

SCRUTINY BOARD (CHILDREN AND FAMILIES)

PROVISION OF EHCP SUPPORT IN LEEDS

INQUIRY DRAFT TERMS OF REFERENCE

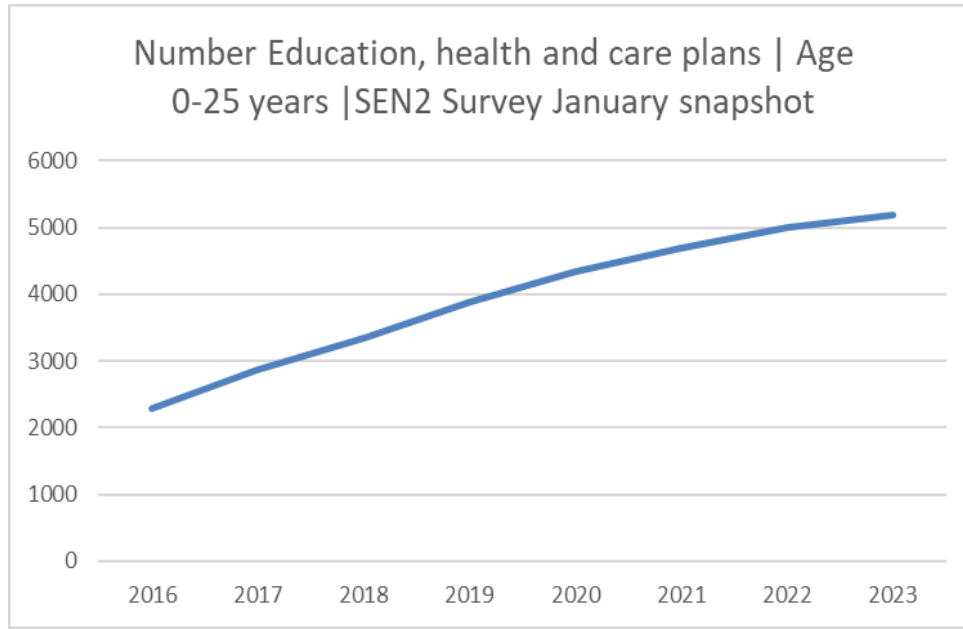
1.0 Introduction

- 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 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 Since the June meeting the Council has requested a review of EHCP processes. This is being carried out by PwC and the findings of this review, which will be running in parallel to the Board's work, will form part of the inquiry.
- 1.7 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

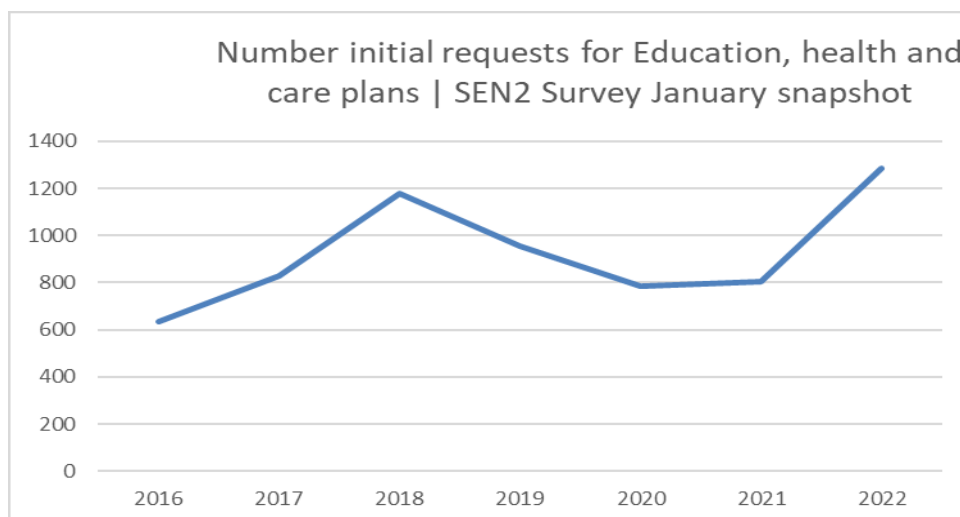
Figure 1 shows the scale of increase in EHCPs since 2016:



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.



1.8 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.

1.9 Since that time a number of actions have been taken to try and address and where possible 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. In addition, the structure has been redesigned, with more capacity at ground level.
- 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 review of EHCP processes has been commissioned using PwC as external consultants to improve the performance of its EHCP processing against statutory deadlines whilst acknowledging the challenging circumstances that the workforce experience and increasing demands on them and the wider service.
- 1.10 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).
- 1.11 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. This includes filling outstanding vacancies, reducing levels of long-term sickness, use of a new telephony system (Avaya) to enhance the telephony service and reduce call waiting times, increased staffing provision at supervisor level and administrative assistants to reflect increased workloads and the need to address backlogs, more time being spent in the office to support new starters, enhance staff well-being and facilitate training and a refreshed approach to workflow based on the statutory dates for completion of work.
- 1.12 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 working group meeting (more detail below at paragraph 6).

