

Education, Health and Care Plan (EHCP) Processes - Update Report

Date: 11th December 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 has received a number of reports over the last twelve months, setting out national and local challenges in relation to Special Educational Needs and Disabilities (SEND) and in particular the Council's approach to improving its processes and arrangements around the assessment of Education, Health and Care Plans (EHCPs). Those reports have set out three distinct phases of this work the 'discovery phase' seeking to analyse the 'as is' situation, the 'design phase' setting out the 'to be' position and finally a report setting out the 'delivery phase' and the work to be undertaken to move to new arrangements. This report seeks to update Executive Board on the significant activity undertaken to date, highlighting issues impacting the 'delivery phase' whilst providing reassurance that service delivery arrangements are changing, and that tangible positive improvements are being made in practice and process that will have a positive impact on the experience of children in Leeds with SEND and their families.

Recommendations

Executive Board is recommended to:

- a) Note the activity undertaken on the 'delivery phase' of the EHCP process review
- b) Note the improvements made to the EHCP process to date and those that are underway
- c) Endorse the need for further improvements to be made which put children and families at the heart of all activity.
- d) Note the need for additional one-off spend to address increasing levels of assessments outside of statutory timescales. For 2024/25, the intention is to make savings elsewhere in the directorate, for 2025/26 this funding can be drawn from additional social care grants on the assumption they are received.
- e) Note that resourcing and capacity constraints, coupled with increased levels of demand, will be considered as part of the Council's Medium Term Financial Strategy.

What is this report about?

