

SEND - Education, Health and Care Plans – Review Process – Update Report

Date: 4th September 2024

Report of: Director of Children and Families

Report to: Scrutiny Board (Children and Families)

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

Children and Families Scrutiny Board identified Education Health and Care Plans (EHCPs) as an item for detailed scrutiny in the 2023/24 municipal year. The Board completed its inquiry in April 2024 by agreement of its final inquiry report.

Running concurrently with the inquiry was the improvement work led by the Children and Families directorate supported by PricewaterhouseCoopers (PwC) aimed at delivering effective, sustainable change to improve outcomes for children and families accessing EHCP and SEND support services in Leeds.

The Executive Board at its meeting on 19th June 2024 considered the Scrutiny Board inquiry report and the report of the Director of Children and Families which outlined the proposed changes required to the EHCP arrangements in Leeds. The Executive Board also endorsed the approach to capturing the views and experiences of children, young people parents and carers during the delivery of changes and improvements, and also the range of partnership work with stakeholders, especially schools and other specialist settings.

This report sets out an update now that the high level 'design stage' of the improvement programme is complete and the Council is in the operational design and 'delivery stage' of the new arrangements. This report also responds to the recommendations made by the Scrutiny Board (Children and Families) in April 2024.

Recommendations

Children and Families Scrutiny Board is asked to note and comment on the content of this report and make recommendations as deemed appropriate.

What is this report about?

