

<b>Title of Report:</b>	<b>SEND Reform Update</b>
<b>Report to be considered by:</b>	The Health and Wellbeing Board
<b>Date of Meeting:</b>	22 <sup>nd</sup> January 2014

**Purpose of Report:**

- To report on implementation on the SEND Reforms arising from the Children and Families Action.
- To highlight specific implications of the reforms for Health.
- To raise awareness Department of Health Guidance, “Children with special educational and complex needs: Guidance for Health and Wellbeing Boards”, September 2014.

**Recommended Action:**

To note progress made on implementation and to consider areas for further development including implications of Department for Health Guidance

*When decisions of the Health and Wellbeing Board impact on the finances or general operation of the Council, recommendations of the Board must be referred up to the Executive for final determination and decision.*

<b>Will the recommendation require the matter to be referred to the Council’s Executive for final determination?</b>	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
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<b>Is this item relevant to equality?</b>	Please tick relevant boxes		<b>Yes</b>	<b>No</b>
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?			<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?			<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?			<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?			<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to an area with known inequalities?			<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Outcome</b> Where one or more ‘Yes’ boxes are ticked, the item is relevant to equality. In this instance please give details of how the item impacts upon the equality streams under the executive report section as outlined.				

<b>Health and Wellbeing Board Chairman details</b>	
<b>Name &amp; Telephone No.:</b>	Marcus Franks (01635) 841552
<b>E-mail Address:</b>	<a href="mailto:mfranks@westberks.gov.uk">mfranks@westberks.gov.uk</a>

<b>Contact Officer Details</b>	
<b>Name:</b>	Jane Seymour
<b>Job Title:</b>	Service Manager, SEN & Disabled Children's Team
<b>Tel. No.:</b>	01635 519783
<b>E-mail Address:</b>	<a href="mailto:jseymour@westberks.gov.uk">jseymour@westberks.gov.uk</a>

# Executive Report

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## 1. Introduction

- 1.1 The Children and Families Act took effect in September 2014, and has significantly changed the way in which services are provided for children with SEN and disabilities and their families.
- 1.2 A multi agency SEND Reform Steering Group has been in place since September 2013 to oversee implementation of the reforms. The Steering Group continues to meet to oversee implementation.
- 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.

## 2. Equalities

- 2.1 This is national legislative change which is intended to improve the way children and young people with disabilities and their families experience services and which will enable them to have more choice and control and achieve better long term life outcomes. There has been extensive consultation prior to implementation of the reforms including co production of new systems and processes with families.

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

- 3.1 The existing statutory assessment and statementing process has been 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).
- 3.2 Every family whose child has an EHC Plan has the right to request a Personal Budget for the education, health and / or care aspects of the EHC Plan. Previously, Personal Budgets / direct payments were only allocated to meet a young person's social care needs.
- 3.3 Local Authorities' responsibilities now extend potentially up to the age of 25 (Statements used to 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.
- 3.4 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.

- 3.5 There are new requirements for supporting families including greater responsibility for provision of independent advice, advocacy, disagreement resolution and mediation. These services have to be provided in relation to health and social care issues as well as SEN related issues.
- 3.6 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 are required to identify a Designated Medical Officer. Arrangements must be in place within Health to agree any health provision in EHC Plans. 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.

#### **4. Implementation of SEND Reforms in West Berkshire**

- 4.1 A process for Education Health and Care assessments has been developed and is now in place, including a format for the EHC Plan. Three EHC Assessment Coordinators have been recruited to oversee new EHC assessments and the conversion of Statements to EHC Plans. A transition plan has been published setting out how the Council will achieve conversion of all Statements to EHC Plans by April 2018. Evaluation systems have been developed and will be implemented from January 2015. Feedback so far from families, schools and professionals has been very positive.
- 4.2 Personal Budgets are already in place for children and young people with disabilities through the Disabled Children's Team and through Adult Social Care. Continuing Health Care have begun to offer Health Personal Budgets, although it is understood that take up is low. There have as yet been no requests from families for direct payments for any part of the SEN component of the EHC Plan.
- 4.3 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.
- 4.4 A Local Offer website is now in place, accessed through the Council's website, setting out education, health and care services which are available for children with SEND and their families. A "harvesting" mechanism draws in data on a regular basis from the BHFT and RBH websites. All Berkshire Local Authorities are using the same website provider, Open Objects, which means that data can readily be shared where appropriate.

- 4.5 The Parent Partnership Service, now known as the West Berkshire SEN & Disability Information, Advice and Support Service (SENDIASS), is developing its service so that it can offer independent advice to young people as well as parents. The service can also now offer information and advice on health and care issues in addition to educational issues. Disagreement resolution and mediation services are being commissioned from Global Mediation, which has agreed to absorb the additional requirements for these services at no extra cost until April 2015. The service is currently being retendered with a new service specification which meets all the requirements of the new legislation.
- 4.6 The NHS Central Southern Commissioning Support Unit, the Berkshire Healthcare Foundation Trust and the RBH Trust have been and continue to be engaged in discussions about the SEND Reforms including attendance at Steering Group and working group meetings. A pan Berkshire SEND Strategy Group has also been established, with representation from the CSU. This has enabled progress to be achieved around joint commissioning arrangements for children with SEND. Systems are in place for provision of Health advice for EHC assessments, establishing Health approval for the health content of EHC Plans, attendance at EHC Panels where necessary and for dispute resolution in the event of disagreement about funding responsibility.

