

People Scrutiny Commission

27th September 2023



Report of: Reena Bhogal-Welsh, Director Education & Skills, People

Title: Education Health & Care (EHC) Performance Update

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

Recommendation:

For the People Scrutiny Commission to note the report.

The significant issues in the report are:

2023 is seeing a continued upward trend (20%) in number of EHC Needs Assessment requests received by the service. Impact on team performance remains.

The number of EHC Needs Assessments (EHCNA) finalised, by the service, has increased by 6% this year (Jan-July) in comparison to the same period in 2022.

This year's first and second quarter (Jan to June), demonstrate an improvement in EHC Needs Assessments meeting the 20-week statutory timeframe on last year (2022); 1st by 6.1%, 2nd by 5.8%.

Average wait time for an EHC Needs Assessment (open more than 20 weeks) at the end of July 2023, was 30 weeks. This has reduced from 35 weeks since January 2023.

At end of July 2023, ages 5 to 15 years continues to be the age bands with the highest percentage of first time issued EHCP's so far in 2023.

First Tier Tribunal appeals lodged in 2023 (54), have decreased on last year by 1.8% (71). Bristol is currently lower than the national average (3%) at 1.2%.

1. Summary

There continues to be a general trend of increasing demand in all the services statutory domains, year on year.

As the volume, into service, remains high partnership working, monitoring and timely allocation of resource will be integral in continuing to ensure those most vulnerable are prioritised, as well as those children and young people whose assessments reach beyond the 20-week timeframe.

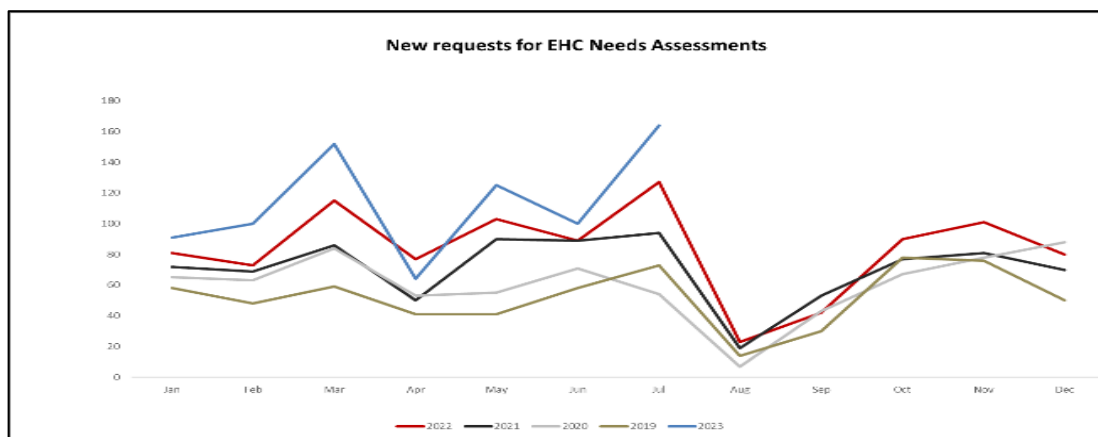
To keep timeliness and quality driving forwards; close partnership working across SEND, health, social care and education psychology is central in the delivery of child centred assessments and good quality Annual Review’s. This shared ownership aspires to promote and build trust so children and young people with SEND, and their families, have confidence we are working towards the same objectives and the best possible outcomes by providing a service that works for them.

The service aspiration is to ‘be better and do better’, for all Bristol children and young people with SEND. Alongside a commissioned delivery partner, we will invest in the identification and implementation of EHCP process improvements to contribute to reducing the pressure across the statutory process. This improvement work is underway and has a lens on sustainability and agility for the service to be in the best possible position. As well as reinforcing a mindset and culture that embraces change to provide quality in service, for all Bristol Children and Young People with SEND, and their families.

2. SEND Assessment, Planning & Review Team Performance

2.1 EHC Needs Assessment Requests

Since calendar year 2019, Bristol has seen a continual growth in EHC Needs Assessments (EHCNA), year on year.



