

John Coughlan CBE
DfE Commissioner for Special
Educational Needs and Disabilities
(SEND) in Birmingham

19 May 2022

Dear Colleagues and Parents,

Re: Birmingham SEND Commissioner's Report

I am writing to provide an update and summary of my first report to the Minister about the DfE Special Educational Needs and Disabilities (SEND) improvement intervention in Birmingham. This is a significant report as it sets out an analysis of the background to the poor SEND performance with a view to addressing how we must collectively improve these vital services. That includes a consideration of whether the services need to be removed from the direct control of the local authority.

In some respects, this report is already slightly out of date, partly because of election related delays and the publication of the Green Paper since its drafting. The report is also unavoidably long. So, the purpose of this letter is to summarise the main points and the next steps in a way that may help colleagues, partners and families with the headlines.

- There should be no doubting the accuracy of Ofsted and CQC assessments. In what are admittedly deeply challenging circumstances for SEND nationally, SEND services in Birmingham are far from good enough and have been severely wanting for several years now. The need for improvement is real and urgent. But the scale of the task of improvement will be long and hard and will require unwavering collective commitment and leadership over time.
- This is not a criticism of the very many good people in Birmingham who are trying extremely hard to provide a good service. Without those good people – in schools, health services, the voluntary sector and the City Council - things would be much worse. The problem is that the conditions they are working in are not conducive to success. That is as dispiriting to those staff as it is damaging to the children and families who depend upon them – and contributes to the staff turnover which is one of the severe challenges being faced.
- The nature of this stage of the Government intervention is to attempt to assess why services have deteriorated. But this is not an exercise in allocating blame – it is an exercise in then identifying what is required to create better conditions for improvement and successful services. And as it happens, such is the scale of the historical malaise surrounding these services, I judge that it would be impossible to apportion blame fairly.
- For example, in the past eight years (since the publication of the Kerslake Report) there have been no fewer than nine people holding the post of Chief Executive of the council and nine people holding the post of Director of Children's Services. There is no more simple and more telling statement to

summarise the problem. It is impossible to ensure quality services in these unstable circumstances, let alone define, agree and implement complex improvement and transformation programmes. The services are crying out for more coherent and consistent leadership. In fact, in some quarters of Birmingham, excessive and destabilising senior churn seems to be regarded now as inevitable. It is destructive and pernicious but should not be inevitable.

- As it happens, at risk of personalising the solutions, the City Council now has its first opportunity in several years to secure permanent high quality leadership in both of these two critical posts – chief executive and DCS - and it is my view that all possible steps need now to be taken to secure those post holders and give them the required authority and tenure to lead this (and related) improvement work. That opportunity is key to some of the conclusions below.
- On a related point, and one which I know is not readily accepted by the political leadership, it is my conclusion that over time and for some understandable reasons, the City Council has lost sight of the centrality of its duties to vulnerable children. In fact, those statutory and moral duties, while expensive and burdensome, should be seen as a privilege by every local authority and form a cornerstone of the corporate purpose and strategy. I perceive the required focus has been lost in Birmingham and to regain it will require determined leadership and time. On one level, I am pleased the leadership are unhappy with this conclusion as it should speak to their determination to prove me wrong and show how much children, especially more vulnerable children, matter to the city.
- A feature of the inconsistencies in officer leadership corporately in the wider council, is that the organisational systems required to help these services – such as HR, finance and governance – are also in need of review and improvement. These bureaucratic systems are essential but are tending to act as more of an impediment than an aid to effective service delivery. So this must also be an improvement agenda that is linked to but separate from the specific SEND agenda.
- Something that Birmingham politicians deserve credit for (across parties) is their response to my request that they collectively defuse what I perceived to be a damaging approach to political public conflict about SEND in Birmingham last autumn. That shift has been enormously helpful and should continue – without avoiding the fact that there must be shared and transparent political accountability. While that has been positive, I am critical in my report about what I perceive to have been an unhelpful culture between officers and politicians in the council. Again, this is a criticism that is not readily shared, but I have seen enough evidence of what I perceive to be blurred lines between officers and members in terms of roles and responsibilities and a tendency towards adversarial and confrontational approaches. Every local authority has its own culture. I am simply saying that beyond the election and linked to this service improvement programme, Birmingham should take determined steps with external support to review its political and officer culture and ensure it is delivering the best for its citizens. It has not been delivering well for SEND children and their families in Birmingham.

- The report goes on to detail a range of the service specific issues and challenges which need to be addressed as part of the improvement programme over the coming years. That work will need to continue to be overseen by a well-established and supported, independently chaired Improvement Board with the continuing weight of a statutory direction behind it. It will need a collective approach to measurable and tangible progress.
- One of the more problematic implications of the City Council's uncertain leadership over time has been with regard to the partnerships which should be led by the local authority for children. This applies especially to schools many of whom, in an already complex and fragmented schools system, have lost faith in the LA. There is a genuine opportunity now under new leadership to rebuild the partnerships and trust. But the challenges are mutual. There is a crisis of appropriate provision for SEND children in Birmingham which will need collective will to address. One element of that crisis is that not enough children with EHCPs are being supported by mainstream schools in a system which simply isn't consistently inclusive enough. On the other hand, I have been privileged to see at first hand some excellent inclusive schools and school leaders whose work can be replicated. The programme of Developing Local Provision (DLP), enabling schools to work more closely together at a local level, will be key to this major challenge.
- One of the weaknesses in Birmingham SEND over time has been with regard to co-production – the focussed approach to ensure that all partners, including and especially children and families, have a valid role to play in the development of services. That work has re-started in an encouraging way but will need steadfast support going forward.
- That must include Birmingham's Parent Carer Forum (PCF). From my perspective, the PCF in Birmingham has great strengths in providing clear representation and constructive criticism. These strengths need to be valued and nurtured, including with regard to how organisations communicate more effectively with families.
- One feature of this intervention to date is that it has focussed, necessarily, more on the role of the local authority. Of course, SEND must be a shared exercise and I know I need to spend much more time with health colleagues and services going forward. The challenges are not unique to the local authority.
- Finally for now, a key element of this stage of the intervention is for me as Commissioner to make recommendations about any need for more fundamental structural reform, such as "out-sourcing" SEND to a trust. These are highly complex and nuanced considerations which are set out summarily in the report. There is no question there is a case for such a step (as has been applied successfully for children's social care in the Birmingham Children's Trust). However, I have concluded that at this point, the potential benefits of such a step for SEND in Birmingham are outweighed by the various risks, coupled with a real sense that all parties are ready to put their full energies now into improvement without the costs and distractions of structural reform. This is, in one sense, a vote of confidence in the local authority. But the major caveat to that conclusion is that the City Council in particular must show its unwavering support for this analysis and the recommendations for improvement which have

been agreed by the Minister. These must now be implemented with full commitment under the oversight of the Improvement Board or the structural question is bound to re-surface.

The Minister has accepted this report and its recommendations in full. But like all of us, he remains deeply concerned about the state of these services and the need for early progress. He has asked me to redouble my reporting to him of our progress. It will be the job of the Improvement Board to oversee that progress through a series of linked action plans including DfE's Accelerated Progress Plan (APP). Our shared ambition is to resolve the failings and then drive at achieving higher standards which others wish to follow! It is the job of all the relevant partners and authorities to ensure we succeed for vulnerable children in Birmingham.

Yours faithfully,

John Coughlan CBE

DfE Send Commissioner for Birmingham