

**Children & Families
Scrutiny Board
Provision of EHCP Support
Draft Inquiry Report
Date: 27 March 2024**





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Foreword

Foreword from the Chair

As elected members it has become increasingly clear that parents and carers accessing EHCP support services in Leeds were having difficulty in securing the outcomes they wanted for their children. They have faced frustration and anxiety and some have had nowhere to turn at a time when they need support the most.

Through the casework we do as elected members, in support of Leeds residents, there has been a noticeable increase in issues and concerns raised in relation to EHCPs. Furthermore performance data from the services providing support in this vital area indicated that there were significant issues both in terms of demand and overall adequacy of the services being accessed by Leeds residents.

The Scrutiny function is aimed at providing critical friend challenge to decision makers in our city and supporting residents by providing a route through which their voice and concerns can be heard. Data driven analysis of EHCP support suggested that as a Board we should closely examine the provision of EHCP support and undertake an end to end analysis of these services through a dedicated Scrutiny Inquiry.

Supporting the most vulnerable is a key priority for the Council and ensuring that we get support right for vulnerable children and young people is absolutely essential to ensure they can fulfil their potential and achieve success as they complete their education. As a parent of a child with SEND, I have a deep understanding of these issues and the anxieties faced by parents as they go through what can be quite a daunting experience, it is a challenging and difficult time and we should be providing the best support services we can for these families.

As this work has progressed we have been heartened by recognition from decision makers that improvement is needed in SENSAP and EHCP services and it has been pleasing to see the open and transparent way in which our work has been received from Executive Members and senior officers.

We have made 10 recommendations, key areas for improvement include modernising services through digital approaches, ensuring that engagement and communication is improved both in terms of providing updates and on EHCPs themselves, improving casework approaches to allow elected members to better advocate for residents and reducing the use of tribunals to reach EHCP outcomes.

It is vital that the Council meets its statutory commitments moving forward and that in turn services are quicker, more accurate and meet the needs of children and young people across the city.

I would like to thank all contributors to our work from senior leadership and their colleagues in the Children and Families Directorate to the contributions made by key stakeholders such as the Leeds Parent Carer Forum. Progress is being made but we remain committed to ensuring services are improved and remain improved in the future and we will continue to consider these issues and provide check and challenge on the improvement work as it continues in the future.

Councillor Dan Cohen

Chair of the Children and Families Scrutiny Board



Board Membership, EHCP Introduction and Aims of the Inquiry



Cllr David Blackburn



Cllr Jordan Bowden



Cllr Emmie Bromley



Cllr Amanda Carter



Cllr Dan Cohen



Cllr Ryk Downes



Cllr Oliver Edwards



Cllr Caroline Gruen



Cllr Jules Heselwood



Cllr Nkele Manaka



Cllr Lisa Martin



Cllr Karen Renshaw



Cllr Jane Senior



Cllr Ryan Stephenson



Tony Britten (co-opted)



Andrew Graham (co-opted)



Anas Khitou (co-opted)



Nick Tones (co-opted)



Helen Bellamy (co-opted)



Kate Blacker (co-opted)



Jackie Ward (co-opted)



Laura Whitaker (co-opted)

Children & Families Scrutiny Board

Focusing on services affecting the lives of children and families across the city to monitor progress towards becoming a child friendly city and putting children first.

Aims of the Inquiry

The Children and Families Scrutiny Board identified the Provision of EHCP Support in Leeds as a key area of focus in the 2023/24 municipal year. There were two main drivers behind this, anecdotal evidence from elected members through casework volumes relating to EHCP concerns from residents and information provided in both past and present performance reports provided by the directorate on a six monthly basis to the Scrutiny Board.

The performance data on EHCPs highlighted the significant increase in demand for them in Leeds, a trend that has been mirrored nationally, and the resultant pressure placed on the Special Educational Needs Statutory Assessment and Provision (SENSAP) team that deals with EHCPs and statutory assessments. These issues had fed through into performance with significant concerns around statutory timescales and satisfaction of families accessing services.

