

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

Date: 19<sup>th</sup> June 2024

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 18<sup>th</sup> October 2023 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, the discovery stage, had been commissioned and was the subject of external support. 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 provided to Executive Board at its meeting on 13<sup>th</sup> December 2023 which set out how the next stage of the review would be undertaken, this review would set out a series of deliverables which would form the 'design stage'. The 'design stage' would set out a series of changes required to improve the EHCP processes delivered and the benefits which would be accrued to children (and their families) involved in the process of assessment.

Now that the 'design stage' is completed, the Council has moved the 'delivery stage' on the new arrangements and this report sets out, in some detail, the changes to be made and the benefits to be delivered.

## Recommendations

Executive Board is recommended to:

- a) Agree the proposed changes to be made to the way in which EHCP processes are delivered in Leeds.
- b) Endorse the need to ensure that the views and experiences of children, young people parents and carers are captured during the delivery of changes and improvements.
- c) Endorse the need to work in partnership with a range of stakeholders, especially schools and other specialist settings, to deliver improvements to EHCP arrangements across Leeds.

- d) In accordance with the established arrangements for reporting and commenting on Scrutiny Board Inquiry reports to note and comment upon the concurrent Children and Families Scrutiny Board Inquiry report which is attached as appendix 2.

## 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), it sets out a plan for their educational, health and social care that must be implemented in order to meet their assessed needs and to support them to 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, 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 (the discovery 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 driving 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 a 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.

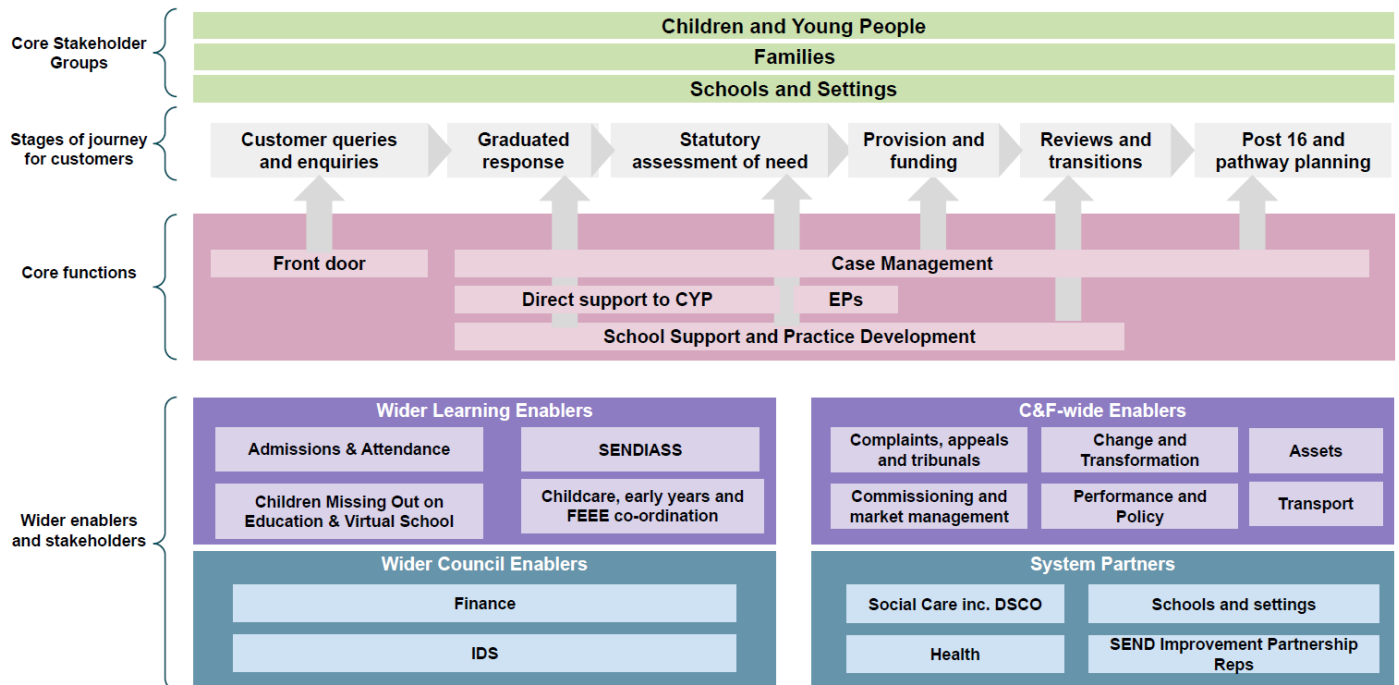
1.4 The second stage (the design stage) of the review, was reported to Executive Board at its meeting in December 2023 and set out how the arrangements to deliver EHCPs and to ensure benefits were to be delivered. In headline terms this included:

- 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
- 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
- Ensuring that staff are supporting the change and are ready to run the service in a 'business as usual' sense whilst making continuous improvement.

