

**SURREY COUNTY COUNCIL****CABINET****DATE:** 25 JULY 2023**REPORT OF CABINET MEMBER:** CLARE CURRAN, CABINET MEMBER FOR EDUCATION AND LEARNING**LEAD OFFICER:** RACHAEL WARDELL, EXECUTIVE DIRECTOR FOR CHILDREN, FAMILIES AND LIFELONG LEARNING**SUBJECT:** APPROVAL TO PROCURE INCREASED EDUCATIONAL PSYCHOLOGY (EP) AND SPECIAL EDUCATIONAL NEEDS (SEN) SERVICE CAPACITY**ORGANISATION STRATEGY PRIORITY AREA:** TACKLING HEALTH INEQUALITY AND EMPOWERING COMMUNITIES

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**Purpose of the Report:**

The purpose of this report is to secure the necessary approvals and delegated authority for Educational Psychology (EP) and Special Educational Needs (SEN) capacity to be expanded at pace, enabling the Education, Health and Care Plan (EHCP) timeliness to be improved to an acceptable level as quickly as possible. This report provides a high-level overview of the accelerated EHCP Timeliness Recovery Plan and sets out the rationale for the recommendations for approval to procure.

This will enable an improvement in EHCP Timeliness which will positively contribute to the Empowering Communities priority objective in the refreshed organisational strategy.

**Recommendations:**

It is recommended that Cabinet:

1. Gives approval to procure additional Educational Psychology service capacity and Special Educational Needs service capacity up to the aggregate contract value of £15m over 3 years between 2023/24 and 2026/27.
2. Approves the delegation of contract award decisions to the Executive Director for Children, Families and Lifelong Learning in consultation with the Cabinet Member for Education and Lifelong Learning and the Cabinet Member for Finance and Resources.

**Reason for Recommendations:**

- The timely completion of Education, Health and Care needs assessments and annual reviews (collectively referred to as EHCP Timeliness throughout this report) makes an important contribution to ensuring that children and young people with additional needs and disabilities receive the right support, in the right place, at the right time.
- The EHCP Timeliness Recovery Plan is being accelerated to address the current significant delays and approvals are required to avoid delays in procuring services and allocating funding and resources. There is an urgent need to retain existing

capacity and secure additional flexible capacity in the Council's Educational Psychology (EP) and Special Educational Needs (SEN) services to improve the timeliness of these services at pace.

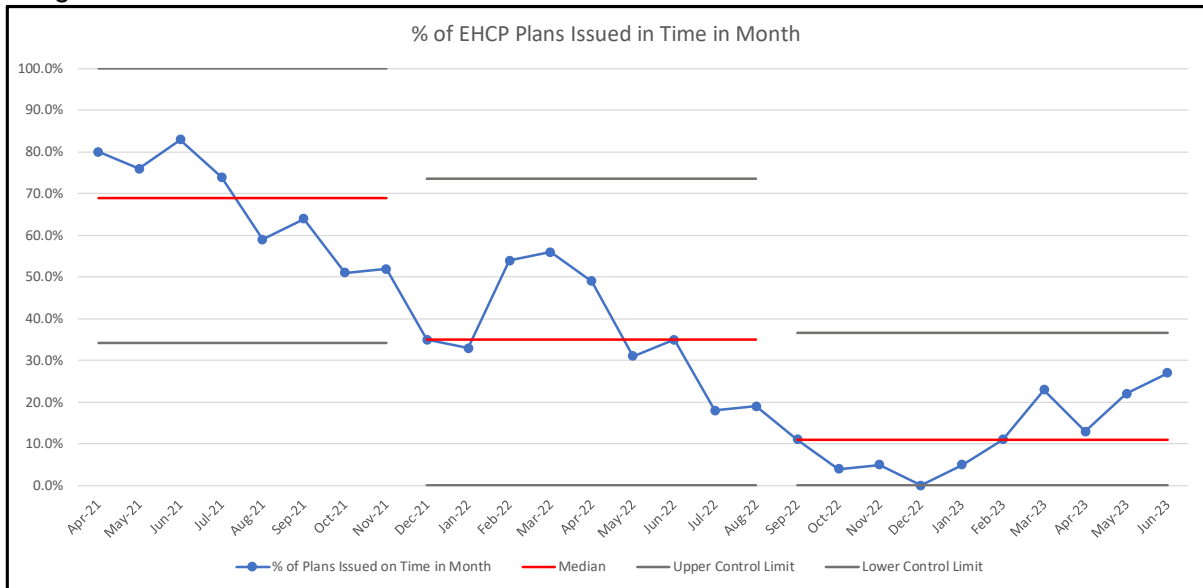
- Approval of the recommendations in this report will have multiple benefits, the most important being an improvement in the experience of families and outcomes of children and young people with additional needs and disabilities undergoing an EHC needs assessment or awaiting an annual review.

