available for SLWs to communicate with families and schools. The ability to challenge schools to encourage learners to be more independent where possible not only reduces cost but facilitates transition into adulthood.

The increase in demand has an impact on other statutory and preventative services within SEND&I, The Educational Psychology Service (EPS) are required to undertake a psychological assessment and write a report as part of each statutory assessment initiated. The demand impacts upon the EPS' capacity to support schools outside of the EHC Needs Assessment (EHCNA) process and work preventatively or with a focus upon early intervention. The demand also results in limiting the range and scope of the EPS' traded offer to schools and other partners.

An increase in demand is also evident for teams who are not required to contribute to the statutory assessment process such as the specialist SEN teams (SSENs). This is a small team of advisory teachers. In the academic year 2019/20 they received over 1000 requests for involvement from Wiltshire schools and settings where concerns were expressed about learning progress and/or behavioural presentation.

### **Early Years Service**

6. The early years team are expecting the number of children that will need support in a mainstream setting to continue to increase into next year. The EYIOs are also being asked to help in schools where children are transitioning into a reception class at a much lower developmental stage than expected and may have had limited support from other professionals/agencies before they have transitioned.

At this point in the year the service has 539 cases open, in over 170 settings. In 2019 (the last time we had data) by the end of the year there had been a total of 340 referrals and by the end of the year only 252 remaining open. This is a significant increase.

A steep increase is being seen in the number of referrals coming in as more children return to their early years setting following lockdown and

practitioners are able to identify their needs. Between January – March 2021 59 new referrals for support were received. From April – June 2021 a further 133 referrals were made.

## **SEND&I – building a high-quality service**

7. There are many positive attributes associated with our current SEND&I service and positive developments which have taken place.

With flexible use of capital receipts funding, the Educational Psychology Service has developed the role of Senior Educational Psychologist (SEP). This enables the service to have a clear management structure which allows for the development and implementation of quality assurance and team development processes within the service as well as increasing the service's ability to take an active role in panels which make key decisions such as SEND panel. The service are also able to take an increasing role in reviewing the progress of learners placed in settings outside of Wiltshire. At a national level, EPs are a challenging practitioner group to recruit and retain. The creation of the senior role means career pathways and the ability to recruit newly qualified staff to further develop and effectively supervise.

Using the same funding, the statutory SEN team has had some additional management positions created which will enable increased oversight and drive in relation to the timeliness and compliance of EHCPs and associated processes. In addition, additional SEND Lead worker roles and an administration post have been made available with an end date of 31/3/22, funded through FACT monies, to enable some notable areas of delay to be supported, including the 'backlog' of annual reviews which has built up over time.

The teams which make up SEND&I have a clear and unwavering focus upon positive outcomes for the children, young people and families who they support in Wiltshire. The desire to 'get it right' is tempered with on-going concerns relating to increases in demand and volumes of work within the area.

## **Main Considerations for the Council**

8. The council's business plan places positive outcomes for children, young people and their families at its centre and this reflects the commitment within Wiltshire to support its residents from the start of life and throughout their life course.

The Families and Children's Transformation (FACT) Programme has been designed to take a whole-system approach with partners, staff, children, young people and their families to both streamline and improve the way we work whilst promoting multi-agency integration and enabling

us to be more efficient in the delivery of our services and more effective at helping families and children achieve positive outcomes at the earliest point. Funding from FACT has been made available to SEND&I which has enabled some pilot schemes and transformational positive activity and fixed term recruitment to take place to assist in work to support learners with SEND and their families. This has included the secondment of an officer to work exclusively around Wiltshire learners who are placed in the independent specialist sector, additional support into the SEN service to assist with administration and support for new EHC assessments and annual reviews and supporting consultancy to undertake key projects relating to the SEN service and statutory delivery.

Whilst assistive to the work of the service and well received by team members and other partners, the funding is not designed nor able to facilitate permanent recruitment to support this area of work. Fixed term roles are not able to support the longer term and significant workload and capacity challenges experienced by the SEN service.

To provide long term support for young people with SEND and their families we require a permanent increase to establishment numbers to be able to manage the demand that we are experiencing and to be able to provide adequate early intervention support.

## **Workforce**

9. In order to manage demand for EHCP requests and to support the ongoing management and review processes for existing EHCPs additional capacity within the SEND&I workforce is required.

We have a statutory duty to undertake EHCNA (needs assessment) within a 20 week timeframe and our EHCPs are open to scrutiny and challenge through the Special Educational Needs and Disability Tribunal (SENDIST) appeal process. An annual review must be undertaken of each EHCP and amendments made accordingly to EHCPs.

An annual data census is requested by the DfE in relation to this (SEN2) and national data is published in relation to performance, with one area being the number of EHCPs issued within the 20 week timeframe.

