

Item No. 5	Classification: Open	Date: 5 December 2023	Meeting Name: Education & Local Economy Scrutiny Commission
Report title:		Demand and Timeliness of Education, Health and Care Plans	
Ward(s) or groups affected:		All	
Responsible Officer:		Alasdair Smith, Director of Children’s Services	
Cabinet Member:		Councillor Jasmine Ali, Deputy Leader and Cabinet Member for Children, Young People and Education	

RECOMMENDATION(S)

That the Education and Local Economy Scrutiny Commission:

1. Notes the content of the report and provides comment on the information provided
2. Notes the content of the plans to improve performance in relation to Education, Health and Care Plan (EHCP) processes.

BACKGROUND INFORMATION

3. Before the publication of the revised [Special Educational Needs and Disabilities \(SEND\) Code of Practice 2014 \(The Code\)](#). Local authorities supported children and young people with additional educational needs through a system of school-led ‘School Action’ & ‘School Action Plus,’ which sought to understand the additional support that could be delivered locally within the school setting; and a statutory assessment process leading to a legally enforceable Statement of Special Educational Needs which would set out how the local authority would ensure the appropriate provision to meet the child or young person’s needs for those with more complex need of additional support or specialist provision.
4. The pre-2014 Code of Practice placed the duty to assess and provide support on local authorities for all children aged 0-16.
5. The *Children’s and Families Act 2014* (the Act) and the 2014 SEND Code of Practice introduced significant reforms to the SEND system. These reforms included:
 - Extending the local authority’s statutory responsibilities to provide support to children and young people from birth to 25 years of age

- Recognising that many children with Special Educational Needs (SEN) also have a disability, such as a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities. These include physical impairments like mobility problems, and ongoing health conditions like asthma or diabetes, and that support should be offered holistically to meet all these needs
 - Introducing Education, Health and Care Plans (EHCP) to replace SEN Statements that require children's needs to be planned for and met holistically
 - Greater empowerment and participation of children and young people and parents in decision-making at individual and strategic levels
6. This report provides the Education and Local Economy Scrutiny Commission with an update on the current delivery of the duty to assess and support children and young people in Southwark under the SEND Code of Practice 2014.

KEY ISSUES FOR CONSIDERATION

The Special Educational Needs and Disabilities (SEND) System – Assessment & Support

7. Support for children with SEND is delivered in across a range of settings and support. For most children support is provided through a *Graduated Approach* and what is commonly referred to as *Ordinarily Available Provision*. The *Graduated Approach* is set out in The Code and refers to additional support to meet an assessed need, provided within mainstream provision that schools or settings together with health and care providers are expected to provide for a child or young person through their existing universal funding and resource arrangements. This response is usually led and co-ordinated within the mainstream provision by the settings Special Educational Need Co-ordinator (SENCO). Children receiving this level of support are statutorily referred to as in receipt of *SEND Support*.
8. For those with more complex needs who require support beyond that which an educational setting can ordinarily be expected to provide, a request can be made for an integrated multi-agency assessment to be undertaken with the potential to lead to an Education, Health and Care Plan being put in place to describe and deliver support to meet the child's needs. The EHCP is a legally binding document that outlines the individual's needs and the *detailed, specific and quantified* provision required to meet those needs; and the anticipated outcomes arising from the plan.

9. It is a statutory requirement to complete EHC (Education, Health and Care) needs assessments (EHCNAs) and to issue an EHCP where the assessment determines this is appropriate; and this must be undertaken within 20 weeks of receiving the initial request for an assessment from a parent, carer or educational provision.
10. EHCPs must be reviewed by the local authority as a minimum every 12 months. Reviews must focus on the child or young person's progress towards achieving the outcomes specified in the EHCP. The review must also consider whether these outcomes and supporting targets remain appropriate.
11. Parents can appeal to a SEND tribunal in circumstances where the local authority has refused to assess, refused to issue a plan, ceased a plan, or where the parent believes the school named or the provision set out in the plan will not meet their child's needs.

The Education, Health and Care Needs Assessment (EHCNA) process

12. The EHCNA is undertaken through a staged process with an overall requirement that from initial request to issuing of a plan is completed within 20-weeks. This is the statutory 'timeliness' measure.

13. The EHCNA process is broken down into three stages (figure 4):

- **Stage 1** - within 6 weeks of a request to assess the local authority must decide whether to carry out an EHC needs assessment.
- **Stage 2** - by 16 weeks the LA (Local Authorities) must have finished the assessment and decided if an EHCP is needed. We must send parents a draft plan and given them 15 days to comment and request a specific school.
- **Stage 3** - by 20 weeks the LA must complete the final draft of the plan. All plans must be reviewed annually.