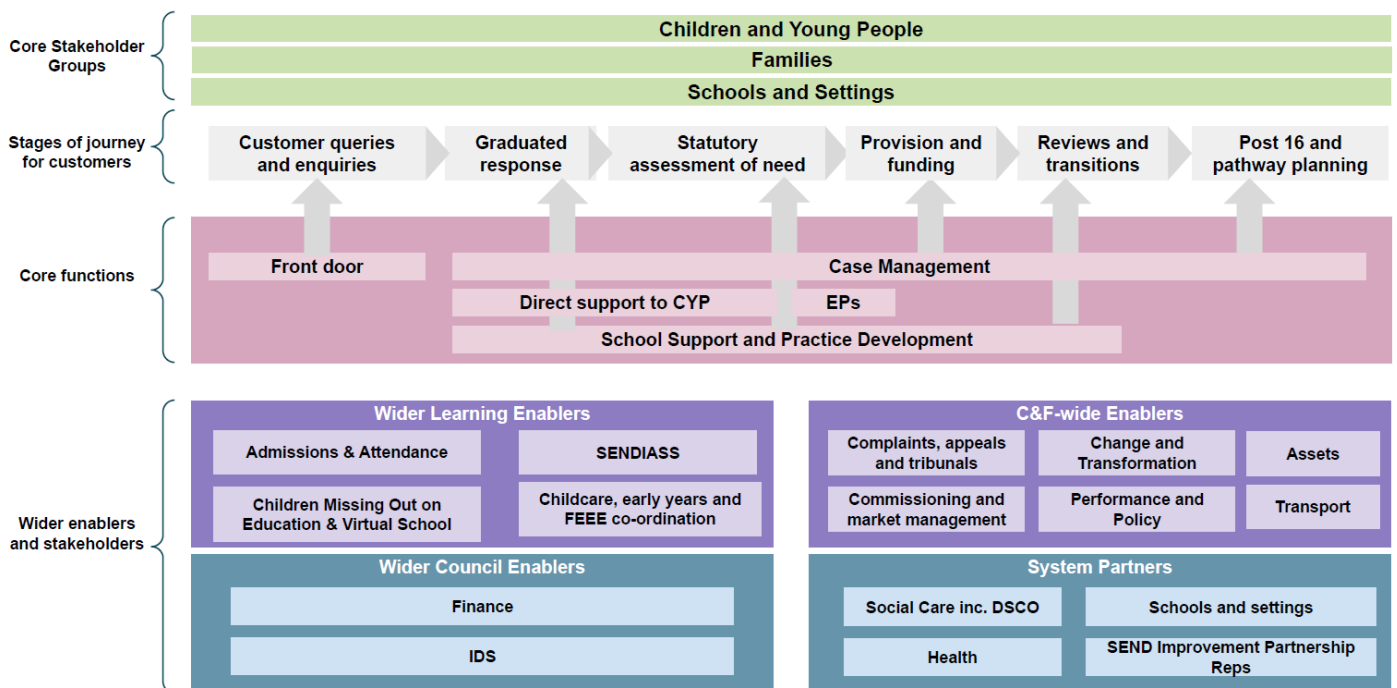
- 1 An Education, Health and Care Plan (EHCP) is a legal document for an individual child or young person aged 0-25 years with special educational needs and disabilities (SEND), it sets out a plan for their educational, health and social care that must be implemented in order to meet their assessed needs 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 It is acknowledged nationally that the current system to support children with SEND and their families is broken, it is financially unsustainable for Local Authorities, it is not delivering the required experiences and outcomes for children, and wholesale reform is required.
- 1.2 There are a growing number of applications for EHCPs across England which is putting an unprecedented strain on SEND services and local authority budgets, with many LAs looking for ways to compensate for this through increases in efficiency and changes to their EHCP processes.
- 1.3 Executive Board has received three reports, in October 2023 (Discovery Phase), December 2023 (Design Phase) and June 2024 (Delivery Phase), setting out review arrangements focused on the delivery of EHCP processes in Leeds. The initial discovery work was supported by short-term external support. The last report in June 2024, set out an ambitious programme of change activity focussed on the following areas:
 - The delivery of a revised **operating model**, setting out how the Council, partners and other stakeholders would work collaboratively to deliver revised arrangements.
 - **Process and functional improvements** which would be delivered with a focus on how work would be undertaken; focussing on securing process improvements; delivering improvement in joint working including moving to a multi-agency Panel approach of considering assessment; making changes to how resource was deployed, with a targeted approach to ensuring the correct professional practitioner focused on individual assessments; focussing resource on specific activity and securing productivity improvements on data handling.
 - Delivering **Improved Case Management** with a clear set of arrangements for supporting consistency of approach across the SEND services; moving to digital applications that support information flow and communication with parents, carers and children; ensuring appropriate prioritisation approaches to individual cases; reinforcing the need for effective joint working across LCC and Partners.
 - Delivering **Customer Focused Improvements** which placed the needs of children and parents and carers at the heart of every professional interaction; which included delivering improvements to communications and maximising opportunities for parents and carers to be able to see the 'journey' of applications for support.
 - Amendments to **Funding** which supported beneficial outcomes for children and young people, with a very clear need to ensure that assessments were undertaken and funding moved to a model which was linked to an assessment of individual need. This element of the review was envisaged to require a transitional period, reflecting children already in receipt of funding.
 - **Tackling assessments that were/are outside of statutory timescales**; the deployment of additional financial resources to deliver improvements in relation to the Council's obligations around timely assessment.

- 1.4 This report seeks to update Executive Board on a range of issues, setting out improvements made or in-train whilst at the same time updating Executive Board on matters where it is felt prudent to consider a slightly different approach than that originally envisaged when reported to Executive Board in June 2024.

Work to Date and Outstanding Issues

- 2.0 As set out earlier, in 2023 the Children and Families Directorate engaged external support to undertake a 'root and branch' review of the Council's delivery of effective arrangements for SEND and EHCP processes.
- 2.1 This review brought forward a number of proposed changes to LCC's arrangements for children with SEND, which were approved by Executive Board. The anticipated change programme was expected to be in place by September 2026, with a planned three-year transition period in relation to underpinning financial arrangements around Funding for Inclusion (FFI). These changes included:
- **Delivering improvements to the customer journey including ensuring the needs of the child remain at the centre of thinking and activity**
 - **Working collaboratively with parents, school/settings and other stakeholders on system changes**
 - **Delivering a unified 'front door' and automating information flows and processes as far as possible**
 - **Improvements to case management and improved communications to parents/carers**
 - Potential changes in Special Educational Needs Statutory Assessment and Provision (SENSAP) and Business Administration Service (BAS) to support the right work being undertaken by the right individuals and the need to consider how best to focus Educational Psychologist (EP) resource where needed.
 - **Changes to the funding mechanisms which support inclusion in mainstream settings and moving to a situation whereby there can be no uncertainty around the Council assessing individual need in accordance with legislative duty.**
 - **Moving to an Assessment Panel model of considering need and requests for assessment/nature of provision.**