Wiltshire is in a more favourable position than other Local Authorities in terms of vacancies within key services such as the statutory SEN team and the Educational Psychology Service (EPS). In Wiltshire, there are currently no vacancies in either team whereas in February 2021 from a data return from 85% of Local Authorities, 49% reported a reduced SEND caseworker capacity and 66% reduced Educational Psychologist capacity (Source: DfE Covid-19 LA SEND Service Survey - Wave 5 Results). Anecdotally, both Wiltshire services report that officers in these teams enjoy working for Wiltshire Council and staffing information



indicates a favourable level of staff retention in addition to successful recruitment to advertised roles.

Whilst recruitment and retention to both the SEN service and the EPS is very positive, the establishment numbers of both services have not maintained pace with the EHCP demand experienced in Wiltshire.

The table below shows the number of requests for assessment in Wiltshire

<b>Table 1</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020 (Schools closed to most pupils)</b>	<b>2021 to date</b>
<b>Total Requests for assessment in Wiltshire</b>	503	505	690	722	588	425*

\*figure as at 25/6/21

Requests for assessment can be made by parent/carers, schools and settings and other professionals. The consideration which needs to be made when a request is considered is set out in the law (section 36(8) of the Children and Families Act 2014). It is essentially a two-part test:

- whether the child or young person has or may have special educational needs (“SEN”); and
- whether they may need special educational provision to be made through an EHC plan.

If the answer to both of these questions is yes, then the LA must carry out an EHC needs assessment. Whilst the Code of Practice details what support it would expect to have been put into place by a school or setting and reviewed before a request for an EHCP is made, a request cannot be refused if this has not been undertaken. The legal threshold for assessment is considered to be low; if the supporting information is not clear or indicates that the young person has not made good educational progress then that can be indicative of SEN and therefore an assessment should be initiated.

The table below shows the number of EHCPs in Wiltshire since 2015:

<b>Table 2</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total statements and EHCPs combined in Wiltshire</b>	1992	2342	2733	2982	3349	3784	4142

Number of SLWs	25	25	25	25	25	25	25
Average Caseload	80	94	109	119	134	151	166
Number of EPs	13.42	13.42	13.42	13.42	13.42	13.42	17

This illustrates a percentage increase of 108% between 2015 and 2021. The growth in EHCPs in Wiltshire is in excess of that seen nationally over the same time period, 81.64% and across the south west region, 94.82%.

The significant demand places pressure on services to 'front load' capacity to the new requests for EHCPs, diverting resource and capacity away from work which focuses upon early intervention and prevention. This results in support services such as the EPS utilising a significant amount of its time and resource in reactive, statutory driven tasks and processes rather than being able to provide support and intervention at an early stage and in order to prevent difficulties increasing. The lack of visibility of services such as the EPS, due to its statutory workload, can in turn further drive upwards the request for an EHC needs assessment as there is a view held by families and schools that this is the only mechanism to facilitate the involvement of an EP.

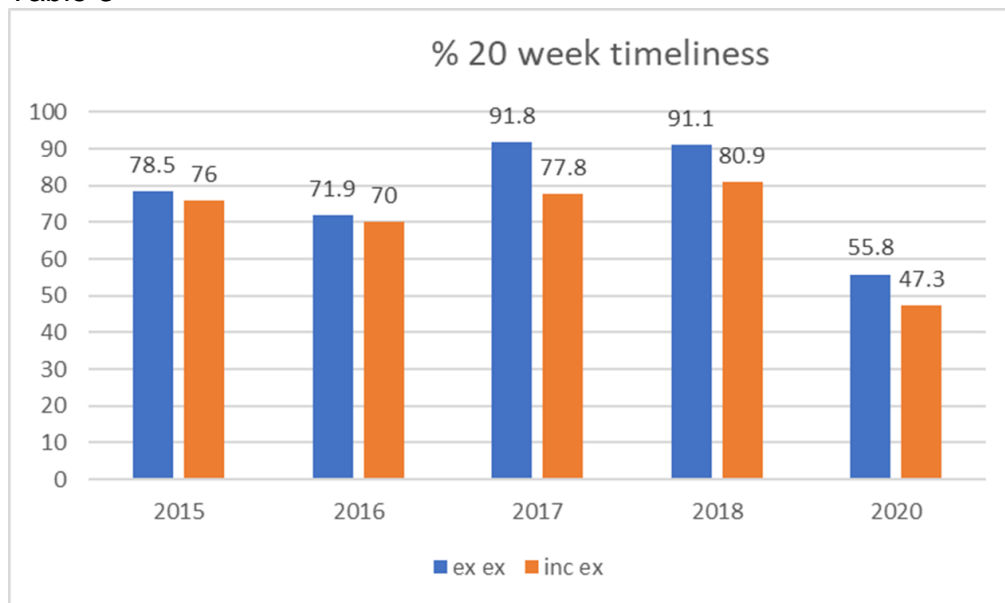
### **FACT Transformation Staffing (Flexible Use of Capital Receipts funded)**

10. SEN & Inclusion has been a major FACT workstream since 2019 and temporary funds used to pilot new schemes. The number of SEND Lead workers had remained at 25fte since 2015. Within the EPS, fte had decreased from 20.4 in 2008/9 to 13.4 in 2019/20. The SEN & inclusion workstreams of the FACT programme have funded the recruitment of 3.68fte SLWs officers and 2.5fte temporary Senior EPs to support and pilot. This funding is not available after this financial year and therefore permanent investment is required to exploit the long-term success of the inclusion workstream.

