

## **Special Educational Needs and Disabilities (SEND) - Education, Health and Care Plans (EHCP) – Review Process**

Date: 18 October 2023

Report of: Director of Children and Families

Report to: Executive Board

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### **Brief summary**

An Education, Health and Care Plan (EHCP) is a legal document for an individual child or young person aged 0-25 years with Special Educational Needs and Disabilities (SEND), which sets out a description of their educational, health and social care needs and the provision that must be implemented in order to help them achieve key life outcomes. It also includes information about the child or young person's aspirations, and for those in Year 9 or above, information about preparation for adulthood.

Since the pandemic, Local Authorities across the UK have seen increases in demand for EHCPs and in the case of Leeds City Council that has reflected a 60% increase in applications for EHCPs, as well as an increase to the complexity of many cases. Despite council investment into the service, the service has struggled to meet this rising demand.

Leeds is one of 32 local authorities out of 150 that has their funding for the Dedicated Schools Grant capped. It is important to note that, had this cap not been in place, Leeds would have been allocated an additional £34.06m of funding between 2018/19 and 2023/24 across the schools block (£9.5m) and high needs block (£24.56m). A further cap in 2024/25 is due to be applied and will mean a further £2.92m will not be received in Leeds, based on provisional national funding allocations.

An end-to-end review of the Council's approach to EHCPs is being undertaken, the review is engaging with children, families, schools and settings to gather their vital feedback to ensure that our processes are as efficient as possible and maximising the resources we do have. This report provides an overview of the work done to date, some emerging findings, opportunities for change and some key 'next steps'.

A further report at the conclusion of the review will be brought to Executive Board in December.

# Recommendations

Executive Board is recommended to:

- a) Note the prevailing situation nationally in relation to EHCPs.
- b) Note the work done to date to improve performance in Leeds.
- c) Endorse the review work instigated, noting that the review seeks to highlight areas of opportunity and improvement and to further note the key lines of enquiry which the work to date has generated.
- d) Agree the proposed 5 key principles which will form the basis of more detailed organisational and process design over the next six months.
- e) Agree to receive a further report at the December meeting of Executive Board around detailed planning for future arrangements.

## What is this report about?

- 1.0 An Education, Health and Care Plan (EHCP) is a legal document for an individual child or young person aged 0-25 years with special educational needs and disabilities (SEND), which sets out a description of their educational, health and social care needs and the provision that must be implemented in order to help them achieve key life outcomes. It also includes information about the child or young person's aspirations, and for those in Year 9 or above, information about preparation for adulthood.
- 1.1 There are a growing number of applications for EHCPs across England which are putting a huge strain on SEND services within local authorities, with many local authorities seeking to address this increase in demand through improvements in efficiency and changes to their EHCP processes whilst seeking to ensure that the welfare of the child or young person remains paramount.
- 1.2 The partnership in Leeds has historically been very effective at working together well to complete good statutory assessments in a timely way and managed the transition from the previous approach of 'statements' to EHCPs very well.
- 1.3 The unprecedented challenges in Leeds during 2022 saw a 60% increase in the number of requests for EHC Assessments due to both the longer-term trend of growing need in the community as well as a significant number of delayed referrals being received once children had returned to school after the pandemic. At the same time, the services that led on EHCPs experienced a number of additional pressures: a significant turnover in leadership; reduction and change in administrative support staff; and both Educational Psychologist (EP) and SEN Casework staffing capacity difficulties. This led to a drop in performance for the timeliness of 20-week statutory EHCP assessments, from 88% to 12% and significant delays in the provision of services for some children. These cumulative difficulties had an adverse effect on the team's ability to communicate in a timely and effective manner with families, schools, other educational settings and key stakeholders.
- 1.3 The situation in Leeds in relation to demand and pressures around recruitment and retention of suitably qualified and experienced staff is mirrored nationally and should not be seen as a Leeds specific issue. However, in the light of these problems, the Council agreed significant investment and action to address the situation. This included investment leading to the recruitment of over 15 permanent full time equivalent staff to increase capacity from Autumn 2022 to January 2023, as well as a specific team of temporary casework staff to tackle overdue assessments. In addition, the Council funded and agreed interim support from associate and contracted psychologists to meet the growing demand, alongside

implementing changes to the process of service delivery within the Authority's own EP service.

