

HEALTH AND WELLBEING BOARD - 12TH MARCH 2015

**REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY SERVICES,
LEICESTERSHIRE COUNTY COUNCIL**

**UPDATE ON SPECIAL EDUCATIONAL NEEDS AND DISABILITIES
(SEND) REFORM AND THE ROLE OF THE HEALTH AND WELLBEING
BOARD**

Purpose of the Report

1. The report provides an update about progress in implementing SEND reform and highlights the challenges in developing strong partnership working across health, education, and social care professionals. It also provides information about the guidance that has been produced for Health and Wellbeing Boards to support their duty in relation to children and young people with special educational needs or disabilities.
2. The Health and Wellbeing Board is asked to:
 - a. Note the current progress in implementing SEND reform, particularly in relation to the contribution made by health professionals to Personal Budgets and joint commissioning;
 - b. Consider any actions that need to be taken to ensure that all partners are contributing to the reform programme so that fully integrated and joint working arrangements are achieved.

Policy Framework and Previous Decisions

2. The Children and Families Act received Royal Assent on 13th March 2014. Part 3 of the Act outlines new responsibilities across education, health and social care for children and young people with special educational needs and disability. This includes a new Code of Practice which was re-issued in January 2015.
3. The Children and Families Act 2014 has major implications for how the NHS commissioners and CCGs organises and delivers services to children and young people who have a Special Education Need and/or Disability between the ages of 0 and 25. It has reformed the system of support across education, health and social care to ensure that services are organised with the needs and preferences of the child and their family firmly at the centre, from birth to the transition to adulthood.
4. It is expected that all partners will work together to deliver a person-centred approach through:
 - Education, Health and Care (EHC) plans and assessment processes;
 - A Local Offer;

- Personal Budgets offered in EHC plans
 - Mediation and dispute resolution arrangements;
 - Joint commissioning arrangements.
5. Included is the requirement for CCGs to:
 - Commission services jointly for children and young people (up to 25) with SEND, including those with EHC plans
 - Work with the local authority to contribute to the Local Offer services available;
 - Have mechanisms in place to ensure practitioners and clinicians will support the integrated EHC needs assessment processes;
 - Agree Personal Budgets where they are provided for those with EHC plans.
 6. At the meetings on 13th March 2014 and 22nd January 2015, the Health and Wellbeing Board received papers which provided information about the Children and Families Act and within it, the revised Code of Practice for Special Educational Needs and Disability.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf
 7. On 22nd January 2015 the Health and Wellbeing Board agreed to consider the key questions outlined in the Department of Health's guidance and the Disabled Children's Charter which is linked to the same document. Appendix 1 to this report covers the key questions and Appendix 2a/2b is the Disabled Children's Charter and accompanying guidance.

Background

8. Leicestershire places a high priority on improving the outcomes and raising aspirations for all children and young people aged 0-25 with special educational needs and disabilities. In line with national statistics, approximately 20% of school age children and young people are identified as having a special educational need and/or disability. The vision for all children is that they live in safe and thriving communities where they enjoy good health and wellbeing and achieve their potential.
9. The reform has been planned in two phases. Phase One focused on meeting the initial milestones for September 2014. These were met and this was reported to the Board in January 2015. Phase Two is a longer period of time focusing on the cultural shift which underpins the reform. Fundamental to the success is the joint working and accountability of health, education and social care professionals at strategic and operational level.
10. Across the 0-25 group of young people there is a diverse range of health needs, which those with long term health conditions, autism, sensory impairments, and mental health issues. It will also include children and young people with multiple and complex needs who may be dependent on technology, those with behaviour that challenges, and those with a life-threatening or life-limiting condition.
11. Meeting these health needs requires a range of different health services. The emphasis on creating a system whereby integrated services for children support them to make decisions about their own care and adequately support them during the transition to adult services. The Children and Young People's Health Outcomes

Report¹ highlighted the need to improve services for children and young people in England, and to make sure health partners work closely alongside education and social care services to provide the right support where and when children, young people and their families need it. The SEND Code of Practice states;-

'3.64 Local authorities and CCGs should consider how best to integrate the commissioning of services for children and young people who have SEN with the CCG's broad responsibility for commissioning health services for other groups, including preventative services, and the local authority's responsibility for health protection and health improvement for the local population.'

Key Progress Points and Challenges

12. The key priorities for SEND reform are on track as was reported to the Board in January, including the conversion of education, health and care plans, the development of the local offer, access to information, advice, mediation and dispute resolution. This paper focuses on are personal budgets and joint commissioning.