The numbers of SEND LWs and EPs result in high caseloads for both services, with SEND LWs having a caseload which has doubled in the six years following the introduction of the 2014 Children & Families Act. The EPS estimates that a high proportion of its available time is taken up with undertaking EHC needs assessments. This means that less EP time is available for both preventative and traded services. This pressure also results in a lack of EP resource to support the provision of updated information for annual reviews of EHCPs and to support effectively the oversight and quality assurance of settings outside of Wiltshire where young people with EHCPs are placed.

The result of the demand within Wiltshire and the maintenance of historical establishment numbers is the timeliness and compliance of the EHCP process in the LA. This can be seen in the graph below:

Table 3



The graph shows 20 week timeliness as a percentage for new EHC needs assessments with the blue bars showing the percentage excluding cases where an exception to the timeframe was allowable (as defined in the code of practice) and the orange bars the percentage when these cases are included.

Data collected and collated by the DfE indicates that in 2020 Wiltshire's 20 week timeliness was broadly in line with national and regional performance; the national figure was 58% of EHCPs issued within 20 weeks; the figure in the South West region was 51.4% and Wiltshire's figure was 56.6%.

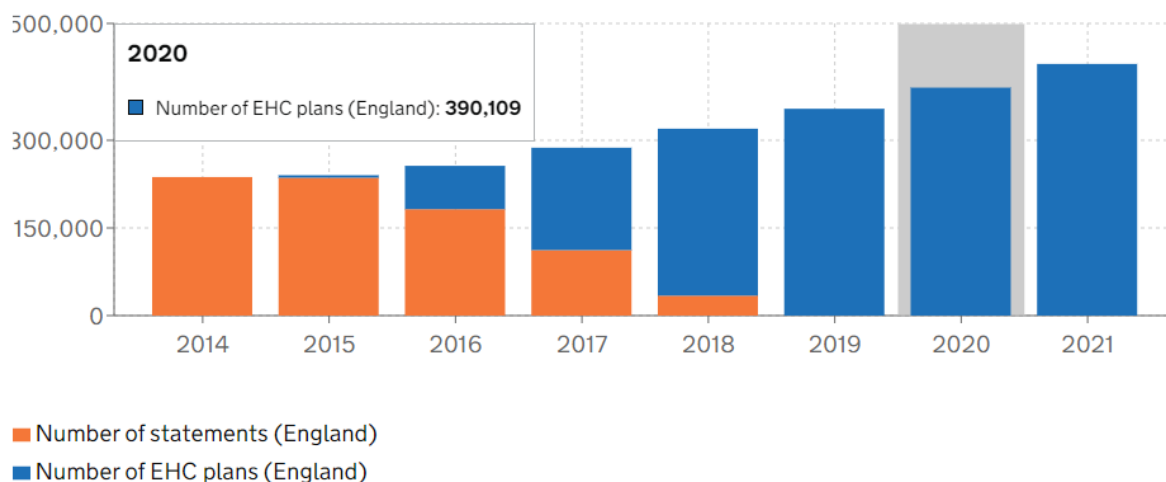
In previous years, the 20 week completion figure in Wiltshire was higher, at 84% in 2019 and 91% in 2018, indicating a decline in 20 week timeliness. Whilst timeliness is carefully and regularly monitored within the SEN team the volume of new requests for assessment, alongside the ongoing need to review and amend existing EHCPs means that 20 week timeliness continues to be a significant concern. Of greatest concern is the impact of delays in this area upon Wiltshire families. Work undertaken recently with Wiltshire Parent Carer Council in relation to the EHC needs assessment process indicated that parent carers can experience the statutory assessment process as being long and arduous and the perception that they need to 'fight' for the issue of an EHCP is reinforced by delays in the process.

## Demand for SEND services nationally

11. The number of Education, Health and Care Plans has increased annually since 2010. In January 2021 there were 430 697 EHCPs which represents a 10% from the previous year.

The number of new EHCPs issued nationally in 2020 was 60 097 which is an increase of 11% from 2019.