## Executive Summary:

### **EHCP Timeliness and Recovery Plan**

1. Children with Additional Needs and Disabilities receive support across Education, Health, and Social Care. For most children and young people, their needs are met through Ordinarily Available Provision (the support that mainstream schools or settings and health and care providers are expected to provide for a child or young person through their agreed funding and resource arrangements). However, for others, an Education, Health and Care Plan (EHCP) is required which sets out children's needs, the provision necessary to meet those needs and the anticipated outcomes arising from the provision stipulated in the plan.
2. As at end of June 2023, Surrey County Council held 13,429 Education, Health and Care plans (EHCPs). Data is collected by the Department for Education (DfE) each calendar year, and this confirmed that between January 2022 and January 2023 there was a 10% increase in EHCPs in Surrey, compared to 9% nationally.
3. The increase in EHCPs in Surrey is slightly ahead of the national increase, and the proportion of children with EHCPs in Surrey for the January 2023 school population is 4.8%, which is also higher than the national figure of 4.3%. Therefore, this increase builds upon a higher baseline.
4. There is a statutory requirement to complete Education, Health and Care needs assessments, and to issue a plan where the needs assessment indicates one is required, within 20 weeks from the request for an assessment, and this is referred to as timeliness. Current performance against this measure is low for a number of reasons and mirrors a trend in a significant number of other local authorities. However, timeliness in Surrey is considerably lower than the national average.
5. Timeliness of completing assessments in 2021 was 65% of plans issued within 20 weeks and was stable until Spring term 2022 with a marginal decline. However, in the summer term 2022 timeliness began to drop more rapidly. This led to overall cumulative timeliness for plans completed during the 2022 calendar year in Surrey falling to 26%. Nationally there has also been a decline in cumulative timeliness with figures dropping from 60% in 2021 to 51% at the end of 2022.
6. The latest Surrey data is that 27% of plans have been issued on time in the month of June 2023. The graph below shows the data to the end of June 2023. The blue line represents actual timeliness in each month. The red lines reflect the average timeliness over the period and the black lines are the upper and lower confidence intervals for that period.

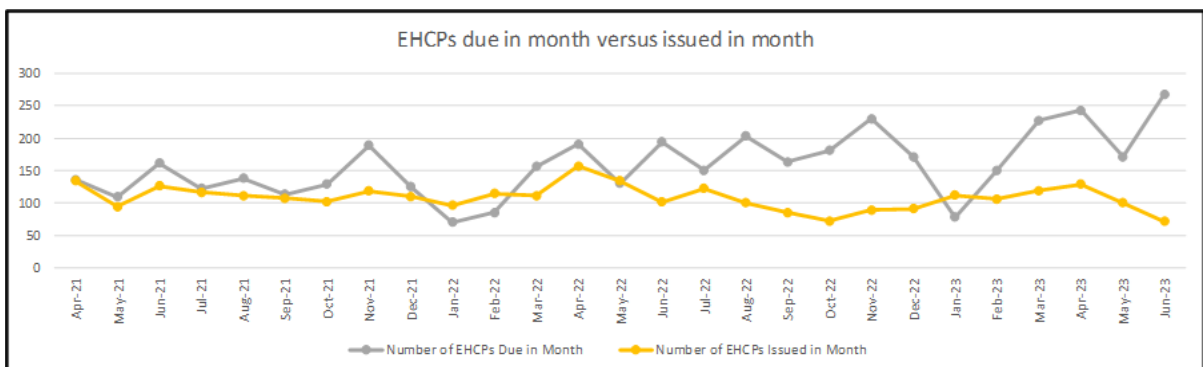
Figure 1



7. The drop in timeliness during 2022 was due to an imbalance between the levels of demand coming into the system (which increased) and the capacity to manage those demands (which reduced). Requests for assessment have increased by 64% since 2020 and EP capacity has become more constrained due to local vacancies and national shortages. The subsequent backlog of delayed needs assessments and annual reviews negatively impacts on the experiences of children and families and could negatively impact outcomes.