2.2 Pictorially the Target Operating Model (TOM) was presented to Executive Board as:



2.3 The bullet points in 2.1 above which are in **bold** text are being/have been progressed with tangible progress being made in a number of areas including:

- Moving to multi agency panels for assessment of need, which draws on staff from a range of LCC services and includes schools, settings and partners from health agencies to consider assessment requests and the ensuing provision. Currently over 100 requests for assessment a week are being considered by the assessment panel. This is a substantial change for the Council and one that is receiving significant positive feedback from a range of stakeholders, including parents and carers, as it brings together key professionals to take a holistic perspective on the potential needs of a child or young person and reduces the potential for multiple singular interactions with individual agencies. The panel also allows the council to make consistent and fair decisions about whether to assess for or to issue a plan, paving the way towards improved use of public resources and assurance that the available resource is targeted to the greatest need.
- Improved communications with parent and carer forums including regular updates on progress of the improvement programme and also regular direct engagement with the Director of Childrens Services and Deputy Director Learning.
- Creation of an initial digital application of e-forms to capture data from professionals, which have been developed with considerable feedback from parents, carers, children and young people. Further development is reaching implementation which will allow for direct application by parents and carers and self-referral from children and young people. Additional work will also shortly deliver the opportunity for 'real-time' updates to the status of applications to be provided by linking internal IT systems to a customer facing interface. In turn these developments will provide the foundation for further automation of activity and potential productivity gains arising from more efficient data management.

- A 'real time' data dashboard is now in place and is updated every 24 hours, meaning that the council's intelligence about individual children and the progress of their assessments is accurate to a 24-hour window. The dashboard summarises all children's cases and enables senior leaders to interrogate the data according to a number of key factors. This, in turn, promotes responses to 'live' situations where need might be escalating, or where resource may need to be targeted in response to an evolving situation.
- Significant progress has been made in relation to potential changes in funding arrangements which underpin SEND, including consideration of transitional support mechanisms to support children and schools/settings. This work is complex and challenging given the overall pressures on demand and availability of funding. Initial communications have been shared with schools and settings regarding potential changes and this will be followed up by specific proposals shortly. Linked to this is an absolute agreement and focus on the requirement for individual assessment of need being undertaken where necessary and that funding mechanisms should not allow for any ambiguity around the need for assessment.
- Significant work on seeking to deliver productivity benefits by ensuring that activity is undertaken by the appropriate cohort of staff with a particular focus on business administration tasks and activity not being undertaken by education practitioners.
- Identification of available resource to undertake assessment work focussed on reducing applications outside statutory deadlines. Completion of appropriate procurement activity to support this spend and mobilisation of the additional resource was delayed due in part to the need to allow for the school summer holiday period (school and settings need to participate in the assessment process) but the additional resource is now mobilised and receiving cases for assessment. The resource has been widened to include plan writers as well as Education Psychologists (EP) so that 'end-to end' activity can be completed.
- The additional resource is now in place and effectively progressing assessments. At the time of writing (2nd December 2024) the table below sets out activity by this external resource. The external provider is working at scale, providing quality outputs and meeting required metrics on delivery timescales:

Month	Number Allocated	Number Returned
August	38	37
September	74	60
October	85	58
November	98	5
Total	295	160

- Significant work is being undertaken on staff development; providing stable leadership; embedding the culture of 'child first'; tackling issues associated with higher than hoped for sickness levels and embedding a restorative culture within the Learning Inclusion Service. At the same time as this work is progressing within the Service, improvements are focussed on taking a one Directorate approach across Learning and Social Care, given that the cohorts of children often have significant overlap.