Figure 4: EHCNA Process

SEND System – Legislative Reform, Regulation & Local Policy Context

14. In March 2023, the Government published the [SEND and Alternative Provision Improvement Plan Right Support, Right Place, Right Time](#) in response to the SEND Green paper that was published in March 2022 and proposed several reforms to the SEND and alternative provision (AP) systems. At the core of the reforms is the need to embed earlier identification of need for families with children who have additional needs, so that support can be provided at the earliest opportunity when it can be most impactful on preventing further escalation and the need for higher cost support later in a child's life. The plan intends to better bring together education, health and care services to deliver better integrated services and provision to meet the needs of children.
15. In December 2022, prior to the launch of the new government strategy, Ofsted published details on how they will inspect services for children and young people with SEND from 2023 onwards.
16. In the past SEND inspections focused on how local authorities meet their responsibilities under The Code. The new framework has a greater focus on hearing directly from children and young people with SEND, and their families. This will allow inspectors to get a better understanding of what it's like to be a child or young person with SEND in the local area. There will also be stronger accountability through ongoing contact with local areas. This will include inspections and monitoring inspections where needed. Inspections will lead to one of three distinct outcomes, so it is clear what improvements are needed and who is responsible for them.
17. A consistent theme across the Government Strategy and the Ofsted Inspection Framework is the need to further empower the parental voice in the SEND system and decision making. Trust and mutual understanding is often the best tool in ensuring provision meets the needs of children and young people earlier and more effectively. A breakdown in trust and confidence in the national and local system often leads to adversarial issues and higher costs. As parents' faith in the effectiveness of more mainstream provision is lessened, for local authorities this means ensuring meaningful engagement with children and families throughout our system and delivering our duties well in a timely way.
18. In September 2022, Cabinet approved [Southwark's Special Educational Needs and Disabilities \(SEND\) Strategy \(2022-2025\)](#) which strategy strengthens the Council's commitment to maximise positive outcomes for children with SEND and their families through proposals for greater collaboration, and a renewed focus on priority areas.
19. The four key priorities set out in the SEND strategy are:
 - Improving provision for complex needs;
 - Providing timelier, high-quality identification and provision;
 - Developing greater confidence, skills, and competencies in all settings; and

- Developing pathways into adulthood for young people with SEND.

20. To support the delivery of our Strategy in spring 2023 the Council published [Southwark LA SEND Guidance for schools 2023](#). Its aims are to support schools and settings in further embedding the SEND code of practice: 0 – 25 years effectively.

21. The vision and principles set out in the guidance are underpinned by the Council’s SEND Strategy. The guidance is designed to improve outcomes for the children and young people of Southwark and to ensure positive and productive outcomes for children and young people aged 0 – 25 with SEND.

National Context

22. Between 2007 and 2015 the number of children in England who had an Education, Health and Care Plan (EHCP), or Statement of Special educational Needs (SEN) pre-2104 guidance change, remained stable with just a 3% increase in the 7-year period.

23. With the phased implementation of the 2014 reforms all local authorities were required to transition all pupils from Statements to EHCPs by the statutory deadline of 1st April 2018.

24. In the years following the changes there has been a sharp rise nationally, with a 100% increase since 2016 and the number of children with EHCPs doubling from 256,000 to 517,000 in that 7-year period (figure 1).