- 1.4 Despite this investment, the current performance in this area of activity remains extremely low at 10.18% (although this does reflect some overdue assessments that have been in the system for some time). Also, complaints from parents and carers in respect of the service remain significant and are centred around a number of themes including poor communication from local authority officers, poor timeliness of decisions and processes, dispute of placement decisions and/or provision suitability. This in turn is reflected in an increasing number of enquiries and complaints from Elected Members. Increasingly complaints are escalated to the Local Government Ombudsman and the Council is subject to potential legal challenge both in terms of individual families and at a more system wide level. Finally, the arrangements in Leeds are increasingly a source of tension with schools and other settings. Accordingly, the Director of Children and Families, in consultation with the Deputy Leader and Executive Member for Economy, Culture and Education, instigated a root and branch review of our end-to-end processes around EHCPs with a view to seeking to better understand the challenges and to highlight areas of opportunity and improvement. The review is being supported by external consultants who bring independent challenge and a wide insight into the review process. The review is being guided by the Director of Children and Families and forms an element of the Directorate's wider Transformation and Change activity. The review work is also being presented to the Children and Families Scrutiny Board.
- 1.5 This work to date has focused on a rapid review of our current EHCP assessment and annual review processes to identify key opportunities for change and improvement. This meant reviewing the end-to-end process from the request to assess, to issuing an EHCP and to annual review through engagement, analysis of data and documentation, and mapping the end-to-end journey for a child or young person to identify how effectively this is carried out.
- 1.6 A staged approach is being taken to the review process with the initial stage undertaking an analysis of the 'as is' using:
- internal engagement (due to the timing of the review over the summer Holiday period, the initial focus for engagement was with internal stakeholders including staff and further work is now being undertaken to widen that engagement so that it has an external focus)
  - consideration of metrics and performance data, and
  - process mapping of current activity.
- 1.7 The work to date has generated a series of initial key lines of enquiry for potential change. The second part of this work used further engagement (including with parent and carer advocates) and analysis to triangulate and evidence the hypotheses.
- 1.8 Engagement and consultation to date has included:
- 32 Service Representatives consulted as part of 1-1 engagement.
  - 10 EPs, Business Admin Staff and casework officers consulted with to assess the 'as is'.
  - Utilising existing extensive headteacher feedback on EHCP processes.
  - A workshop with 18 attendees across various LCC services to map process from end-to-end.
  - Review of 290 complaints (generated over a 12 month period) analysed for themes.
  - 9 Interviews carried out with parents, carers and SENCOs to hear first-hand experiences.
  - A focus group of 15 organisations involved in parent and carer advocacy.

1.9 Further engagement is underway or planned. This will importantly include seeking the views and lived experiences of children and young people directly connected with EHCP provision and this work is being carefully designed using the expertise of the Directorate's Voice and Influence Team.

1.10 Whilst allowing for the further engagement set out at 1.9, the work to date has identified the following key lines of enquiry which need to be further tested:

- **Process** – The Directorate is committed to practice over process; there is a need to ensure that process supports best practice, effective collaboration and decision making. The Directorate and education leaders have agreed the need to review Funding for Inclusion (FFI) to ensure it is supporting best practice.
- **Organisation** - There may be disconnect between the agreed strategy and delivery resulting in potential room for improvement around partnerships and the way the service is organised and how performance is monitored.
- **People** - Service staff have clearly evidenced an appetite for change, there is an opportunity to review the current use and deployment of staffing resource, associated knowledge and skill alongside broader workforce planning.
- **Information** - There may be opportunities to develop and improve systems, data and intelligence, to provide a consistent information flow that supports informed decision making.
- **Technology** - There may be opportunities to maximise the use of available technology to encourage and embed a focus on impact and outcomes as opposed to process and systems.
- **Governance** - The day-to-day impact of national and local challenges could have driven a series of incremental changes as opposed to a whole system approach to delivering sustainable change.

