

Local Government Association (LGA)

Education, Health and Care Plans

June 2018



Key messages

- The Children and Families Act 2014 introduced significant reforms to the support provided by councils and other agencies to children and young people with Special Educational Needs and Disability (SEND). A key part of the reform was the introduction of Education Health and Care Plans (EHCPs). These bring together education, health and social care to provide 'wrap-around' support for children and young people with SEND.
- The LGA was clear at the time that reforms set out in the Act were significantly underfunded. We are concerned that the progress that has been made could be put at risk as funding levels have not kept pace with rising demand.
- Despite the financial challenges, councils have performed strongly in implementing the reforms set out in the Act. By the end of March 2018, councils will have undertaken reviews for 94 per cent of children and young people that were transferring from SEND statements on to EHCPs,ⁱ despite the complex, multi-agency approach needed to transfer them.
- We are pleased that the Government has recognised that this has been a significant achievement for councils and we welcomed the additional funding that was allocated to support the EHCP transfer process (£40 million in April 2017,ⁱⁱ followed by £29 million in November 2017)ⁱⁱⁱ. We are now calling on the Department for Education (DfE) to make this funding available in future financial years to allow councils to continue to provide vital support for children with SEND.
- Additional funding is needed to help councils and schools respond to the significant increase in requests for support from the families of children with SEND. In the three-year period 2014-17 the number of children and young people with statements or EHCPs increased by 21.1 per cent from 237,111 to 287,290.^{iv} This compares with a 3.5 per cent increase in the previous three-year period 2011-14. The increase between 2016 and 2017 was 12.1 per cent.

Background

Education, Health and Care Plans

An Education, Health and Care Plan (EHCP) is a legal document that describes a child or young person's special educational, health and social care needs. It explains the extra help that will be given to meet those needs and how that help will support the child or young person to achieve what they want to in their life. The plan is drawn up by the local authority after an EHC needs assessment is undertaken.

EHCPs have replaced statutory assessments and statements of special educational need. Many of the legal requirements for EHCPs are the same or

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similar to those required for SEND statements. There are also some significant differences, including:

- EHCPs do not necessarily cease when a young person leaves school and can be maintained when a young person is in college, undertaking an apprenticeship, or not in education, employment or training.
- EHCPs can be maintained up to the age of 25.

EHCPs are, by their very nature, more complex than SEND statements as they rightly bring together health, social care and education to provide 'wrap around' support for individual children and young people.

The LGA was clear with the Department for Education (DfE) at the time that implementation of the SEND reforms set out in the Children and Families Act was significantly underfunded and did not take account of the complex multi-agency approach that brings together social work, education and health practitioners. Despite this however, DfE statistics show that of the new EHCPs issued during the 2017 calendar year, 64.9 per cent were issued within the 20 week time limit, an increase from 58.6 per cent in 2016.^v

While this highlights how partners have responded strongly to increased demand and are working hard to meet the needs of children with SEND in their areas, more needs to be done to ensure that performance is consistent across all council areas.

SEND and High Needs funding

As well as an increase in numbers of children and young people on EHCPs, the proportion of pupils with SEND who attend special schools has increased from 5.6 per cent in 2012 to 8.8 per cent in 2017 and the proportion in independent schools has moved from 4.5 per cent to 6.5 per cent^{vi}.

These places are more expensive than mainstream provision. This is because pupils in special schools have much higher needs and disabilities than those in mainstream and often need specialised equipment and therapies plus much smaller classes. As an example those with severe autism cannot be in a class larger than eight pupils. Independent school fees are also much higher because they are children who cannot be educated even in special schools locally and it sometimes involves residential provision.

While there have been some small increases in high needs funding it has been a cash-flat settlement, in line with the general schools budget, taking no account of inflation, increasing pensions contributions and sharply increasing demand. Pressure on high needs funding will increase further with the introduction of the National Funding Formula for schools this year that removes council flexibility to move funding from the general schools block to the high needs block of the Dedicated Schools Grant to help plug this funding gap. Schools also face funding pressures and should not be expected to meet shortfalls in high needs funding.

We are concerned that without additional funding being made available councils may be unable to meet their statutory duties to ensure appropriate provision for pupils with SEND. We are therefore calling on the DfE to undertake a fundamental review of high needs funding arrangements.

Joint commissioning of SEND support

Effective joint commissioning is crucial in providing good support to children and young people with SEND. In many areas this is being hampered unfortunately by the financial pressures facing councils, schools and health providers. We would be keen to work with the DfE, Department of Health and Social Care (DHSC) and NHS to discuss what more can be done to make the best use of locally available

resources to benefit those children and young people that require EHCPs and SEND support.

Councils are clear that more needs to be done to increase levels of inclusion in mainstream schools to reduce the numbers of children with SEND being placed in more expensive specialist settings. We would be keen to work with the Department and education providers to identify how additional capacity to support children with SEND can be created. We would also be keen to discuss the availability of special school places in council areas to reduce the use of even more expensive out of area provision.

The joint Ofsted-CQC inspection of SEND provision, which began in 2016, has helped to emphasise the need for partners to work together. We are, however, concerned that in some instances Ofsted and the CQC are holding councils to account for the performance of their partners.

To date, 58 SEND inspection reports have been published, of which 25 have required a written statement of action from the council and clinical commissioning group (CCG) where performance has been poor.^{vii} We are concerned that the number of written statements of action will only increase in line with increased demand for support, unless additional funding is made available.

Responding to demand from councils, in 2017 the LGA developed a SEND peer review programme that is designed to help councils, CCGs and their partners reflect on and improve the outcomes for children and young people with SEND.^{viii} Seven SEND peer reviews, including four pilots, have been completed to date. Developing a multi-agency SEND improvement support offer is crucial to embedding and sharing existing good practise. We are keen to discuss how additional capacity to undertake this work can be created with the DfE, NHS and DHSC.

ⁱ <https://www.gov.uk/government/news/new-measures-to-support-children-with-send>

ⁱⁱ <https://www.gov.uk/government/publications/send-provision-capital-funding-for-pupils-with-ehc-plans>

ⁱⁱⁱ <https://www.gov.uk/government/news/45m-boost-for-young-people-with-send>

^{iv} The DfE's Technical document for SFR22/2017 notes that due to an error in Birmingham's return this 2017 figure under-reports the numbers with statement/EHC Plans by just over 1,000

^v https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/709590/Statements_of_SEN_and_EHC_plans_England_2018_Main_Text.pdf

^{vi} <https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2017>

^{vii} <https://reports.ofsted.gov.uk/resources/local-authority-school-improvement-arrangements-inspections-and-focused-school-inspections>

^{viii} <https://www.local.gov.uk/sites/default/files/documents/SEND%20What%27s%20it%20all%20about.pdf>