

28 February 2024

Agenda item:5

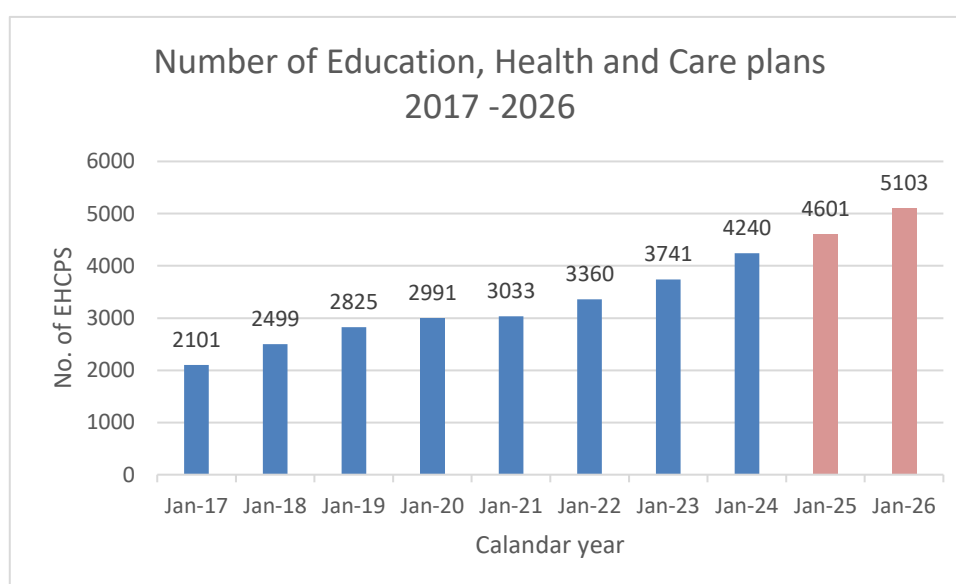
**REPORT OF THE SERVICE DIRECTOR, EDUCATION, LEARNING AND  
INCLUSION****RESPONSE TO LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN  
DECISIONS 2024****Purpose of the Report**

1. The purpose of this report is to provide an update on the improvements made to increase the Local Authority's Education, Health and Care Needs Assessment (EHCNA) performance.

**Information**

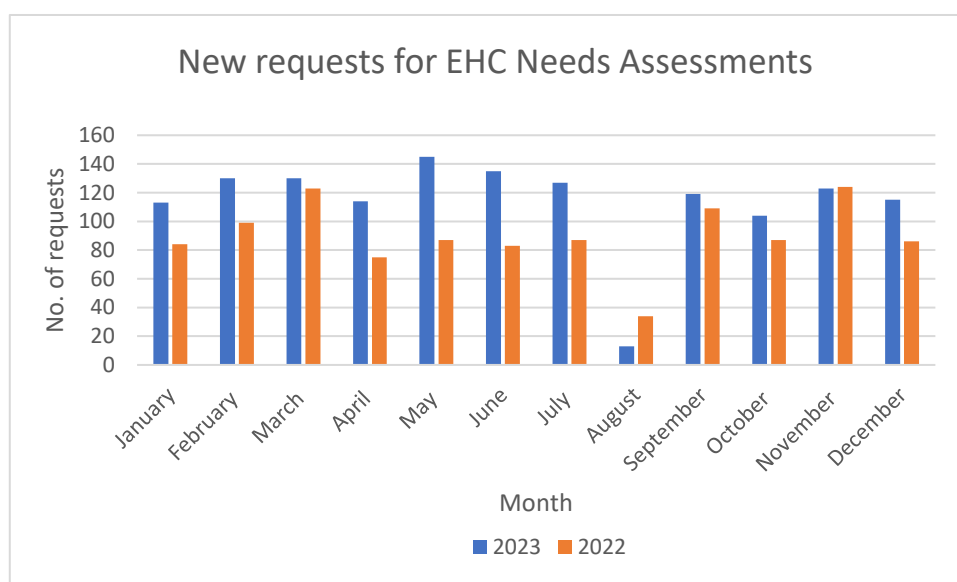
2. Over the last seven years the number of Education, Health and Care Plans (EHCPs) that the Local Authority maintains has increased significantly. The total number of EHCPs has increased from 2,104 in January 2017 to over 4,240 in January 2024. 35% of these EHCPs were made in the previous 2 years.

**Table 1 shows the increase in EHCPs maintained by the County Council including projections until January 2026**



3. The demand for statutory EHC Needs Assessments continues to increase. In 2023, the Local Authority received 1,368 requests for EHC Needs Assessments, an increase of 26.9% from 2022. In the month of January 2024, the Local Authority received 166 new EHC Needs Assessment requests compared with 113 in January 2023. These increases continue to place services and provision for children and young people under significant pressure.