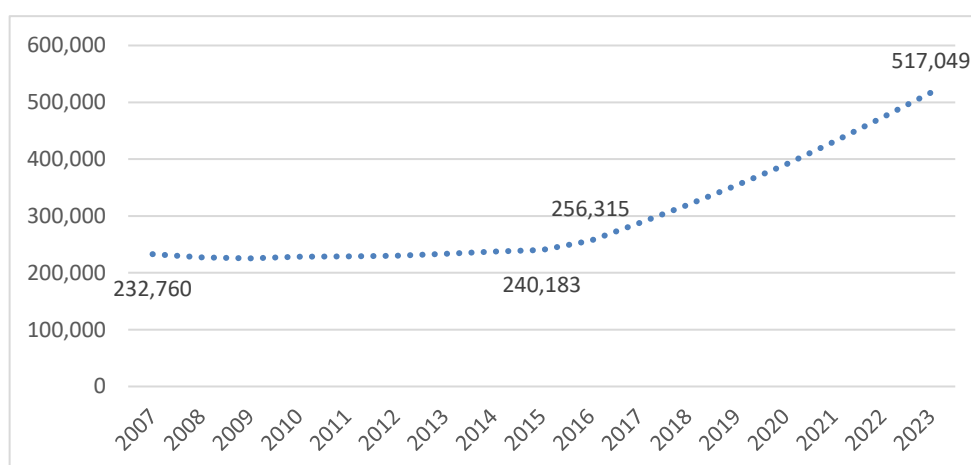


Figure 1: Number of Pupils with an EHCP – England 2007-2023

25. The pressures on Council’s to meet the demand for EHCP assessments, and to fund children’s support needs is recognised as in crisis nationally, with local authority SEND budgets standing at a £2.4bn deficit across English local authorities. This is expected to rise to £3.6bn if unaddressed over the coming years. In response the government launched the [Safety Valve and Delivering Better Value](#) programmes providing additional funding to local authorities with the most serious deficits to clear these, subject to the completion of a programme of reform to return a year on year balanced spend.

26. Southwark is a Safety Valve authority and is scheduled to receive £23m in additional SEND funding to clear the budget deficit subject to meeting the condition of achieving a balanced year end position by 2025.

27. The impact of demand and pressure on operating budgets for those most impacted authorities has led to marked decreases in performance against statutory key performance indicators, specifically in achieving the 20-week target for the completion of EHCP assessments (figure 2). For example, average performance for the 20-week target in England fell by 15.1% between 2014 and 2022, London by 15% and most markedly the East Midlands region falling by 39.3% in the same period.

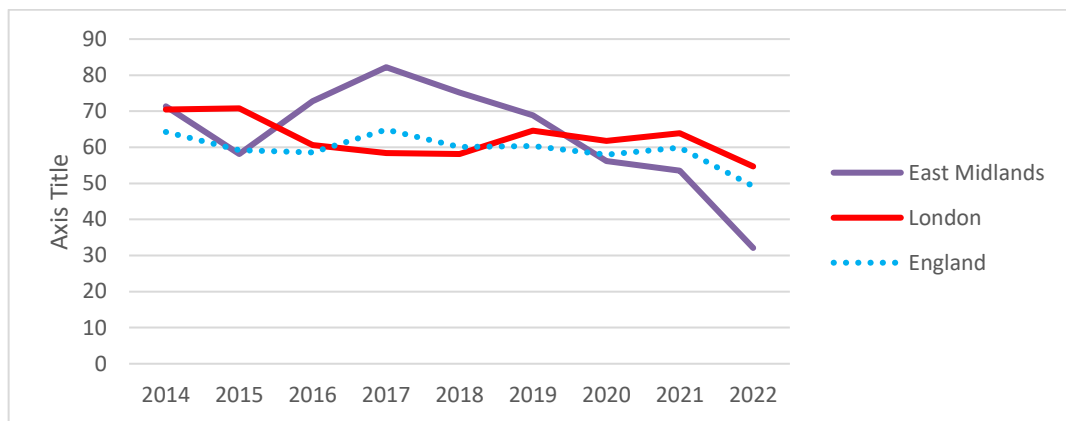


Figure 2: Timeliness in EHCP 20-week assessment target

28. Approximately a quarter of all local authorities (36) in England saw performance in achieving the 20-week target drop to below 30% in 2022, with less than half of all authorities (45%) maintaining performance at above 50% in timescale (Figure 3).

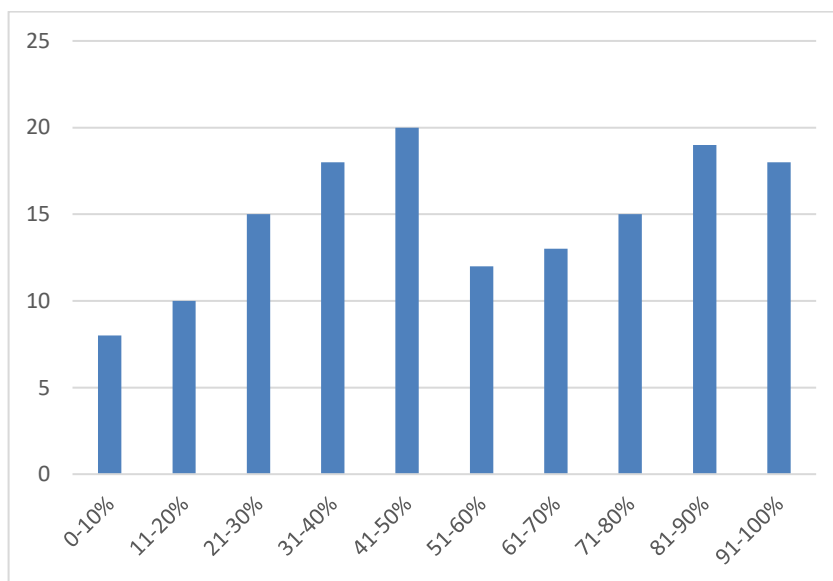


Figure 3: Grouped EHCP Timeliness % by Number of LAs

Southwark Context

29. In line with the national increase in demand the number of children with EHCPs in Southwark has more than doubled since 2015, increasing from 1,421 to 2,956 at January 2023.