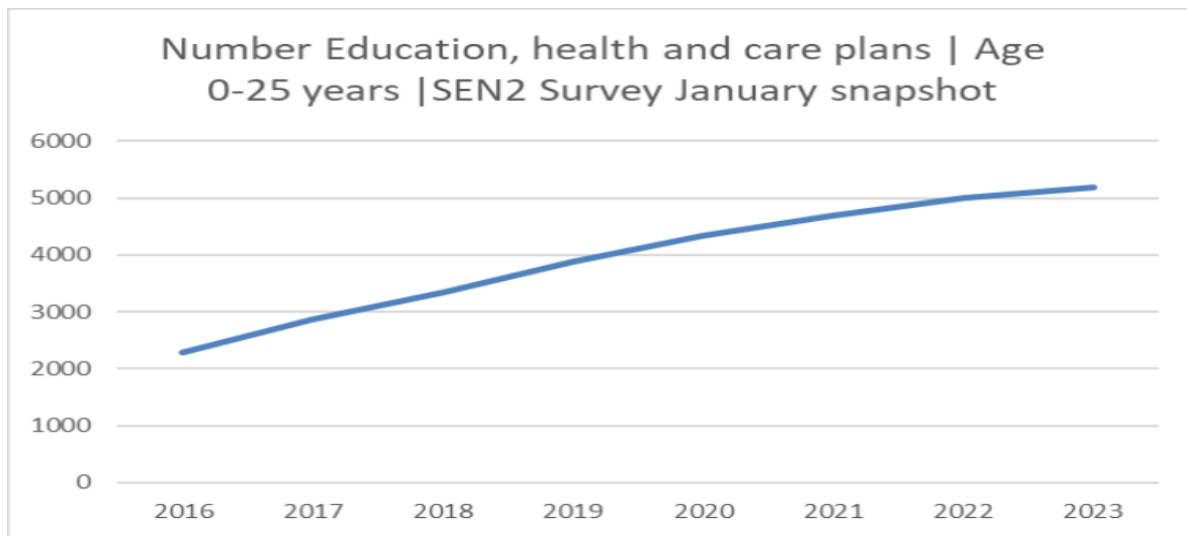
The scale of this challenge is perhaps best highlighted by overall volume, on 23 May 2023 there were 5,313 children and young people aged 0-25 with an EHCP in Leeds. The upward trend in EHCPs started in 2016 and the current figure is over double the figure in January 2016 which stood at 2,287. There has been a 118% increase in demand since 2016, with the upward trend set to continue in the future.



Aims of the Inquiry

Aims of the Inquiry (Continued)

The scale of growth in demand is highlighted by Figure 1 below:



As a result of the growing challenge in this area the Board believed that a detailed examination of EHCP processes could support the improvement work already being undertaken by the directorate through their work with PricewaterhouseCoopers (PwC), provide check and challenge on that improvement journey, ensure that the voices of children and families are integral to the improvement work and are being heard and acted on, provide additional elected member oversight and input into the improvement work and ultimately support ongoing work to improve EHCP services for children and families living in Leeds.

Local Context

Whilst the national context is important it was also recognised that there are local challenges that are unique to Leeds and that these will also be addressed as part of the work being undertaken by the directorate supported by PwC and as a focus of the Board's work.

It was noted that an important element of the issues faced in Leeds are related to staffing and resource. Coupled with the increased demand the SENSAP team experienced a number of significant challenges during the Covid-19 pandemic including changes to Business Administration, the loss of colleagues and loved ones to the virus, increased sickness absence, a substantial loss of a number of experienced managers and unprecedented issues with the recruitment and retention of key staff.

Issues around communication have also been consistently reported by families and these concerns were echoed in the direct engagement undertaken by the Board with the Leeds Parent Carer Forum (LPCF).

Inquiry Aims

The Board's work on EHCPs coincides with similar work being undertaken by the Children and Families Directorate, supported by PwC, both of these areas of work have identified issues with EHCP provision and both aim to support improved performance to support children and families accessing EHCP and SEND support in Leeds.

Recommendations

1

Communication Plan — As the Board has learned more about the issues facing children and families in the city and the demand led pressures on the SENSAP Team it has become clear that messaging on EHCPs and what they are for could be improved. Families and some practitioners see an EHCP as the only mechanism to get funding and support for children and young people. This means that services administering and delivering EHCP support are facing higher demand and this has a knock on impact on waiting times and the frustrations of families as they seek vital support for their children. The Board recommends that decision makers consider designing and delivering a clear communication plan on this to families and practitioners to address any misconceptions and enable more children to access support quicker.

