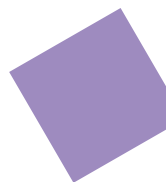




The state of SEN in Essex: A guide for parents and carers

Commentary from SEN
experts, parents and carers

Produced by Birkett Long Solicitors
birkettlong.co.uk



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Intro

For parents and carers of SEN children, accessing vital Local Authority (LA) resources is essential to healthy development. The challenges are vast and numerous on both a practical front, and navigating the complex systems set up by councils and LAs to access the help needed.

It is the understanding of those compiling this report that every professional, parent and carer involved in this system has the best intentions for the children involved. So, why does it appear on the surface that the systems we have in place are not providing the outcome that parents, children, carers and teachers need?

Sufficient knowledge of how to work within systems does not guarantee parents or carers will achieve the level of assistance they are looking for, as many parents and carers up and down the country have come to understand. A lack of financial resources, qualified professionals, increased demand, increasing the provision of SEN help to those up to 25 years of age and other factors have placed a bigger burden on the system.

Consequently, parents or carers can sometimes struggle to get assessments or have the changes they want put into their child's EHCP.

In this report, we compare the state of SEN in Essex today with the past 5-6 years and gain an understanding of the change in number of SEN children, assessments, EHCPs delivered, tribunals, SEN officers, SEN schools and more. By providing an accurate picture of the state of SEN in Essex, we hope it allows parents, LAs, tribunals, schools and every stakeholder to make better-informed decisions.



The facts and figures

Essex has seen a consistent rise in the number of SEN students for at least five years, yet doesn't appear to be matched by an increased provision of resources to the local LA, judging by some of the outcomes.

For example, there has been a steady rise in the number of students across all schools in Essex, of students who have EHCP plans and require some SEN support (refer to appendix 13A, 13B and 13C). However, 2021 registered the highest number of requests for an EHC assessment denied (refer to appendix 14A). This suggests that though the rise of SEN students appears to be steady, there may be more who are not getting assessments, and therefore any further support at school.

The data shows a growth in the number of tribunals being held (refer to appendix 16B), and appealing to the tribunal after mediation did not produce the desired outcomes (refer to appendix 14A). This could suggest that parents and carers are becoming more proficient at navigating the system or making use of legal support to achieve better outcomes. These figures could also suggest the LA is becoming less willing to carry out assessments, issue EHCPs or reach mutually agreeable decisions during mediation.

We spoke to three experts in the field:

- **Chris Hume** is a teacher at Shoeburyness High School and is used to teaching SEN students, who form nearly 20% of the school's yearly intake.
- **Clare Middleton** is a SENCo officer at the Dagenham Park Church of England School.
- **Thomas Emmett** is the Head of Education at Birkett Long and works closely with parents and carers on SEN-related work.

Are there barriers to accessibility and provision?

Accessing the services of LAs isn't apparent to all parents and carers, and navigating those systems and barriers is a different kind of challenge. Traversing LA procedures and policies can be difficult, and it often takes experience of the system to know how to work with it.

"The increasing headcount and lack of resources means that there is not enough provision for children with SEN needs, currently. Consequently, parents and children can end up more stressed, as it can feel like a constant battle in obtaining the appropriate support for their child."

**Clare Middleton, SENCo Officer,
Dagenham Park Church of England School**

As the number of SEN children continues to rise in Essex and the funding doesn't, it is unlikely that the LA will be able to keep pace with the number of SEN children who need support and EHCPs.

In addition to these barriers, parents and carers have also had the appeal and mediation system to turn to if they are unhappy. However, this is an area that often requires expert help and experience in the process to achieve some kind of success.

"On paper, the stages, processes and procedures of SEND Tribunal appeals appear to be simple. However, in practice, bringing an appeal to the SEND Tribunal alone can be intimidating and challenging, from gathering all the information for the appeal and communicating the grounds of an appeal to the SEND Tribunal in the most effective way with consideration of the relevant law, to dealing with a LA response, a working document and sometimes unexpected changes in a SEND Tribunal timetable. For those that are looking for help with an appeal, it is important that they seek the right advice from a qualified legal professional where possible. A lot of successful cases involve solicitors who have extensive experience in SEND law."

It is notable that parents are becoming more aware of, and are more willing to engage, their legal rights. However, whilst this is positive, it doesn't take away from the fact that acting on legal rights and undertaking the procedures and processes prescribed by the law and the SEND Tribunal can be arduous."

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**Thomas Emmett, Head of Education,
Birkett Long**

...there is **not enough provision** for children with SEN needs, currently.