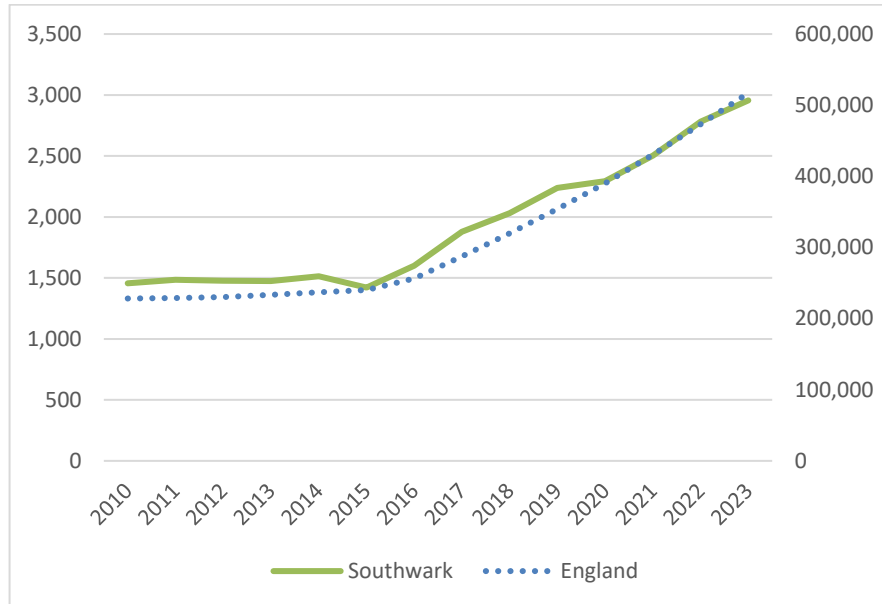


Figure 4: Southwark Number of EHCPs

30. In October 2022, Southwark Council published its [Joint Strategic Needs Assessment \(JSNA\) for Children & Young People with SEND](#) in Southwark. It identified that 9,422 (19%) of statutory school aged children had been identified with SEN. Southwark has the 3rd highest prevalence of SEN out of 33 London boroughs. This is an increase from the 5th in 2017. Southwark has the 2nd highest prevalence of SEN out of the six boroughs in South East London, jointly with Lambeth.

31. Specifically, amongst those children and young people of statutory school age the October 2022 JSNA identified 7,461 (79%) children receiving SEND Support within their school and 1,961 (21%) receiving additional funded support through their EHCP. By the end of the academic year 2023, the number of children of statutory school age identified with SEN had fallen to 9,218 (18% of all pupils), and whilst the number of those in receipt of SEND Support within school had reduced by 4% to 7,123, the number of children with higher needs with an EHCP had further increased by 7% to 2,095.

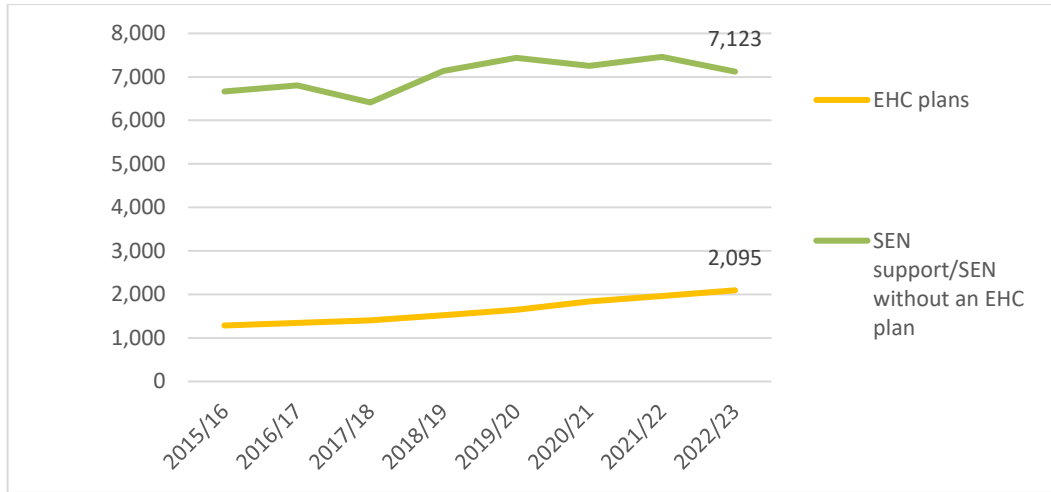


Figure 5: Southwark School Age Children with SEN

32. The rate of children aged 0-25 in Southwark who have an EHCP has historically and continues to exceed comparative rates for inner London peer authorities and our statutory neighbours (Figure 6).