- 2019 – 626 EHCNA requests received, in total
- 2020 - 728 EHCNA requests received, a 16% increase
- 2021 - 850 EHCNA requests were received, a 17% increase to 2020
- 2022 - 1001 EHCNA’s were received, a 18% increase to 2021.

At the end of July 2023, *796 EHCNA requests have been received. This is a 20% increase

when compared to the same period timeframe of 2022 (Jan-July).

July 2023, saw the highest number of requests received by the service (164), this is an increase of 29% when compared to the month of July 2022 (127).

The first seven months of 2023 shows an increase in requests received from secondary phases when compared to 2022.

Requests by phase	2022	2023
Primary	57%	55%
Secondary	23%	31%
Early Years	17%	12%
Post 16	3%	2%

Prolonged peaks of EHCNA requests present risk to the service in meeting the statutory 6-week decision timeline, impacting negatively on the service delivered to Bristol children, young people, and their families.

The service continues to control this risk through weekly monitoring and Decision & Moderation Group resource allocation with partners.

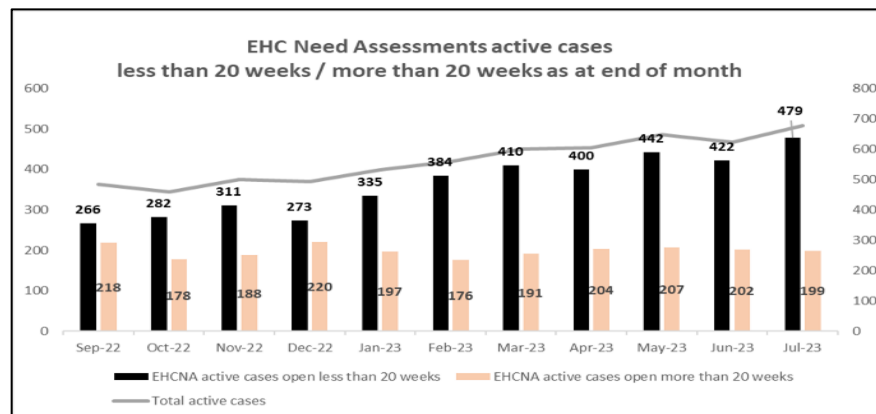
*2023 figures, as at the end of July 2023.

2.2 EHC Needs Assessments (live)

The number of live EHC need assessments in the first seven months of 2023 has increased month on month with a 27% increase between January 2023 (532) and July 2023 (678)

During the first seven months of 2023, on average 32.5% of live EHC need assessments were outside the 20-week timeframe.

Of those cases outside the 20-week timeframe the average number of weeks open reduced from 35 weeks in January 2023 to 30 weeks in July 2023.



The continued increase in requests for a Needs Assessment, means there are more assessments in process and in the system, at any one time, resulting in increased workloads

for Statutory SEND Officers.

2.3 Finalising Education, Health & Care Plans

791 EHCP's were finalised for the first time during the calendar year 2022 (*including mediation/tribunal/exception cases*) an increase of 37% from 2021 (579).

Through 01 January 2023 to 31 July 2023, 466 Education, Health & Care Plans (EHCP) have been finalised, for the first time, by the service.

This is a 6% increase when compared to the same period in 2022 (438) and a 36.3% increase when compared to the same period in 2021 (297).

Of those finalised (Jan-July 2023),

- 180 were within the statutory 20 weeks' timeframe
- 286 exceeded the 20 weeks' timeframe.

This meaning, January to July 2023 saw 38% of EHCP's finalised for the first time, within the set statutory timeframe.

2.4 Timeliness

Figures using the DfE KPI (*which excludes exceptions*).

The DfE's KPI's align to the statutory timetable and are used to monitor local operational performance. Performance is measure quarterly.

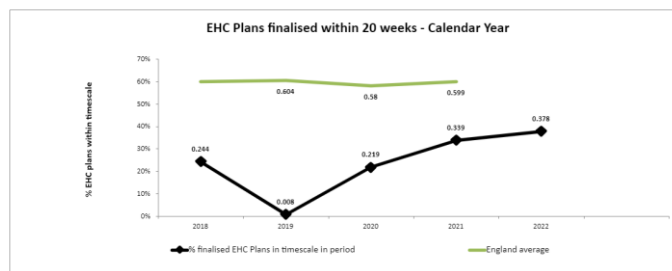
Between 01 January 2023 and 31 March 2023, 159 EHCP's were finalised with 63 finalised within the statutory 20-week timeframe producing the end of 1st quarter on time at 39.6%.

