

SCRUTINY BOARD (CHILDREN AND FAMILIES)

PROVISION OF EHCP SUPPORT IN LEEDS

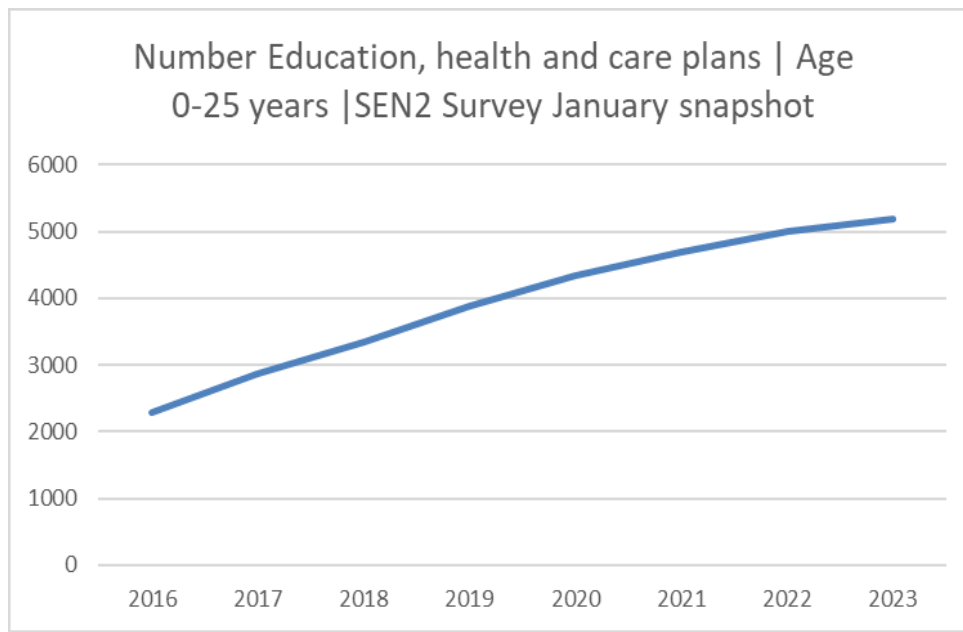
INQUIRY DRAFT TERMS OF REFERENCE

1.0 Introduction

- 1.1 In considering the future work programme for 2023/24 the Children and Families Scrutiny Board expressed a desire to look in more detail at Education Health and Care Plans (EHCPs) in Leeds.
- 1.2 Within its remit Children and Families Scrutiny Board has executive functions that cover the services that deal with EHCPs in the form of 'Learning including Special Educational Needs and Disabilities (SEND).
- 1.3 It is therefore proposed that the Board will conduct an inquiry into the provision of EHCP support. This will include a review of EHCP processes as well as other factors that impact on service provision for children with SEND and their families. The aim being to understand, analyse and where appropriate make recommendations to improve the services offered to children and families who believe that their children should have an EHCP.
- 1.4 At the 7th of June Children and Families Scrutiny Board meeting an item on Sources of Work was considered. This sought to take views from board members, Executive Board members and senior officers on potential areas of work for the municipal year. The item reached broad agreement on areas of focus for the year and sought to assess the viability of bringing work items to the Board and to prioritise work streams where the Board can add the most value in terms of recommendations and improving services for Leeds residents.
- 1.5 At the 7th of June meeting there was broad agreement from the Chair of the Board, board members, Executive Board Members and senior officers to a detailed piece of work on EHCPs in this municipal year.
- 1.6 A key driver for this inquiry is the significant increase in demand for EHCPs 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. 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