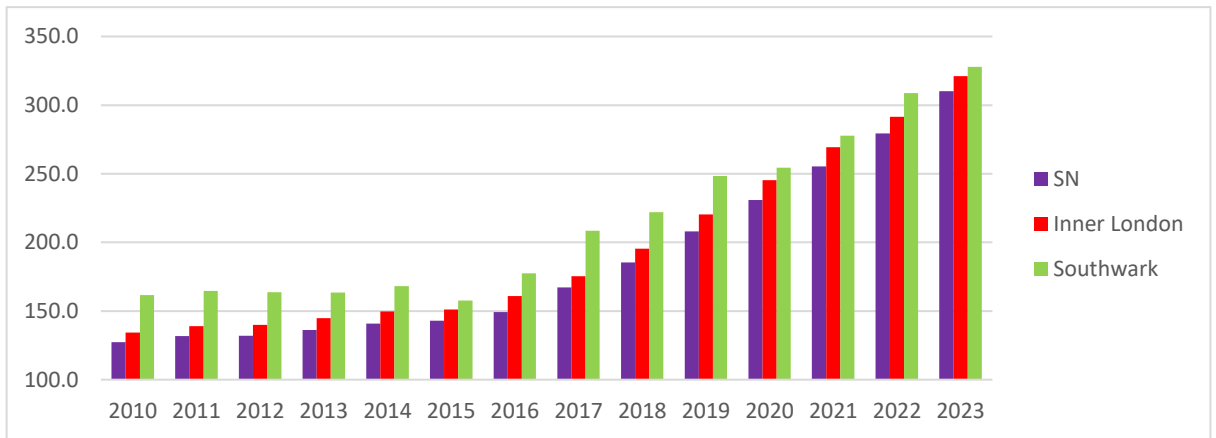


Figure 6: EHCP Rates per 10,000 population (0-25)

33. The rate of new EHCNA requests per 10,000 children aged 0-25 in Southwark has remained stable across the last 5 years with a 3% fall in that period. In contrast the average rate of EHCNA requests across inner London and Statutory Neighbour (similar local authorities) comparators has steadily increased in the last 5 years.

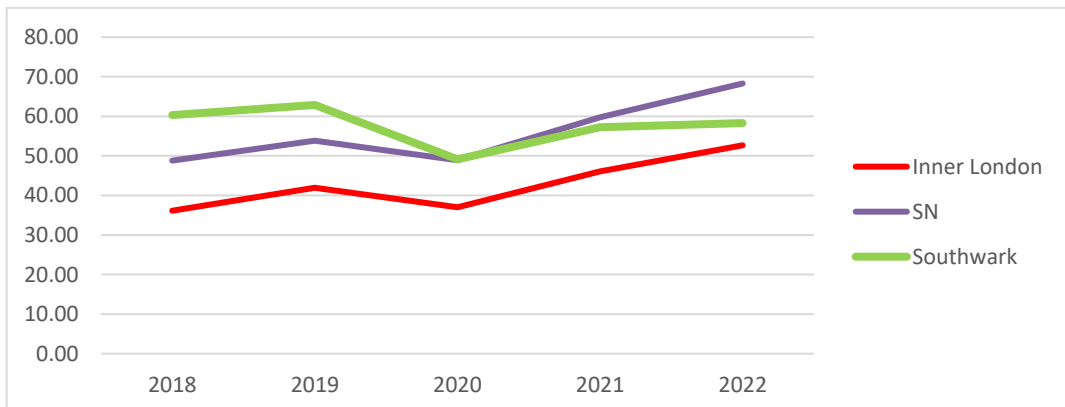


Figure 7: EHCNA Request Rates Per 10,000 population (0-25)

34. In line with the overall national deterioration in achieving the 20-week timescale the same trend has been visible regionally with the average timeliness across London falling by 12.1% between 2014 and 2022, now standing at an average of 59.9% of EHCPs meeting the 20-week timescale across London.

