

# People Scrutiny Commission

13 March 2023



**Report of:** Abi Gbago, Executive Director, People

**Title:** Education Health and Care (EHC) performance update

**Ward:** All

**Officer Presenting Report:** Reena Bhogal-Welsh, Interim Director Education & Skills

## Recommendations:

- Scrutiny to note the content of this report

## The significant issues in the report are:

- The number of EHC Needs Assessments (EHCNA) finalised has increased in 2022 on 2021.
- Performance continues to be affected by the rise in new EHCNA requests: a 17.6% increase from 2021 to 2022
- End of year 38% of Education, Health and Care needs assessments met 20-week statutory timescales an increase on 34% in 2021.
- Average wait time for an EHC needs assessment (open more than 20 weeks) at year end was 33 weeks.

## 1. Summary

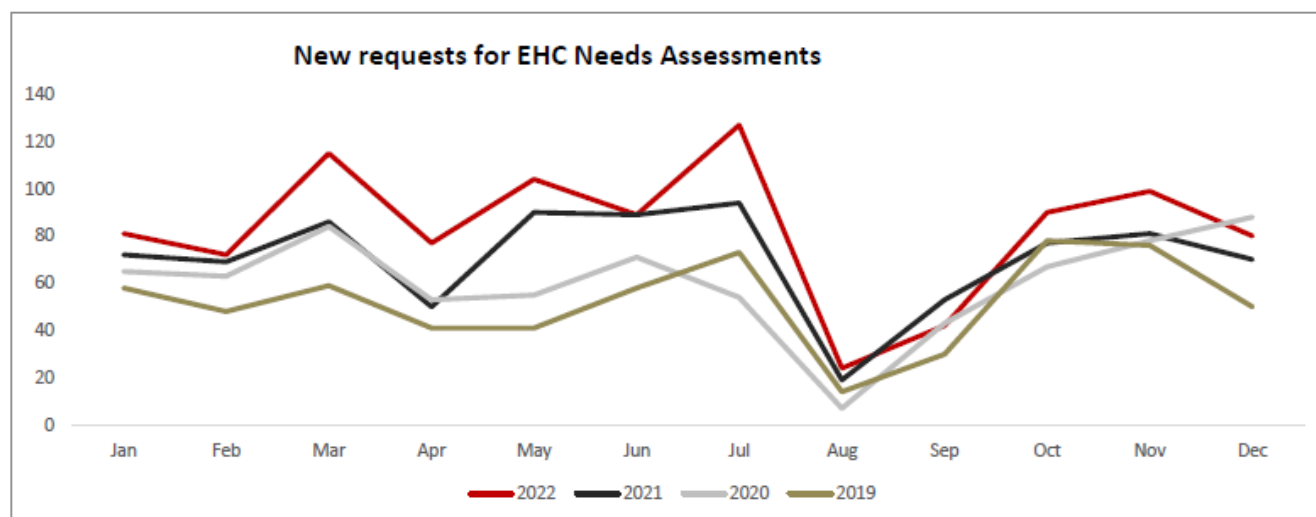
Work to improve the quality and timeliness of the Education Health and Care Needs Assessment (EHCNA) process continues, with close partnership working across SEND team, health, social care and education psychology service to deliver child centred assessments. The level of EHC needs assessments requests continues to remain high this year. However partnership working and allocation of resource ensures that those most vulnerable are prioritised as well as those children and young people beyond the 20 week timescale are assessed in a coordinated allocation system. The local authority is aiming to reduce the average wait times which at the end of December 2022 stood at 33 weeks.

***At the time of writing this report, the annual census return for the Department for Education (SEN2) is currently being collated and verified, therefore the final submission may show slight amendment in final numbers quoted.***

## 2. Performance

### 2.1 EHC Needs Assessment

- In 2022, **1000** EHCNA were received which is 17.6% increase in the number of requests in Bristol between 2021 and 2022
- In 2021, **850** EHCNA requests were received, a 17% increase to 2020.
- In 2020, **728** EHCNA requests were received in total.

