

HEALTH AND WELLBEING BOARD: 19 NOVEMBER 2015

**REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY
SERVICES**

**SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND)
REFORM UPDATE**

Purpose of report

1. The purpose of this report is to update the Health and Wellbeing Board on the progress to date in regards to the implementation of SEND reform as part of the Children and Families Act.
2. The Health and Wellbeing Board is asked to:
 - a. Note the current progress in implementing SEND reform, particularly in relation to the integrated working and contribution made by health professionals;
 - b. Note the consultation by Ofsted and Care Quality Commission CQC to develop a specific framework to inspect local areas from spring 2016.

Link to Better Care Together

Work stream	Relevance	Work stream	Relevance
Maternity, neonates, children and young people	Yes	Mental health	Yes
Long term conditions	Yes	Frail and older people	
Urgent care		Planned care	
Learning disabilities	Yes	End of life	

Policy Framework and Previous Decisions

3. The Children and Families Act received Royal Assent on 13 March 2014. Part 3 of the Children and Families 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 reissued in January 2015.

4. The Children and Families Act 2014 has major implications for how the NHS commissioners and Clinical Commissioning Groups (CCGs) organise and deliver 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.
5. It is expected that all partners will work together to deliver a person-centred approach that is outcome focused 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.
6. 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.
7. At previous meetings of the Health and Wellbeing Board, papers were provided that set out information about the Children and Families Act and within it, the revised Code of Practice for Special Educational Needs and Disability. At the meeting on 15 March 2015 the Health and Wellbeing Board agreed to consider the key questions outlined in the Department of Health's guidance and a working party was set up. At the July meeting the intention of OFSTED to establish a local area inspection format was highlighted and an internal audit by the council's own audit team of the implementation of SEND reform gave 'substantial' reassurance that reform was on track with some recommended areas where attention needed to be focussed.

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 disability. 16.25% of Leicestershire children of school age have a special educational need, compared to 17.9% nationally of school age children and young people who 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. Locally, the reform has been planned in two phases with an implementation time of three years to 2018. Phase one focused on meeting the initial milestones for September 2014. These were met in Leicestershire 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 commissioning and accountability of health, education and social care professionals at strategic and operational level.
10. Across this group of young people 0-25 there is a diverse range of health needs, which include children and young people with long term health conditions, children and young people with autism, children and young people with sensory impairments and children and young people with mental health issues. It also includes children and young people with multiple and complex needs who may be dependent on technology, children and young people with behaviour that challenges and children and young people with a life-threatening or life-limiting condition.
11. Meeting these health needs requires a range of different health services. The emphasis is to create a system whereby the services for children are integrated. These then support children and young people with SEND, and their families, to make decisions about their care and adequately support them during the transition to adult services.

Current Position

12. Local Offer: The local offer has been developed in accordance with the core information as set out in the Code of Practice. Further work is now underway to develop a more user friendly website and to link this with the online project for the County Council website.
13. Education Health and Care plans: The conversion of statements into Education, Health and Care plans is on track and these have been positively received by children and families. Work is underway to ensure that contributions from health and social care partners are received promptly. This was highlighted as a concern in feedback from Leicestershire Family Voice as part of the audit process referred to above. As a consequence of feedback from schools and DfE survey highlighting that the coordination of new assessments across education health and social care were not leading to a holistic approach, the council has appointed three education health and care plan facilitators for a 2 year period to focus on;
 - Children and young adults either in care or receiving a social care service;
 - Coordinating advice from social care and health;
 - Planning the coordination of reviews across social care, health and education in accordance with expectations set out in the SEND code of practice;
 - Embed person centred planning and outcome focused working across education, health and social care practitioner;
 - Enable these new ways of working to be sustainable without the facilitators input in two years' time.

At the same time, Leicestershire Partnership Trust is resourcing two SEND leads to further embed SEND reform across health commissioned services.

14. The Health and Wellbeing Board should also note the consultation for children's continuing care, within which, Education Health and Care plan information becomes highly significant to inform decisions for health commissioning. It should also be noted that there is a requirement when Health are making these decisions that it should be in the forum of a multi-disciplinary group that includes local authority representation;-

"The decision-making phase involves a multidisciplinary, multi-agency forum or panel making a decision as to whether or not the child or young person has a continuing care need. They decide on the recommendations and costed options put forward by the assessor. The CCG must ensure that the panel has the input of the local authority and other key partners."