35. The fall in timeliness has been particularly noticeable in South East London (SEL) authorities (Figure 8). Except for Bexley (82.6%), Southwark was the best performing SEL authority in 2022 at 48.4% compared to Lambeth at 15.8% and Lewisham at 40%, Greenwich at 34.5% and Bromley at 27.2%, against the overall London average of 59.9%. This is shaped by the sustained increase in requests in recent years.

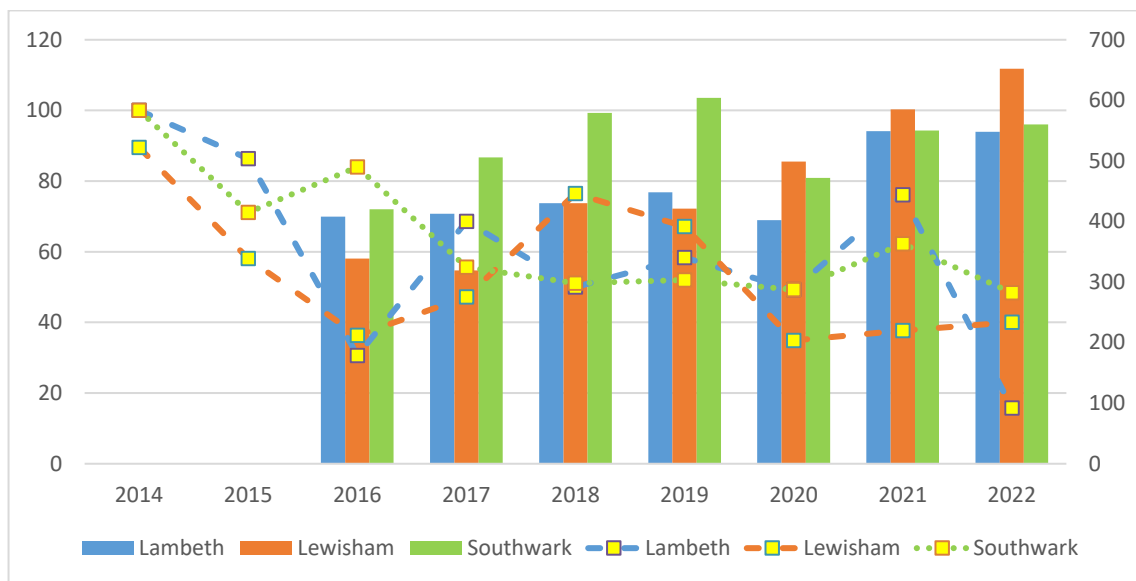


Figure 8: Timeliness vs New EHCP Requests

36. Despite the marked difference in timeliness since the 2014 reforms in the past 5-year period, Southwark alongside London and our statutory neighbours have managed to broadly hold performance on timeliness at a steady range (figure 9).