Between 01 April- 30 June 2023, 182 EHCP's were finalised with 80 within the statutory 20-week timeframe producing the end of quarter on time at 44%.

0 finalised EHCP's breached 52 weeks between 01 January to 30 July 2023.

Quarter 1 & 2 periods demonstrate improvement on last year (2022); 1st quarter up by 6.1ppt, 2nd quarter up by 5.8ppt.

The services percentage for finalising EHCP's, for the first time, on time remains steady and demonstrates improvement year on year, since 2020.



*Mediation and Tribunal Cases are not included in the overall numbers, in line with the DfE exceptions.

2.5 Legacy

As the service sees continued rise of Needs Assessments in process, there remains a tension between finalising new EHCNA requests, within the 20-week timeframe and finalising those already outside 20 weeks (legacy).

Timeliness KPI - Rolling 12 months			
New EHC Plans finalised within 20 weeks (excluding exceptions)			
<i>DfE cohort - excludes those with a mediation and/or tribunal before the final plan is issued. Includes all requests irrespective of year received</i>			
	2022/23		
	Finalised EHC Plans in month	Finalised EHC Plans in month within 20 weeks	% finalised EHC Plans in month within 20 weeks
Jan-23	41	10	24%
Feb-23	48	24	50%
Mar-23	70	29	41%
Apr-23	50	27	54%
May-23	55	23	42%
Jun-23	77	30	39%
Jul-23	66	37	56%
Aug-22	44	21	48%
Sep-22	110	37	34%
Oct-22	82	32	39%
Nov-22	51	17	33%
Dec-22	50	24	48%
Total	744	311	42%

This target will remain pressured for as long as there are overdue assessments in the system.

The team monitor all Needs Assessments and weekly meetings continue to take place between the Statutory SEND service leads and key officers from the Education Psychology Service and Children’s Social Care. Once a month Specialist Health Advisors (SHAS) for SEND join this meeting to discuss current data for all Needs Assessment requests and issuing of First Final EHCPs for the month.

There is joint planning for the allocation of caseworkers from the Educational Psychology (EP) and Assessment Teams to agree on priorities regarding allocation, for example; Children in Care, those approaching Key Stage Transfer, Children Missing Education.

This planning enables SEND managers to plan allocations to EP’s and Assessment Coordinators and agree the balance of overdue cases and those than can be issued within 20-week timescale.

On average, legacy cases are currently finalised in 30 weeks.

In 2022, national performance decreased (50.7%) compared to previous years.

In the South West, performance dropped from 50.7% to 35.2%; the poorest regional performance nationally.

Bristol is currently performing at 44% (end of quarter 2) which is above average for the region.

This progress can be attributed to the improved joint working, ownership and communication between partners in Education, Health and Social Care.

2.6 Development

Priorities for 2023/2024

EHCP Process Improvement

The service will work alongside a commissioned delivery partner to implement improvements within the EHCP process improvements; reducing manual effort, where possible, and therefore reducing pressure within the system and supporting timeliness in processing undertaken.

Sufficiency

In early 2020, the mayor pledged to create an additional 450 specialist provision places by 2024. Cabinet approved a programme of works to create additional capacity within the SEND estate to deliver sustainable sufficiency of specialist places, as much as possible, within Bristol creating better accommodation for children and young people with special educational needs and disabilities.

The first phase of the specialist provision project has created and delivered a total of 142 special school places. The second phase is in delivery and aims to deliver the full 450 special school places pledged with the aim of improving outcomes and attainment as more children and young people with EHCP's will be better able to access suitable education within their locality.

Needs Assessment Timeliness

The service is committed to reducing the pressure upon assessments reaching beyond the 20 week timeframe.