Figure 1

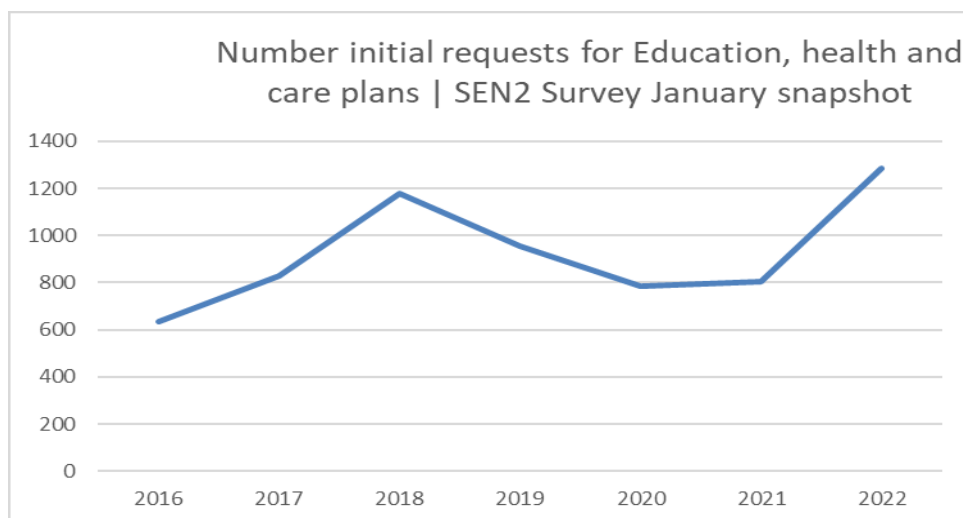
Figure 1 shows the scale of increase in EHCPs since 2016:



To provide the national context, the number of children and young people with EHCPs nationally is 473,330 after a 10 per cent increase in a year (figure from June 2023).

Figure 2

In addition, the increase in requests for EHCPs annually shows little sign of reducing. Figure 2 Highlights that 1,289 requests were made for an EHCP in 2022, the highest figure since 2018 when there 1,179 requests. This increased demand is continuing in 2023 with 479 requests made between January and April, suggesting that the 2022 figure could be surpassed.



1.7 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. This resulted in a dramatic reduction of the percentage of EHCPs completed within the 20-week timescale in 2022.

1.8 Since that time a number of actions have been taken to address and mitigate the presenting challenges:

- The council has now invested additional funding in the SENSAP team, and the team were able to recruit 15 full time equivalent staff over the summer of 2022 to new and vacant posts. The impact is already being felt with more staff available to work on EHC plans, mediation, tribunals and in responding to complaints.
- The structure has been redesigned, with much more capacity at ground level, with a refreshed and reinvigorated senior leadership team.
- All members of staff who have been on long-term sick are now back in work and reporting improved work-related mental health and wellbeing.
- This is also reflected in a shift of existing work, specifically the way cases are allocated, to focus primarily on building relationships - rather than being a faceless service as has been described in the last few years. This means that families coming into the service should have a better relationship with the staff allocated to their case and this in turn will rebuild confidence, reducing the potential for complaints.
- There exists still a significant backlog of cases that the team are working through, using agency staff with the aim of ensuring the backlog does not impact on capacity for new work.
- The team have also refreshed almost all their existing systems and processes to ensure that they are streamlining work and reducing duplication.
- Additional support from IDS to support and transform work-flow processes and automate where possible has been requested, ensuring all recording can be carried out on the Synergy system, reducing the need for attachments and separate spreadsheets.
- “Associate” Educational Psychologists have been brought in to provide interim agency support to meet demands.
- As recruitment of qualified Educational Psychologists has mainly been unsuccessful. A review of the structure of the EP team has been undertaken and creative solutions to recruit more trainee Educational Psychologists and Assistant Educational Psychologists in a “grow your own” model has been developed. The training of an educational psychologist takes 3 years and it is expected trainees will be able to learn practically on the job and be able to support

writing of EHCP's within Leeds and stay on once they are fully qualified.

