

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

Date: 13 December 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

Executive Board at its meeting on 18th October received a report in relation to challenges being experienced nationally and within Leeds around Education, Health and Care Plan (EHCP) assessment and provision as one specific element of wider challenges around delivery of services encompassed within Special Educational Needs and Disabilities (SEND).

That report set out that a review of arrangements within Leeds had been commissioned and was the subject of externally supported review. That report set out the headline findings of the 'as is' position and highlighted a number of key lines of enquiry which the review would seek to consider.

A further report was to be provided to Executive Board which set out the planned activity which would be undertaken as the next stage of the review, which in essence would be the 'to be' position and would provide detail which sets out the work planned in the next stage of the review process, the development of the 'to be' position. This report seeks to provide that level of detail.

Recommendations

Executive Board is recommended to:

- a) Note the proposed outline of future rapid review activity around the review of EHCP processes.
- b) Endorse the need to ensure that the views and experiences of children, young people parents and carers are at the heart of future arrangements.
- c) Endorse the proposed changes in process and compliance which are due to be delivered with a view to securing improvements in experience and service for children and young people.

What is this report about?

Background and Recap

- 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 is putting a strain on SEND services within local authorities, and this has culminated in a huge strain being felt by SEND services across the UK with many LAs looking for ways to compensate for this through increases in efficiency and changes to their EHCP processes.
- 1.2 Executive Board at its meeting in October 2023, received a report setting out the challenges that exist in Leeds and was provided with an update on review work, supported by external resources to provide independent challenge, which was being undertaken to seek to better understand the opportunities and challenges around securing improvements in outcomes for children and young people whilst considering the Council's position in relation to operating in accordance with the overriding legislation and relevant codes of practice.
- 1.3 A staged approach to the review process was being undertaken and the initial stage was considering the 'as is' situation i.e. the existing arrangements that existed with a view to determining some key lines of enquiry for further review:
 - **Process** – Whilst 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 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.

Whilst at the same time providing some principles which would underpin future changes to be made to secure improvements:

- **Codesign** a future way of working with families.
- Design processes that retains 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 of the child.

1.4 Executive Board will also be aware that the Children and Families Scrutiny Board is undertaking a concurrent inquiry on SEND.

Updated Position

1.5 Since the report to Executive Board in October, further work has been undertaken to scope the work on the next stage of the review which is required to deliver effective, sustainable change which encompass the principles set out above and further work has been undertaken to test the key lines of enquiry established. This activity has also considered how best to align the Leeds' specific review work to activity being undertaken regionally under the auspices of a Department for Education (DfE) sponsored workstream, 'The Special Educational Needs and Disabilities (SEND) and Alternative Provision (AP) Change Programme'. This change programme, which was referenced in the both the SEND and AP Green Paper published March 2022 and the SEND and Alternative Provision Improvement Plan (March 2023) is designed to test and refine significant system-level SENDAP reforms. The DfE supported programme aims to demonstrate whether proposed system reforms will collectively drive the much-needed improvements in outcomes and experiences for children and young people with SEND or in AP and their families, whilst delivering a financially stable SEND and AP system, avoiding unintended consequences. There is therefore considerable read across between two areas of review activity.

1.6 This scoping work is set out below and should provide for Executive Board an oversight of activity to be undertaken and outcomes to be achieved in the next stage of the review work, again supported by external support to provide challenge and to ensure a wider perspective is embedded into the review process. It will be important that the next stage of review builds upon the strengths of the arrangements within Leeds and remains collaborative, inclusive and with a firm focus on early intervention and prevention, whilst seeking improvements in delivery.

1.7 The tables below include at a high level the expected outcomes and outputs. The review will be undertaken using a 'sprint' based programme-based methodology and involving a series of checkpoints for progress to the next stages of work:

Define the change to be made (across three 'Sprints') involving:

- Co-design of a compliant future vision for SEND, detailing what will be different and redesigning process
- Holding staff workshops and external engagement to facilitate this
- Ensuring staff can participate in change and have their voices heard, beginning the process of knowledge transfer

| | Activity | Checkpoint |
|-----------------|---|--|
| Sprint 1 | Development of a new vision for the service, as well as mobilising the programme of change. | Developed service vision, informing a go / no-go decision around progress to the next sprint, and the evaluation and monitoring of progress and risks. |
| Sprint 2 | Using this vision agreed in Sprint 1 to define design principles for making this change in a way which is children, young person, parent and carer centred and uses data and technology in the right way. This will also involve creating a high-level blueprint for change to the end-to-end journey for parent and carers. | The design principles and blueprint for the future service, informing a go / no-go decision around progress to the next sprint, and the evaluation and monitoring of progress and risks. |
| Sprint 3 | Focus on using this blueprint to define a future operating model for the service which provides a high-level representation of how the service can be best organised to more efficiently and effectively deliver and execute on the service strategy, whilst continuing to engage with stakeholders and realise shorter term opportunities. | A defined target operating model for the service, informing a go / no-go decision around progress to the next sprint, and the evaluation and monitoring of progress and risks. |

Develop and implement this change (across two 'Sprints'), involving:

- Designing and implementing new policy and processes alongside the service
- Designing a compliant target operating model which is fit for the future
- Designing workforce development plans
- Go-live of new child journey
- Staff are supporting the change and are ready to run the service in a 'business as usual' sense whilst making continuous improvement.

| | Activity | Checkpoint |
|-----------------|--|---|
| Sprint 4 | Focuses on an iterative co-design of the future state end-to-end journey and process, including further engagement and defining requirements for enablers such as technology. | The defined policy and process for the end-to-end child journey, informing a go / no-go decision around progress to the next sprint, and the evaluation and monitoring of progress and risks. |
| Sprint 5 | Creating the future operating model, including roles, responsibilities and behaviours, the shape and size of the service, and understanding immediate changes required to facilitate go-live of a new child journey, with staff briefed and training and upskilling begun. | This will enable a focus on creating go-live readiness for the new journey and process, including comms and engagement, new policies and processes documented and enabled, and priorities for continuous improvement defined. |

Sprints Outcome

The output at the end of these sprints will be the agreed design of the future operating model and the readiness of the service to launch the new process of assessment, delivery of provision and engagement activity.

NB In addition to this headline detail, there is a granular list of activity and deliverables which will be used to manage progress of the review.

- 1.8 Whilst the work will be undertaken in a series of sprints, there are planned pieces of work which will result in rapid change to process and policy for EHC needs assessment which will include:
- Reviews and redevelop of communications and resources for FFI and EHCPs (documents/ website / process handbooks)
 - Improvements in engagement with schools, settings and wider stakeholders
 - Completed development of a performance management dashboard which enables a focus on service wide KPIs to monitor performance, service plan effectively and support leadership.
 - Rapid improvement of communications across the service, including - website content, EHCP application forms and complaint procedure processes which will strengthen the approach to legal compliance and will seek to reduce the number of complaints and appeals.
 - Arrangements for transition from current arrangements to new processes and policies in order to mitigate any risk of delay.
- 1.9 Work will continue between late November and late March, to deliver on this work with a view to new arrangements being in place in time for the new financial year. Further work will then be undertaken, currently planned to be delivered without external support, around engagement with schools and settings so that partnership arrangements can be strengthened before the start of the next academic year. The SEND Partnership Board will be engaged around this activity.
- 1.10 At the heart of the service re-design will be the need to ensure that the lived experiences of children, young people, parents and carers are reflected in the outcome of the review.

What impact will this proposal have?

- 2.0 The review process will seek to deliver and embed improvements to the Council's arrangements for the delivery of EHCPs which will ensure that the Council's processes are legally compliant, centred on the needs of children and young people within Leeds who need the most support.
- 2.1 An Equality, Diversity, Cohesion and Integration Screening (EDCI) form is attached as appendix 1.

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 and engagement will continue as the review process continues. As stated in the body of the report ensuring that the voice of the child is at the heart of the Council's arrangements will be paramount. Engagement will build upon that already undertaken and will include further consultation with children, parents and careers, schools and other settings. A main focus of the next stage of engagement will be around better understanding experiences of current arrangements and using that as a springboard for re-designing arrangements with a firm focus on improvements in communication, information, process and timeliness of activity.

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 cost of the review process and the implementation of required changes will be managed initially through the application of corporate resources, reflecting that further work on return for investment is required (invest to save). This will be subject to regular monitoring and reporting as part of established corporate processes.
- 5.4 There is a national challenge on funding for SEND and EHCPs and this is acknowledged by Government. The review process will seek to consider how existing resources can be deployed more effectively and how Value for Money can be kept in focus including looking at the potential for digital, process and automation benefits. Any such changes will of course

need to be balanced against the primary driver of ensuring a better experience for service users but they are not felt to be mutually exclusive.

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

- 6.0 The review process itself is relatively free of risk. There are of course significant financial, reputational and operational risks associated with any significant service redesign and these will be monitored and appropriate mitigation will be put in place as part of the overall programme management approach. The activity forms an integral element of the Directorate's Transformation Programme and is reported to and scrutinised by an established officer cross Council Delivery Board, which is chaired by the Director of Children and Families.
- 6.1 It should be noted that there are specific reputational and financial risks associated with the Council's arrangements not being legally compliant and the review needs to ensure that sufficient focus is maintained to ensure that this risk is mitigated by appropriate arrangements being in place and being consistently managed to ensure delivery remains in line with policy.
- 6.2 The risks associated with the change process and indeed the current arrangements are included within the Directorate's risk reporting and monitoring. There is a direct link to this Directorate based risk and a wider set of corporate risks around in-year budget challenges, medium-term financial strategy, workforce planning and poor outcomes for service users which may get reflected in poor inspection outcomes.

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 full compliance with statutory duties and timescales together with any applicable codes of practice". This requirement is an integral element of the required outcomes of the review outcomes as set out in the narrative and table at paragraph at 1.7.

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 detailed co-design work to be undertaken with a range of stakeholders as set out earlier.

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 Equality, Diversity, Cohesion and Integration Screening

Background papers

12.0 None.