2

Funding — The Board acknowledges the financial challenge facing local authorities both generally in terms of annual funding allocations for the General Fund from Government and specifically in relation to the Dedicated Schools Grant (DSG), where the funding cap on the DSG prevents the authority accessing the funding that it should be getting. Both of these funding streams impact the provision of EHCP support in the city. The Higher Needs Block of the DSG is used to meet the cost of provision and like other local authorities Leeds does not receive its full allocation due to the national funding formula. The Board notes a balanced DSG budget has been set in Leeds for 2024/25, this includes a £3.4m savings target and £3.5m use of DSG reserves. The Board also notes evidence received from council officers that in 2025/26 the DSG in Leeds is projected to overspend by £31m, and in 26/27 the forecast overspend is expected to increase to £51m. This is based on the Medium-Term Financial Strategy from September 2023, which will be updated during 2024/25. The Board therefore supports further action to lobby Government for additional funding for the general fund to support the cost of assessment, review and transport arising from EHCPs and the national funding formula for the DSG. Additional funding from either, or both, of these would support service improvements being delivered by the directorate.

3

Digital EHCPs — Through the Special Educational Needs and Disabilities and Alternative Provision Improvement Plan, the Government has noted that digital EHCPs could reduce bureaucracy and improve experiences for parents, carers and professionals. This view was mirrored when the Board received evidence from the Leeds Parent Carer Forum (LPCF) who noted that a dual access (accessible by both professionals and families) digital portal would improve communication and speed up the EHCP application process. Given this the Board believes that work should be prioritised to developing a digital portal that will enable families to complete forms and submissions on line, speeding up processes and enabling better information sharing and understanding of timescales linked to individual cases.

4

Improved Casework Processes — Elected members have noted an increase in EHCP casework in recent months, linked to delays in families being able to access support. The Board believes that a simple way of addressing casework would be the establishment of a dedicated EHCP/SEND inbox to enable elected members to quickly highlight cases of concern and assist in speedily accessing support and finding resolutions for residents. It is noted that development of digital approaches for EHCP support (Recommendation 3) may in time reduce casework volumes but certainly as an interim measure this approach would enhance the support available to residents by streamlining how elected members can raise cases and effectively deal with them.

5

Information Governance — Evidence submitted through a case study by the LPCF highlighted some concerns around Information Governance and the need to review processes to ensure that personal information is shared appropriately when dealing with EHCPs. The Board therefore recommends that a review of Information Governance processes takes place with a view to providing added assurance for practitioners and children and families around data protection and sharing information appropriately and with consent with schools and partners.

6

Tribunals — The evidence from the LPCF highlighted tribunals as a major cause of delays in EHCP processes in Leeds, specifically accessing placements, and that tribunal cases are often won by families. As services improve tribunals would likely reduce and that is noted by the Board. However, the Board believes that reduced reliance on tribunals should be an important part of the improvement journey and any resource spent in these areas would be better directed at service improvement as opposed to tribunal processes that can leave children and young people out of education settings, particularly when in many cases the tribunal leads to a finding in favour of the family. The Board also believes that reducing tribunals will enable Education Psychologists to have more time to support EHCP assessments, which again may speed up processes.

7

Placements — The Board has heard evidence regarding sufficiency, suitability and quality of placements available for SEND children and young people in the city. Some of this is due to challenges faced in meeting increasingly demanding needs which is a wider systemic issue but suitability of placements was highlighted by the LPCF as an area where different approaches or additional training may improve the service and also potentially reduce tribunals, and speed up access to placements. The Board therefore recommends that a review of training for caseworker staff is carried out to address consistency in approach and to increase the caseworker knowledge base of schools. This will ensure that there is a greater understanding of which schools are suitable to meet which needs. In respect of quality of placements the Board believes that more work should be done, subject to available resource as noted at Recommendation 2, on Monitoring and Quality Assurance linked to placements and the need to ensure that needs are being met by schools during a placement.

8

Practice over process — Throughout the inquiry the Board has welcomed the commitment to practice over process and acknowledges the significant demand led pressures that have created an over reliance on process. As part of ongoing scrutiny monitoring of the planned new arrangements the Board supports and therefore recommends that the key principles for new service arrangements remain central to future activity in the service. These being:

- Codesign of a future way of working with families.
- Designing processes that focus on the Child and value-adding staff effort.
- Creating an approach to the Code of Practice which aligns with the Leeds Way.
- Ensuring leadership which is stable and consistent.
- Delivery of a Culture which promotes equity and is obsessed with the voice of the child.

9

Communication and Engagement — The Board notes the initial progress made in providing more regular communication between senior management and families to improve relationships and provide assurance that services are being reviewed and improved. The Board welcomes this approach and recommends that this regular communication with groups such as the LPCF should form a permanent element of the new approach taken to communication and engagement. This would support Recommendation 8 (above) and ensure that co-design, consistent leadership and the voices of children and carers remain at the heart of the re-designed services.