8. The graph below shows the number of plans due for issue each month (grey line) against the number of plans that were issued (yellow line). This illustrates that prior to May 2022, these two lines were generally very close together, although there is always a seasonal ebb and flow in number of requests and in number of plans issued. The impact of staffing shortages after this point resulted in the backlog of EHCPs building up in both the EP service and across the SEND teams, which then caused the reduction in timeliness overall.

Figure 2



9. The EP service which has an establishment of around 44 FTE currently has 70% of posts filled (a 30% vacancy factor, or 45% excluding management posts) and the SEN service which has an establishment of around 109 FTE currently has 80% of posts filled (a 20% vacancy factor). This is despite significant effort to recruit, retain and diversify the workforce and improvements to the EP terms and conditions. Over

the past 6 months the EP service, which is particularly critical to EHCP timeliness, has had two contracts in place to supplement EP capacity with approximately 600-700 advices, but the scale of these contracts and strategies has not been sufficient to provide a solution to the EHCP timeliness challenges.

10. A multi-agency recovery plan has been in place, and this has been scaled up significantly for the next phase of recovery to reflect the scale of the issue. This plan includes the following areas:
- We are working hard to clear the backlog, addressing the longest waits and risk assessing each case individually to ensure that we take quick, appropriate action, as well as prioritising proactive communications with families and settings to mitigate the impact on experiences and outcomes.
  - Moving forwards, we will be introducing enhanced support for settings so that they are better placed to meet individual childrens' needs without a statutory EHC plan, where that is appropriate.
  - We have already significantly increased the funding to and capacity in our EP service and our SEN Teams. We now need to increase the scope for further capacity increases in key services through approvals to procure and strengthen recruitment and retention in critical teams.
11. This plan will enable us to get back to an acceptable level of timeliness of 60%+ during 2024 (above the current national average and at least back on par with our previous performance). In order to reach our ultimate goal of 100% EHCP timeliness, we are reliant on health partners and the wider system continuing to work more closely together, so we will continue to work as a partnership to achieve this goal.

#### **Requirement to procure additional EP advice and SEN service capacity**

12. The latest EHCP Timeliness Recovery Plan modelling accounts for the trends of requests for assessment and the size of the backlog, the realistic impact of early help strategies and service efficiencies and identifies the shortfall in capacity that is required to recover EHCP timeliness. The assumptions informing the forecast have been tested, and numerous scenarios modelled to enable consideration of the best version of the recovery plan that the Council can realistically expect to achieve.
13. This modelling indicates that the two most significant areas of additional capacity required to achieve the ambition for EHCP timeliness recovery in the remaining 8 months of 2023/24 will be for approximately 1100-1200 EP advices and approximately 30 additional SEN case officers for this period to manage the wave of workload that will be generated by the EP service getting on top of the backlog. The medium-term outlook is less certain, but the modelling and scenarios indicate that there could be a lower requirement for EP advices in subsequent years as the backlog of long waits will have been eliminated. The level of additional SEN service capacity required may be at a similar level in future years as the number of requests and plans continue to increase.
14. The EP and SEN services are already aiming to recruit above establishment, and will continue to do so, but the recruitment market conditions mean that it is extremely unlikely that the Council would be able to secure even a small proportion of the additional EP resource that would be required in 2023/24 through recruitment alone. The resourcing challenges are not quite as acute for the SEN service, but the speed

at which the capacity will need to be scaled up for EHCP timeliness to benefit from the EP contract capacity would only be achievable through individual or service contracts. The terms “EP advices” and “SEN service capacity” are used intentionally because both these services include a range of roles, activities and supporting functions, that are all intended to be covered by the proposed approval to procure and contractual arrangements.

15. There will also be additional demands on the SEN teams through the recovery period in terms of Annual Reviews, although a proportion of this is covered in the above modelling, and there will also be additional demands on the relevant health and social care teams. The scale and timing of these demands through the recovery period are less predictable as they will depend on the EP and SEN allocations and whether individual assessments require health or care input. Whilst it is likely that there will be capacity requirements in these areas, and they may be significant, it is considered unlikely that these will be of a scale that would require Cabinet approval to procure.

