

# Bristol City Council Minutes of the People Scrutiny Commission

18 July 2019 at 2.00 pm



## Members Present:-

**Councillors:** Claire Hiscott (Chair), Eleanor Combley, Paul Goggin, Carole Johnson, Gill Kirk, Brenda Massey, Celia Phipps, Steve Smith and Harriet Clough

### 1. Welcome, Introduction and Safety Information

In lieu of an elected Chair, the Scrutiny Adviser welcomes everyone to the meeting.

### 2. Annual Business Report

**RESOLVED:** Cllr Hiscott Elected as Chair – Nominated by Cllr Brenda Massey and seconded by Cllr Steven Smith

**REVOLED:** Cllr Phipps elected as vice chair — Nominated by Cllr Brenda Massey and seconded by Cllr Eleanor Combley

**RESOLVED:** ToR noted

**RESOLVED:** Commission Members noted

**RESOLVED:** Meeting dates confirmed

### 3. Apologies for Absence and Substitutions

Apologies have been received from the following Commission Members: Cllr Jude English, Cllr Tim Kent and Cllr Pickersgill.

Cllr Harriet Clough is substituting for Cllr Tim Kent.



#### 4. Declarations of Interest

Cllr Clough declared that she is an Adult Social Care service user.

#### 5. Work Programme

**Resolved:** The work programme is noted.

#### 6. Minutes of Previous Meeting

**Resolved:** The Minutes of the last meeting are agreed as an accurate reflection of the meeting.

#### 7. Chair's Business

No Chairs Business

#### 8. Public Forum

##### Public Question

	Name	Title
PQ01	Sally Kent	Where will these children be placed?

##### Public statements

Ref No	Name	Title
PSO 1	Sara Stocks	SEND Strategy



PSO 2	Jen Smith	SEND Strategy
PSO 3	Fiona Castle	SEND Strategy
PSO 4	Sidney Smith	SEND Strategy
PSO 5	Nick Flaherty, Bristol Parent Carers	SEND Strategy
PSO 6	Nura Aabe	Final Amended EHC Plan

**Public Question:**

Where will these children be placed?

**PQ01**

**Submitted by:** Sally Kent

**Topic:** SEND

There are 558 EHC plans currently waiting to be finalised by Bristol SEN department. Statistically 42% of children with plans in Bristol are in special schools. Bristol Special schools are full.

Going by Bristol statistics, 42% of those 558 plans will need a special placement.

Where will these children be placed?

**ANSWER**

**Subject: EHC Plans**



There are 558 EHC plans currently waiting to be finalised by Bristol SEN department. Statistically 42% of children with plans in Bristol are in special schools. Bristol Special schools are full, Local Independent special schools are also full

Going by the Bristol statistics, 42% of those 558 plans will need a special placement.

What plans does the Mayor have in place to ensure that ALL children with SEND in Bristol will have a school place to attend when their plan is finalised?

**Suggested points:**

- There is pressure for places in special schools, as with mainstream schools
- Schools in both categories have been asked to take extra pupils, and have done so
- Many authorities share this experience; for special schools there has not been a regular allocation of capital to provide the expansion needed to reflect growing demand
- Bristol City Council has addressed this with proposals in its recent cabinet report setting out a capital strategy for SEND
- Cabinet agreed investment of over £10m on projects starting this summer and for further reports to flesh out an long term strategy to ensure sufficiency of special places



- A new special school in South Gloucestershire is expected to provide 80 places for Bristol in 2021.
- The cabinet report acknowledged that we have EHCP pupils - the number as of last month was 62 (of c.2800) - in Alternative Provision, and we need to address that (as many LAs do)
- The director has personally involved himself in cases in order to achieve resolution

### **Additional information**

Cabinet agreed to proceed with work commencing in the summer holiday on The Keep at Kingsweston to ensure sustainable provision there, at KnowleDGE to provide post-16 accommodation (40 new places) and free up space for pre-16, and to commence planning work looking at the future of Claremont and Elmfield schools. Annex 4 to the report contained information on several other projects for the medium to long term.

The 42% figure of special/mainstream EHCP placement looks accurate.

