

Children's Services Committee

Report title:	Meeting Special Educational Needs & Disabilities (SEND) Education Health & Care Plans (EHCP) Performance Update
Date of meeting:	12 March 2019
Responsible Chief Officer:	Sara Tough Executive Director Children's Services
Strategic impact <p>This report explains the Local Authority duty to carry out the assessment of Education Health & Care Plans assessments within the statutory 20 week deadline and our ongoing plans to improve performance within this timescale.</p> <p>Education Health & Care Plan assessment performance improvement is being addressed within the overall SEND Transformation Programme; our over-arching transformation programme for SEND which includes the £120million investment in new specialist provision, our support and challenge of mainstream schools to improve SEND inclusion and related focus on Alternative Provision.</p> <p>Education Health & Care Plan assessments are part of the Children & Families Act 2014 SEND duties for local authorities in partnership with health. Our transformation and improvement programme of work is underpinned by our commitment to co-produce services and provision with our health partners, parent/carer groups and education providers; we have developed a draft Area SEND Strategy to ensure that improvements are taken forward as a partnership across the county.</p> <p>Education Health & Care Plan assessment timescale improvements are also necessary as we continue to prepare for inspection through the joint Ofsted/CQC Area SEND Inspection framework.</p> <p>All of these elements highlight the importance of securing Education Health & Care Plan performance improvement; critically if assessments are carried out in a timely way then we can be confident of arranging the most appropriate provision and placement for children and young people and ensure that their needs are met appropriately.</p> Recommendations <p>Members are asked to discuss the content of this report and specifically:</p> <ol style="list-style-type: none">1. To understand the duties placed on the Local Authority in relation to pupils with SEND requiring Education Health & Care Plan Assessment (EHCP)2. To support current and ongoing plans to improvement EHCP performance within the context of the overall SEND Transformation Programme and draft Area SEND Strategy	

1. Context

1.1 There are two main categories of special educational needs:

- The first is **SEN Support** and this describes children and young people who have been identified by their early years setting, school or post 16 education provider as requiring additional support. They provide this support directly. **There are approximately 15,000 children and young people identified as requiring 'SEN Support' in Norfolk.**

- The second is for children and young people who have the most complex SEN and require an **Education, Health & Care Plan**. The LA carry out these assessments and determine their provision and placement. There are approximately 6,000 children and young people identified as requiring 'SEN Support' in Norfolk.
- 1.2 There are significant statutory duties placed on the LA in relation to children and young people with SEND. The LA is required to work in partnership with all stakeholders to deliver the overall duty placed on all, and defined clearly in the SEND Code of practice.
 - 1.3 The LA is funded through the Dedicated Schools Grant High Needs Block and this funding must support children and young people aged 0 – 25 years for their educational provision and placements.
 - 1.4 Norfolk County Council 'general fund' budget provides the funding for the teams who carry out the Education Health & Care Plan assessments.
 - 1.5 Numbers of children and young people in Norfolk identified and assessed as SEND are above the national average.
 - 1.6 Provision in Norfolk's state-funded maintained complex needs / special schools is good or outstanding across the county.
 - 1.7 Provision in Norfolk's mainstream schools can vary, with some schools more confidently meeting needs than others.
 - 1.8 There are delays in carrying out Education Health & Care Plan assessments within the 20 week timescale. These delays have led to a high level of parental complaints and also a high level of related Local Government Ombudsman complaint referrals.

2 Executive summary

- 2.1 Education Health & Care Plan performance needs to be considered in a broader context, rather than simply how many assessments are carried out within the required 20 week period. We know that our performance needs to improve significantly, however, EHCP assessment improvement does not take place in isolation; EHCP performance must be considered within the context of:
 - the total number of children and young people in Norfolk with SEND
 - legal duties on early years settings, schools and colleges to meet the majority of SEND needs without the requirement for EHC assessment or plans
 - the mix of funding delegated to schools in addition to 'top-up' funding that is provided by the LA to early years settings, schools and colleges
 - parental confidence, expectations and preference regarding educational provision and placement
 - the role of health
 - joint working within NCC across education, social work and adult social care services
 - the legislative framework within the Children & Families Act 2014 and associated Ofsted/CQC Inspection Framework
- 2.2 The Managing Director's Strategic Delivery Unit has, over the past year, worked closely with Children's Services to review EHCP performance; providing support and challenge resulting in a report setting out the issues and recommendations for

actions; the recommendations have been accepted in full and are currently being implemented. This is provided in full at Appendix 1