10

Ongoing Check and Challenge —The Children and families Scrutiny Board has been working on this issue concurrently with similarly aligned work led by the Children and Families Directorate. The Board recognises the improvement work being done and that this will take time to bed in and see results on the ground over the coming 12 months. The Board therefore recommends that its role in checking and challenging the work on EHCPs should continue beyond this inquiry report and be a feature of the Board's work programme in the 2024/25 municipal year.

List of Witness

During the Inquiry the Board has heard evidence from the following:

- Executive Member for Executive Member for Economy, Culture and Education
- Executive Member for Children's Social Care and Health Partnerships
- Director of Children and Families
- Deputy Director Learning
- Chief Officer Learning Capacity and Development
- Chief Officer, Service Transformation and Partnerships
- Programme and Partnerships Manager
- Statutory Assessment and Provision Lead Officer
- Service users (Leeds Parent Carer Forum and wider information provided through the ongoing survey of EHCP and SEND provision in Leeds)
- Children and young people (through the survey referenced above)
- PricewaterhouseCoopers (PwC)



Inquiry Approach

Inquiry Structure

The Inquiry into the provision of EHCP support in Leeds has used a mixture of formal items at public board meetings and specifically designed working groups to consider detailed evidence on the services in question, the impacts on children and families and possible options to improve services. The following sessions have taken place in 2023/24:

Terms of Reference

5 July 2023 — [Draft Terms of Reference](#), consideration of an initial draft terms of reference early in the municipal year to enable the inquiry to commence as quickly as possible.

6 September 2023 — [Final Agreement of Terms of Reference](#) taking account of feedback from the directorate and Executive Board Members. This included initial overview of directorate led improvement work through a [project plan on a page](#).

Working Group—Directorate and PwC Improvement Work

22 September 2023 — Consideration of the planned work being developed by the directorate in partnership with PricewaterhouseCoopers (PwC). This included attendance from PwC and consideration of a briefing note on EHC Assessment in Leeds covering background, staffing, performance and a summary of service user feedback. In addition the Board considered the Government's [the Special Educational Needs and Disabilities and Alternative Provision Improvement Plan](#) as part of the agenda papers.

October Public Scrutiny Board Meeting — Working Group Summary

4 October 2023 — In order to report back to the full Board meeting from the 22 September Working group the evidence heard was summarised in a [working group summary document](#) which also focused on the key aims of the work being undertaken by the Children and Families Directorate and PwC.



Inquiry Approach

Working Group — Stakeholder Engagement Leeds Parent Carer Forum

23 November 2023 — A key element of the Board’s work in this area has been the desire to hear directly about lived experiences from stakeholders who access services within the EHCP ‘system’. As a result the Board met with parents and carers from the Leeds Parent Carer Forum (LPCF) who, through a working group, provided feedback on their experiences, offered suggestions as to what could work better and highlighted where services work effectively.

January Public Scrutiny Board Meeting

24 January 2024 — The Board considered a report which provided details of both the [November Working Group with LPCF](#) and the latest position on the directorate led improvement work through consideration of an item approved at Executive Board in December 2023. Given the clear links between the work of the Board and the work of the Directorate this item brought those two work streams together for Board member consideration.

February Public Scrutiny Board Meeting

22 February 2024 — As already noted the Board identified stakeholder engagement as a key area. To provide added depth to the LPCF feedback, the Board considered [a further item](#) which provided an overview of the engagement work that the directorate has done and a summary of findings from an ongoing survey of parents, carers, children and young people on EHCP and SEND support in Leeds. This survey therefore captured the voices of children and young people which had not been specifically considered in the inquiry work.

March and April Public Scrutiny Board Meetings

27 March & 18 April 2024 — These public sessions were used to consider and comment on the draft inquiry report and to agree the final report taking on board comments from the Director of Children and Families and Executive Board Member for Economy, Culture and Education.



Evidence Base

Summary of Evidence The following evidence has been heard by the Board which has led to the 10 Recommendations detailed on pages 6 to 8 of this report.

Recommendation 1 — Communication Plan

At the public Board meeting held on 22 February 2024 the minutes reflect discussion and acknowledgement that EHCPs are not in and of themselves the only thing that can be done to access support. In response to this the Board felt that improved signposting and communication with stakeholders would provide both better understanding of EHCPs and their uses and potentially assist in reducing demand for EHCPs as recognition grew in terms of other support services that are available and that other mechanisms exist to get support for children and young people with additional needs. It was also acknowledged that enhanced training to colleagues in schools and education settings could also be considered as part of the answer to the issue of greater understanding of EHCPs and their purpose.