However we do not recognise the 558 figure. I am advised that we have 84 plans currently waiting to be finalised. It might be that the 500 number relates to plans awaiting annual review processing, of which the great majority would not involve a placement change.

**Prepared by:** Alan Stubbersfield

**Signed off by:** Alan Stubbersfield



**Public Statement:**

**PS01**

**Submitted by:** Sara Stocks

**Topic:** SEND Strategy

1) As a parent of a child who has been unlawfully denied appropriate education throughout KS3 when such education was entirely the responsibility of the LA, I would say that the draft SEND strategy is a whitewash, a political sop, an attempt to ignore the lived experiences of parents unfortunate enough to have been dealing with a failing SEN department for several years and evidence of an ongoing fundamental unwillingness to accept the facts of the current dire situation.

2) A non-exhaustive list of the key issues with the report are as follows:

I. Adopted children should have been included in the LAC calculation following their legal inclusion in the remit of the virtual school. They are twenty times more likely to need EHCP support than non-LAC or PLAC children and as such are uniquely vulnerable when systems such as this fail them.

II. Your achievement targets perpetuate the myth that all learning difficulties are cognitive. As you know, there are some very bright children with EHCP support and so these attainment targets are nothing to be proud of. To people who understand the real-world impact of these assumptions they are further proof of the shockingly low standards that are accepted on behalf of this cohort of children.

III. The absence figures are startling and not explained. For a clear picture of the numbers of children not being educated by Bristol LA the numbers of children 'awaiting placement' or 'off rolled' should be included and the number of children home educated not by choice. This would probably double the already high figures you present.

IV. It is not clear what 'very low' means but the exclusion figures for children with



EHCPs should be zero. It is illegal to exclude a child for exhibiting behaviour that has been identified as giving rise to an SEN on their EHCP. In addition these figures by definition do not include the many hundreds of children who are simply 'sent home' on a regular basis without official exclusions being completed.

V. I would be interested to know how the 'development' of children with EHCPs was measured when a vanishingly small number of them had reviews on time and the vast majority have languished unnoticed by the SEN team throughout the past three years.

3) Furthermore, the glossed over and painfully optimistic draft report does not acknowledge any responsibility for or consequences from the illegal transferring of funds out of the SEN budget in recent years when this has beyond any doubt contributed to the terrible mess that the SEN department finds itself in. The backlog is now the worst in the country and there is no apparent learning from this debacle.

4) One of the most pressing problems that Bristol has is the lack of secondary SEN places, particularly for children with ASD and associated difficulties. This situation was forecast at least as long ago as 2015 and should have been part of a forward planning strategy. It wasn't and now there is a further wave of primary children due to move to secondary school in the next few years for whom there is still no planning or provision. This report offers no solutions to that.

5) The report also makes it evident that there is little or no understanding of how the systems within the department are contributing to its continuing inability to meet its legal requirements to monitor and provide for children with SEN in Bristol. Another non-exhaustive overview of some of the system failings that are not recognised in the draft report but that are very clear to me and have cost my child years of education is as follows.

I. Cases are left unassigned for a long period of time. The system that is currently



used for record keeping and data management does not notify a named person of upcoming dates and deadlines and if a case is unassigned the child will languish unmonitored until a parent or other person manages to notify the department.

II. Notifying the department of anything is extraordinarily difficult. The team have been told not to answer the phone when they are busy, and emails routinely go unanswered for weeks and months.

III. The system does not track cases adequately. Key events such as exclusions, formal complaints, emails from parents, requests of help from schools do not form part of the narrative that the SEN team have access to. Each of these (and there are many more) indicators of potential failure of provision provide an opportunity to address an issue early on and each time that opportunity is lost. Each time a parent calls the department they must start their story from the beginning. Put simply the department is simply not monitoring the provision that they are responsible for.

IV. If a key worker is assigned and begins to understand a case all of their notes and understanding are lost if they move jobs or even roles. There is no evidence of case worker notes being attached to the narrative to make it possible for someone coming new to the case to pick it up and manage it effectively, if at all.

