

Research Space

Journal article

The coproduction illusion: considering the relative success rates and efficiency rates of securing an Education, Health and Care plan when requested by families or education professionals

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The Coproduction Illusion: considering the relative success rates and efficiency rates of securing an Education, Health and Care plan when requested by families or education professionals

Abstract

This paper examines the success rates and efficiency rates of Education, Health and Care (EHC) needs assessments in England when requested by families compared to requests from education professionals. The four nations of the United Kingdom (UK) (England, Wales, Scotland and Northern Ireland) have their own laws and policy regarding education provision and thus they all have their unique special or additional needs policies and guidance. England is the only nation to have EHC needs assessments and plans. Families and education professionals in England can request an EHC needs assessment from their Local Authority (LA) for children and young people for whom the provision that is ordinarily available via the school is deemed insufficient for them to make expected progress. The English Special educational needs and disability code of practice: 0-25 (DfE & DoH, 2014; 2015) states that this assessment should consist of a person-centred approach including parents, pupils and professionals in all the decision making (coproduction) and provides specific and timely procedures to follow. If, on completion of the assessment, the LA conclude that it is necessary to make special educational provision for a child, then an EHC plan is provided by the LA detailing the additional and different provision and support the child or young person requires. This quantitative study therefore initially surmised that the outcome of an EHC needs assessment (the decision to issue an EHC plan within the statutory timescales) should be similar irrespective of the source of the request. Using a Freedom of Information (FOI) request, six questions were sent to each of the 148 Local Authorities in England asking for their data about who ((i) families; (ii) education professionals) requested EHC needs assessments and whether or not they were timely (an outcome determined within the statutory timescales) and successful (resulted in an EHC plan being issued). Statistical analysis was used to identify similarities and significant differences between the datasets. These datasets were then

triangulated against publicly available datasets related to appeals to the First-Tier Tribunal, where those requesting an EHC needs assessment can appeal against the outcome. During the same time period words referring to different types of ‘joint working’ within the SEND code of practice (DfE & DoH, 2014; 2015) and the Children and Families Act (Gov UK, 2014) for England, were interrogated in order to identify whether coproduction between families and education professionals was a clearly communicated expectation from the outset.

The three key findings demonstrate (i) a need for further research to explore inconsistencies between the datasets and the variations in the outcomes of EHC needs assessments across England; (ii) that those Local Authorities who were most efficient at issuing EHC plans within statutory timescales (20 weeks) responded similarly whether education professionals or families made the assessment request; (iii) that the study’s findings could indicate that there is a discrepancy between what families think their level of decision making and involvement can be and the practical reality: a ‘coproduction illusion’. It is proposed that special educational needs and disability policy and guidance in England requires revision to assure the consistent use of language, roles, and responsibilities.

Keywords

Coproduction; Education Health and Care (EHC) plan; success rates; efficiency rates; SENCOs; parents; families; needs assessment.

Introduction

This paper examines the findings of a study which sought to find out whether Education, Health and Care (EHC) needs assessment requests during the academic year 2017/18 from families¹ in England had similar outcomes compared to requests from education professionals. It also explores explanations for any differences found. These groups were identified because the source of requests to undertake an EHC needs assessment generally fall into the two areas: families and education professionals. Initially, this study surmised that as both parents and education professionals ought to be able to draw on each other's expertise, knowledge and experience, the outcome from a request for an assessment should be similar, irrespective of who submits the request. The working hypothesis was that if coproduction is effective then the outcome of an EHC needs assessment (irrespective of whether an EHC plan is ultimately issued) should be independent of the source of the request.

Using a Freedom of Information (FOI) request, six questions requiring quantitative responses taken from datasets they are required to collect by the Government were sent to each of the 148 Local Authorities in England. Statistical analysis was used with the resulting datasets to identify any similarities and significant differences between (i) the dataset based on requests for a needs assessment from parents and (ii) the dataset based on requests for a needs assessment from education professionals. These datasets were then triangulated against publicly available datasets related to appeals to the First-Tier Tribunal, where those requesting a needs assessment can appeal against the outcome. The findings demonstrate a need for further research to explore inconsistencies between the datasets and the variations in the outcomes of EHC needs assessments across England.

¹ 'Families' and 'parents/carers' are used interchangeably in this study

This paper focuses on two of these findings: success rates (the proportion of requests for a needs assessment resulting in a plan being issued) and efficiency rates (the proportion of EHC plans issued, where the outcome was determined within the statutory timescales). This study provides insights into the wider implications of its findings for the equity and timely assessment and provision given to children and young people deemed to have special educational needs and / or disabilities. It discusses the emerging evidence of a mismatch between the policy intention and the practical reality in relation to positive and effective coproduction between families and education professionals.