1.5 Since the report to Executive Board in December, detailed work has been undertaken to set out new policy, processes and arrangements to deliver change across the whole spectrum of activity associated with the delivery of EHCP arrangements. The detailed work has provided a range of proposed changes.

## 1.6 Operating Model

The way in which the Council delivers its arrangements for administering the EHCP process will change and a new operating model will be developed which will be based upon the following:



The operating model reflects that the Council needs to work collaboratively with schools and settings and needs to reflect on the needs and aspirations of children, young people and their parents and carers. The 'customer journey' will be redesigned and will have a 'single front door' which is supported by a simplified digital application process, whilst also providing an opportunity for non-digitally connected parents and carers to still make applications. Feedback from learning settings and families has informed the need for a solution that allows for individual families to have access to the status of their application for support. This solution will provide automated extract information from 'back office' systems which will hold applications and associated data and enable families to see progress. Streamlining processes and providing automated information should deliver improvements in timeliness and information sharing. The 'single front door' will support a single assessment route so that the Council can be assured it is assessing every request for support in accordance with its statutory obligations.

The Operating model will provide for more effective case management which will improve tracking of cases and should deliver benefits in communicating back to parents, carers and settings. It is important to note that whilst a significant element of the Operating Model will be focussed within the Children and Families Directorate, only a system wide approach to delivering improvements will work and therefore a systems wide focus on how the Council works across Directorates and with external partners will be paramount.

Opportunities to consider how existing resources could be adjusted to support the new Operating Model will be undertaken and may involve changes in activity within a wide range of LCC roles, including a focus on the role of Educational Psychologists (EP) in assessment; automation and process improvements in SENSAP (SEND Assessment and Provision), supported by changes within the Business Administration Service. Staff from across Learning Inclusion but not directly involved in the EHCP processes will be tasked with

determining what 'added value' activities can be leveraged to support the changes in EHCP processes. Colleagues within the Council's IDS team will be supporting the major elements of digital change required to support the new operating model.

## **1.7 Process and Functional Improvements**

The new Operating Model will be supported by a range of process changes which will aim to deliver improved efficiency and effectiveness whilst also providing better outcomes for young people. Collaboration and work between caseworkers and EPs will be improved to ensure that consistent assessments are approached in a proportionate way, which balances effective use of capacity through assessment and in decision making.

The model will include a process for ensuring EP assessments add value to a decision around support, provision and issuing an EHCP which provides the information required to draft and finalise an EHCP, as opposed to summarising existing knowledge about a child or young person (which is a noted concern of parents and carers). The new Operating Model will seek to ensure assistant EP resource is used in the best way to contribute towards assessments and in particular in removing backlogs of activity. A key focus in the new Operating Model will be on using technology, where possible, to minimise the amount of manual note taking, summarising and uploading required to complete an assessment and using intelligent routing and technology to minimise the amount of travel required and maximise the amount of productive time spent assessing and progressing cases. Crucially the model will allow for EPs to continue to work with schools and settings to continually improve practice in providing support to children and young people and build trusted relationship with SENCOs at individual settings.

## **1.8 Improved Case Management**

The New Operating Model will allow for improved case management and will include the use of business rules to assist in the assignment of caseworkers to young people as soon as a need is identified. Assignment of casework officers should reflect need and demand across areas of Leeds and will be coordinated with other assigned area staff members.

Case Management changes will allow for enhanced working with families and settings to ensure applications for an assessment of need take place in a way which uses existing information, a single form (digital where possible), reliable data and considering the legislative context to take the right action and make the right decisions for an individual young person. Improvements in triaging cases will be prioritised to allow for front door teams to take initial enquiries around support and ensure this becomes an ongoing case that is subsequently managed as appropriate. This involves using systems to record data and using this data to inform decision making. Enhanced prioritisation approaches will be deployed which allows for progression of cases and reviews based on indicators around timeliness, complexity, input required, key transition stages, and dependencies around input from other teams. Joint working will be strengthened to allow the support provided as part of the graduated approach to take place at the right time, and the outcomes are monitored and used to inform appropriate next steps. In addition, a renewed focus on joint working will allow for enhanced working with families, settings and agencies to obtain information at the right times, so that decision making around issuing a plan and providing funding can be made at the most appropriate time.