**Table 2** shows the increase in new requests for EHC Needs Assessments



### The EHC Needs Assessment process

4. From the point when an assessment is requested until the final EHC Plan is issued, it should be completed within 20 weeks. The local authority must give their decision in response to any request for an EHC Needs Assessment within a maximum of six weeks from when the request was received or the point at which a child or young person was brought to the local authority's attention.
5. When local authorities request information as part of the EHC Needs Assessment process, those supplying the information should respond in a timely manner and within a maximum of six weeks from the date of the request.
6. If a local authority decides, following an EHC Needs Assessment, not to issue an EHC Plan, it must inform the child's parent or the young person within a maximum of 16 weeks from the request for a EHC Needs Assessment. If the local authority agrees to make special educational provision in accordance with an EHC Plan, the final plan should be issued within the 20-week timescale.

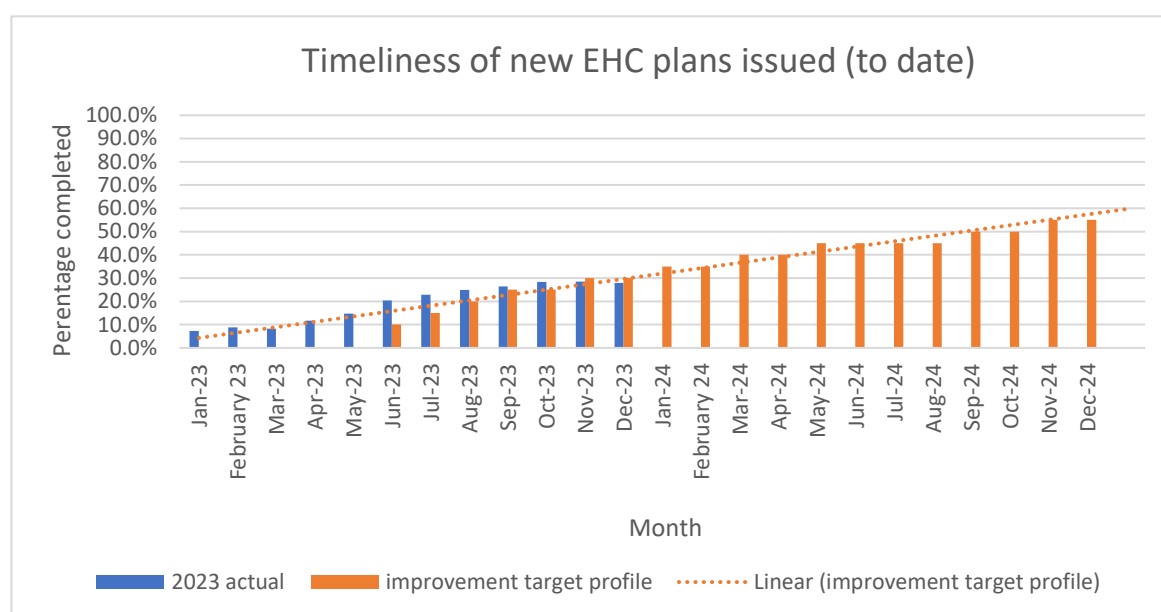
### Nottinghamshire's EHC Needs Assessment performance

7. During 2022, Nottinghamshire issued just 4.5% of new EHCPs within 20 weeks.
8. The County Council is fully committed to reducing the length of time it takes to complete EHC Needs Assessment requests through statutory processes and reduce the length of

time it takes to issue EHC Plans. The County Council has provided additional funding to increase the capacity of the Educational Psychology Service and the Integrated Children's Disability Service EHC assessment team. This had had a positive impact:

- More families are now receiving EHCPs within timescales. In 2023, 28% of our children and young people received their EHC Plan within 140 days compared with the year-end position of 4.5% in 2022.
- The backlog for EHC Needs Assessments has reduced.
- More Educational Psychology assessments are now being completed each month.

**Table 3** shows the percentage of EHCPs completed within 20 weeks (to date) with the County Council's improvement target projections until December 2024



9. Nottinghamshire remains below the national and statistical neighbour averages for 2022 of 49.1% and 47.8% respectively, though it should be noted that these figures are lower than the averages in 2021 of 59.9% and 55.2% respectively. The Local Authority expects to see the timescale improve in 2024 to be in line with the national average, reaching 55% by December 2024.
10. Timeliness and performance are being reported to each Children and Families Select Committee meeting and are also subject to oversight of the Special educational Need and Disabilities (SEND) Improvement Board monthly.

### Factors impacting on performance

11. There are continuing delays to the EHC Needs Assessment process in Nottinghamshire largely due to the County Council, as well as other local authorities nationwide, experiencing a significant increase in the number of EHC Needs Assessments being requested and agreed.
12. The Educational Psychology (EP) assessment is a key piece of information required to inform the assessment of a child or young person's special educational needs and the

provision they require to meet their specific needs. The Local Authority is required to seek psychological advice from an educational psychologist to inform the EHC Needs Assessment, and only then will the Local Authority be able to make the decision on whether to make special educational provision in accordance with an EHC Plan.