Context

Section 36(8) of the Children and Families Act (Gov UK, 2014) for England sets out the legal test that Local Authorities must apply if they are requested to undertake an EHC needs assessment. Families and education professionals can request an EHC needs assessment from their Local Authority (LA) for children and young people for whom the provision that is ordinarily available via the school is deemed insufficient for them to make expected progress. The English Special educational needs and disability code of practice: 0-25 (DfE & DoH, 2014; 2015) (from this point called the SEND code of practice), states that this assessment should consist of a person-centred approach involving all interested parties in the process. Local Authorities must consider (i) whether the child or young person has or may have SEN, and (ii) whether the child or young person may require special education provision to be made through an EHC plan. If the answer to these questions is yes, then the Local Authority must undertake an EHC needs assessment. The SEND code of practice (ibid) provides specific and timely procedures for all the LAs to follow. If, on completion of the assessment, a LA concludes that it is necessary to make special educational provision for a child, then an EHC plan is issued.

This plan details the additional and different provision and support the child or young person requires.

Literature Review

Coproduction

The Children and Families Act (Gov UK, 2014) says it has a focus on ensuring that children and young people are at the heart of planning and decision making through person-centred practice. It is therefore suggested that many working in the fields of special educational needs and inclusion in England assumed that the Government sought the implementation of the values and principles of the participatory theory of coproduction (Roper, 2016). However, the Act does not at any point include the word ‘coproduction’. Instead, the language used within the Act appears to indicate its intention is for the professionals within the education authorities, and other statutory agencies to be the main proponents in carrying out all SEN work and decision making. Indeed, the use of open coding to identify similar terms to ‘coproduction’ within the Act reveals words that appear to support the continuation of the domination of the ‘expert’ voice (Table 1) rather than any direction towards joint working beyond co-operation.

[Table 1]

At the heart of coproduction in this context is the principle that families and education professionals are equal, meaningful partners in the process of determining provision for learners with SEND. In attempting to implement coproduction, education professionals report that families become more central to the process and that it does improve the quality of EHC needs assessments (Adams et al, 2017, p32). However, it remains unclear whether family-centred provision is equivalent to genuine coproduction.

Sales and Vincent (2018) identify a similar link between ‘person-centred’ approaches and ‘greater parental involvement’, but whilst the ‘involvement’ of families may improve provision, this arguably falls short of coproduction. This is exemplified by Cochrane and Sani (2020), who are clear that parents are becoming more ‘involved’, but coproduction is not realised because learners are not sufficiently included.

In the public sector more broadly, it is argued that coproduction can be useful for reconciling multiple perspectives, but it is also acknowledged that coproduction is interpreted inconsistently by different stakeholders (Bussu & Galanti, 2018). This study considers coproduction in the specific context of SEND and explores the existence of a ‘coproduction illusion’ on the basis of evidence that suggests there is a mismatch between the policy expectation and the practical reality. This is consistent with the findings of Chinn and Pelletier (2020), who indicate an inevitable bias towards the authority that funds the process and commissions the subsequent provision with a focus on statutory compliance (Chinn, 2017).

The SEND code of practice (DfE & DoH, 2015), written to enable the Children and Families Act (Gov UK, 2014) to be enacted in practice, was heralded as the long awaited statutory guidance, which would reform the previous codes of practice (DfES, 1994; DCSF, 2001) by fully including families and the children and young people “in decisions about their support and what they want to achieve” (DfE & DoH, 2015, p11). It states that its main changes reflect those introduced by the Children and Families Act (Gov UK, 2014). The specific change of significant interest for this study is:

There is a clearer focus on the participation of children and young people and parents in decision-making at individual and strategic levels
(DfE & DoH, 2015, p14).

The SEND code of practice (ibid, pp19-24) is clear that LAs **must** have regard to ensuring children, young people and parents are fully included in EHC needs assessments, with specific rights to request one (ibid, p23). LAs must ensure there are participation, collaboration and consultation processes in place for all SEN services including the development of the Local Offer, where they “should work with children, young people and parents to establish the aims of their participation, mark progress and build trust” (DfE & DoH, 2015, p22). Figure 1 provides a summary overview of the EHC needs assessment process (Boddison, 2021, p15).