### **Procurement route to market and market testing**

16. Procurement have carried out some initial market testing to look for compliant routes to market to source Educational Psychology (EP) Assessments which can be delivered urgently to address the outstanding backlog. Two Frameworks have been identified that meet the requirements for Education Psychology (EP) assessments and discussions are still ongoing to confirm capacity and availability. The Frameworks have the ability to direct award and are single supplier solutions. The advantage of the direct award framework is that it ensures a quick solution (given the urgency) to award contracts in a timely manner.
17. The intention is to secure contracts with a longer term to address the increasing demand and ensure flexible EP and SEN capacity for future provision. It is proposed that multiple contracts (rather than one large contract) are sourced and secured for EP advices and SEN capacity, for 12 months, with the option to extend for another 12 months, and then another 12 months. The aim would be to secure the required capacity whilst allowing for an appropriate degree of flexibility in volume to match the need as closely as possible. If direct staff recruitment is more successful then the contracts could be scaled down, but if demand increases more quickly or vacancy rates increased there would be sufficient headroom in the contracts to allow the capacity to be scaled up.
18. Market testing for both EP advices and SEN service capacity has indicated that there is contract capacity in the market if the Council is in a position to act swiftly, which the approvals in this Cabinet paper would enable.
19. **EP market testing:** following initial meetings with the suppliers, early discussions have resulted in them putting forward minimum guarantees to deliver EP assessments up until the end of March 2024. Both providers have indicated that the minimum they can guarantee of EP Assessments per month would be 60 per supplier or a total of 120 per month. This can be further increased after the first few months of the contract based on the demand of the EP backlog.

20. **SEN Service capacity market testing:** following initial contacts with agencies, there is a reasonable level of confidence that, despite the challenges in the market, they should be able to meet the needs as forecast in our plans. To support a more secure arrangement for the benefit of the LA, we are exploring the practicality of entering into a 'statement of work' agreement via agency suppliers to ensure a consistent level of service and pre-agreed KPIs. This would be the case for both the EHCP backlog activity and the Annual Review recovery streams of work.

### **Moving to a sustainable future operating model with appropriately enhanced recruitment and retention packages**

21. It is essential to procure the above contracts at pace to deliver the EHCP timeliness recovery plan and achieve the intended improvement for children and families, but it is also important to develop a sustainable operating model of the services that can deliver sustainably good EHCP timeliness. An end to end review of SEND services is underway, linked to the EHCP timeliness recovery, and later in the year a new operating model with capacity right sized to manage the workloads and desired outcomes will be developed.
22. The future sustainable operating model may recommend that a proportion of service activity should continue to be fulfilled via contracts, but it is also likely to be necessary to both maintain and scale up the establishment teams as well.
23. In both the short term and the medium term, ensuring that there are appropriate recruitment and retention incentives for critical teams will be important to the success of this plan. A proposal and business case is in development with People and Change and this will follow the approval route set out in the Council's Reward policy, which requires a decision on the business case to be made by the Director for People and Change in consultation with the Leader.

### **Benefits of the proposals**

24. Approval of the recommendations in this report will have multiple benefits, the most important being an improvement in the experience of families and outcomes of children and young people with additional needs and disabilities undergoing an EHC needs assessment or awaiting an annual review. Long waits would be eliminated, and the majority would benefit from timely EHCPs. Key benefits will include:
- a. Improved experiences and outcomes for children and families;
  - b. Fewer complaints and tribunals resulting from poor EHCP timeliness;
  - c. Improved experiences for schools and settings supporting children and families;
  - d. Improved experiences for the EHCP workforce, with better systems and processes, and workload and capacity in balance;
  - e. Improved data and insight into EHCP demand, capacity and timeliness in Surrey, enabling more accurate modelling and more effective strategies and decision making in the future.

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| <b>Consultation:</b> |
|----------------------|

25. The recovery plan has been developed in consultation with statutory partners across education, health and social care through the Inclusion and Additional Needs Partnership and Transformation boards and the Education Health and Care Liaison Group. Partner organisations lead workstreams within the plan, provide monitoring information and have contributed to the design of the overall strategy.



26. Concerns about the drop in timeliness, the capacity of teams managing the statutory process and the rise in needs assessments have been raised with stakeholder groups and all stakeholders are keen to work with the LA and have contributed to the design of recovery plan through sharing ideas and providing feedback on elements of the workstreams. These stakeholders have included:
- Family Voice Surrey, voluntary organisations and education providers through the Partnership Board and EHC Liaison Group noted above;
  - Headteacher groups, Leaders of Multi-Academy Trusts through the EHCP focus group;
  - SENDCO’s through network meetings.
27. There has also been Member engagement through the Inclusion and Additional Needs Partnership and Transformation boards, local meetings with members and a briefing for MPs in December 2022 and opposition leaders in July 2023. Members have expressed their shared concerns about the declining trend in timeliness and the impact this has for children, young people, families and education providers.
28. The challenges relating to EHCP Timeliness have been brought to the attention of the Council’s Select Committee for Children, Families, Lifelong Learning and Culture, including in October 2022 and July 2023 meetings. A dedicated item on EHCP Timeliness and the Recovery Plan will be considered by the Select Committee on 25<sup>th</sup> July 2023. This report seeks the Committee’s support for the EHCP Timeliness Recovery Plan that the recommendations in this Cabinet report relate to.