In addition to progress in relation to the transformation plan, a number of key developments outside of the improvement plan are underway which will contribute towards improvements in the system:

- Strategic needs assessment underway to identify opportunities to increase levels of Resource Provision (RP) schools across the city. RP provides mainstream schools with increased place funding for children with significant additional needs to allow them to access mainstream education and to support prioritisation of special school places to the most vulnerable. The process is underway to identify and commission new places ahead of September 2025.
- Alternative Provision (AP) review and strategy. Working with support from Impower (official DfE partner working with the council as part of the Change Programme Partnership), officers have been working since June on a series of workshops bringing together partners from across the city to co-produce a strategy for improving the quality and coverage of the AP offer in Leeds. This will enable children with additional needs, but often without an EHCP to have their needs met more easily and will be a further gain to the overall SEND and AP system capacity.

As can be seen from the above, work is progressing well, with significant improvements having been made in the process arrangements associated with EHCP assessment and in delivering customer facing improvements. These improvements are being delivered alongside the 'day to day' operation of the Service which continues to seek to ensure that agreed provision is delivered as planned. Work on assessment continues to prioritise looked after children as well as children whose assessments are part of our annual 'phase transfer' arrangements. This is when a child is in Year 6 or Year 11 and is waiting for an assessment to be completed to allow for an EHCP to be ready to issue in time for the phase transfer deadlines in February and March 2025 respectively. Phase transfers currently make up 21.6% of the assessments that are currently out of timescale.

This is important because these are statutory deadline days on which, nationally, specialist places are 'released' and children are placed in them for the following September. If an EHCP has not been finalised and issued by this date, it means that children who need this provision will not be able to be considered for a place. Meeting this deadline and therefore prioritising resources to target phase transfer assessments is imperative in making sure that some of our most vulnerable children get the best chance of being educated in the most appropriate provision for them.

However, the programme is complex with a significant number of interdependencies. As with any major programme of change, it is subject to reviews and the last review indicated that the programme of work will proceed beyond the originally anticipated September 2026 timeline. Further work is being undertaken to refine the anticipated delivery timescales to ensure that most major elements of change are delivered as close to the originally anticipated timeframe as possible.

In addition, it is now considered appropriate to extend the four-year period of transitional Funding for Inclusion (FFI) funding arrangements to between five and seven years, reflecting better alignment to the journey of children through schools and settings. This will be kept under continuous review in light of the challenging financial context and potential changes in the national policy context. Careful thought has been given to the balance of risk in relation to meeting need, legal compliance and the financial envelope. As things stand, a longer timescale for transition from FFI packages to EHCP assessed packages will allow for priority need to be identified and assessed within the same funding envelope, current

packages to be rolled over to avoid a loss of provision, and compliance with the council's statutory duty to be focused on. The extended transition will mitigate some of the significant associated cost pressures currently experienced by the Local Authority as a consequence of the broken SEND system. It also means that the EHCP processing resource will be targeted to the children with the most urgent needs.

2.4 Whilst the activity in 2.3 is progressing and work continues on other elements of the change programme there are two issues which require further reflection:

- Firstly, there remain significant challenges particularly in relation to the ability for the Council to fund and recruit permanent in-house EP and caseworker resource. This is not an issue particular to Leeds but does require a Leeds response. The externally supported review recommended that the split of focus on internal LCC EP resource between statutory work focussing on assessment and the school facing 'value adding' work was amended from the current 50:50 split to a model that reflected a 75:25 split.
- Senior leaders have continued to review this matter with the current cohort of EPs in terms of the current split of their work around statutory assessment versus more 'value adding' work focussed on preventative activity and supporting schools and SENCOs. It is now proposed that the split between statutory and 'value adding' work does not move to the proposed 75:25 split as it is believed that this would be counterproductive at this time, given the pressures that the current internal EP resource are experiencing. The external EP resource will however focus 100% of their time on EHCP assessments.
- Accordingly, the Service now proposes that a more nuanced approach is taken to the split between statutory and non-statutory work with a proposal that in the short-term (pending work on a more sustainable model) the split of work features a 60:40 split in relation to the Council's own EP workforce. As outlined above additional locum capacity will not reflect the proposed 60:40 split and will focus purely on statutory assessment work. In addition, senior leaders have identified the need for increased plan writer resource, which is a step beyond EP assessment. Both caseworker and plan writer capacity is severely stretched due to the increases in demand and is reflected in the points identified at 5.4 below as requiring consideration in order to provide a sustainable system moving forwards.
- Executive Board agreed investment of up to £850,000 to help meet the demand issues created and to help tackle a backlog of assessments out of time. This funding was to be released in tranches and was funded corporately. Contractual arrangements are now in place securing temporary Educational Psychologists and Plan Writers from September 2024. This additional resource is working on the assessment cases which are currently outside the statutory timescales.
- At the point the Executive Board approval was gained the business case anticipated that by processing 100 assessments per month the original figure of 600 identified cases out of statutory timescale would be finalised within a six-month contract period. The procurement process and Summer holiday timeline meant that the onboarding of temporary staff was only able to take place in preparation for the start of the new academic year (September 2024). Consequently, the processing of the assessments has commenced sometime after the original decision was made, leading to an increase in the number of cases needing assessment. The caseload increase has further been compounded by an influx of assessment requests from professionals