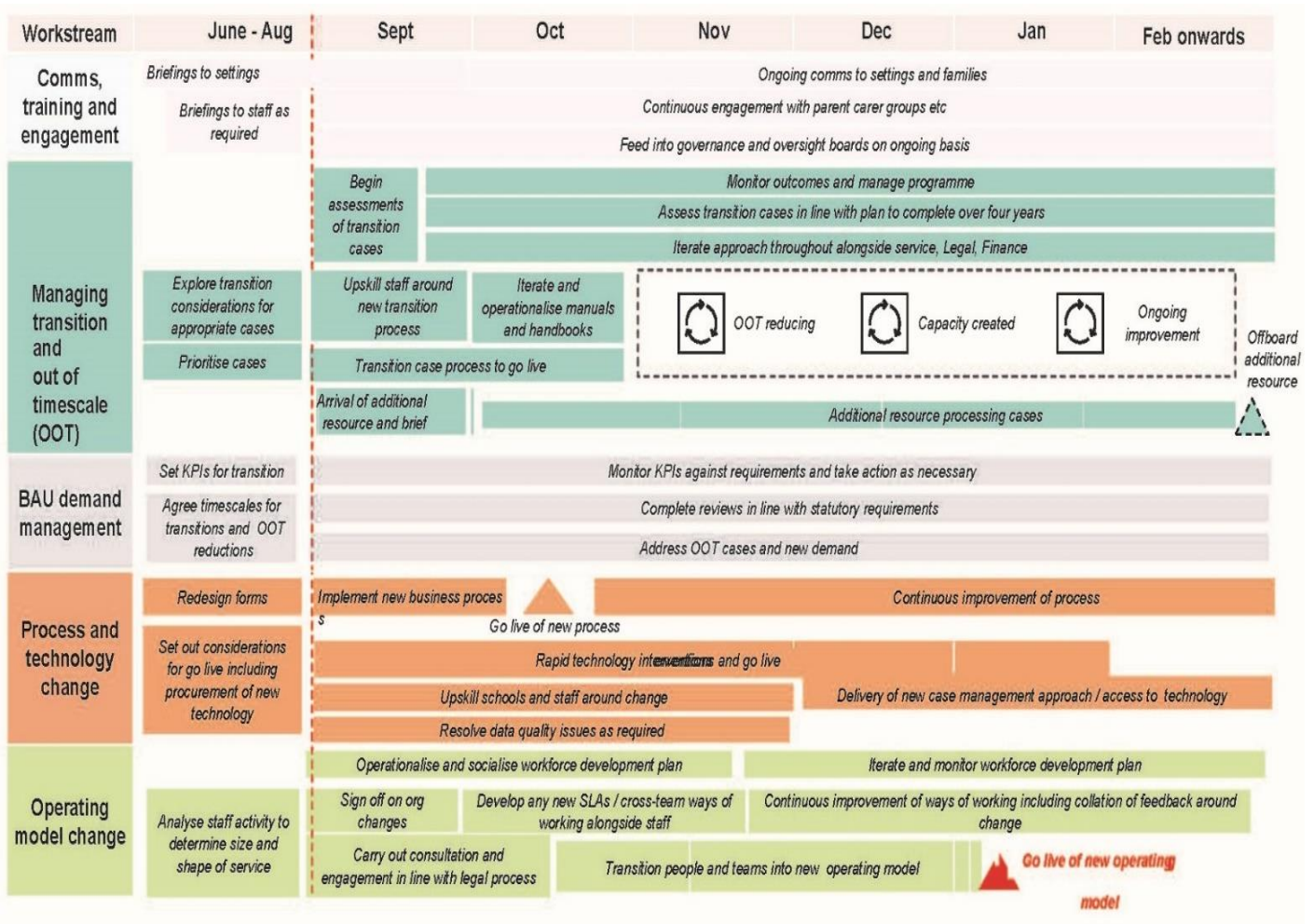
Background

- 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 At a national level, demand for EHC assessments and EHCPs have been increasing exponentially in recent years, in Leeds demand for these services has increased by 118% since 2016 and demand has continued to increase following the Covid-19 pandemic. The significant increase in demand has led to difficulties in meeting statutory timescales associated with EHCPs and therefore an increase in concerns and complaints being raised by parents and carers accessing services. This, combined with an increasing complexity of needs and funding pressure has placed significant strain on the Council's SEND and Inclusion service. Leeds City Council is aiming to improve EHCP processes and the experience of parents, carers and professionals to minimise the negative impact this is having on children and families, and on the organisation.
- 1.2 The Scrutiny Board through its inquiry during 2023/24 received evidence which set out the challenges that exist in Leeds and the organisational response to undertake detailed investigation and analysis of the challenges through independent review, supported by external resources. The review was undertaken 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 In its inquiry report, 'Provision of EHCP support in Leeds', the Scrutiny Board made a series of recommendations which supports the Directorate principles and improvement approach. The Director of Children and Families welcomes the recommendations, and this report provides an update outlining the progress made.

Update Information

2.1 Timeline for improvement

The high level timeline for the delivery of improvement is set out below:



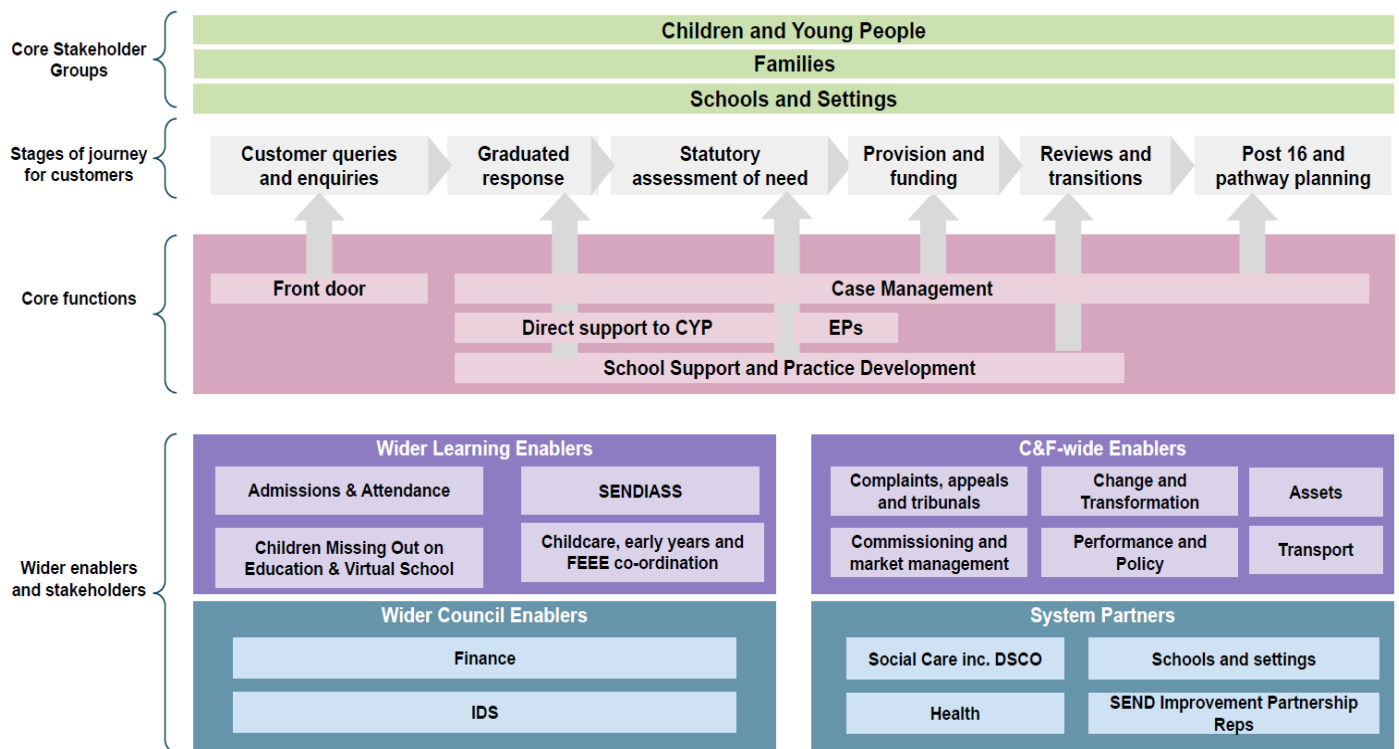
The timeline has been adjusted since April 2024. It was knowingly ambitious given the need to make sustained and real change, however with any major programme of transformation activity, there are risks around pace and this is being monitored closely. Fundamentally the areas where timescales have been redefined are:

- a) changes to the service operating model, which is a significant and complex review of workforce structures, roles and responsibilities in the SEND and inclusion service. This is being progressed by the Deputy Director for Learning and Interim Chief Officer for Learning Inclusion and a revised model should be scoped by the end of August 2024 and
- b) securing temporary additional resource through the procurement process, to work on cases out of timescale. This reflects a three month delay in the start of the work to reduce the number of cases out of timescale however, temporary additional resource will be in place from September 2024.

Both aspects have been impacted in part by staffing capacity as the recruitment process for a number of senior leadership posts has been progressed, alongside the need to ensure that procurement, contractual and governance arrangements are sound and robust.

2.2 Service Model and Case Management

The way in which the Council delivers its arrangements for administering the EHCP process will change and the way that the service is delivered will change as below:



Whilst a significant element of the model is focussed within the Children and Families Directorate, a system wide approach to delivering improvements with external partners is essential. Whilst progress to deliver some change has been delayed as previously outlined, work is now underway to develop the mechanisms which should support an enhanced and consistent approach for service delivery. This involves putting into place different ways of working and the appropriate resources which enables EHCP caseload demand to be managed in the short term to reduce the number or requests out of timescale, and then to manage increasing anticipated demand over the medium and long term.

2.2.1 Recommendation 1 – Progress to meet statutory timescales

Meeting statutory timescales is a fundamental service performance indicator. Contractual arrangements through the procurement process are now in place securing temporary Educational Psychologists and Plan Writers from September 2024, who will be working on the cases which are outside the statutory timescale. This resource is currently expected to be in place for a period of approximately six months, after which the identified cases out of statutory timescale will be cleared, with performance and completion rates being monitored as part of contract management arrangements. The processing of assessments which are not in timescale will proceed in time order, however we will be prioritising assessments at phase transfer and also considering additional vulnerabilities as part of our prioritisation exercise. We will process 100 assessments per month with the additional resource. Additional assessments which have become out of timescale will be able to be processed through the service efficiencies generated as part of the wider transformation programme.

The extent of resources required to support a more effective long term service model is under review during August to ensure that current EHC assessment and planning demand and future anticipated demand can be managed. Workforce tasks and responsibilities are also being reviewed to ensure that time is spent undertaking high value tasks with

appropriate delegations in place. This includes the role of Educational Psychologists (EP), Caseworkers and the support provided by the Business Administration Service.

A pilot panel process was introduced during July 2024. Currently consisting of internal representatives, this is due to be developed to incorporate multi-agency representation in September 2024 and will include the Educational Psychology Team, SEN support services, the Virtual School, Head Teachers and College Principals, SENCOs, Social Care, NHS, and the Youth Offending Team. The new Panel is responsible for ensuring a robust decision making process to assess or issue new EHCPs, to change provision or placement within EHCPs, or to cease plans, focusing on specific cases where consensus is not reached by panel members in advance of the panel meeting itself. The new panel has now met five times (weekly) and is working correctly. This means that new EHCP assessment requests are being approved in a more consistent way. Over time, this will certainly reduce delays but is currently processing requests that are out of timescale at a rate of approximate 100 per week.