[Figure 1]

Reviewing the use of terminology in the SEND code of practice in the same manner as for the Children and Families Act 2014 the discrepancies are clear (Table 2). The words in bold can be said to be ‘directive’ from professional to parents/young people and they account for 91% (1379) of the twelve words identified (total: n=1510), whilst the terms used to suggest even minimal joint working account only for 9%.

[Table 2]

The terms used for joint working hold vastly different meanings in the context of how people are expected to work together. This is a fundamental issue which can lead to misunderstandings and different expectations between partners. This can be seen in relation to how LAs should prepare, provide and review the Local Offer. Between sections 4.7 and 4.10 the words collaborative, involve and coproduction, are used to explain the same service:

4.9 Local authorities should do this in a way which ensures that children, young people and parents feel they have participated fully in the process and have a sense of co-ownership. This is often referred to as ‘coproduction’
(DfE & DoH, 2015, p61)

The SEND code of practice provides further evidence of use of conflicting and potentially confusing language and direction when reading the roles and responsibilities of a Special Educational Needs Coordinator (SENCo) within a school (and other education institutions). Within the Schools Chapter (6, pp91-110) phrases and words such as ‘talk to parents’ (6.65), ‘**involving** parents’ and ‘the school should readily **share** *this* (pupil progress) **information** with parents (6.75) and ‘**consulting** parents’ (6.79) are used. SENCos specifically are told to ‘work closely with.... parents’ and ‘provide a support role to families’ (6.89) with a key responsibility being ‘liaising with parents of pupils with SEN’ (6.90). Such language strongly suggests that SEN is to be led by school-based professionals and specialists (when required) and that parents just need to know what is being decided (after they have provided information).

The EHC needs assessment request process **must** be followed by all LAs “working collaboratively with children and young people and their parents” (ibid, 9.8, p143). LAs at all stages of the process **must** have regard to a parent’s views, wishes and feelings and **inform** them of their decision to proceed, or not, with an EHC needs assessment. It then says that the assessment and planning process **should** enable parents to express their thoughts about their child’s needs and be part of the decision-making process (9.22). Even the sections particularly focused on support for children, young people and parents and the co-ordination process (pp149-150) are about meeting the social needs of the family and sharing information in a manner that can be readily accessible. However, in twelve other situations the word ‘partnership’ is used to describe the way workforce professionals needs to work with others including with parents.

Materials and Methods

A spectrum of conversational feedback about the effectiveness and fairness of the EHC need assessment procedures from education professionals (e.g. SENCOs) and families across the nation created the demand for this research study. A quantitative approach using secondary data requested from LAs across the whole of England was implemented to provide statistical information to test the research hypothesis that the success rates and efficiency rates of EHC needs assessments are similar whether requested by families or education professionals (Mertens, 2010). It was deemed that this approach would be able to capture a broad sample of objective evidence across all LAs in England. At the same time SEND legislation was examined to identify whether the notion of ‘coproduction’ between families and education professionals was clearly communicated through the EHC needs assessment procedures. Online word searches and open coding were used to identify key words used to describe joint working in both the Children and Families Act (Gov.UK, 2014) and the SEND code of practice (DfE & DoH, 2014: 2015). These were then totalled and ordered by prevalence.

Under the Freedom of Information Act (Gov UK, 2000), requests were sent to every LA in England ($n = 148$) to collate data in relation to the number of requests to undertake an EHC needs assessment that resulted in a plan being issued during the academic year 2017/18 by source. The request also collated the equivalent data in relation to EHC plans issued within 20 weeks, since the legal expectation is that the final EHC plan must be issued within 20 weeks of the initial request for an EHC needs assessment. This information was gathered between February 2019 and January 2020. On the website for each LA, an email address or online form is provided for the submission of formal FOI requests. Using these contact details, the FOI request was sent to each of the 148 LAs in England asking for them to provide data addressing the following questions:

- What was the number of EHC plans issued, which had applications made by parents/carers in the academic year 2017/2018?
- What was the number of EHC plans issued, which had applications made by schools/colleges or other educational settings academic year 2017/2018?
- What was the number of EHC applications rejected which had applications made by parents/carers in the academic year 2017/2018?
- What was the number of EHC applications rejected which had applications made by schools/colleges or other educational settings academic year 2017/2018?
- What was the number of EHC plans issued within the statutory 20-week timeframe, which had applications made by parents/carers in the academic year 2017/2018?
- What was the number of EHC plans issued within statutory 20-week timeframe, which had applications made by schools/colleges or other educational settings academic year 2017/2018?