Recommendation 2 — Funding

To contextualise the challenges faced by SENSAP services in Leeds, the Board has heard and supported concerns raised by Executive Board Members on funding and the fact that Leeds is one of many local authorities that has its DSG funding capped by the funding formula used by the Education and Skills Funding Agency. Leeds therefore does not currently receive the full allocation of DSG it is due under the formula, as there is a gains limit factor on some of the funding increases and this has contributed to creating pressures on the DSG budget. 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), funding that would clearly have assisted in meeting the challenges faced in the provision of these services. This was discussed at the Board meeting held on 24 January 2024 and the minutes of that meeting reflect the concerns that were discussed: *'Moving on to finance the Board highlighted the funding cap that Leeds is subject to through the DSG. In response the board heard that this is a national funding formula which caps the amount of funding an authority can receive linked to population.'* The Board therefore support ongoing efforts to ensure additional funding through a review of the funding formula used at national level and any associated lobbying.

Recommendation 3 — Digital EHCPs

The Board has received evidence on lived experiences accessing EHCP provision in the city. This was provided through a dedicated working group held on 23 November 2023 which featured attendance from the Leeds Parent Carer Forum (LPCF) Steering Group. The forum is run by a group of parents, working in partnership with the local authority, to represent the parent/carer voice of families of children and young people aged 0-25 years, who have special educational needs and/or disabilities in the whole of the Leeds area. Their key aim is to create better outcomes for families through participation and co-production.

During the working group a number of observations were made, this recommendation relates to feedback from the LPCF around the use of hard copy forms, the level of bureaucracy required to complete EHCPs and the need for better communication between practitioners and families. It was suggested that the best way of delivering both better communication and simpler, more modern administrative process was a digital app that could be used to track progress of an EHCP, enable quick and easy communication between families and casework officers and enable digital submission of documentation and forms.



Evidence Base

Summary of Evidence (continued)

Recommendation 4 — Improved Casework Processes

Board members expressed a strong desire to be able to influence EHCP casework in a more direct manner and to be able to provide as much assistance as possible to families awaiting support or experiencing issues in accessing support. In terms of evidence specifically relating to this the working group summary from 22 September provides some background: *'SENSAP Inbox — Members questioned whether, like other services such as highways, there was potential for specific email inboxes to be established to deal with specific Cllr / MP SEND or EHCP related queries. This could ensure that all queries of this nature are collated and dealt with as quickly as possible.'* The views of the LPCF on casework also highlighted concerns with case handling by officers that could be impacted by elected member involvement to check and challenge casework processes and outcomes. Having a dedicated inbox approach would help to streamline elected member involvement and challenge.

Recommendation 5 — Information Governance

The evidence heard from the LPCF covered a range of issues and the session was also used to hear examples of individual case studies provided by LPCF Steering Group members. These were detailed in the Working group Summary considered by the Board on 24 January 2024 and one of them, Case Study 2, highlighted concerns around Information Governance and data handling.

The following is a quote from the working group summary: *'However, a key concern was around information governance, the Board heard that the EHCP was finalised and sent without the knowledge of the family and raised questions around IG and admin processes associated with EHCPs and how they are compiled. Ultimately this led to schools not accepting the child due to the drafting and quality of the EHCP, some of the detail was unchecked and therefore inaccurate and led to stigma being created largely due to the plan not being accurate. This raised concerns around IG and data security and the need for IG assurances to be in place to prevent this happening in the future.'* Conducting a review of IG processes as recommended would provide this assurance and identify any weak spots in the existing approach.

Recommendation 6 — Tribunals

A key area of concern from the LPCF again contained in evidence submitted to the Working group held on 22 November 2023 was around the length and volume of tribunal cases which often left children awaiting outcomes for months and in some case without being in education settings. Case Study 1 from the Working group summary highlights these concerns and more widely there were concerns around use of resources linked to tribunals in terms of cost, use of officer time and use of specialist staff time such as Education Psychologists. The Board acknowledges that with improved services there will be reduced tribunals and reduced waiting times for suitable placements but based on the evidence received there is a clear need to prioritise avoiding their use and to prioritise other forms of mediation to resolve disputes. This is particularly the case given that in the overwhelming majority of cases EHCP tribunals are won by the family. To support this further the Working Group summary from the 22 November 2023 contains clear evidence submitted by the LPCF on tribunals, the following provides a quote from this for added context: *'Waiting for Education Psychologist appointments. It is perceived that Ed Psych's time can be wasted on tribunal processes because of mainstream settings being recommended on EHCPs, due to lack of specialist provision. However, these settings cannot meet needs leading to more tribunals.'*