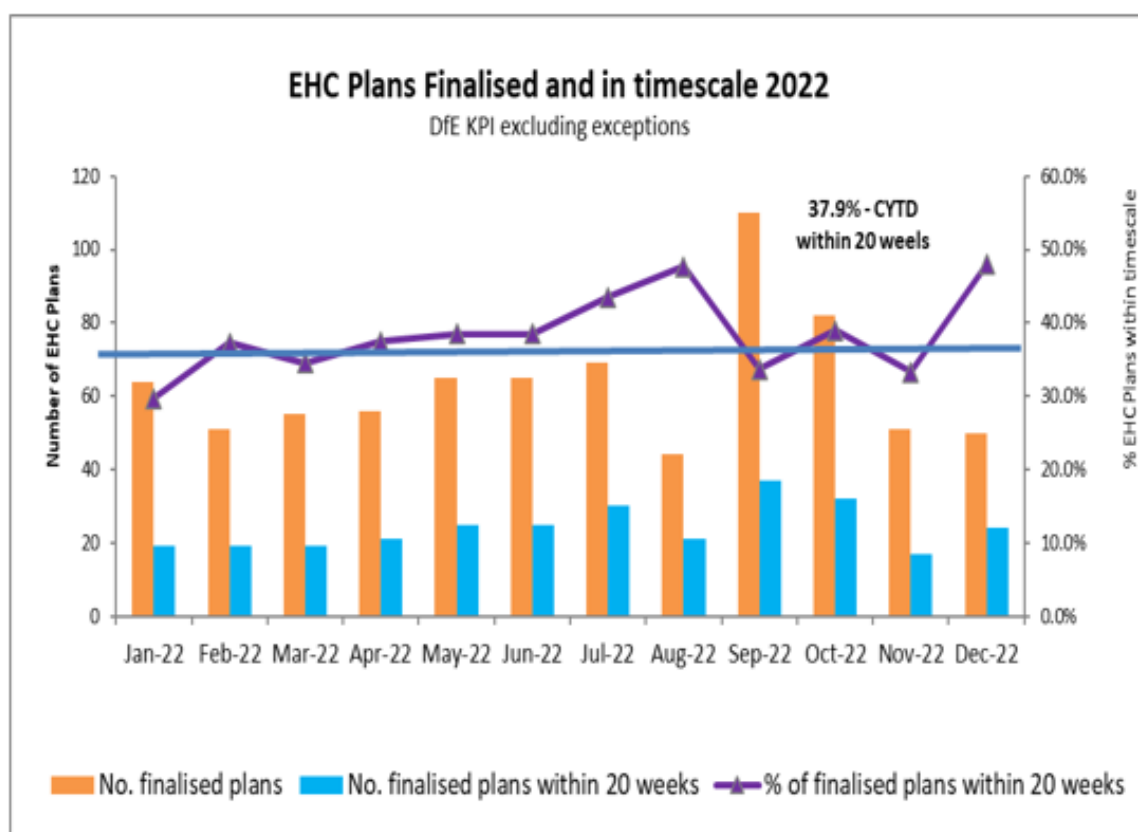


### 2.2 Finalising Plans

- Between 1<sup>st</sup> October 2022 and 31<sup>st</sup> December 2022, 195 plans were finalised, 73 were within the statutory 20 weeks' time scale, 120 were from the exceeding 20 weeks' timescale.
- Between 1<sup>st</sup> January 2022 – 31<sup>st</sup> December 2022, 791 plans were finalised which is a 37% increase in the number of EHC Plans issued when compared to 2021 where 579 were finalised.

## 2.3 Timeliness

- For the Quarter October -December 2022 using the DfE KPI (which excludes exceptions) 183 finalised EHC plans with 73 finalised plans within 20-week timescale producing the end of quarter on time 39.9%.
- Since January 2022 to end of December 2022, DfE KPI shows 289 plans have been issued within the 20-week timescale, out of 762 plans issued in total which is 37.9%.