Although there is a legal expectation of compliance with FOI requests, response data were received from only 122 Local Authorities in total out of a possible 148. Some Local Authorities did not respond to the request ($n = 18$), whilst others were unable to provide the requested data due to exemptions relating to the Freedom of Information Act (Gov UK, 2000) ($n = 8$). In a small number of instances ($n = 7$), estimated data were provided. In some instances, data on the number of EHC plans issued within 20 weeks was not provided ($n = 13$) or the source of the request to assess was not recorded ($n = 15$). In the latter case, such data were assumed to be evenly distributed across families and education professionals for the purposes of this study.

The variation in the quality and scope of responses meant that the size of the datasets (the number of data points or LAs) was inconsistent for each of the six questions. In analysing

the data, the maximum possible dataset available was used in each case, which ranged from $n = 109$ to $n = 122$ (further details provided in Table 3 and Table 4).

The data analysis sought to address the following research questions:

1. What is the average success rate for an EHC plan being issued by a Local Authority following a request to assess from (a) families or (b) educational settings?
2. What is the average efficiency rate for an EHC plan being issued by a Local Authority (i.e. within 20 weeks) following a request to assess from (a) families or (b) educational settings?
3. Is the difference between the success rates and efficiency rates by source (families or education settings) for an EHC plan being issued statistically significant?
4. Are there any correlations between success rates by source or efficiency rates by source for an EHC plan being issued?

In addressing question 1, the success rate for each LA was defined as

$$\text{Success Rate} = \frac{\text{Total number of EHC plans issued}}{\text{Total number of requests for an EHC needs assessment}}$$

For each LA, two success rates were calculated: the success rate for requests for an EHC needs assessment from families, and the success rate for requests for an EHC needs assessment from education professionals. The success rates for all available LAs were used to calculate the mean average success rate for families and for education professionals.

In addressing question 2, the efficiency rate for each LA was defined as

$$\text{Efficiency Rate} = \frac{\text{Total number of EHC plans issued within 20 weeks}}{\text{Total number of EHC plans issued}}$$

For each LA, two efficiency rates were calculated: the efficiency rate for requests for an EHC needs assessment from families, and the efficiency rate for requests for an EHC needs assessment from education professionals. The efficiency rates for all available LAs were used to calculate the mean average efficiency rate for families and for education professionals.

In addressing question 3, the differences in the success rates and efficiency rates by source were calculated for each LA. A one-tail t-test was then applied to each set of differences data to test for statistical significance at the 1% level. A t-tail was used as this is an appropriate test for comparing the means of two given samples. The decision for a 1-tail test was made on the basis that any significant difference was likely to be in favour of education professionals (Chinn & Pelletier, 2020).

In addressing question 4, Pearson's Product Moment Correlation Coefficient was calculated for the success rates and efficiency rates across all LAs.

Reliability and validity

The reliability of the data analysis is strengthened by the fact that data were provided by 82% of LAs, which represents a large proportion of the total dataset. The discussion also refers to the publicly available SEND tribunal statistics and the use of terminology in key documentation to check for potential triangulation of findings.

In considering the validity of the data analysis, it is acknowledged that the success rates and efficiency rates in this research do not distinguish between the legal threshold for

LAs permitting/refusing an EHC needs assessment and any bias during the assessment process itself.

Whilst the statistical analysis in this study does not in itself measure or determine the level of coproduction, it is arguably a useful proxy. Genuine and effective coproduction is based on the principle that all concerned have equal, meaningful roles. Therefore, the use of statistical analysis to determine significant differences between the influence of different roles is an appropriate and valid proxy measure for identifying a potential lack of coproduction.

Ethical considerations

In relation to consent, LAs were asked to provide data under the Freedom of Information Act (Gov UK, 2000). Some Local Authorities ($n = 26$) did not respond or did not provide the requested data, which was deemed to be a lack of consent. This research only includes analysis of data that were provided willingly.

The Freedom of Information Act (Gov UK, 2000) includes protections to ensure that individuals cannot be identified from any information provided. Therefore, consent was not required from the specific individuals requesting an EHC needs assessment. In relation to confidentiality, there is already a significant volume of data in relation to EHC plans in the public domain, such as the SEN statistics that are regularly published by the Department for Education. The publicly available data does not provide a breakdown by source; specifically, it does not distinguish between requests for an EHC needs assessment made by families from those made by education professionals. The data collated from the FOI requests supporting this study have provided a breakdown by source, but care has been taken not to identify any individuals, thereby maintaining anonymity. When the datasets requested were sufficiently small that individuals may

have been identified, LAs refused to provide the data. This is one of the reasons why the comparative datasets are not always equal in size. To preserve the confidentiality of individual LAs, they are not named explicitly in this study. The documents reviewed for references to ‘joint working’ terminology are national government documents and freely available.

