

BWCCSG - 08

Name of Meeting	Paper Number
Mental Health and Children Programme Board	
Title of Paper	
Children and Families Bill – Statutory changes to provision for children with Special Educational Needs	
Date of Paper	Date of Meeting
28 th February 2014	27 th March 2014
Purpose of Paper (For information, For discussion, For decision)	
<p>To provide an update to the SEN implementation paper presented by Pranay Chakravorti on the 13th December 2014 outlining further implications of the reforms contained within the Children and Families Bill and the implications for Clinical Commissioning Groups</p> <p>In February 2014 the Department for Education, NHS England and the Council for Disabled Children gave further direction for Local Authorities, Clinical Commissioning Groups and Provider organisations. Relevant aspects of this are covered within the recommendations' section of this paper.</p>	
Summary	
<p>The draft legislation was published in September 2012 with implementation in September 2014. In October 2013 the draft regulations and Code of Practice were published for consultation. The main emphasis of these reforms are to improve collaborative working across education, health and care for children and young people (CYP) 0 – 25 years and give parents more control.</p>	
<p>Single EHC plans</p>	
<p>Statutory assessments and Statements of Special Educational Need (SEN) will be replaced by Education, Health and Care joint assessments and a single Education, Health and Care Plan (EHC Plan). There is a statutory requirement for Local Authorities, CCGs and their partners to work together in Health and Wellbeing Boards to assess the health needs of local people, including those with Special Educational Need.</p>	
<p>Local clinicians, for example community paediatricians, may participate in the development of the EHC Plan. CCGs are legally obliged to deliver the health services written in the plan. CCGs will need to determine the most appropriate person in each area to have delegated responsibility to approve EHC Plans e.g. a health professional from the provider who would need to attend the regular Panel meetings.</p>	
<p>Joint commissioning of provision and services</p>	
<p>Local Authorities and CCGs have a statutory duty to consider the extent to which Children and Young People's needs could be more effectively met through integrating services which may include pooling budgets to offer greater value for money and improved outcomes for Children and Young People (CYP) with Special Educational Needs or Disabilities (SEND).</p>	
<p>Local Authorities and CCGs have a duty to commission services jointly for Children and Young People (age 0 to 25) with Special Educational Needs. The details of which services should be commissioned will be agreed locally but must include consideration of the following:</p>	
<ul style="list-style-type: none"> • education, health and social care provision reasonably required by local Children and Young People with Special Educational Needs or Disabilities; • which education, health and social care provision will be secured and by whom; 	

- what advice and information is to be provided about education health and care provision, by whom and to how it is to be provided;
- how complaints about Education, Health and Care provision can be made and dealt with; and
- procedures for ensuring disputes between Local Authorities and CCGs are resolved quickly.

The joint arrangements that Local Authorities and CCGs must have for commissioning education, health and care provision for Children and Young People with Special Educational Need or Disabilities must include arrangements for considering and agreeing what information and advice is to be provided, by whom and how it is to be provided.

Personal Budgets

Young people and parents of children who have Education, Health and Care Plans have the right to request a personal budget, which may contain elements of education, health and social care funding. Partners are legally obliged to set out their arrangements for agreeing personal budgets.

Local Offer

A Local Offer must be published which provides clear, accessible and comprehensive information about the support and opportunities available locally to Children and Young People with Special Educational Needs or Disabilities and their families. The Local Offer must include information about health care provision, including speech and language and other therapies (e.g. physiotherapy and occupational therapy) and services relating to mental health, services assisting education settings for Children and Young People with medical conditions, provision and equipment, palliative and respite care for those with complex health needs, emergency care provision, continuing care arrangements and support for young people moving from child to adult healthcare services.