2.0 Scope of the inquiry

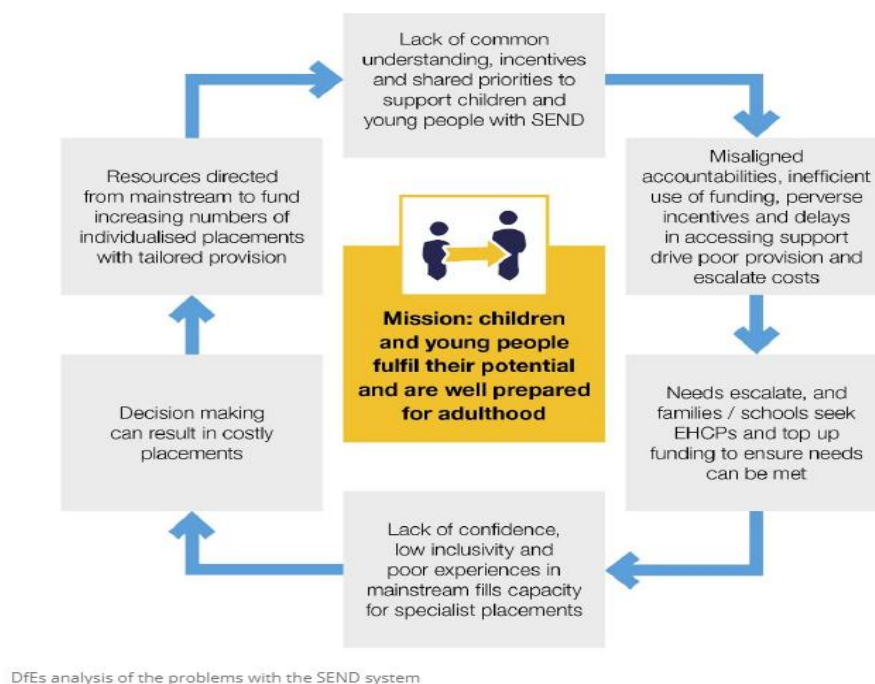
- 2.1 As noted above increased national, regional and local demand as well as particular local challenges and the impact on service provision are two key drivers for this work. However, there are other issues to consider as part of an end-to-end analysis of EHCPs and these are set out in more detail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



- **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 impact had on the system when tribunal appeal cases are instigated to contest decisions where an EHCP has not been issued or an EHC assessment has been refused. It is not currently clear what impact enhanced mediation would have on the current lengthy tribunal system process.
- **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. Therefore, understanding recruitment and retention challenges will also be an important factor.
- **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. In addition, it will be important to understand the work that is already underway to make the voices of families and children central to the delivery of services.
- **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.

- **Health Services** – Consider how enhanced partnership working with colleagues in health could facilitate early intervention to relieve workload pressures and increase timeliness of, for example, the annual EHCP reviews.
- **SENSAP Service** – Gain a broader understanding of the work of the team to review and analyse performance, challenges and the wider work that they carry out in Leeds.
- **PwC EHCP Review** – The Council has requested a review of current EHCP assessment and annual review processes to identify key opportunities for change and improvement. This will include establishment of the ‘as is’ position that will feature in the scheduled working group on 22 September. The PwC work will complement the work of the Board on EHCP processes and will enable Board members to ‘check and challenge’ the work as it develops.

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.
- 4.3 Subsequent comments were made when a draft version of this document was considered at the July meeting of the Board. This included specific feedback on the scope of the inquiry from the Director

of Children and Families with a request that the scope is amended to include specific reference to Health services and the role they play in the provision of EHCP support in Leeds.

5.0 Timetable for the inquiry

5.1 The Inquiry will commence through consideration of this Terms of Reference report with further proposed items during the Autumn and potentially into 2024, 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 &

To consider evidence in relation to the following:

- Agree final Terms of Reference

6.2 22 September - Working Group - Update report from Children and Families directorate

To consider evidence in relation to the following:

- 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.
- PwC to provide an overview of discovery work undertaken, and investigative work still to do as part of the ongoing review in to EHCP processes in Leeds.

6.3 29 November 2023 – PwC findings and wider witnesses

To consider evidence in relation to the following:

- Information on the findings of the PwC review. Which will include full discovery information and stakeholder engagement undertaken. Board to advise on any gaps that the Board still wish to explore.
- Hearing from wider witnesses – consider feedback received by the service through the PwC review from the learning community,

children and families and how this has impacted on service delivery and development.

6.4 24 January 2024 – Check and Challenge

To consider evidence in relation to the following:

- Opportunity for Scrutiny to ‘check and challenge’ the change strategy being developed for EHCP services and to feedback on any interim findings and recommendations to inform the development or finalisation of the changes and planned improvements.

6.5 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
- Chief Officer, Service Transformation and Partnerships
- Statutory Assessment and Provision Lead Officer
- Service users (Leeds Parent Carer Forum)
- Special Educational Needs Co-ordinators (SENCOs)
- Headteachers and/or teachers
- Frontline staff
- Health colleagues
- PwC

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.