Clare Middleton “”

From 2018 to 2022, there has been a
170% increase...

Thomas Emmett

“”

“The rise in the number of persons being assessed by way of an EHC needs assessment, or where an EHC needs assessment has been completed but no decision has been taken on the issuing of an EHC plan at the calendar year-end, has risen for the past four years. From 2018 to 2022, there has been a 170% increase (refer to appendix 14A). This suggests LAs are facing more pressure every year with the rising number of children who have SEN or who might have SEN and that might need special educational provision (as defined by law), and the pandemic is likely to have contributed to a backlog of cases.

The data suggests that LAs are struggling to stay on top of demand, and it's unclear whether such demand is matched by an increase in funding from the Government.

While special schools are constructed exclusively for children with SEN, they're too few and cover barely 10% of the total headcount in Essex (refer to appendix 13C and 15E). This means that most children with SEN will go to mainstream schools. As class sizes grow, teachers are being left with a bigger responsibility connected to SEND provision and that may lead to undesired compromises in the classroom.”

**Thomas Emmett, Head of Education,
Birkett Long**

The classroom is where the contents of the EHCP or SEN support are typically delivered to the child. While every classroom and school is a little different, SEN students can expect some

assistance with their work and daily tasks. As the number of SEN students rises in Essex, it places a bigger burden on the LA and schools to stretch their resources to cover more children.

While special schools are constructed by the LA exclusively for children with SEN needs, they cannot admit more than 10% of SEN children. This means that most SEN children will go to state schools and be supported either by teaching assistants, or teachers will have to provide special, one-on-one attention. As class sizes grow, teachers are being left with a bigger responsibility and that may lead to a compromise in the classroom to make sure every student receives at least some attention.

“I've certainly noticed a gradual increase in headcount of SEN students over the past three to four years (refer to appendix 13C), but especially since the COVID-19 pandemic.

I've especially noticed an increase in the number of students with speech and language developmental, or social cue problems. When this is coupled with the poor rate of teacher recruitment and lack of funding to adequately tackle issues, teachers begin to feel the strain. The school itself is well aware of how challenging it can be, and the students with the most needs tend to be in separate classes. However, when we have classes of 30, and nearly 15 of those students have moderate learning difficulties, it becomes very difficult for us to give the necessary attention to all students.

I feel as if the LA does not help, it's become a bureaucratic nightmare that is leaving many unable to access help, or fatigued by the process. I do not get the feeling that the LA sees the needs of students as its top priority – they seem more concerned about balancing the books than helping children, families and teachers.”

**Chris Hume, Teacher,
Shoeburyness High School**

Another aspect of SEN which can go unnoticed is the disparity in diagnoses and recognition of SEN between boys and girls. The data suggests that there are more boys with SEN than girls (refer to appendix 15B), and there is no evidence to suggest boys are more likely to have SEN than girls.

This can create issues later down the line when a recognition or diagnosis of SEN is made in later life, where development may not have been as progressive as it could have been with earlier recognition.

Boys tend to be louder and more disruptive, as a result they are noticed more.

Chris Hume

“”

“I have definitely noticed a disparity between male and female SEN students, even if it isn't a large one. Boys tend to be louder and more disruptive, as a result they are noticed more.”

Chris Hume, Teacher,
Shoeburyness High School

The world of SEN can be confusing with its many abbreviations and obscure distinctions between things like EHCP and statements of SEN (statements of SEN did not include sections around personal budgets). Some familiarity with and time spent understanding SEN terms of references does dispel the confusion, but it's possible that some parents are put off entirely because they feel intimidated by the system and process.

When accessing help at school, parents or carers are often told things that are untrue. Some are told that the school must carry out its own assessment before requesting one from the LA, which is untrue. Parents or carers can request an assessment at any time.

Working through the various forms and procedures laid down by LAs can be tiring and demotivating. However, accessing that help and the resources is essential to giving SEN children the best education they can get. Legal assistance can make or break requests, mediations and appeals. Knowing how to correctly draft letters, making sure to provide every piece of evidence possible and much more is key to gaining access to the resources you need.

[Speak to the Education Team >](#)



SEN in Essex news

Lavender House in Colchester is scheduled to close down, its services will be provided at a newer, larger facility in Harlow

Respite centres are extremely important for parents/carers and children alike. In March 2023, Essex County Council decided to shut down Lavender House - a Colchester based respite centre that accepts overnight stays. The capacity would be shifted to The Maples, in Harlow.