- 2.3 Education Health & Care Plan assessment performance improvement is also being addressed within the overall SEND Transformation Programme; our over-arching transformation programme for SEND which includes the £120million investment in new specialist provision, our support and challenge of mainstream schools to improve SEND inclusion and related focus on Alternative Provision.
- 2.4 To ensure that assessment improvements are also addressed with our partners' Education Health & Care Plans are also a key element of our, draft, Area SEND Strategy & Action Plan.

3.0 Local Authority Duties, Performance Issues and Improvement Plans

3.1 Local Authority Duties

3.1.1 The Children & Families Act 2014 sets out our responsibilities for SEND. The local authority is seen as the lead agency, but clinical commissioning groups and all education providers have duties on them also. The government sets out all of these responsibilities in the SEND Code within seven key principles:

- the participation of children, their parents and young people in decision-making
- the early identification of children and young people's needs and early intervention to support them
- greater choice and controls for young people and parents over support
- collaboration between education, health and social care services to provide support
- high quality provision to meet the needs of children and young people with SEN
- a focus on inclusive practice and removing barriers to learning
- successful preparation for adulthood, including independent living and employment

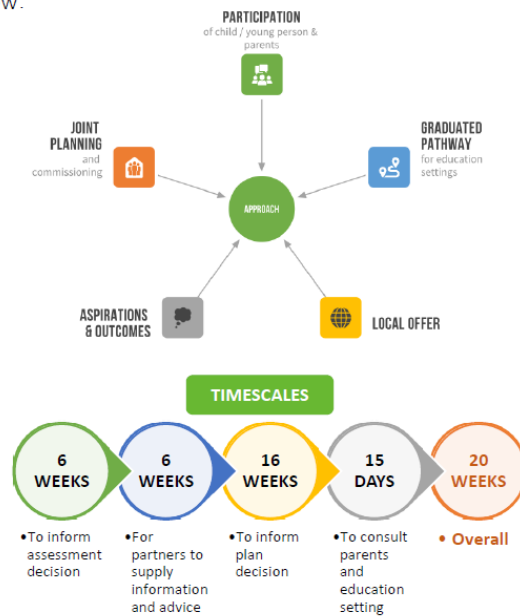
3.1.2 Over the last few years, working with partners, we have applied the seven principles in these ways:

- **Identification and Assessment**: making sure that individual children and young people who have SEN are assessed and their support is described well and provided in a way that impacts on improved outcomes
- **A 'Local Offer'**: all education providers and the LA, with health partners, must describe the services that are available across the county within a single website. Norfolk's SEND 'local offer' website contains all of this information. Link here www.norfolk.gov.uk/children-and-families/send-local-offer
- **Co-production**: we must work with parent/carer groups at all times to develop our services. We do this with health also and with Norfolk's early years settings, schools and colleges also. This is much more than simply carrying out consultations. Co-production is the direct input of partners in the design of services.
- **Joint Commissioning**: we have to keep reviewing all SEND services between education, social care and health services to find opportunities to jointly commission these.