V. The culture that has grown out of the failure to support or monitor is one of continual firefighting. This requires parents who need support for their child to light a bigger fire than the other parents in the system in order to be noticed. The tribunal figures therefore soar. Simply putting out the bigger fires does not address the fundamental root issue of failure to monitor EHCPs adequately.

6) I would therefore like you to be aware that in my opinion this report does not acknowledge any of the above difficulties and is therefore worse than not fit for purpose. It is dishonest and unrealistic.

### **Public Statement:**





**PS02**

**Submitted by:** Jen Smith

**Topic:** SEND Strategy

The new Bristol Send strategy, says it will support and empower disabled young people and those with Send to reach their full potential.

One of the ways this will be achieved is through Respect – treating the young people and their parents and carers with value and respect.

The plan is full of the same insincere wishy washy hogwash of the One City Plan with which it is aligned.

It is all well and good to sit with these documents and believe that Send in Bristol is in hand. It is not and this document will not help. Bristol needs a cultural change in perception about children with Send from the top down. The contempt with which these children are treated in this city by some schools, services and teams supposed to meet their needs is a disgrace.

I'm telling you from a year of experience, a year of dealing directly with the people who will be making this plan functional is that some treat us appallingly. Some lie. Some deliberately withhold services which would enable children to attend education. Some deliberately give misleading and false information. And some fail to commission the special school places we need.

Nothing will change with this strategy until every individual, manager and leader within every service has been told that it is all their individual and collective responsibilities to uphold equality laws.

**Public Statement:**

**PS03**



**Submitted by:** Fiona Castle

**Topic:** SEND Strategy

I have an 8 year old Autistic son. He has significant Speech and Language issues, social communication and Sensory Processing difficulties and is behind academically.

In October 2018, we applied to Bristol City Council for an EHCP needs assessment for him. The request was denied and we went to Mediation with the Council at the end of January.

The high ranking Council official sent to Mediation was dismissive of our concerns for our son. She would not consider a needs assessment, because the school were not spending the full £6000 of their allocated SEN funding. The school in turn refused to spend more money to meet my son's needs, because the SEN budget is notional and they can spend it however they see fit.

The Council official offered us access to services such as Occupational Therapy and Bristol Autism Team. I have since discovered that we were already eligible for these services, due to being turned down for the needs assessment.

Part of the legal mediation agreement with the Council, included a review by an Educational Psychologist. This review still has not occurred and we have now spent £1500 on a Private EP assessment.

Upon appeal to the tribunal service, our request for a needs assessment has been upheld, but at time of writing, this process has yet to begin, almost 2 months after the tribunal's decision. We are now 9 months into a process that should have taken 6 weeks.

The Council is spending money on SEND services and producing strategy documents such as the one being presented here today, in an attempt to convince everyone involved with SEND that the Council wants to do better.



However, doing better isn't enough. The Council requires a seismic shift in attitude to recognise its legal responsibilities. Change in SEND governance should not be about meeting targets and passing public scrutiny. It should be about a genuine desire to improve the lives of SEND children and their families. I don't believe this is a commitment the Council is anywhere near achieving.

**Public Statement:**

**PS04**

**Submitted by:** Sidney Smith

**Topic:** SEND Strategy

My school attendance is a shocking level. It is 35 per cent at the moment.

I should not have missed this much education due to Send and school places.

We are trying to get a place at a special school but I don't have one due to the lack of places.

The council knew this was going to happen and took no action.

My EHCP isn't fully done. We are on Week 43 and we would have had this done ages ago if the council actually did their jobs properly.

I haven't been going to Cotham School due to people bullying me due to my disability.

Not much support was put in place and they got it all wrong. Then they tried, but now I don't go to school at all because I feel like I can't do it.



There's no one there to help me go there and I find transport is a hard situation from home to school.

The noise level and people bumping into me it triggers me and when I get to school I feel unable to go in because of all the issues I've had on my way.

I'm missing the education I rightfully deserve.

**Public Statement:**

**PS05**

**Submitted by:** Nick Flaherty, Bristol Parent Carers

**Topic:** SEND Strategy

Bristol Parent Carers welcomes the regular inclusion of SEND in the People's Scrutiny Committee and the Health and Wellbeing Board. We reiterate our position stated in the Self Evaluation Framework that confidence of parent carers in the education process is extremely low and urgent action has been necessary for many months.