Collectively the change to the service delivery model, automation (as outlined in section 2.3) combined, with improved data management will enable improved timescales in the progression of cases and reviews based on indicators around timeliness, complexity, input required, key transition stages, and dependencies on other teams. The renewed focus on joint working, including the new panel approach, supports enhanced working with families, settings and agencies to obtain information, in a timely way so that decision making around issuing a plan and providing funding can be made at the most appropriate time.

2.2.2 Recommendation 4 Improved Casework Processes

Consideration has been given to the establishment of a dedicated, monitored email address for elected members, MPs, school leaders to use in cases where urgent escalation is necessary. It has been proposed that the existing DCS correspondence email address, which is monitored currently and tracks correspondence for urgent response, is used to provide a workable response to this recommendation.

Guidance will be shared with elected members, MPs, school leaders as to how and when they could use this email inbox to escalate and raise concerns.

2.2.3 Recommendation 8 - Practice Driving Process

The principles underpinning the SEND improvement programme and service change remain focused on the codesign ways of working with families. This also extends to professionals and partners supporting children and families. A SEND Oversight Group is now established to facilitate this, which is attended by learning professionals and parent/carer representatives. Engagement and participation through this network is ongoing which facilitates direct feedback on practice change. This has included the design of the digital EHC application form, presented at the July meeting. Since April access and participation across wider networks to discuss EHC improvement is providing assurance that processes are placing children at the centre of all activity to achieve the best possible outcomes. This is underpinned by the cultural restorative values of the Children and Families Directorate including the Children and Young People's Plan obsession of listening to the voice of the child ensuring that children and young people have Voice and Influence.

These wider networks have included:

- Various Families of School across Leeds
- Children and Families Workforce
- Leeds Parent Carer Forum

- SILC Principals
- Health and Wellbeing Board

In the next few weeks engagement through influential networks will also include the SEND Partnership Board, Leeds SEND Employment Forum, SENCO Forum and Leeds Schools Forum and Children and Young People with SEND.

Focus on the design of our service delivery model, and the automation of work through technology will enable staff to focus on work of value, including strengthening knowledge and connections with families and professionals.

Ensuring leadership across SEND and Inclusion which is stable and consistent is essential, recruitment is currently underway for the position of Principle Educational Psychologist. Unfortunately, the recruitment process to appoint the permanent Chief Officer (SEND and Inclusion) and Statutory Assessment and Provision Lead was unsuccessful however, capacity is currently in place through interim arrangements. Recruitment to both these posts will now be supported initially through a revised approach to promote further reach with executive search nationally being considered as an option. It is anticipated that a successful recruitment process would see new staff coming into these crucial roles in the second half of the Spring term of 2025

2.3 Technology and Automation

The SEND improvement programme has emphasis on using technology to automate what are currently manual processes, undertaken by staff who could potentially focus on higher value work, such as progressing plans and engaging with families and partners. Colleagues within the Council's IDS team are supporting the major elements of digital change required to support the improvement work outlined below.

2.3.1 Recommendation 3 - Digital EHCPs

The Scrutiny Board supported the prioritisation of work to develop a digital solution which will enable families to complete digital forms and make EHC submissions on-line. Enabling digital solutions through the creation of a digital EHC application form for professionals, parents, carers and Young People is in progress and an established area of work in the SEND improvement programme. Good progress is being made with the digital form in construction and due to be going through user acceptance testing through August and early September 24. Users testing the new form will consist of education professionals and parent/carers. The opportunity for non-digitally connected parents and carers to make applications, will remain although it is anticipated non digital numbers will be low.

Digital EHCP application work has been prioritised and the solution that allows for individual families to receive an accessible update on the status of their application will be developed in the Autumn.

2.3.2 Planned work below is also built into digital development activity, to support staff focus on value-added work, through the use of technology:

- Automated transcription of notes from a decision panel which can then be uploaded onto core information systems. This will minimise time taken to manually input decision outcomes and support the progression of applications to the next stage.
- Reduce the effort spent chasing partners through automated reminders and simple application forms. This will ensure that outstanding information is collected in a timely manner and reduces complexity in the process.

- Reduced requirements to 'mail merge' information to correspondence manually, to ensure that information is provided to parents, carers and professionals at the right time minimising the need for staff intervention to generate this.