Limitations

This study only examined data captured during one academic year and therefore in order to make impactful claims a further study would be advantageous in order to identify whether findings are consistent across several years. The data collated clearly indicates the number of EHC plans issued within 20 weeks and beyond 20 weeks from the point of a request for an EHC needs assessment being made, which is a key milestone in the process as shown in Figure 1. However, a limitation that only the overall number of rejected requests (where an EHC plan is not issued) is provided. There was no breakdown of whether the rejections occurred at the point of the request, before the 20-week threshold, or beyond the 20-week threshold. This means it is not possible to determine whether the success rate gap between education professionals and families was more acute for learners in more complicated circumstances where it takes more than 20 weeks for an EHC plan to be issued. This is an area that would warrant further research. In future studies qualitative data from parents and education professionals involved in the EHC process could be included to provide further contextual information. The analysis of terminology by word in the government documentation also did not allow for multiple interpretations, including from LAs themselves, and could have benefitted from further investigation.

Results

[Table 3]

Table 3 provides a summary of the success rate data by source and illustrates that in the vast majority of LAs (96%), a request for an EHC needs assessment is more likely to have a successful outcome if requested by the school rather than the parents. Requests for an EHC needs assessment from education professionals are 1.4 times more likely to result in an EHC plan being issued than equivalent requests from families.

[Table 4]

The data in Table 4 suggests that for a significant proportion of LAs (71%) an EHC needs assessment will result in an EHC plan being issued more quickly when requested by schools rather than parents. More specifically, EHC needs assessments resulting from requests from education professionals are 1.2 times more efficient in securing an EHC plan than equivalent requests from families.

A further key finding of these data is that those LAs with the highest efficiency rates for education professionals also had the highest efficiency rates for families. There was a strong positive correlation ($r = 0.87$) between efficiency rates where the source of the EHC needs assessment was education professionals and where it was families (Figure 2).

[Figure 2]

When considering the success rates following an EHC needs assessment, there was a moderate positive correlation ($r = 0.56$) between the proportions of requests from education professionals and families that ultimately resulted in an EHC plan being issued.

[Figure 3]

In Figure 3, it can be seen that in only two LAs was the success rate for educational settings less than 50%, whilst 47 LAs (around one third) had a success rate of less than 50% for families.

The findings from the analysis of the terminology used in the government documentation further strengthen the argument that the expectations of coproduction are inconsistent and have not been clearly communicated. This is explored in more depth in the discussion section below.

This study provides an insight into whether the legal test for requesting an EHC needs assessment and the subsequent assessment processes are being consistently applied by LAs across England. The study initially surmised that if there was consistency in applying the legal test and equity in the assessment process, this would mean there are similar success rates and efficiency rates regardless of the source of the requests for an EHC needs assessment. The study's key findings are:

- (i) there is a need for further research to explore inconsistencies between the datasets and the variations in the outcomes of EHC needs assessments across England
- (ii) the Local Authorities who were most efficient at issuing EHC plans within statutory timescales (20 weeks) responded similarly whether education professionals or families made the assessment request
- (iii) that the data analysed indicates that there is a discrepancy between what families think their level of decision making and involvement can be and the practical reality: a 'coproduction illusion'.

It is therefore proposed that special educational needs and disability policy and guidance in England requires revision to improve the consistent use of language, roles, and responsibilities. The following discussion provides an insight into the possible reasons for these success rate and efficiency rate inconsistencies.

Discussion

The source of requests for EHC needs assessments generally falls into two areas: families and education professionals. Findings indicate that success rates and efficiency rates are generally greater when the source of the requests is education professionals rather than families (see Table 3 and Table 4). Therefore, this discussion first examines the meaning of different collaborative relationships as used in the Children and Families Act (Gov UK, 2014) and the SEND Code of Practice (DfE & DoH, 2015), and how different LAs may be interpreting these, influencing their SEND processes. Additionally, Tribunal figures since the implementation of the current SEND code of practice (ibid) are available in the public domain. They are explored as it is the Tribunal's role to ensure that LAs discharge their legal duties. The role of schools with regard to EHC needs assessments is also discussed.

