

Assessing Childcare Sufficiency for Children with SEND in the Early Years

Have you Taken Reasonable Steps?

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Introduction and Background

This paper has been written by Dingley's Promise, a registered charity supporting inclusion in the early years nationally. As a provider of specialist early years provision across the country, we aim to support inclusion in mainstream settings wherever possible and appropriate. We also work nationally with local authorities and partners, as well as central government, to drive an inclusion movement for young children with SEND.

As a charity we have been involved in influencing change nationally for a number of years now, and in 2021 we secured funding from Comic Relief to improve the sufficiency of early years places for children with SEND.

This paper presents ideas developed and built on from our work with our partner Local Authorities on the project and aims to support Local Authorities to focus specifically on assessing and securing Childcare Sufficiency for children with SEND and their families.

Local authorities, early years providers and families of children with Special Educational Needs and Disabilities (SEND) tell us that children with SEND are often not able to access their early years entitlements to the same extent as the overall population of eligible children. Current unprecedented pressures on the sector around recruitment and limited funding to support inclusion, are resulting in even higher numbers of children with SEND not being able to take up their entitlements, having reduced timetables, or in some cases being excluded.

Our own experiences also suggest that confidence and skills are a major barrier to inclusion. Our own recent research conducted in autumn 2023 found.

- 95% settings stated that the number of children with SEND is rising, and 79% say the rise is significant.
- One in five parents reported being turned away from settings.
- 27% of settings felt one year ago they had no more space for children with SEND, when settings considered the impact of the new entitlements, this figure rose to 57%.
- Only 15% of local authorities believe they have enough provision for children with SEND and 78% think the new entitlements will make it worse.

Dingley's Promise, November 2023¹

¹ [2023 Research Findings - Dingley's Promise](#)

As the expansion of the entitlements roll out, we are highly likely to see an increased demand for places which will exacerbate current pressures. The prospect of affordable childcare is in many areas already reshaping and there is therefore a real risk of an even greater gap developing between children with SEND and their peers in the take up of the new entitlements.

Legal Requirements and Risk of Challenge – have you taken reasonable steps?

[The Childcare Act](#)² 2006 and 16 sections 6, 7, 8 and 9 places a series of duties on LAs which require them to secure sufficient childcare for working parents in their area, and to secure the early education entitlements. The duties also outline the LA powers they can use to do so. The duties specify that provision for children with SEND should be secured for children up to the age of 18. Whilst the requirements for producing and publishing childcare sufficiency assessment were repealed through the [Children and Families Act 2014](#)³, it is unrealistic to suggest that an LA has taken “reasonable steps” to secure childcare, if they have first not assessed the market.

The Childcare Act requires us to ensure the sufficiency of places as a critical part of both improving child outcomes and reducing inequalities. This demand us to consider the childcare needs of families, both in terms of the early education entitlements, and also childcare which enables families to work and undertake work related activity. The two are inextricably linked and the methods and levers used to secure both are the same.

Typically, an assessment and resulting action plan through which any gaps are addressed, is an absolute minimum requirement for evidencing that an local authority has taken “reasonable steps” to secure sufficient provision.

For more information and links to the legal frameworks please refer to our related paper, [*The Benefits of Early Intervention, The Business Case for Assessing and Securing Childcare for Children with SEND.*](#)

² <https://www.legislation.gov.uk/ukpga/2006/21/notes/division/6/1>

³ <https://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

How Local Authorities are Currently Assessing Supply and Demand for Children with SEND

In 2021, we looked at local authority Child Sufficiency Assessments (CSAs) to see how local authorities were measuring sufficiency for children with SEND. An internet search of over 20 CSA's online at that time found no specific methodology or analysis for this group, in relation to early years and childcare.

We also asked the 30 local authorities we were working directly with at the time, many of whom had been selected to work with us on the basis of their forward thinking approach to inclusion. Still, we found no specific methodology for assessing supply and demand for this group. There was instead a tendency to name the steps providers could take to support inclusion through utilisation of specific funding streams, as opposed to an assessment of whether sufficiency had been secured.

Our collective concern at that time was that the lack of assessment practice and awareness of sufficiency was in its own right adding to the problem and preventing local authorities from supporting inclusion. If local authorities are not specifically measuring demand, how can they be evidencing need, making a clear case of the need for resource, and demonstrating impact? Without a focus on measurement, they may also inadvertently be portraying a message that this area of work (i.e. meeting the needs of families with children with SEND), is not as important as others.

What we typically found was that a sufficiency assessment will include analysis of supply and demand using the following information including but not exclusively.