- A quality assurance and competency framework has been created to better assure the quality and consistency of our offer to families, alongside ensuring the wellbeing of staff.
 - CFSLT agreed additional consultant time to focus on high profile cases
 - CFSLT agreed additional capacity to focus on complaint resolution and communications
 - The SENSAP team are working hard to continue to tackle the backlog of assessments. By utilising agency staff, and creative other means the management team are hopeful that the backlog will be cleared by the end of summer 2023.
- 1.9 It must also be noted that whilst there is a recognition that our EHCP processes and timeliness are of significant concern this does not mean that children and young people within our schools are not receiving additional funding to support identified need. In Leeds we have a funding system where monies are passported to schools from the high needs block without the need for an EHCP to support at the earliest level and in line with “right support at the right time”. This funding system is called Funding For Inclusion (FFI) that is currently also being reviewed, with several short-term changes being made by the team themselves following feedback from partners across the city at a recent roundtable event. A working group of volunteers representing schools at all levels and areas has also been created to co-produce the medium- and long-term changes to FFI to ensure it continues to meet the needs of children, and school staff.
- 1.10 Further to this, a number of actions were undertaken by our BAS colleagues who are vital in supporting the SENSAP teams, and in particular the EHCP process:
- All BAS colleagues have now returned from long term sickness.
 - The corporate telephony system (Avaya) is being implemented to support with better telephony processes and management information. The new system was available from 1 March. It enables staff to track calls, assign agents to answer these calls, visibly see calls waiting/dropped etc so they can manage resource across the lines.
 - This also improves parent/carer experience through managing expectations of call waiting times, providing key messages such as an opening message, call routing e.g. press 1 for School enquiries etc. so the team can assign agents who have the appropriate skills and knowledge.
 - Outstanding vacancies have now been appointed to.
 - The BAS structure in SENSAP has increased to create a new supervisor position and three more administration assistants to cope with increasing demands; two of which started w/c 13/2/23 with the final one starting on 6/3/23, the previously mentioned BAS service review was based on workloads pre-pandemic.

- Staff have been encouraged to attend the office more, and are doing so which supports employee wellbeing, training, and development. This is especially relevant for new starters.
- Members of our wider BAS service development team have been seconded to the SENSAP team to help assist with backlogs and ensure quality training instructions are in place for all tasks. One of these staff is seconded indefinitely. Working with the service, BAS staff reviewed processes with the result of creating the new development programme for all administration staff supporting SENSAP.
- Finally, The most important change made by SENSAP and BAS support is that SENSAP now has its own stages of the workflow to move forward instead of being fully reliant on BAS. These stages are the statutory dates meaning that it is more straightforward to make sure the timeliness KPIs are fulfilled.

1.11 The inquiry will consider the impact of the changes that have been made and the impact of the ongoing increased demand at a national, regional and local level as a key element of this work at its September meeting (more detail below at paragraph 6).

1.12 It is important to note that performance on the 20-week timescale had previously been a national exemplar, In 2019, the 20-week percentage was 96.1%, and whilst this decreased to 89 per cent, performance in Leeds remained strong and above comparator averages.

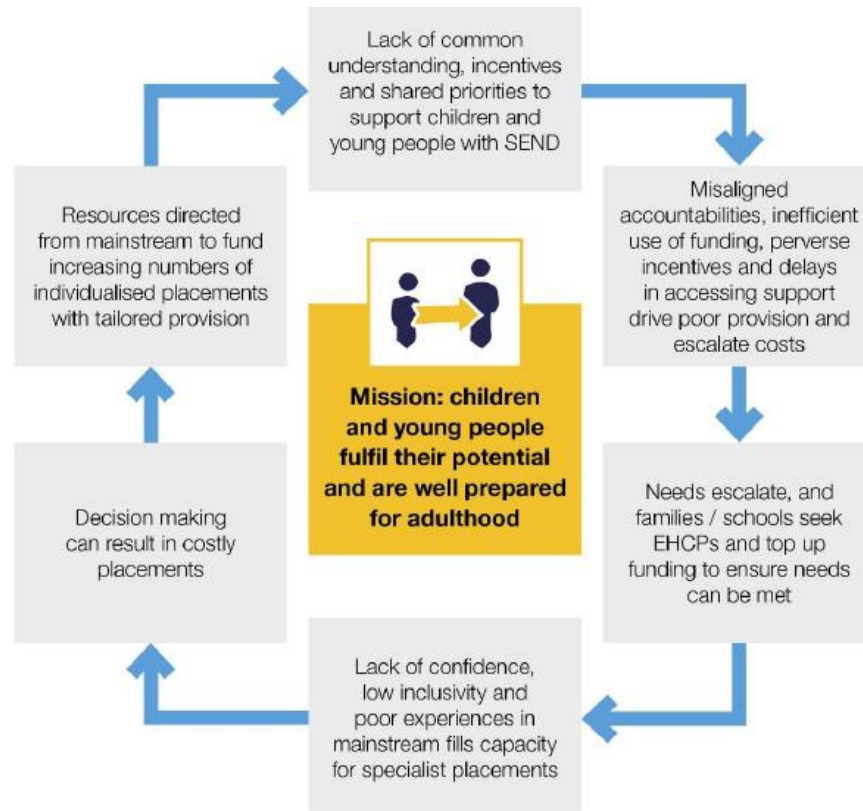
2.0 Scope of the inquiry

2.1 As noted above increased national, regional and local demand as well as particular local challenges and the impact on service provision are two key drivers for this work. However, there are other issues to consider as part of an end-to-end analysis of EHCPs and these are set out in more detail in the section below:

- **Impact of the Government's SEND Improvement Plan in Leeds –** The Government first launched its SEND Review three years ago and this year published the SEND Improvement Plan. Within this plan are a number of proposals that could impact Leeds not least through the £70m Change Programme that will pilot proposed legislative changes over the next two to three years. The Change Programme is expected to impact as many as sixty local authority areas and will have a key impact on SEND and alternative provision as a whole, but also EHCP processes, some of which - such as digital EHCPs and proposed mandatory mediation - are detailed below. The Change Programme proposes to test, deliver and iterate the key reform proposals through 9 Regional Expert Partnerships. Each region will have a lead local authority linked to regional partners (number to be determined) and will build capacity and capability through a sector led taskforce approach.

- **SEND System** - Figure 3 provides the DfE analysis of issues in the SEND system. This inquiry is not about the SEND system as a whole as that is likely to be too big in terms of subject matter, but ‘the system’ does have an impact on the increase in EHCPs which is highlighted in the diagram *‘Needs escalate, and families/schools seek EHCPs and top up funding to ensure needs can be met’* so a preventative approach within the SEND system could reduce demand and improve outcomes:

Figure 3



DfEs analysis of the problems with the SEND system

- **Digital EHCPs** – Given that some of the challenge around EHCPs has been dealing with administrative backlogs and assessments, the proposed move to digital EHCPs in the Green paper could have a bearing on this inquiry and it will be important to understand the implications of this proposed change. One possible area of concern is that initially the digital approach will not be mandated, instead councils will be encouraged to use them, and they are not expected to be fully operational until 2024/25. That said the stated aim of the digital approach is to work with councils, suppliers and families to evaluate how “digital solutions might best improve their experiences of the EHC process.” This suggests that ultimately this may speed up local authority processes.

- **Proposed Mandatory Mediation** – The Change Programme will also scope enhanced mediation between local authorities and families during the EHCP process. A significant issue within the existing process is the growing reliance families have on launching tribunal appeal cases to contest decisions where an EHCP has not been issued or an EHC assessment has been refused. The tribunal process is lengthy, and it is debateable as to whether added mediation would speed processes up or potentially slow them down further. Albeit the aim of clearly setting out what local mediation processes should be and giving families confidence in them could strengthen the system longer term.
- **Workforce Challenges** – As highlighted by a recent Social Care Ombudsman case brought by a family in North Yorkshire local authorities face significant and systemic challenges in appointing specialist staff to conduct EHC assessments. In the specific North Yorkshire case from November 2022, the staffing shortage related to Educational Psychologists (EPs) and ultimately resulted in a delayed EHCP and a process that was found to be insufficiently thorough. However, this is not solely about EPs there are challenges throughout this specialist workforce particularly in areas such as speech and language therapy. These challenges have led to 114 SEND-related organisations and professional bodies writing to Government to call for solutions to workforce challenges through enhanced workforce planning in the SEND Improvement Plan.
- **Impact of Covid-19 Pandemic** – The increase in EHCPs and EHC assessments has also been impacted by the pandemic with children and young people now reporting increased anxiety and potential need for additional support.
- **Communication with Families** – Communication with families has been an issue in relation to individual cases. As part of this work, it will be important for the Board to understand the challenges faced and to monitor performance.
- **Funding** – A key question central to many of the above points but notably around government policy changes and workforce challenges is to assess whether the Council has sufficient resources to provide the best service it can on EHCPs. This would apply to both how much the Government is providing and allocation of available resources at the Council's disposal.
- **Growing Demand** – Predictions on service demand suggest that growth in requests for EHC assessments in Leeds will range between 7 and 14 per cent in the future. This presents an ongoing challenge for the Council and is also linked to government funding and how sustainable that is at current levels.

