

NWAF™ SEND WHITEPAPER

The Educational Psychologist Crisis: A Governance Failure, Not a Resource Problem
A NWAF™ Governance Framework for Restoring Statutory Compliance in EHCP Assessments

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Prepared by: NWAF™ – Neurodivergent Workforce & Access Framework

Confidential – For consideration by the Department for Education, DHSC, Local Authorities, and SEND System Leaders

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1. Introduction

The SEND system in England is founded on statutory timelines, legal duties, and the principle that children and young people must receive timely, lawful, and appropriate support. The Educational Psychologist (EP) crisis—characterised by 40–60 week waits for statutory advice—has created a structural breakdown in the delivery of Education, Health and Care Plans (EHCPs).

This whitepaper reframes the EP crisis not as a workforce shortage, but as a **governance architecture failure**. The law has not changed. The statutory duties have not changed. What has changed is the system's ability to comply.

NWAF™ presents a national governance framework designed to restore statutory compliance, reduce unlawful delays, and strengthen accountability across local authorities.

2. Background

The SEND system has experienced sustained pressure due to:

- rising demand
- increasing complexity
- workforce constraints
- inconsistent local authority practice
- tribunal escalation
- fragmented commissioning

The EP shortage has become the focal point of this pressure. However, the shortage alone does not explain the scale of statutory breaches. The underlying issue is the absence of:

- escalation routes
- proportionality tests
- accountability structures
- national commissioning standards
- transparent reporting

NWAF™ addresses these governance gaps.

3. The Statutory Framework: What the Law Requires

The legal duties governing EHCP assessments are clear:

- **20-week statutory limit** for issuing an EHCP
- EP advice must be obtained **within the assessment window**
- There is **no legal allowance** for resource shortages
- Local authorities must **commission independent EPs** if internal capacity is insufficient
- Tribunal decisions consistently confirm that delays caused by shortages are **unlawful**

The law is unambiguous: **Resource constraints do not excuse statutory non-compliance.**

4. The National Picture: Evidence of Systemic Failure

Across England:

- EP waits of **40–60 weeks** are now common
- Some local authorities issue **fewer than 5%** of EHCPs within legal timelines
- Tribunal appeals continue to rise
- Parents succeed in **96–99%** of cases
- Parliamentary debates acknowledge the crisis
- Workforce shortages persist without a national governance response

This is not a localised issue. It is a **national governance failure**.

5. The Governance Gap: Why the System Is Failing

The EP crisis persists because the system lacks:

5.1 Escalation routes

No automatic mechanism triggers action when statutory deadlines are breached.

5.2 Accountability structures

No clear responsibility sits with Directors of Children’s Services or SEND governance leads.

5.3 Proportionality tests

No framework defines what is reasonable, what is not, and what requires intervention.

5.4 Reporting architecture

No national reporting of EP wait times, compliance rates, or tribunal outcomes.

5.5 Early intervention governance

No structure prevents breakdown before it occurs.

5.6 National commissioning standards

Local authorities use inconsistent, ad-hoc approaches to EP commissioning.

5.7 Risk classification

SEND breaches are not categorised or escalated as governance risks.

NWAF™ provides the structural solution.

6. The Human Impact: What 60-Week Delays Cause

Long delays in EP advice lead to:

- unmet needs
- behaviour escalation
- school breakdown
- exclusions
- mental health deterioration
- family stress
- tribunal escalation
- increased long-term costs to education, health, and social care

These outcomes are predictable, preventable, and structurally driven.

7. NWAF™ Governance Framework: The Structural Solution

The NWAF™ framework introduces a national governance architecture that restores statutory compliance.

7.1 Proportionality Tests

Defines:

- reasonable timeframes
- unreasonable delays
- thresholds for escalation
- mandatory actions when deadlines are breached

7.2 Escalation Architecture

When EP advice is delayed:

- automatic escalation to SEND governance lead
- commissioning of independent EPs
- notification to senior leadership
- corrective action plans
- transparent reporting

7.3 Accountability Framework

Clear responsibility assigned to:

- Director of Children's Services
- SEND governance lead
- Local authority board
- Commissioning teams

7.4 Reporting & Transparency

Monthly reporting on:

- EP wait times
- EHCP compliance
- tribunal outcomes
- adjustment failures
- commissioning activity

7.5 Early Intervention Governance

Structures that prevent breakdown:

- early identification
- interim support
- risk-based monitoring
- escalation before crisis

7.6 National Standardisation

A unified governance model across all local authorities:

- consistent commissioning
- consistent reporting
- consistent escalation
- consistent accountability

8. Implementation Roadmap (2026–2028)

A phased, safe, and governance-aligned plan.

Phase 1 — Immediate (0–6 months)

- adopt NWAF™ governance structure
- implement escalation routes
- begin monthly reporting
- commission independent EPs
- establish SEND governance leads

Phase 2 — Medium Term (6–18 months)

- workforce planning
- standardised EP commissioning
- digital adjustment passports
- early intervention governance
- risk classification framework

Phase 3 — Long Term (18–36 months)

- national governance alignment
- integration with regulators
- annual compliance audits
- public reporting

9. Case Studies (Optional)

- Local authority with severe delays
- Local authority using independent EP commissioning
- Tribunal outcomes demonstrating unlawful delay

10. Policy Recommendations for Government

Non-political, governance-focused recommendations:

- adopt a national governance framework
- require monthly compliance reporting
- mandate escalation routes
- standardise EP commissioning
- fund governance infrastructure
- integrate NWAF™ into SEND system oversight

11. Conclusion

The EP crisis is not a resource issue. It is a **governance architecture failure**.

NWAF™ provides the structural solution required to:

- restore statutory compliance
- reduce unlawful delays
- strengthen accountability
- protect children's rights
- support local authorities
- stabilise the SEND system

The system must be honest, accountable, and timely.

12. Appendices

- statutory timelines
- tribunal data
- parliamentary references
- NWAF™ governance diagrams
- glossary of terms