We highlight that the recovery plan announced in June, while very welcome, is a temporary measure to March 2020. We call on the Scrutiny Committee to support moves to enable long term, sustainable, effective provision for children and young people with SEND in Bristol and their families.

We welcome the proposal for the initial funding of the 14+ Transition team to March 2020 and note that this proposal only addresses a proportion of young people that require support. We look forward to seeing a sustainable, effective service supporting all young people with SEND to achieve their full potential into adulthood.

We also welcome the announcement of an independent review into SEND in Bristol. As highlighted by the co-chair of the National Network of Parent Carer Forums, Mrunal Sisodia, at the recent NASEN (National Association of Special Educational



Needs) conference, co-production of sustainable, effective services requires that a local area meets its statutory duties. While the draft SEND strategy is a starting point, governance of SEND is still weak, and a clear commitment to an effective SEND strategy is essential.

Providing sustainable, effective services also requires an effective recruitment, retention and training programme for staff across Bristol that has the needs of the children, young people and their parent carers at the heart. We look forward to seeing significant commitment to supporting children and young people and their families more effectively in the coming months, and regular oversight of the improvement and recovery process.

**Public Statement:**

**PS06**

**Submitted by:** Nura Aabe

**Topic:** Final Amended EHC Plan

Further to Judicial Review pre-action protocol communications, Bristol City Council issued the final amended EHC plan for █████ on 15 July 2019. The local authority is reminded that this should have been issued within at least 5 months before the transfer between one post 16 institution and another post-16 institution in accordance with SEN Regulation 18(2). This would mean that █████'s final amended EHC plan should have been issued no later than the 31 March 2019.

We appreciate that the Local Authority have amended the EHC plan in accordance with proposed amendments contained within a letter to █████ dated 14 June 2019. However, the final amended EHC plan does not address any of the concerns relating to the need for specification and quantification and there are further amendments not addressed. The Local Authority is aware that Section F of the EHCP "should specify clearly the provision necessary to meet the needs of the child. It should detail appropriate provision to meet each identified need".



The examples of the failure to adequately specify and quantify provision are detailed below as per the letter dated 14 June 2019

- a) Support for ■■■ to increase his independence in social thinking (i.e. thinking for himself about social behaviours, choices and impacts) – what support?
- b) Support to increase his independent use of language and use of accepted language structure – what support?
- c) Support to develop and use strategies that will help him recall words more easily. To reduce his tendency to use prompts to guess what he is expected to say – what support?
- d) Support to develop his understanding and use of vocabulary to support readiness for 2 key word joining and working towards 3 key word joining – what support?
- e) Regular support to refocus in order to remain settled and socially engaged – what is meant by regular support?
- f) Support to becoming more independent in recognising and recalling safety precautions and to temper his actions accordingly – what support?
- g) Support to build a greater awareness of more complex social relationships and the differences between them - what support?
- h) Support to add and understanding the use of future tense to his vocabulary and consolidating present and past present – what support?
- i) Support to extend his ability to retain and recall multiple, related pieces of information including multi-step instructions to follow in sequence. – what support?
- j) Support to Improve pronunciation further and relating this to phonics/reading skills. – what support?



k) Support to improve his verbal sentence structure to more frequently include the correct joiners and tense, etc and to consider and moderate his volume, tone and proximity to others according to the social situation. – what support?

l) Support to extend his learning to cross over experiential as well as desk-based work and to practice recalling each through the other to build a more rounded understanding of the subject. – what support?

m) Support to remember safety rules and guidelines, why we have them and how to follow them. – what support?

n) Support to develop appropriate relationships e.g. personal space, greeting/shaking hands. ■■■ needs regular reminders of social rules i.e. keeping personal space, in order to redirect his behaviour. – what support?

o) Support to recognise ‘why’ he and others prefer one thing over another. – what support?

p) Support with recognising, anticipating and testing cause and effect in a range of settings. – what support?

q) Support with recognising and communicating his feelings about certain things at the time they occur more readily and with a clearer sense of how to do this effectively and appropriately. – what support?