**Risk Management and Implications:**

29. There a number of risks associated with the EHCP timeliness recovery plan and the recommendations to procure additional capacity; these are summarised in the table below.
30. The key risks include:

| <b>Risk</b>   | <b>Mitigation</b>  |
|---|--|
| There are varying degrees of confidence in the datasets that inform the demand and capacity modelling, and the impacts on overall timeliness are influenced by factors outside the Council’s control              | Best available data has been used, and a number of scenarios have been developed and tested, so that realistic scenarios can be identified with an understanding of the sensitivities. The real data will be monitored closely so that appropriate management action can be taken if this starts to deviate from the forecast modelling. |
| There is a high demand for EP and SEN services due to insufficient in-house capacity and national shortages, so despite the market testing, it could be challenging to secure sufficient capacity from the market | Market testing has indicated that whilst the market is challenging, it is realistic that we will be able to secure contracts of the size required. It is important to be quick to secure provision and contracts with medium term longevity are proposed (3 years structured 12 months, plus 12 months, plus 12 months).                 |
| There is a risk that external contracts for service capacity could not be at the quality standards required.  | Quality standards and quality roles are included in the specification and will be managed via the contract and services and subject to usual internal quality assurance processes.   |
| The impact of these proposals on overall EHCP timeliness will be constrained by the least timely service  | All relevant teams and services, including health partners, are part of the EHCP timeliness  |

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|--|--|
| /team that contributes to the process across the system, including health partners.  | recovery through the EHC liaison group referred to earlier in this report.   |
| The retention of existing valued members of staff working in all associated teams and services may be more challenging whilst services are under increased pressure. | Communications with managers and staff is ongoing and will be strengthened by the appointment of a County wide SEN Senior Manager (started in July 2023). Communications reminding staff in all relevant services of the support and escalation route available to them will be promoted, and the pressure on staff should be eased by the additional resources these proposals will bring.  |
| There is a risk that the experiences of families do not improve, or do not improve fast enough, during the EHCP timeliness recovery period                           | It is noted that EHCP timeliness performance data may show a further drop in the months that the backlog of overdue assessments is completed, and that the next national SEN 2 data set will show a low cumulative timeliness. However, on an individual basis this will represent improved timeliness for individual families and long waits are expected to reduce rapidly over the next 4-6 months. The scale of the proposals and contracts are likely to push market availability to the limit, but if there turns out to be greater capacity available that means that the recovery could be achieved more quickly, then the approvals to procure should provide scope to do so. |

**Financial and Value for Money Implications:**

31. Based on the expected unit costs and volumes set out in the Part 2 paper, it is recommended that approval to procure contracts up to a total aggregate contract value of £15m over a three-year period (2023/24 to 2026/27). Dependent on the final contract arrangements, it is expected that the annual costs will be fairly evenly spread at approximately £5m per annum.
32. This funding is not within the current CFLL budget envelope so any approval to proceed would be with the understanding these costs needed to be offset by reductions in expenditure elsewhere in CFLL, or through draw down of Council reserves.
33. The impact of accelerating the work, on core High Needs Block (HNB) spend, is that growth built into the Safety Valve program will impact on the budget in a more uneven way, as opposed to materialising at a steady pace /in line with the seasonal patterns observed when timeliness was at more acceptable levels. However, based on current forecast this is not expected to create an additional pressure in the HNB.
34. Last year the Council's actual HNB spending was £2m less than the agreed planned HNB deficit. At the same time, when planning for 2023/24, an additional c£3m was added to the cost containment target to mitigate against the risk of overall growth running higher than planned. Therefore, at the end of 2023/24, if all targets and growth were as planned the deficit could be lower by c£5m.
35. High level modelling indicates that the cost of accelerating the assessments and clearing the backlog could result in c£4.7m associated costs to the High Needs Block



over the course of this financial year. If these costs materialise in this way the Council would still remain on-track with the overall Safety Valve trajectory.