Number of EHC plans and statements of SEN, 2014 to 2021



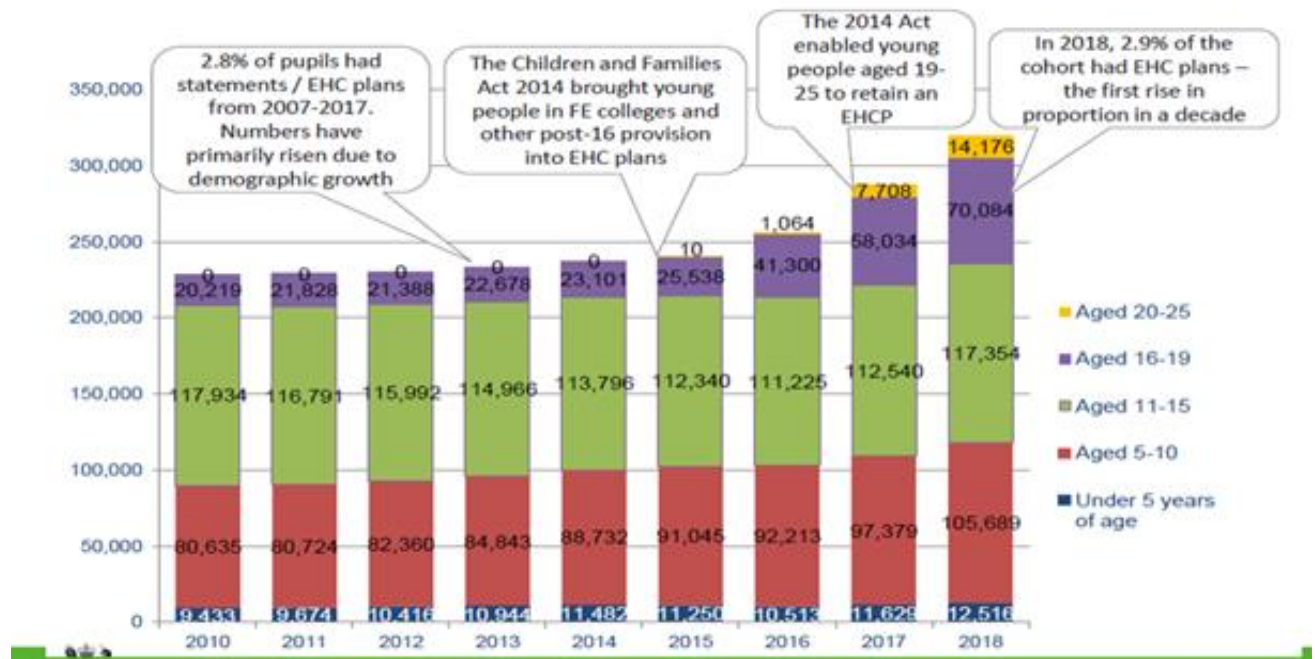
Source: SEN2

## Impact of SEN Reforms

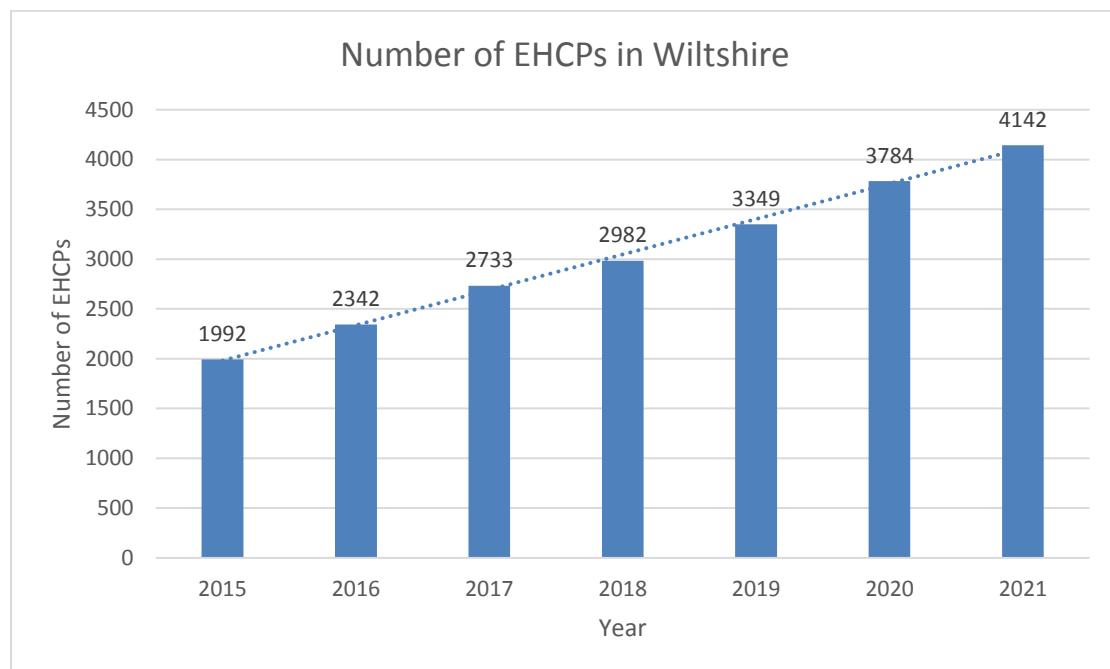
12. The reforms in 2014 included the inclusion of an increased age range, up to 25 for which an EHCP can remain in place. Nationally, in 2015 there were 10 young people with a statement of SEN or an EHCP in this age range and 1064 nationally in 2016. SEN2 data published in 2021 indicates that this figure is now 29532 young people, accounting for 6.9% of all EHCPs. In Wiltshire, we currently maintain 104 EHCPs for young people in this age category. We have a significant number of young people (720) who are currently in the 16-19 age range with an EHCP in Wiltshire, many of whom will continue to have their plan as they move into this age category meaning that the number captured in this age group will continue to grow.