One parent relied on Lavender House for up to sixty nights a year, and improved the quality of his family's life. He now says that the new centre is unviable, as it would involve a 90-minute journey.

Surrey Council received a £100m bailout last year due to huge overspending on out of county transport and non-maintained school places

While this news is not from Essex, it can serve as an example of how things can go wrong. The council had pulled more and more SEN students out of mainstream schools and into specialist schools, some of which were located far away from students. This involved paying for outsourced transportation and non-maintained school places.

Councillor Jonathan Essex noted that the lack of maintained specialist spaces were the root cause of the issue, as well as a lack of provision for SEN students in mainstream schools.

Charity PARC closed its doors in June last year

Braintree-based charity PARC served as respite for parents, carers and children with SEN needs. The charity gave children some time to have some fun and for parents and carers to attend to other needs in the day, for a few hours.

It served as a vital resource for hundreds of parents across Essex, who were devastated to learn of its abrupt closing in June 2022.

New SEND school to open in Chelmsford that will serve children with autism and will accommodate 70 pupils, opened in January 2023

A new school opened in Chelmsford in January 2023, The Hawthorns School. With the capacity to accommodate around 90 students, this school will mostly serve students with autism.

The Hawthorns School is a part of the SEAX Trust, which has four other schools located in Brentwood, Chelmsford and Colchester.

Cedar Hall, a specialist SEN school, has had £4.3m invested for all-round upgrades and to increase the capacity to a further 80 students in May 2023

Cedar Hall is a specialist SEN school based in Benfleet, and was given the go-ahead for making sizeable upgrades to facilities and increasing capacity by a further 80 students.

Construction firm Morgan Sindall were chosen to carry out this project due to the release of their SEND Blueprint for Success report last year.

Looking forward to SEN in Essex

The current trends all point towards a growing headcount of SEN children in Essex for the foreseeable future. If current trends continue, this also means more requests for assessments denied, more tribunals being held, more appeals being filed and more competition for spaces in specialised SEN schools.

“LAs are doing what they can, even with a backlog of requests that stem from a general lack of funding and the COVID-19 pandemic.

Ultimately, it largely comes down to government funding. If LAs do not have the resources to dispense the services they are legally obliged to provide, individuals will fall through the cracks and receive no/insufficient support. A more qualitative understanding of what children with SEN needs require in schools, and what schools are realistically able to achieve, would help improve expectations and outcomes for everyone.”

**Clare Middleton, SENCo Officer,
Dagenham Park Church of England School**

pressure on LAs relieving as the population grows, awareness and diagnoses of SEN increases and parents become more aware of their rights.

Further pressure is added on LAs by their lack of communication in a lot of cases. Parents and carers often become frustrated due to a lack of communication. It leaves them unaware of the next steps and often with little time to react to decisions or steps in the process, which is particularly difficult for those parents and carers who have SEND themselves. In the worst scenarios, poor communication can be part of the reason why EHCPs remain outdated for a long time, annual reviews get delayed and delays that negatively impact the delivery of provision to the child can occur.

One of the sources of the problems for LAs seems to stem from the time-lagged effects of COVID-19. There is now a backlog in the system whether it's EHC needs assessments, SEND Tribunal appeals or even in the mediation services, which is slowly clearing itself. We've noticed parents' frustrations are resulting in us getting more and more enquiries relating to how legal methods can be used to expedite LA processes and decision making.

Ultimately, LAs could improve the provision of their services with better and more regular communication. This is by no means the silver bullet and I can appreciate how challenging this might be taking into account the demands on the service, but it is a good start.”

**Thomas Emmett, Head of Education,
Birkett Long**

...there was a
£600m
shortfall
in 2021

**Thomas
Emmett**

““”

“Funding gaps already exist in LAs across the country. The last report released by the Local Government Association showed that there was a £600m shortfall in 2021. There is no prospect of

The Department for Education missed its teacher recruitment target by a massive → **47%**

Chris Hume

“”

“Ideally, things could be vastly improved by simply having more adults in the classroom. Because of the increasing percentage of SEN students in classrooms, it’s getting harder and harder to make sure every student has been delivered a good lesson, and this is especially true with SEN students who have more severe needs.

However, in reality, I don’t see any of this happening. The Department for Education missed its teacher recruitment target by a massive 47%, and a further 9% of teachers retired (excluding retirees) in 2021/22. I know that this means that there is more work for teachers.

As the pool of prospective teachers falls, schools end up hiring anyone they can get, which comes with its own problems. With fewer resources, less time is spent on training, which in turn worsens the situation. Recruitment is a systemic issue right now, alongside the lack of distribution and proper funding of EHCPs.