concerned about the transition from Funding for Inclusion to EHCPs. This has resulted in an overall increase in the number of assessments likely to be outside of statutory timescales unless the resource allocated to deal with them is increased. This will involve a procurement process, given the value of the increased costs, although there would be clear benefits in being able to extend the existing arrangement given that the provider is now delivering to scale and timeframe. An assessment of the additional cost for the out of timescale work is detailed in the table below:

	2024/25	2025/26	Total
	£m	£m	£m
Original backlog estimate	0.595	0.255	0.850
Additional backlog estimate	0.386	0.260	0.646
Total cost of clearing backlog	0.981	0.515	1.496
£850k funding already agreed for backlog	-0.850	0.000	-0.850
Remaining cost to fund	0.131	0.515	0.646

- 2.5 Not all of this additional resource is allowed for within the Council's current budget (although the initial £850k additional expenditure is being met from corporate resource). The additional £131,000 in relation to resources required in-year to address the current level of assessments outside of statutory timescales will be met from within existing Directorate resources and work to find compensatory savings is being undertaken.
- 2.6 All of the council's in-house Education Psychology resources are currently being prioritised on specific cohorts of children as previously outlined. This is necessary, due to the absolute imperative that appropriate arrangements are in place for the start and full duration of any element of provision and the need to avoid missing statutory deadlines in February and March 2025.
- 2.7 Whilst the council's plan to transform the SEND service and processes is robust, the increased pressure caused by recruitment challenges and increased levels of demand has contributed to an increasing challenging picture. Ramifications in terms of lived experience, financial pressure and to the council's reputation, explained in further detail in section 6, could be significant. Most importantly, children and families' lives are negatively impacted by waiting times which are outside of statutory timescales.

What impact will this proposal have?

3.0 Will /could the proposal have implications for any of the following?

Service users / customers	Yes	Legal / regulatory requirements	Yes
Council staff	Yes	Contracts / procurement	Yes
Partners	Yes	Capital programme	No
Other LCC services / stakeholders	Yes	Work location / building	No
Information technology & IDS capacity	Yes	Equalities	Yes

- 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, centred on the needs of children and young people within Leeds who need the most support.
- 3.2 An Equality, Diversity, Cohesion and Integration Assessment (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

- 3.3 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 improvement programme and has included activity with schools and settings, user questionnaires, direct focused engagement with children, the parent and carer forum, along with significant internal communication and engagement with staff.
- 4.1 The Executive Member for Children and Families has been consulted and is aware of the progress that has been achieved and the proposal in relation to amending the initial planned split of EP focus. Both the Executive Member for Children and Families and the Deputy Leader and Executive Member for Resources is aware of the scale of the potential additional resource required to improve the situation on assessment not within statutory timescales and the need for a sustainable solution for increased demand on SEND and EHCPs.

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, 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 £36.98m of funding between 2018/19 and 2024/25 across the schools' block (£9.5m) and

high needs block (£27.48m). Leeds is one of the 32 local authorities out of 150 that will continue to have their funding capped in 2024/25. The gains limit remains in place for 2025/26, though it is not yet known if there will be an impact on Leeds funding. The Council continues to lobby for a change in the gains limit factor which negatively impacts Leeds.