The current average for finalised EHCP's reaching beyond 20 weeks, is 30 weeks. Therefore, continued reduction of this timeframe will remain a service focus and improvement opportunities will be explored by the team alongside our commissioned delivery partners.

Annual Review - Quality

The Annual Review Pod provide dedicated support to the Inclusion Teams in regard to the processing of Annual Reviews received by the Local Authority.

The team focus on timeliness and quality assurance of Annual Review's received and will extend this remit to sampling of Amendment Notice to the EHCP's, drafted by SIO's. Further

improvement opportunities will be explored by the team alongside our commissioned delivery partners.

2.7 Annual Reviews

The SEND Assessment, Planning & Review Team has 18 full time equivalent Senior Inclusion Officers (SIO), split between Pre 14 and Post 14 Inclusion Teams.

The SIO's are the key contact for children and young people with EHCP's and their families. The Officers provide support and guidance, ensuring statutory duties are met by schools on behalf of the Local Authority. The SIO's are responsible for ensuring each child/young person's EHCP is reviewed and are making progress towards their aspirations and the outcomes in their EHCP.

Bristol currently has 4256 EHC plans which must be reviewed at least every 12 months and for those under 5 years of age, reviewed every 3-6 months.

The Local Authority does not have capacity to attend all Annual Reviews and currently prioritises attendance for children and young people in specific circumstances, for example; children/young people in care, those with Youth Justice involvement, when families or schools request support, at emergency annual reviews - where there is risk of placement breakdown, a child is classified as either 'pupil missing education' or 'child missing education' or there is a significant change of need and at Key Stage Transfer.

The team continue to provide support and guidance to schools and professionals to improve the quality of the Annual Review process and timeliness. School staffing changes, each academic year, will impact on the transference of knowledge. Therefore, ongoing partnership working continues to improve both adherence to statutory timeframes and quality of the Annual Review and Annual Review meetings.

As of 31 July 2023, Bristol had 3395 EHC plans which had been active for more than 12 months and therefore needed to be reviewed.

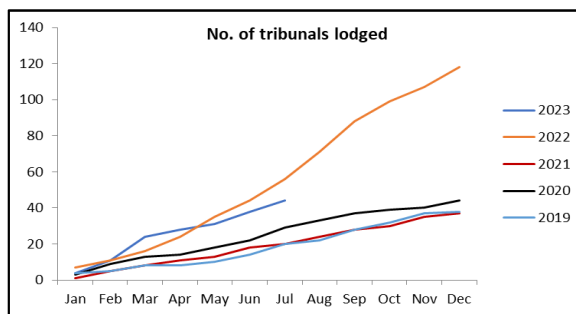
Of the 3395, 1297 have had an annual review decision letter (notification of the decision as to whether to retain, cease or amend the plan following the annual review meeting) sent within the previous 12 months, which is 38%.

2.8 First Tier SEND Tribunal

In 2022, there were 118 appeals lodged compared to 2021 (37).
Between January and 01 September 2023, Bristol has had 54 appeals lodged.
Of the 54 lodged this year, 32 have concluded and 22 are ongoing.

This is a decrease of 24% when compared to the same period last year (71).

Hearings can be held up to 12 months+ after the tribunal is lodged. Consequently, the team have 7 ongoing Tribunal Appeals lodged in 2022.



The number of appeals will be a reflection of the volume of work against appealable decisions being made by the assessment (EHCNA) and Inclusion (annual review) teams, within the SEND Assessment, Planning & Review team. Other factors will exacerbate the volume, such as availability of specialist provision places, within the city, and parental confidence in the statutory process.

Reasons for appeals (grounds of appeal):

	2019	2020	2021	2022	2023
Refusal to Assess	12	5	<5	46	21
Refusal to Issue	6	7	8	10	6
Content of EHCP	15	29	28	61	27
Decision not to amend after review	0	0	0	0	0
Decision to Cease	5	<5	0	0	0
Transfer appeal from other LA	0	<5	0	0	0

**Where the number of cases is less than 5 the data has been suppressed to preserve confidentiality.*

Content appeals (Section B, F & I of the EHCP) still account for the highest proportion of lodged appeals (27) mirroring 2022. Typically, appeals received peak in March, each academic year, following the Key Stage Transfer window.