We’re in a negative spiral and I currently don’t see any way out of it.”

**Chris Hume, Teacher,
Shoeburyness High School**

The pressures on the LA are powerful, and there appears to be no respite in sight. SEN children’s headcount is continuing to rise and there is no reason to believe that number will stabilise in the short term. Rising population levels are sure to add to the headcount, and the funding shortfall appears to have no end in sight. This is being felt in schools and especially by teachers, whose job appears to grow in scope on an annual basis.

In many of Chris’ classes, SEN students form nearly 20% of the total class. While teachers are provided a certain level of training for SEN students, they cannot be equipped with all of the skills necessary to care for and educate them sufficiently. It also takes their time away from other pupils who in the long run, will receive significantly less one-on-one time and suffer from a lack of attention. It also wears teachers down who feel increasingly unsupported in what is already a suffering profession in the UK.

Teachers would love to see more support in the form of SEN teaching assistants in the class and more spaces in SEN schools for students with the most profound needs. While the LA is making some effort with expanding SEN schools and building new ones, it doesn’t have the capacity or funds to have a large effect. In all likelihood, the situation for teachers will only get worse, teacher numbers have failed to keep pace with student numbers since 2011.

With every passing year, it will become more and more difficult for parents and carers to secure access to services. However, it must be taken into account that a lack of support during a child’s early years can lead to negative health and economic outcomes, which are more costly than providing support to SEN children. Therefore, it’s likely worth spending money during these early years to improve a range of outcomes, from social isolation to earning potential.

Overall, the dispensation of SEN services across Essex has deteriorated in some aspects over the last four years. However, this cannot be solely attributed to the LAs' limitations. The growing pressures in the form of a rising headcount of SEN students in Essex, and no end in sight for the funding shortfall, means that the problem is likely to continue and get worse in the near future.

This means that parents and carers need to put their best foot forward at every step of the process when securing an EHCP. Dealing with LAs can be difficult and meeting their requirements can be a challenge, which is why parents and carers need to rely on experience. Experience in mediation, tribunals, appeals, drafting requests and responses is essential to achieving the desired outcome.

The data's downward spiral calls for action. At Birkett Long, we engage impartially, aiming to bring clarity through our expertise to all involved in the debate.

Our campaign empowers parents with SEN knowledge. Our goal: end confusion and unpreparedness. Birkett Long's clear guidance enables timely self-help.

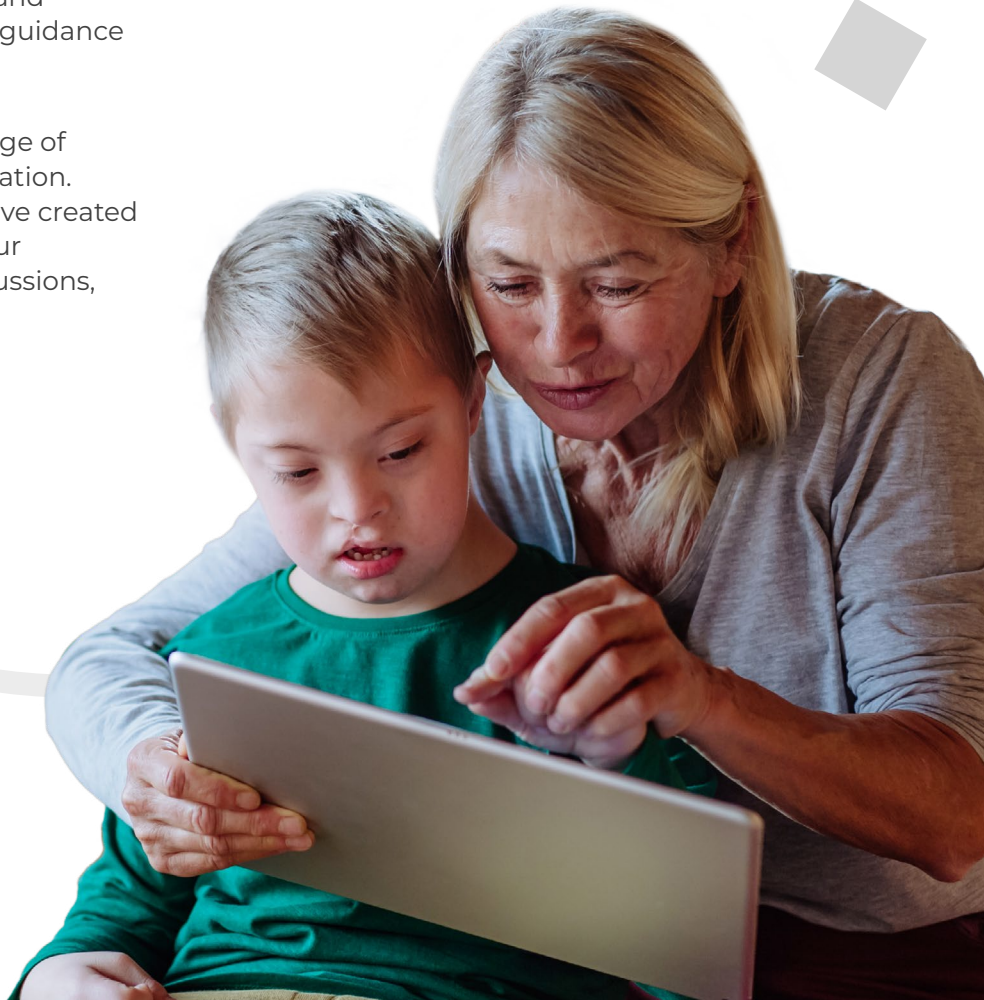
For families facing this, we offer a range of services, including tribunal representation. Recognising financial limitations, we've created free materials. To access them, join our Facebook group, get involved in discussions, learn and use our resources.