The increase in requests for assessment, the number of EHCPs being issued and the increased age range covered by the relevant legislation have all contributed to the increased workload of the teams detailed above. Whilst emphasis is often placed on the capacity required to undertake initial assessments as part of the EHC needs assessment process, of equal importance is the capacity to provide ongoing, high quality and timely support to children and young people with an EHCP and their families.

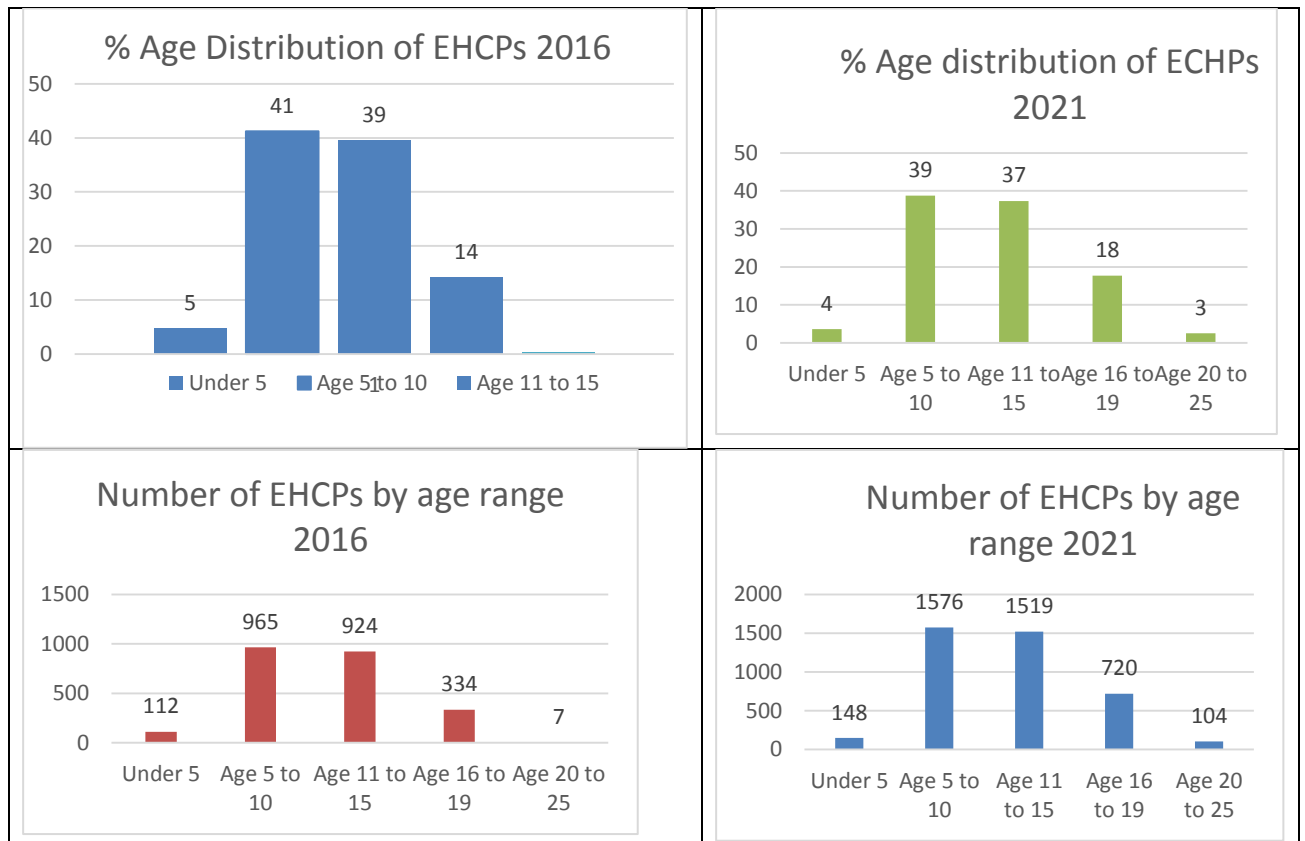
The DfE produced this graph showing the national impact of the 2014 Act:



Over a similar time period, Wiltshire's total number of EHCPs is shown below:



The table below illustrate the change in the age distribution of EHCPs over the 5 years



## Request/proposal

13. In order to manage the increase in demand for new EHC needs assessments and to provide high quality and timely support for young people with an existing EHCP an increase to the existing workforce is required.

Additional positions are required for the SEN team. It is proposed that **12 additional SEND Lead Worker** posts are created, adding additional capacity across each of the four area teams. To provide the management and oversight of the additional SEND Lead Workers it is proposed that an additional **2 Senior Send Lead Workers** are created.

