

Title of Report:	SEN & Disability Reforms
Report to be considered by:	The Health and Wellbeing Board
Date of Meeting:	15 th May 2014

Purpose of Report:

- To raise awareness of the SEN & Disability reforms
- To inform the Board of work undertaken so far towards implementation of the reforms and seek approval
- To ask the Board to consider how the specific implications of the reforms for Health will be addressed

Recommended Action:

- That the Health and Wellbeing Board approves work undertaken so far towards implementation of the SEND Reforms
- That the Health and Wellbeing Board considers how the matters outlined in Section 4 of this report will be addressed.

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Executive Report

1. Background

- 1.1 The Children and Families Act, which takes effect in September 2014, will significantly change the way in which services are provided for children with SEN and disabilities and their families.
- 1.2 A SEND Reform Steering Group has been in place since September 2013 to oversee implementation of the reforms. There are also sub groups working on the Local Offer and development of Education Health and Care assessment and planning processes.
- 1.3 All relevant stakeholder groups are represented on the Steering Group including parents, schools, the FE sector, relevant voluntary bodies, Health commissioners and providers and representatives of relevant Council teams including the SEN & Disabled Children's Team, Educational Psychology Service, Locality Teams, Adult Services, School Improvement, Sensory Consortium and Children's Centres.
- 1.4 A letter dated 8th April was sent by the Department for Education and the Department of Health to Lead Members for Children's Services, local authority Chief Executives, Clinical Commissioning Group Chairs and Health and Wellbeing Board Chairs. This letter outlined the reforms and encouraged recipients to ensure that their local authority is fully prepared for implementation. The letter is attached at Appendix 1.

2. Requirements of the Children and Families Act in respect of children with SEN and disabilities (SEND)

- 2.1 The existing statutory assessment and statementing process will be replaced by a much more holistic, person centred Education Health and Care (EHC) Assessment process leading to an EHC Plan setting out the child's health and care needs in addition to their special educational needs. All existing Statements will have to be converted to EHC Plans by April 2018. EHC Assessments must be completed in 20 weeks (compared to 26 weeks for a statement of special educational needs).
- 2.2 Every family whose child has an EHC Plan will have the right to request a Personal Budget for the education, health and / or care aspects of the EHC Plan. Currently Personal Budgets / direct payments are only allocated to meet a young person's social care needs.
- 2.3 Local Authorities' responsibilities will extend potentially up to the age of 25 (Statements currently lapse at age 19 years). EHC Plans can continue up to the age of 25 if a case can be made that the young person still requires an EHC Plan in order to achieve their identified outcomes.
- 2.4 There is a requirement to produce a comprehensive "Local Offer" setting out all services for children with SEND aged 0 to 25 and their families and how these can be accessed, including eligibility criteria. This must include services provided by education, social care, health and the private and voluntary sectors.
- 2.5 There are new requirements for supporting families including greater responsibility for provision of independent advice, advocacy, disagreement resolution and

mediation. These services will have to be provided in relation to health and social care issues as well as SEN related issues.

- 2.6 There are specific requirements for joint commissioning. These include the development of clear arrangements between Local Authorities and partner commissioning bodies for commissioning of services for children with SEND (at both a strategic and individual level), the integration of education, health and care provision for SEND where this would be beneficial (which may include pooling of budgets) and the agreement of shared outcomes including joint analysis of intelligence about needs of the local population. In order to meet the requirement to commission services at an individual case level, Health will need to identify a Designated Medical Officer and will need to participate in multi agency panels to agree resourcing of EHC Plans for individual young people. Where there is provision which has been agreed in the health element of an EHC Plan, health commissioners must make arrangements to secure that provision.

3. Progress towards implementation

- 3.1 A process for Education Health and Care assessments has been developed and approved by the SEND Reform Steering Group. A format for the EHC Plan has been created and will be considered by the Steering Group in May. It is estimated that three new posts of Assessment Coordinator will be required. Approval has been given for recruitment and the posts are currently being advertised. The posts will be offered initially as 12 month secondments or short term contracts from September 2014. Applications are being encouraged from candidates with backgrounds in education, health or social care. Some training has already been delivered for schools, parents and professionals. There will be a series of training events between May and July for all groups likely to be affected by the reforms.
- 3.2 Personal Budgets are already in place for children and young people with disabilities through the Disabled Children's Team and through Adult Social Care. Processes are already in place within the Council therefore for allocation and monitoring of Personal Budgets. Work is underway to determine circumstances in which a SEN Personal Budget may be appropriate, although it is likely these will be considered on a case by case basis. Continuing Health Care have begun to develop plans for allocation of Health Personal Budgets. The Chair of the Children's CHC Panel is a member of the SEND Reform group which should help to ensure that processes for personal budgets are developed in a consistent way across the Council and Health.
- 3.3 The SEN Assessment Team at West Berkshire Council was restructured in September 2013 to create a post of Assistant SEN Manager for Post 16 / Transition. This has enabled the team to take on management of cases up to age 25 including young people with SEND attending FE Colleges. Discussions have been held with Adult Services about the implications of young people having EHC Plans potentially up to age 25, including the requirement for care provision to be set out in these plans. The Multi Agency Transition Protocol is in the process of being redrafted to ensure that children's and adults' teams, and other agencies, work together as effectively as possible to support young people going through transition.
- 3.4 A website provider for the Local Offer website has been identified and commissioned and work is currently taking place to design the website. All Berkshire Local Authorities have agreed to use the same website provider which will