With moderate finances, our group training offers exposure to solicitor insights, reducing costs. Our transparent fees aid decisions quickly.

Providing these materials allows us to help people towards tribunals if and when necessary.

All in the SEN process mean well. Clarity dismantles barriers, unlocking provisions, winning tribunals, and boosting funding. This secures crucial education, pressuring government funding. It's not just about education costs; a strong education curbs future mental health, crime, and societal issues. Let's prioritise children's education, fostering better provisions, erasing stigma, and improving learning.

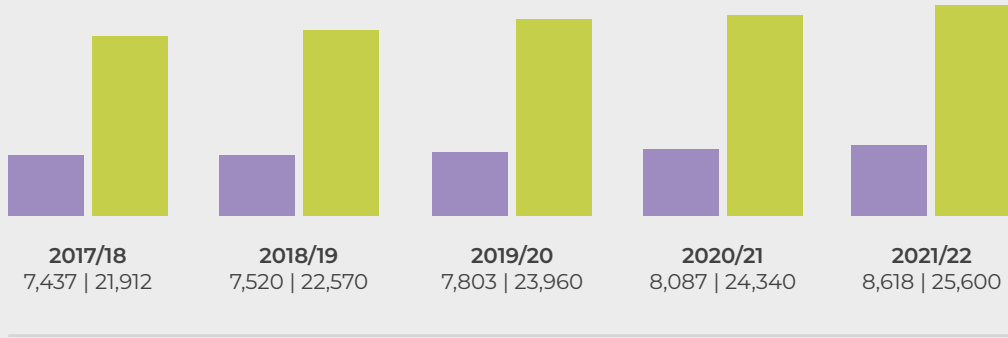
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Appendix

These statistics were gathered from the gov.uk Research and Statistics website, and from a Freedom of Information request filed with Essex County Council.

13A: Pupils in all schools with SEN provision including independent schools and general hospital schools, 2017 to 2022 in Essex

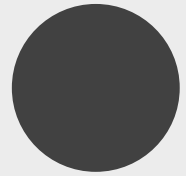


● EHCP/Statements of SEN ● SEN support

13C: Headcount of pupils in all schools, with SEN provision



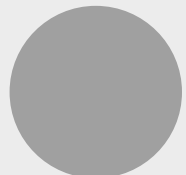
2017/18
220,196



2018/19
222,969



2019/20
226,073



2020/21
228,123



2021/22
230,730

13B: EHC plans by age, January 2017 to 2022 in Essex

Number of EHC plans



Number of statements



Number of statements and EHC plans combined



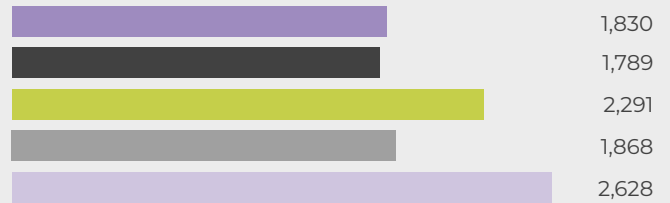
● 2017 ● 2018 ● 2019 ● 2020 ● 2021 ● 2022