The complexities of working together

This paper provides findings related to educational settings and families specifically, but it is important to recognise that at all stages of seeking additional SEN provision and resource for a child or young person multiple sector professionals are likely to be involved. Although also a global interest, collaborative professional working has been a central research and policy focus in England since the mid-1990s up until and since the Coalition Government (2010-2015) (Edmond & Price, 2012; Davis, 2011; Anning et al, 2010; Edwards et al, 2009; Soan, 2017). Throughout this time the words used to describe different types of joint working have demonstrated that there is a continuum in professional partnership working from cooperation through to integration. This is articulated by Frost (2005, p13) and it is argued that this is typically in the hope of

achieving a merged or integrated service where ‘strong trustful professional relationships’ (Davis, 2011, p16) are built.

[Table 5]

Although the continuum is clear within Table 5, the current SEND code of practice (DfE & DoH, 2015) uses the words ‘cooperation’, ‘collaboration’, and ‘coordination’ in what appears to be an interchangeable manner with little clarity about what they actually mean practically for professional partnership working. The appearance of the word ‘integrated’ is used sixteen times throughout the SEND code of practice, although the description of work alongside it appears to relate more to collaboration and coordination than integration as described in Table 5. Definitions are not provided for any of the terms identified in Table 1 in this study within the glossary of the SEND code of practice (ibid). Without clarity in relation to the terminology, stakeholders are unlikely to have similar expectations of EHC needs assessment processes, with the potential to lead to disagreement, dissatisfaction, and unnecessary dispute, echoing the issues of multiple interpretations as identified by Bussu and Galanti (2018).

The coproduction illusion

Ever since the Warnock Report (DES, 1978) ‘parents as partners’ has been a fundamental component in SEND policy (Jeynes, 2012) and, as Hellowell (2017, p414) writes, ‘is conceptualised and problematised in literature through a series of models which seek to illuminate shifting power relationships and offer solutions to the identified problems attributed to those unequal power allocations.’ These models range from those that have an implied deficit view of parents (expert, transplant and informant models) to those which enable mutual decision making (empowerment, negotiating and consumer models) and finally to the dual-expert model which values equally the expertise of both parents

and workforce professionals in their distinctive roles (Hellowell, 2017, p415). The dual-expert model is one which can be interpreted as closest to current terminology and expectations of coproduction and child-centredness as described in the SEND code of practice. However, it is posited that there is a fundamental misunderstanding of what coproduction is and should encompass. Difficulties arising from different interpretations of models (e.g. dual-expert) and theory (e.g. coproduction) can once again engender conflict between parents and education professionals. This is especially true when national policy informs parents they have ‘greater choice’ and increased capacity for decision-making (DfE, 2011) whilst education professionals are limited in their flexibility as they have to follow prescribed LA procedures. This is evidenced in the research carried out by Hellowell (2017, p421) who found that such ‘annoyance results in disputes and sometimes allegations of professional incompetence or protectionism which professionals are frequently ill-equipped to address.’ Even the July 2020 SEND code of practice update (DfE & DoH, 2020), necessary because of the global coronavirus pandemic, potentially adds to the confusion about how to share and work together for both education (and other) professionals, young people and parents/carers. Here the focus is on coproduction working and regular external advice and support:

“At this challenging time, it is even more important that local authorities, health services, education settings and all those involved in the processes relating to EHC needs assessments and plans work with families to identify appropriate ways forward. It is a fundamental principle of the SEND system that children and young people with SEND and their parents need to be fully involved in decisions about their support. Coproduction and effective communication remain key, both at the strategic level and in relation to individual cases.

Parent carer forums have an important role, working with local authorities and their partners, to gather and feed in parents' views on EHC needs assessment and plan processes when the usual ways of working are under such strain."

Here, coproduction is described as key, but a lack of understanding about the values and principles of coproduction is shown when planning processes are expected to be created with information from parent carer forums, but not from individual parents who should be fully involved in decisions about their child's individual support.

Roper et al (2018) purport coproduction to be a theory with values and principles that facilitates participants with different expertise to work collaboratively together. Originally used as a term in the 1970s by the political economist Ostrom (1978), Cahn (2000) 'laid strong social justice and community-development foundations of coproduction' (Roper et al, 2018, p2) in his work, advocating for 'reciprocity and recognising people as assets' (ibid) to be core principles of coproduction. In the past decade interest in implementing coproduction to help develop partnerships between governments, services (e.g. NHS trusts and LAs) and service users to commission and developing many health, community, and education services has grown. In these contexts, it is hoped to engender the democratic rights of individual members of society to use their personal knowledge and skills to shape services.