Of these 27, 'content' appeals 25 included Section I (placement).

A high number of content appeals are lodged because parents are unhappy with the school that the Local Authority has named, often because a placement at an Independent Non-Maintained School and/or an out of county school is preferred, whilst the Local Authority has deemed the child/young person's needs could be met locally. Other determining factors are, parents/carers seeking a special school place and a mainstream school was named in Section I or the Local Authority was unable to secure a specialist placement before the EHCP was finalised.

The content appeals also include 7 Extended Appeals' involving health and social.

Refusal to Assess is the second highest reason for appeals lodged (21).

So far in 2023, 796 EHC Needs Assessment requests have been received and 164 were declined to proceed to assessment. Therefore, the percentage of appeals lodged after receiving a refusal to assess is 12.8%.

Of the 21 appeals, 14 have been completed. All were resolved prior to hearing and resulted in an assessment for the young person.

There is a continued emphasis on reaching resolution prior to hearing. The Tribunal Managers remain committed to this approach; with full consideration of each case undertaken with the link SEND Officer, early contact and working with parent/carers and young people to avoid progression to appeal wherever possible. Most appeals are resolved by being conceded (by the Local Authority) or through negotiation by exchange of evidence and ‘working documents’ (versions of the EHCP with suggested amendments and deletions).

Of cases that do go to appeal, there is a continual emphasis on ongoing negotiation to reach agreement, to reduce the outstanding points of dispute to be decided in hearing.

The Tribunal Managers are committed to fostering a knowledge sharing environment, both at leadership and whole team level; key learning points are shared widely and used to inform staff learning & development.

Of the total Tribunals lodged (54) in 2023:

- 30 have been resolved prior to hearing.
- 2 has been to hearing, both upheld (in favour of the young person/parent or carer)
- 22 remain live, currently.

Giving an average of 55% appeals resolved without the need for a hearing.

Rate of Appeals

The DfE calculates appealable decisions using the SEN2 data. The Total Appealable Decisions figure is calculated as the sum of the following:

Number of initial requests for Education, Health and Care (EHC) assessments refused.

Number of assessments completed, and a decision made not to issue an EHCP.

Number with an EHCP as of January each year.

Number of EHCP’s ceased because the special educational needs of the child or young person are being met without an EHCP.

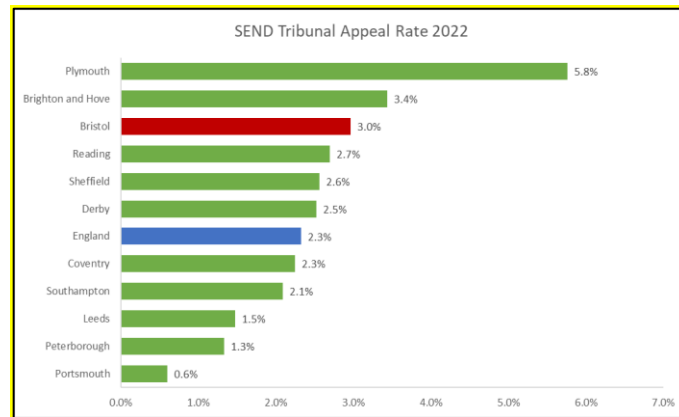
In 2022, the rate of appeals in Bristol was 3%. This was a 1% increase on 2021 and above the *national average of 2.3%.

For Bristol this rate was calculated using a record of 118 appeals lodged in 2022 and 4,015 appealable decisions.

In 2023, tribunals lodged year to date is much lower at 1.2%, and below national average currently.

For Bristol this rate was calculated using a record of 53 appeals lodged so far in 2023 and 4,467 appealable decisions.

Whilst Bristol’s rate of appeals has decreased, appealable decisions have risen by 11% (452) on 2022.



** National average increase of 1.8%.*

3. Policy

Not applicable

4. Consultation

a) Internal

Not applicable

b) External

Not applicable

5. Public Sector Equality Duties

- 5a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --

- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
- tackle prejudice; and
 - promote understanding.

Appendices:

None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None