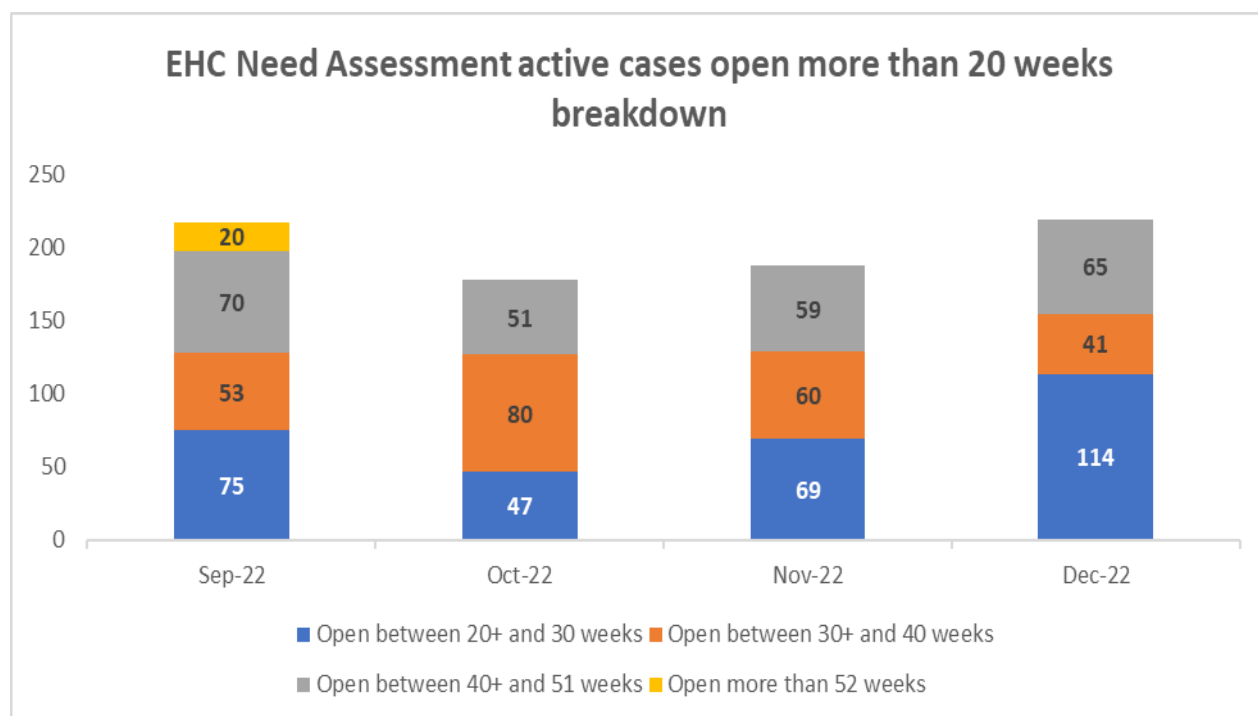


- The increase in requests for assessment, means there are more on-going cases in the system at any one time, resulting in increased workloads for Statutory SEND team officers. By on-going cases we mean all requests in the system. Processes are in place to monitor the on-going children’s assessments that are out of statutory timescales, so no cases exceed the 52-week threshold in future.
- Weekly meetings continue to take place between the Statutory SEND service leads and key officers from Education Psychology Service and Children’s Social Care. Once a month Specialist Health Advisors for SEND join this meeting. The purpose of the meeting is to discuss:
  - Data regarding EHCNA requests and issuing of Final EHCPs for the month
  - Planning the allocation of caseworkers from the EP and Assessment Teams to ensure focus is directed to the right children and young people.
  - Discuss priorities regarding allocation – for example Children in Care, Key Stage Transfer, Children Missing Education.

- The meeting enables SEND managers to plan allocations to EPs and Assessment Coordinators and agree the balance of overdue cases and those than can be issued within 20-week timescale. Progress with this stance is demonstrated through the September output.

## 2.4 Legacy Cases

- As at the end of December 2022 there were 493 active EHC Needs Assessments in the system, compared to 484 at the last time of reporting at the end of September 2022.
  - 273 of these were within 20 weeks timescales
  - 220 exceed the 20-week timescale
- There is tension between finalising new EHCNA requests within 20 weeks and finalising those already outside 20 weeks.
- It should be noted that for as long as there are overdue cases in the system, the 20-week targets are going to be under pressure.
- We have no requests which exceed the 52-week timescale.



## 2.5 Way Forward for EHCNA for 2023

- It is proposed that a People scrutiny member briefing(s) be set up to agree KPIs for EHC needs assessments for 2023, with all commission members to be invited to attend.

## 2.6 Annual Reviews

- The Statutory SEND Team has 14 full time equivalent Senior Inclusion Officers (SIO); they are the key link for children and young people with EHC plans and their families, and provide support, guidance and ensure statutory duties are met by schools with regards to the EHC plan on behalf of

the LA. These officers attend some annual reviews. This is usually when families and or schools request support, emergency annual review or at Key Stage Transfer. The LA does not have capacity to attend all Annual Reviews.