However, implementing the principles and values of coproduction, involves engaging the service user, whether a parent, a patient or a pupil in co-planning, co-designing, co-delivering and co-evaluating services. Thus, as Roper et al (2018, p2) state:

Co-production raises the bar for working with consumers, shifting from seeking *involvement or participation* **after** an agenda has already been set, to seeking consumer *leadership* **from the outset** so that consumers

are engaged in the initial thinking and priority-setting processes.

Without this level of sustained coworking it is argued long term and embedded change is not feasible (Spencer et al, 2013).

If Roper et al's (2018) explanation of coproduction is considered valid, then asking individual schools and individual teachers, including SENCOs, to work in this way is impracticable. Adhering to the minimum compliance expectations set out in the SEND code of practice (DfE & DoH, 2015), including the EHC needs assessment process expectations, whilst simultaneously achieving the effective practice expectations of coproduction as articulated by Roper et al (ibid) is arguably impossible.

Broader aspects of SEND provision and services might potentially be coproduced at the LA level (e.g. the Local Offer), but are likely to be infeasible at the individual parent/pupil level given the workload pressures already on key SEND personnel (Curran & Boddison, 2021). Thus, anyone attempting to work in a coproductive way, or fulfil national government statements such as "coproduction and effective communication remain key, both at the strategic level and in relation to individual cases" (DfE, 2020) whether a SENCO, a parent or senior school leader may find this incompatible with compliance requirements. When the expectations of coproduction are then not realised, this has the potential to damage relationships and trust between families and education professionals. Table 1 illustrates the variation of terminology in use in the context of policy and legislation. The statistical analysis of the FOI data collated for this study illustrates the variation in outcomes of EHC needs assessments (the proportion of requests resulting in an EHC plan being issued). Given the significant variations at both the policy and provision levels of the current approach to SEND in England, it is argued that without increased levels of targeted funding and training, the notion of coproduction is an illusion, because it cannot be realised in practice.

Tribunal dataset

Further evidence of a discrepancy between the rhetoric and the reality can be seen through examination of the Tribunal datasets (MoJ, 2019, 2019a, 2020). Tables 6 and 7 demonstrate the growth of Tribunals following the introduction of the SEND code of practice (DfE & DoH, 2015). The argument is that the increase in Tribunals is due to the increased age range incorporated within the SEND code of practice from 0-25 since its introduction in 2015. Table 6 illustrates this is particularly the case for the post-16 age group. However, further analysis shows that the age range 5-16 is continuing to increase as well as the under 5 and post-16 groups. Indeed, in comparison to September 2017 to August 2018 when there were 4544 appeals registered for the age range 5-16, the following twelve months saw the number rise to 5607.

[Table 6]

One possible contributory factor for the increase in Tribunal appeals can be seen in the quantitative data collated in this study, which considers the overall outcome by source following a request for an EHC needs assessment. However, it does not distinguish between the consistency of LAs applying the legal test and the equity in relation to the application of the assessment process. The Tribunals data published by the British Government suggests that the inconsistencies are most likely due to individual LAs refusing to undertake an assessment (the legal test) rather than any bias in the assessment itself (MoJ, 2019a).

[Table 7 near here]

The Tribunal appeals data shows that the top two reasons for an EHC plan being refused are a Local Authority 'refusal to assess' or a 'refusal to make an EHC plan following an assessment' (MoJ, 2019a).

Little data is currently available for period 2018/19 to 2019/20 except that there was a downward turn in Tribunal Appeals during Quarter 1 of 2020 (MoJ, 2020), which is unsurprising due to the Covid-19 pandemic. Interestingly, Tribunal statistics report that differences in the process of scheduling led to 77% of SEND tribunals in 2018/2019 and 88% in 2019 / 2020 being postponed by the LA (MoJ, 2019, 2019a, 2020). In numerical terms the number of SEND postponements has risen from 624 in 2013/2014 to 4,400 in 2019/2020 (MoJ, 2020).

Both the publicly available Tribunal dataset and the research findings from this study suggest there is disharmony between parents, schools and Local Authorities. A limitation of the research findings is that they relate only to the academic year 2017/18, but the Tribunal dataset suggests this disharmony may be increasing over time (MoJ, 2019a). By triangulating these two sources of evidence, the likelihood of the existence of a ‘coproduction illusion’ is arguably increased.