- 5.2 In 2025/26, if no action is taken the DSG in Leeds is projected to overspend by £38.3m and in 2026/27 this would increase to £64.4m. The majority of the overspend is on the high needs block.
- 5.3 The general cost of the review process and the implementation of required changes remain contained within existing resources as previously reported to Executive Board. The cost of reducing the number of outstanding EHCP assessments not meeting statutory assessment timelines is now estimated at £1,496,000 with £850,000 being the previously anticipated cost, this gives rise to an additional net financial cost of £646,000 (over a number of financial years), which as stated at 2.5 is not currently budgeted for either within Directorate or Corporate resources. Funding has been secured for the in-year element of this funding requirement. The application of this additional resource in future years should allow for all out of time assessments to be completed and officers will continue to work on the best approach to funding this after the LG settlement is received.
- 5.4 In addition to the issues highlighted in this report there is a wider issue around the ability of the Council to deliver a sustainable set of arrangements around EHCP processes in the face of increasing demand (and increased complexity of demand) for assessment (and resulting provision). This is particularly challenging given the Council's overall financial challenges and the lack of additional easily identifiable resource to support investment. Nevertheless, work is ongoing to set out a series of potential options on resource deployment. This further work will be set out as a component of future reports relating to the Council's Medium Term Financial Strategy (MTFS).

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

- 6.0 As outlined in 5.4 and reflecting the demand pressures set out within the report, there is a need for the Council to consider the issues around providing a sustainable and stable set of arrangements to support the EHCP process and in particular, given the Council's current financial pressures, the ability to continue to fund and to increase the available funding to support the increased demand. This issue will be considered as part of the Council's consideration of service budgets in future years and the Council's Medium Term Financial Strategy.
- 6.1 There are significant financial, reputational and operational risks associated with any significant service redesign and these will be monitored and appropriate mitigation taken 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 cross Council Delivery Board, which is chaired by the Director of Children and Families. In addition, the SEND Partnership Board has an overview of the change activity. Elected Members, including the Executive Member for Children and Families continues to be engaged on progress and delivery through a range of engagement measures.
- 6.2 It should be noted that there remain specific reputational and financial risks associated with the Council's arrangements not being legally compliant and in particular not meeting statutory timescales. This is mitigated in part by the increased investment already committed to the assessment process and the additional investment highlighted in 2.4.

6.3 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. There is a specific corporate level risk on EHCP/SEND challenges which articulates the challenges being faced and details mitigating activity. The risk is updated and reviewed four times a year and is reported to Children and Families Leadership Team, CLT and Executive Board.

What are the legal implications?

7.0 This and previous reports have highlighted a number of continuing legal risks centred on funding and the timeliness of assessment. The work being undertaken on funding and assessment mitigates the degree of legal risk and challenge. The legal risk around timeliness remains significant and the ability of the Council to increase the availability of funding to quickly improve timeliness of assessment is a critical mitigating factor. It remains imperative that the new arrangements for the delivery of EHCP processes are fully legally compliant and that those arrangements and the capacity to deliver them are agreed and put in place as soon as reasonably practicable.

Options, timescales and measuring success

What other options were considered?

- 8.0 This report updating Executive Board on the general progress of the improvement activity does not give rise to the consideration of alternative options. In relation to the two specific matters outlined in 2.4:
- the option to not make changes to the split of focus of EPs has been discounted as senior leaders and EP staff believe that this would be counterproductive. It is important to recognise the pressure experienced by the current EP internal resource and the need to carefully balance their workload to achieve maximum effectiveness and efficiency whilst retaining a key focus on early intervention and prevention work with schools and settings.
 - the option to not consider increasing the available resources to ensure timeliness of assessments has been discounted due to the need to meet the needs of children and statutory duties in this regard.

How will success be measured?

9.0 Detailed success measures for the improvement process are set out in the improvement plan . The significant success measure arising from this paper is the number of assessments completed within statutory timescales and the level of improvement from the existing position.

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 Assessment

Background papers

12.0 None.