## **5. Further SEND Reform developments in 2014-15**

- 5.1 The Multi Agency SEND Reform Strategy Group has agreed its programme of work for the current academic year. The themes which are being focused on to embed and further develop the SEND reform agenda are as follows:
- Better engagement of young people with SEND in strategic planning
  - Evaluation of EHC processes
  - Joint commissioning arrangements with Health
  - Clarifying the Local Authority's expectations of schools re SEND provision
  - Advice for schools on their SEN Policies
  - Further development of the Local Offer
  - Person Centred Approaches – rolling these out in mainstream schools
  - Personal Budgets Policy
  - Revision of the SEN Transport Policy
  - Social Care processes and how they can mesh with EHC processes
  - Continued workforce development
- 5.2 A Task and Finish Group has been set up to work on each of these themes. All task and finish groups will include at least one parent and some will include young people.

## **6. Specific implications of SEND Reforms for Health commissioners and providers and progress made**

- 6.1 A report taken to the Children's, Maternity, Mental Health and Voluntary Programme Board in early 2014 by the CSU (authored by Pranay Chakravorti) made the following recommendations:
- *That CCGs engage in the development of personal budgets for education, health and care provision.*
- This is happening.

- That joint commissioning arrangements are established at strategic and individual child level.

These exist at the individual child level but need to be documented. Work is being done on this. Strategic joint commissioning arrangements for SEND are less explicit and require more work.

- CCGs should ensure contracts with service providers include the expectation of participation in EHC Assessments and development of EHC Plans.

This expectation seems to be well established but whether it is actually embedded in contracts needs to be explored further. There have been some issues around obtaining medical advice for EHC assessments for young people over 18, which need to be resolved.

- Health and Wellbeing Boards should be used to promote the integration of services for children with SEND including joint arrangements and pooled budgets.

This was discussed at the Health and Wellbeing Board meeting in May 2014. Opportunities for integration of services and joint arrangements are likely to be identified by the pan Berkshire SEN Strategy Group and can be brought to Health and Wellbeing Boards as and when they arise.

- JSNA should be used to understand levels of need and to map existing services and spend.

There is some guidance on this in “Children with special educational and complex needs: Guidance for Health and Wellbeing Boards”, Department of Health Guidance September 2014.

- 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.

Not aware of any such arrangements.

- 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)

Update to be given at the meeting.

- CCGs should develop a process with partners for resolving disputes.

It has been proposed that any disputes which cannot be resolved will be referred to the Designated Medical Officer in the CCG and the Director of Communities but this requires formal agreement of those parties.

- 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.

Update to be given at the meeting.

- There must be clear arrangements about what is commissioned by each CCG and by NHSE.

Update to be given at the meeting.

- 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.  
A process for this has been agreed.

- CCGs should identify a Designated Medical Officer with relevant clinical experience.  
A Designated Medical Officer has been identified.

- CCGs must ensure their acute and community providers are working proactively with Local Authorities to develop, compile and publish the Local Offer.  
There has been good engagement from BHFT and the RBH Trust with the development of the Local Offer, which includes relevant health information.

6.2 In addition to the above recommendations, a report which was brought to the Health and Wellbeing Board in May 2014 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 assessment and planning processes have been designed to be person centred. Person centred planning processes are well embedded in special schools and are being rolled out to mainstream schools. Person centred approaches have been one of the themes of multi agency training prior to implementation of the reforms and will continue to be addressed in future workforce development.

- 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.

There have been positive developments, particularly in relation to therapy reports.

- 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.

Health reports are generally being submitted within statutory deadlines for EHC assessments, with the exception of CAMHs reports.

- 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.

Discussion has taken place with the CSU about whether Health will use the Local Authorities' mediation arrangements for EHC disputes which relate to Health matters (and make an appropriate financial contribution) or whether existing arrangements for mediation within Health will be used. This is under consideration. Similarly, where mediation has a health element as well as an education and or care element, it has been proposed that Health would contribute to the cost of the mediation on a proportional basis, but this has yet to be formally agreed.

**7. “Children with special educational and complex needs: Guidance for Health and Wellbeing Boards”, Department of Health Guidance September 2016**

7.1 This guidance is attached at Appendix One.

7.2 It reiterates some of the specific issues which Councils and CCGs need to address together in relation to services for children with SEND and complex needs, and sets out the role of Health and Wellbeing Boards in this respect.

7.3 Attention is drawn to the section of the guidance which covers CCG commissioning plans and the extent to which these address the needs of children with SEND and complex conditions. The guidance poses a number of questions which Health and Wellbeing Boards may wish to address in relation to CCG commissioning plans and SEND.

**Appendices**

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Appendix A - “Children with special educational and complex needs: Guidance for Health and Wellbeing Boards”, September 2014

**Consultees**

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**Local Stakeholders:**

**Officers Consulted:**

**Other:**