## 1.9 Customer Focused Improvements

Opportunities to allow for improved customer experience will be progressed including refining guidance on customer interaction, including using clear scripts and business rules and processes to provide a consistent experience to families and settings, with call types recorded and used to continually improve these conversations and the communication with families and settings. Changes will be made to provide support to families and settings to fill in application forms and progress their application using guidance and resources that are subject to periodic review. This will allow feedback from parents and carers to be collected and in turn utilised to further improve arrangements. Additionally, the Service will seek to gather feedback from the Special Educational Needs and Disabilities Information Advice and Support Services (SENDIASS) and use that to further refine our approach to delivering services. In addition, opportunities for carrying out 'value-adding' activity will be considered as a potential future phase of digital activity, through the use of technology to:

- Automatically take data from a single digital application form into core information systems and begin the workflow
- Automated transcription of notes from a panel which can then be uploaded onto core information systems
- Reduce the effort spent chasing partners through automated reminders and simple application forms
- Reduced requirements to mail merge requests

This future potential phase of digital activity, which requires formal scoping to determine key outcome measures, costs and timescales, will be dependent upon the availability of resource, most likely on an invest to save basis reflecting a reduction in manual effort, and a suitable technological solution being available. At this stage, before the scoping is concluded and before full implementation of initial changes, it is difficult to estimate the time and cost of a future phase, but this will be kept under close review.

## 1.10 Funding and assessment

The existing model of funding of additional needs within Leeds has been built up over time and has generally served Leeds well. There are four separate elements of funding which are available:

- Funding provided directly to schools to meet the additional needs of pupils on a general basis and for which the school should 'ordinarily provide' support (Notional Inclusion Budget)
- An amount of funding provided within Leeds that reflects the overall number of pupils with additional needs over and above that included for within the Notional Inclusion Budget (Additional Block Funding)
- Top-up to settings based upon the needs of individual pupils, over and above that which is ordinarily available who's needs have not yet been assessed by an Education, Health and Care Plan – Funding for Inclusion (FFI)
- Top-up Funding for individual children assessed for and in receipt of an Education, Health and Care Plan. (FFI)

The existing model covered by the first three bullet points is predicated on schools being able to meet the additional needs by means of the funding provided. Whilst it has its place in certain circumstances, this has, over time, resulted in individual children not always being assessed at the appropriate time or indeed at all for an Education, Health and Care Plan. The new operating model seeks to regularise this position by moving to one assessment process where there is a view that a child or young person has additional needs. This single

assessment process will be undertaken to also determine what funding should be provided which will be matched to need and the appropriate provision that is deemed above ordinarily available resource to support those identified needs.

Whilst FFI funding will continue and the total level of available resource and funding will not change, it is expected that the proportion of funding across the areas set out above will change; as those children currently in receipt of FFI and no EHCP potentially receive an EHC needs assessment and all new individual funding will be only be administered via the EHC process.

Therefore, there will need to be a transition process for children currently in receipt of FFI without EHCP funding which will involve a decision to assess for an Education Health and Care Plan. There will be a prioritised approach to assessments and this will seek to prioritise Children Looked After and those children at an education transition point.

The current process of determining assessment for individual funding will move to a single unified assessment based upon the following principles:

- Simplified application through one single form
- Improved communication with families and schools and settings
- Carrying out a panel to make a decision to issue an EHCP
- Considering assessment, setting, funding and transport as part of this panel
- Developing a proportionate approach for EP assessments

Whilst this transition process takes place, any child or young person receiving additional resource through FFI will continue to do so. The transition process is expected to 3 years but will be dependent upon a series of considerations including availability or staffing resource for assessment.

The Council will also be considering a mechanism to support settings with a high proportion of need to direct resource to cohorts of children to ensure provision can be in place and sustained.

### **1.11 Tackling assessments that are outside of statutory timescale**

The Council currently has a number of EHCP assessments that are outside of the required statutory timescale for completion, this reflects a combination of increasing demand and complexity alongside a recruitment and retention issue particularly acute in relation to EPs. Accordingly, additional external EP resource will be secured to provide a dedicated resource to reduce the assessment delays. Assessment modelling will be undertaken so that an appropriate mix of 'new and old' assessments can be undertaken which will be based upon utilising external additional capacity on outstanding assessments and internal resource on new assessments, this will mean that the Council is focussing both on longstanding assessments whilst also ensuring that delays in new assessments are kept to a minimum. This additional resource will allow for the Council to significantly improve its performance and meet its statutory obligations on timescales for assessment. The cost of this additional resource is set out in Section 5 below. The timescales for this externally supported work is variable as the time required for individual EHCP assessments can vary significantly, an agile approach to dealing with this variability will be taken by the use, via existing agreed framework contracts, of more than one supplier of EP resource.