14A: Requests, assessments, discontinued plans, 20 week timelines, mainstream to special transfers, mediation and tribunals, 2017 to 2021 in Essex

Children and young people assessed for whom an EHC plan was issued



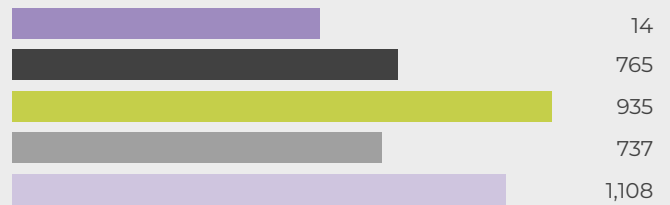
Initial requests for an EHC plan



Assessments where it was decided not to issue an EHC plan



Mediation cases that have been held which were followed by appeals to the tribunal



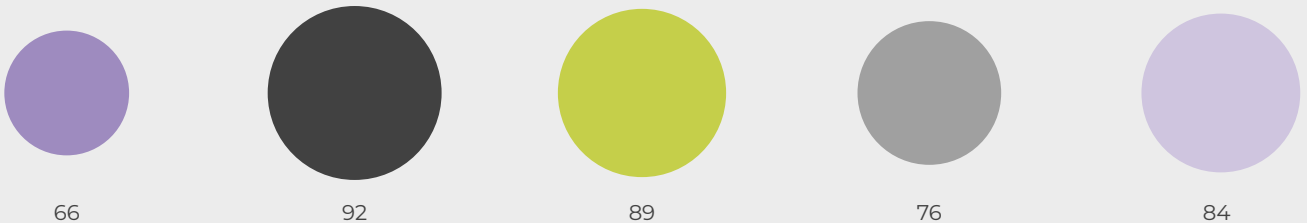
Initial requests for assessment for an EHC plan that were refused



Still being assessed or where assessment has been completed but no decision taken for an EHC plan at the calendar year end

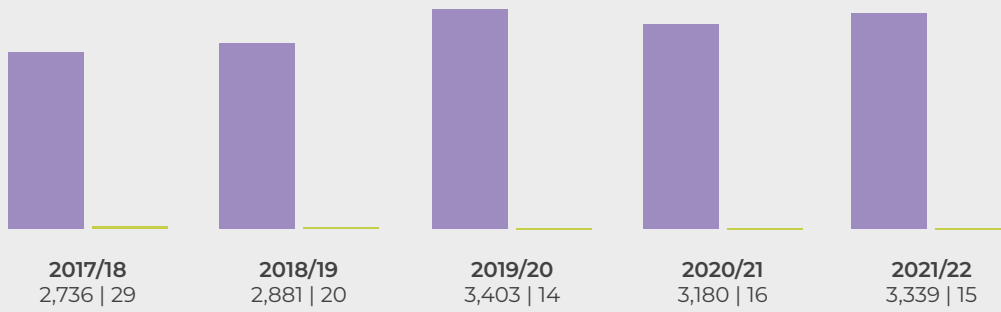


14B: Mediation cases that have been held



● 2017 ● 2018 ● 2019 ● 2020 ● 2021

15A: Pupils in all non-maintained special schools with SEN provision including independent schools and general hospital schools, 2017 to 2022 in Essex

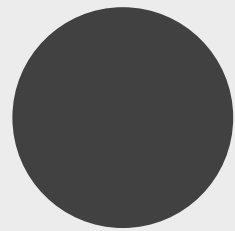


● EHCP/Statements of SEN ● SEN support

15E: Headcount of pupils with SEN provision in non-maintained special schools in Essex