Personal Budgets

13. In Leicestershire, from 1st September 2014, access to a Personal Budget is based on existing policies for direct payments with health, children and family services and adults and community services. It is anticipated that an early offer for personal budgets will be SEN transport.

14. The longer term vision is to develop a model that reflects the aspirations of the Care Act. This needs to be aligned to the development of a whole life approach to ensure a seamless pathway for children and young people into adulthood. The challenges that are currently being faced are:

- a. The limited availability and reliability of unit cost data;
- b. The inflexibility of existing commissioning arrangements;
- c. Growing the provider market appropriately and sufficiently to meet family-led demand;
- d. Releasing the school-based funding;
- e. Promoting the use of personal budgets amongst the health workforce.

15. Research from the Department for Education Pathfinder evaluation indicates that the concept of a Personal Health Budget remains relatively new. In Leicestershire this offer has been restricted to children in receipt of NHS Continuing Care and in most cases budgets appear to have been offered on an ad hoc basis. Limited progress has been made in this area and the challenge of establishing a single, holistic personal budget is significant. It is difficult to demonstrate that there are clear steps being taken to work together across education, health and social care at the present time. Ongoing discussions are taking place through legal services to understand the issues relating to the operation of the National Framework for children's continuing care and the progress towards a more co-ordinated protocol.

¹ Department of Health (2013), Better Health Outcomes for Children and Young People: Our Pledge

Joint Commissioning

16. Councils are required to establish joint commissioning arrangements with partners responsible for commissioning health services in the council area. Local authorities, CCGs and other partners must work together to assess the needs of the local population of children and young people with SEND and plan and commission services for them jointly.
17. In March 2014 the Health and Wellbeing Board agreed that the local authority, CCGs and NHS England will work together with parents/carers and partners at a strategic level to develop an integrated approach. Health commissioners are now members of the SEND project board and a group of health, social care, and education lead commissioners has been established. Work has begun to collate existing service outcomes/targets for services across all three areas in order to focus on narrowing the attainment gap. These outcomes of this analysis will form part of the joint strategic needs assessment.
18. The Joint Commissioning Strategy is being drawn up in collaboration with health, social care and education commissioning leads. A representative from adult health commissioning has yet to be identified, which means that this work is making limited progress.
19. A key challenge for joint commissioning and personal budgets is the combined commitment and ownership of the work which is fundamental to establishing the conditions for a cultural shift for future ways of working.
20. The Department of Health guidance provides additional information about CCG commissioning plans. A set of questions on Page 18 of the Department of Health's guidance provides a useful self-evaluation tool.

Evaluating the roles and responsibilities of the Health and Wellbeing Board in relation to children with special educational and complex needs

21. At its meeting on 22nd January 2015, the Health and Wellbeing Board agreed to consider the questions in the document which has been published by the Department for Health - Children with Special Educational and Complex needs: Guidance for Health and Wellbeing Boards. These invite the Board to consider how it supports children and young people with SEND locally. A number of the questions reflect the statutory requirements on Health and Wellbeing Boards under section 193 of the Health and Social Care Act 2012 (to involve local people in preparing joint strategic needs assessments). Appendix 1, as stated earlier, provides these questions and, in addition, those posed to CCGs regarding commissioning plans.
22. These questions make reference to the Disabled Children's Charter. The Charter requests that the Board provides evidence about its commitment to working in partnership to improve the quality of life and outcomes for disabled children, young people and their families. The guidance document suggests that the Board is encouraged to sign the Charter. It is not clear whether other Boards have chosen to do so.

Proposals/Options

23. It is proposed that further reports are presented to the Board in partnership with health and social care professionals, where appropriate and that these reports provide assurance of the progress being made towards establishing more coherent and cohesive joint working arrangements.

Conclusions

24. The Health and Wellbeing Board provides the governance for a number of interdependent projects/workstreams relating to improving the outcomes of children with learning disabilities and/or complex needs. SEND reform has made a good start and this has been confirmed by the external validation from the Department for Education in meetings with senior officers. The Board should be assured that SEND reform is on track and making expected progress. The challenge now is to create a step change in developing a greater sense of shared ownership and commitment from all three groups of professionals. Linking this work into the whole life approach and the appropriate Better Care Together workstreams is critical to ensure that the children and families in need of support are able to access this at the appropriate time to improve outcomes.

Background Papers

Children with special educational and complex needs: Guidance for Health and Wellbeing Boards (Department of Health, September 2014)

0 – 25 SEND code of practice: a guide for health professionals (Department for Education, September 2014)

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Appendices

Appendix 1 – Questions to Health and Wellbeing Boards extracted from the Department of Health's guidance document: Children with special educational and complex needs

Appendix 2 – The Disabled Children's Charter and accompanying guidance