The role of SEND caseworker has recently been created within the SEN team and additional resource here would support the processing of annual reviews as well as the organisation of decision-making panels. It is proposed that an additional **2 full time positions** are created to enable a caseworker to be available to support each of the four area teams.

Additional posts are required within the Educational Psychology (EP) service. The newly created Senior EP roles have enabled greater oversight and scrutiny of the work of the team. There are 4 FACT funded

roles currently. It is proposed that these are **permanently funded** and an additional **1.5fte Senior EP positions** are created to add greater management capacity to this service. It is proposed that an additional **6 main grade EP** positions are created to support the increase in demand for EHCPs and to enable a more timely and targeted review process for young people at key points of transition.

Consultancy support has enabled progress to be made in a range of areas this academic year including an overview of the SLA in place between Wiltshire Council and Resource Bases and Enhanced Learning Provisions and the development over a seven month period of the process and pathway associated with Education, Health and Care Needs Assessments. It is proposed that **£30,000** is provided as part of the base budget for SEND&I to enable consultancy to be funded for key elements of development work relating to SEND.

A seconded post has added valuable oversight and scrutiny of placements made in the Independent non-maintained school sector, including the identification of opportunities when it is possible to return young people to education settings more locally. This is a time limited post. This work is on-going and it is proposed that this is made a **permanent 1fte position**.

### **SEND Place Planning**

Additional capacity is required to support SEND place planning. It is proposed that **1fte programme lead post** is created for this which will work across commissioning and SEND&I. This post will ensure that accurate and timely data is collected and analysed to inform the planning of SEND school places, including where these are required within resource base and enhanced learning provision settings. This will reduce the potential for more costly placements needing to be made in the event of capacity not being available within our own schools and settings.

### **Legal evaluation & quality role**

To enable sufficient preparation and challenge for mediation and tribunal, a new post is required to represent the Council and present the case recommendation.

### **Additional Early Years Inclusion Officer (EYIO) Support for Early Years**

To employ an additional **4 EYIOs for the early years team**. The EYIOs offer direct, individual, child-level support for children identified with SEN or awaiting a needs assessment in Early Years; this includes strategising, offering advice and techniques, providing guidance on funding and signposting to partner agencies. They also support with behaviour issues which have been exacerbated in our Early Years

children as a result of the pandemic. Additional headcount would help to reduce the workload for the current EYIOs and mean that they can spend more time supporting the children that are on their caseload so that they get the best possible chance of success in their early years and as they move into school. This would help us to offer more intensive support to individual settings and children as well as have the time to roll out our training programme which will help to upskill SENCO's making capacity for the future within our settings.

These would be regional posts and would be based in the north, south, east and west of the county.

### **Overview and Scrutiny Engagement**

14. The Director of Education and Skills has consulted with Lead Member for Children and the Lead Member for Adults (SEND and Inclusion) regarding these proposals.

### **Safeguarding Implications**

15. The recruitment and retention of appropriately qualified and experienced practitioners supports the safeguarding of vulnerable children and young people with SEND. Practitioners within SEND&I work closely, where appropriate with colleagues from social care teams including where there are safeguarding concerns.

### **Public Health Implications**

16. The effective identification and support of SEND through the statutory assessment process supports health and wellbeing for Wiltshire families.

### **Procurement Implications**

17. There are no procurement implications. Recruitment to the positions detailed above would follow the usual recruitment processes in Wiltshire.

### **Equalities Impact of the Proposal**

18. Additional capacity to support children and young people with SEND in Wiltshire will assist in reducing inequalities for this group.

### **Environmental and Climate Change Considerations**

19. There are no environmental and climate change considerations as a result of the agreed proposals.



## **Risks that may arise if the proposed decision is not taken**

20. The risk associated with not proceeding with this proposal relates to Wiltshire Council's ability to meet its statutory obligations in relation to SEND assessment processes.

If Wiltshire Council does not have sufficient workforce in its SEN and EP teams then this impacts upon its ability to:

- Manage the number of requests for EHCPs being received
- Put in place support mechanisms for schools and settings which could reduce the rate of requests
- Undertake timely assessments
- Issue good quality EHCPs
- Review EHCPs in a timely way, including making amendments where this is required
- Undertake person centred reviews at key points of transition
- Offer families the support and contact that they need, in the way which works best for them
- Have oversight and undertake QA for young people placed outside of Wiltshire schools and settings

If Wiltshire Council does not have sufficient workforce in SEND place planning, then this impacts upon its ability to:

- a. Effectively utilise population data and other information to produce longer term projections of need for SEND places within Wiltshire
- b. Support the age phase transfer process of learners from early years into school and year 6 into year 7
- c. Ensure that sufficient school and setting places are available for learners with EHCPs, resulting in more costly solutions needing to be sourced and resourced from the HNB

If Wiltshire Council does not have sufficient workforce in its early years team then this impacts upon its ability to:

1. Support early years settings to identify and support learners with SEND
2. Support early years settings to develop their understanding and practice in relation to SEND, for example through the provision of training and whole setting support
3. Supporting effective transitions of early years children to school where the receiving school has all the information and support it needs to prepare and plan for the admission of the learners with SEND

This results in a less than optimal experience for Wiltshire families. It can also result in reputational damage for Wiltshire Council; through complaints made by families but also by performance issues and

challenges being noted by the publication of local authority level performance data and through the OFSTED/CQC inspection cycle.