3.1.3 The Local Authority has the duty to assess any child that is referred for an

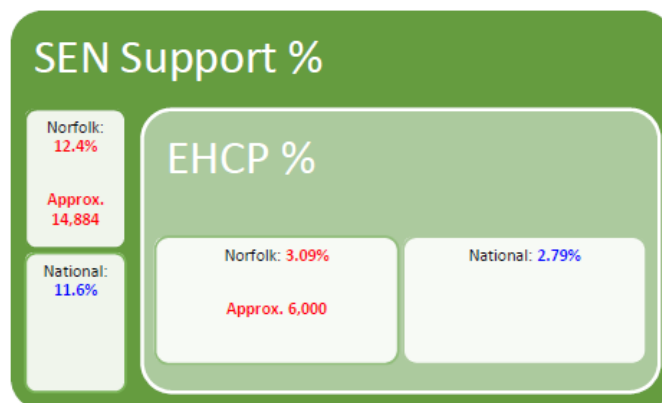
EHCP and then write that Plan, with the child and their family, to describe how their needs can be met. We then have a duty to support parental preference, for mainstream or special school placement, and arrange the admission and identify and support the funding of that placement.

- The requirements are very specific and detailed. A summary of the main requirements around approach and timescales is below:



3.1.4 In Norfolk more children and young people are identified as SEND than is the case nationally.

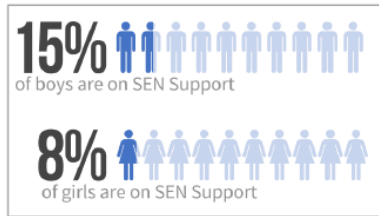
- The chart below shows that:
 - Norfolk’s SEN Support cohort is larger than the national average.
 - The number of EHCP’s issued to Norfolk children and young people is higher than the national average.



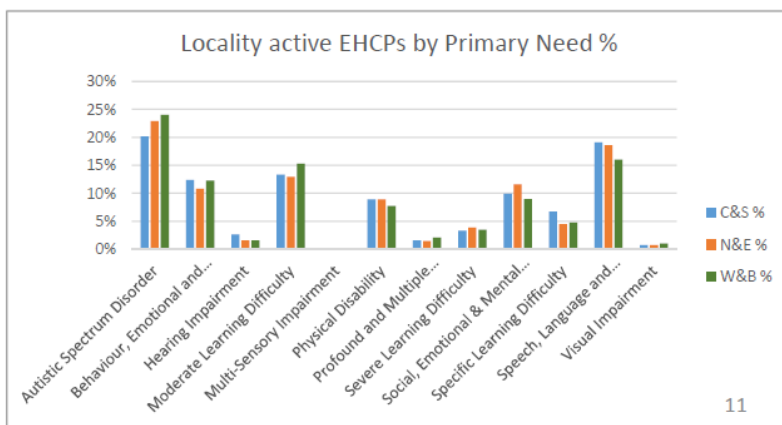
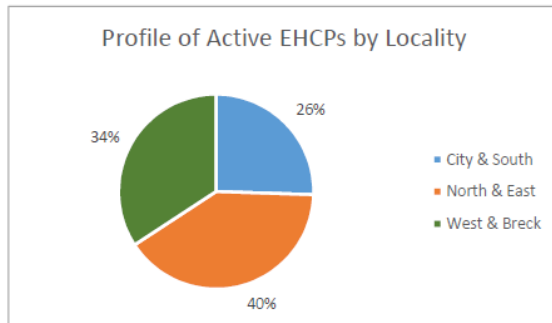
Larger versions of these diagrams are available within Appendix 1, pages 8 and 11

3.1.5 The charts below illustrate the characteristics within the Norfolk population regarding gender, location across the county and type of SEN for those children and young people assessed for Education Health & Care Plans:

➤ SEN is more prevalent in boys than girls in Norfolk:



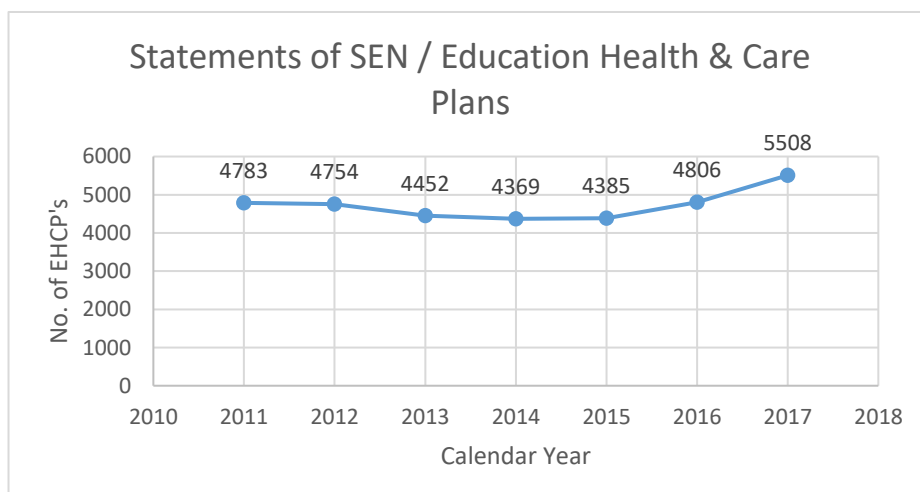
➤ The charts below show the geographical and primary need profile of existing EHCP across the County.



Larger version of these charts are available within Appendix 1, page 11

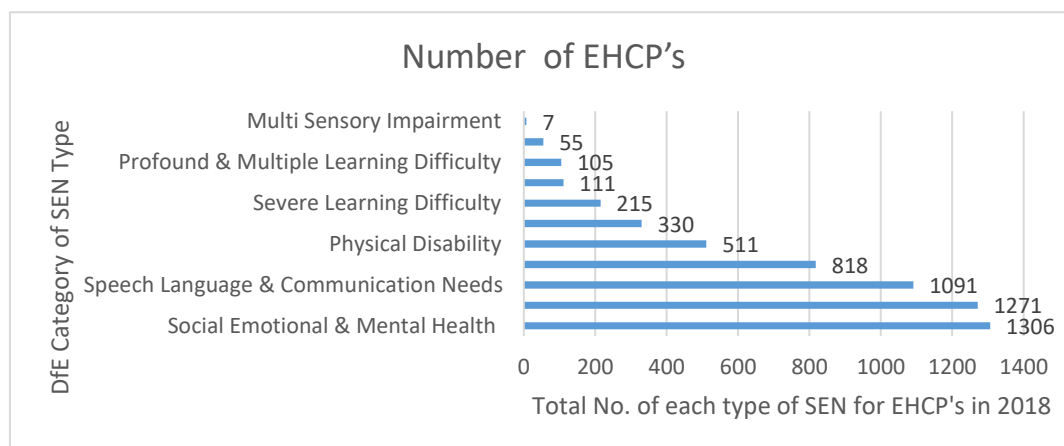
3.1.6 The number of children with an EHCP has risen year on year since 2014. This rise is mirrored nationally. The table below – table 2 – shows the trajectory since 2011 across the county.

Table 2 – Number of EHCPs (prior to 2014 known as Statements of SEN)



3.1.7 Pupils with SEND have a wide range of needs. The Department for Education (DFE) defines types of need. The table below – table 3 – shows the type of need and the Norfolk breakdown of pupils. The table indicates that 44% of all EHCPs are either for Autistic Spectrum Disorder (ASD), or Social, Emotional and Mental Health (SEMH). See Appendix 2 for further information about EHCPs in Norfolk

Table 3 – DFE type of SEN for children and young people with an EHCP in Norfolk

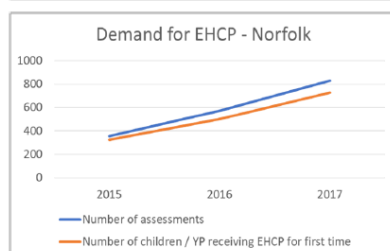
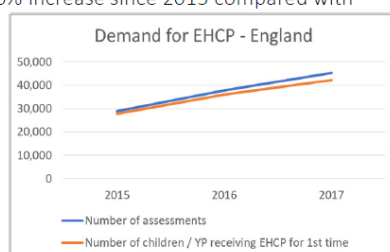


3.1.8 Approximately 16,000 pupils with SEND are in Norfolk mainstream schools. Of those approximately 2500 have an EHCP currently. The funding for SEND pupils in mainstream schools is largely from the Dedicated Schools Grant, Schools Block. Schools are funded through their main budgets, and notionally a proportion is identified to cover SEND pupils. This proportion is approximately £36million annually in Norfolk. There are locally agreed criteria that act as proxy indicators to determine this proportion of the overall school budget. Schools are required to use this proportion of their budget to meet the first notional £6,000 of need, over and above the per pupil weighted funding they receive. After that they can apply for top up funding to meet need. £5.3million is notionally identified from the Dedicated Schools Grant, High Needs Block, and managed by the LA.