r) Support with recognising and communicating his feelings about certain things at the time they occur more readily and with a clearer sense of how to do this effectively and appropriately. – what support?

s) Support with recalling and recording social and emotional experiences on paper and ICT through a range of means/methods to build an understanding of social



conventions on which he can draw in daily life with greater independence and consistency.– what support?

t) He needs to develop his understanding of signals from people of when they are uncomfortable with the intensity of his apparent motivations – and how to respond to this – what provision is going to be put in place to ensure he develops these skills?

u) “A Mathematics programme...” – the duration and frequency of the programme must be specified and quantified

v) “Modified or specialist learning materials and equipment to meet his sensory needs” – what materials and equipment?

w) “Evidence-based strategies and advice regarding approaches to foster independent living skills” – what does this mean in terms of provision for

x) “Being more conscious of his responsibility to his peers and his environment and resisting urges to effect things negatively (e.g. break branches, flowers or hurt people out of a desire to have contact with them” – What is the provision, this is an identified need

y) “Building a stronger connection between his observations in the moment and appropriate responses to his environment and being able to express this process to another person” – what is the provision to achieve this?

z) “An individually managed programme using a functional analysis approach” - the duration and frequency of the programme must be specified and quantified

aa) “A life skills programme...” the duration and frequency of the programme must be specified and quantified

ab) “frequent help in practical lessons and with the manipulation of tools and





equipment” – what does ‘frequent’ mean?

ac) “Programmes to help him learn about choosing health eating options and choosing appropriate foods when shopping” – what programmes, the duration and frequency of the programme must be specified and quantified

ad) “Regular monitoring of █████ blood sugar levels to support his functioning and regulating of his arousal levels”. – needs to be amended in terms of what is ‘regular’ and that the hospital will guide this.

ae) “Support for █████ to choose and eat a range of different foods including high protein foods to help █████ feel fuller for longer to help level out blood sugar level (Taken from Annual Review and OT report)” – the support needs to be specified from the hospital dietician.

af) Support to with increasing his independence around his diabetes, including recognising his own symptoms and the subsequent need for food and drink intake; when, how much, etc. Communicating and recording this with staff to support a clear transfer of responsibility towards independence. Using a written record including working on improving the reading and tracking of the time of day to promote agreed times to check as well as what to do for each level range. – what support, updated advice is needed from the hospital, school nurse and SALT

ag) “Support with improving focus and reducing distractibility further through some light sensory work and attention, memory development work” – what support, this needs occupational therapy to update this provision.

Furthermore, as previously mentioned a pre-action letter was served on the council on 9 May to challenge Bristol Council over the failure of the council to comply with statutory timescales and causing delay by unlawful process with regards to an EHC plan review for █████. Following the review meeting the notice of the decision should have been given by 28 February 2019. The Council, had it done so, would have been



able to provide a draft amendment notice and a final amended EHC plan before the 31 March 2019, giving our client ample time to lodge an appeal with respect to any disagreements.

Due to the delays caused as indicated above, the final amended EHCP has been issued naming [REDACTED] and that The Local Authority considers that [REDACTED] needs can be met within a mainstream Further Education provision with additional support from September 2019.

As part of the pre-action process my colleague [REDACTED] informed [REDACTED] on 3 June 2019 that the offer of a place at [REDACTED] was in fact provided to the council on 24 May 2019. My colleague reiterated at this point the urgency of the situation with respect to this being a transition situation with regards to September and needed to be resolved speedily.

The Local Authority were further informed of the parental decision to name [REDACTED] in Section I and the offer of a placement in our email to [REDACTED] dated 14 June 2019.

It is evident that the Local Authority knew full well by 14 June that it would not agree to a placement at [REDACTED] and this could have been notified there and then and an appeal lodged without yet further delay with further amendments.

This has caused a further 4-week delay to proceedings and the situation now is that any appeal lodged this week, will undoubtedly have a final hearing date of late October/early November and therefore [REDACTED] will be without a suitable placement come September 2019, due entirely to the Local Authority's failures including repeated breaches of statutory provisions under the SEN Regulations and without due regard to public sector equality duties under s.149 Equality Act 2010.