CCGs therefore will need to reconsider the current complex care panel. At the same time, the local authority will need to consider its own decision making processes where health representation is required to ensure a consistent and singular approach to not only children with special educational needs but other vulnerable groups requiring a joined up approach for the 0 to 25 year's age range.

<https://www.gov.uk/government/consultations/continuing-care-for-children-and-young-people-with-complex-needs>

15. Joint Commissioning: Following on from the above, the Children and Families Act and SEND Code of Practice is explicit in requiring local governance arrangements to be in place to ensure clear accountability for commissioning services for children with special educational needs and disabilities from birth to the age of 25. There must be clear decision making structures so that partners can agree the changes that joint commissioning will bring in the design of services. This will help ensure that joint commissioning is focused on achieving agreed outcomes. Partners must also be clear about who is delivering what, who the decision makers are in education, health and social care, and how partners will hold each other to account in the event of a disagreement. The partners must be able to make a decision on how they will meet the needs of children and young people with special educational needs or disabilities.
16. In respect of joint commissioning there are a number of areas that are being progressed. Discussions have been taking place with the lead commissioner for the Clinical Commissioning Groups and work has commenced on the development of a framework for future joint commissioning. The framework will set out how services will be planned and commissioned across the Council and the CCGs, based on engagement and co-production with children, young people and families which have influenced commissioning decisions. Again, in order to ensure inclusivity of children and young people with special educational needs alongside other vulnerable groups, there is agreement between the local authority and CCG commissioning leads that a single joint commissioning plan will be drawn up that takes into account the statutory

responsibility of a joint SEND commissioning plan within the context of a single local authority and health commissioning framework.

17. The initial steps in this are to establish a range of data which informs the needs assessment and the current range and expenditure on services commissioned across health and local authority that targets vulnerable and SEND children and young people. This will help to define where there are gaps in service or lack of equity across the county (services may not be available in some areas).
18. Personal Budgets: There has been limited progress with the development of personal budgets. More recently there has been financial modelling to consider ways in which social care and education budgets can be more aligned. The NHS is developing a personal budget offer. The system to deliver personal health budgets for those children and young people who have continuing health care has been agreed with colleagues in adult services. This will ensure consistency for young people who move into adult services. Further work is now required in relation to broadening the offer of personal health budgets and the links to the Education, Health and Care Plans. Once these are signed off by all relevant parties, the framework will act as the catalyst to fundamentally change the way in which services are commissioned in the future for children and young people with complex conditions or SEND. There remains work to do to ensure that the education and social care elements of the budgets are fully modelled and understood as part of this developmental process.
19. The Council is in receipt of a one off grant from the DfE of £33K to improve employment opportunities for young adults with a disability. Work has started with Leicester and Leicestershire Economic Partnership, schools and colleges. Support has been brokered from 'In Need', a national organisation that specialises in:-
 - (i) Engaging employers in a region to develop further the employment, apprenticeships and traineeship offer;
 - (ii) Training schools and colleges to be able to sustain and develop links with employers; and
 - (iii) Enabling schools and colleges to have in place suitable support and curriculum opportunities that enable young adults to access work.

This grant is overseen by Preparing for Adulthood on behalf of the DfE. Preparing for Adulthood have visited Leicestershire and ratified this approach, especially that investment is on establishing a sustainable model as opposed to a time limited offer for which a limited number of young people would benefit.

20. Attached is a summary of the project to date and the status to which the various requirements have been met. The conclusion of the SEND project board is that as a discrete transformation project (T16), it has fulfilled its objectives. At the same time there are SEND initiatives that are being developed that fall outside of the SEND reform project that now need coordinating as part of the Children and Family Service overall transformation e.g. school place planning for SEND, school improvement initiatives for SEND pupils. To help make this change effective, fit in with the councils organisational change agenda and specifically the whole life disability project and the inherent links to the Care Act 2014 and

Better Care Together initiatives, Lesley Hagger, the Director for Children and Family Services, is now the project sponsor.

21. There remain a number of specific SEND reform project areas outstanding that can be categorised as below:-

Move to business as normal:-

- SEND data collection and analysis: This is now part of the local authority's Data and Business intelligence enabler, which includes links to accessing health data where necessary.
- Local Offer: will be fully established by new year and needs a business owner within the council to be maintained