help significantly with sharing of data. Questionnaires for schools (and other educational settings) and for non education providers have been designed. Schools and other service providers will be asked to submit their data on line during May and June. Guidance will be provided. The website provider (Open Objects) has met with Berkshire Healthcare Foundation Trust to discuss arrangements for “harvesting” of health data from the BHFT website. Data for the Local Offer will also be needed from the RBH Trust.

- 3.5 Discussions are taking place with the Council’s provider of Parent Partnership Services about the extension of independent advice to young people as well as parents and about the need for independent advice to encompass health and care issues in addition to educational issues. There will also be a requirement to provide disagreement resolution and mediation in a wider range of circumstances. The current provider, Global Mediation, has agreed to absorb these additional requirements at no extra cost until April 2015 at which point the cost of the contract is likely to increase to reflect the increased usage. A service for advocacy for young people with SEND is currently being sought. It may be possible to include this within existing contracts for advocacy for young people held by the Council.
- 3.6 The NHS Central Southern Commissioning Support Unit, the Berkshire Healthcare Foundation Trust and the RBH Trust have all been engaged in discussions about the SEND Reforms including attendance at Steering Group and working group meetings. A Berkshire wide event for Health colleagues was held in March in order to raise awareness of the reforms. A report summarising issues for Health arising from the SEND Reforms was produced by Pranay Chakravorti of the CSU and has been considered by the Berkshire West Children’s Commissioning Strategy Group and also the Children’s, Maternity, Mental Health and Voluntary Programme Board. This report is attached at Appendix 2.

4. Specific implications for Health commissioners and providers

- 4.1 The report taken to the Children’s, Maternity, Mental Health and Voluntary Programme Board by the CSU made the following recommendations:
- That CCGs engage in the development of personal budgets for education, health and care provision.
 - That joint commissioning arrangements are established at strategic and individual child level.
 - CCGs should ensure contracts with service providers include the expectation of participation in EHC Assessments and development of EHC Plans.
 - Health and Wellbeing Boards should be used to promote the integration of services for children with SEND including joint arrangements and pooled budgets.
 - JSNA should be used to understand levels of need and to map existing services and spend.
 - Opportunities to use funding more flexibly should be explored, eg. CCG allocations to voluntary organisations could be used in a pooled arrangement with Local Authority funding.
 - Potential for accessing Better Care funds should be explored (there is some indication from the Department from Health that there may be a Children’s Better Care Fund)

- CCGs should develop a process with partners for resolving disputes.
- CCGs and NHSE must agree local governance arrangements which will ensure ownership and accountability around SEND commissioning, with clear lines of responsibility for both strategic and operational commissioning.
- There must be clear arrangements about what is commissioned by each CCG and by NHSE.
- CCGs need to decide how they will approve the health content of EHC Plans, eg. by allocating a Health representative to sit on local decision making panels.
- CCGs should identify a Designated Medical Officer with relevant clinical experience.
- CCGs must ensure their acute and community providers are working proactively with Local Authorities to develop, compile and publish the Local Offer.

4.2 In addition to the above recommendations, it is suggested that the following should also be considered by CCGs:

- All agencies and service providers will be expected to work in a person centred way and to offer services in as personalised a manner as possible.
- EHC Plans must be clearly outcome focused. All reports submitted as part of EHC Assessments must therefore be drafted in such a way that they lend themselves to the development of outcome focused plans.
- The deadline for completion of EHC Assessments and publication of final EHC Plans will be 20 weeks (compared to 26 weeks for a Statement) so it will be critical that all professionals contributing to EHC Assessments, including health professionals, submit their reports within the 6 weeks allowed for submission of professional reports, in order that compliance with the 20 week timescale is not compromised.
- Local Authorities will have a new duty to provide independent advice, disagreement resolution and mediation in respect of *health* issues as well as education and social care issues. There is therefore an argument for contribution to the cost of these services by Health commissioners.

5. Recommendations

5.1 That the Health and Wellbeing Board approves work undertaken so far towards implementation of the SEND Reforms

5.2 That the Health and Wellbeing Board considers how the matters outlined in Section 4 of this report will be addressed.

Appendices

Appendix A – Letter dated 8th April 2014 from Edward Timpson MP and Dr. Dan Poulter, Parliamentary Under Secretary of State for Health.

Appendix B – Report to the Children’s, Maternity, Mental Health and Voluntary Programme Board authored by Pranay Chakravorti, Commissioning Support Unit.