36. This does introduce a risk around sufficiency of school placements as financial forecasts assume suitable educational placements are available for all children at the appropriate level. This will be influenced by the results of each assessment and the specific provision capacity needs. The Admissions teams are monitoring the backlog and preparing to manage these needs effectively.
37. As well as the impact on DSG funded budgets, clearing the backlog could also create an influx of SEN Children requiring Home to School travel assistance (H2STA) part way through an academic year. Current modelling assumptions are that 33% of children with an EHCP require some level of H2STA. Based on the current backlog this could therefore represent c350 children which would be a 6% increase on the current level of SEN Children receiving support. Whilst the same growth assumptions have also been used in H2STA planning, the phasing of this accelerated approach may mean an increase in plans being finalised after the start of the new academic year which may cause a surge of demand for the H2STA service and make efficient route planning more challenging as most routes are optimised in time for the start of the school term in September. Additional administrative costs may also be required to process the level of extra applications within timescales. Close monitoring of these applications and early communication with the H2STA teams is anticipated and is key to ensuring that appropriate support is provided and planned.

#### **Section 151 Officer Commentary:**

38. Significant progress has been made in recent years to improve the Council's financial resilience and the financial management capabilities across the organisation. Whilst this has built a stronger financial base from which to deliver our services, the increased cost of living, global financial uncertainty, high inflation and government policy changes mean we continue to face challenges to our financial position. This requires an increased focus on financial management to protect service delivery, a continuation of the need to be forward looking in the medium term, as well as the delivery of the efficiencies to achieve a balanced budget position each year.
39. In addition to these immediate challenges, the medium-term financial outlook beyond 2023/24 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority, in order to ensure the stable provision of services in the medium term.
40. As such, the Section 151 Officer supports the proposal to increase capacity and improve EHCP timeliness, noting the potential financial impact this may have on other budgets which will need to be factored into the MTFS planning.

#### **Legal Implications – Monitoring Officer:**

41. The Council's statutory duty under the Special Educational Needs and Disability (SEND) Regulations 2014 provides that the local authority must finalise the EHC plan

“as soon as practicable, and in any event within 20 weeks of the local authority receiving a request for an EHC needs assessment” as set out in the body of the report.

42. The proposed procurement route is in accordance with the Council contract standing orders and legal support will be provided as required in the completion of the contractual agreements with suppliers.

**Equalities and Diversity:**

43. The procurement of additional EP advices and capacity in the SEN service team will make an important contribution to ensuring that children and young people with additional needs and disabilities receive the right support, in the right place, at the right time.

**Other Implications:**

44. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

| <b>Area assessed:</b>  | <b>Direct Implications:</b>   |
|--|---|
| Corporate Parenting/Looked After Children  | Approximately 24% of Looked After Children in Surrey have EHCPs. Procurement of these services will contribute towards improved experiences for those children, as well as children and young people undergoing an EHC needs assessment.  |
| Safeguarding responsibilities for vulnerable children and adults                         | These proposals will enable the Council to better discharge safeguarding responsibilities for vulnerable children and young people. In mitigation to the current lack of timeliness, safeguarding is a key consideration upon the receipt of all EHC needs assessments and appropriate action is taken straight away (i.e. not delayed by the assessment timescales). |
| Environmental sustainability   | These proposals have no significant implications on this area   |
| Compliance against net-zero emissions target and future climate compatibility/resilience | These proposals have no significant implications on this area   |
| Public Health  | These proposals have no significant implications on this area   |

**What Happens Next:**

45. Subject to Cabinet approval:
- a. Completion of procurement documentation, and drafting and agreement of contracts with providers (August 2023)
  - b. Contract(s) award (August /September 2023)
  - c. Recruitment and retention proposals developed and agreed (August /September 2023)

- d. Review of financial impact and decisions for full year 2024/25 (through Medium Term Financial Planning processes)
  - e. Approval to procure and progress securing additional capacity /contracts to be included in broader communications to families and partners about the EHCP timeliness recovery plan (July – September 2023 and ongoing)
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**Consulted:**

- Additional Needs and Disabilities Partnership and Transformation boards with representation from Education, Health, Care, 3<sup>rd</sup> sector, Family Voice Surrey and ATLAS (user voice group for children and young people with additional needs and disabilities)
- Education Health and Care Liaison Group
- Family Voice Surrey
- EHCP Focus Group
- Children, Families, Lifelong Learning and Culture Select Committee

**Annexes:**

Part 2 report

**Sources/background papers:**

[Report on EHCP Timeliness for the CFLLC Select Committee 20 July 2023](#)

[Department for Education research on educational psychology services: workforce insights and impact 29 June 2023](#)

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