- Bristol currently has 3791 EHC plans which must be reviewed at least every 12 months and for those under 5 years of age must be reviewed every 6 months.
- IT developments and work with schools will enable us to deliver on our statutory duties. With annual reviews, partnership working is vital (with schools and all professionals) to improve timeliness and quality of meetings and EHC plans as a result.
- As of 31<sup>st</sup> December 2022, Bristol had 3007 EHC plans which had been active for more than 12 months and therefore needed to be reviewed.
- 2320 EHC plans out of 3007 CYP had an annual review within the previous 12 months, which is 77%.
- Of these 3007, 2188 have had an annual review decision letter (notification of the decision as to whether to retain, cease or amend the plan following the annual review meeting) sent within the previous 12 months, which is 73%.

## 2.7 First Tier SEND Tribunal: End of Year Summary

- In 2022, there were 120 appeals lodged compared to 37 in 2021.
- Hearings can be held up to as much as 12 months or more after the tribunal is lodged.
- Of the 120 lodged, 69 have been completed and 49 are ongoing.
- This increase is partly a reflection of the volume of work/ appealable decisions being made by the assessment (EHCNA) and review (annual review) teams within the SEND team.
- However, further factors must be considered given to the high volume of appeals this year. The table below shows the reasons for appeals as indicated in the grounds of appeal.

### Reasons for tribunal appeals:

Grounds of appeal	2019	2020	2021	2022
Refusal to assess	12	5	<5	46
Refusal to Issue	6	7	8	10
Content of EHCP	15	29	28	62
Decision not to amend after review	0	0	0	0
Decision to cease	5	<5	0	0
Transfer appeal from other LA		<5	0	0
Disability Discrimination Case				<5
Application of Appeal not sent to LA.				<5

- The main reason for tribunals with 61 appeals being lodged is due to the content, which in law means parts B (specifies all the CYP SEN), F (provision) and I (placement) of the EHC plan.
  - Of these 61, 'content' appeals 47 included part I: placement. A high number of appeals are lodged because parents are not happy with the school that the LA have named

often because they are seeking placement at an Independent Non-Maintained School, while the LA deemed the child’s needs could be met more locally. Other reasons for part I appeals are that parents are seeking a special school place and a mainstream school was named on the EHCP, or parents could be seeking an alternative special school placement within or outside Bristol.

- The content appeals also include 20 Extended Appeals’ involving health and social.
- The second highest reason for appeals lodged with 46 are ‘refusal to assess’. In 2022, the LA received 1000 EHC needs assessment requests and declined to proceed with an EHC needs assessment for 296 requests. Therefore, the percentage of appeals lodged after receiving a refusal to assess is 15.5%.
  - Of the 46 appeals, 36 have been completed and 100% resulted in an assessment for the young person.
- Most appeals do not result in a hearing due to a continued emphasis on resolution; the Tribunal Managers are proactive in contacting and working with parent/carers and young people to avoid progression to appeal where possible and are resolved by being conceded by the LA or negotiated via exchange of evidence and “working documents” (versions of the EHCP working towards a solution).
- Of cases that do not go to hearing, placements and assessments are often agreed and other points may be negotiated.
- Of cases that do go to appeal, often there is a lot of negotiation and agreement via working documents, with only some issues to be decided in the hearing in which our resolution focused approach has been acknowledged by the Tribunal.
- Of those Tribunals lodged in 2022, 12 hearings were held : 8 upheld (in favour of the young person/ parent/ carer) 67% and 4 not upheld (in favour of the local authority) 33%.
- The Ministry of Justice have acknowledged that nationally there has been a rise year on year of First Tier Tribunals stating in their most recent Tribunal statistics Quarterly: June-Sept 2022 published 8 December 2022:

*The SEND Tribunal continues its upward trajectory, increasing steadily over the last seven years from 3,100 in 2014/15 to registering the highest number of appeals (11,000), in the academic year 2021/22, an increase of 251%. The increase is likely due to the continued effect of Education Health and Care plan reforms introduced which extended the provision of support from birth to 25 years of age. HMCTS has recruited additional judges and prioritised appeals involving school transfers to help deal with the rise.*

[Tribunal Statistics Quarterly: July to September 2022 – GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-july-to-september-2022)

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### 3. Policy

N/A