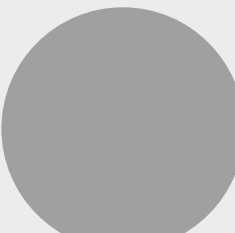
2017/18
2,782



2018/19
2,927



2019/20
3,078

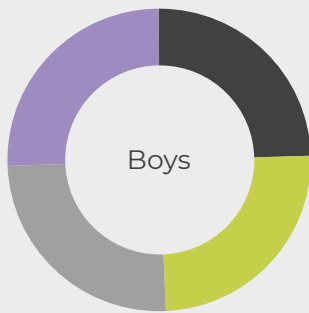


2020/21
3,217

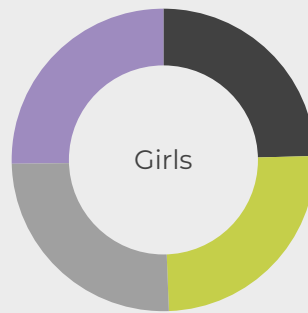


2021/22
3,354

15B: Number of students with SEN provision by gender, 2017 to 2022 in Essex

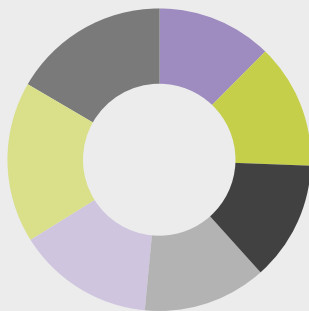


● 2018/19 | 107,755 ● 2020/21 | 110,664
● 2019/20 | 109,496 ● 2021/22 | 112,120



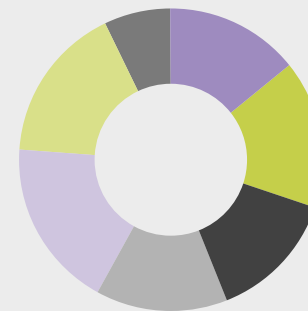
● 2018/19 | 103,803 ● 2020/21 | 106,167
● 2019/20 | 105,090 ● 2021/22 | 107,119

15C: Number of SEND Officers, 2017 to 2023 in Essex



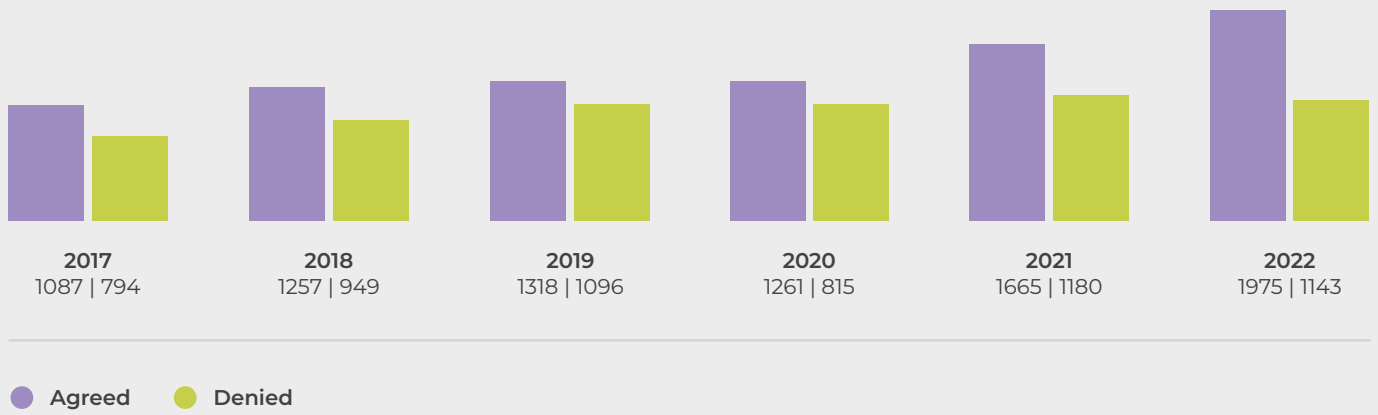
● 2017 | 44 ● 2018 | 47 ● 2019 | 45
● 2020 | 47 ● 2021 | 52 ● 2022 | 61
● 2023 | 59 (as of June 2023)

15D: Number of EHCPs issued, 2017 to 2023 in Essex

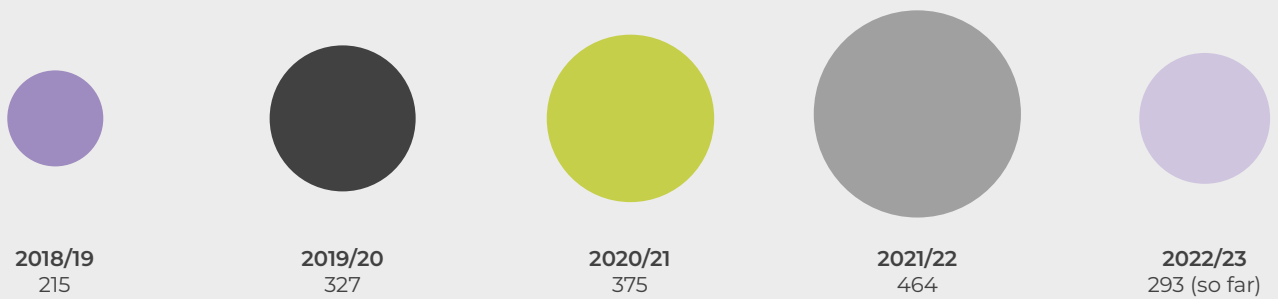


● 2017 | 1027 ● 2018 | 1124 ● 2019 | 1006
● 2020 | 996 ● 2021 | 1296 ● 2022 | 1208
● 2023 | 503 (as of June 2023)