3.1.9 Despite the delegation of funding to schools, for the majority of funding available, and the development of specialist resources bases and outreach services the referral rates for EHCP continues to rise across the county:

National and Local Picture

- The graphs below show the extent of increase in assessments nationally and in Norfolk.
- Norfolk has seen a 230% increase since 2015 compared with 55% in England.
- The concept of EHCPs is relatively new and an initial spike in request could be expected.
- Its possible that a “saturation point” will be reached at some point in the future where requests stabilise to a “turnover” level.



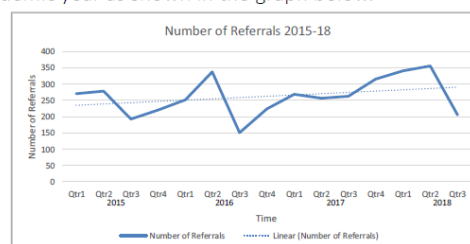
Source: <https://www.gov.uk/government/collections/statistics-special-educational-needs-sen#national-statistics-on-special-educational-needs-in-england>

Referrals in Norfolk

- The graph below shows an annual view which shows that in 2017 the referral rate has risen significantly.



- The annual referral pattern has typically been aligned to the academic year as shown in the graph below.



3.1.10 Local Authority Performance Issues

3.1.11 The key performance indicator for Education Health & Care Plans (EHCP) is the number completed within the statutory 20 week timescale; these are the initial assessments that follow a referral for assessment. However, the local authority is also responsible for co-ordinating the Annual Review of all EHCPs once they are in place and, for pupils who are due to transfer to the next phase of education, to review and amend the EHCP by February 15th in the year before 'phase transfer'. Finally, all local authorities had a duty to transfer all previous 'Statements of SEN' to EHCP's before March 2018. Our performance within these three elements for the most recent period has been:

- New ECHP's completed within 20 weeks – calendar year 2018 = 10.2%
- Statements of SEN transferred to EHCP's – by end of March 2018 = 99.3% *
- Phase transfer notifications to parents – by 15 February 2019 = 97% **

* 4431 cases completed of 4500

**294 cases completed of 303

3.1.12 Clearly the element of EHCP work that requires significant improvement is the timescale for initial assessments within 20 weeks; we have signalled to the Department for Education that in 2019 we aim to improve our performance to 55% (in line with previous year national average) and then to aim to move to 90% by the end of 2020 (in line with the highest performing LAs).

3.1.13 A key factor impacting on our ability to carry out the assessments within the 20 week timescale is the capacity of the teams and their ability to respond to the ongoing increase in referrals. The average number of referrals for assessments, both the previous Statements of SEN and the EHCP's introduced in 2014, had been 650 per year. Last year referrals exceeded 1000 and we expect this to be the case throughout 2019 also.

3.1.14 An EHCP assessment has two key decision points within the overall 20 week process. The first of these is within the first 6 weeks when we determine if a full assessment is required. The second is after approximately 14 weeks when we determine if an EHCP must be provided. If the decision at either of these points is 'no' then the child or young person will continue to be supported in their local early years setting or school within 'SEN Support' and through the funding available directly to those providers.