13. The increase in demand for EHC assessments is occurring at a time of a national shortage of Educational Psychologists. Subsequently, the delay with carrying out the EP assessment is preventing the Local Authority from completing EHC Needs Assessments within statutory timescales.

### **Actions taken to improve performance and service delivery**

14. The Local Authority has taken a number of steps to address the delays being experienced as a result of a local and national shortage of Educational Psychologists. This includes expanding and recruiting additional internal EP capacity and commissioning locum EPs at significant additional cost. The number of children and young people waiting for educational psychology EHC Needs Assessments reduced from 488 in September 2023 to 338 January 2024.
15. The Educational Psychology service will continue to increase its capacity over the next two years. It is expected that by September 2025 the Educational Psychology Service will have secured nine additional full-time posts. 3.6 of this full time capacity has already been recruited for start dates in September 2024 and 2025.
16. In addition to increased staffing and a long-term recruitment drive, the Educational Psychology Service is continuously considering ways to improve efficiency in their assessment systems. To reduce waiting times, the Local Authority has set a four-week deadline for the EP to complete their assessment from the date of allocation, reducing this timescale by two weeks. More educational psychology assessments are being completed each month; on average 93 young people received an assessment each month so far in 2023/24 compared with 72 in 2022/23 (academic years).
17. Five SEND Education Pathway Officers commenced their role in January 2024. When a request for an EHC Needs Assessment is made, these officers now engage with young people, parents and carers and offer support and challenge to education settings to ensure that children and young people receive the right support at the right time. These officers are connecting with activity under Outcome 3 of the SEND Improvement Priority Action Plan to help children and young people have their needs better met within the Graduated Response Pathway, helping them to access support earlier rather than through an EHC Plan.
18. Despite the measures put in place, the Council is still having to operate a waiting list to access EP input for EHC Needs Assessments at present. To ensure fairness to all children who are waiting for an EHC Needs Assessment to be completed, this waiting list operates on the basis of when the request for assessments is received, however exceptional circumstances are considered on a case-by-case basis. All children and young people who are waiting for an EP assessment have their needs and circumstances reviewed to assess whether they are considered as being in 'exceptional circumstances' before being added to the EP waiting list.

19. The Local Authority has also made a significant financial investment in the EHC Assessment team. Six additional EHC Co-ordinators have been secured in this area to increase capacity to draft new EHC Plans and communicate effectively with parents and carers. Three Senior Practitioner posts have also been secured to ensure that there are appropriate levels of support and supervision across the service.
20. For children and young people who do experience a delay in their EHC Needs Assessment, parents and carers are contacted at regular eight-weekly intervals to explain the delay and the actions that the Local Authority is taking to reduce them.

### **Other Options Considered**

21. The other option considered was not bringing regular reports to the Committee detailing the decisions made by the Local Government and Social Care Ombudsman. This option was rejected as by not having oversight of this report the Committee would not receive assurances that the learnings from Ombudsman cases were leading to improvements in services.

### **Reason/s for Recommendation/s**

22. To enable Members to scrutinise complaints dealt with by the Council that went to the Ombudsman and to inform them of the service improvements being made for the benefit of residents as well as colleagues.

### **Statutory and Policy Implications**

23. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Data Protection and Information Governance**

24. The examples provided are anonymised, this report does not contain any details of people who made a complaint through the Council's own complaints process.

### **Financial Implications**

25. An additional £1.7m has been invested to provide increases in locum EP capacity and fixed term staffing increases, including agency staffing, within the Pre-16 EHCP Assessment Team to support the increased rate of assessment and reduction in EHC timelines in 2023/24.

## **Implications for Service Users**

26. All of the complaints were made to the Council through its own complaints process. Service users have the right to approach the Local Government and Social Care Ombudsman once they have been through the Council's own complaints process.

## **RECOMMENDATIONS**

That:

- 1) Members note the significant increase in the number of Education, Health and Care Needs Assessments being requested and the measures taken to increase the Local Authority's Education, Health and Care Needs Assessment performance.
- 2) Members note that timeliness and performance continue to be reported to each Children and Families Select Committee meeting and is also subject to oversight of the Special Educational Needs and Disabilities Improvement Board monthly.
- 3) The Governance and Ethics Committee receives a further report in 12 months' time to review the progress and the impact of the measures introduced.

**Peter McConnochie**

**Service Director, Education, Learning and Inclusion**

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## **Constitutional Comments (LW 08/02/24)**

27. Governance & Ethics Committee is the appropriate body to consider the content of the report.

## **Financial Comments (SS 20/02/24)**

28. The financial costs have been identified in **paragraph 25** but the financial costs for 2024/25 will need to be fully identified based on how many agency workers are kept on and what progress will have been made on reducing the number of outstanding EHCPs.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None.

**Electoral Division(s) and Member(s) Affected**

All.