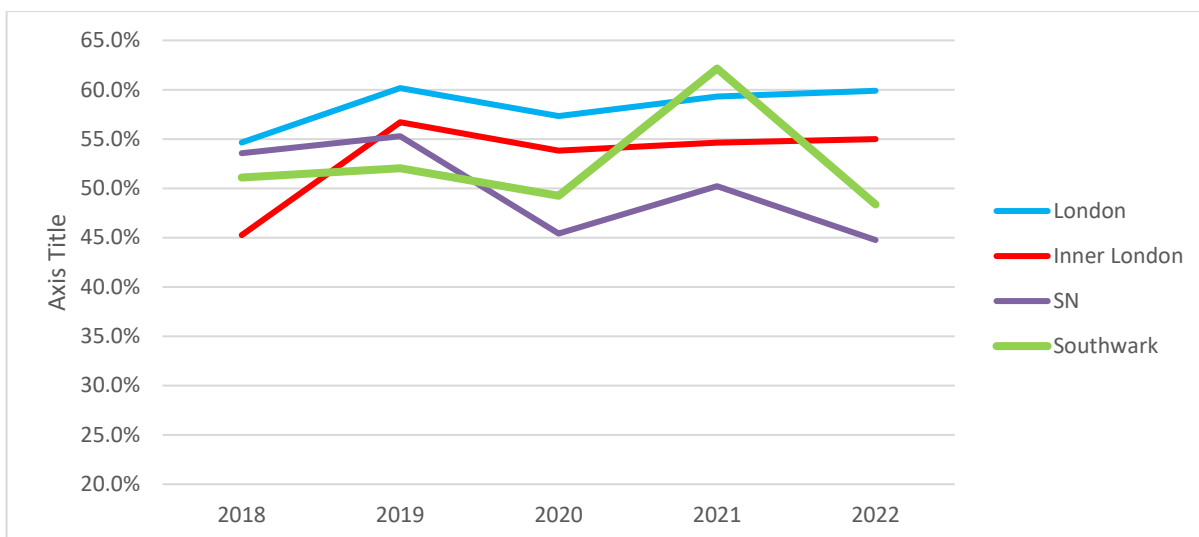


Figure 9: 5-year timeliness trend

Annual Reviews

37. The local authority is required under The Code to ensure that each child or young person with an EHCP is reviewed on an annual basis. The process of the review can be delegated to schools, and requested of early years, further education or post-16 providers.
38. When the review has been completed, the local authority has to decide whether the plan should be maintained in its current form, amended in the light of changing needs, or ceased as a result of the plans and objectives being met or where a number of circumstances exist e.g. reaching age 25, moving to another area, entering higher education.
39. Two thirds of children and young people with an EHCP in Southwark had their plan reviewed in the last 12-months (Figure 10). This performance has been broadly maintained since the impact of the 2014 reforms were implemented.

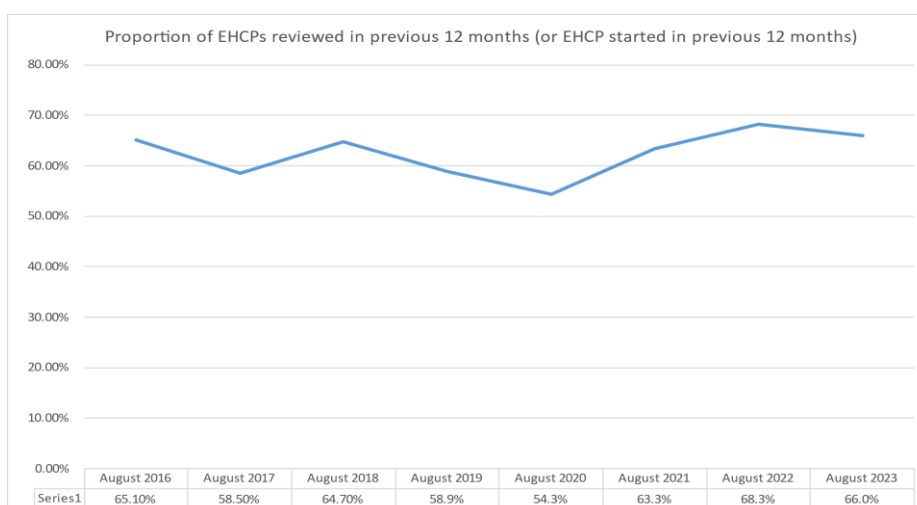


Figure 10: Annual Review Timeliness

Challenges Impacting Demand and Performance

40. Whilst the overwhelming challenge facing Southwark and the national SEND system is increasing demand and complexity within our communities as set out above, there are challenges which exist regionally and locally that continue to exacerbate the issues in performance and timeliness. The programme of modernisation being delivered through the SEND Strategy and Safety Valve Transformation Programme is working to address each of these. The issues the programme is responding to include:

- The need to continue to transform the Early Help System to deliver a more coherent and integrated approach to early identification and intervention that mitigates the need for a statutory assessment, the request for extra resources, and builds trust with parents that their child's needs can be successfully met in a mainstream setting with SEN support but without an EHCP.
- National shortages in Educational Psychologist (EP) capacity required to contribute to the assessment process. EPs are the only professional named in law as required to provide advice for all children undergoing an Education, Health and Care needs assessment. In the Department for Education (DfE) report *“Educational psychology services: workforce insights and impact”* published in June 2023 88% of local authorities said that they were experiencing recruitment difficulties and 34% reported that they were experiencing retention difficulties. The gap between capacity and the volume of requests locally has contributed to a backlog in assessments impacting on the overall timeliness.
- EHC plan writing capacity to synthesise assessment information from multiple professional reports, and craft a coherent and SMART (Specific, Measurable Realistic, Achievable and Timely) EHCP that addresses the needs identified during the assessment process.
- Information sharing and systems issues which build in delays in securing the necessary contribution of multi-agency information from key partners particularly Health services.
- The need to bring our business processes and case management systems up to date to meet the new challenges of rapidly increasing and sustained demand.

Improvement Programme

41. Improving the timeliness of EHCNAs requires a multifaceted approach that involves targeted additional resources, internal process and systems improvement, strengthened open and transparent communication with parents and provision, training and development, strengthening our performance culture, and modernising our organisational structure, the development of the early help system, and more robust partnership leadership and governance.

42. The aim of the improvement programme is to achieve as close to 100% EHCP timeliness as possible. This target is limited by some factors beyond the control of the local authority such as children who move into Southwark part way through the EHCNA process and the contribution of health colleagues, parents, and other professionals to the process.