Recommendations

- That CCGs engage in the development of personal budgets for education, health and care provision specified in Education, Health and Care Plans, through the Berkshire Continuing Healthcare system given it is a legislative requirement that families are offered the option of personal budgets in Continuing Healthcare from 1st April 2014. Elizabeth Rushton is Assistant Director Lead for Berkshire.
- The need to establish joint commissioning arrangements, both at systems level and at child level. CCGs should ensure that contracts with service providers include the expectation to participate in joint assessments and the development of Education, Health and Care Plans.
- Health and Wellbeing Boards should be used to promote the integration of services for children at a strategic level – with potential for exploring Joint arrangements e.g. Section 75s and other pooled budgets – connected to each Joint Strategic Needs Assessment (JSNA)
- The JSNA, as well a tool for understanding present levels of need should also be used to assist with mapping all existing services and spend together with analysis of needs through Joint Strategic Needs Assessment process.
- Build on models of existing good practice, where funding is used flexibly. Is there potential for use of existing CCG allocations given to voluntary organisations to be used in a pooled arrangement with Local Authorities to help deliver services for children with complex needs.
- Potential for accessing Better Care funds (some indication from DH that there may be a Children's Better Care Fund)
- Exact nature of Joint Commissioning arrangements will be left for local determination giving us necessary flexibility to commission services that meet our needs.
- Need for single process with partners for resolving complaints / disputes.

- Each CCG and NHSE has to agree local governance arrangements which ensure ownership and accountability around SEN commissioning, with clear lines of accountability around both strategic and operational commissioning
- Clear arrangements about what is commissioned by each CCG and by NHSE (For rare conditions, Specialist Mental Health, young offenders etc.)
- CCGs consider how to approve the contents of Education, Health and Care Plans, for example delegate responsibility to a health manager for each Local Authority to sit on decision making Panels/groups. Guidance suggests it should be a designated medical or clinical officer to be identified to ensure each CCG is fulfilling its duties effectively. The person should have relevant clinical experience.
- CCGs should ensure their acute and community providers are working proactively with Local Authorities to develop, compile and publish the Local Offer.
- CCGs are also asked to consider the role of the Designated Health Officer whose role is outlined below. It is recommended that this role is facilitated by a clinician from Berkshire Healthcare Foundation Trust who are currently involved the care and assessment of this cohort of children:

A Designated Health Officer (DHO) should be identified whose role is to ensure that the CCG is meeting its statutory responsibilities for SEN. Every CCG must help LAs identify and support children and young people with SEN. This includes:

- *Ensuring that local health services (including primary and secondary care) are able to inform the local authority of children under compulsory school age who they think may have SEN (clause 24).*
- *The individual or individuals designated by the CCG with responsibility for fulfilling this function should provide the point of contact for LAs and schools seeking health advice on children who may have SEN.*
- *The DHO should also ensure other agencies are fully engaged with arrangements for ensuring appropriate statutory notifications are made.*
- *The DHO may also offer an advocacy role for children and young people with SEN.*

The DHO might be an employee of a CCG, or an employee of an NHS Trust or other provider commissioned by a CCG, NHS England or a local authority. The DHO should have an appropriate level of clinical expertise to enable them to exercise these functions effectively. The DHO would not routinely be involved in assessments or planning for individuals, except in the course of their usual clinical practice, but would be responsible for ensuring that assessment, planning and health support is carried out.

Who has been involved from the CCGs?

Pranay Chakravorti

Financial implications

Unknown at this stage. It is envisaged existing contractual arrangements with Berkshire Healthcare Trust (BHFT) will be adequate to ensure adequate input into the required assessment process. BHFT have raised concerns that capacity will be stretched but until there is robust evidence outlining additional pressures of reforms on existing workforce current contracts will remain in place.

Has an Equality Impact Screening been undertaken? If so please attach

Equality Impact Assessment has been undertaken by all Local Authority areas in Berkshire

Please list any other committees or groups where this paper has been discussed

Contents of this paper have been discussed at Local Authority Steering groups leading on the SEN implementation in each locality area.

NHS Outcomes Framework 2013/14

Please indicate which Domain this paper sits within by highlighting or ticking below:

Please note there may be more than one Domain.

Domain 1 Preventing people from dying prematurely;

Domain 2 Enhancing quality of life for people with long-term conditions;

Domain 3 Helping people to recover from episodes of ill health or following injury;

Domain 4 Ensuring that people have a positive experience of care; and

Domain 5 Treating and caring for people in a safe environment; and protecting them from avoidable harm.

Paper Author

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