There has been no communication whatsoever between [REDACTED] and our client. [REDACTED] has not been for – or invited to - an interview at [REDACTED]



██████████.

The Local Authority's express assertion that his needs can be met within a mainstream further education provision are unsupported. There is no rational basis that has been disclosed that supports the notion that suitable provision is available at ██████████. All advice from professionals has indicated that ██████ needs continued access to specialist post 19 provision.

In all the circumstances the Local Authority should immediately review its position, withdraw its proposal of ██████████, and agree to placement at ██████ ██████ forthwith to ensure that ██████ can commence there in September.

## 9. Performance Report

Report presented by Officer detailing performance statistics for the quarter four 2018/2019. The report highlights that opiate use is a concern in the City, particularly in Older people. The Life expectancy of woman is also dropping slightly which the Officer confirms is a reflection of the National picture. South Children services caseloads are also a concern and additional resources have been assigned to tackle this.

## 10 SEND Strategy

The report was presented by an Officer and explains that the SEND strategy is a high level strategic document with several documents sitting underneath it with practical measures to implement the strategy. The Officer confirms that the Action plan will be published next term.

Using the extra funding that Cabinet approved on July 5<sup>th</sup> 2019, additional caseworkers and educational psychologists are being recruited. Teams within the department are working to detailed plans which aim to improve the quality of work, and create a system which parents do not have to fight against. SEND will be on the Cabinet agenda again in October 2019 with a greater monetary



ask and more detail about how the service will be improved. Officers are accountable to the Cabinet Members and they will be justify any extra funding will be well spent. The Officer acknowledges that they are starting from a very low baseline, however states that improvements are already underway for example three months ago there were 100 assessments not assigned to an educational psychiatrist and now there is zero.

In response to concerns about the statistics regarding school attendance and fixed term exclusions, the Officer informs that a new Schools Strategy is being developed. This Strategy will seek to improve the overall quality of schools which will in turn improve the quality of special education needs provisions within schools. It is a priority to upskill mainstream schools giving schools ownership of all their pupils. A Toolkit has also been developed around attendance giving schools practical tips and the ability to share best practice.

The Officer acknowledged that it is possible that families are not always being informed of all the suitable services that are available to them. With regards to the influence the Council have over Academies to improve their SEND provision, the Officer reports that the new OFSTED framework will provide an element of leverage and inclusion with respects to SEND practices.

Members of the Commission expressed concerns that the style of the document does not reflect the discussion taking place and that they have greater confidence in the strategy following this discussion. The Officer informs the Commission that the strategy has been developed through the Local Area Strategic SEND Partnership (LASPAG) and forming a strategy by committee has had its challenges however the end result is a document which the whole partnership has ownership of and is committed to delivering.

## **11 Transition Support for Disabled Young People**

The Officer presented a report outlining a new Pathway model from Childhood to Adulthood for people with additional needs. Significant effort has been put



into driving the voice of child as oppose to parental preference. Additional resources have been allocated and this has been used to upskill existing staff, concentrating on early intervention and a new team working with teenagers 14+. This shift has been (and continues to be) a cultural change incorporating more integrated ways of working.

Currently there are five young people placed out of County. These are young people with complex needs and Bristol currently does not have the resources to place them. The team are looking at different ways Bristol can meet the needs for these placements.

It is planned that young people will be moving into the new Seamills Centre in March 2020. Discussions are taking place regarding mixed developments in the South. The Commission welcomes the innovative and child centred approach of the team.

#### **12 Better Lives (focus on under 65's)**

A Report is presented by the Officer outlining the work taking place on the Adults under 65 project within the Better Lives Programme.

Extra care housing has been a successful model however focus now needs to shift to tackling intergenerational living and complex needs for all ages. Housing benefit levels around city have had a negative impact on ability to support supported living in city,

When questioned by a Commission Member about the £14.50 'Bristol Price' for care, Officers explain that they have been open and transparent with the market and in return, providers agreed to open their books to BCC which has left the Officers confident that the market can bare £14.50.

The Commissions led innovative approach outlined in the report and discussed today is commended by the Commission.



Meeting ended at 4.30 pm

**CHAIR** \_\_\_\_\_

