

**16 October 2023**

**Agenda Item: 5**

## **REPORT OF THE SERVICE DIRECTOR, EDUCATION, LEARNING AND INCLUSION**

### **RESPONSE TO LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN DECISIONS 2023**

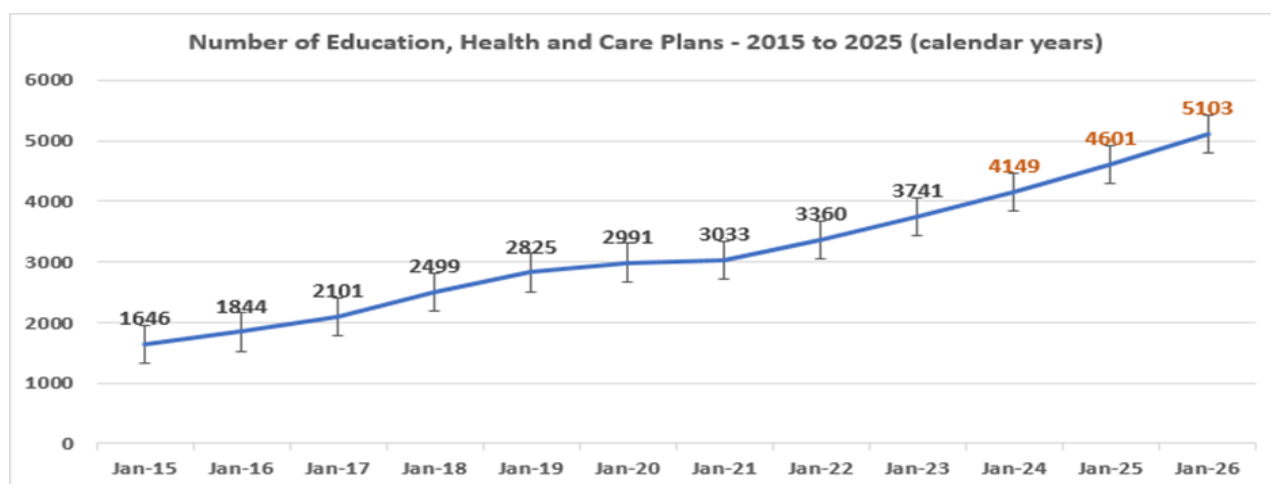
#### **Purpose of the Report**

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 Plan (EHCP) Annual Review performance.

#### **Information**

2. Over the last six years the number of EHCPs that the Local Authority maintains has increased significantly. The total number of EHCPs has increased from 2,104 in January 2017 to 3,741 in January 2023, an increase of 77.8%. At the end of August 2023, the Local Authority maintained 4,040 EHCPs and of these 35% were made in the previous two years.

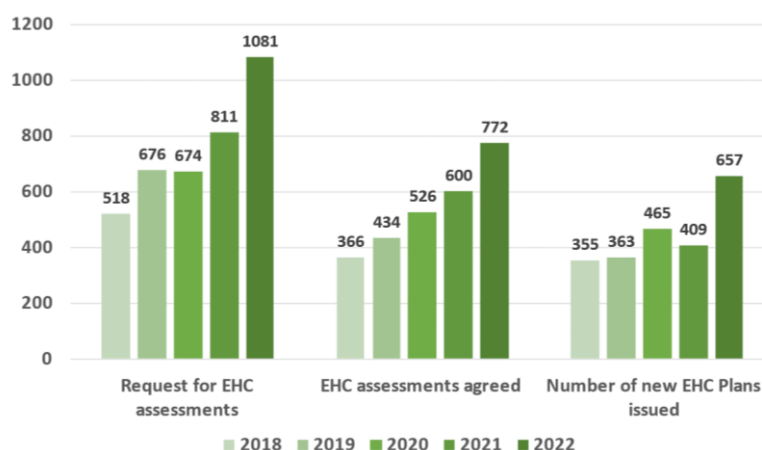
**Table 1** shows the increase in EHCPs maintained by the County Council including projections until January 2026



3. The demand for statutory EHC Needs Assessments continues to increase. Over the first eight months of 2023, the number of EHC Needs Assessments that the Local Authority received increased by 34.3% when compared with the same period in 2022. These

increases continue to place services and provision for children and young people under significant pressure.

**Table 2** shows the increasing demand for EHC Needs Assessments and EHCPs



4. As the number of EHCPs grow, so therefore does the number of Annual Reviews. In the previous years, the Local Authority has responded to the increasing demand for EHC Needs Assessments and EHCPs by investing in additional staff. However, the significant increase in requests for EHC Needs Assessments and EHCPs has outstripped the predicted increases. As a result, the additional resources secured did not have the expected impact. This is considered to be the root cause analysis of the complaints made from 2021 and 2022 that have been escalated to the LGSCO.