The ‘impossible’ role of SENCOs

Since the implementation of the current SEND code of practice (DfE & DoH, 2015), SENCOs (Special Educational Needs Coordinators) are continuing to spend the majority of their allocated SENCO time on paperwork and administration, and this is primarily about collating evidence to support EHC needs assessments (Curran & Boddison, 2021). For more complex cases, the volume and quality of evidence required is increased further still. This is arguably a contributing factor as to why requests from education professionals are more likely to result in a plan than those from families since they are more likely to have experience of collating the necessary evidence. Similarly, it may be that in some cases LAs are requesting ‘evidence’ as a delaying tactic to make short-term financial savings, given the significant pressure on SEND budgets as evidenced by the

National Audit Office (NAO, 2019). If effective coproduction is not in place, then families are less likely to have access to the evidence base they need to present a robust argument, such as evidence of applying the graduated response (Greenwood & Kelly, 2017). It may also be that the SENCo is increasingly becoming the professional who ends up in the middle of disputes between parents and LAs adding even further pressure and anxiety to their role and causing unnecessary fractures between education professionals and parents.

Conclusion

The English education system is at a crucial T-junction in relation to the role of coproduction within SEND policy. Parental expectations, Tribunals, and equity of access to an EHC needs assessment (and subsequent plan) need to be urgently reviewed if the SEND system is not to collapse. The findings from this research study indicate that if the Government in England wants to enable equity of opportunity for parents and education professionals to request an EHC assessment, and by extension equity of outcomes, then a complete review of the EHC process is necessary. Any such review will need to engage robustly with issues associated with terminology, process and access to professional information and knowledge. The terminology used needs to be carefully defined and consistently used throughout the whole SEND code of practice and the EHC needs assessment process, with details of ‘who, what, when and how’ explicit and detailed.

The LA datasets and the Tribunal datasets considered in this study suggest that the current EHC needs assessment process is divisive, rather than supportive of any form of joint working beyond cooperation. This conclusion is based on statistically significant differences in outcomes to the EHC needs assessment process depending on the source

of the request. Requests from families are less likely to result in an EHC plan being issued, which suggests an implicit bias towards education professionals, which is divisive.

Critics of this conclusion might argue that the issue of consent has not been given due consideration. For example, if the family and the education professionals disagree on whether an EHC plan is needed, one party may proceed with a request to assess without the consent of the other party. Whilst consent has not been considered explicitly within this study, it could be argued that requesting an EHC needs assessment without the consent of all stakeholders is in itself a failure of coproduction and divisive.

Currently coproduction is an illusion. In fact, it could be posited that the current EHC needs assessment process unwittingly encourages inharmonious, unproductive, and disruptive relationships between parents and education professionals, which has the potential to hinder the timely implementation of interventions and support for children. In this way, parental expectations are not improved and they also fail to be managed at all in a positive manner. Without question the EHC needs assessment process continues to be weighted towards education professionals, leading to increasing demand for expensive Tribunals and the building of disharmonious relationships between parents and education professionals.

[Figure 4]

Figure 4 illustrates two possible future routes leading from this T-junction. The first route seeks to maximise the benefits of effective coproduction by providing an appropriate level of financial support, infrastructure and training. This would build on the argument that greater family involvement results in more person-centred provision (Adams et al, 2017; Sales & Vincent, 2018). The extent to which family involvement can be increased within the current legislative landscape remains to be seen, and by extension this will provide insights into whether genuine coproduction can be achieved in practice.

The second route acknowledges the limitations of the current legislative infrastructure and concludes that it is only possible to create processes and procedures for SEND which enable parents to share and support decision-making (Roper et al, 2018). This second route is in some ways similar to the current reality, but with one significant exception: it acknowledges that genuine coproduction is unlikely to be achieved in practice. This is crucial, because a sub-optimal system that all stakeholders understand the limitations of may not be ideal, but it is far better than a system which over-promises (coproduction) and under-delivers.

The government will need to consider these options as part of its forthcoming national review of SEND policy in England. It is recognised that such decisions are not easy, particularly during a global pandemic when extreme economic pressures dominate the political landscape. However, all children deserve a high-quality inclusive education with access to the interventions and expertise they need, at the time they need them. It is equally reasonable for families to expect to be able to have confidence in the English SEND system and to be listened to and heard.

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Data availability statement

The data that support the findings of this study are available on request from the corresponding author. The data are not publicly available due to privacy or ethical restrictions.

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