3.0 Desired Outcomes and Measures of Success

- 3.1 It is important to consider how the Scrutiny Board will consider if their inquiry has been successful in making a difference to local children and families. Some measures of success may be obvious and others may become clear as the inquiry progresses and discussions take place.
- 3.2 However, the primary aim of this Inquiry is to aid in enhancing the services offered to children and families in Leeds and to make recommendations that could improve the provision of EHCP support to children and their families.

4.0 Comments of the relevant Director and Executive Member

- 4.1 In line with Scrutiny Board Procedure Rule 32, where a Scrutiny Board undertakes an Inquiry the Scrutiny Board shall consult with any relevant Director and Executive Member on the terms of reference. This item provides a draft terms of reference document for comment and adjustment by Executive Board members, senior officers and members of the Children and Families Scrutiny Board.
- 4.2 This follows initial consultation on work programming for 2023/24 at a meeting with the Director of Children and Families in May 2023. In addition, this item featured under the Sources of Work agenda item at the 7th of June scrutiny board meeting with broad agreement reached for work to be initiated on EHCPs in the 2023/24 municipal year.

5.0 Timetable for the inquiry

- 5.1 The Inquiry will commence through consideration of this draft Terms of Reference report with further proposed items in September 2023 and November 2023 with a commitment to try to deliver an inquiry report in the 2023/24 municipal year. As the work develops timescales are expected to become clearer in respect of inquiry and evidence gathering sessions.

6.0 Submission of evidence

- 6.1 **6 September 2023 – Approve Terms of Reference & Update report from Children and Families directorate**

To consider evidence in relation to the following:

- Agree final Terms of Reference
- Update position on performance and backlogs and effectiveness of enhanced resource and staffing restructure through a report from the Children and Families directorate. Report to also include:
 - Demand monitoring how has the increased demand for EHC assessment and EHCP continued over the summer months?
 - The impact of Covid-19 on SEND and EHCP demand.

- Complexity of EHCPs
- Funding challenges
- Assessment of proposed legislative changes such as the SEND Improvement Plan and the linked Change Programme and the likely impacts in Leeds. To include assessment of digital EHCPs and possible mandatory mediation and their impact on the provision of EHCP support in Leeds.

6.2 **29 November 2023 – Wider witnesses and demand/performance monitoring**

- Hearing from wider witnesses – consider feedback received by the service from the learning community, children and families and how this has impacted on service delivery and development.
- Continue demand monitoring and assess sufficiency of staffing. Has performance continued to be improved?
- Are wider workforce challenges persisting in terms of specialist staff?
- Re-evaluate the timetable for the inquiry, has the Board heard all the evidence that it requires on this issue?

6.3 **February/March 2023 - Draft Inquiry Report/Statement**

- Consideration of a draft inquiry report with opportunity for all to comment and amend as appropriate

7.0 **Witnesses**

7.1 The following have been identified as possible contributors to the inquiry, however others may be identified during the course of the inquiry:

- 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 Inclusion
- Statutory Assessment and Provision Lead Officer

8.0 **Equality, Diversity and Inclusion**

8.1 The Equality Improvement Priorities have been developed to ensure the Council's legal duties are met under the Equality Act 2010. The priorities will help the council to achieve its ambition to be the best City in the UK and ensure that as a city work takes place to reduce disadvantage, discrimination and inequalities of opportunity.

- 8.2 Equality, Diversity and Inclusion (EDI) will be a consideration throughout the Scrutiny Inquiry and due regard will be given to EDI through the use of evidence, written and verbal, outcomes from consultation and engagement activities.
- 8.3 The Scrutiny Board may engage and involve interested parties and individuals (both internal and external to the council) to inform recommendations.
- 8.4 Where an impact has been identified this will be reflected in the final inquiry report, post inquiry. Where a Scrutiny Board recommendation is agreed the individual, organisation or group responsible for implementation or delivery should give due regard to EDI when conducting impact assessments where it is believed appropriate.

9.0 Post inquiry report monitoring arrangements

- 9.1 Following the completion of the Scrutiny inquiry and the publication of the final inquiry report and recommendations, the implementation of the agreed recommendations will be monitored through update reports to the Board either on request from Board members or through an annual update approach for the Board to consider.