## 1.12 Other improvements

In addition to the substantive significant improvements set out above the work to be undertaken will also include a range of measures including digital improvements which will aim to improve the availability and visibility of performance data so that the service can increasingly seek to use data and insight to improve outcomes. There will also be a significant focus on organisational development with a view to seeking cultural change across the services involved which will strive to build upon a culture which is child centred, solution focussed, embracing change, and with a commitment to co-design and cooperative working with a range of stakeholders.

- 1.13 The proposed changes, at a headline level, are captured in a 'Plan on a Page' which is attached as appendix 3.

## 2.0 Scrutiny Board Inquiry

- 2.1 Whilst the Directorate has been undertaking its review it is important to note that the Children and Families Scrutiny Board has been undertaking its own review of SEND and EHCP arrangements. The Scrutiny Board agreed its inquiry report at its meeting on 18<sup>th</sup> April 2024. There are a number of elements of the Scrutiny Inquiry that will be addressed through the improvement work set out in this report. The Scrutiny Board's inquiry report is presented to the meeting as an appendix to this report and Executive Board are requested to respond to the inquiry report in accordance with the established arrangements for reporting and responding to Scrutiny Board Inquiry reports.

## 3.0 Timeline and Governance

- 3.1 An indicative outline timeline for implementation of the proposed new arrangements and for the delivery of improvements is set out in appendix 4. The timeline is knowingly ambitious given the need to make sustained and real change, this does mean however, as with any major programme of transformation activity, that there are risks around pace and the timeline set out above may need to flex to reflect challenges on delivery, programming constraints etc. In order ensure the necessary pace of transformation is maintained a programme approach will be taken around governance, which will include the continued operation of a officer SEND Delivery Steering Group, encompassing staff from across the Council, including enabler functions such as HR, Finance, IT and Legal, driving the change forward. The Deputy Director Learning will act as Project Sponsor for the change work and the Senior Responsible Officer will be the Interim Chief Officer Learning Inclusion. Arrangements will be made to ensure that external perspectives including parents and carers and schools and settings, are heard and fed into the redesign proposals, in accordance with the agreed principle of co-design. The change programme will be the subject of regular and frequent communication and engagement with stakeholders including schools and settings and parent and carer groups. The work will fall within the umbrella of the newly reconstituted SEND partnership.

## What impact will this proposal have?

- 4.0 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, centred on the needs of children and young people within Leeds who need the most support.
- 4.1 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 has occurred in the steps taken so far in developing the programme and has included activity with schools and settings, user questionnaires, direct focused engagement with the parent and carer forum, along with significant internal communication and engagement with staff. This consultation and engagement will continue as the improvement work is taken forward, 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.
- 4.1 The Executive Member for Children and Families has been consulted on the planned arrangements and is supportive.

## 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. Leeds is one of the 32 local authorities out of 150 that will continue to have their funding capped in 2024/25.
- 5.2 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.

- 5.3 Given the increased demand and increased level of complexity in need, the cost of the assessment process and the cost of provision is increasing and is a significant pressure for the Council. Elsewhere on the agenda for today's meeting, the Council's Financial Health Monitoring 2023/24 - Outturn Financial Year Ended 31st is reported, the costs associated with EHCP assessment and the majority of transport costs is included within the Directorate's General Fund Outturn position (for the General Fund) and the cost of provision, is shown in the Dedicated Schools Grant outturn.
- 5.4 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 the number of outstanding EHCP assessments is estimated at a maximum of £850,000, this will be forward funded in part by the Council's Strategic Contingency reserve, which will be reimbursed over time. Funding will be released in tranches, based on evidence that targets are being achieved. There will also be an expected avoidance of costs associated with EHCPs not being delivered in a timely manner and the avoidance of costs associated with complaints and remediation arising from not meeting required timescales. There is an additional cost associated with the delivery of digital improvements and programme management for the required changes, these are estimated to be in the region of £350,000 which will be provided on an invest to save basis.

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

- 6.0 There are 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. In addition, the SEND Partnership Board will have an overview of the change activity. Elected Members, including the Executive Member for Children and Families will continue to be engaged on progress and delivery through a range of engagement measures.
- 6.1 It should be noted that 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 ensure compliance in the face of the challenges outlined in the early part of the report.
- 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 improvement 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.

## **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, having undertaken 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.

### **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. The Deputy Director for Learning will be the Project Sponsor and will lead on overall objectives, communications and will drive the change programme forward. The Interim Chief Officer for Learning Inclusion will lead on the detailed delivery of the change activity. Implementation of the change programme is immediate and ongoing.

### **Appendices**

- 11.0 Appendix 1 EDCI
- Appendix 2 Scrutiny Board Inquiry Report
- Appendix 3 'Plan on a Page'
- Appendix 4 Timeline

### **Background papers**

12.0 None.