43. The target of reaching and sustaining a high level of timeliness can only be achieved if the demand for EHCNAs and the overall number of EHCP's can be effectively reduced through the development of our partnership Early Help response to ensure that children and young people's individual needs are met at the earliest opportunity, and they are supported effectively at the most appropriate level of provision. As is the improvement in the timeliness of our reviews and the ability of provision to "step down" children and young people onto SEN support, with parental endorsement and confidence, without necessitating a continued EHCP.

44. The objectives of the programme are to:

- a) Improve timeliness quickly **through time limited investment in additional capacity** to re-baseline our performance and reduce backlogs
- b) Create a **framework** for sustained and improved timeliness and quality over the longer term, including improving the **efficiency and effectiveness of the system and process**
- c) Strengthen and improve **communication and transparency** with key stakeholders to enhance co-production and build greater trust, confidence and understanding of the SEND system and challenges in Southwark
- d) Develop our **Early Help System** to improve support to children whilst waiting and to provide an alternative to statutory intervention
- e) Reviewing and strengthening our **partnership leadership and collaboration** to promote better leadership and multi-agency cooperation to improve services and outcomes for children with SEND

Key / Non-Key decisions

45. This report does not deal with a key decision

Policy implications

46. The SEND Team performs the statutory functions for SEND as set out in the Children's and Families Act 2014 and the SEND Code of Practice 2015. The Team is not able to carry out these statutory functions in terms of new assessments and annual reviews at the current time. As a result, statutory national requirements and local policy standards are not being met.

Financial implications

47. At end of the financial year 2021-22 Southwark DSG deficit stood at £21.65m. The in-year deficit for 2022-23 was £2.03m, exceeding the forecasted target under the Safety Valve agreement of £2.33m. Due to meeting this target the first Safety Valve payment of £9.22m has been released to the Council reducing the final deficit position to £14.46m.
48. The programme to effectively support less children to require EHCPs is priority condition within the Safety Valve agreement and our SEND Strategy which will deliver the continued reduction in the budget deficit profiled to reach £8.9m by the end of 2024-25, £5.53m by the end of 2025-25 and balanced by the end of 2026-27.

Community, equalities (including socio-economic) and health impacts

Community impact statement

49. The effect of the current timeliness of EHCNAs and reviews on the SEND community of Southwark is impacting on our ability to consistently engender trust between the authority and our families which exacerbates issues of demand and further delays in ensuring appropriate support to children and young people. The approach set out in these reports aims to reverse the impact of these trends and ensure our families and community feel and are provided with nationally leading levels of support.

Policy Framework Implications

50. There are no policy framework implications

Equalities (including socio-economic) impact statement

51. The content of the report and the plans described to ensure the service offer improves will address the needs of a cohort of children and young people with protected characteristics and those who are commonly in the most socio-economically disadvantaged groups

Health impact statement

52. The content of the report and the plans described to ensure the service offer improves will support positive outcomes in the health of children and young people with SEND.

Climate change implications

53. There are no relevant climate change implications

Social Value considerations

54. There are no relevant social value considerations

Economic considerations

55. The content of the report and the plans described to ensure the service offer improves will ensure more support is available to children to prepare them for independence in adulthood and support their parents to access employment and training by ensuring their children are properly supported in education.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance

56. Not applicable.

Head of Procurement

57. Not applicable.

Director of Law and Governance

58. Not applicable.

Director of Exchequer (For Housing contracts only)

59. Not applicable.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Special Educational Needs and Disabilities (SEND) Code of Practice 2014		
SEND and Alternative Provision Improvement Plan Right Support, Right Place, Right Time		
Joint Strategic Needs Assessment (JSNA) for Children & Young People with SEND		
Safety Valve and Delivering Better Value		
Southwark's Special Educational Needs and Disabilities (SEND) Strategy (2022-2025)		

APPENDICES

No	Title

AUDIT TRAIL

Cabinet Member	Councillor Jasmine Ali, Deputy Leader and Cabinet Member for Children, Young People and Education	
Lead Officer	David Quirke-Thornton, Strategic Director of Children's and Adults' Services	
Report Author	Michael Crowe, Service Development Manager – Children & Families	
Version	10	
Dated	11 October 2023	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Head of Procurement	No	No
Director of Law and Governance	No	No
Contract Review Boards		
Departmental Contract Review Board	No	No
Corporate Contract Review Board	No	No
Cabinet Member	Yes/No	Yes/No
Date final report sent to Constitutional/Community Council/Scrutiny Team	12 October 2023	