These key lines of enquiry will continue to be tested as the review work progresses. It is however felt that there already exists enough evidence to suggest that action is required to change the way in which EHCP processes are delivered in the city, with a view to the following five key principles seeking to drive the more detailed work, which will follow over a period of the next six months:

- **Codesign** a future way of working with children and families.
- Design processes that retain the focus on the **Child** and value-adding staff effort.
- Create an approach to the Code of Practice which aligns with the **Leeds Way**.
- Ensure **Leadership** which is stable and consistent.
- Deliver a **Culture** which promotes equity and is obsessed with the voice and experience of children and families.

1.10 Work will continue over the following six months to change the Council's processes around EHCPs based upon the principles set out above. It is recommended that Executive Board receives a further report to its December meeting as this work is progressed and that additional detail on revised arrangements is provided to Executive Board.

## **What impact will this proposal have?**

2.0 The review process will seek to deliver improvements to the Council's arrangements for the delivery of EHCPs which will ensure that Council processes support the fulfilment of its legal duty and are centred on the needs of children and young people within Leeds who need the most support.

## How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 3.0 The review process will have a direct impact on the ability to deliver improvements to the health and well-being of children and young people with additional needs.

## What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

- 4.0 Consultation has taken place with a range of stakeholders as detailed in Section 1.8 above. Further engagement is planned as set out in Section 1.9.

## What are the resource implications?

- 5.0 Funding of SEND and EHCPs is shared between the Council's General Fund and the High Needs Block (HNB) of the Dedicated Schools Grant (DSG). DSG is allocated by the Education and Skills Funding Agency (ESFA) and is the main source of income for local authorities' schools' budgets. It consists of four funding blocks: schools, high needs (special educational needs), early years and central school services (provided by the Council). In general terms the General Fund meets the cost of assessment and review and the costs of transport arising from EHCPs. The HNB meets the cost of provision. Executive Board will be aware of the pressures on both the Council's General Fund and the DSG.
- 5.1 Along with many other local authorities, Leeds is currently not receiving the full allocation of DSG due under the national funding formula, as there is a gains limit factor on some of the funding increases and this has contributed to creating pressures on the DSG account. If the gains limit factor had not been in place, Leeds would have been allocated an additional £34.06m of funding between 2018/19 and 2023/24 across the schools block (£9.5m) and high needs block (£24.56m). A further funding gains limit factor of £2.92m will apply in 2024/25 to the high needs block, based on provisional funding allocations released by the ESFA. Leeds is one of the 32 local authorities out of 150 that will continue to have their funding capped in 2024/25.
- 5.2 Over the three-year period 2024/25 – 2026/27 the DSG in Leeds is projected to overspend at a rate of between £14.4m and £50.9m per year if no action is taken. The majority of the overspend is on the high needs block.
- 5.3 The review process to date has been delivered within existing resources on an invest to save basis. Future changes to arrangements will be subject to detailed financial modelling on potential implications for both the Council's General Fund and on the DSG. This modelling will, subject to approval of this paper, be reported to Executive Board as part of a more detailed report setting out the changes and revised arrangements which may be implemented in the future.

## **What are the key risks and how are they being managed?**

- 6.0 The review process itself is relatively free of risk. There will be, of course, significant financial, reputational, and operational risks associated with the detailed design of future arrangements and, subject to approval, the proposed further report to Executive Board will need to consider those risks and set out appropriate mitigation.

## **What are the legal implications?**

- 7.0 The review process itself does not give rise to any legal implications. It is, of course, imperative that any new or revised arrangements are legally sound and reflect the legal framework governing the EHC process. Future arrangements will need to ensure we achieve compliance with statutory duties and timescales together with any applicable codes of practice.

## **Options, timescales and measuring success**

### **What other options were considered?**

- 8.0 Given the risks associated with not having appropriate arrangements, the 'do nothing' option and to not undertake the review process was discounted.

### **How will success be measured?**

- 9.0 A range of success measures will need to be constructed as part of the proposed further detailed report. These success measures will need to reflect very strongly the needs of children and young people whilst ensuring legal compliance.

### **What is the timetable and who will be responsible for implementation?**

- 10.0 The Director of Children and Families is responsible for implementation and is supported by officers across the Directorate. Implementation of the further stages of the review and the detailed further design work is immediate.

## **Appendices**

- 11.0 EDCI Screening

## **Background papers**

- 12.0 None.