

# Safeguarding Overview and Scrutiny Committee

**Dorset County Council**



Date of Meeting	5 <sup>th</sup> October 2016
Officer	Director for Children's Services
<b>Subject of Report</b>	<b>Education, Health and Care Plan (EHCP) Timelines</b>
Executive Summary	Dorset has been under-delivering on Education, Health and Care Plan timescales for new assessments or transfers from Statements of Special Educational Needs. There are a number of underlying drivers. Specific actions have been taken to resolve this situation, including changes to staffing structures and levels, as well as process and decision-making.
Impact Assessment:	Equalities Impact Assessment: Not applicable
	Use of Evidence: Data used in this report have been drawn from the SEN Synergy database.
	<p>Budget:</p> <p>The funding for Education, Health and Care Plan provision is from the High Needs Block (HNB), part of the Dedicated Schools Grant (DSG). The DSG is a ring-fenced specific grant and it must be used in support of the schools budget as defined in the School and Early Years Finance (England) Regulations 2015. It can be used for no other purpose.</p> <p>The SEN Team, responsible for issuing, transferring and reviewing Education, Health and Care Plans, is a Local Authority funded responsibility. The 2016-17 budget for this service is £756K. Additional funding is available from the Special Educational Needs and Disability Implementation Grant. This grant provides additional resource to help the Authority carry out special educational needs and disabilities (SEND) reforms, including transfer reviews. Dorset's 2016-17 allocation is estimated to be £243K. As of August 2016, the SEN Team budget is not forecast to overspend.</p>

## Education, Health and Care Plan (EHCP) Timelines

	<p>EHCP's are the main mechanism to deciding the distribution of the HNB budgets. This budget, as reported to schools forum is under considerable pressure and is forecast to overspend by £5.4 million in 2016 / 17</p>
	<p>Risk Assessment:</p> <p>Dorset's previous underperformance has led to both increased financial commitments and potential damage to reputation.</p> <p>Having considered the risks associated with this decision using the County Council's approved risk management methodology, the level of risk has been identified as:</p> <p>Current Risk: HIGH</p> <p>Residual Risk MEDIUM</p> <p>There are currently reputational, financial and service criticality risks to this service.</p>
	<p>Other Implications:</p> <p>Failure to issue EHCPs on time can lead to children and young people being without appropriate educational provision or without appropriate support to transfer to adult care placements.</p>
Recommendation	The Committee note the information in the report and the actions being taken to turn the situation around, discuss the issues raised and consider any further actions or reports they would wish to see.
Reason for Recommendation	This area of altered legislation is very complex, yet involves significant numbers of vulnerable young Dorset residents. Members' views are sought.
Appendices	None
Background Papers	None
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### 1. **Background**

- 1.1 Under the new provisions of the Children and Families Act 2014, young people with Statements of Special Educational Needs must be transferred to Education, Health and Care Plans, unless there has been a change in their circumstances that means this is either no longer necessary, or appropriate. All transfers must be complete by 31<sup>st</sup> March 2018. Post 16, where young people have held Learning Disability Assessments (under the previous arrangements, sometimes known as S139a's)

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there is not an automatic transfer; young people, or settings, are required to request a new assessment.

- 1.2 Dorset County Council started the transfer, or new assessment, process for Post 16 students at a disadvantage with no data on students with these Learning Disability Assessments (LDAs). In some Local Authorities the LDAs were already dealt with by the SEN Team, meaning that all students were already on their systems. However, in Dorset this function was carried out by a contractor. It took some months even to get the numbers of LDAs.
- 1.3 Work was done with the colleges, and Educational Psychology time was allocated, to enable these young people to be prioritised for completed EHCPs before starting at their next educational setting.
- 1.4 Dorset's transfer process had within it two challenges; the first was a delay in decision making, i.e. whether to transfer to an EHCP, and the second was regarding the requests for advice/assessment.
- 1.5 The workload in the autumn term for Planning Review Officers became unmanageable. This meant that although staff were able to attend Transfer Reviews, they were not able to write the EHCPs within the timescale.
- 1.6 The transfer process did not include a formal request for information from the Educational Psychology Service to ensure either, that current advice remained suitable, or, that new advice was received.
- 1.7 The lack of up to date Educational Psychology advice as part of the transfer process has led to three Special educational Needs Tribunal Appeals that have been conceded on barrister's advice.
- 1.8 In addition, Dorset County Council has this last academic year (2015/16) received unprecedented numbers of requests for Education, Health and Care Plans (EHCPs). Requests are in excess of 400 which is an increase of 150 on previous years (see chart below). Further work is ongoing to understand the reasons behind this increase. There are a number of possibilities including: the rise in age range within the new Code of Practice to 25, the addition of the Social, Emotional and Mental Health category of SEN, reduced capacity in the Educational Psychology teams, and increased pressures on schools' budgets.

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Table shows a summary of Dorset's SEN population and the demand per HNB funding stream.