Improve current SEND reform initiatives that are now part of business as usual:-

- SEND Advice and Information Service: fulfil the requirements set out in the SEND Code of practice in full. However this is reliant upon the current DfE grant for independent support and advice which is ending at the end of this financial year. As this activity is embedded within Early Help services, then this part of the T4 Early Help project for which transformation unit input is being allocated.
- Education, Health and Care Plan and Assessment Pathway: will have investment from the EHC Plan facilitators. In addition work is being initiated to review the current criteria for statutory assessment for a plan and better coordinate social care advice.
- Co-production with parents and carers: needs to further develop. The local parents and carers forum, Leicestershire family voice, and their executive group are an invaluable resource for ensuring co-production. However, practice needs to be further developed to ensure that all SEND specific and SEND related activity when being re designed or commissioned are utilising Leicestershire Family Voice as well as parent and carers to ensure best practice for co-production.
- Learning and Development offer for ongoing SEND training and support to practitioner: needs to evolve further. Recommendations are being drawn up as part of the SEND project that will need to be adopted. It should be noted that learning and development opportunities are increasingly being devised and developed independently of the local authority by schools working in partnership e.g. Teaching Schools Alliances, which the Council actively encourages.

Complete outstanding SEND project deliverables yet to be concluded:-

- Personal budgets and Joint Commissioning Plan: remains at the early stages of development and needs ongoing work and coordination across education, health and social care in both the children's and adults sectors
- Young people's engagement: is an area where there has been considerable activity across the SEND project. However, this now needs to be embedded into the Council's young people voice and engagement to

ensure the full inclusion of young people with disabilities are taken into account.

- Preparing for adulthood and the specific outcomes of improving young adults outcomes in terms of being healthy, having relationships in their community, being employed, being independent and safe: These are all part of the longer term cultural shift implicit within the Children's and Families Act whereby it is acknowledged this is both cross cutting and will take time.
- Conclude the review of the Specialist Teaching Service

22. Ofsted inspection of SEND reform: Edward Timpson MP, Children and Families Minister, has invited Ofsted to formally inspect local areas on their effectiveness in fulfilling their new duties. They will do this along with the Care Quality Commission (CQC) and a local authority officer. This request follows the advice provided to the Department for Education by Ofsted on local areas' preparation for the disability and special educational needs reforms within the Children and Families Act, 2014. All local areas will be inspected over a five-year period. The first inspections will commence in May 2016.

23. A consultation has now been initiated, see link below.

<https://www.gov.uk/government/consultations/local-area-send-consultation>

From this and previous documentation, the framework for this new inspection has been developed by Ofsted and CQC and the intention is to focus on how local areas have self-evaluated their understanding of their responsibilities for disabled children and those with special educational needs. Inspectors will test out the evidence that the local area uses in its self-evaluation of how effectively it meets its responsibilities.

24. While the local authority has the key leadership role within its area, the inspection will not simply evaluate the effectiveness of the local authority. Successful implementation of SEND reform requires full involvement of the local area. The inspection will evaluate the effectiveness of the local area as a whole, which includes the local authority, clinical commissioning groups (CCGs) and NHS England (for specialist services), early year's settings, schools and the further education sector. The focus will be on how well these partnerships work together to identify children and young people early and appropriately, meeting needs and improving outcomes.

25. Although the inspection will take into account all children and young people with special educational needs and disability, the evaluation of social care and health responsibilities will focus on how these services have contributed to meeting the needs of children and young people who are being assessed, or have, education, health and care plan. This evaluation does not extend to a broad inspection of these services' responsibilities for all children and young people who have disabilities and special educational needs.

26. The consultation documentation sets out the process for the local area inspection and the proposed arrangements for the inspection are as follows:
- a. All local areas will be inspected over a five day period, with a two day notice being delivered to the Director of Children's Services and Chief Executive of the Clinical Commissioning Group.
 - b. Inspection teams will include a HMI, a CQC inspector and a local authority inspector.
 - c. Inspectors will review available national data as part of their preparation, including within area inspection outcomes from CQC and Ofsted.
 - d. Inspectors will meet key managers and leaders from the area's education, health and social care services.
 - e. Visit a number of early year's settings, schools and further education providers to discuss with senior leaders and governors how the local area fulfils its responsibilities and how they contribute to these.
 - f. Visit health settings, where inspectors will discuss with managers and practitioners how the local area fulfils its responsibilities and how they contribute to this and contribute to assessments and education, health and care plans.
 - g. Meet children and young people, and parents and carers to get their views of how effectively the area fulfils its responsibilities.
27. The consultation sets out four proposals that can be summarised as follows;-

Proposal 1: Inspectors will evaluate how effectively the local area identifies disabled children and young people, and those who have special educational needs.

Proposal 2: Inspectors will evaluate how effectively the local area meets the needs and improves the outcomes of disabled children and young people, and those who have special educational needs.