- Socio-demographic data (usually to locality level)
- Employment and workforce trends
- Questionnaires and feedback from providers
- Questionnaires and feedback from families
- Local intelligence, e.g. feedback from the Family Information Service (or equivalent), Job Centre Plus etc.

Some CSAs also contained a consultation with families of children with SEND, but an analysis of supply and demand was again across the whole population as opposed to specifically for this group.

Most areas conducting this global research still highlighted that they had insufficient places for children with SEND. Worryingly, despite there being no specific assessment for this group, families of children with SEND still emerge as having insufficient places.

It is important to remember that children with SEND are a specified group within the legislation, therefore a specific activity is necessary in order to provide a reasonable measure from which to create a baseline and action plan to secure sufficiency.

What we can collectively do to measure sufficiency for children with SEND

Our discussions with Local Authorities have outlined some possible steps which local authorities could take to specifically assess provision for children with SEND. They have been implemented by several LAs including: Swindon, Reading and Bournemouth, Christchurch, and Poole. In all three of these areas the LA has been able to reshape local services and secure additional resource to evidence and respond effectively to unmet need and potential risk of legal challenge.

The methodologies and resulting data sets have created a great deal of discussion locally amongst senior leaders. The data supports an understanding of wider Children's Service and LA concerns around increasing numbers of children with SEND and a lack of specialist provision. In short, the data provides the evidence base for change and planning for school places, as well as creating a baseline for measuring the future impact of expanded entitlements on children with SEND.

Please note that the measures we have pooled here require interpretation and analysis locally, as well as a layering of intelligence to formulate assumptions and substantiate findings.

4.1 Suggested Demand-Side Measures

Successfully understanding demand for our population of children with SEND involves looking at current and historic information. We know children's needs may not present until they are in school, and that there will always be a number of children who are not known to any services until that point. Local intelligence is also key to help layer on some acceptable assumptions.

Demand	
What do we want to know?	Suggested methodology (collated LA wide but also broken down by locality where possible)
<p>Total number of children with SEND, by needs in the early years at any one time</p>	<p>Tracking back children with an Education Health and Care Plan (EHCP) in school, across reception, year 1 and 2 (to see an average of 3 years, and emerging trends), to quantify the number of children who would have had additional needs had they been identified in the early years. This data could be broken down by type of needs and by looking at children accessing specialist support and mainstream. It is also critical to track children on SEND support in the same way – particularly as research from the Education Policy Institute suggests that children in deprived areas are less likely to get an EHCP and more likely to be put on SEND support.</p> <p>Referral rates for assessments (e.g. Section 23 Assessments) and requests for additional support in the most recent year could also be added to compare historic with more recent data. This comparison of historic and current needs can support the identification of children not known to services and not taking up any of their early years entitlements. It can also support an understanding of how accurate using current data will be over time and track improvement in the data accuracy.</p> <p>It's important to quantify the hours taken up by children with SEND as opposed to how many took up some hours where possible, as we know many children with SEND are offered significantly less than their entitlements state. Some LAs have been able to do this through their payments processes and others have had to develop the data collection over time. Some LAs also consider asking families at the end their time in early years what their typical weekly take up hours were.</p>
<p>Percentage of children with additional needs in relation to the total population</p>	<p>Overall population data divided by the above data. This is incredibly rich information for the childcare sector who should also be business planning for a percentage of their intake each year who will always need some form of additional support (i.e. setting intake which is representative of the local community).</p>

<p>Take up of places by children with SEND in comparison to the overall population</p>	<p>Again, looking back at the take up of all the entitlements over a three year period, by place and hours accessed, age groups and provider type as well as showing split placements (movement between settings).</p>
<p>Understanding the direct correlation between disadvantage and SEND</p>	<p>To further understand demand LAs should also track the numbers of these children accessing EYPP, and two year old entitlement uptake according to income status.</p> <p>For impact data across the whole of the EYFS and beyond LA's should also collate information about delayed and deferred entry to school, and part time provision.</p>
<p>What we know locally about attitudes, needs, and wants</p>	<p>Parent/carer feedback collected through a range of means e.g. whistleblowing procedure, local forums, and specific consultation.</p> <p>Intelligence collected from Family Information Service (FIS), support services, providers, and employment support services etc.</p> <p>Indicators of poverty, socio demographic data and employment profiles.</p>

4.2 Suggested Supply Measures

Assessing the supply of places is complicated as our providers are required to operate inclusive settings. This means that simply asking providers if they have places for children with SEND obliges them to say yes, or fear being in breach of their funding agreement locally and code of practice. We know the reality is more complicated however and inviting **and welcoming** the lived experiences of providers is critical to building good relationships and therefore providing support where needed.