3.1.15 Therefore, a large number of the 1000+ assessments that are carried out do not result in a Plan being issued; the staffing resource to assess 'yes and 'no' cases is identical. Therefore, a key factor that needs to be considered within our current low performance of completing EHCP assessments within 20 weeks, always expressed as a percentage, are the actual number of cases issued:

Year	plans issued	% inc on previous yr	% inc 2 yrs
2018	790	10%	58%
2017	723	45%	
2016	500		

- 3.1.16 As can be seen, whilst the teams may only be achieving 10% of EHCP assessments on time the number of plans that they are issuing in total, year on year, is increasing significantly. Also, during the 2016 to 2018 timeframe these same teams (educational psychology and EHCP co-ordinators, and associated support teams) successfully completed 3800 conversions of 'Statements of SEN' to EHCP.
- 3.1.17 The challenges we have experienced in improving EHCP performance has led to a number of parental complaints to the Local Government Ombudsman (LGO) over the past year. The LGO has been concerned to note a pattern to these complaints, namely delays to the assessment of children and young people for Education Health & Care Plans and, in some cases, associated delays to securing specialist educational support, provision and placements.
- 3.1.18 The LGO have been informed of our strategic plans to development more specialist provision across Norfolk and to invest in additional staffing to improve EHCP performance. However, the LGO continue to be concerned regarding the number of parental complaints they have had to investigate in relation to these issues and, therefore, determined to publish two reports related to these complaints that were investigated by them last year.
- 3.1.19 We have responded fully to the LGO in all of the cases being investigated and provided reassurance of our improvement plans. We have also written to the individual families, provided compensation payments in line with the LGO recommendations, have implemented a wide ranging review of our systems and process for EHCP and will invest further in additional staffing.
- 3.1.20 We want to take this opportunity to extend our individual apologies to these families by placing on the record, via the Children's Services Committee, our apology to these families and to all families in Norfolk who have, and are currently, experiencing delays within the EHCP process. We are confident that our implementation of the Managing Directors Strategic Delivery Unit report recommendations, combined with additional staffing that has been agreed, will enable us to bring about the improvements required and to ensure that in the future parents will not feel the need to lodge complaints to the Local Government Ombudsman.
- 3.1.21 The LGO published their two reports on their website on 16th January and following this we were required to publish two public notice announcements via the local press. The publication of these reports, by the LGO, and our subsequent public notice announcements must ensure that, in line with the Local Government Act 1974 (Section 30[3]), we do not disclose any information to third parties that could identify the complainant or other individuals referred to in the report.
- 3.1.22 The LGO, within of the cases investigated, also outlined their concerns regarding the arrangements for securing alternative provision in the context of the high rate of permanent exclusions in Norfolk. Specifically, they stated that:

The Council should now carry out an audit of children missing from education for whom it has a statutory duty to provide suitable full-time education under s.19 Education Act 1996 to ensure the following:

- children are receiving suitable education;
 - provision is not being withheld or restricted due to resources; and
 - where a child is receiving less than full-time education there is medical evidence to support that this is the maximum amount of education they can access.
- Officers should submit the findings of the audit to the relevant Children's or Education Scrutiny Committee together with advice about whether the Council is complying with its statutory duties and has adequate commissioning arrangements and

resources in place. The Council should provide us with evidence the audit has been completed and discussed by Members at a relevant meeting (for example the minutes of the meeting) within six months of this report being issued.

3.1.23 The Head of the Education Quality Assurance & Intervention Service had already undertaken work, to improve the identification of all children who were potentially 'missing' education, prior to the LGO report on this case; the LGO has been informed of the scope of that work and the improvements this is bringing about. In line with the LGO recommendation a report to the CS Committee will be provided for the May Committee meeting regarding this improvement work within the Education Services.

3.2 Local Authority Performance Improvement Plans

3.3.1 The significant rise in referrals for EHCPs has led to some significant challenges to completion within the 20-week timescale set by the DFE. As a result, the Head of Education High Needs SEND Service and the previous Managing Director commissioned a report to analyse the performance of the EHCP demand and process further. This report is attached. This report has been shared with the relevant teams and leaders and all recommendations have been adopted. It has further informed our SEND transformation programme; a wide-ranging programme of work that will implement the approval given at the October 2019 P&R Committee, for significant capital borrowing for new specialist provision in addition to a renewed focus on support and challenge for mainstream school inclusion.