The 'Local Area' OFSTED/CQC inspections commenced in 2016, following the introduction of the children and families act with the aim of holding local areas to account and championing the rights of children and young people. The inspection does not result in a graded outcome, in contrast to the inspection outcomes seen following inspections in schools and other LA services. Local areas can however be issued with a 'written statement of action' following the inspection which details concerns held by the inspection team about the ability of the area to identify, assess and support children and young people with SEND. Where a statement of action has been issued, Local Authorities have further monitoring visits from OFSTED/CQC and letters detailing progress or continuing challenge are published alongside the inspection report.

Wiltshire had a local area OFSTED/CQC inspection in 2018 which was favourable. A further inspection is very likely to be undertaken in the next 2 years. It is possible that the outcome of this will be for a written statement of action to be issued which will then require regular monitoring visits from OFSTED to be made to gauge progress in the areas identified.

OFSTED/CQC inspections which have been published in the last two years and have resulted in a written statement of action for the local area highlight the challenges these local areas have experienced in relation to many of the areas outlined above. For example, the variable quality of EHCPs is mentioned in a number of OFSTED/CQC reports including Bedford, Birmingham, Devon, Kent, Norfolk and Shropshire. Timeliness of the EHC assessment process, and associated elements of practice including the annual review process is also referred to in these reports, as are the challenges relating to the capacity of Educational Psychology services.

### **Risks that may arise of the proposed decision is taken and actions that will be taken to manage these risks**

21. The risk associated with the proposed decision being taken relates to the financial implication of the recruitment associated with it. Careful and ongoing management of this additional spend will need to be in place.

### **Financial Implications**

22. It is important for Cabinet to understand the significant increase in demand for SEND & Inclusion services both nationally and locally and

the extreme pressure on the public purse as a result. It is imperative that we have a fit for purpose service but also that we are in a position to ensure that spending aligns to outcomes for children and therefore provides value for money. The 2019-20 to 21-22 FACT funded programmes including temporary staff increases have helped us to understand the benefit in continuing investment and ensuring future success.

23. The request straddles two financial years. Year 1 From September 2021 to March 2022 with a part year investment of £0.861M – Year 2- 12-month costs estimated at £1.742M.

<b>Summary - SEND Investment</b>	<b>FTE</b>	<b>21-22 Average Cost per FTE incl on costs (30%) £M</b>	<b>Travel £M</b>	<b>TOTAL @ 21-22 Prices £M</b>	<b>Impact on 21-22 Financial Year September 21 to March 22 £M</b>	<b>Full Year Impact 22-23 £M</b>
SEN Professionals	35.50	£0.047	£0.041	£1.708	£0.861	£1.742

### **Funding the Investment**

24. Schools and early years settings are reporting that children are impacted by COVID, either developmentally, academically or in their emotional mental health needs. Wiltshire Parent Carer Council (WPCC) have reported increased calls on the support and signposting services they provide due to concerns around learners' schooling or, return to school as a direct result of the pandemic. Those EHCP learners who have not been in school are struggling to return without transitional support and those who have been in school often thriving in much smaller groups are struggling with the return of the whole school. Advice, guidance and support from the educational psychology service can prevent escalation at school level avoiding exclusion and referral into specialist services.

25. Following the setting of the budget in February 2021 officers are now undertaking a base review of the Councils budget based on the assumptions and metrics available at that time to set the budget. The outcome of that review will be presented to Cabinet in September and will update the current 2021/22 financial year and the future MTFS. At this stage it is therefore proposed in this report that the 21-22 part year cost be approved in principle as a drawdown of the latent demand reserve, which is then confirmed in the quarter one budget monitoring following the Council wide review. The amount held in the reserve is £7.895M.

A recent report from OFSTED highlights the particular challenges faced by children and young people with SEND as a result of the COVID pandemic:

*It is evident that children and young people with SEND are now even more vulnerable than they were before. Missing out on education – in some cases, missing vast amounts – means that these children and young people will be further behind their peers. Missed support for physical health, communication needs and mental health has had a seriously detrimental, and in some cases potentially permanent, impact*

SEND: old issues, new issues, next steps (June 2021)

The Council is currently refreshing the medium term financial plan for 2022-23 onwards and the full year cost pressure has been captured and included as part of this update which Cabinet will consider in the Autumn.