Supply	
What do we want to know?	Suggested methodology (collated LA wide but also broken down by locality where possible)
Places available in specialist early years provision	<p>Places reported as available by Ofsted (the Ofsted down load)</p> <p>Places reported by known specialist early years providers (local intelligence, FIS, questionnaire, and conversations) including childminders.</p>
Places available in the mainstream early years sector	<p>Returns (e.g. questionnaires) from the sector – thinking carefully about the questions asked is important so as not to mislead (or suggest it's ok to turn children away).</p> <p>LAs told us asking about inclusive places offered, places providers would like to offer, places planned for financially as part of business planning may support more useful picture.</p> <p>Creating an ongoing and safe conversation sector will also enable regular feedback as well as support. Inviting, welcoming and logging concerns can support your local intelligence as well as drive change.</p>
Adjusting for assumptions in developing an informed position about supply	Collating the experiences of families, providers, JCP, local support staff, take up of Disability Access Funding (DAF), SEND Inclusion Funding (SENIF) and Early Years Pupil Premium (EYPP).

4.3 Are we sufficient? How big is the 'gap'?

We could argue that a simple comparison of take up rates between children with SEND and the overall eligible population gives us our answer. For example, in one of our areas who completed this work, over 94% of the overall population of eligible children took up their early years entitlements, compared with approximately 50% of children with SEND. Because the take up is lower we could simply argue there is insufficiency.

Many local authorities however suggested a more flexible approach, taking account of parental preference and trends to adjust local action planning. For example, many parents of children with SEND have told us they did not think they were “as entitled” as other families to the full entitlement. Changing cultural norms and raising awareness will take time, however it is essential to avoiding a legal challenge from families who may not be aware of their basic entitlements. After all, the information duties within the Childcare Act 2006 require local authorities to inform families of their legal entitlements.

Considering wider strategies around disadvantage will also be important. For many areas completing this work, they found that the group of children (with SEND) also tend to be our least advantaged families. We have also seen a direct correlation between children with low take up of early years places and deferred and part time entry to school. It is reasonable to infer that despite early years education having the greatest impact on our least advantaged children, these children are accessing the least amount of provision from birth through to statutory school age.



Summary

Securing the funding for support, training delivery and other areas of market management, will require sound evidence to support your business case. If you can't evidence it, you can't make a case for change. Specifically measuring sufficiency for children with SEND can give you a baseline for measuring change as the new entitlements roll out, as well as supporting your wider local authority business case and plans for inclusion. It is also vital for providers locally to have a clear picture of supply and demand to remain sustainable, inclusive, and responsive to changing needs.

Local authorities should keep in mind the overall aims of supporting child outcomes, reducing inequalities, and enabling parents to work, when assessing the market and action planning for sufficiency.

Remember that gathering any data will be a challenge, often for a number of departments who may be new to understanding why it is critical for securing legal compliance. It will also need to be refined over time and will certainly throw up more questions than answers when you start! Starting small with the tracking back exercise would be our recommendation.

Short terms steps to begin your assessment for children with SEND.

1. Use our previous paper The Benefits of Early Intervention, The Business Case for Assessing and Securing Sufficiency for Children with SEND, to make a business case for the time and resources locally to undertake this work.
2. Identify your champions at a senior level and brief them before you begin. Getting buy in from those with the data and resources will be key.
3. Can you bring all those with a part to play in gathering the data together as a time limited working party? You could use this and our related papers to shape the meeting and work out what you collectively can do now, and what will need to come later.
4. Outline the legal requirements, risk of challenge and likely impact of not measuring sufficiency in all your conversations. Your data people will likely not be familiar with the early years and childcare agenda, and you may not be aware of what's collected and what's possible.
5. Start with the tracking back exercise to begin to build your baseline to work from. Layer on as much related data as you can and remember to look at the hours of take up as opposed to how many children took up their entitlements.
6. Engage your parent carer forum or voice group, but remember they are often overwhelmed with requests. Your internal and external staff will also be in regular contact with families of children with SEND who in our experience are often keen to help. Collating the views of parents and carers is likely to give you quotes you can use to bring your final report to life for the range of readers who will see it.
7. Think about what you can do now, but also next. The identification and then analysis of data is likely to create as many questions as answers in the short term, however establishing a data set you can return to each year, and constantly improving your measures for collecting live data will help establish and embed new ways of working which will simplify the process over time.
8. Don't forget to geek out! LAs we have worked with have been really excited to finally be able to evidence what we have often known anecdotally and begin to work towards change. Whilst the data you present is likely to illustrate a concerning picture it is also the first step in being able to do something about it.



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