Evidence Base

Summary of Evidence (continued)

Recommendation 7 — Placements

The Board has heard that a key driver for dispute between families and the authority is around suitability of placements. This was clearly set out by the LPCF during the Working group held on 23 November with a number of concerns raised around placements, including delays linked tribunals, and follow up to provide placement quality assurance. Some of the issues raised are linked to Government funding in terms of meeting complexity of needs through facilities in schools and having both sufficient support staff and staff with enough expertise to deal with the need. As noted at Recommendation 2 and driven by the funding cap on the DSG those issues sit outside of the direct influence of the local authority. However, ensuring training and a greater knowledge base amongst caseworkers is something that could be reviewed and potentially improved. The LPCF submitted the following comment, amongst others, in relation to placements: *‘Caseworkers need a better understanding of schools in the area so they can consult with the most appropriate settings, not just those that have spaces. This can lead to time being wasted for schools and families.’* Which provides the context for this recommendation.

Recommendation 8 — Practice over Process

Throughout the inquiry work it has been clear that senior officers and decision makers have recognised the challenges faced in providing EHCP support and have acknowledged that services can be improved even when set against the backdrop of funding reductions and increasing demand. This was clearly set out during the first working group undertaken by the Board on 22 September 2023 where there was a clear commitment to a practice over process approach with co-design and listening to the feedback from stakeholders at its heart. The Board has clearly communicated its support for this approach and welcomed the open and transparent way in which decision makers have received the scrutiny inquiry. The working group summary of the 22 September meeting adds further context to this recommendation through the following extract: *“It was recognised that some of the structures and processes are too rigid and do not always take account of exceptional cases which has led to people being unhappy with support which in turn has led to increases in complaints and escalation of complaints to Ombudsman level. A key focus of ongoing work being carried out by the Council is to emphasise flexibility of practice to meet needs and not an over reliance on process — ‘practice over process.’”*

Recommendation 9 — Communication and Engagement

The Board has heard evidence in relation to communication and engagement both in terms of families receiving regular updates, (addressed as part of Recommendation 3) and also in terms of implementing a more consistent culture that encourages feedback from stakeholders and listens to those voices to inform more effective service delivery. At its meeting on 22 February 2024 the Board heard that initial discussions had taken place and more were planned in terms of senior management engaging with stakeholders as part of the commitment to co-production and this was welcomed by the Board. This approach will also support Recommendation 8 on Practice over Process and will ensure that the spirit of co-production is a central focus of the service review process. The minutes of the Board meeting held on 24 January perhaps best encapsulates the commitment made and the support this recommendation has for a renewed approach to communication and engagement: *The Director of Children and Families welcomed the feedback received from the LPCF through the working group and working group summary document. The directorate is committed to hearing from children and families and recognised that parents and carers are experts in the lives of their families.*



Evidence Base

Summary of Evidence (continued)

Recommendation 10 — Ongoing Check and Challenge

The Board has not been conducting work in isolation on the provision of EHCP support. The Children and Families Directorate, supported by PwC, has recognised and begun to address service issues through a Special Educational Needs and Disabilities (SEND) - Education, Health and Care Plans (EHCP) – Review Process. This work is ongoing and has featured on two occasions as part of the inquiry work. In the first instance a scrutiny board working group was established to understand the scope of the issues being faced by the SENSAP Team and also to understand the aims of the improvement work and review process being undertaken by the directorate, this took place on 22 September 2023. In addition, an update report was considered by the Board at its January meeting setting out the latest position in the review process. During consideration of this update report it emerged that the timescales for completion of the work go beyond the timescale for the board's inquiry and as such there will be a need to continue to monitor and check and challenge the progress being made and the improvement journey that is being undertaken. This will be led through work programming approaches in subsequent municipal years, most notably 2024/25 but potentially beyond.

Next Steps

As noted in Recommendation 10 above there is a need for the successor Board in municipal year 2024/25 to maintain a focus on EHCP and SEND services and to check and challenge the ongoing Service Review as it progresses into 2024/25. This will be picked up through work programming approaches early in the next municipal year.

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