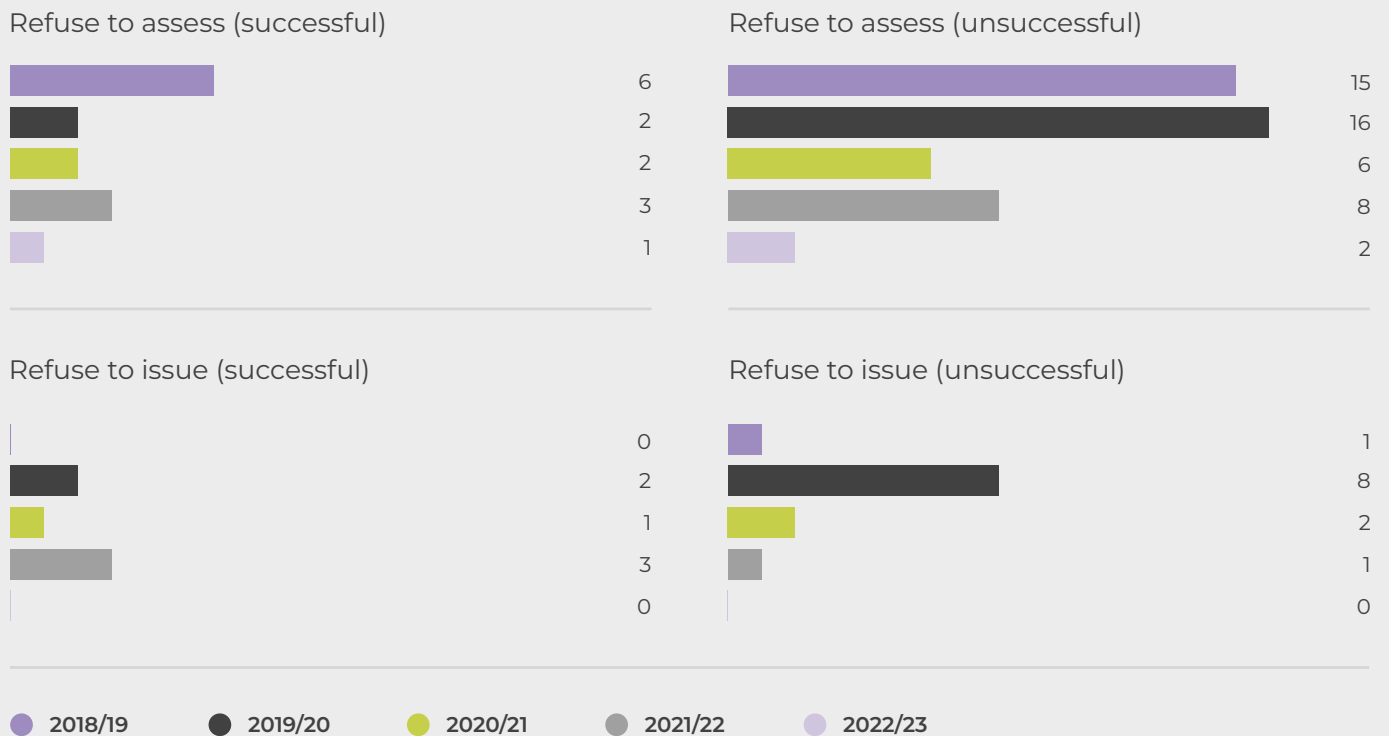
16A: Number of assessments agreed and denied, 2017 to 2023 in Essex



16B: Number of tribunals open and closed, 2017 to 2023 in Essex



16C: Number of appeals, successful, unsuccessful compromise, 2018 to 2023 in Essex



Glossary

LA	Local Authority
EHCP	Education, Health and Care Plan
SEN	Special Educational Needs
SEND	Special Educational Needs and Disabilities
Mediation	The first step made after disagreeing with the LA. This can come after refusing an assessment, refusing to issue an EHCP and contesting the contents of the EHCP.
Tribunal	Where parents or carers and the LA will go to if mediation fails. Tribunals are independent third parties.
Appeal	The final mode of redress available to parents or carers if the tribunal decides against them.





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