### The Annual Review process

5. EHCPs must be reviewed, and the process completed by the Local Authority as a minimum within every 12 months. For pre-school children with EHCPs, this review must be within six months. Schools must co-operate with the Local Authority in the review process and, as part of the review, the Local Authority can require schools to convene and hold annual review meetings on its behalf. The educational setting is required to prepare a report of the meeting, this is the record of Annual Review.
6. After receiving the Annual Review report from the education setting, the Local Authority must issue a decision within four weeks whether to (a) make no amendments to the EHCP and simply maintain it without change or (b) amend the EHCP or (c) cease to maintain the EHCP. If the Local Authority agrees to amend the EHCP, this must be issued and finalised within eight weeks of the decision being made.

### Annual review performance

7. In 2022, the Local Authority completed 66% of Annual Reviews within 12 months.

**Table 3** shows performance for the completion of EHCP Annual Reviews in the first eight months of 2023 compared with the same period in 2022

Percentage of Annual Reviews completed within the 12-month time scale		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Year to date
	2023	66.4%	66.8%	67.7%	53.2%	46.3%	40.6%	46.6%	45.2%	55.2%
	2022	66%	58.4%	60.9%	47.8	56.9%	43.4%	32.9%	34.2%	52.7%

\*NB - There is a delay in reporting due to 12-week process between the date of the review and the issuing of an amended EHCP so the percentage completed in the previous couple of months should increase as amended Plans are issued.

### **Actions taken to improve Annual Review performance**

8. Following the Nottinghamshire local area inspection in January 2023, there has been a significant financial investment to support the timely issuing of EHCPs and holistic oversight of these plans through Annual Reviews.
9. In June 2023, the Local Authority invested in six new EHC Plan writers. These positions have been secured to solely focus on the Annual Review process. This is to ensure that the decision following an Annual Review is made within four weeks and, if required, the amendment to the EHCP will be completed within a further eight weeks.
10. A further six EHC Co-ordinators have been secured to reduce the high number of children and young people a single worker is responsible for. These posts will improve the level of service and communication that children, young people and their parents or carers receive.
11. Three Senior Practitioner posts have also been secured to ensure that there are appropriate levels of support and supervision across the service. Senior Practitioners now have the capacity to support and quality assure complex casework.

### **Measuring Impact**

12. To ensure the additional staffing can be deployed as quickly as possible agency staff have initially been recruited. Recruitment to fixed term two-year contracts with the County Council is ongoing. Most Annual Review meetings with educational settings are held virtually on Microsoft Teams. These arrangements make the best use of the resources within the team; there is a significant saving in travelling time and as a result the service is more efficient.
13. The additional EHC Plan writers that commenced employment in June 2023 have cleared a backlog of 450 EHCPs that needed to be amended following their Annual Review.
14. For children and young people who are not on a school roll the Local Authority must convene the Annual Review. The Local Authority has arranged Annual Reviews for all children who are electively home educated or educated otherwise than at school for this academic year.

15. The Annual Review performance monitoring group meets every month to review the progress that is being made. Annual Review performance is beginning to improve and it is anticipated that by the end of the year, the Local Authority will have completed over 75% of annual reviews within 12 months. The aim and ambition is for 100% of annual reviews to be completed within 12 months and building from current performance in a staged approach to improvement, in 2024 the Local Authority seeks to ensure over 80% of annual reviews are completed within 12 months.
16. This performance will be monitored on a regular basis by the Special Educational Needs and Disabilities (SEND) Improvement Board and the SEND Partnership Assurance and Improvement Board which will meet for the first time later this autumn.

### **Further steps to improve performance**

17. The Local Authority's Annual Review performance relies on educational settings and partners to ensure that Annual Reviews are held on time. To improve performance the Local Authority will be using additional resources to improve partnership working and offer support and challenge to educational settings to ensure that the Annual Review timescales are met. This will include the Local Authority seeking direct confirmation that Annual Reviews have been arranged and have taken place.

### **Other Options Considered**

18. The other option considered was taking regular reports to the Senior Leadership Team detailing each decision made by the Local Government and Social Care Ombudsman. This option was accepted and is happening giving oversight of this report and assurances leading to improvements in services. The learning from these findings is being fed back into the approach in order to help prevent increase in future cases.

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

19. 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**

20. 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.

### **Financial Implications**

21. There are no direct financial implications arising from this report.

## **Implications for Service Users**

22. All of the complaints were made to the Council through its own complaints process. Service users have the right to approach the LGSCO once they have been through the Council's own complaints process.

## **RECOMMENDATIONS**

That:

- 1) Members note the improvements made to increase the Local Authority's Education, Health and Care Plan Annual Review performance.
- 2) the Committee receives a further report in 12 months' time to review the impact of the measures introduced.

**Peter McConnochie**  
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## **Constitutional Comments (EKH 25/09/23)**

23. It is appropriate for the contents of this report to be considered by the Governance and Ethics Committee.

## **Financial Comments (SS 25/09/23)**

24. There are no direct financial implications arising from this report.

## **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.  
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