Proposal 3: A wide range of information will be used to evaluate the effectiveness of local area arrangements to identify disabled children and young people or those who have special educational needs; and to meet their needs and improve their outcomes.

Proposal 4: A wide range of ways will be used during the inspection to obtain the views of disabled children and young people, and those who have special educational needs, and their parents and carers.

28. Ofsted and CQC will publish an inspection report in the form of an outcome letter that will be sent to the local authority in its lead role for the local area. It is clear that a successful inspection will depend upon demonstrable improved outcomes for children and young adults with SEND and that this has been

achieved through an the integrated approach and shared accountability of education, health and social care professionals and organisations

29. Key dates:-

- Consultation ends: 4 January 2016
- Consultation outcomes published: early 2016
- Dissemination workshops for local areas by Ofsted and CQC: autumn 2015 – spring 2016
- Launch of inspection programme: May 2016

It will be important to ensure that representatives from all three professional groups attend training and briefings leading to the implementation of this framework during autumn and spring.

Consultation/Patient and Public Involvement

30. Listening to children and families is at the heart of SEND reform. There has been good engagement with the parents and carers forum, for example in co-producing the one page profile/SEND support plans that are the basis of an Education, Health and Care plan. Leicestershire Family Voice, who are funded by the DfE via the charity Contact a Family to act as the Parent and Carers forum for Leicestershire, have been commissioned for additional activity to enhance co-production and establish a network of SEND voluntary groups.

Resource Implications

31. SEND reform is supported by an implementation grant totalling £1,598,477. This has been used to establish a project team and development programme. The SEND reform brings with it additional burdens for which no additional resource has been identified in council or direct schools grant funding. The SEND project is timetabled to conclude on 31 March 2016, at which point these additional burdens will be part of business as normal operating across education social care and health services. The project team is now looking at a plan for transition to business as usual by March 2016.

Conclusions/Recommendations

32. SEND reform continues to progress well and there has been increased engagement between education, health and social care professionals over the key issues of joint commissioning and personal budgets.
33. The Health and Wellbeing Board will need assurance that this progress continues to create the cultural shift which is fundamental to the success of reform and that operational and strategic plans by CCGs and the local authority give the priority to SEND reform as expected in the Children and Families Act 2014.
34. Given the clear steer from OFTED and the Care Quality Commission regarding the nature of future inspections, then it is recommended that work be initiated across the local partners to begin a self-evaluation process

Background papers

SEND Code of Practice

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

DoH guidance Doc

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/357447/DH_HWB_children_s_guidance.pdf

<https://www.gov.uk/government/publications/send-guide-for-health-professionals>

DfE guidance

<https://www.gov.uk/government/publications/send-guide-for-social-care-professionals>

OFSTED guidance

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416347/Accountability_Publication.pdf

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Relevant Impact Assessments

Equality and Human Rights Implications

35. This paper is for information and not requiring an impact assessment. However, the right of children and young adults with special educational needs and /or disability needs to be considered in full by commissioners to ensure their needs are taken into account when determining commissioning priorities and plans to ensure there is no direct or indirect discrimination.

Crime and Disorder Implications

36. The incidence of people with a disability, particularly those with learning difficulties or mental health difficulties either being the victims of reported (and unreported crime is significantly higher than average. Equally, those with disabilities report that they experience barriers to accessing redress or support from the justice system.

Environmental Implications

37. The SEND reform focus on preparing for adulthood and specifically 'independence' and 'relationships in the local community' should enable adults with disability to remain in their local community and therefore lower their carbon foot print.

Partnership Working and associated issues

37. The legal framework requires local authorities and their partner commissioning bodies to develop joint arrangements for commissioning services to improve outcomes for 0 to 25-year-old children and young people who have special educational needs (SEN) or disabilities, including those with Education Health and Care (EHC) plans. Section 25 of the Children and Families Act 2014 places a duty on local authorities that should ensure integration between educational and training provision, health and social care provision, where this will promote wellbeing and improve the quality of provision for disabled young people and those with SEN. The Care Act 2014 requires local authorities to ensure co-operation between children's and adults' services to promote the integration of care and support with health services, so that young adults experience continuous care and support as they make the transition from children's to adult social care.

38. Local authorities and clinical commissioning groups must make joint commissioning arrangements for education, health and care provision for children and young people with SEN or disabilities (Section 26 of the Act). The term 'partners' refers to the local authority and its partner commissioning bodies across education, health and social care provision for children and young people with SEN or disabilities, including clinicians' commissioning arrangements, and NHS England for specialist health provision.