3.2.2 In order to significantly improve the EHCP performance, both quantitatively and qualitatively we have determined that there will be an individual workstream to focus on this improvement within the overall SEND Transformation programme. As part of this programme we have secured the services of a national recognised expert external agency to work with us to improve our current provision still further. Impower have been engaged to work with us to undertake a deeper piece of work in order to:

- Provide an external view of our system and the demand within it, offering insights, challenge and ideas from an independent perspective
- Give us a wider view of national and international best-practice in this area
- Offer additional capacity to progress the work at pace in the first development phase
- Offer specialist skills around research, analysis, behavioural insights, demand modelling and change management in the SEN sector

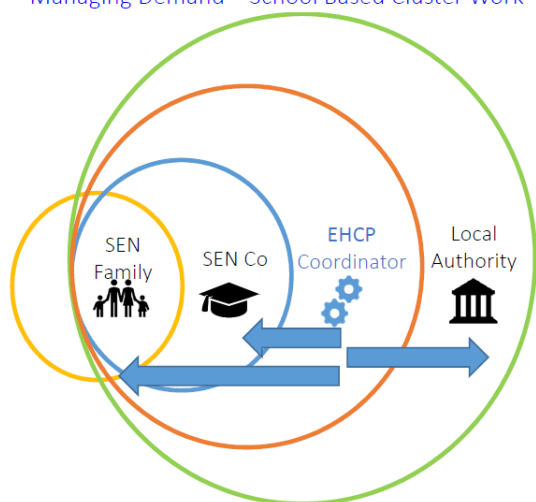
3.2.3 Alongside this we will be enhancing the staffing capacity for EHCPs significantly across this term and securing additional leadership in order to improve the completion within timescale. The teams of educational psychologists and ECHP co-ordinators, and associated support staff, were subject to staffing reductions at the time that public sector cuts first occurred ten years ago; in the past year we have been increasing staffing to take account of capacity issues.

3.2.4 This year we are increasing staffing further with a recruitment drive that will see in excess

of 30 full time equivalent staff recruited on both permanent and fixed term basis to support this work. Critically some of this staff resource will work with mainstream schools to increase their ability to meet need effectively at 'SEN Support'; increasing school and parental confidence in meeting needs locally, with delegated funding, access to specialist support services and with the need to refer for EHCP in all instances.

3.2.5 The EHCP and Educational Psychology teams have already started to test new ways of working to manage demand by meeting needs earlier through closer working with schools on a consultation basis:

Managing Demand – School Based Cluster Work



- The EHCP Coordinator supports designated school clusters via regular surgeries based in schools to support SEN Co and SEN Families.
- The intention is to solve issues early and to better support schools and SEN families.