2.4 Customer Focus Communication and Engagement

2.4.1 Recommendations 9 and 10 - Communication Plan and Communication and Engagement

As described in section 2.2.3 access and participation across wider networks to discuss EHC improvement is providing assurance around processes that put children at the centre to achieve the best possible outcomes. During the inquiry process it was acknowledged that communication to Parents, Carers and the wider support network needs to be improved and subsequently a framework of information sharing linked to the SEND improvement work has been established across Leeds Local Offer, Leeds Learning Network and the Staff Hub. The Deputy Director (Learning) and the interim Chief Officer have actively built connections and networks across learning settings and with parent and carer representative groups, including the Leeds Parent Carer Forum. This has enabled conversations regarding the SEND improvement programme to be discussed in greater depth which has facilitated the development of 'frequently asked question information' and direct responses to concerns. Further engagement is being planned, working alongside the Child Friendly Leeds team and the SEND Children and Young People's Forum.

A comprehensive communication and engagement plan is in place and arrangements will continue to ensure that external perspectives including the experiences, views, wishes and feelings of parents and carers, schools and settings, children, and young people, are heard and are reflected in improvement delivery in accordance with the agreed principle of co-design. The recently refreshed Leeds Local Offer is an excellent source of information, advice and signposting for parents, carers and professionals in identifying options for early support. The Leeds Learning Network website is also hosting information providing update and progress on the SEND improvement programme.

Planned changes to the service delivery model and automation will also generate workforce time to enable focus on improved customer response and interaction.

2.5 Funding models

The Scrutiny Board considered a report on the 18th of July 2024 which explained that Funding for Inclusion (FFI) has been a mechanism in Leeds for supporting the education of children with Special Educational Needs by funding provision in education settings since 2002. Following changes to legislation, it has become clear that the system needs to change for a number of reasons, set out in the July report. FFI will be gradually removed whilst the needs of children are reviewed, enabling children to transition to an EHCP as required and therefore receive regular review of provision and the right to appeal in line with statutory responsibilities. At the same time, the local Early Help Strategy will ensure a whole system focus on early intervention and prevention, ensuring a 'Think Family' and right conversation with the right person at the right time approach to identifying, assessing and meeting the needs of children at the earliest opportunity.

Engagement with schools and settings has already taken place to explain the need for change to the FFI support model. The timetable for transition will begin in September 2024 and will proceed in four phases, culminating in a final phase in September 2027. There will be a prioritised approach to assessments for Children Looked After and those children at an education transition point. Schools and settings will be supported through the transition, and the transition plan will be under continuous review in order to take advantage of any

improvements in capacity generated by the progress of transformation activity across the service.

For children currently accessing FFI funded support, some will not meet the EHCP criteria and will have their education provision funded through the school's notional budget in line with the national guidance. Obligations under 'the graduated approach' mean that early support should be put in place by the school and funded by this budget prior to and during the EHC assessment request stage.

As the council's SEND team transitions away from Funding for Inclusion (FFI) as a mechanism for supporting children, a 'SEND support grant' is being developed. This grant funding will allow settings to apply for additional grant funding if the proportion of children with additional needs in their school is above an identified threshold. A similar model is already in place in Leeds where the proportion of children with an EHCP in a setting exceeds a particular threshold. Work is being done now to assess how much resource would be available to support this proposal once FFI transitions have been completed. A suitable percentage threshold will then be identified and will ensure that any SEND support grant funding does not exceed the available budget.

2.6 Additional improvement activity

2.6.1 Recommendation 5 - Information Governance

A review of information governance is currently underway as part of the establishment of the EHC multiagency panels. This means that robust data sharing agreements will be in place ahead of the first multi-agency panel which will take place from the first week in September. This will mean that professionals from across the children's partnership are able to contribute to assessment discussions in a timely way and concurrent with all other professional discussions. This brings Leeds City Council's procedures in line with the national expectations.

2.6.2 Recommendation 6 - Tribunals

As part of Leeds' involvement as one of the pilot authorities within the DfE's Change Programme Partnership, we have adopted the DfE's guidance on 3-tier mediation. This includes the recommendations of communication with families and the offer of a meeting with LA officers subsequent to any assessment being turned down by the panel. We hope that this will support our intention to reduce tribunal levels.

2.6.3 Recommendation 7 - Placements

Work has begun, led by the commissioning team, in relation to the quality assurance of independent education placements. The interim Head and Assistant Manager of SENSAP are currently reviewing the training available to casework officers to support improved knowledge in relation to the legislation and statutory processes.