### **High Needs Budget Impact (DSG)**

26. The direct cost benefit is to the high needs block of the dedicated schools block. The investment is part of a larger strategic response to the High Needs Block Recovery Plan which is managed and monitored through Schools Forum. The recovery plan details activity in the areas of early intervention and prevention, statutory processes and quality assurance and monitoring. This is in acknowledgement of the need to ensure that support is available from the earliest point for families, for example our early years learners and also that our systems and processes require a process of scrutiny and review to ensure that they are of sufficient quality.

Whilst this does not directly impact on local authority budgets, the legal framework is clear when support should be provided and so opportunities to push back on increased requests are limited without sufficient levels of professional scrutiny and the ability to offer alternatives.

### **SEN Transport Budget (Local Authority)**

27. There is a direct implication on the Council's SEN school transport budget. Many EHCP learners are entitled to school transport and even though fewer than 40% take up the entitlement, the annual revenue budget for 21-22 is £12.975M. This budget is based on estimates of current EHCP learners accessing school transport. The more children who are able to access learning in their local community will have a positive impact on both travelling time for children and the cost where parents and carers take up the transport offer. Any demand increase is not anticipated to be extraordinary and will be estimated and taken into

account of in the MTFS in the usual manner. The impact will be presented to Cabinet in September and will update the current 2021/22 financial year and the future MTFS.

### **Indirect Cost Benefits**

28. The indirect benefits of the investment are reduced risk of tribunal and challenge from parents.

### **Cost Avoidance**

29. The avoided cost of a poor Ofsted Inspection, reputational damage and negative publicity could be significant as parental choice may mean many more parents push for more specialist independent education. In addition, where these are subject to legal appeal these cases take up much officer time with little possibility of a ruling in favour of the local authority.

### **Whole Life Pathway**

30. As older young people prepare for transition to adulthood, it is important they are supported to live their best lives where they are as empowered and independent as possible. Planning for this pathway is critical to ensure young people with SEND needs have fulfilling lives. Decisions made in transition care planning have long term financial impact in the adult services and therefore it is imperative to provide the right level of support at transition.

### **Deficit DSG Reserve**

31. The cumulative overspend in the dedicated schools grant is held and cash-flowed by the local authority. The current guidance ringfences the reserve and prevents local authorities from contributing to the deficit however, this does not extend beyond 2022-23 financial year and could be subject to change.
32. At the end of the 2020-21 financial year, the deficit was £18.717M. This is a similar position that other local authorities are facing. The DfE are aware of the funding pressures on local authorities and are being both supportive and challenging. The issue remains that local need, creates demand in the SEN system and under current legislative guidance, the level of funding does not cover demand for the majority of local authorities. Lobbying for additional funding at national level continues, recently through the f40 and Society of County Treasurers. The long awaited DfE SEN Review (anticipated this summer) may provide further guidance.
33. In setting the risk assumptions in the 2021/22 budget, no risk was associated or attributed to dealing with the DSG deficit in terms of the Councils General Fund Reserve balance. In addition to the

uncertainty outlined around changes to Councils contributing to deficits, Government (DFE) has also recently issued bailouts to Councils to assist in addressing deficits, which normally come in the form of debt arrangements.

34. There is therefore a heightened risk that the Council will need to find funds to address the deficit as well as having plans, as set out in this report, to invest to actively address the deficit going forward. In setting the 2022/23 budget the risk associated with the DSG deficit will be recognised and will increase significantly the level being advised to be held in the Councils General fund reserve.

### **Legal Implications**

35. There are no direct legal implications within this proposal. Any recruitment should follow our recruitment policies.

If this is not progressed there is a risk that the Council will not be able to meet its statutory obligations to undertake assessments of SEND according to the SEND regulations and is likely to result in increased challenges and reputational damage and therefore increased costs in time and resources in managing those issues. .

### **Workforce Implications**

36. The recruitment aligns with the aims of the SEN Strategy and the High Needs Block recovery plan.

The proposals to increase headcount are likely to be achievable without additional spend on recruitment campaigns. Typically, we have recruited to these roles very easily.

Senior EPs have been filled through promotion of our existing EPs and recruitment of main grade EPs has previously been successful. Introducing additional Senior EPs adds to robust career pathways and progression opportunities for our existing staff and will also be a strong selling point when recruiting future main grade EPs.

Steps have already been taken to ensure that suitable management structures are in place to support a larger workforce.

One caveat is that recruitment can take some time, for example, with notice periods required of preferred candidates, so expectations need to be managed based on when we can expect to have this larger workforce in place.

## **Options Considered**

37. Other mechanisms to support and develop the SEN and EP team have been put into place. This includes the development of Team Manager roles within the SEN service to have a greater oversight and scrutiny of team performance. The development of the Senior EP roles has also enabled additional capacity to be available within the service which is beneficial to Wiltshire families. The volume of demand however outweighs the capacity of these teams even when the additional capacity is in place.

## **Conclusions**

38. The SEND&I service works to support young people, their families and education settings in Wiltshire. This proposal holds this at its centre- we wish to undertake our statutory duties efficiently and effectively and to be able to meet the needs identified through this process.

**Helean Hughes (Director - Education and Skills) Helean Hughes Director  
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