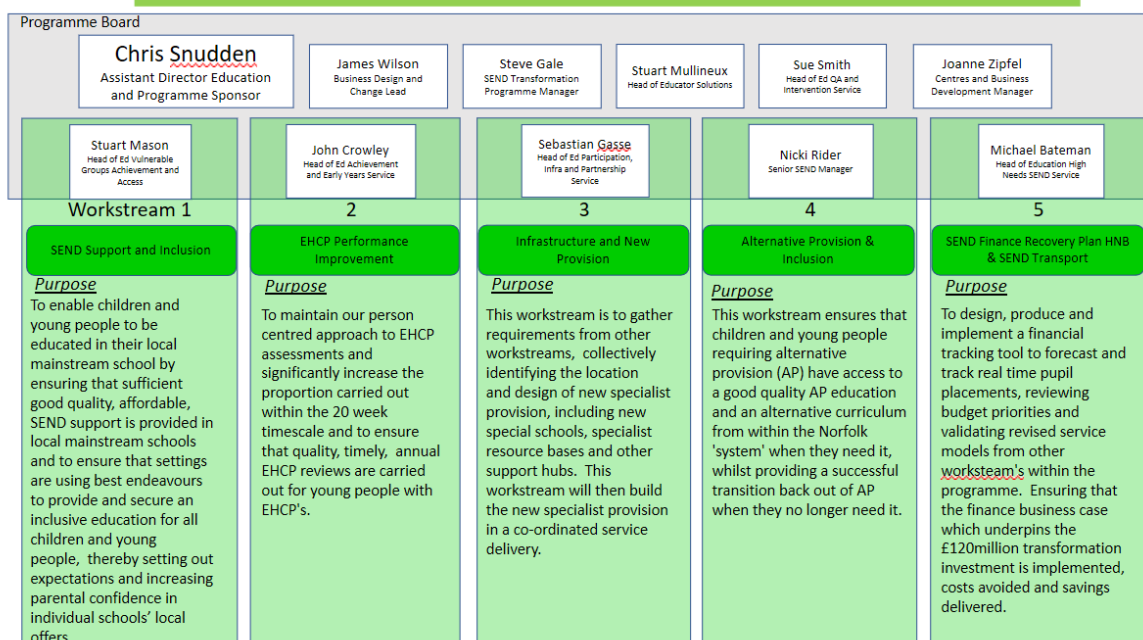
- An example of work to reduce demand for EHCP assessments is the cluster model described in the diagram opposite.
- The intended outcome is to improve relationships between NCC, ec settings and SEN families thereby reducing referral rates.
- Some identified risks are:
 - Demand on EHCP Coordinators impacts on their capacity to p EHCPs.
 - Number of referrals increases.
- The measure of success is that by Easter 2019 all allocated special : visited & attended SENCo Cluster meeting.
- It is recommended that proxy measures are identified and impleme evaluate impact of approach. Some examples are:
 - Reduction in the number of school referrals.
 - More pupils should be dealt with via SEN Support and th graduated approach.
 - Reduction in the number of parental referrals.
 - The support given to schools improves the parent school relationship.
 - Reduction in the number of No to Assess for school referrals.
 - The only referrals should be for those children or young who need an EHCP.
- A review of the impacts of the model should be planned.

Larger version of this example available within Appendix 1, page 21

3.2.6 The over-arching SEND & Alternative Provision (AP) Transformation Programme, agreed by Policy & Resources Committee in October 2018, provides the opportunity to accelerate improvements for EHCP assessments. EHCP assessment referrals have risen significantly in recent years despite mainstream schools having access to SEN funding of £36million and a range of specialist services. We will use the SEND & AP Transformation Programme to ensure that a greater number of children are supported effectively in their local mainstream school and, where appropriate, within 'SEN Support' arrangements without the need for EHCP referral and assessment.

3.2.7 The SEND & AP Transformation Programme has 5 workstreams and the combination of these will ensure greater access to specialist support locally, increased special school provision and performance improvement for EHCP assessments:

SEND Transformation Programme Structure & Purpose



3.2.8 The work of this transformation programme will be reported to the Council's Corporate Board and to relevant council committees on a regular basis.

4. Financial Implications

4.1 Additional staffing capacity of approximately £1.5 million has been secured via the overall Children Services transformation programme. Reporting on the profile of spending within that transformation programme is provided within separate finance and performance reports to CS Committee.

5. Issues, risks and innovation

5.1 EHCP performance improvement is a key issue for the council. National comparison tables are published each May and we know that our current performance will result in Norfolk remaining alongside other LA's who are performing significantly below other LA's.

5.2 However, we have developed an ambitious and exciting SEND & AP Transformation Programme and are confident that when fully implemented improvements will be evident.

6. Background

6.1 This is the link to Norfolk's Local Offer, which provides information for families, young people and professional regarding SEND support, services and provision across the county www.norfolk.gov.uk/children-and-families/send-local-offer and includes a newsletter regarding SEND & AP Transformation Programme and Area SEND Strategy.

Officer Contact

If you have any questions about matters contained or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

If you have any questions about matters contained in this paper please get in touch with:
Officer Name: Michael Bateman, Head of Education High Needs SEND Service

Tel No: 01603 307700

Email address: michael.bateman@norfolk.gov.uk



If you need this report in large print, audio, Braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.