2.6.4 Recommendation 11 - Ongoing Check and Challenge

The Director of Children and Families welcomes the ongoing commitment of the Children and Families Scrutiny Board to providing check and challenge through the Board's work programme in the 2024/25 municipal year. This systemic programme of improvement as outlined in 2.1, with its associated complexities will take time to deliver and establish as 'business as usual' however progress is under constant review and supported through the

internal governance of the Children and Families Delivery Board and Children and Families Financial Task and Finish Group.

3.0 What impact will this proposal have?

- 3.1 The improvement work 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, and achieve improved outcomes for children and families, centred on the needs of children and young people within Leeds who need the most support.
- 3.2 The Scrutiny Boards recommendations provide an ongoing commitment to monitor progress and provides a welcome element of check and challenge on the ongoing improvement work being undertaken by the Children and Families Directorate

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

Health and Wellbeing Inclusive Growth Zero Carbon

- 4.1 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 and will support health and well-being of children and families accessing support and longer term, as improvement is delivered, improve the skills and qualifications achieved by this cohort and contribute to the Council's Inclusive Growth ambitions.

5.0 What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

- 5.1 In addition to the provision of information to support the Scrutiny Board inquiry, consultation and engagement has occurred in the steps taken in developing the programme and has included activity with schools and settings, user questionnaires, direct focused engagement with the parent and carer forum, and children/young people along with significant internal communication and engagement with staff. Engagement will continue as the improvement work continues, supported by 'Frequently Asked Questions', information and advice, which will also be hosted on Leeds for Learning, Leeds Local Offer and the Children and Families Staff Hub webpages.
- 5.2 The planned programme arrangements have been reported to the Executive Board which is supportive.

6.0 What are the resource implications?

- 6.1 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.

- 6.2 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 limit imposed on the funding increase which 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. Leeds is one of the 32 local authorities out of 150 that will continue to have their funding capped in 2024/25.

Therefore, with regard to Recommendation 2 - Funding, The Director of Children and Families welcomes the Scrutiny Board support in its decision 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.

- 6.3 The Medium Term Financial Strategy completed during 2023 showed that in 2025/26, if no action is taken the DSG in Leeds is projected to overspend by £31m and in 2026/27 this would increase to £51m. The majority of the overspend is on the high needs block.
- 6.4 The cost of the review process and the implementation of required changes will be managed initially through the application of existing resources. The cost of reducing EHC cases out of timescale is currently estimated at £850,000, this will be funded in part by the Council's Strategic Contingency reserve, which will be reimbursed over time. There is an additional cost associated with the delivery of digital improvements and programme management for the required changes, in the region of £350,000 which is provided on an invest to save basis.

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

- 7.1 Mitigating the risk of negative outcomes for Children and Young People is driving the programme of work being undertaken by the Children and Families Directorate. Using feedback, knowledge and experience of everyone supporting this work, including parents, carers and children will ultimately inform the approach for change to ensure that services respond in a timely and effective way. Risk management activity forms an integral element of the Directorate's Transformation Programme and is reported to and scrutinised by the cross Council Delivery Board, which is chaired by the Director of Children and Families. In addition, the SEND Partnership Board has a monitoring and oversight role to ensure that the necessary progress and improvement is achieved.
- 7.2 There are specific reputational and financial risks associated with the Council's arrangements not being legally compliant. The improvement work set out in this report is integral to having appropriate arrangements in place to fulfil statutory duty.
- 7.3 The risks associated with the change process and the current arrangements are included within the Directorate's risk reporting and monitoring. There is a direct link to the 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 be reflected in poor inspection outcomes.

8.0 What are the legal implications?

- 8.1 The improvement process itself does not give rise to any legal implications. It is imperative that any new or revised arrangements are legally sound and reflect the legal framework governing the EHC process.

Options, timescales and measuring success

9.0 What other options were considered?

9.1 Given the risks associated with not having appropriate arrangements, a 'do nothing' option was discounted. Following the 'discovery' and 'design' stages of the review, the option not to move forward with the 'delivery' stage was discounted for the reasons set out in the body of the report.

10.0 How will success be measured?

10.1 As part of the programme a range of success measures will be constructed to measure impact and success across all workstreams. This will include the reduction in cases out of statutory time scale, current and future EHCP demand management and improved customer support.

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

11.1 The Deputy Director (Learning) and the interim Chief Officer Learning SEND and Inclusion are responsible for implementation. Timescales are as set out earlier.

12.0 Appendices

12.1 None.

13.0 Background papers

13.1 None.