	Numbers				
	2014-15	2015-16	Aug-16	Total increase	% Increase
Total EHCP/Statements in Dorset	1572	1686	1811	239	13%
Dorset funded EHCP/Statements	1422	1567	1716	294	17%
Number of independent placements	170	189	178	8	4%
Of which are Family Support/CWaD	0	18	25	25	100%
Number of SPI placements (Post 16)	50	63	No data	#VALUE!	#VALUE!
Number of College placements (Post 16)	108	154	No data	#VALUE!	#VALUE!
Of which are Family Support/CWaD (Post 16)	0	3	No data	#VALUE!	#VALUE!
Children receiving Locator Top Up (Inc. 7+ and 7++)	563	566	563	0	0%
Children receiving Mainstream SEN Top Up (includes exceptional payments)	534	563	595	61	10%
% of schools in receipt of a Tipping Point Payment	35% (59/168)	46% (74/162)	33% (54/162)		
Number of children in a Base (All bases)	135	124	118	-17	-14%

- 1.9 The rise in age range to 25 has meant that young people with SEN are expecting to stay in education longer. This means that the overall caseload of the SEN Team has increased. Young people previously out of education are requesting a return, and needing an EHCP to enable that. In addition, independent providers and colleges are aware that some young people and their parents view an increased period of education as preferable to either working, or a transfer to Adult Services. This has increased numbers of requests for EHCPs for older young people.
- 1.10 The problem was compounded this summer due to the fact that from January 2017 LDAs will no longer be valid. The government has extended the validity of LDAs to the end of December 2016 from the end of August. Colleges will not be able to access funding from the Education Funding Agency for young people aged 19 and over unless they have an EHCP. Unfortunately however, the sudden realisation of this by some Further Education Colleges resulted in high numbers of late requests for needs assessment (and possible subsequent issue of an Education, Health and Care Plan) in the summer term of 2016
- 1.11 The addition of the new category of need (Social, Emotional and Mental Health) has possibly lead to increased applications. In the past, some of these cases would not have received Statements of SEN as their needs may have been considered environmental rather than child-centred. This new category recognises that these environmental needs can have a significant impact on a child or young person's ability or capacity to access their education and therefore, the child can be seen to have special educational needs.
- 1.12 Reduced capacity within Educational Psychology teams lead to the decision that EPs would no longer attend Transfer Reviews. This has led to situations where suitability of current advice has not been robustly questioned and therefore decisions have been contested.
- 1.13 It also lead to EPs offering only a core service; it is believed that this has led to increase in requests for EHCPs since this process is statutory and is believed by schools to provide access to EP time.

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- 1.14 Pressures on school budgets can also increase the demand for EHCPs as these Plans bring with them additional financial support to meet the needs of the child or young person.

### **2. New Needs Assessments – changes to process**

- 2.1 In order to address the backlog of new requests, which number 126, several members of the SEN Team in Children's Services are taking on a reduced caseload to prioritise this project. A decision has been made to address first those cases that can be brought back into timescale. All cases however will have decisions made by the end of December 2016. Business Support staff will undertake the Request for Advice process that happens early in the timeline to free up SEN Planning Coordinator (SEN PC) time to write EHCPs. Where possible, SEN Planning Coordinators will also take on the writing of EHCPs for the backlog of assessments. However, when there are capacity issues these will revert to the SEN PCs dealing with the backlog project. Caseloads and performance are being closely monitored.
- 2.2 Additional business support staff are being deployed for six months to support this project.
- 2.3 This means that the majority of each SEN PC's caseload should already be within timescale. It is expected that those within timescale will remain so.

### **3. Transfer of Statements to EHCPs**

- 3.1 All decisions regarding transfer to EHCP will now be made at SEN Panel. The Panel is held weekly for pre-16 students and bi-weekly for post-16. Decisions will be relayed to the parents and/or the young person within the statutory six weeks.
- 3.2 In addition, renewed Education Psychology advice or a re-assessment (as necessary) is being requested routinely.
- 3.3 It is expected that these measures, in addition to process changes, such as improved paperwork to shorten the length of Transfer Review meetings, and increased access to data on line for Planning Review Officers undertaking the Transfer Reviews, will further support our improved performance.
- 3.4 To avoid these difficulties recurring, the aim is to complete EHCPs by 15<sup>th</sup> February 2017 for all mainstream school transfers and by 31<sup>st</sup> March for transfer to college or SPI. Adhering to these timescales will reduce last minute decision making on placements in the summer term and over the summer break and will lead to improved transitions for young people.

### **4. Staffing Changes**

- 4.1 In addition to the measures outlined above there have been changes to the management structure within the SEN Team as well as increased staffing. These changes have been funded via the revenue budget without recourse to SEND Grant. This will enable improved management of the processes and adherence to timescales. It is expected that we will be able to provide a report detailing current timescales by the end of October. This report will then be updated monthly with improvements expected to be visible by the end of December 2016.

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4.2 The County Psychological Service has also increased staffing and EPs will therefore have increased capacity to discuss cases with schools. This should reduce the demand for EHCPs.

### **5. Additional Risks**

5.1 The risks here are considerable. Failure to issue EHCPs on time can lead to children and young people being without appropriate educational provision or, without appropriate support to transfer to adult care placements. The transition process needs high quality and timely EHCPs to ensure that all parties are aware of the young person's pathway and outcomes. Without this Dorset is left with limited options that can be costly.

5.2 The factors affecting the current circumstances include the increased demand for EHCPs as well as the transfer process for EHCPs. Capacity within the authority to attend Annual Reviews for children and young people is limited. It is believed that this impacts on further education choices for young people. Work with commissioning teams on ensuring good performance from our schools in the independent and non-maintained sector is expected to ensure better outcomes, and ensure that any cost increases are reasonable. Also, work with our maintained schools via more proactive links with both SEN and EP teams should ensure that we receive only appropriate requests for EHCP assessments. Further work is ongoing to support schools financially at an early stage to also reduce requests.

5.2 We believe that risks are known, and can be mitigated, but this will require consistent and precise management as well as further investigation into causes.

**Sara Tough**  
**Director for Children's Services**  
September 2016